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41. The CHAIRMAN invited the Committee to vote on the joint oral amendment presented by the delegations of Canada, Japan, Kuwait, Thailand the United Arab Republic and the United States of America.

42. Mr. KONSTANTINOV (Bulgaria), asked that the words " who . . . so requests " in the first sentence of the joint amendment should be put to the vote separately.

43. Mr. HEUMAN (France) objected to the request for a separate vote, under rule 40 of the rules of procedure. The words on which a separate vote had been requested were the essential point of the amendment and their removal would leave a text which had little meaning.

44. Mr. SPACIL (Czechoslovakia) said that the text of the amendment would stand on its own after the removal of the words on which a separate vote had been requested. His delegation believed that the request for a separate vote was justified.

45. Mr. BLANKINSHIP (United States of America) opposed the motion for division. The proposed vote would set an unfortunate precedent. It would lead to further delay in the Committee's work if representatives were to single out a few words from any proposal for a separate vote. The purpose of the Bulgarian delegation could be attained simply by voting against the whole joint amendment which was in opposition to the International Law Commission's text.

46. Mr. BOUZIRI (Tunisia) supported the motion for division because under rule 40 of the rules of procedure the representative of Bulgaria had the right to request that a separate vote should be taken. The joint amendment did not differ from the original United States amendment. A separate vote was an accepted way of allowing delegations to show that they considered the inclusion of particular words to be undesirable. Accordingly, if the motion for division was carried, his delegation would take the opportunity to vote against the inclusion of the words " who . . . so requests ".

The motion for division was rejected by 45 votes to 15, with 8 abstentions.

47. The CHAIRMAN put to the vote the joint oral amendment as a whole.

The amendment was rejected by 33 votes to 27, with 9 abstentions.

The amendment by the Federal Republic of Germany (A/CONF.25/C.2/L.74), as revised, was rejected by 33 votes to 11, with 24 abstentions.

The United Kingdom amendment (A/CONF.25/C.2/L.107) was adopted by 37 votes to 2, with 28 abstentions.

The Greek amendment (A/CONF.25/C.2/L.125) was adopted by 39 votes to 13, with 16 abstentions.

48. The CHAIRMAN put to the vote the oral amendment submitted by the delegation of France, to insert the word " arrested ", in sub-paragraph (*b*).

The amendment was adopted by 42 votes to 5, with 21 abstentions.

Paragraph 1, sub-paragraph (b) as a whole, as amended, was adopted by 43 votes to 6, with 21 abstentions.

49. Mr. HEUMAN (France) explained that he had abstained from voting on sub-paragraph (*b*) as a whole since it was contrary to French law to communicate to a third person — even a consul — the name of a detained person without the latter's consent.

50. Mr. SPACIL (Czechoslovakia) asked that it should be placed on record that, in accordance with the rules of procedure, any representative had the right to move that parts of a proposal or of an amendment should be voted on separately. The argument of the United States representative that the practice of voting separately on certain words should be avoided was in contravention to the rules of procedure and was against normal practice in the United Nations where separate votes were one of the means at the disposal of representatives for expressing their opinion on particular parts of proposals or amendments.

51. Mr. SRESHTHAPUTRA (Thailand) explained that he had voted against the International Law Commission's draft of sub-paragraph (*b*), not because his government was opposed to the principle but because it would find some difficulty in applying it.

The meeting rose at 6.55 p.m.

EIGHTEENTH MEETING

Monday, 18 March 1963, at 10.45 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*)

Statement by the Chairman

1. The CHAIRMAN said that, in order to speed up the Committee's work, he proposed to enforce stricter compliance with rule 30 of the rules of procedure, which provided that amendments should normally be introduced in writing and circulated to all delegations on the day preceding the meeting. In future, he would exercise less freely the discretion given to the Chair by that rule to permit the discussion of proposals that had only been circulated on the day of the meeting concerned. Furthermore, oral amendments would not be permitted unless they took the form of joint amendments accepted by the sponsors of one or more of the written amendments before the Committee; the introduction of oral amendments had been the principal source of delay to the Committee's proceedings, since they very frequently led to a reopening of the debate on the topic in question. Points of drafting for submission to the drafting committee would of course be accepted. No representative would speak more than once on the topic under discussion, but sponsors of written amendments would be permitted to speak before the vote in order to clarify points that had arisen during the debate or to propose a compromise solution. He hoped that the Committee would accept his proposals, which would be to the advantage of all delegations.

Article 36 (Communication and contact with the nationals of the sending State) (*continued*)

Paragraph 1 (b)

2. Mr. KANEMATSU (Japan) explained that he had voted in favour of paragraph 1 (*b*) as adopted at the 17th meeting on the understanding that it applied to normal cases where the aliens under detention or arrest possessed passports, travel documents or other identity papers. But the large number of persons who attempted to enter Japan illegally and did not possess any papers constituted a great difficulty. In those cases the authorities could not ascertain the nationality of persons detained and arrested, and therefore could not comply with the provisions of paragraph 1 (*b*) by notifying the consular authorities immediately.

3. He understood that the United Kingdom would be proposing a new article on political refugees which might cover Japan's difficulty. Meanwhile, his delegation was asking its government for instructions on how to vote on the subject in the plenary meeting.

Paragraph 1 (c)

4. The CHAIRMAN invited the Committee to consider paragraph 1 (*c*) and the amendments submitted by Belgium (L.25), the Federal Republic of Germany (L.74) and Spain (L.114).

5. Mr. JESTAEDT (Federal Republic of Germany) introduced his amendment, which was intended to safeguard the interests of nationals of the sending State detained in mental institutions. For such cases, his government considered that a social worker would be more suitable than a consul.

6. Mr. PEREZ HERNANDEZ (Spain) supported the amendment.

7. Mr. RUSSELL (United Kingdom) said that he did not find the Federal German amendment fully acceptable. It was quite in order for a consul to be accompanied by any person when visiting a detained national; it was not in order for him to delegate to someone else the rights vested in him under article 36.

8. Mr. HARASZTI (Hungary) said that the extension of paragraph 1 (*c*) as proposed by the Federal Republic of Germany was not compatible with the draft convention. The facilities, privileges and immunities conferred by the Convention were for consular officials and could not be transferred to others — certainly not to nationals of the receiving State. The grounds stated by the representative of the Federal Republic of Germany were not convincing, for the additional phrase he proposed could also be interpreted as applying to lawyers acting for the consul. In Hungary only nationals of the receiving State could practise as lawyers and the rights and duties of lawyers were governed solely by Hungarian law. The amendment would therefore conflict with his country's laws concerning aliens, and he would vote against it.

9. Mr. SHITTA-BEY (Nigeria) said he understood the motive for the Spanish amendment (L.114) but the wording was ambiguous and might lead to complications. It was not at all clear, for example, to whom the national concerned could " expressly oppose " action on his behalf by consular officials. The amendment seemed to be reopening a question which had been very fully dealt with under other sub-paragraphs — namely, should the person concerned tell the receiving State's authorities that he did not want his consul to be called, or should he refuse to see the consul when he arrived ?

10. Mr. MARESCA (Italy) said that he saw some advantage in the amendment by the Federal Republic of Germany since the consul himself, with his many duties, would obviously be unable to see every national detained or imprisoned. He could accept the amendment if the other persons were clearly understood to be members of the staff of the consulate.

11. Mr. VRANKEN (Belgium) introduced his amendment (L.25) which stipulated that a consul should have the right to correspond with the national concerned. The consul might not always be able to visit nationals in prison or under detention, and there might also be circumstances where he would prefer to communicate by letter.

12. Mr. PEREZ HERNANDEZ (Spain) presented his delegation's amendment (L.114), which provided that consular protection should not be given against the wishes of a national. It was essential for the law to allow for the free will of the individual. In article 19 of the Argentine Constitution, respect for the free will of the individual was expressed in such fine literary Spanish that he would like to read it aloud. The individual had the right to protection but was not under an obligation to receive it. Protection was ensured by paragraph 1 (*a*), which prescribed freedom of communication between consul and national, and paragraph 1 (*b*), which prescribed that the consul should be informed of a national's detention or imprisonment; but neither took account of the individual's wishes. There might be cases of purely private concern where an individual would prefer legal proceedings to the intervention of the consul, and the Spanish amendment was designed to safeguard the individual's wishes. It was important for the article to stipulate clearly the individual's expressed opposition, to ensure that he was not subjected to moral pressure from the authorities. It was clear that the amendment did not, as the Nigerian representative had suggested, cover the same ground as other sub-paragraphs.

13. Mr. SRESHTHAPUTRA (Thailand) opposed the amendment by the Federal Republic of Germany because he considered that the rights vested in consuls under the convention should not be extended to persons other than consular officials. The amendment went even further, in proposing to extend the right referred to in paragraph 1 (*c*) to other persons, regardless of nationality. It was sometimes difficult for the receiving State to verify the authority of persons claiming to act on behalf of consuls.

14. Mr. ALVARADO GARAICOA (Ecuador) supported the Spanish amendment because it established the freedom of action of the individual.

15. Mr. LEVI (Yugoslavia) opposed the amendment by the Federal Republic of Germany because it was too wide in scope and because it was not compatible with national law which allowed prisoners to be visited by members of their families, their lawyers and their consuls, but by no one else. He did not think the amendment could be interpreted in the way the representative of Italy had suggested; in any case, an explanation would not suffice: the amendment would have to be more clearly drafted. The Spanish amendment was logical but unnecessary, for if the national concerned did not wish to see his consul, the consul would not obtain the necessary permission from the competent authorities. He would not vote against the amendment, but would prefer to see it withdrawn.

The amendment by the Federal Republic of Germany (A/CONF.25/C.2/L.74) was rejected by 37 votes to 11, with 18 abstentions.

The Spanish amendment (A/CONF.25/C.2/L.114) was adopted by 18 votes to 16, with 33 abstentions.

The Belgian amendment (A/CONF.25/C.2/L.25) was adopted by 38 votes to 8, with 19 abstentions.

Paragraph 1 (c), as amended, was adopted by 57 votes to none, with 13 abstentions.

16. Mr. BLANKINSHIP (United States of America) inquired if it would be in order to propose the insertion of the word " prison " before " custody " in the last sentence of paragraph 1 (*c*) so that it should conform to the first two sentences.

17. The CHAIRMAN assured the United States representative that the point would be considered by the drafting committee.

New sub-paragraph

18. The CHAIRMAN invited the Committee to consider an amendment by France (L.131) for the insertion of a new sub-paragraph between sub-paragraphs (*b*) and (*c*).

19. Mr. HEUMAN (France) said that the effect of sub-paragraph (*b*) as drafted would be that although the consul was informed of nationals in prison he would not be notified of their release. He was therefore proposing that in addition to the receiving State's obligation under sub-paragraph (*b*), consuls should be entitled to request periodically a list of nationals of the sending State under detention. The new sub-paragraph could equally well be placed at the end of paragraph 1 and he would be open to suggestion on that point.

20. The most important part of his amendment, and no doubt the most controversial, was the last phrase: " except for those who object to such information concerning them being communicated to the consulate." In that respect its motives were similar to those of the Australian amendment to sub-paragraph (*a*), the United States amendment to sub-paragraph (*b*), the Spanish amendment to sub-paragraph (*c*) and the Swiss amendment which would be discussed under paragraph 2. The adoption of the Spanish amendment and the rejection of the others was a remarkable contradiction. If any representative wished to propose a separate vote on the last part of his amendment he would not oppose it.

21. Mr. LEVI (Yugoslavia) supported the first part of the French amendment but opposed the second part because it contained a principle which had been discussed but rejected in connexion with sub-paragraph (*b*). He asked for a separate vote on the last phrase of the French amendment.

22. Mr. PEREZ HERNANDEZ (Spain), referring to the French representative's comments, did not agree that the Committee had acted inconsistently. His own amendment was concerned with the freedom of the individual; the others related to the safeguards which provided the essential basis of protection for a national abroad. He would accept the first part of the French amendment because it strengthened the safeguards, but he could not accept the second part because it would hinder actions that were prerequisites to protection. He therefore supported the request for a separate vote.

23. Mr. BOUZIRI (Tunisia) supported the first part of the French amendment. He opposed the second part because it conflicted with the other sub-paragraphs which had been adopted. Moreover, it raised the question of proof that the national concerned really objected to information being given concerning himself.

24. Mr. MARESCA (Italy) said that the French amendment was a necessary addition to article 36; the consulate would be supplied with complete information. The periodical list would show not only which nationals had been detained but whether or not they were still under detention. It would also allow consuls to assess the standard of behaviour of the nationals of the sending State in the receiving country. The second part of the French amendment would, however, nullify the principle that the authority of the consulate must be recognized by its nationals in the receiving State. His delegation would oppose the second part of the amendment, and would support the motion for division of the vote.

25. Mr. RUSSELL (United Kingdom) said that his delegation supported the first part of the amendment, which would be a valuable addition to article 36. A periodical list would be in the interests of the individual, and conducive to the effective conduct of consular business. His delegation would, however, oppose the second part of the amendment because the principle it contained was in itself undesirable, and because it was clearly inconsistent with sub-paragraph (*b*) as approved by the Committee at its previous meeting. He therefore supported the motion for a separate vote.

26. Mr. SALLEH bin ABAS (Federation of Malaya) said that the amendment would place too heavy an obligation on the authorities of the receiving State in addition to their responsibilities under sub-paragraph (*b*). It would not be difficult for the consulate itself to prepare a list if it wished to do so, since it would in any event be notified of the persons detained. There seemed no reason to transfer the responsibility for compiling the list to the competent authorities of the receiving country.

27. Mr. LEE (Canada) expressed his entire agreement with that view. Although the French amendment perhaps represented an ideal objective, there were a number of practical objections to it. The obligations imposed on the receiving State by sub-paragraph (*b*) were quite sufficient. The additional responsibility proposed by France would require special police clerks to keep the list up to date. The receiving State would have no control over the frequency with which lists could be requested by the consulate since the period was not specified. A further difficulty arose from the fact that " the nationals of that State who are detained " could be interpreted to mean all such nationals in the receiving State, including those outside the consular district of the consulate concerned. A consulate in a capital could, for example, request a list of all nationals detained throughout the territory of a receiving State in which the sending State maintained several other consulates. The inclusion of the proviso at the end of the paragraph would mean, moreover, that a check would have to be made each time in case any detained person had changed his mind, since the last list was submitted, about the communication to the consulate of information concerning him.

28. Mr. SRESHTHAPUTRA (Thailand) shared the views expressed by the representatives of the Federation of Malaya and Canada. His delegation could not accept the French amendment for the same reason as he had given when sub-paragraph (*b*) was under discussion — namely, that his government would have practical difficulties in carrying out such an obligation.

29. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) asked whether it was in order for the Committee to discuss the insertion of a new sub-paragraph between sub-paragraphs (*b*) and (*c*), which had already been approved.

30. The CHAIRMAN replied that it would be for the drafting committee, in considering article 36 as a whole, to decide on the order of the sub-paragraphs, including that proposed by France should it be approved.

31. Mr. KONSTANTINOV (Bulgaria) said that it would be excessive to require the authorities of a receiving State to furnish a list of nationals of whose detention the consulate would have been informed already under sub-paragraph (*b*). The second part of the French amendment contained a proposal already rejected by the Committee in the Australian oral amendment to sub-paragraph (*a*) and in several amendments proposed to sub-paragraph (*b*). The Swiss proposal to insert a new paragraph providing that the application of sub-paragraphs (*b*) and (*c*) should be subject to " the freely expressed wish of the national of the sending State who is in prison, custody, or detention " again sought to insert that same rejected notion in the text of article 36. Unless the rules of procedure could be applied to prevent the constant rediscussion of proposals which had been considered and rejected, the work of the Committee would never end.

32. The CHAIRMAN said that he had been giving serious consideration to the point raised by the representative of Bulgaria. Rule 33 of the rules of procedure provided that when a proposal had been adopted or rejected it might not be reconsidered unless the Conference decided to do so by a two-thirds majority of the representatives present and voting. That rule did not, however, apply to the French amendment since the suggestion in question had first been rejected by the Committee in connexion with sub-paragraph (*b*), and subsequently accepted in sub-paragraph (*c*) by the adoption of the Spanish amendment. He would, however, rule that in so far as it concerned sub-paragraph (*b*), the Swiss amendment (L.78) would amount to the reconsideration of a proposal, and could not therefore be discussed by the Committee unless it decided to do so by a two-thirds majority; in so far as the Swiss amendment concerned sub-paragraph (*c*) it should be considered by the drafting committee, since there was in his view no fundamental difference between the Swiss amendment and the Spanish amendment to sub-paragraph (*c*) which had been adopted by the Committee.

33. Mr. BOUZIRI (Tunisia) said that the Spanish amendment was fundamentally different. It presupposed that the detention was known to the consulate, and did not affect the principle that the consulate must be informed by the consular authorities of the receiving State: only after that information had been communicated could the detained person exercise his right, in accordance with the principle of the freedom of the individual, to refuse to allow the consular officials to take action on his behalf. The French amendment, on the other hand, would allow the names of detained persons to be withheld from the consulate.

34. Mr. SERRA (Switzerland) said that his delegation had noted the Chairman's views on the decisions taken by the Committee in regard to sub-paragraphs (*b*) and (*c*) of article 36 and the conclusions he had drawn from those decisions. Although the proposals approved by the Committee were closely related to the intention of his delegation in submitting its amendment, the principle that his delegation has wished to see affirmed in the draft convention had been only partly covered. In conformity with the Chairman's ruling, his delegation withdrew its amendment (L.78). It requested, however, that it should be noted in the summary record that the Swiss authorities, desirous of continuing their past and present practice, could not accept any undertaking whereby due account was not taken of the freely expressed wish of the persons concerned.

35. With regard to the French amendment he would welcome further explanation of the word " periodically ". If the period between reports was too long the proposed provision would be made inoperative.

36. Mr. SPYRIDAKIS (Greece) said that the first part of the French amendment was logical and would assist consulates in their work. It would improve the draft by strengthening the protection which could be afforded to detained persons. The administrative difficulties which it might create for certain countries did not constitute a sufficient reason for opposing the amendment, which it was essential to include in the text of the convention. His delegation supported the motion for a separate vote.

37. Mr. DAS GUPTA (India) supported the view of the representatives of Canada and the Federation of Malaya that the French amendment as drafted was unacceptable, because the first part would lay an onerous and unnecessary administrative burden on the authorities of the receiving country without in any way improving the situation, already covered by sub-paragraph (*b*); it would also create difficulties with regard to the jurisdiction of the consulate, which was established to look after nationals in a particular area and not throughout the territory of a receiving State. It was possible that detained persons might be moved from one prison to another in a different consular district, and it would be superfluous to have to notify the consulate each time. The second part of the amendment was in opposition to the first part and contradicted the provisions of sub-paragraph (*b*). Friction would arise between States as to who was to judge, and who to verify, whether the persons concerned had objected to information concerning them being communicated to the consulate.

38. Mr. PETRENKO (Union of Soviet Socialist Republics) agreed with those representatives who had pointed out the extra administrative work the French proposal would entail; it might be particularly onerous for federal States such as the Union of Soviet Socialist Republics and the United States of America. The duty of the competent authorities to notify the consulate was clearly stated in sub-paragraph (*b*). It was unnecessary to go further and undesirable to introduce contradictions in the text. The second part of the amendment would open the way to abuse and should be rejected for the same reasons as those for which the similar amendments to sub-paragraph (*b*) had been rejected.

39. Mr. MOUSSAVI (Iran) said that his delegation would vote for the first part of the French amendment, but opposed the second part. There was a considerable difference between the Spanish amendment, the principle of which had been approved by his delegation, and the second part of the French amendment.

40. Mr. SHITTA-BEY (Nigeria) supported the first part of the French amendment; it signified an additional obligation on the receiving State, but would make for accuracy and administrative convenience. It would enable the sending State to request a periodical list of detained persons even although there had been failure on the part of the receiving State to discharge its obligations under sub-paragraph (*b*). His delegation could not support the second part of the amendment.

41. Mr. HEUMAN (France) said that reference to " arrest ", which was usually of brief duration, had been specifically avoided in the proposed new sub-paragraph which concerned detention, usually more permanent: the extra administrative work which some members feared would accordingly be reduced. The possibility of allowing the consulate itself to compile the list, as the representative of the Federation of Malaya had suggested, had been considered. But the burden placed on the competent authority by sub-paragraph (*b*) was so great that it could not be carried out adequately; a list compiled by the consulate from the information received under that sub-paragraph would therefore be incomplete, and could not be kept up to date, since there was no obligation on the receiving State to notify the consulate of the release of detained persons. As for the objection that the proposed sub-paragraph would extend beyond the boundaries of a consular district, it was intended that the paragraph should be inserted after sub-paragraph (*b*); it would therefore be governed by that sub-paragraph, which referred to " district ". His delegation would, however, have no objection to the addition of the words " within its district " in the proposed new sub-paragraph.

42. It was true that the word " periodically " was vague, but a definition of the period between reports was a matter for agreement between the local authorities and a particular consulate rather than for an international convention. His delegation would, however, have no objection to the deletion of the word "periodically".

43. The CHAIRMAN said that since no objection had been raised to the motion for division of the vote on the French amendment (A/CONF.25/C.2/L.131), he would put the first part of the amendment to the vote:

" The competent authorities shall further be required, on request by the competent consulate of the sending State, to communicate to it periodically a list of the nationals of that State who are detained."

The first part of the amendment was adopted by 31 votes to 29, with 7 abstentions.

44. The CHAIRMAN put to the vote the second part of the French amendment: " except for those who object to such information concerning them being communicated to the consulate ".

The second part of the amendment was rejected by 45 votes to 9, with 15 abstentions.

45. Mr. PEREZ-CHIRIBOGA (Venezuela) explained that his delegation had voted against the whole French amendment for the reasons given by the representatives of Canada and the Federation of Malaya.

Paragraph 1

46. The CHAIRMAN invited the Committee to consider paragraph 2 of article 36 and the amendment to it submitted by the United Kingdom (L.107).

47. Mr. EVANS (United Kingdom) said that, in the discussion of article 36, he had already indicated the importance attached by his delegation to the statement of clear and unequivocal obligations, and on the whole the Committee had supported that idea. Paragraph 2 began by stating that the rights referred to in paragraph 1 " shall be exercised in conformity with the laws and regulations of the receiving State " but then went on to the proviso that the said laws and regulations " must not nullify these rights ". In his delegation's view, the terms of the proviso were very unsatisfactory. It was obviously important that nothing should be said in paragraph 2 which would render ineffective the provisions already agreed to in paragraph 1. The words in question would, however, appear to be open to the literal interpretation that the laws and regulations of the receiving State could be allowed to impair the rights referred to in paragraph 1, and that the only proviso

was that they must not render those rights completely inoperative. It was realized that consulates must comply with laws and regulations on such matters as prison visiting and what might be given to the prisoner. It was of the greatest importance, however, that the substance of the rights and obligations in paragraph 1 must be preserved. His delegation had therefore proposed in its amendment that the proviso at the end of paragraph 2 should be re-drafted to provide " that the said laws and regulations must enable full effect to be given to the purposes for which the rights agreed under this article are intended ".

48. Mr. AVAKOV (Byerolussian Soviet Socialist Republic) said that the International Law Commission's draft of article 36 represented a reasonable compromise between the interests of the sending State, with the duty of its consulates to protect its nationals, and those of the receiving State, concerned with the safeguarding of its own country. The United Kingdom amendment to paragraph 2 was not acceptable as it was less clear than the International Law Commission's draft; it would weaken the text by making it less imperative and introduce the idea that a government should exercise limitation of its own laws and regulations.

The meeting rose at 1.5 p.m.

NINETEENTH MEETING

Monday, 18 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 36 (Communication and contact with nationals of the sending State) *(continued)*

Paragraph 2

1. The CHAIRMAN invited the Committee to continue its consideration of article 36, paragraph 2, and of the United Kingdom amendment (L.107) to that paragraph.

2. Mr. DAS GUPTA (India) said that the second part of paragraph 2 might raise difficulties of interpretation. He would prefer the wording proposed by the United Kingdom in its amendment (L.107), which was an improvement on the International Law Commission's draft.

3. Mr. ANGHEL (Romania) said that he agreed with the principle stated in article 36, paragraph 2, but considered the wording obscure and difficult to interpret, especially in view of the differences in existing legislation. The two phrases contained two different criteria. The United Kingdom amendment did not improve the text. Did it mean that States signing the Convention would have to change their laws in order to permit the full exercise of the rights in question ? He did not think that was meant by either the United Kingdom amendment or the International Law Commission's draft. Under the legislation of various countries, aliens were subject to the penal laws of the receiving State in the same way as nationals of that State. The law differed from country to country, and the receiving State could hardly be expected to accord privileged status to aliens. The second part of paragraph 2 should preferably be deleted.

4. Mr. MARESCA (Italy) said that the second part of paragraph 2 contained a recommendation that was difficult to interpret. The United Kingdom amendment proposed a more precise wording for which the Italian delegation would be prepared to vote.

5. Mr. PEREZ HERNANDEZ (Spain) likewise expressed support for the United Kingdom amendment, which conformed to the principle that international law prevailed over municipal law. There was no intention, as feared by the Romanian delegation, of according a privileged status to aliens. In all the countries represented at the Conference, citizens were equal before the law, but by reason of his status the alien needed the assistance and protection of a consul in certain respects. The United Kingdom amendment expressly safeguarded the exercise of the rights referred to in article 36, paragraph 1, and should therefore receive the Committee's assent.

6. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) said that sub-paragraphs *(a)*, *(b)* and *(c)* of article 36, paragraph 1, specified in what circumstances consular officials and nationals of the sending State could best communicate with each other. Paragraph 2 stipulated that the exercise of the rights conferred by paragraph 1 was subject to the laws and regulations of the receiving State, a provision fully consistent with accepted international practice, but the usefulness of the last part of the paragraph was debatable.

7. The United Kingdom amendment tended to weaken paragraph 2 still further, but did not provide for the case of a conflict between the rights defined in paragraph 1 and the laws and regulations of the receiving State. Would the consul's rights be violated, for instance, if he wished to pay a visit to one of his nationals in prison on a day on which the prison rules obtaining in the receiving State did not allow visits? The Ukrainian delegation was unable to support the United Kingdom amendment.

8. Mr. PETRENKO (Union of Soviet Socialist Republics) said that paragraph 2 was an important provision, for it laid down the conditions under which the rights conferred by paragraph 1 could be exercised. From the summary records of the twelfth and thirteenth sessions of the International Law Commission, it was clear that its object had been to safeguard the interests of the sending State and of its consular officials without infringing the respect due to the sovereignty of the receiving State. Those discussions had resulted in the unanimous adoption of a compromise provision, which should be acceptable to the great majority of States. Admittedly, paragraph 2 did not solve all the problems which might arise, but he considered that the International Law Commission's draft offered the most satisfactory wording.