

United Nations Conference on Consular Relations

Vienna, Austria
4 March – 22 April 1963

Document:-
A/CONF.25/C.1/SR.17

17th meeting of the First 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)

54. Mr. BARTOŠ (Yugoslavia) opposed both the South African and the Indian amendments. It was essential to require an immediate notification by the receiving State to the competent authorities of the consular district; otherwise the local authorities might deny all knowledge of the consul having been admitted to the exercise of his functions. If he turned to the central authorities, he might then be told that they were unaware of the reasons for the ignorance of the local authorities. The provisions of article 14 did not impose any great burden on the receiving State. All that the central authorities were required to do was to send out a circular to the competent local authorities or insert a notice in the official gazette.

55. For those reasons, his delegation favoured the original text with the joint amendment (L.94), which was in the spirit of the Commission's draft.

56. Mr. KRISHNA RAO (India) said that in order to meet the objections which had been made to his proposal, he would delete the word "undue"; it would then provide that the necessary measures were to be taken "without delay".

57. Mr. EL KOHEN (Morocco) disagreed with the Indian representative's interpretation of article 14. That article, as drafted by the International Law Commission, merely provided that it was the duty of the receiving State to notify its local authorities; there was no suggestion that the legal status of the consul was in any way dependent upon such notification. His delegation preferred the original text of the article.

58. Mr. BREWER (Liberia) supported the joint amendment. The provisions of article 14 applied both to provisional admission (article 13) and to definitive admission (article 11).

59. Mr. PRATT (Israel) supported the joint amendment which filled a gap in the text. His delegation also favoured the Indian amendment, because it was more comprehensive than the original text; the reference to "necessary measures" would include measures going beyond mere notification of the local authorities. However, in order to meet the wishes of those delegations which considered that a reference to notification was necessary, he suggested that the following words "such as notification to the competent authorities of the consular district" might be added after the words "necessary measures":

60. Mr. KRISHNA RAO (India) accepted that suggestion.

61. Mr. BARTOŠ (Yugoslavia) did not think that the proposed addition improved the Indian amendment; it made notification merely an example of a necessary measure, whereas it was in fact the most important of the measures to be taken by the receiving State.

62. Mr. DADZIE (Ghana) agreed that the proposed addition did not improve the text of the Indian amendment.

63. Mr. KRISHNA RAO (India) suggested that, in view of the difficulties created for some delegations by

his acceptance of the sub-amendment suggested by Israel, it should be voted on separately.

64. Mr. PRATT (Israel) said that he had not made a formal proposal but merely a suggestion, which he would not press.

65. The CHAIRMAN said that, in the circumstances, he would put to the vote the Indian amendment as originally submitted, except for the deletion of the word "undue".

The Indian amendment (A/CONF.25/C.1/L.107) was rejected by 26 votes to 17, with 22 abstentions.

The joint amendment (A/CONF.25/C.1/L.94) was adopted by 44 votes to 2, with 17 abstentions.

The South African amendment (A/CONF.25/C.1/L.122) was rejected by 33 votes to 15, with 17 abstentions.

Article 14, as a whole, as amended, was adopted by 63 votes to none, with 2 abstentions.

The meeting rose at 1.5 p.m.

SEVENTEENTH MEETING

Friday, 15 March 1963, at 3.10 p.m.

Chairman: Mr. SILVEIRA-BARRIOS (Venezuela)

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

Article 15 (Temporary exercise of the functions of head of a consular post)

1. The CHAIRMAN invited the Committee to consider article 15, together with the amendment relating to it.¹

2. Mr. USTOR (Hungary) said that the joint amendment (L.95) submitted by Hungary and the Ukrainian SSR should be considered as a drafting amendment which might be referred to the drafting committee.

3. Mr. VRANKEN (Belgium) introduced his delegation's amendment (L.12) modifying all four paragraphs of article 15. Its purpose was to provide against any difficulties the smaller countries might experience in ensuring the temporary exercise of the functions of head of a consular post. The new text of paragraph 1 would reproduce the first sentence of the International Law Commission's paragraph 1, but the deletion of the last two sentences would enable the head of post himself to choose an acting head of post.

4. The aim of the new paragraph 2 was to put the acting head of post on the same footing as the titular head of post and make his appointment conditional, if necessary, on the consent of the receiving State.

¹ The following amendments had been submitted: Belgium, A/CONF.25/C.1/L.12; Hungary and the Ukrainian Soviet Socialist Republic, A/CONF.25/C.1/L.95; Canada, A/CONF.25/C.1/L.108; Italy, A/CONF.25/C.1/L.115; South Africa, A/CONF.25/C.1/L.123.

5. The sentence which the Belgian amendment proposed to add at the end of paragraph 3 provided that an acting head of post would not necessarily be granted the same facilities, privileges and immunities as the titular head of post. Lastly, the words which it was proposed to add to paragraph 4 would make the direction of a consulate by a member of the diplomatic staff conditional on the consent of the receiving State.

6. Mr. SICOTTE (Canada) considered that the temporary head should always be chosen from among the consular officials. If the sending State had no such officials available to assume those functions, it could only designate a consular employee to take charge of the current administrative affairs of the consular post. That was the object of the Canadian amendment (L.108) to paragraph 1.

7. Mr. MAMELI (Italy) said that his delegation, in submitting its amendment (L.115), had merely sought to co-ordinate and arrange the provisions of paragraph 2.

8. Mr. ENDEMANN (South Africa) pointed out that his delegation's amendment (L.123) to paragraph 2 was merely a matter of drafting to bring the paragraph into line with paragraph 2 of article 10, which stipulated that the sending State should communicate the commission issued to the head of a consular post to the government of the receiving State through the diplomatic channel. The sending State should take the same step with regard to the notification of the appointment of the acting head of post, save in cases where it did not have a diplomatic mission in the receiving State.

9. Mr. WESTRUP (Sweden) considered the Belgian amendment a constructive contribution to the work of the Conference. The words "In the exceptional cases" in paragraph 1 had been a source of some concern to the Swedish consular authorities, which feared that strict application of the provision might make it difficult to fill vacant posts. The Italian delegation had likewise felt the need to attenuate that provision, but its amendment to paragraph 1 did not suffice. The Belgian amendment would be a great improvement for the entire arrangement of article 15. The new text proposed by Belgium for paragraph 1 would leave the sending State full latitude in the choice of an acting head of post, but would not exclude a right of supervision on the part of the receiving State, thus maintaining a fair balance between the rights of one and the responsibilities of the other.

10. Mr. SHU (China) said that he would vote for article 15 as drafted by the International Law Commission, because the clause "... if the head of post is unable to carry out his functions" would also cover the absence of the head of post. The Chinese delegation had made the same reservation during the discussion of article 19 of the Vienna Convention on Diplomatic Relations, which contained a similar clause.

11. Miss ROESAD (Indonesia) said that, according to paragraph 2 of article 15, it was easier to designate an acting head of post than a titular head of post. The work and the responsibilities, however, were the same

in each case. Again, if the acting head of post was chosen from among the members of the diplomatic staff, it was understandable that the consent of the receiving State should not be required; but if he was chosen from among the members of the administrative and technical staff consent was necessary.

12. The deletion of the last two sentences of paragraph 1, as proposed in the Belgian amendment (L.12), would leave the method of choosing the acting head of post in some doubt. Nevertheless, her delegation was in favour of the new text suggested in that amendment so far as paragraph 1 and paragraph 2 were concerned; but there seemed no need to add the sentence proposed in the Belgian amendment to paragraph 3. If the receiving State gave its consent to the designation of the acting head of post, there seemed no reason why it should not grant him all the facilities, privileges and immunities necessary for the exercise of his functions. Her delegation would not oppose the proposed addition to paragraph 4, and would vote for the amendment as a whole. It would vote against the joint amendment (L.95), and against the Italian amendment (L.115).

13. She doubted the advisability of the Canadian amendment (L.108) but would reserve judgement until she had heard the comments of the other delegations.

14. Mr. DAS GUPTA (India) considered the Belgian amendment (L.12) to paragraph 1 a great improvement, because the two sentences it was proposed to delete might involve the sending State in serious difficulties if the acting head of post were chosen from among the members of the administrative and technical staff, who might include nationals of the receiving State.

15. In practice the name of the acting head of post was always notified in advance. There was therefore no need for the last sentence in paragraph 2. In addition, the new draft of paragraph 2 as proposed by Belgium, and more especially the last sentence, was an improvement on the International Law Commission's draft. He was, however, unable to accept the proposed addition of a new sentence at the end of paragraph 3; the receiving State could not give its consent to the designation of the acting head of post and at the same time refuse to grant him the facilities necessary for the exercise of his functions. The Indian delegation would therefore prefer the International Law Commission's draft of paragraph 3. It could not accept the Belgian amendment to paragraph 4.

16. He was unable to support the joint amendment (L.95) to paragraph 1, since the members of a consulate often included nationals of the receiving State employed on administrative and technical work.

17. Mr. ABDELMAGID (United Arab Republic) said that he supported the new draft of paragraph 1 in the Belgian amendment because the choice of the acting head of post was solely the concern of the sending State. That applied to all the other amendments in connexion with that paragraph. For paragraph 2, however, he preferred the International Law Commission's draft.

18. Contrary to what the South African representative had said, the South African amendment to paragraph 2 was not merely a matter of drafting, since it did not oblige the sending State to notify the name of the acting head of post in advance to the Ministry for Foreign Affairs.

19. In the case of paragraph 3, his delegation suggested the following text: "The competent authorities shall offer assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present convention shall apply to him on the same basis as to the head of the consular post concerned."

20. His delegation did not see any need to add the phrase to paragraph 4 proposed by Belgium. Since the person concerned would be a member of the diplomatic staff, he would naturally continue to enjoy diplomatic privileges and immunities.

21. Mr. VRANKEN (Belgium) withdrew his amendment to paragraph 3 of article 15, and agreed to the wording proposed by the United Arab Republic for that paragraph.

22. The purpose of the Belgian amendment to paragraph 4 was to avoid the granting of diplomatic privileges and immunities to members of the diplomatic staff who were sent to the provinces as acting heads of posts. They were entitled only to consular privileges and immunities.

23. Mr. KNEPPELHOUT (Netherlands) thought that the new text for paragraph 1 submitted by Belgium was clearer than the International Law Commission's draft. It had the additional advantage of eliminating the list of methods of choosing the acting head of post, and left the sending State full latitude in that respect. Consequently, it dispelled the apprehensions of the smaller countries such as the Netherlands.

24. Miss WILLIAMS (Australia) supported the Canadian amendment (L.108), the wording of which was based on paragraph 2 of article 19 of the Vienna Convention on Diplomatic Relations.

25. Mr. von HAEFTEN (Federal Republic of Germany) said that he was satisfied with paragraph 1 as drafted by the International Law Commission, but saw no objection to adopting the change proposed in the Belgian amendment. He was in favour of the Belgian amendments to paragraphs 2 and 4. He would gladly have voted for the amendment to paragraph 3, and regretted its withdrawal. The text proposed by the United Arab Republic seemed to him better than the draft, but the drafting committee might improve it still further.

26. Mr. TSYBA (Ukrainian Soviet Socialist Republic) said that he was unable to understand the objections to the joint amendment submitted by Hungary and the Ukrainian SSR (L.95) which, to his mind, was simply a drafting amendment, at least in so far as the Russian version was concerned, and should be referred to the drafting committee.

27. Mr. HEPPEL (United Kingdom) said that his government's views had already been made known in

the written comments it had submitted to the United Nations in 1962. The sending State should be allowed full latitude in the appointment of an acting head of a consular post. Although the designation of an embassy chargé des affaires was, under article 19 (2) of the Vienna Convention, conditional on the consent of the receiving State, the United Kingdom delegation did not consider that the same rule necessarily applied to the designation of an acting head of a consular post. The position of an acting head of post was quite different from that of a temporary chargé d'affaires. The consulate might be situated in a remote area, and there might even be no administrative or technical staff available. For that reason, it ought to be possible to entrust such functions, for instance, to an ordinary national of the sending State residing in the town where the consulate was situated. It would in such circumstances be right and proper for the privileges and immunities enjoyed by an acting head of post to be subject to certain restrictions.

28. His delegation would therefore in general support the Belgian amendment (L.12). It considered the amendment excellent, because it solved the matter in two ways: it left the sending State complete freedom in its choice of an acting head of post, and it did not bind the receiving State necessarily to grant the person in question the same privileges and immunities as the titular head of post had himself enjoyed.

29. Although his delegation preferred the Belgian amendment in so far as paragraphs 1 and 4 were concerned, for the reasons already explained by other delegations, more particularly the South African and Italian, the United Kingdom delegation preferred the Italian amendment (L.115) to paragraph 2, except for one technical detail: it did not seem the correct procedure to instruct a head of consular post to enter into direct relations with the Ministry of Foreign Affairs. Nevertheless, there seemed no serious objection to voting for the Belgian amendment to paragraph 2.

30. His delegation regretted the withdrawal of the Belgian amendment to paragraph 3, which was fully in line with his delegation's point of view.

31. Mr. MIRANDA e SILVA (Brazil) said that the new principle expressed in paragraph 4 of the International Law Commission's draft was very valuable. It very often happened that a member of the diplomatic staff was temporarily entrusted with consular functions in the State to which he was accredited. It would be unjust to deprive him temporarily of his diplomatic privileges and immunities. The Belgian amendment to paragraph 4 made the enjoyment of those privileges and immunities subject to the consent of the receiving State and would remove the whole point of the original text of paragraph 4.

32. The CHAIRMAN announced that the Netherlands would sponsor and resubmit the amendment to paragraph 3 which had been withdrawn by the Belgian delegation.

33. Mr. TSHIMBALANGA (Congo, Leopoldville) said that the arguments presented by the Netherlands delegation regarding small countries held good also for

certain large countries which had recently achieved their independence and lacked qualified staff. His delegation would therefore support the Belgian amendment to paragraph 1. With regard to paragraph 4, he proposed that the words "if the receiving State gives its consent" in the Belgian amendment should be replaced by the words "if the receiving State does not object".

34. For paragraph 3, he approved of the text suggested by the United Arab Republic, which he thought was clearer than that of the International Law Commission.

35. Mr. ENDEMANN (South Africa) said that he had intended to withdraw his delegation's amendment to paragraph 2 in favour of the Belgian amendment, but that having heard the remarks of various delegations he thought it might be possible to arrive at a compromise. With regard to paragraph 1 he approved the Canadian proposal. In his opinion, it would be wise to follow the practice of the Convention on Diplomatic Relations and put the administrative staff of consulates on the same footing as the administrative staff of embassies. To favour one group at the expense of the other would be contrary to the spirit of the two conventions. He asked the Canadian representative if it would not be possible to meet the wishes of the United Kingdom delegation by deleting the words "with the consent of the receiving State".

36. He had no special preference for his own text for paragraph 2. The Belgian amendment seemed satisfactory, but he would prefer it if the concluding sentence, "the receiving State may make the admission of the acting head of post conditional on its consent", were deleted. He was also inclined to accept the Belgian amendment to paragraph 3, now sponsored by the Netherlands delegation, and the Belgian amendment to paragraph 4.

37. Mr. de MENTHON (France) said that he supported unreservedly the text of paragraph 1 proposed by Belgium, which was clear and flexible and took into account the misgivings expressed by the authors of the other amendments. The representatives of Sweden, the United Arab Republic and the Netherlands had already produced arguments in its favour.

38. He was more doubtful about the Belgian proposal for paragraph 2. There might be cases in which it would not be possible to notify in advance the name of the temporary head of post. He preferred the formula "as a general rule", which appeared in the International Law Commission's text and in the Italian amendment, or some equivalent expression.

39. In the case of paragraph 3, he supported the former Belgian amendment now sponsored by the Netherlands, and the verbal amendment of the United Arab Republic.

40. The Belgian amendment to paragraph 4 seemed to imply the necessity for formal consent. Like the Congolese representative, he preferred the phrase "if the receiving State does not object". The question could perhaps be decided by the drafting committee.

41. Mr. CAMERON (United States of America) said that his delegation favoured the Canadian amendment

for the reasons given when that text had been introduced. He approved the Belgian amendments to paragraphs 2 and 4, especially the latter. He saw no objection to including in the text a clear statement that a member of the diplomatic staff entrusted with consular functions should continue to enjoy diplomatic privileges and immunities, including fiscal immunities; but members of the diplomatic staff performing consular functions should be subject to the laws of the receiving State just like nationals of that State. He was sorry that that point had not been specified in any amendment.

42. Mr. DAS GUPTA (India) said that the Indian delegation could not accept the joint amendment because, though it had no objection to the text of paragraph 1 as drawn up by the International Law Commission, the Belgian version was more logical and more flexible and therefore better. The joint amendment submitted by Hungary and the Ukrainian SSR thus became unnecessary.

43. Mr. NGUYEN QUOC DINH (Republic of Viet-Nam) stated that his delegation's position diverged from that of the International Law Commission on one essential point. According to the Commission, the consent of the receiving State was not necessary when a temporary head of post was appointed, whereas, according to the terms of article 8, it was necessary when a titular head of post was appointed. But a temporary head of post had the same functions as the titular head of post and should therefore receive the same treatment.

44. The International Law Commission explained its attitude in paragraph 3 of its commentary; but paragraph 4 of the same commentary laid it down that the function of acting head of post might not, except by agreement between the States concerned, be prolonged for so long a period that the acting head would in fact become permanent head. The notion that something was "temporary" might introduce an element of uncertainty and give rise to disputes between the sending State and the receiving State. In these circumstances, the Viet-Nam delegation was inclined to support the Belgian amendment to paragraph 2. It was, of course, necessary that, to ensure the continuity of consular functions, the receiving State should give its reply immediately.

45. With regard to the remainder, his delegation approved the International Law Commission's text.

46. Mr. PALIERAKIS (Greece) approved the Belgian amendments to paragraphs 1, 2 and 4. With regard to paragraph 4, however, the Committee would do well to take into consideration the point made by the representative of Congo (Leopoldville). He regretted that the Belgian delegation had withdrawn its amendment to paragraph 3, but as that amendment had been reintroduced by the Netherlands delegation, the Greek delegation would support it likewise.

47. Mr. EL KOHEN (Morocco) said he was in favour of the Belgian amendments to paragraphs 1 and 2 since they tended to simplify the International Law Commission's text and would facilitate the work of

many countries. But he did not approve the Belgian amendment to paragraph 4, the adoption of which might give rise to difficulties and embarrass smaller countries that did not have the necessary diplomatic or consular staff.

48. Mr. TÜREL (Turkey) supported the Belgian amendments to paragraphs 1, 2 and 4. He found the second point of the Italian amendment interesting, but he preferred the Belgian amendment. His delegation would support the Netherlands amendment to paragraph 3.

49. Mr. N'DIAYE (Mali) approved the Belgian amendment to paragraph 1: its flexibility would meet the needs of the smaller countries. He also approved the Belgian amendment to paragraph 2, which took account of the difficulties which had been referred to, in particular, by the representative of the Republic of Viet-Nam. With regard to paragraph 3, he supported the verbal amendment submitted by the delegation of the United Arab Republic, which improved the International Law Commission's text without changing its substance. He approved the addition to paragraph 4 of the words proposed in the Belgian amendment, but would vote against all the other amendments to article 15.

50. Mr. DJOKOTO (Ghana) supported the Belgian amendment to paragraph 1 for the reasons which had already been given by other delegations, particularly that of Congo (Leopoldville). He preferred that amendment to the one submitted by Hungary and the Ukrainian SSR, which seemed too restrictive.

51. Mr. D'ESTEFANO PISANI (Cuba) approved the Belgian amendments to paragraph 1 and paragraph 2. The latter seemed preferable to the Italian amendment provided that the second sentence — which the Cuban delegation found too rigid — were deleted. He was, however, decidedly opposed to the amendment to paragraph 3 now sponsored by the Netherlands. He opposed the amendment to paragraph 4, on which the Brazilian representative's comments had been apposite. The Cuban delegation would vote for the International Law Commission's text for paragraphs 3 and 4.

52. Mr. RABASA (Mexico) said that he agreed with the delegations who had approved the Belgian amendments, as they were in harmony with the spirit of the International Law Commission's text, and improved on it both in form and in substance. The amendment to paragraph 1 had the advantage of not going into details and that to paragraph 2 had the advantage of insisting on prior notification and of safeguarding the rights of the receiving State.

53. With regard to the Netherlands amendment to paragraph 3, he thought that if a member of the diplomatic staff were called upon to replace a consular official, he should enjoy the rights, privileges and immunities provided for consular officials. The Mexican delegation was in favour of the amendment in the form in which it had originally been submitted by Belgium.

54. Mr. SOLHEIM (Norway) said that, in view of the difficulties encountered by small States who lacked a sufficiently numerous qualified staff, he was in favour of

the Belgian amendment to paragraph 1. He also approved the amendment to paragraph 2, but he would prefer the last sentence to be deleted, and he asked the Chairman to consider the possibility of putting it to the vote separately.

55. The Norwegian delegation, however, could not support the Netherlands amendment to paragraph 3. A temporary head of post required the same facilities, privileges and immunities as a permanent head of post. He preferred the International Law Commission's text for paragraph 4, but he thought it might be possible, as a compromise, to modify the Belgian amendment in the manner suggested by the representative of Congo (Leopoldville), and to replace the words "gives its consent" by the words "does not object".

56. Mr. USTOR (Hungary) agreed with the opinions expressed by the Norwegian representative. The second sentence of the Belgian amendment to paragraph 2 gave rise to difficulties and it would perhaps be best to delete it. The amendment to paragraph 4 seemed to run counter to paragraph 8 of the International Law Commission's commentary on article 15.

57. If the Belgian amendment were adopted, the joint Hungarian-Ukrainian amendment would be unnecessary. The purpose of that amendment was to bring the provisions of article 15 into line with those of article 1, which did not mention members of the administrative and technical staff. It was purely formal in character and could, if necessary, be sent to the drafting committee direct.

58. Mr. WESTRUP (Sweden) said that the Belgian amendments constituted a complete text and that he would vote for the original text (L.12) in its entirety, including the amendment to paragraph 3 now sponsored by the Netherlands delegation.

59. With regard to the amendment to paragraph 2, he supported the French suggestion that it would be desirable to incorporate in it certain elements from the Italian amendment. The amendment to paragraph 3 constituted a desirable and necessary counterpoise to the flexibility of the text proposed by Belgium to paragraph 1. The suggestion by the representative of Congo (Leopoldville) was interesting, and he hoped that it would be taken into account when the proposals were put to the vote.

60. Mr. BANGOURA (Guinea) said that he was in favour of the Belgian amendments to paragraphs 1 and 2. With regard to the amendment to paragraph 3, he preferred the proposal of the delegation of the United Arab Republic which would improve the International Law Commission's text. He agreed with the Norwegian representative that in paragraph 4 the words "gives its consent" might well be replaced by the words "does not object".

61. Mr. VRANKEN (Belgium) said that, in a spirit of co-operation, he would accept the suggestions made by the representatives of France and of Congo (Leopoldville). He also accepted a modification of his amendment to paragraph 2 along the lines of the second part of the Italian amendment.

62. The CHAIRMAN said that he would put to the vote, paragraph by paragraph, the amendments to article 15 of the International Law Commission's draft. The verbal amendment of the United Arab Republic, which did not raise a question of substance, would be sent to the drafting committee direct.

The Belgian amendment to paragraph 1 (A/CONF.25/C.1/L.12) was adopted by 44 votes to 5, with 13 abstentions.

63. The CHAIRMAN said that, as a result of the adoption of the Belgian amendment, it would not be necessary to put to the vote the amendments to paragraph 1 by Hungary and the Ukrainian Soviet Socialist Republic (L.95), Canada (L.108) and Italy (L.115).

64. After a lengthy discussion on the wording of the Belgian amendment to paragraph 2, in which Mr. USTOR (Hungary), Mr. WESTRUP (Sweden), Mr. PALIERAKIS (Greece), Mr. de MENTHON (France), Mr. VRANKEN (Belgium), Mr. SOLHEIM (Norway), Miss ROESAD (Indonesia), Mr. KEVIN (Australia), Mr. BARTOŠ (Yugoslavia), Mr. MAMELI (Italy), Mr. ENDEMANN (South Africa), Mr. HEPPEL (United Kingdom), Mr. CHIN (Republic of Korea), Mr. DAS GUPTA (India) and Mr. RUDA (Argentina) took part, Mr. de ERICE y O'SHEA (Spain) observed that the first part of the Belgian amendment to paragraph 2, in the amended form accepted by its author, was identical with the International Law Commission's text, so that the first part of the amendment had ceased to exist. There remained the South African amendment (L.123); it would be best to vote first on that amendment and subsequently on the second part of the Belgian amendment to paragraph 2.

65. Mr. DAS GUPTA (India) agreed with the Spanish representative.

66. The CHAIRMAN put the South African amendment to the vote.

The South African amendment to paragraph 2 (A/CONF.25/C.1/L.123) was rejected by 36 votes to 8, with 11 abstentions.

67. The CHAIRMAN read out the revised text of the second part of the Belgian amendment to paragraph 2 as communicated to him by the Belgian representative: "The receiving State may make the admission as acting head of post of a person who is neither a diplomatic nor a consular official of the sending State in the receiving State upon its consent."

68. The text he had read out was very different from the original version of the amendment (L.12) and a new discussion should therefore be regarded as having begun. To avoid any confusion or misunderstanding, he asked the Belgian representative to submit his new text as a formal amendment; other delegations who desired to do so should submit sub-amendments to the new text under the same conditions, so that the Committee could discuss them at its next meeting.

The meeting rose at 6.25 p.m.

EIGHTEENTH MEETING

Monday, 18 March 1963, at 10.50 a.m.

Chairman: Mr. BARNES (Liberia)

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

Article 15 (Temporary exercise of the functions of head of a consular post) (continued)

1. The CHAIRMAN recalled that the Committee had adopted the Belgian amendment (L.12) to paragraph 1, but had not voted on the other amendments to this paragraph. The Committee had rejected the South African amendment (L.123) to paragraph 2. As the Italian amendment (L.115) had been withdrawn, there remained only the Belgian amendment to paragraph 2. A number of delegations had then submitted oral sub-amendments to the Belgian amendment, which altered its text to the extent of completely changing its sense. Thus it had not been possible to vote on the amendment. To avoid a repetition of that situation, he would request delegations to refrain, as far as possible, from submitting oral amendments and sub-amendments which substantially modified the original text and to adhere strictly to rule 30 of the rules of procedure; that rule did not exclude the discussion of amendments which had not been communicated to the secretariat, but left the decision to the Chairman.

2. The Belgian amendment to paragraph 2 read: "The name of the acting head of post shall be notified, either by the head of post or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by it. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic nor a consular official of the sending State in the receiving State conditional on its consent."

The amendment was adopted by 40 votes to 9, with 14 abstentions.

3. The CHAIRMAN said that the United Arab Republic had presented a verbal amendment to paragraph 3 which had been sent to the drafting committee. With regard to paragraph 3, therefore, the Committee had before it only the amendment which appeared in document A/CONF.25/C.1/L.12 submitted and then withdrawn by Belgium and reintroduced by the Netherlands.

The amendment was adopted by 25 votes to 24, with 12 abstentions.

4. The CHAIRMAN put to the vote the Belgian amendment to paragraph 4 of article 15.

The amendment was rejected by 32 votes to 26, with 8 abstentions.

5. Mr. TSHIMBALANGA (Congo, Leopoldville) said that his delegation had proposed a sub-amendment

¹ For the list of the amendments to article 15, see the summary record of the seventeenth meeting, footnote to para. 1.