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SUMMARY RECORD OF THE 20th MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

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CONVENTION ON CONSULAR RELATIONS

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The meeting was called to order at 3.30 p.m.

AGENDA ITEM 146: ADDITIONAL PROTOCOL ON CONSULAR FUNCTIONS TO THE VIENNA CONVENTION ON CONSULAR RELATIONS (A/45/141)

1. Mr. HOHENFELLNER (Austria), speaking also on behalf of Czechoslovakia, noted that Austria and Czechoslovakia had jointly requested the inclusion of item 146 in the agenda. Document A/45/141 contained a draft Additional Protocol to the Vienna Convention on Consular Relations, and an explanatory memorandum on the item. The aim of the proposal was to supplement the Vienna Convention on Consular Relations of 24 April 1963 by developing specific rules on consular functions. Austria and Czechoslovakia suggested that the General Assembly should request the Secretary-General to seek the views of Member States and other States parties to the 1963 Convention on the draft Additional Protocol, and to submit a report on that subject to the Assembly at its forty-sixth session.
2. Mr. TRAXLER (Italy), speaking on behalf of the 12 States members of the European Community, said that the proposal submitted by Austria and Czechoslovakia raised several questions, such as whether the listing of consular functions in article 5 of the Vienna Convention was insufficient, whether there was a need to develop specific rules which would be set forth in a multilateral instrument, and whether States deemed it useful to bind themselves to a set of rules regulating consular functions. The Twelve wondered whether States were convinced that the advantages of uniformity would prevail over the possible disadvantage of a limitation on their freedom to negotiate with other States on a bilateral basis.
3. Drawing attention to article 16 of the draft Additional Protocol, which stated that its provisions would not affect other international agreements, he said that the chief legal consequence of becoming a party to the new instrument appeared to be that a State would be precluded from agreeing that consular officers should perform fewer functions than those listed in the Additional Protocol. Even if article 16 were deleted, the listing of consular functions in the Additional Protocol would give a definite advantage in bilateral negotiations to the State which opposed reducing the list of consular functions.
4. In that connection, he recalled the European Convention on Consular Functions, elaborated by the Council of Europe and opened for signature in December 1967. That instrument and its two Protocols had yet to enter into force, as it had not been possible to obtain the requisite five ratifications in 23 years. In view of that experience, the proposal to develop detailed rules on consular functions should be approached with caution. Before further action was taken, the views of Governments should be sought as to the advantages and possibilities of success in negotiating an additional protocol.
5. Ms. GAO Yanping (China) said that since the adoption of the Vienna Convention on Consular Relations, States had developed a body of practice which should be taken into account in the elaboration of an additional protocol. While on the whole the provisions of the draft instrument reflected contemporary practice in the

(Ms. Gao Yanping, China)

field of consular functions, further adjustments were required in order to bring certain articles into line with the legal situation in some States. For example, article 1 stated that the provisions relating to nationals of the sending State should also apply to legal persons and partnerships under commercial law. However, under Chinese law, a partnership did not have the status of an independent legal person, and that was also the case in other States.

6. Under article 3, paragraph 1 (f), consular officers would have the right to authenticate the signature of nationals of the receiving State. State practice varied in that regard: in a large number of States, consular officers could authenticate the signatures and seals of the authenticating agencies of the receiving State, but could not directly authenticate the signatures of nationals of the receiving State.

The meeting rose at 4 p.m.