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Summary record of the 385th meeting

Topic:
Diplomatic intercourse and immunities

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by agreement with another State establish a diplomatic mission with the latter."

47. Sir Gerald FITZMAURICE said that, while he appreciated the reasons for Mr. Amado's suggestion, he agreed with Mr. Khoman that it was desirable to have some form of introductory article, laying down a general principle. That was one reason why he would have preferred to begin the draft with some kind of definition of the diplomatic function. However, he would not press the point.

48. Mr. SANDSTRÖM, Special Rapporteur, and Mr. PAL both agreed that article 1 should be retained in one form or another, for the reasons given by Mr. Khoman and Sir Gerald.

49. Mr. PAL observed that the principle underlying the article was that the basis of the diplomatic relation was mutual agreement, and that principle should be retained in the draft. It was well established as a principle and universally recognized in international practice.

50. Faris Bey EL-KHOURI thought that the Special Rapporteur's text of article 1 could be retained, omitting the words "possessing the right of legation", which added nothing to the meaning and raised a number of controversial questions. All that mattered was that the two States concerned should agree to institute diplomatic relations with one another.

51. Mr. MATINE-DAFTARY agreed, and pointed out that if article 1 were deleted altogether, article 2 would become incomprehensible.

52. Mr. AMADO said that he had no desire to delete article 1 if the majority of the Commission wished to retain it. He only felt that, as expressed, it was tautological and contributed nothing to the text.

53. Mr. SCELLE said that he too was not opposed to having some form of introductory article, but only to article 1 as it was worded, containing as it did concepts that were either irrelevant or open to dispute.

The meeting rose at 12.55 p.m.

385th MEETING

Friday, 26 April 1957, at 9.45 a.m.

Chairman: Mr. Jaroslav ZOUREK.

Diplomatic intercourse and immunities (A/CN.4/91, A/CN.4/98) *(continued)*

[Agenda item 3]

CONSIDERATION OF THE DRAFT FOR THE CODIFICATION OF THE LAW RELATING TO DIPLOMATIC INTERCOURSE AND IMMUNITIES (A/CN.4/91) *(continued)*

ARTICLE 1 *(continued)*

1. Mr. YOKOTA said that he wished to withdraw the amendment he had submitted at the previous meeting (384th meeting, para. 46) in favour of the amendment submitted by Mr. Khoman (384th meeting, para. 44), which was substantially the same.

2. Mr. TUNKIN said that, on both procedural and substantive grounds, he was in favour of deleting the words "possessing the right of legation". As Mr. Pal had rightly enquired (384th meeting, para. 36), who was to determine whether or not a particular State possessed the right of legation? It was a recognized rule of international law that every sovereign state was *ipso facto* a subject of international law and accordingly possessed the right of legation. The question whether the constituent States of a federal State possessed such right depended, as Mr. Verdross had remarked at the 384th meeting, on its federal constitution and was not a matter of international law.

3. The institution of permanent diplomatic relations and the establishment of diplomatic missions were, as Mr. Bartos had aptly observed, two different things, and a diplomatic mission could be recalled without diplomatic relations being severed. It would be undesirable for the article to give the impression that the establishment of a diplomatic mission must follow automatically on the institution of diplomatic relations. Were that so, a State which did not wish for the time being to establish a diplomatic mission with another State might be deterred from instituting diplomatic relations with it.

4. Mr. Tunkin was not in favour of Mr. Amado's proposal to omit the whole article (384th meeting, para. 40), since he agreed with Sir Gerald Fitzmaurice that, whenever possible, the Commission should state a principle. In his opinion, the principle might be formulated as follows: the establishment of diplomatic relations, as well as the exchange of diplomatic missions between two States, takes place on the basis of agreement between these States.

5. Although Mr. Khoman's amendment (384th meeting, para. 44) was acceptable in principle, he did not like the use of the verb "may", which suggested that such action was permitted by international law. Furthermore, the reference to the territory of a third State, though probably correct from the point of view of substance, simply complicated matters and would be better omitted.

6. He was not quite clear as to the purpose of the amendment submitted by Mr. Bartos (384th meeting, para. 39).

7. Mr. FRANÇOIS said that he was in favour of Mr. Amado's proposal to omit article 1. He had no serious objection to the original draft article, although the question as to what States possessed the right of legation might give rise to difficulties. Once that proviso was deleted, however, as in Mr. Khoman's amendment, the article became quite unacceptable. Certain entities, such as, sometimes, the States forming part of a federal State, protectorates or the former free city of Danzig, for example, had no right under their constitutional laws to enter into diplomatic relations with other States, and it was incorrect to declare that such States might under international law enter into diplomatic relations simply by mutual consent.

8. He, too, objected to the reference to the territory of a third State in Mr. Khoman's amendment, which he was afraid would be unintelligible to anyone who had not followed the Commission's discussions. The case it was designed to cater for, namely, where diplomatic relations between two States were maintained by their ambassadors in a third country, was a very special one and could, he thought, be covered by Mr. Bartos's formula of "another method of maintaining diplomatic relations". In any case, such a device could hardly be called a diplomatic mission.

9. Sir Gerald FITZMAURICE proposed the following somewhat simpler text for the article, inspired partly by the observations of Mr. Pal and Mr. Tunkin:

> "The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent."

10. He quite agreed with Mr. François in his attitude to the introduction of a reference to the establishment of diplomatic missions on the territory of a third State, which was presumably designed to meet a case cited by Mr. Bartos (384th meeting). The device in question was a means of entering into diplomatic relations, and had nothing to do with the establishment of a mission. Reference could be made to such cases in the comment on the article, if necessary, but it would merely confuse matters to refer to them in the article itself.

11. Mr. PAL expressed support for Sir Gerald Fitzmaurice's amendment, which solved the difficulty while retaining the principle underlying the original draft article.

12. He was not happy about Mr. Khoman's amendment, which introduced a new question not to be found in the original draft article, namely, that of the territory on which a diplomatic mission was established. He could not see how a diplomatic mission could be established at all on the territory of a third State, but if it were, the consent of the third State would also be required.

13. The idea underlying Mr. Bartos's amendment could have been expressed by a reference in the comment on the article. But if Sir Gerald Fitzmaurice's amendment was accepted, even that would not be necessary.

14. Mr. AMADO observed that Sir Gerald's amendment was substantially the same as the Special Rapporteur's text, with the omission of any reference to the right of legation. He was at one with Mr. Scelle in his failure to understand why it should be necessary to devote an article to a statement of the obvious. If States entered into diplomatic relations with each other and established missions, it was self-evident that they were agreed to do so. He would, however, bow to the view of the majority.

15. Mr. PAL recalled that the Commission had been asked by the General Assembly to codify the topic, with a view to the common observance by all Governments of existing principles and rules and recognized practice; in other words, to codify the obvious. It was therefore better to state an obvious principle than to leave it out.

16. Mr. EL-ERIAN said that he was in favour of retaining article 1 in some form or other, since the draft codification in its existing form required an introductory article. Sir Gerald Fitzmaurice's amendment had several merits, one of them being that it enunciated the principle that diplomatic relations must be established by mutual consent. Though Mr. El-Erian fully appreciated Mr. Scelle's point, that all States ought to enter into diplomatic relations with each other, he did not regard such a consideration as relevant in a codification of positive international law. However desirable it might be from the idealistic standpoint for States to enter into diplomatic relations with each other, no State was under any legal obligation to do so.

17. As to the right of legation, the authors of the United Nations Charter, when dealing with the question of membership, had simply used the term "State", leaving it to the Security Council and the General Assembly to decide whether a particular entity qualified for statehood or not. The Commission itself had taken the same course when framing its draft Declaration on Rights and Duties of States.[1] Entering into diplomatic relations was merely an attribute of a subject of international law. It could not be referred to as a right, bearing in mind the circumstances under which a State might come into existence, and the current rules of international law on recognition.

18. Mr. El-Erian said that he would support Sir Gerald Fitzmaurice's amendment (para. 9 above).

19. Mr. KHOMAN, replying to observations on his amendment (384th meeting, para. 44), said that the verb "may" as used therein did not have a permissive sense, but merely expressed the idea of possibility. The reference to diplomatic missions in the territory of a third State had been introduced in order to cover every possibility. When two States were in diplomatic relations with each other, they did not necessarily have missions on each other's territory. There were, for instance, cases of ambassadors accredited to several countries and resident in only one of them. He would not insist on that part of his amendment, however. He found Sir Gerald's text generally acceptable.

20. Mr. BARTOS observed that the Commission seemed to be drawing closer to agreement on a suitable text. The case just mentioned by Mr. Khoman, of ambassadors accredited to several countries, was not the same as the one he had had in mind. When ambassadors were accredited to several countries they visited each of them from time to time, and there was, therefore, an embassy of the sending State in each of the countries, regardless of whether the ambassador happened to be present. Since, however, the case he himself had in mind was an exceptional one (the case where two States did not have mutual representation—even when they had a permanent mission established in a third State where they were both represented—but announced that representatives accredited to a third State would be the channel for diplomatic relations), he would be willing to accept Sir Gerald's amendment, provided that the Special Rapporteur was willing to include a reference to the case in the comment on the article.

21. Mr. MATINE-DAFTARY found Sir Gerald Fitzmaurice's text generally acceptable. In its existing form, however, it gave the impression that diplomatic missions were not part and parcel of diplomatic relations between States. He wondered whether the correct impression could be given by the insertion of words corresponding to the French *"entre autres"*, instead of *"et"*.

22. Mr. TUNKIN said that, since Sir Gerald Fitzmaurice's amendment expressed substantially what he had said, he had abandoned his intention of formally submitting an amendment.

23. Mr. SANDSTRÖM, Special Rapporteur, said that he accepted Sir Gerald Fitzmaurice's amendment. The Commission appeared to be practically unanimous in desiring to omit any reference to the right of legation, and he did not wish to press that point. Though no great harm would be done were Mr. Amado's amendment accepted, he thought it preferable to have an introductory article.

24. Mr. YOKOTA, although prepared to support Sir Gerald Fitzmaurice's amendment generally, wondered whether it would not be advisable to delete the words "of diplomatic relations between States and", thus leaving the text as:

> "The establishment of permanent diplomatic missions takes place by mutual consent."

[1] *Official Records of the General Assembly, Fourth Session, Resolutions*, p. 67.

The draft was, after all, dealing mainly with permanent rather than *ad hoc* diplomatic agents.

25. Mr. Scelle had said that States were under an obligation to enter into diplomatic relations with each other and could not refuse to receive any diplomatic agents whatsoever—including, presumably, permanent diplomatic agents. He was sorry that he could not go so far as Mr. Scelle on that point. Although it was an established rule of international law that diplomatic agents could be sent only with the consent of the receiving State, according to a number of authors, including Oppenheim, States could refuse to receive some diplomatic agents, but were bound to receive *ad hoc* agents despatched to discuss some specific matter of importance. Since there was some difference of opinion as to whether the establishment of diplomatic relations and the sending of *ad hoc* diplomatic agents were conditional on mutual consent, it would be better to omit all reference to them and refer merely to the establishment of permanent diplomatic missions.

26. Sir Gerald FITZMAURICE said that, while he appreciated Mr. Yokota's point, he would be reluctant to abandon the reference to the establishment of diplomatic relations, especially as several members of the Commission attached considerable importance to it. Were it omitted, for instance, Mr. Bartos's point would not be met. Even from the standpoint of Mr. Yokota's argument, no harm would be done if the phrase were retained, since, regardless of whether States were bound or not to establish diplomatic relations, the establishment of diplomatic relations did in fact take place by mutual consent.

27. He appreciated Mr. Matine-Daftary's point too, but had so far been unable to think of a stylistically satisfactory redraft of his text to meet it. It could perhaps be left to the drafting committee which would undoubtedly be set up at a later stage.

28. Mr. AMADO said that he would not press for a vote on his amendment, as he was prepared to accept that of Sir Gerald Fitzmaurice. He would, however, appreciate it if, to make the text sound less like a truism, it could be prefaced by some such phrase as "It is an established practice in international law for . . . ".

29. The CHAIRMAN said that Mr. Amado's observations would be brought to the notice of the drafting committee.

30. Mr. GARCIA AMADOR observed that the Commission appeared to be generally in favour of Sir Gerald Fitzmaurice's text. He himself was prepared to accept it on the same terms as Mr. Amado.

31. The CHAIRMAN said that, since all other amendments had been withdrawn, either absolutely or conditionally, he would put Sir Gerald Fitzmaurice's amendment (para. 9 above) to the vote, subject to its redrafting in the light of the observations of Mr. Matine-Daftary and Mr. Amado.

The amendment was unanimously adopted.

ARTICLES 2 AND 3

32. Mr. SANDSTRÖM, Special Rapporteur, said that for the sake of convenience it would be preferable to discuss the first paragraph of article 3 in conjunction with article 2.

33. Mr. Sandström had attempted in those provisions to state the existing rules of international law. Some doubts might be felt regarding the provision in article 3, paragraph 1, as he understood that it was sometimes the practice to seek the receiving State's approval of the principal officers subordinate to the head of the mission.

34. Mr. LIANG (Secretary to the Commission) remarked that the words "is acceptable to" in the English text did not exactly correspond to the sense of the original French *"est agréée par"*, which implied a definite act of *agréation.*

35. Mr. VERDROSS proposed that the second sentence in article 2, paragraph 1, "If he is not acceptable, he shall not be appointed", be deleted, on the ground that appointment of the head of a mission was a matter of domestic and not international law. A State was free to appoint whomsoever it chose as head of mission, but if he was not acceptable to the other State, he could not be sent.

36. Mr. FRANÇOIS doubted whether the provision in article 2, paragraph 2, that the receiving State might, *without stating its reasons,* declare the head of the mission no longer *persona grata,* and the similar provision in article 3, paragraph 1, were in accordance with international practice. It was not necessary for a receiving State to give its reasons for regarding a proposed head of mission as unacceptable, but once he had been accredited, it was contrary to good relations for the receiving State to demand his recall without giving reasons. The reasons given should not be subject to discussion, but the sending State was entitled to some explanation when its head of mission was declared no longer *persona grata.* A large number of writers supported that view.

37. With regard to the second sentence of article 2, paragraph 2, "In such case, he shall be recalled", he suggested that it would be more correct to state "In such case, the receiving State shall have the right to require him to leave"; that was what happened in practice. The receiving State did not wait for the long procedure of recall to be gone through, but gave the *persona non grata* his passport and asked him to leave.

38. Mr. BARTOS said that he was not in favour of Mr. Verdross's proposal to delete from article 2 the words, "If he is not acceptable, he shall not be appointed". There had been several cases of States appointing ambassadors to another State to which, for political reasons, they had not the slightest intention of sending them. The practice was discourteous, to say the least.

39. On the question of the desirability of a State's giving its reasons for declaring a diplomatic agent *persona non grata,* he agreed with Mr. François, with the reservation, however, that it was not the general practice for States to do so. He thought, however, that article 2, paragraph 2 and article 3, paragraph 1, should be reworded so as to make it clear that the State was "under no explicit obligation to state its reasons".

40. A distinction should be made between the withdrawal of a diplomatic agent and his recall; the latter could only be effected by the dispatch of a formal letter of recall by the head of State. There had been many cases of ambassadors being withdrawn until a dispute had been settled without their being formally recalled. The important point was that they should be withdrawn.

41. Another point, perhaps more appropriate for inclusion in the commentary, was that States should not refuse to accept a diplomatic agent on grounds of sex or religion, or other discriminatory reasons, as such an attitude was due merely to prejudice.

42. Mr. YOKOTA said that any State was of course entitled to declare another State's nominee as head of a diplomatic mission to it *persona non grata,* but, before doing so, it must have good reasons; otherwise the sending State might feel its dignity affronted, and relations between the two States might suffer. He instanced the case of Mr. Keiley, whom the United States Government had, in 1885, proposed to appoint United States Ambassador to Italy, but whom the Italian Government had refused to accept, owing to the fact that he had, in 1871, severely protested against Italy's annexation of the Papal States. The United States Government had accepted the situation, and appointed another ambassador to Italy. In the same year, however, it had appointed Mr. Keiley United States Ambassador to the Austro-Hungarian Empire, which, in turn, had refused to accept him on the ground that his wife was said to be a Jewess. The United States Government had protested strongly that the Imperial Government's action was based on improper reasons, and had shown its displeasure by refusing to appoint another ambassador to the Austro-Hungarian Empire for several years. It was in order to avoid such difficulties that certain writers had sought to compile a list of valid reasons for declaring the head of a mission *persona non grata.* On the other hand, if the Commission adopted the present text of article 2, paragraph 2, it would be giving the impression that States were entirely free to declare the head of a diplomatic mission *persona non grata* without any good reason at all.

43. He therefore proposed the deletion of the words "and without stating its reasons". The effect of that amendment would not be to place the receiving State under an obligation to state its reasons, but to enable it to do so if it deemed fit.

44. Mr. PAL thought there was little dispute over article 2, paragraph 1, or article 3, paragraph 1, both of which were in accordance with existing practice. The Special Rapporteur appeared also to believe that article 2, paragraph 2, was also in accordance with existing practice. If it was—and Mr. Pal considered that it was the practice that the receiving State could at any time declare the head of the mission no longer *persona grata* and that it could, but need not, state its reasons for doing so—then the Commission had no choice but to accept it, without enquiring whether such practice was reasonable or not. If such was the practice, moreover, it would not alter it in the direction desired by Mr. François just to delete the words "and without stating its reasons". As Mr. Yokota had pointed out, even without those words States would still be able to withhold any explanation if they thought fit.

45. Mr. AMADO entirely agreed with Mr. Pal. It was impossible to enumerate all the reasons for which a receiving State might wish an ambassador to be recalled. There might well be cases in which it would be extremely embarrassing for it to have to state its reasons, for example where the personal conduct of the ambassador's wife or family was concerned.

46. With regard to article 2, paragraph 1, he agreed with Mr. Verdross that the words "he shall not be appointed" did not entirely correspond to existing practice. Otherwise he was perfectly content with the text of article 2 as it stood.

47. Mr. FRANÇOIS said that he could not accept Mr. Pal's suggestion that the Commission was solely concerned with recording existing practice. In its previous work, in particular on the law of the sea, the Commission had always regarded its task as comprising not only the codification of law but also its progressive development. That was in accordance with its Statute, and he did not think that the reference in General Assembly resolution 685 (VII) to the Assembly's "desire for the common observance by all governments of existing principles and rules and recognized practice concerning diplomatic intercourse and immunities" implied that the Commission should depart from its usual approach in the present case.

48. Sir Gerald FITZMAURICE said he saw no objection to deleting the second sentence of article 2, paragraph 1.

49. He also agreed with the Secretary to the Commission that in the first sentence the English words "is acceptable to" were not an exact rendering of the French *"est agréée par"*. He suggested retaining the French term *"agrément"*, which was commonly used in English in that context. The English text would then read:

> "The sending State must make certain that the person it proposes to appoint head of the mission has received the *agrément* of the receiving State."

50. With regard to article 2, paragraph 2, he agreed with Mr. Pal and Mr. Amado that States could not be obliged to give their reasons for declaring the head of a mission *persona non grata.* However, he was inclined to agree with Mr. Yokota that the best way of dealing with the matter might be not to mention it at all. It was curious that the Special Rapporteur had mentioned it in paragraph 2, but not in paragraph 1: if the words "and without stating its reasons" were included in one case but not in the other, the implication was that in the latter case reasons must be stated. What was still more curious was that in the draft of the Harvard Law School (Harvard Research),[2] exactly the contrary procedure had been followed: the provision corresponding to article 2, paragraph 1, of the Special Rapporteur's draft read ". . . the receiving State shall indicate, without obligation to communicate reasons, whether or not such person is acceptable", while the provision corresponding to article 2, paragraph 2, stated merely "A receiving State may at any time request a sending State to recall a member of a mission who has become *persona non grata*". He wondered why the Special Rapporteur had reversed the procedure followed in the Harvard draft. In any case, the Commission should be consistent and either not include the words in question in either paragraph or include them in both. In his view, they could be safely omitted from both. Where the law was silent, no obligation could be said to exist. It was revealing that no comment had been made on the fact that the words in question were not included in article 2, paragraph 1.

51. Mr. AMADO felt that the cases dealt with in paragraphs 1 and 2 of article 2 could not be regarded as on an equal footing. When, as in paragraph 1, it was asked to give its *agrément,* the receiving State had usually no personal knowledge of the person proposed; in the case in paragraph 2, it had. In his view, therefore, it was perfectly logical to omit the words "and without stating its reasons" from paragraph 1 and to include them in paragraph 2.

52. Mr. SANDSTRÖM, Special Rapporteur, said that he entirely agreed with Mr. Amado. Article 2 of his draft

[2] Harvard Law School, *Research in International Law, I. Diplomatic Privileges and Immunities* (Cambridge, Mass., 1932), pp. 19-25.

was based on the Havana Convention.[3] When a State was asked to give its *agrément* to the head of a mission, it was scarcely supposed to give the reasons for its refusal; all that mattered to the sending State was whether the person received the *agrément* of the receiving State or not. Once such a person was in office after *agrément*, the claim for reasons might be stronger.

53. The CHAIRMAN, speaking as a member of the Commission, pointed out that the two cases also differed in respect of the gravity of the act. To refuse a person *agrément* was a much less serious step than to declare him *persona non grata* once he had been appointed.

54. Mr. KHOMAN said that he too saw no objection to deleting the second sentence of article 2, paragraph 1.

55. As regards article 2, paragraph 2, he pointed out that the receiving State might wish to state its reasons in order that there might be no misunderstanding of the grounds for its action. The present text implied that the receiving State should never state its reasons. He therefore supported Mr. Yokota's proposal to delete the words "and without stating its reasons", but suggested that the following sentence be then inserted between the first and second sentences: "It may or may not state the reasons for such action."

56. A similar change should be made in article 3, paragraph 1.

57. Mr. MATINE-DAFTARY, referring to Mr. Verdross's remarks, observed that the appointment of an ambassador was not only a domestic matter but also an act of international consequence, as the nomination of an ambassador was by means of credentials sent by one head of State to another head of State. For that reason he felt that the second sentence of article 2, paragraph 1, should be retained.

58. The sense of Mr. Khoman's amendment to article 2, paragraph 2, might be met more simply, without deleting the phrase "and without stating its reasons", by altering "stating" to "being obliged to state".

59. He also agreed with Mr. François's criticism of the last sentence of paragraph 2, and proposed that it be replaced by the following: "In such cases his mission shall be at an end."

60. Mr. AMADO suggested that in the first sentence of paragraph 2 it would be neater to say ". . . and without *having to* state its reasons . . . ".

61. Mr. TUNKIN said that he could agree to the deletion of the last sentence of article 2, paragraph 1, not because it related to a matter of purely domestic concern but because it was redundant; the obligation not to appoint as head of a mission a person who was not acceptable to the receiving State was already recognized in the first sentence.

62. The first sentence of article 2, paragraph 2, was in accordance with current practice. It was not obligatory for the receiving State to give its reasons, but it could do so if it wished. He agreed, however, that the position might be expressed more clearly by some such wording as that suggested by Mr. Khoman, Mr. Matine-Daftary or Mr. Amado.

63. As regards the second sentence of article 2, paragraph 2, Mr. François's criticism was possibly justified. On the other hand, it would not be sufficient to say that the receiving State could demand recall, since there would then be nothing to indicate that the sending State must comply with such demand.

64. Mr. SANDSTRÖM, Special Rapporteur, said he quite agreed with Mr. Tunkin that the second sentence of article 2, paragraph 1, was superfluous in view of the first. He therefore withdrew it.

65. On the other hand, he could not agree with Mr. François that it would tend to obviate international misunderstanding and disputes if the receiving State were obliged to state its reasons for declaring the head of a diplomatic mission no longer *persona grata*. However, he appreciated the fact that the deletion of the words "and without stating its reasons" would not mean that such an obligation existed. It might perhaps be possible to refer in the comment to the fact that the receiving State might or might not state its reasons. He had thought that the last sentence of article 2, paragraph 2, would be sufficient, and that a party to a convention would execute the recall, but he would have no objection to amending the sentence to read: "If in such case the head of the mission is not recalled, the receiving State shall be entitled to require his departure."

66. Mr. VERDROSS, replying to Mr. Matine-Daftary, reiterated that the act of appointment was purely and simply a matter of domestic law. The act which was international was the act of accrediting. He therefore suggested that the first—or, now that the Special Rapporteur had agreed to the deletion of the second, the only—sentence of article 2, paragraph 1, be amended to read: "The sending State must make certain that the person it proposes to accredit as head of the mission to another State has received the *agrément* of that State."

67. Mr. SANDSTRÖM, Special Rapporteur, and Mr. FRANÇOIS said that, on reflection, they were prepared to accept Mr. Verdross's suggestion.

Mr. Verdross's suggestion was adopted by 16 votes to none with 1 abstention.

68. Mr. SANDSTRÖM, Special Rapporteur, suggested that the wording proposed by Mr. Matine-Daftary for the second sentence of article 2, paragraph 2 would read better if recast as follows: "In such case his mission shall be regarded as at an end."

69. Mr. AMADO, Mr. PAL and Mr. LIANG (Secretary to the Commission) all expressed serious doubts as to whether such wording would be in accordance with existing practice, since the recall of the head of the mission did not necessarily entail the recall of its other members.

The meeting rose at 12.50 p.m.

386th MEETING

Monday, 29 April 1957, at 3 p.m.

Chairman: Mr. Jaroslav ZOUREK.

Diplomatic intercourse and immunities (A/CN.4/91, A/CN.4/98) *(continued)*

[Agenda item 3]

CONSIDERATION OF THE DRAFT FOR THE CODIFICATION OF THE LAW RELATING TO DIPLOMATIC INTERCOURSE AND IMMUNITIES (A/CN.4/91) *(continued)*

ARTICLES 2 AND 3 *(continued)* AND ARTICLE 4

1. The CHAIRMAN invited the Commission to continue its consideration of the draft articles from article 2, paragraph 2, onwards. He recalled that Mr. Yokota had

[3] Convention regarding Diplomatic Officers, signed at Havana on 20 February 1928. See League of Nations, *Treaty Series*, vol. CLV, 1934-1935, No. 3581.