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since it imposed unjustified restrictions. The term “exclusively” lacked precision; furthermore, the notion of “equitable” was badly defined and liable to give rise to mistaken interpretations.

56. After having heard the United Kingdom representative's explanations, the delegation of the Ukrainian Soviet Socialist Republic considered the United Kingdom amendment (L.30) to be acceptable. It also accepted the joint Belgian and Italian amendment.

The meeting rose at 1 p.m.

ELEVENTH MEETING

Tuesday, 12 March 1963, at 3.20 p.m.

Chairman: Mr. GIBSON BARBOZA (Brazil)

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

Article 31 (Exemption from taxation of consular premises) (continued)

1. The CHAIRMAN invited the Committee to continue its consideration of paragraph 1 of article 31 and the amendments thereto.¹

2. Mr. SHRESHTHAPUTRA (Thailand) said that some of the terms used in the United States amendment (L.33/Rev.1) were unfamiliar to his delegation, owing to the differences in their legal systems, and differed from the general terms used in the Vienna Convention on Diplomatic Relations. Although it had no objection in principle to the United States amendment, it would therefore prefer the United Kingdom amendment (L.30).

3. Mr. von NUMERS (Finland) asked whether the term “person” in the United Kingdom amendment was intended to mean both a natural and a juristic person. If so, the drafting committee might consider how to make the meaning clear.

4. In commenting on the United States amendment, the United Kingdom representative had said that he did not consider that the consular residence was included in the consular premises “used exclusively for consular purposes”. It would be difficult in a case, for example, where a sending State purchased a building for use as consular premises on one floor and as the consular residence on another floor, to assess the amount of exemption from taxation.

5. Mr. BLANKINSHIP (United States of America) said that the main purpose of his delegation in presenting its amendment (L.33/Rev.1) to paragraph 1 of article 31 had been to enable a federal government, such as that of the United States, not only to assume its obligations as a receiving State but to carry them out effectively. In the United States the state laws on real property taxes were interpreted very strictly. An attempt had

therefore been made to draft a text suitable for inclusion in an international instrument but which would nevertheless override local laws and thus allow a more liberal interpretation of the law, as desired by the Federal Government, and still give adequate protection to consular representatives in the United States. It had, however, become clear from the discussion that the proposed wording was not entirely acceptable.

6. He would concede that, as had been suggested, the words “used exclusively for consular purposes” were unnecessary and that the point might well be covered by article 1 (Definitions). In drafting the amendment it had been thought that the inclusion of that phrase in article 31 would serve a double purpose and help to shorten the part dealing with honorary consuls.

7. The words “and situated in the territory of the receiving State” had been included so as to leave no possible grounds for challenge. It had, however, been argued that the meaning was implicit and his delegation would be willing to drop those words from the amendment.

8. The words “legal or equitable” had been included because there was in the United States law on real property a difference between the legal and the equitable owner, for example, in the case of a person buying a property on a bank loan. He accepted the fact, however, that the notion was not found in many legal systems and his delegation would agree to withdraw the words.

9. The main difference between the revised United States text and the International Law Commission draft was that the former referred to “consular premises” and the latter to “the sending State and the head of post”; his delegation maintained that part of the amendment, while accepting the United Kingdom sub-amendment. The revised text proposed by the United States delegation would therefore read:

“Consular premises of which the sending State or any person acting on behalf of the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues or taxes whatsoever, other than such as represent payment for specific services rendered.”

10. The United States delegation also supported the views expressed by the representatives of France and the Federal Republic of Germany in regard to specific exemption from stamp duty, registration fees and all property transfer taxes.

11. Mr. HEUMAN (France) said that his delegation would vote for the revised United States text of paragraph 1. He suggested that it should be noted in the record that the unanimous view of the meeting was that paragraph 1 of article 31 should be interpreted as including exemption from property transfer taxes.

It was so agreed.

12. Mr. MARESCA (Italy) said that in its amendment (L.37) his delegation had desired to prevent any possibility of confusion. The text of paragraph 1 as drafted by the International Law Commission might be interpreted as meaning that the head of post should enjoy exemption from taxation on his private residence,

¹ For a list of the amendments, see summary record of the tenth meeting, footnote to para. 42.

for example. His delegation had subsequently withdrawn its amendment and joined with the delegation of Belgium in presenting an oral amendment, which in turn approached the United Kingdom amendment. The revised United States text had further bridged the gap and it would seem that general agreement could be reached.

13. Mr. SPACIL (Czechoslovakia) felt that although opinions were drawing closer together, general agreement had not yet been reached. The difference between the United States text and the International Law Commission draft lay in the subject of paragraph 1; that difference still remained. The principle that one State did not tax another State, which his delegation had welcomed in the original draft, had somehow been excluded from the United States text which was, therefore, less acceptable. His delegation would prefer a text which took due account of the consul as the official representative of a government and would therefore favour the International Law Commission draft.

14. Mr. DRAKE (South Africa) said that after hearing the persuasive arguments of the United States representative, his delegation would withdraw its own amendment (L.31) in its desire to reach agreement.

15. Mr. JESTAEDT (Federal Republic of Germany) supported the revised United States amendment. In his view, the consular residence should be exempt from taxation; that point could, however, be dealt with when examining the definition of consular premises in article 1, sub-paragraph (j). His delegation had submitted an amendment to that article in the drafting committee.

16. Mr. ALVARADO GARAYCOA (Ecuador) supported the United States amendment.

17. Mr. EVANS (United Kingdom), replying to the representative of Finland, said that the term "person" was used in English without qualification to mean both a natural and a juristic person. He would, however, agree that the drafting committee might be asked to consider the point. In regard to the second point raised by the representative of Finland, the United Kingdom delegation thought, after consideration, it could accept that, for the purposes of article 31, the consular residence might be covered under the same conditions as other consular premises. It agreed to the suggestion made by the representative of the Federal Republic of Germany that the matter should be considered in connexion with the definition of consular premises in article 1. It must, however, be borne in mind that the Committee had decided with regard to article 30, paragraph 1, that the consular residence was not covered for the purposes of that article; that decision must be respected.

18. The CHAIRMAN put to the vote the revised United States amendment as read out by the United States representative.

The amendment was adopted by 41 votes to 3, with 17 abstentions.

19. The CHAIRMAN noted that no formal amendment had been proposed to paragraph 2 of article 31.

20. Mr. EVANS (United Kingdom) recalled that he had suggested that the adoption of a reference to "any

person acting on behalf of the sending State" in paragraph 1 would require a consequential amendment to paragraph 2 to delete the words "the head of the consular post" and substitute "the person acting on its behalf". The drafting committee might be asked to consider the matter.

21. The CHAIRMAN said that, since it was unnecessary to take a vote on paragraph 2, he would put to the vote article 31 as a whole with paragraph 1 as amended, and paragraph 2 as drafted by the International Law Commission on the understanding that its final wording would be referred to the drafting committee.

Article 31 as amended was approved by 53 votes to none, with 10 abstentions.

Article 32 (Inviolability of the consular archives and documents)

22. The CHAIRMAN invited the Committee to consider article 32 and the amendments thereto and pointed out that the amendments submitted by the Netherlands and Austria were identical.²

23. Mrs. VILLGRATTNER (Austria) said that her delegation would be happy to withdraw its amendment and to become a sponsor of the Netherlands amendment which had been submitted earlier.

24. Mr. DRAKE (South Africa) withdrew his delegation's amendment, and reserved the right to comment later on some of the other amendments submitted to article 32 which might go some way to meeting his delegation's requirements.

25. Barón van BOETZELAER (Netherlands) thanked the Austrian delegation for agreeing to become a sponsor of the Netherlands amendment, which had been proposed on the ground that the reference to "documents" in article 32 was superfluous and might lead to confusion. The purpose of the article was to ensure that consular archives were inviolable. The contents of the archives must be defined in article 1 and the possible confusion arose because one term had been picked out from that article and used in article 32. The reasons offered for so doing by the International Law Commission were not very convincing or clear. In the opinion of his delegation, therefore, it would improve the text if the words "and documents" were deleted.

26. Mr. KANEMATSU (Japan) introduced his delegation's amendment (L.47) and said that the inviolability of consular archives was the essence of consular immunity. Article 60 stipulated that the consular archives and documents of a consulate headed by an honorary consul must also be inviolable at any time. Since it was accepted that, except for the archives, consular premises and property were not inviolable in the strict sense of international law, his delegation would prefer the inviolability of archives to be stated as specified in its amendment. In essence, his delegation's proposal

² The following amendments had been submitted: Netherlands, A/CONF.25/C.2/L.14; South Africa, A/CONF.25/C.2/L.38; United Kingdom, A/CONF.25/C.2/L.39; Mexico, A/CONF.25/C.2/L.44; Austria, A/CONF.25/C.2/L.45; Japan, A/CONF.25/C.2/L.47.

was the same as the United Kingdom amendment (L.39). The Japanese delegation did not insist on the form of its proposal and, should the United Kingdom amendment be adopted, it could accept its wording.

27. Mr. NALL (Israel) said that there would appear to be some inconsistency in regard to sub-paragraph (k) of article 1, article 32 and article 35. In paragraph 6 of its commentary on article 1 the International Law Commission had said that correspondence which was sent by the consulate or which was addressed to it, in particular by the authorities of the sending State, the receiving State, a third State or international organizations, could not be regarded as coming within the definition if the said correspondence left the consulate, or before it was received at the consulate. At first sight the proposal to delete the words "and documents" in article 32 seemed justified. In paragraph 3 of its commentary on that article, however, the International Law Commission had said that the term "documents" meant any papers which did not come under the heading of "official correspondence" — e.g., "memoranda drawn up by the consulate". Article 1 referred simply to "correspondence" and made no mention of "official correspondence". Article 35 stated, in paragraph 2, that the official correspondence of the consulate should be inviolable and that official correspondence meant "all correspondence relating to the consulate and its functions". In paragraph 10 of its commentary on that article, the International Law Commission had stated that the official correspondence was inviolable at all times and wherever it might be and "consequently even before it actually becomes part of the consular archives". He would welcome further clarification of the matter since comparison of the different texts left some doubt as to the meaning of "documents" and "archives". Was it to be understood, firstly, that correspondence and documents relating to civil status and other documents capable of production as documentary evidence at the behest of the interested person were to be excluded from the principle of inviolability accorded to consular archives, and, secondly, that unaccompanied correspondence could not be regarded as enjoying the privilege of inviolability?

28. Mr. JESTAEDT (Federal Republic of Germany) agreed that there seemed to be some misunderstanding in regard to the meaning of "documents" in article 32, and that an explanation of the International Law Commission's view would be welcome.

29. Mr. ŽOUREK (Expert), speaking at the invitation of the Chairman, explained that although it might appear that the definition in article 1, sub-paragraph (k), made the use of the expression "documents" superfluous in article 32, it should be noted that the definition referred to the papers "of the consulate". The term "archives" implied that the papers concerned were already in the consulate's possession and that expression was officially accepted in many countries. The International Law Commission had wished to use language that could cover every possible case. It had had in mind, for example, documents which had not yet been handed over to the chancery of the consulate, but which should

be given protection. The word "documents" had been inserted in article 32 to cover such circumstances. In article 1, sub-paragraph (k), the reference was to "correspondence" since it had been intended to avoid any restriction, whereas article 35 referred to "official correspondence", following the example of the Vienna Convention on Diplomatic Relations, which had established certain privileges for official correspondence that could not be accorded to private correspondence. Those privileges were enumerated in the following paragraphs of article 35.

30. Mr. NALL (Israel) said that he was for the time being satisfied with that explanation.

31. Mr. EVANS (United Kingdom) said that his delegation's amendment (L.39) differed in three points from the International Law Commission draft. The words "and documents" had been omitted for the reasons stated by the representative of the Netherlands. He had, however, listened with great interest to Mr. Žourek and wished to reflect on his remarks. The second amendment made a minor drafting change: the expression "at all times" reflected the intention of the International Law Commission a little more accurately than "at any time". His delegation attached great importance to the third point of difference, namely, the addition of a sentence to provide that the consular archives should be kept separate from any document or object relating to the private affairs of a consular officer or employee. In its view, and, probably in the view of the International Law Commission, consular officers should only be given immunity from jurisdiction in the performance of their official acts and they should not enjoy such immunity in their private affairs. Documents relating to such private affairs must therefore be kept separate.

32. Mr. NIETO (Mexico) stressed the fact that article 32 laid down one of the main principles of consular relations. It was, of course, essential that inviolability should be extended to the documents belonging to the consulate wherever they might be. To make the text clearer, however, and to avoid the implication that any document sent out from a consulate must always remain immune, even when it had passed into the possession of a private individual, his delegation had proposed an amendment (L.44) to replace the expression "consular archives and documents" by "archives and documents belonging to the consulate".

33. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) endorsed the statement in paragraph 1 of the commentary, that article 32 "lays down one of the essential rules relating to consular privileges and immunities, recognized by customary international law". He was opposed to deleting any reference to documents, but would support any amendment that consular archives and documents should be kept separate from personal material. For that reason, he supported the second part of the United Kingdom amendment because it was an improvement on the original article and because it stressed that the sole purpose of inviolability was to safeguard the normal exercise of consular functions. He would vote for the whole amendment if a reference to documents were included in the first part.

34. Mr. LEVI (Yugoslavia) thought that the words "and documents" should be retained. Mr. Žourek had explained the International Law Commission's reasons for including the words. Another reason was that future readers of the Conventions on Diplomatic and on Consular Relations might be puzzled to find that diplomatic papers were inviolable while consular papers were not.

35. The second United Kingdom amendment was a drafting matter. It seemed unnecessary to prescribe that consular archives and documents should be kept separate from other documents and property, as proposed in the Japanese and South African amendments and the third United Kingdom amendment, but he would not vote against the idea.

36. Mr. ALVARADO GARAICOA (Ecuador) supported the Japanese amendment since it was comprehensive and covered a number of points omitted from the International Law Commission's draft. In the interests of clarity, however, the two paragraphs should be transposed, subject to any necessary drafting corrections.

37. Mr. SPYRIDAKIS (Greece) was in favour of maintaining the International Law Commission's text, especially after hearing Mr. Žourek's explanation. He would also accept the United Kingdom amendment after hearing the comments of its sponsor; he suggested, however, that it should be combined with the Japanese amendment by transferring the words "this provision does not require the separation of diplomatic from consular archives when a consular office forms part of the diplomatic mission", from paragraph 1 of the Japanese amendment to the United Kingdom amendment. The clause was an important one, for in many countries diplomatic missions included consular offices.

38. Mr. DAS GUPTA (India) thought that the article as drafted by the International Law Commission was entirely adequate, particularly in view of the definition of consular archives in article 1. He would, however, be prepared to accept the United Kingdom amendment, which was the same in substance but a little more comprehensive, provided a reference to documents was included; otherwise the article might be open to different interpretations.

39. Mr. HEUMAN (France) said that he supported the United Kingdom proposal to delete the reference to documents. In spite of the interesting explanation by Mr. Žourek he did not think it necessary to repeat in the operative articles parts of definitions contained in the opening article.

40. With regard to the United Kingdom proposal concerning separation of consular papers, the introduction of such a provision would place honorary consuls on the same footing as career consuls and he could not support such a proposal. If it were adopted, article 60, the corresponding article on the archives of honorary consul officials, would become redundant. He also opposed the Japanese amendment, which was similar in intent to that of the United Kingdom. He did not support the Mexican amendment, as he saw no reason to

depart from the traditional language of conventions. Consequently, he was in favour of maintaining the International Law Commission's draft.

41. Mr. KANEMATSU (Japan) said that since the United Kingdom amendment was similar to his own he would be satisfied if either were adopted. He would accept the drafting revision proposed by the representative of Ecuador.

42. Mr. SERRA (Switzerland) pointed out that article 32 was dependent on a clear definition of consular archives in article 1. If, therefore, the Committee approved the article, the final version of the text should be left to the drafting committee.

43. Mr. WASZCZUK (Poland) was in favour of maintaining the article as drafted by the International Law Commission. Mr. Žourek had dispelled any doubts about retaining the word "documents" and he did not think that any of the other amendments would improve the text.

44. Mr. EVANS (United Kingdom) informed the Committee that he was prepared to accept the Ukrainian representative's proposal to reinstate the word "documents", since his delegation had proposed the deletion of the definition of consular archives in article 1. He maintained his amendment concerning the separation of documents despite the French representative's comments on career and honorary consular officials. Although they differed in many respects, they were similar in that both had private affairs; his amendment was therefore essential.

45. Mr. MARESCA (Italy) said that the definition of consular archives in article 1 gave the impression that everything it comprised was permanently enclosed in the consulate: no provision was made for consular papers which might accompany a consular official carrying out duties away from the consulate. As long as the definition in article 1 remained, therefore, it was essential to keep the reference to documents in article 32. He could not support the proposal for a provision concerning the separation of consular papers from other material, since it was an entirely unnecessary instruction to consular officials.

46. Mr. BLANKINSHIP (United States of America) said that the inviolability of consular papers should naturally be as comprehensive as possible. As an example of the extent of the inviolability which the United States advocated, he said that his delegation understood that article 32 would provide that consular papers were inviolable even if in the possession of consular staff who were nationals of the receiving State. One difficulty might be the identification of consular papers in certain circumstances and he therefore supported the amendments for their separation from other papers. On the question of the word "documents", although he had been instructed to support its deletion as superfluous, in the light of the definition in article 1, he was prepared to support its retention after hearing Mr. Žourek's statement.

47. Mr. VRANKEN (Belgium) said he had been prepared to accept the United Kingdom amendment in its original form, but to put back the words "and documents" was inconsistent with the second clause. It would be reasonable to stipulate that consular archives should be kept apart from other papers, but a similar provision for documents would conflict with the rule as interpreted in paragraph 1 of the International Law Commission's commentary which stated that "the papers of the consulate must as such be inviolable wherever they are, even, for example, if a member of the consulate is carrying them on his person,". He therefore supported the International Law Commission's text.

48. Mr. HENAO-HENAO (Colombia) said that the draft articles established a distinction between consular premises and consular officials, with a sub-distinction between career and honorary consuls. The difficulty was to avoid the same provisions for the two categories of consul. Article 57, however, provided that honorary consuls should have the same immunities as career consuls except for those in articles 30, 31 and 32. The adoption of the United Kingdom amendment to article 32, together with the amendments already adopted for articles 30 and 31, would render articles 58, 59 and 60 on honorary consuls redundant. The Committee should be aware that it was tending to put honorary consuls on the same footing as career consuls, though he himself would approve of it.

49. Mr. OCHIRBAL (Mongolia) said that he was in favour of maintaining the International Law Commission's text. He would, however, support the United Kingdom amendment now that the words "and documents" were to be included. The amendments concerning the separation of consular archives and documents seemed unnecessary.

50. Mr. NALL (Israel) said that his delegation, having considered all the proposals, had come to the conclusion that it could support the United Kingdom amendment in its original form, because it contained the essential elements of the other amendments and represented a step towards the progressive development of international law. The inclusion of the reference to "documents" created a difficulty for his delegation in view of the provisions of article 35 and of the definition in article 1. The United Kingdom representative had given as his reason for including the reference to documents the exclusion of a definition from article 1, which the United Kingdom was proposing in the drafting committee. That, however, seemed to be anticipating events. In order to enable his delegation to vote on the amendment in its revised form he would welcome some indication by the United Kingdom representative as to his delegation's reasons for its proposal to delete the definition of the term "consular archives" from article 1.

51. Mr. KONSTANTINOV (Bulgaria) said that he was in favour of the International Law Commission's text and was opposed to the Netherlands, Austrian and Japanese amendments, in view of the misgivings expressed by certain representatives, but he would accept the United Kingdom amendment as amended by the representative of the Ukrainian SSR.

52. Mr. NASCIMENTO e SILVA (Brazil) said he would prefer to see the International Law Commission's draft retained. He agreed, nevertheless, with the amendments for the separation of consular papers, all the more since, as the United Kingdom representative had pointed out, consuls were not immune from jurisdiction. The wording used in the United Kingdom amendment, "They shall be kept separate from any document or object relating to the private affairs of a consular officer or employee" was, however, ambiguous. If it implied that the existence of private documents in the archives would remove the inviolability of the archives, it was more appropriate as an internal national instruction for consular services. If it were adopted, he would suggest that it should be re-worded to state that private documents should be kept apart from consular documents.

53. Mr. AJA ESPIL (Argentina), referring to the United Kingdom representative's reasons for including the word "document" in his amendment, said that the Committee should base its discussions on a firm text. Since the definition which affected article 32 was being discussed by another committee, it would be better for further consideration of article 32 to be postponed until the definition had been decided upon.

54. Mr. LEVI (Yugoslavia) agreed with the representative of Brazil. There was a slight contradiction in the United Kingdom amendment between the first sentence, which implied that documents could be kept anywhere, and the second sentence, which stipulated that they should be separate from other documents. The proposal by the representative of Brazil would remove the contradiction. If it were not accepted by the United Kingdom representative he would move that the two sentences should be voted on separately.

55. Mr. EVANS (United Kingdom) accepted the suggestion of the representative of Brazil and indicated his willingness for the text of his amendment to be reviewed by the drafting committee. Replying to the representative of Israel, he said that the definition of consular archives was not considered sufficiently comprehensive and it was better to leave the words undefined (as in the Convention on Diplomatic Relations) than to include an incomplete definition.

56. Mr. ANGHEL (Romania) requested that the two sentences in the United Kingdom amendment should be put to the vote separately.

57. Mr. KANEMATSU (Japan) withdrew his amendment (L.47) in favour of the United Kingdom amendment.

58. The CHAIRMAN invited the Committee to vote on the joint Austrian and Netherlands proposal (A/CONF.25/C.2/L.14) to delete the words "and documents".

The proposal was rejected by 35 votes to 7, with 17 abstentions.

59. The CHAIRMAN invited the Committee to vote on the first sentence of the United Kingdom amendment (A/CONF.25/C.2/L.39), which had been amended to include the words "and documents" after the word "archives".

The first sentence of the United Kingdom amendment was adopted by 60 votes to none, with 4 abstentions.

60. The CHAIRMAN invited the Committee to vote on the second sentence of the United Kingdom amendment, on the understanding that if adopted it would be reviewed by the drafting committee.

The second sentence of the amendment was rejected by 22 votes to 21, with 19 abstentions.

61. Mr NALL (Israel) said he had voted for the amendment on the assumption that the definition of consular archives in article 1 would be deleted, but that if it were retained, the drafting committee would make the necessary corrections to the text.

62. The CHAIRMAN said that the Committee had thus adopted article 32 as amended by the first sentence of the United Kingdom proposal.

Article 33 (Facilities for the work of the consulate)

63. The CHAIRMAN invited the Committee to consider article 33 and pointed out that there were no amendments.

64. Mr. UNAT (Turkey) drew attention to a discrepancy between the title and the text of the article.

65. Mr. HEUMAN (France) remarked that there was no substance to the article: the International Law Commission itself, in paragraph 2 of its commentary, had said that it was difficult to define the facilities which the article had in view. He proposed that the article should be deleted and replaced by a reference to the title of chapter II. When the Committee came to discuss the title of chapter II, it could then consider whether "facilities" had any meaning and whether the word should be retained.

66. Mr. SHITTA-BEY (Nigeria) suggested that since the First Committee was discussing consular functions under article 5, the following words should be inserted at the end of article 33: "in so far as such functions are permissible under article 5."

The meeting rose at 6.5 p.m.

TWELFTH MEETING

Wednesday, 13 March 1963, at 10.40 a.m.

Chairman: Mr. GIBSON BARBOZA (Brazil)

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

Article 33 (Facilities for the work of the consulate) (continued)

1. The CHAIRMAN invited the Committee to resume consideration of article 33 and the two oral amendments submitted by the French and Nigerian delegations.¹

¹ See the summary record of the eleventh meeting, paras. 65 and 66.

2. Mr. AVAKOV (Byelorussian Soviet Socialist Republic) said that he did not think that article 33 had no practical value; a similar clause was included in several bilateral agreements. Article 15 of the Harvard draft also established that the receiving State should accord to a consul within its territory respect and protection adequate for the exercise of his consular functions.² The Nigerian amendment contributed nothing new, merely referring to article 5, which had not yet been adopted by the First Committee. If it were maintained, his delegation would ask for separate votes on the International Law Commission's text and on the Nigerian amendment. He would, however, propose a drafting amendment to replace in the title the words "Facilities for the work of the consulate" by "Assistance in the work of the consulate".

3. Mr. ALVARADO GARAYCOA (Ecuador) proposed in an oral amendment that article 33 should read: "The receiving State shall accord all indispensable facilities for the installation of the consulate and the performance of its functions." There were two distinct factors: the installation, namely, the acquisition of premises, for example, and the consular functions which implied inviolability of the premises.

4. Mr. LEVI (Yugoslavia) thought that article 33 should be retained with a few drafting amendments, including the replacement of the words "full facilities" by the words "all indispensable facilities", as proposed by the representative of Ecuador.

5. Mr. NWOGU (Nigeria) pointed out that paragraph 2 of the commentary emphasized the difficulty of defining the term "facilities"; hence the reference in his delegation's amendment to article 5.

6. Mr. HARASZTI (Hungary) remarked that article 25 of the 1961 Vienna Convention on Diplomatic Relations contained a provision similar to that of article 33. It might be deduced from its deletion from the consular convention that the receiving State could adopt a different attitude with respect to consulates and embassies, and he would therefore prefer the retention of the text submitted by the International Law Commission.

7. Mr. SPACIL (Czechoslovakia) said the deletion of article 33 was unacceptable to his delegation, which regarded it as necessary. The draft convention could quite appropriately include provisions both of a general and a specific nature. Moreover, in that matter there should be no difference between the text as it stood and that of the 1961 Convention which, in article 25, made a similar provision.

8. Mr. JESTAEDT (Federal Republic of Germany) said that he agreed with the Hungarian representative that the International Law Commission's text should be adopted. Nevertheless, the question arose whether article 33 would not be better placed earlier in the same section, or even after article 5. That might be left to the drafting committee.

² Harvard Law School. *Research in International Law, II. The Legal Position and Functions of Consuls* (Cambridge, Mass., 1932).