

United Nations Conference on Consular Relations

Vienna, Austria
4 March – 22 April 1963

Document:-
A/CONF.25/SR.22

22nd meeting of the Plenary

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)

STATEMENT BY THE REPRESENTATIVE OF ITALY

86. The PRESIDENT said that the representative of Italy had asked to make a statement.

87. Mr. MARESCA (Italy) said that as he had stated in the First Committee, he considered that paragraph 2 of article 2 introduced in the Convention a contradictory element which was both specific and general. Specifically it conflicted with paragraph 3 and established a rule which was completely opposed to the spirit of the Convention which was based on the idea of the independence of consular from diplomatic relations. Like many other representatives, he had hoped that the paragraph would be deleted, but it had been retained. He therefore wished to state that paragraph 2 should not be interpreted to mean that consular relations were subsidiary or accessory to diplomatic relations or that the consent to the establishment of diplomatic relations necessarily implied a consent to the establishment of consular relations. Article 2, paragraph 2, did no more than raise a bare presumption — neither an irrebuttable nor even a rebuttable presumption within the meaning of the law, but a bare presumption which was, consequently, subject to severe qualification and which could be overridden by the slightest evidence to the contrary. Accordingly, the provision should be interpreted strictly in accordance with the rules of international courtesy and prudence, under which a country should take all necessary steps beforehand and not expose another country to the embarrassment of a refusal.

The meeting rose at 1.20 p.m.

TWENTY-SECOND PLENARY MEETING

Monday, 22 April 1963, at 4.53 p.m.

President: Mr. VEROSTA (Austria)

Consideration of the question of consular relations in accordance with resolution 1685 (XVI) adopted by the General Assembly on 18 December 1961 (continued)

[Agenda item 10]

OPTIONAL PROTOCOL CONCERNING ACQUISITION OF NATIONALITY

1. The PRESIDENT invited the Conference to comment on the optional protocol concerning the acquisition of nationality.

The protocol was adopted unanimously.¹

DRAFT RESOLUTION ON REFUGEES

2. The PRESIDENT invited the Conference to consider the draft resolution on refugees.

3. Mr. RUEGGER (Switzerland) said that he would not oppose the draft resolution submitted to the Conference by the First Committee. Nevertheless, he did

not think it really necessary to transmit to the organs of the United Nations, and more particularly to the High Commissioner for Refugees, the records of debates which had taken place under the auspices of the United Nations and which would shortly be available to everyone. The adoption of such a course might lead people to suppose that there was some problem, whereas in his view no real problem existed. Nothing in the Convention as adopted could affect the provisions of other international instruments in favour of refugees; such provisions constituted a *lex specialis*. In that connexion, the text of the Convention was confirmed by the statements of several delegations regarding their interpretation of certain clauses and the practice followed in their countries. It might perhaps have been useful to include an actual provision to that effect in the final clauses; but, even in the absence of such a provision, the legal position was perfectly clear. A convention of a technical nature on consular relations could not invalidate rules that were established by custom, like the rules dealing with the right of asylum, which was part of a State's sovereign rights. Reference could also be made in that connexion to the last paragraph of the preamble, which gave international customary law its rightful place.

4. For those reasons his delegation would not oppose the text of the resolution, but would abstain when it was put to the vote.

5. Mr. DADZIE (Ghana) thought that the very interesting debate in the Conference on the question of refugees which had led to the draft resolution before the Conference was a clear sign of the importance of the refugee question. Ghana was the most recent State to have ratified the Convention on the Status of Refugees, to which forty States were now parties, and he hoped that States which had not yet ratified the Convention would do so without delay, thus contributing to the rapid solution of the question.

6. Mr. EVANS (United Kingdom) said that the effect of the resolution was that the Conference would take no decision on the questions concerning refugees referred to in the memorandum of the United Nations High Commissioner for Refugees. Those questions therefore remained as they had been before the Conference began and if disputes arose, they would have to be settled outside the Convention. The Convention therefore in no way prejudiced the special status of refugees or their international protection.

7. Mr. MARESCA (Italy) agreed that the question of refugees remained open. But the answer lay in the old axiom *lex generalis non derogat priori speciali*; the relationship between the Convention on Consular Relations and the Convention relating to the Status of Refugees was the same as that between a subsequent general law and a pre-existing special law. The Italian delegation agreed with the statement by the Swiss representative and would also abstain from voting on the resolution.

8. Mr. MEYER-LINDENBERG (Federal Republic of Germany) said that he would vote for the draft resolution on refugees on the understanding that the Conven-

¹ The text will be found in document A/CONF.25/14.

outstanding qualities which he had shown during the proceedings of the Conference, and which had enabled the Conference to attain its purpose. He also thanked all the members of the Secretariat who had contributed to the success of the Conference and expressed his gratitude to the Austrian Government and people, who had once again showed their proverbial hospitality and cordiality.

64. Mr. WESTRUP (Sweden), speaking for the delegations of Denmark, Finland, Norway and Sweden, Mr. BARTOŠ (Yugoslavia) and Mr. MAMELI (Italy) emphasized the historic importance of the adoption of the Convention on Consular Relations and associated themselves with the warm tributes paid and congratulations addressed to the President of the Conference, the members of the various committees, the Secretariat and all those whose devoted efforts had led to the satisfactory outcome of the Conference's work.

65. Mr. RUEGGER (Switzerland), speaking also for the delegations of Belgium, France, the Federal Republic of Germany, Greece, Ireland, Liechtenstein, Luxembourg, Netherlands, Portugal, San Marino, Spain, Turkey and Austria, expressed his sincere thanks to the President, whose outstanding qualities all the participants had had the opportunity to appreciate during the difficult moments of the Conference. In particular, he paid tribute to the President's great tolerance and to the respect he had shown at all times for everyone's opinion. The devoted work of the President's assistants, especially the chairmen of the two committees and of the drafting committee, and that of all members of the Secretariat and general services had also contributed to the success of the Conference.

66. Mr. DADZIE (Ghana) associated himself with

the tributes paid by the previous speakers, and expressed his thanks in particular to the chairman of the drafting committee, who deserved the gratitude and sympathy of all participants in the Conference.

67. Mr. KRISHNA RAO (India) thanked the representative of Ghana for his kind words and said he was grateful to the members of the drafting committee, whose goodwill and co-operative spirit had enabled the Committee to fulfil a very difficult task. He joined in the congratulations to the President and the secretariat of the Conference.

68. The PRESIDENT said that the adoption of the Convention on Consular Relations established an important date in the history of international law, for a new branch had been codified. Despite the difficulties of the subject and the problems caused by rules of procedure that were sometimes ill-adapted to the discussions, the Conference had been able, through the understanding and goodwill of its participants, to accomplish its task. He paid a special tribute to the International Law Commission and to its special rapporteur, whose work had formed the basis of the Conference's discussions. He also thanked the chairmen and the members of the committees of the Conference for the zeal with which they had dealt with the exacting and difficult tasks entrusted to them.

69. He was deeply touched by the kind words addressed to him by members of the Conference and hoped that the 1963 Convention would long remain the basis for consular relations between the nations of the world.

70. He then declared the United Nations Conference on Consular Relations closed.

The meeting rose at 7.10 p.m.