

United Nations Conference on Consular Relations

Vienna, Austria
4 March – 22 April 1963

Document:-
A/CONF.25/C.2/SR.4

4th meeting of the Second Committee

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

52. He thought that the use of the flag on means of transport should be reserved exclusively for the head of post.

53. Mr. WALDRON (Ireland) said he preferred the new compromise proposal of the United Kingdom which set up the proper balance between the rights of the sending State and those of the receiving State. Thus the sending State could control the use of the flag on the consulate, and the receiving State could control its use on the residence of the consul and, more especially, on the means of transport. He could not accept the Belgian proposal that the phrase "in conformity with customary practice" be substituted for the phrase "subject to the laws and regulations"; it would be better, if necessary, to mention "laws, regulations and practices".

54. He too thought that the privilege of flying the flag on means of transport should be reserved for the head of the post.

55. Mr. SRESHTHAPUTRA (Thailand) said that, with the exception of two points, the United Kingdom proposal was very close to his delegation's point of view. First, he was doubtful whether the door to the consulate was always the right place at which to fly the flag or display the coat of arms. Secondly, like the representatives of India and Yugoslavia, he found the expression "consular officers" unacceptable. If the United Kingdom representative took account of those objections, the Thailand delegation would endorse that proposal.

56. Mr. DAS GUPTA (India) hoped that the United Kingdom delegation would provide some further explanations, for that delegation's amendment might imply that "consular officers" might have a rank equal to that of an ambassador, whereas in international practice the ambassador alone was entitled to fly the national flag.

57. Mr. EVANS (United Kingdom) said in reply that, so far as the use of the flag was concerned, the consul's status was not exactly on a par with that of the diplomat; the actual functions were different in that consuls were concerned essentially with the protection of their nationals, whereas ambassadors had the principal function of representing their governments in the receiving State. Nevertheless, in deference to the Indian representative's criticism, he would be prepared to reconsider his position on that point.

58. Mr. DAS GUPTA (India) said that in the light of the United Kingdom representative's explanations he was unable to accept the amendment in question, for the amendment might mistakenly convey the impression that the consular service ranked on a par with the diplomatic service.

59. Mr. NASCIMENTO e SILVA (Brazil) noted that there was virtually universal agreement on the text of article 28, subject to the United Kingdom amendment and to some drafting changes. He hoped that a generally acceptable revised draft would be submitted at the next meeting.

60. Mr. MORGAN (Liberia) said that he was fully able to accept article 28 as it stood so far as it related to the use of the national flag on consular buildings, though he could not take the same view of the provi-

sions relating to the use of the flag on means of transport in places where diplomatic missions were situated.

61. Mr. HEUMAN (France) said he would prefer the original text of article 28 to stand, though he noted that a majority of delegations seemed prepared to accept the United Kingdom's proposal, as amended. In the light of that general opinion his delegation would be prepared to accept the United Kingdom text except in one respect: the expression "may be flown", which seemed to imply an option, was too weak, for an absolute right could not be described in terms suggesting it was a mere faculty; the provision should expressly mention the sending State's right. The other amendments raised no problems.

62. Mr. SPACIL (Czechoslovakia) said that his delegation shared the doubts expressed by the representative of France. Article 28 was acceptable as drafted, but inasmuch as the majority seemed to support the United Kingdom amendment his delegation was prepared to consider it. At the same time, there seemed to be some contradiction between the United Kingdom text and the statement of that country's representative concerning an unconditional absolute right — an idea which the Czechoslovak delegation shared fully — whereas the amendment itself did not reflect that notion. Accordingly, without wishing to make a formal proposal (since he understood that the United Kingdom would revise its text), he suggested that the Committee should approve the first part of the original text of article 28 subject to slight changes and add what the United Kingdom had proposed in its original amendment. In that way the Committee would be able to specify the respective rights of the sending and of the receiving States.

63. Mr. MARESCA (Italy) said that the problem was how to balance the sending State's right to use its flag against the receiving State's right not to be expected to make too great an effort in protecting that flag. He considered that his own delegation's amendment (L.35) offered the right solution.

64. The CHAIRMAN suggested that the representatives concerned should confer with the United Kingdom representative with a view to preparing a text that could be put to the vote at the next meeting.

The meeting rose at 5.55 p.m.

FOURTH MEETING

Thursday, 7 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)

Article 28 (Use of the national flag and of the state coat-of-arms) (continued)

1. The CHAIRMAN recalled that there had been general support at the previous meeting for an amend-

ment to article 28 submitted by the United Kingdom (L.40). He suggested, however, that discussion should be deferred as the United Kingdom representative was preparing a new draft.

It was so agreed.

Article 29 (Accommodation)

2. The CHAIRMAN invited attention to the amendments submitted by the United States of America in document A/CONF.25/C.2/L.1.

3. Mr. BLANKINSHIP (United States of America), introducing the amendments, said that, although under international law the receiving State was not required to allow the sending State to acquire property by purchase, in practice such acquisitions were made possible in most countries by municipal law or by courtesy or comity. The United States delegation believed that the practice, which was widely accepted, should be recognized in the convention and secured as a right, so that the sending State would be able to choose the most advantageous of available forms of tenure. The right was provided for in a number of bilateral consular conventions and was already recognized by article 31 (*l*), which provided for tax exemptions for "owned" property.

4. The proposed amendment was drafted so as to ensure that the sending State could not acquire any tenure not generally available to nationals of the receiving State and also that the sending State should not be allowed to deviate from the normal rules of municipal law concerning conveyancing and registration of title to land and leases. In his view, it was not necessary for article 29 to conform to article 21 of the Vienna Convention on Diplomatic Relations, since the establishment and maintenance of consular relations often called for the acquisition or construction of many buildings in different places, which was not the case with diplomatic missions. The financial savings from purchase as opposed to long-term lease could be considerable.

5. In view of the purposes of consular relations, the acquisition of premises should be on a basis at least as favourable as that granted to nationals of the receiving State. The principle embodied in the amendment would also serve as notice that expropriation without adequate compensation of consular property owned by the sending State for other than public improvement and similar purposes would be in derogation of a right established by the Conference.

6. Mr. ANGHEL (Romania) said that he was in favour of the article as adopted by the International Law Commission; it was a guarantee that the receiving State would provide adequate office and housing accommodation for the consulate of a sending State. The amendment proposed by the United States representative removed the obligation from the receiving State and gave the sending State a right without a guarantee that it could be exercised. Practice had shown that the mere granting of a right to the sending State could prove illusory, or at any rate insufficient, if the receiving State failed to take action on the matter. In fact, the article as modified by the United States amendment would

place upon the receiving State an obligation merely in respect of accommodation for the members of the consulate. The Romanian delegation did not think that it was more important to house the members of the consulate than to acquire, or facilitate the acquisition of, premises for the consulate itself. In any case, the principle that the sending State should receive treatment no less favourable than that accorded to nationals of the receiving State was implicit in the International Law Commission's draft. From the drafting aspect, the same principle should be followed: each paragraph of article 29 should contain a reference to the obligation for the receiving State, as indeed was recommended, by the International Law Commission.

7. Mr. AVAKOV (Byelorussian Soviet Socialist Republic) said that he was satisfied with article 29 as adopted by the International Law Commission. He did not approve of the first of the United States amendments which merely lessened the obligation of the sending country to assist the receiving country, whose consulates often faced legal and other difficulties in seeking accommodation. He saw no objection to the second amendment, which was merely a matter of drafting.

8. Mr. JESTAEDT (Federal Republic of Germany) supported the first United States amendment, which formulated a practice already followed in many countries. He proposed, however, that the words "or assist the latter in obtaining accommodation in some other way" at the end of the International Law Commission's draft of the first paragraph should be incorporated in the second paragraph.

9. Mr. DAS GUPTA (India) thought that the idea underlying the draft adopted by the International Law Commission should have been generally acceptable. Nevertheless, as the United States amendment appeared to embody the same ideas he would be prepared to support it provided it included a provision that the receiving State should help consulates to obtain suitable accommodation if they did not want to acquire property.

10. Mr. BLANKINSHIP (United States of America) said he would be ready to revise his amendment to meet the objections raised by the representatives of Romania, the Federal Republic of Germany and India; the amendment was not intended to reduce the receiving State's obligation.

11. Mr. MARAMBIO (Chile) supported the amendment proposed by the United States representative because it contained the two essential elements: the right of the sending State to acquire premises for its consulate, and the obligation of the receiving State to facilitate the acquisition of such premises. He also considered that paragraph 2 of the International Law Commission's text should be retained.

12. Mr. KONSTANTINOV (Bulgaria) was in favour of retaining the original text. It was consistent with the corresponding article in the Vienna Convention on Diplomatic Relations, it provided for a variety of methods of obtaining accommodation, and it had been drafted with great difficulty and only as a result of compromise.

The question was a very complicated one, involving the right to move about in other countries. The United States amendment sought to make such movement an absolute right without taking into account the laws of the receiving State.

13. Mr. LEVI (Yugoslavia) also preferred the text adopted by the International Law Commission. The second sentence in the first United States amendment would not be acceptable to the Yugoslav Government if it applied to renting as well as to purchase, for rents in Yugoslavia were tied to salaries and the standard of living and it would obviously be unreasonable for nationals of sending countries to expect the same benefits as Yugoslav nationals.

14. He had no objection to the proposed amendment to paragraph 2.

15. Mr. CHANG (China) supported the United States amendment, subject to the additions suggested by the representatives of the Federal Republic of Germany and India.

16. Mr. SPACIL (Czechoslovakia) endorsed the arguments advanced in favour of maintaining the original text. In addition, he saw no reason why consular staff, who were accorded special privileges and immunities as representatives of other countries, should expect to be given the same treatment as nationals of the receiving country in the matter of accommodation. The purpose of the Convention was to provide special regulations for consulates which had nothing to do with national regulations. He therefore opposed the United States amendment.

17. Mr. HARASZTI (Hungary) said that the convention on consular relations should follow the wording of the Convention on Diplomatic Relations as closely as possible. He could not support the United States amendment, which went further than the 1961 Convention in imposing obligations on the receiving State, and urged that the text adopted by the International Law Commission should be maintained.

18. Mr. BOUZIRI (Tunisia) said that he, too, found the International Law Commission's text satisfactory. It conformed with the Convention on Diplomatic Relations and with existing practice and it established reasonable obligations for receiving States. He was opposed to the United States amendment, which sought to impose obligations that would be excessive under the ordinary law. Measures could always be taken if difficulties were encountered, but it was unreasonable to impose exaggerated obligations at the outset.

19. Mr. SRESHTHAPUTRA (Thailand) supported the International Law Commission's text because he considered that it was sufficient for the purpose of helping the sending State to acquire premises for its consulate, and was also in line with the corresponding article of the Vienna Convention on Diplomatic Relations. He therefore opposed the United States amendment.

20. Mr. DEJANY (Saudi Arabia) endorsed the views of the Tunisian representative. He saw no justification

for changing the wording which had been adopted at the Vienna Conference by a practically unanimous vote.

21. Mr. HEUMAN (France) said it was immaterial to France whether the absolute right advocated by the United States of America appeared in the convention or not, for there was no discriminatory legislation against foreigners in France. Such legislation did, however, exist in some countries and it would be well to clarify the position.

22. Adoption of the United States amendment would present some countries with an impossible alternative: to change their legislation or not to ratify the convention. The Committee should therefore think very carefully before introducing a categorical clause which would in effect be of far less value than the goodwill clause in the existing text. The assurance of help was better than a theoretical right which might be hampered by local laws. He was therefore in favour of maintaining the International Law Commission's text, but would abstain from voting because he did not object to the United States amendment.

23. Mr. AJA ESPIL (Argentina) supported the United States amendment which was merely an amplification of the existing text.

24. Mr. von NUMERS (Finland) said the Finnish law restricting the purchase of real estate by foreigners might be waived for particular cases, but it was unlikely that it would be repealed to meet the provisions of the United States amendment. He therefore opposed the amendment.

25. Mr. D'ESTEFANO PISANI (Cuba) said that he was in favour of the International Law Commission's draft. The representative of France had stated very clearly the ideas which should govern the Committee's discussion and conclusions. It should not seek to establish international standards that would compel countries to alter their national legislation. His own country offered extensive facilities to diplomatic and consular missions in obtaining suitable premises and he looked forward to the time when Cubans would receive similar facilities in other countries. He opposed the United States amendment.

26. Mr. BERGENSTRAHLE (Sweden) also preferred to leave the text unchanged, for the reasons stated by a number of representatives, in particular those of Tunisia and Finland.

27. Mr. ALVARADO GARAYCOA (Ecuador) supported the United States amendment, as it provided a kind of goodwill clause ensuring co-operation and help in establishing relations between sending and receiving countries.

28. Mr. ADDAI (Ghana) said that he associated himself with the views of the representatives who preferred the original text. Adoption of the United States amendment would give the consular officials rights not enjoyed by diplomatic missions, which was not the intention under the convention.

29. Mr. KAMEL (United Arab Republic) supported the text adopted by the International Law Commission on the basis of the Vienna Convention text. He was opposed to the United States amendment.

30. Mr. VRANKEN (Belgium) thought the draft proposed by the United States representative an improvement on the existing text because it embodied a right which ought to be granted to consular officials. Since the amendment would be difficult, however, for some countries to accept he would vote for the text adopted by the International Law Commission.

31. Mr. PEREZ-CHIRIBOGA (Venezuela) said that he preferred the text adopted by the International Law Commission because his country's constitution set certain limits to the acquisition of premises. The United States amendment placed nationals and consular officials on the same footing, which was inadmissible.

32. Mr. KHLESTOV (Union of Soviet Socialist Republics) said that article 29 as adopted by the International Law Commission was the result of very careful thought and work by experienced legal experts. Now that the United States representatives had agreed to modify his proposal to meet certain objections, his amendment would differ very little in essence from the original; in fact the wording was less satisfactory than that of the original text. He was therefore opposed to any change.

33. The CHAIRMAN said that, before proceeding with the discussion or putting the question to a vote, he wished to know whether the United States representative was ready to present the amendments he had agreed to make in response to the reservations expressed by certain representatives.

34. Mr. BLANKINSHIP (United States of America) explained that the wording of his amendment had been taken from the bilateral conventions between the United States and other countries. The amendment was not intended to lessen the obligation of receiving States to help consular officials to obtain accommodation. But since the representatives of Finland and other countries had raised objections to the second sentence of paragraph 1 he was prepared to replace it by a statement to the effect that: "The receiving State is bound to facilitate as far as possible the procurement of suitable office premises for such consulates."

35. Mr. DAS GUPTA (India) noted that the discussion had shown that some countries would have difficulty in accepting the United States amendment. As the United States representative had pointed out, there should be some reciprocity among countries with respect to the facilities provided; at the same time, the right of the government to maintain laws appropriate to the needs of its people must not be infringed. And since property tenure systems had to be devised to fit local circumstances, it would be impracticable to try to establish the principle of full reciprocity in the provision of facilities for consulate accommodation.

36. He was glad that the United States representative had agreed to withdraw the sentence in the amendment

that was most open to objection. Nevertheless, he agreed with the Soviet representative that the original draft adopted by the International Law Commission was preferable, and he therefore urged that the United States amendment as a whole should be withdrawn, so as to leave the way open for the general acceptance of the original draft.

37. Mr. TILAKARATNA (Ceylon) asked whether the United States delegation would envisage reference in its amendment to the possibility of assistance to consular officials of the sending State who wished to find accommodation other than by acquiring by purchase.

38. Mr. NASCIMENTO e SILVA (Brazil) said that positions on the various texts under consideration had been made abundantly clear. He accordingly moved the closure of the discussion, under rule 26 of the rules of procedure.

39. Mr. EVANS (United Kingdom) thought the Committee should be given an opportunity to exchange views on the latest version of the United States amendment and appealed to the Brazilian representative not to press his motion.

40. Mr. KHLESTOV (Union of Soviet Socialist Republics) was also of the opinion that further discussion would be in order and would be helpful for conciliating views. Accordingly he, too, opposed the closure of the discussion.

41. Mr. NASCIMENTO e SILVA (Brazil) agreed to withdraw his motion.

42. Mr. MARAMBIO (Chile) thought the modification introduced into the United States amendment would be likely to facilitate the adoption of a generally acceptable text for article 29. The new wording for the second sentence of paragraph 1 would be still further improved, however, if the phrase "as far as possible" were replaced by the expression used in the International Law Commission's text — namely, "in accordance with its municipal law".

43. Mr. EVANS (United Kingdom) said that the views of the United Kingdom delegation on article 29 coincided very closely with those held by the Indian delegation. The United States amendment, in its original form, would have given rise to certain legislative difficulties, not so much in the United Kingdom itself, but in some of the overseas territories for which it was responsible. The United States delegation had been most accommodating in trying to meet the views expressed in the Committee. From the United Kingdom standpoint, the substitution of the alternative formula for the second sentence of paragraph 1 would be very helpful, and his delegation agreed with the idea which it expressed. It was not satisfied, however, that any good reason existed for departing from the original text of paragraph 1 on the same point, which was the same as that of the corresponding article in the Convention on Diplomatic Intercourse and Immunities. The underlying ideas in the two texts appeared to be so similar as not to warrant a departure from the original language.

44. Turning to the first sentence of paragraph 1 of the United States amendment, he noted that it contained two phrases which might give rise to difficulty for his delegation and others as well: "acquire by purchase or otherwise" and "under such forms of property tenure as exist in the receiving State". With regard to the second of those phrases, it was noteworthy that many differing systems of law were in force in the overseas territories for which the United Kingdom was responsible, some being of indigenous character and embodying very special forms of property tenure which might be inappropriate for the holding of land by the sending State or its consulate. Since the phrase in question appeared to add little to the main provision, he wondered whether the United States delegation would be prepared to drop it entirely.

45. It was not clear from the wording of the first of the phrases in question whether the choice between purchase or some other form of property holding would lie with the receiving or the sending State. The United Kingdom delegation could accept the addition of the first United States sentence, including that phrase and without the final phrase, to paragraph 1 of article 29 or even as a separate paragraph in that article, provided that it did not necessarily impose on the receiving State an obligation to enable property to be acquired by purchase.

46. Mr. BLANKINSHIP (United States) said he had been somewhat surprised to learn that there would be difficulty for the United Kingdom in accepting the wording "under such forms of property tenure as existed in the receiving State", since a similar wording was embodied in the bilateral agreement in force between the United States and the United Kingdom; naturally, he was well aware that a provision that might be deemed appropriate for inclusion in a bilateral agreement need not necessarily be acceptable for inclusion in a multi-lateral instrument.

47. He would welcome a slight prolongation of the discussion to elicit whether further support existed for the United States position.

48. Mr. EVANS (United Kingdom) acknowledged that the United Kingdom did in fact accept provisions of the kind in some bilateral agreements but in each case a protocol of signature or an exchange of notes was appended, modifying application of the provision in so far as the United Kingdom overseas territories were concerned.

49. Mr. MARESCA (Italy) expressed appreciation of the conciliatory spirit displayed by the United States delegation; the revised wording for the second sentence of paragraph 1 of its amendment was an improvement from the legal standpoint and was more acceptable to his delegation. Yet one outstanding matter still remained to be decided: no reference was included to the right of the receiving State to lay down procedures for the acquiring of property by the sending State. Italy was extremely liberal in the matter but authorization had nevertheless to be obtained before a sending State could acquire property by purchase. His point would be met by intro-

it. Again, the use of the wording in the second sentence ducing into the revised second sentence the reference to municipal law contained in the original draft of the article.

50. Mr. HENAO-HENAO (Colombia) remarked that the article involved a deeper legal issue than had been brought out thus far in the discussion. The International Law Commission, in the draft articles adopted, had almost invariably followed the practice of defining first the right of the sending State and subsequently of specifying the obligations devolving on the receiving State. That practice had not been followed in respect of article 29, since it was recognized that the right in question derived from the agreement by which the receiving State gave its consent to the establishment of the consulate. He still believed, however, that the practice was worth maintaining and the revised wording proposed by the United States was more in keeping with it. His delegation would accordingly support the United States amendment, as modified.

51. The difficulty in regard to the acquisition of suitable premises was a very serious one; in many cases, it had become an obstacle to the exercise of consular functions and legislation to ease the existing situation was needed.

52. Mr. von NUMERS (Finland) said that he appreciated the United States action in submitting an amended formula. He was still not satisfied, however, and proposed, as a sub-amendment to the United States amendment, the following alternative version for paragraph 1:

"The sending State shall have the right in the territory of the receiving State, in accordance with the municipal law in force in the latter State, to acquire by purchase or otherwise the premises necessary for its consulate. The receiving State shall facilitate such acquisition as far as possible."

53. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) said that his delegation, too, appreciated the United States effort to bring the proposed amendment nearer to the original text of article 29. Despite the progress made in that direction, however, there was still some difference between the two texts. His delegation could not accept the United States amendment, either as modified by the United States or as amended by Finland, and supported the original text as it stood.

54. Mr. ALLOUANE (Algeria) observed that the Finnish sub-amendment to the United States amendment, while adding something new, namely, an obligation on the receiving State to facilitate the acquisition of consular premises, weakened the whole provision through the inclusion of the phrase "as far as possible". His delegation would accordingly vote for article 29 as it stood.

55. Mr. DAS GUPTA (India) stated he was still convinced that there was no difference of substance between the original draft and the United States amendment as it now stood. The right embodied in that amendment was already implicit in the bilateral agreement providing for the establishment of consular services. Nothing was gained, therefore, by explicit reference to

“the receiving State is bound” might be thought to strengthen the provision but in his opinion that expression had no more force than the mandatory “shall”.

56. He could not accept the introduction of the phrase “as far as possible”, in the Finnish sub-amendment; it simply served to weaken the original text which placed specific obligations on the receiving State.

57. In the circumstances, therefore, he again appealed to the United States delegation to withdraw its amendment.

58. Mr. SICOTTE (Canada) stated that his delegation would accept the United States amendment as now amended.

59. In so far as the relationship between the two paragraphs of the article was concerned, it was noteworthy that, in the case of paragraph 2, the obligation laid upon the receiving State was much stronger and more definite than in the case of paragraph 1. In order to bring the two into line, he proposed, as a sub-amendment to the United States amendment, that the phrase “where necessary”, in paragraph 2, should be replaced by the phrase “as far as possible”.

60. Mr. CHIN (Republic of Korea) thought the new United States wording for the second sentence of paragraph 1 more acceptable, in that it placed a stronger obligation on the receiving State to facilitate the acquisition of consular office premises, which were indispensable for the exercise of consular functions. The provision in question did not conflict with his country's municipal law nor did it infringe the sovereign rights of the receiving State. His delegation would accordingly support the United States amendment, as modified.

The sub-amendment to the United States amendment submitted by Finland was rejected by 36 votes to 12, with 16 abstentions.

The sub-amendment to the United States amendment submitted by Canada was rejected by 35 votes to 15, with 18 abstentions.

The United States amendment, as modified by the sponsor, was rejected by 35 votes to 21, with 11 abstentions.

Article 29, as adopted by the International Law Commission, was adopted by 68 votes to none, with 2 abstentions.

The meeting rose at 1.10 p.m.

FIFTH MEETING

Thursday, 7 March 1963, at 3.30 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 28 (Use of the national flag and of the state coat-of-arms) (continued)

1. The CHAIRMAN drew attention to a fresh amendment (A/CONF.25/C.2/L.60) submitted jointly by the

delegations of Belgium, Brazil, Czechoslovakia, India, Italy, Liechtenstein, Switzerland, the Ukrainian SSR and the United Kingdom. Except for the amendment by Nigeria (L.36), all the amendments to article 28 that had previously been submitted had been withdrawn.¹ A further amendment (A/CONF.25/C.2/L.48) had been submitted by Spain. He asked the representatives of Nigeria and Spain whether they would agree to withdraw their proposals.

2. Mr. PEREZ HERNANDEZ (Spain) said that, in view of the joint amendment, he would withdraw his delegation's amendment.

3. Mr. SHITTA-BEY (Nigeria), while accepting the essentials of the joint amendment, said he maintained his delegation's opinion that a distinction should be drawn between the consular building and the consul's residence.

4. He wished to modify the amendment previously submitted by his delegation (L.36) to read:

“The consulate shall have the right to fly the national flag and display the coat-of-arms of the sending State on the building occupied by the consulate and at the entrance-door, and, subject to the laws and customs of the receiving State, the flag of the sending State may be flown on the residence and means of transport of the head of the consular post.”

5. The joint amendment did not seem to differ from the original amendment by the United Kingdom. Paragraph 3 of the new text seemed to imply that no right would be granted.

6. Mr. AMLIE (Norway) said that the rights referred to in article 28 were absolute and unconditional. The International Law Commission's draft, which did not contain any reservations to the main principle, had been established after a close study of many conventions, and must be considered to embody the principles of customary international law.

7. The proposed amendments were hardly acceptable. They appeared to establish a right, but in the end no right seemed to exist. He urged the Committee to accept the text as drafted by the International Law Commission.

8. Mr. WALDRON (Ireland) said that he would support either the original United Kingdom proposal (L.40) or the latest proposal by the Nigerian delegation. He did not consider that the new joint amendment was an improvement on the earlier proposals.

9. Mr. SPACIL (Czechoslovakia) said that during the discussion on the joint amendment it had been argued that there was an apparent contradiction between paragraph 1, which spoke of the categorical and absolute right to fly a flag, and paragraph 3, which, on the contrary, implied that the right was limited.

10. As a sponsor of the joint amendment, he explained that there was in fact no contradiction between the two paragraphs, for the third paragraph concerned only the exercise of a right recognized in the first paragraph.

¹ For the list of these amendments, see the summary records of the third meeting (footnote to para. 1).