



**United Nations Conference
on Consular Relations**

Vienna — 4 March - 22 April 1963

Official Records

Volume II :

Annexes

**Vienna Convention
on Consular Relations**

Final Act

Optional Protocols

Resolutions



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* Mimeographed.

^a Adopted without change at the first plenary meeting.

^b Same text as in *Official Records of the General Assembly, Sixteenth Session, Supplement No. 9*; also reprinted in *Yearbook of the International Law Commission, 1961*, volume II.

^c For text, see vol. I. p. XXIX.

^d For text, see League of Nations, *Treaty Series*, vol. OLV, p. 291; also reprinted in *United Nations Legislative Series, Laws and Regulations regarding Diplomatic and Consular Privileges and Immunities*, p. 422.

^e For text, see Harvard Law School, *Research in international law, II: The Legal Position and Functions of Consuls* (Cambridge, Mass., 1932) pp. 217-375.

^f Transmitted in accordance with General Assembly resolution 1813 (XVII).

^g For text, see *United Nations Conference on Diplomatic Intercourse and Immunities, Official Records*, vol. II (United Nations publication, Sales No.: 62.XI.1), p. 82.

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A N N E X E S

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DOCUMENT A/CONF.25/6

Draft articles on consular relations adopted by the International Law Commission at its thirteenth session

Article 1

Definitions

1. For the purpose of the present draft, the following expressions shall have the meanings hereunder assigned to them :

(a) "Consulate" means any consular post, whether it be a consulate-general, a consulate, a vice-consulate or a consular agency ;

(b) "Consular district" means the area assigned to a consulate for the exercise of its functions ;

(c) "Head of consular post" means any person in charge of a consulate ;

(d) "Consular official" means any person, including the head of post, entrusted with the exercise of consular functions in a consulate ;

(e) "Consular employee" means any person who is entrusted with administrative or technical tasks in a consulate, or belongs to its service staff ;

(f) "Members of the consulate" means all the consular officials and consular employees in a consulate ;

(g) "Members of the consular staff" means the consular officials other than the head of post, and the consular employees ;

(h) "Member of the service staff" means any consular employee in the domestic service of the consulate ;

(i) "Member of the private staff" means a person employed exclusively in the private service of a member of the consulate ;

(j) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the consulate ;

(k) "Consular archives" means all the papers, documents, correspondence, books and registers of the consulate, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officials may be career officials or honorary. The provisions of chapter II of this draft apply to career officials and to consular employees ; the provisions of chapter III apply to honorary consular officials and to career officials who are assimilated to them under article 56.

3. The particular status of members of the consulate who are nationals of the receiving State is governed by article 69 of this draft.

Commentary

(1) This article has been inserted in order to facilitate the interpretation and application of the convention.

(2) Paragraph 1 of this article contains definitions of certain expressions which need to be defined and are

used more than once in the text of the articles. As regards the expressions which are used in one article only, the Commission preferred to define them in the relevant articles. For example, the term "*exequatur*" is defined in article 11 and the expression "official correspondence" in article 35, paragraph 2, of this draft.

(3) The Commission considered it unnecessary to define expressions the meaning of which is quite clear, such as "sending State" and "receiving State".

(4) The expression "members of the consulate" means all the persons who belong to a particular consulate, that is to say, the head of post, the other consular officials and the consular employees. By contrast, the expression "members of the consular staff" means all persons working in a consulate under the responsibility of the head of post, that is to say, consular officials other than the head of post, and the consular employees.

(5) The expression "private staff" means not only the persons employed in the domestic service of a member of the consulate, but also persons employed in any other private service, such as private secretaries, governesses, tutors, and the like.

(6) The expression "consular archives" means all the papers of the consulate, the correspondence, documents, books, the registers of the consulate, the codes and ciphers, card-indexes and the articles of furniture intended for the protection and safekeeping of all papers and objects coming under the definition of consular archives. The term "books" covers not only the books used in the exercise of the consular functions but also the consulate's library. It should be noted that although this definition of consular archives covers the official correspondence and documents of the consulate, it does not make the use of these two expressions superfluous in certain articles and in particular in articles 32 and 35 of the draft. It is necessary, sometimes, to use these expressions separately as, for example, in the provisions regulating the freedom of communications. Further, the correspondence which is sent by the consulate or which is addressed to it, in particular by the authorities of the sending State, the receiving State, a third State or an international organization, cannot be regarded as coming within the definition if the said correspondence leaves the consulate or before it is received at the consulate, as the case may be. Similarly, documents drawn up by a member of the consulate and held by him can hardly be said to form part of the consular archives before they are handed over to the chancery of the consulate. For all these reasons, certain expressions comprised by the general term "consular archives" have to be used according to the context and scope of a particular provision.

(7) As some Governments in their comments drew attention to the desirability of defining the family of a

member of the consulate, the Special Rapporteur had included in the draft of article 1 a clause defining this expression as meaning, for the purposes of these articles, the spouse and unmarried children who are not engaged in any occupation and who are living in the home of a member of the consulate. The Drafting Committee proposed the following definition: "Member of the family of a member of the consulate means the spouse and the unmarried children not of full age, who live in his home". The Commission was divided with respect to the insertion of a definition of "family" in the draft and also as to the scope of the definition submitted by the Drafting Committee, which several members found too restrictive. Eventually, inasmuch as the United Nations Conference on Diplomatic Intercourse and Immunities had been unable to reach agreement on this point, the Commission decided by a majority not to include a definition of member of the family of a member of the consulate in the draft.

(8) Since article 1 constitutes a sort of introduction to the whole draft, paragraph 2 was included in order to indicate that there are two categories of consular officials, namely, career consular officials and honorary consular officials, the two categories of consular officials having a different legal status so far as consular privileges and immunities are concerned.

(9) The purpose of paragraph 3 of this article is to indicate that members of the consulate who are nationals of the receiving State are in a special position since they enjoy only very limited privileges and immunities as defined in article 69 of the draft. Several Governments suggested in their comments that in certain articles of the present draft express reference should be made to article 69 in order to show more clearly that the provisions in question do not apply to members of the consulate who are nationals of the receiving State. The Commission did not feel able to follow this suggestion, for it is not possible to refer to article 69 in certain articles only, as the limitation laid down in that article covers all the articles which concern consular privileges and immunities. It considered that the same purpose could be achieved by inserting in article 1 a provision stipulating that members of the consulate who are nationals of the receiving State are in a special position. For the purpose of interpreting any of the articles of the draft one has to consult article 1 containing the definitions, which gives notice that the members of the consulate who are nationals of the receiving State enjoy only the privileges and immunities defined in article 69. As a consequence it is unnecessary to encumber the text with frequent references to article 69, and yet it is not difficult to find one's way in the draft or to interpret its provisions.

CHAPTER I. CONSULAR RELATIONS IN GENERAL

SECTION I: ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS

Article 2

Establishment of consular relations

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not ipso facto involve the severance of consular relations.

Commentary

(1) The expression "consular relations" means the relations which come into existence between two States by reason of the fact that consular functions are exercised by authorities of one State in the territory of the other. In most cases these relations are mutual, consular functions being exercised in each of the States concerned by the authorities of the other. The establishment of these relations presupposes agreement between the States in question, and such relations are governed by international law, conventional or customary. In addition, the legal position of consuls is governed by international law, so that by reason of this fact also, a legal relationship arises between the sending State and the receiving State. Finally, the expression in question has become hallowed by long use, and this is why the Commission has retained it, although some members would have preferred another.

(2) Paragraph 1 which lays down a rule of customary international law indicates that the establishment of consular relations is based on the agreement of the States concerned. This is a fundamental rule of consular law.

(3) Consular relations may be established between States that do not entertain diplomatic relations. In that case, the consular relations are the only official relations of a permanent character between the two States in question. In some cases, they merely constitute a preliminary to diplomatic relations.

(4) Where diplomatic relations exist between the States in question, the existence of diplomatic relations implies the existence of consular relations, unless these latter relations were excluded by the wish of one of the States concerned at the time of the establishment of diplomatic relations. It is in this sense that the words "unless otherwise stated" should be interpreted.

(5) As a first consequence of the rule laid down in paragraph 2, if one of the States between which diplomatic relations exist decides to establish a consulate in the territory of the other State, the former State has no need to conclude an agreement for the establishment of consular relations, as provided in article 2, paragraph 1, but solely an agreement respecting the establishment of the consulate as laid down in article 4 of the present draft. This consequence is important both from the theoretical and from the practical points of view.

(6) Paragraph 3 lays down a generally accepted rule of international law.

Article 3

Exercise of consular functions

Consular functions are exercised by consulates. They are also exercised by diplomatic missions in accordance with the provisions of article 68.

Commentary

(1) Paragraph 2 of article 2 of this draft lays down that the consent given to the establishment of diplomatic relations implies, unless otherwise stated, consent to the establishment of consular relations. The rule laid down in the present article corresponds to the general practice according to which diplomatic missions exercise consular functions. The rule in question was recently confirmed by article 3, paragraph 2, of the 1961 Vienna Convention on Diplomatic Relations, which provides that "nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission".

(2) It follows that, in modern times, consular functions may be exercised by consulates or by diplomatic missions. If the sending State has no consulates in the receiving State the competence of the diplomatic mission in consular affairs covers automatically the entire territory of the receiving State. If the sending State has consulates in the territory in question, the exercise of consular functions by the diplomatic mission is limited as a general rule to that part of the territory of the receiving State which is outside the consular district or districts allotted to the consulates of the sending State. Hence only in the exceptional cases where the sending State has in the receiving State consulates whose consular districts cover the whole territory of the State in question will the diplomatic mission not exercise consular functions. But even in such cases the sending State may reserve certain consular activities to its diplomatic mission. For example, questions of special importance or the issue of visas on diplomatic passports are sometimes reserved to the diplomatic missions in the case under discussion.

*Article 4**Establishment of a consulate*

1. A consulate may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consulate and the consular district shall be determined by mutual agreement between the receiving State and the sending State.

3. Subsequent changes in the seat of the consulate or in the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or an agency in a locality other than that in which it is itself established.

5. The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the consulate in localities other than those in which the consulate itself is established.

Commentary

(1) Paragraph 1 of this article lays down the rule that the consent of the receiving State is essential for the establishment of any consulate (consulate-general, consulate, vice-consulate or consular agency) on its

territory. This principle derives from the sovereign authority which every State exercises over its territory, and applies both in those cases where the consulate is established at the time when the consular relations are established, and in those cases where the consulate is to be established later. In the former case, the consent of the receiving State to the establishment of a consulate will usually already have been given in the agreement for the establishment of consular relations; but it may also happen that this agreement is confined to the establishment of consular relations, and that the establishment of the consulate is reserved for a later agreement.

(2) An agreement on the establishment of a consulate presupposes that the States concluding it agree on the boundaries of the consular district and on the seat of the consulate. It sometimes happens in practice that the agreement on the seat of the consulate is concluded before the two States have agreed on the boundaries of the consular district. The agreement respecting the seat of the consulate and the consular district will, as a general rule, be an express agreement. Nevertheless it may also be concluded tacitly. If, for example, the receiving State grants the exequatur on presentation of a consular commission in which the seat of the consulate and the consular district are specified as laid down in article 10, then it must be concluded that that State has consented to the seat of the consulate being established at the place designated in the consular commission and that the consular district is the district mentioned therein.

(3) The consular district, also sometimes called the consular region, determines the territorial limits within which the consulate is authorized to exercise its functions with respect to the receiving State. Nevertheless, in the case of any matter within its competence it may also apply to the authorities of the receiving State which are outside its district in so far as this is allowed by the present articles or by other international agreements applicable in the matter (see article 38 of this draft).

(4) The Commission has not thought it necessary to write into this article the conditions under which an agreement for the establishment of a consulate may be amended. It has merely stated in paragraph 3, in order to protect the interests of the receiving State, that the sending State may not change the seat of the consulate, nor the consular district, without the consent of the receiving State. The silence of the article as to the powers of the receiving State must not be taken to mean that this State would always be entitled to change the consular district or the seat of the consulate unilaterally. The commission thought, however, that in exceptional circumstances the receiving State had the right to request the sending State to change the seat of the consulate or the consular district.

(5) The sole purpose of paragraph 3 is to govern any changes that may be made with respect to the seat of the consulate or the consular district. It does not restrict the right of the sending State to close its consulate temporarily or permanently if it so desires.

(6) Paragraph 4 applies to cases where the consulate, having already been established, desires to open a vice-consulate or consular agency within the boundaries of its district. Under the municipal law of some countries

the consuls-general and the consuls have authority to appoint vice-consuls or consular agents. Under this authority the consuls-general and the consuls may establish new consular posts on the territory of the receiving State. It has therefore been necessary to provide that the consent of the receiving State is required even in those cases.

(7) As distinct from the case mentioned in the preceding paragraph which refers to the establishment of a vice-consulate or a consular agency, i.e. of a new consular post, the purpose of paragraph 5 is to regulate those cases in which the consulate desires, for reasons of practical convenience, to establish outside the seat of the consulate an office which constitutes part of the consulate.

(8) The expression "sending State" means the State which the consulate represents.

(9) The expression "receiving State" means the State in whose territory the activities of the consulate are exercised. In the exceptional case where the consular district embraces the whole or part of the territory of a third State, that State should for the purposes of these articles also be regarded as a receiving State.

Article 5

Consular functions

Consular functions consist more especially of :

(a) **Protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law ;**

(b) **Promoting trade and furthering the development of economic, cultural and scientific relations between the sending State and the receiving State ;**

(c) **Ascertaining conditions and developments in the economic, commercial, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested ;**

(d) **Issuing passports and travel documents to nationals of the sending State, and visas or other appropriate documents to persons wishing to travel to the sending State ;**

(e) **Helping and assisting nationals of the sending State ;**

(f) **Acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature ;**

(g) **Safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State ;**

(h) **Safeguarding the interests of minors and persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons ;**

(i) **Representing nationals of the sending State before the tribunals and other authorities of the receiving State,**

where, because of absence or any other reason, these nationals are unable at the proper time to assume the defence of their rights and interests, for the purpose of obtaining, in accordance with the law of the receiving State, provisional measures for the preservation of these rights and interests ;

(j) **Serving judicial documents or executing letters rogatory in accordance with conventions in force or, in the absence of such conventions, in any other manner compatible with the law of the receiving State ;**

(k) **Exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels used for maritime or inland navigation, having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews ;**

(l) **Extending necessary assistance to vessels and aircraft mentioned in the previous sub-paragraph, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping ships' papers, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the law of the sending State.**

Commentary

(1) The examination of the questions relating to consular functions passed through several stages and gave rise to a broad exchange of views in the Commission. At first, the Special Rapporteur had prepared two variants on consular functions. The first, following certain precedents, especially the Havana Convention (article 10), merely referred the matter to the law of the sending State, and provided that the functions and powers of consuls should be determined, in accordance with international law, by the States which appoint them. The second variant, after stating the essential functions of a consul in a general clause, contained a detailed enumeration of the most important functions of a consul, by way of example.¹

(2) During the discussion, two tendencies were manifested in the Commission. Some members expressed their preference for a general definition of the kind which had been adopted by the Commission for the case of diplomatic agents, in article 3 of its Draft Articles on Diplomatic Intercourse and Immunities. They pointed to the drawbacks of an excessively detailed enumeration, and suggested that a general definition would be more acceptable to Governments. Other members, by contrast, preferred the Special Rapporteur's second variant with its detailed list of examples, but requested that it should be shortened and contain only the heads of the different functions as set out in Arabic numerals 1-15 in the Special Rapporteur's draft. They maintained that too general a definition, merely repeating the paragraph headings, would have very little practical value. They also pointed out that the functions of consuls are much less extensive than those of diplomatic agents, and that

¹ *Yearbook of the International Law Commission*, 1957, vol. II (United Nations publication, Sales No.: 1957.V.5, vol. II), pp. 91 to 92, article 13.

it was therefore impossible to follow in this respect the Draft Articles on Diplomatic Intercourse and Immunities. Lastly, they argued that Governments would be far more inclined to accept in a convention a detailed and precise definition than a general formula which might give rise to all kinds of divergencies in practice. In support of this opinion they pointed to the fact that recent consular conventions all defined consular functions in considerable detail.

(3) In order to be able to take a decision on this question the Commission requested the Special Rapporteur to draft two texts defining consular functions: one containing a general and the other a detailed and enumerative definition. The Special Rapporteur prepared these two definitions and the Commission, after a thorough examination of the first proposal, decided to submit both definitions to the Governments for comment. In addition, it decided to include the general definition in the draft and to reproduce the more detailed definition in the commentary.²

(4) Although the majority of the Governments which sent in comments on the Commission's draft expressed a preference for the general definition, nevertheless several of them, as also several representatives at the fifteenth session of the General Assembly, expressed the wish that the definition should be supplemented by an enumeration of the principal and most important functions.

(5) The Special Rapporteur took these views into account and in his third report proposed a new formula respecting consular functions.³ This text reproduced the various paragraphs of the definition adopted at the twelfth session of the Commission and added to each paragraph some examples selected from the more detailed version of the definition.

(6) The Commission adopted several of the Special Rapporteur's proposals and broadened the definition of the consular functions which enumerates by way of example—as is clearly reflected in the words “more especially” in the introductory phrase—the most important consular functions recognized by international law.

(7) The function of safeguarding the interests of the sending State and of its nationals is the most important of the many consular functions. The consul's right to intervene on behalf of the nationals of his country does not, however, authorize him to interfere in the internal affairs of the receiving State.

(8) As the article itself says expressly the term “national” means also bodies corporate having the nationality of the sending State. It may occur that the receiving State declines to recognize that the individual or body corporate whose interests the consul desires to protect possesses the nationality of the sending State. A dispute of this nature should be decided by one of the means for the pacific settlement of international disputes.

(9) For the sake of consistency with the terminology of the Vienna Convention on Diplomatic Relations (article 3, paragraph 1 (b)) the Commission employs the term “interests” in paragraph (a), although some members of the Commission would have preferred different expressions.

(10) The provision of paragraph (a) concerning the protection of the interests of the State and of its nationals is distinct from that of paragraph (e), which concerns the help and assistance to be given to the nationals of the sending State, in that the former relates to the function which the consular official exercises vis-à-vis the authorities of the receiving State, whereas the latter covers any kind of help and assistance which the consul may extend to nationals of his State: information supplied to a national, provision of an interpreter, introduction of commercial agents to business concerns, assistance in case of distress, assistance to nationals working in the receiving State, repatriation and the like.

(11) The notarial functions are varied and may consist, for instance, in:

(a) Receiving in the consular offices, on board vessels and ships or on board aircraft having the nationality of the sending State, any statements which the nationals of the sending State may have to make;

(b) Drawing up, attesting and receiving for safe custody, wills and all unilateral instruments executed by nationals of the sending State;

(c) Drawing up, attesting and receiving for safe custody, deeds the parties to which are nationals of the sending State, or nationals of the sending State and nationals of the receiving State, or of a third State, provided that they do not relate to immovable property situated in the receiving State or to rights *in rem* attaching to such property;

(d) Attesting or certifying signatures, stamping, certifying or translating documents, in any case for which these formalities are requested by a person of any nationality for use in the sending State or in pursuance of the laws of that State. If an oath or a declaration in lieu of oath is required under the laws of the sending State, such oath or declaration may be sworn or made before the consular official.

(12) In his capacity as registrar, the consul or any other consular official keeps the registers and enters all relevant documents relating to births, marriages, deaths, legitimations, in accordance with the laws and regulations of the sending State. Nevertheless, the persons concerned must also make all the declarations required by the laws of the receiving State. The consular official may also, if authorized for that purpose by the law of the sending State, solemnize marriages between nationals of his State or between nationals of the sending State and those of another State, provided that this is not prohibited by the law of the receiving State.

(13) The administrative functions mentioned under paragraph (f) are determined by the laws and regulations of the sending State. They may consist, for instance, in:

(a) Keeping a register of nationals of the sending State residing in the consular district;

² Report of the International Law Commission covering the work of its Twelfth Session, *Official Records of the General Assembly, Fifteenth Session, Supplement No. 9* (A/4425), pp. 6, *et seq.*

³ A/CN.4/137, pp. 15, *et seq.*

(b) Dealing with matters relating to the nationality of the sending State ;

(c) Certifying documents, indicating the origin of goods, invoices and the like ;

(d) Transmitting to the persons entitled any benefits, pensions or compensation due to them under the law of the sending State or international conventions, in particular under social welfare legislation ;

(e) Receiving payments of pensions or allowances due to the nationals of the sending State absent from the receiving State, provided that no other method of payment has been agreed to between the States concerned.

(14) Paragraph (g), which provides for the safeguarding of the interests of the national of the sending State in matters of succession *mortis causa*, recognizes the right of the consul, in accordance with the law of the receiving State, to take all measures necessary to ensure the conservation of the estate. He may, accordingly, represent, without producing a power of attorney, the heirs and legatees or their successors in title until such time as the person concerned undertakes the defence of his own interests or appoints an attorney. By virtue of this provision, consuls have the power to appear before the courts or to approach the appropriate authorities of the receiving State with a view to collecting, safeguarding or arranging for an inventory of the assets, and to propose to the authorities of the receiving State all measures necessary to discover the whereabouts of the assets constituting the estate. The consul may, when the inventory of the assets is being drawn up, take steps in connexion with the assessment of the assets left by the deceased, the appointment of an administrator and all legal acts necessary for the preservation, administration and disposal of the assets by the authorities of the receiving State. The consular conventions frequently contain provisions conferring upon consuls, in matters of succession, rights that are much more extensive and, in particular, the right to administer the estate. As the previous agreements concluded between the States who will become parties to the conventions are to remain in force pursuant to article 71, the provisions of those agreements will apply in the first instance to the cases under consideration.

(15) Among the nationals of the sending State, minors and persons lacking full capacity are those who stand in special need of protection and assistance from the consulate. That is why it seemed necessary to set forth in paragraph (h) the consul's function of safeguarding the interests of minors and persons lacking full capacity who are nationals of the sending State. This function will be exercisable in particular where the institution of trusteeship and guardianship is required.

(16) Paragraph (i) recognizes the consul's right to represent before the courts and other authorities of the receiving State nationals of the sending State who are unable to defend their own rights and interests. Nevertheless, the consul's right of representation is limited to provisional measures for the preservation of the rights and interests of the person concerned. Where judicial or administrative proceedings have already been begun, the consul may arrange for the representation of the national of the sending State before the court or administrative

authority concerned. In no case, however, does this provision empower the consul to dispose of the rights of the person he is representing. Furthermore, the consul's right of representation is also limited in time : it ceases as soon as the person concerned himself assumes the defence of his rights or appoints an attorney. The right of representation, as is stressed in the text, must be exercised in accordance with the laws and regulations of the receiving State. This right is absolutely essential to the exercise of consular functions which consist (among others) of that of protecting the interests of the sending State and of its nationals (article 5, paragraph (a)). The consul could not carry out these functions without the power of inquiring into the affairs of absent nationals of the sending State from courts and administrative authorities, transmitting to courts and other competent authorities information and proposals which may help to safeguard the rights of nationals of the sending State, drawing the attention of the courts to the provisions of any international treaties which may be applicable to the particular case, and arranging for the representation of absent nationals before the courts and other competent instances until the persons concerned can themselves assume the defence of their rights and interests.

(17) The function referred to in paragraph (i) is a general one, which relates to all cases where the nationals of the sending State, whether individuals or bodies corporate, are in need of representation owing to their absence or for any other reason. The latter phrase means, in particular, cases where the person concerned is prevented from looking after his interests by serious illness or where he is detained or imprisoned. Nevertheless, since the purpose of this provision is to ensure provisional representation, it cannot apply to the special case contemplated in paragraph (h) where the consul's function of safeguarding the interests of minors and persons lacking full capacity is necessarily exercised on a long-term basis, and where his powers must therefore be broader than those provided for in paragraph (i).

(18) Paragraph (j) confirms a long-established practice whereby consuls ensure the service on the persons concerned, directly or through local authorities, of judicial documents sent to them by the authorities of the sending State. They may do so, as this provision indicates, by procedures laid down by a convention in force, or in the absence of such a convention, in a manner compatible with the law of the receiving State. This practice found expression in the Hague Convention of 17 July 1905 relating to Civil Procedure, replacing an earlier Convention of 14 November 1896. This Convention prescribes that notifications shall be made "at the request of the Consul of the requesting State, such request being addressed to the authority designated by the requested State" (article 1). Proof of service is given either by a dated authenticated receipt from the addressee or by an attestation by the authority of the requested State, stating that the document has been served and specifying the manner and date of service (article 5). In its article 6, the Convention expressly stipulates that its provisions shall be without prejudice to the power of each State to have documents

addressed to persons abroad served directly through its diplomatic or consular agents. The Convention contains a general reservation whereby the right of direct communication exists only if it is recognized in conventions between the States concerned or if, in default of such conventions, the receiving State does not object. But the article also stipulates that this State may not object where documents are served by diplomatic or consular agents if the document is to be served on a national of the requesting State without duress. This provision was reproduced without change in the Convention relating to Civil Procedure of 1 March 1954, to which twelve States have so far become parties.

(19) The execution of certain procedural or investigatory documents through consuls meets practical needs. A consul may execute letters rogatory in accordance with the procedure prescribed by the law of the sending State, whereas the courts of the receiving State would be obliged to do so in accordance with the procedure prescribed by the law of the receiving State. Furthermore, this procedure is much speedier, apart from the fact that the foreign court is not obliged, in the absence of conventions on the subject, to accede to the request made in the letters rogatory. However, a consul cannot execute letters rogatory in the absence of a convention authorizing him to do so, unless the receiving State does not object. This opinion is confirmed by article 15 of the Hague Convention of 1905 relating to Civil Procedure and this rule was reproduced in the similar Convention of 1954 (article 15).

(20) From time immemorial consuls have exercised manifold functions connected with maritime shipping by virtue of customary international law, but their scope has been considerably modified in the course of centuries. Nowadays, functions are defined in great detail in certain consular conventions. As the Commission decided on a general definition of consular functions, it obviously could not adopt this method. It confined itself to including in the general definition the most important functions which consuls exercised in connexion with shipping.

(21) It is generally recognized nowadays that consuls are called upon to exercise rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels used for maritime or inland navigation which have the nationality of the sending State and aircraft registered in that State and in respect of their crews. These rights of supervision and protection, referred to in paragraph (k), are based on the sending State's rights in respect of vessels having its nationality, and the exercise of those rights is one of the prerequisites for the exercise of consular functions in connexion with navigation.

(22) The question of the criteria for determining the nationality of vessels, boats and other craft, in cases of conflict of laws, should be answered by reference to article 5 of the 1958 Geneva Convention on the High Seas and to other rules of international law.

(23) One of the consul's important functions in connexion with navigation is to extend necessary assistance to vessels, boats and aircraft having the nationality of the sending State and to their crews. This function is

provided for in paragraph (l) of this article. In the exercise of this function, a consul may go personally on board a vessel as soon as it has been admitted to *pratique*, examine the ship's papers, take statements concerning the voyage, the vessel's destination and any incidents which occurred during the voyage (log book) and, in general, facilitate the ship's or boat's entry into port and its departure. He may also receive protests, draw up manifests, and, where applicable, conduct investigations into any incidents which occurred and, to this end, interrogate the master and the members of the crew. The consul or a member of the consulate may appear before the local authorities with the master or members of the crew to extend to them any assistance, and especially to obtain any legal assistance they need, to act as interpreter in any business they may have to transact or in any applications they have to make, for example, to local courts and authorities. Consuls may also take action to enforce the maritime laws and regulations of the sending State. They also play an important part in the salvage of vessels and boats of the sending State. If such a vessel or boat runs aground in the territorial sea or the internal waters of the receiving State, the competent authorities are to inform the consulate nearest to the scene of the occurrence without delay, in accordance with article 37. If the owner, manager-operator or master is unable to take the necessary steps, consuls are empowered, under paragraph (l) of this article, to take all necessary steps to safeguard the rights of the persons concerned.

(24) This article does not itemize all the functions which consuls may perform in accordance with international law. Consuls may exercise, in addition to the functions enumerated in this article, the functions of arbitrator or conciliator *ad hoc* in any disputes which nationals of the sending State submit to them, provided that this is not incompatible with the laws and regulations of the receiving State.

(25) Furthermore, consuls may exercise the functions entrusted to them by the international agreements in force between the sending State and the receiving State.

(26) Lastly, consuls may also perform other functions which are entrusted to them by the sending State, provided that the performance of these functions is not prohibited by the laws and regulations or the authorities of the State of residence.

Article 6

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consulate established in a particular State with the exercise of consular functions in a third State, unless there is express objection by one of the States concerned.

Commentary

Sometimes States entrust one of their consulates with the exercise of consular functions in a third State. Sometimes the territory in which the consulate exercises its functions covers actually two or more States. This article authorizes this practice, but leaves each of the States concerned the right to make an express objection.

*Article 7**Exercise of consular functions on behalf of a third State*

With the prior consent of the receiving State and by virtue of an agreement between the sending State and a third State, a consulate established in the first State may exercise consular functions on behalf of that third State.

Commentary

(1) Whereas article 6 deals with the case in which the competence of a consulate extends to all or part of the territory of the third State, the purpose of this article is to regulate cases in which a consulate is also called upon to exercise consular functions on behalf of a third State within the consular district. Such a situation may arise, first, if a third State does not maintain consular relations with the receiving State but still wishes to ensure consular protection for its nationals in that State. Thus the Agreement of Caracas between Bolivia, Colombia, Ecuador, Peru and Venezuela concerning the powers of consuls in each of the contracting Republics, signed on 18 July 1911, provided that the consuls of each contracting Republic residing in any of them could exercise their powers on behalf of individuals of the contracting Republics which did not have a consul at the place in question (article VI).

(2) The law of a large number of countries makes provision for the exercise of consular functions on behalf of a third State, subject to the authorization either of the head of State or of the Government or of the Minister for Foreign Affairs.

(3) Obviously, in the cases covered by this article, consuls will rarely be in a position to perform all consular functions on behalf of a third State. In some cases they may exercise only some of these functions. The article covers both the occasional exercise of certain consular functions and the continuous exercise of these functions. The consent of the receiving State is essential in both cases.

*Article 8**Appointment and admission of heads of consular posts*

Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

Commentary

This article states a fundamental principle which is developed in the ensuing articles. It states that a person must fulfil two conditions if he is to have the status of head of consular post within the meaning of these articles. He must, first, be appointed by the competent authority of the sending State as consul-general, consul, vice-consul or consular agent. Secondly, he must be admitted to the exercise of his functions by the receiving State.

*Article 9**Classes of heads of consular posts*

1. Heads of consular posts are divided into four classes :

- (1) Consuls-general ;
- (2) Consuls ;
- (3) Vice-consuls ;
- (4) Consular agents.

2. The foregoing paragraph in no way restricts the power of the contracting parties to fix the designation of the consular officials other than the head of post.

Commentary

(1) Whereas the classes of diplomatic agents were determined by the Congress of Vienna in 1815 and the Congress of Aix-la-Chapelle in 1818 and recently codified anew at the 1961 Vienna Conference, the classes of consuls have not yet been codified. Since the institution of consuls first appeared in international relations, a large variety of titles has been used. At present, the practice of States, as reflected in their domestic law and in international conventions, shows a sufficient degree of uniformity in the use of the four classes set out in article 9 to enable the classes of heads of consular posts to be codified.

(2) This enumeration of four classes in no way means that States accepting it are bound in practice to have all four classes. They will be obliged only to give their heads of consular posts one of the four titles in article 9. Consequently, those States whose domestic law does not provide for all four classes (e.g. does not recognize the class of consular agents) will not be in any way obliged to amend it.

(3) It should be emphasized that the term "consular agent" is used in this article in a technical sense differing essentially from the generic meaning given to it in some international instruments, as denoting all classes of consular officials.

(4) The domestic law of some (but not very many) States allows the exercise by consular officials, and especially by vice-consuls and consular agents, of gainful activities in the receiving State. Some consular conventions authorize this practice by way of exception (see, as regards consular agents, article 2, paragraph 7, of the consular convention of 31 December 1951 between the United Kingdom and France). Career consuls who carry on a private gainful activity are treated on the same footing, as regards facilities, privileges and immunities, as honorary consular officials (see article 56 of this draft).

(5) It should be added that some States restrict the title vice-consul or consular agent solely to honorary consular officials.

(6) In the past, various titles were used to designate consuls: *commissaires*, residents, commercial agents and so forth. The term "commercial agent" was still used to designate a consular agent as recently as in the Havana Convention of 1928 regarding consular agents (article 4, paragraph 2).

(7) Although paragraph 1 determines the title to be held by the head of a consular post, it in no way purports to restrict the powers of States which become parties to the convention to determine the rank and title of officials other than the head of post. They may use for this purpose the titles specified in paragraph 1 of this article or any other title specified by their laws and regulations. In practice, the most diverse titles are used: alternate consuls, deputies, pro-consuls, consular attachés, pupil consuls, chancery attachés, chancery pupils, *chanceliers*, consular secretaries, pupil *chanceliers*, interpreters, etc. Paragraph 2 has been added precisely to prevent paragraph 1 being construed as reserving the titles used in that paragraph solely to heads of post.

Article 10

The consular commission

1. The head of a consular post shall be furnished by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, the full name of the head of post, his category and class, the consular district, and the seat of the consulate.

2. The sending State shall communicate the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.

3. If the receiving State so accepts, the commission or similar instrument may be replaced by a notice to the same effect, addressed by the sending State to the receiving State.

Commentary

(1) As a general rule, the head of a consular post is furnished with an official document known as "consular commission" (variously known in French as *lettre de provision*, *lettre patente* or *commission consulaire*). Vice-consuls and consular agents are furnished with a similar instrument which bears a different name — *brevet*, *décret*, *patente* or *licence*.

(2) For purposes of simplification, article 10 uses the expression "consular commission" to describe the official documents of heads of consular posts of all classes. While it may be proper to describe differently the full powers given to consular officials not appointed by the central authorities of the State, the legal significance of these documents from the point of view of international law is the same. This *modus operandi* is all the more necessary in that the manner of appointment of consuls pertains to the domestic jurisdiction of the sending State.

(3) While the form of the consular commission remains none the less governed by municipal law, paragraph 1 of the article states the particulars which should be shown in any consular commission in order that the receiving State may be able to determine clearly the powers and legal status of the consul. The expression "as a general rule" indicates expressly that this

is a provision the non-observance of which does not have the effect of nullifying the consular commission. The same paragraph specifies, in keeping with practice, that a consular commission must be made out in respect of each appointment. Accordingly, if a consul is appointed to another post, a consular commission must be made out for that appointment, even if the post is in the territory of the same State. Another consular commission will also be necessary if the head of post receives promotion and the rank of the consular post is raised simultaneously. In the practice of some States the head of a consular post is even supplied with a new consular commission if the consular district is altered or the location of the consulate is moved.

(4) Some bilateral conventions specify the content or form of the consular commission (see, for example, article 3 of the convention of 31 December 1913 between Cuba and the Netherlands, the convention of 20 May 1948 between the Philippines and Spain, article IV of which stipulates that regular letters of appointment shall be duly signed and sealed by the Head of State). Obviously, in such cases the content or form of the consular commission must conform to the provisions of the convention in force.

(5) The consular commission, together with the exequatur is retained by the consul. It constitutes an important document which he can make use of at any time with the authorities of his district as evidence of his official position.

(6) While the consular commission as described above constitutes the regular mode of appointment, the recent practice of States seems to an ever-increasing extent to permit less formal methods, such as a notification of the consul's posting. It was therefore thought necessary to allow for this practice in paragraph 3 of the present article.

Article 11

The exequatur

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an exequatur, whatever the form of this authorization.

2. Subject to the provisions of articles 13 and 15, the head of a consular post may not enter upon his duties until he has received an exequatur.

Commentary

(1) The exequatur is the act whereby the receiving State grants the foreign consul final admission, and thereby confers upon him the right to exercise his consular functions. The same term also serves to describe the document by which the head of post is admitted to the exercise of his functions.

(2) In accordance with the general practice of States, it is the municipal law of each State which determines the organ competent to grant the exequatur. In many States, the exequatur is granted by the Head of the State if the consular commission is signed by the Head of the sending State, and by the Minister of Foreign

Affairs in other cases. In many States, the exequatur is always granted by the Minister for Foreign Affairs. In certain countries, competence to grant the exequatur is reserved to the Government.

(3) As is evident from article 12, the form of the exequatur is likewise governed by the municipal law of the receiving State. As a consequence, it varies considerably. According to the information at the Commission's disposal, the types of exequatur most frequently found in practice are the following.

Exequaturs may be granted in the form of :

(a) A decree by the Head of the State, signed by him and countersigned by the Minister for Foreign Affairs, the original being issued to the head of consular post ;

(b) A decree signed as above, but only a copy of which, certified by the Minister for Foreign Affairs, is issued to the head of consular post ;

(c) A transcription endorsed on the consular commission, a method which may itself have several variants ;

(d) A notification to the sending State through the diplomatic channel.

(4) In certain conventions the term "exequatur" is used in its formal sense as referring only to the forms mentioned under (a) to (c) above. As allowance must also be made for cases in which the exequatur is granted to the consul in a simplified form, these conventions mention, besides the exequatur, other forms of final authorization for the exercise of consular functions (consular convention of 12 January 1948, between the United States and Costa Rica, article 1), or else do not use the term "exequatur".

(5) The term "exequatur" is used in these articles to denote any final authorization granted by the receiving State to a head of consular post, whatever the form of such authorization. The reason is that the form is not *per se* a sufficient criterion for differentiating between acts which have the same purpose and the same legal significance. The term "exequatur" also denotes the authorization given to any other consular official in the special case provided for in article 19, paragraph 2.

(6) Inasmuch as subsequent articles provide that the head of a consular post may obtain provisional admission before obtaining the exequatur (article 13), or may be allowed to act as temporary head of post in the cases referred to in article 15, the scope of the article is limited by an express reference to these two articles.

(7) The grant of the exequatur to a consul appointed as head of a consular post covers *ipso jure* the members of the consular staff working under his orders and responsibility. It is therefore not necessary for consular officials who are not heads of post to present consular commissions and obtain an exequatur. Notification by the head of a consular post to the competent authorities of the receiving State suffices to admit them to the benefits of the present articles and of the relevant agreements in force. However, if the sending State wishes in addition to obtain an exequatur for one or more consular officials who are not heads of post, there is nothing to prevent it from making a request accordingly. Provision is made for this case in article 19, paragraph 2.

(8) It is universally recognized that the receiving State may refuse the exequatur to a consul. This right is recognized implicitly in the article, and the Commission did not consider it necessary to state it explicitly.

(9) The only controversial question is whether a State which refuses the exequatur ought to communicate the reasons for the refusal to the Government concerned. The Commission preferred not to deal with this question in the draft. The draft's silence on the point should be interpreted to mean that the question is left to the discretion of the receiving State, since, in view of the varying and contradictory practice of States, it is not possible to say that there is a rule requiring States to give the reasons for their decision in such a case.

Article 12

Formalities of appointment and admission

Subject to the provisions of articles 10 and 11, the formalities for the appointment and for the admission of the head of a consular post are determined by the law and usage, respectively, of the sending and of the receiving State.

Commentary

(1) As distinct from the case of diplomatic representatives, there is no rule of international law specifying the mode of appointing heads of consular posts. This matter is governed by the law and usage of each State which determine the requirements for appointment as head of a consular post, the procedure for appointment and the form of documents with which consuls are supplied. In some States, for example, consular agents are appointed by a central authority on the recommendation of the head of post under whose orders and responsibility they are to work. In other States they are appointed by the consul-general or by the consul, subject to confirmation by the Minister for Foreign Affairs.

(2) The mistaken opinion has sometimes been voiced that only Heads of State are competent to appoint consuls, and some claims have even been based on these opinions. Accordingly, it seemed desirable to state in this article that the modes of appointing heads of consular posts are determined by the law and usage of the sending State ; for this purpose the term "formalities" should be construed as meaning also the determination of the organ of the State competent to appoint heads of consular posts. Such a rule, by removing all possibility of differences of view on the point, will prevent friction that may harm good relations between States.

(3) International law does not settle the question which particular authority is competent to admit consuls to the exercise of consular functions nor does it settle, except for the provisions of article 11 dealing with the exequatur, the forms of such admission. To avoid all divergence of opinion it was necessary to state expressly that the formalities for the admission of heads of consular posts are determined by the law and usage of the receiving State, including the determination of the organ competent to grant admission to the head of a consular post.

(4) As this draft in its articles 10 and 11 contains certain other provisions relating to the formalities of the appointment and admission of the head of a consular post, the scope of the rule stated has had to be restricted by an explicit reference to those articles.

(5) The idea underlying this article was codified in a different form in the 1928 Havana Convention regarding consular agents, article 2 of which provides :

“The form and requirements for appointment, the classes and the rank of the consuls, shall be regulated by the domestic laws of the respective State.”

Article 13

Provisional admission

Pending delivery of the *exequatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his functions and to the benefit of the present articles.

Commentary

(1) The purpose of provisional admission is to enable the head of post to take up his duties before the *exequatur* is granted. The procedure for obtaining the *exequatur* takes some time, but the business handled by a consul will not normally wait. In these circumstances the institution of provisional admission is a very useful expedient. This also explains why provisional admission has become so prevalent, as can be seen from many consular conventions, including the Havana Convention of 1928 regarding consular agents (article 6).

(2) It should be noted that the article does not prescribe a written form for provisional admission. It may equally be granted in the form of a verbal communication to the authorities of the sending State, including the head of post himself.

(3) Certain bilateral conventions go even further, and permit a kind of automatic recognition, stipulating that consuls appointed heads of posts shall be provisionally admitted as of right to the exercise of their functions and to the benefit of the provisions of the convention unless the receiving State objects. These conventions provide for the grant of provisional admission by means of a special act only in cases where this is necessary. The Commission considered that the formula used in the article was more suitable for a multilateral convention such as is contemplated by the present draft.

(4) By virtue of this article, the receiving State will be under a duty to afford assistance and protection to a head of post who is admitted provisionally and to accord him the privileges and immunities conferred on heads of consular posts by the present articles and by the relevant agreements in force.

Article 14

Obligation to notify the authorities of the consular district

As soon as the head of a consular post is admitted to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the

consular district. It shall also ensure that the necessary measures are taken to enable the head of the consular post to carry out the duties of his office and to have the benefit of the provisions of the present articles.

Commentary

(1) Under this article, the admission of the head of a consular post to the exercise of his functions, whether provisional (article 13) or definitive (article 11), involves a twofold obligation for the Government of the receiving State :

(a) It must immediately notify the competent authorities of the consular district that the head of post is admitted to the exercise of his functions ;

(b) It must ensure that the necessary measures are taken to enable the head of post to carry out the duties of his office and to enjoy the benefits of the present articles.

(2) As is evident from article 11, the exercise by the head of post of his functions does not depend on the fulfilment of these obligations.

Article 15

Temporary exercise of the functions of head of a consular post

1. **If the position of head of post is vacant, or if the head of post is unable to carry out his functions, an acting head of post may act provisionally as head of the consular post. He shall as a general rule be chosen from among the consular officials or the diplomatic staff of the sending State. In the exceptional cases where no such officials are available to assume this position, the acting head of post may be chosen from among the members of the administrative and technical staff.**

2. **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. As a general rule, this notification shall be given in advance.**

3. **The competent authorities shall afford assistance and protection to the acting head of post and admit him, while he is in charge of the post, to the benefit of the present articles on the same basis as the head of the consular post concerned.**

4. **If a member of the diplomatic staff is instructed by the sending State to assume temporarily the direction of a consulate, he shall continue to enjoy diplomatic privileges and immunities while exercising that function.**

Commentary

(1) The institution of acting head of post has long since become part of current practice, as witness many national regulations concerning consuls and a very large number of consular conventions. The text proposed therefore merely codifies the existing practice.

(2) The function of acting head of post in the consular service corresponds to that of *chargé d'affaires ad interim* in the diplomatic service. In view of the similarity of the institutions, the text of paragraph 1 follows very closely that of article 19, paragraph 1, of the Vienna Convention on Diplomatic Relations of 18 April 1961.

(3) It should be noted that the text leaves States quite free to decide the method of designating the acting head of post, who may be chosen from among the officials of the particular consulate or of another consulate of the sending State, or from among the officials of a diplomatic mission of that State. Where no consular official is available to take charge, one of the consular employees may be chosen as acting head of post (see the Havana Convention of 1928 regarding consular agents, article 9). Since the function of acting head of post is, of necessity, temporary, and in order that the work of the consulate should not suffer any interruption, the appointment of the acting head of post is not subject to the procedure governing admission. However, the sending State has the duty to notify the name of the acting head of post to the receiving State in advance in all cases where that is possible.

(4) The word "provisionally" emphasizes that the function of acting head of post may 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.

(5) The question whether the consul should be regarded as unable to carry out his functions is a question of fact to be decided by the sending State. Unduly rigid regulations on this point are not desirable.

(6) The expression "any competent authority of the sending State" used in paragraph 2 means any authority designed by the law or by the Government of the sending State as responsible for consular relations with the State in question. This may be the head of another consular post which under the laws and regulations of the sending State is hierarchically superior to the consulate in question, the sending State's diplomatic mission in the receiving State or the Ministry for Foreign Affairs of the sending State, as the case may be.

(7) While in charge of the consular post the acting head has the same functions and enjoys the same facilities, privileges and immunities as the head of post. The question of the precedence of an acting head of post is dealt with in article 16, paragraph 4.

(8) Paragraph 4 of article 15 deals with the case where a member of the diplomatic staff is designated acting head of post. As the secondment of a member of the diplomatic mission is necessarily temporary, the Commission considered, in the light of the practice of States, that the exercise of consular functions does not in this case affect the diplomatic status of the person in question.

Article 16

Precedence

1. Heads of consular posts shall rank in each class according to the date of the grant of the exequatur.

2. If, however, the head of the consular post before obtaining the exequatur is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the exequatur.

3. The order of precedence as between two or more heads of consular posts who obtained the exequatur or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments were presented or of the notice referred to in article 10, paragraph 3.

4. Acting heads of post rank after all heads of post in the class to which the heads of post whom they replace belong, and, as between themselves, they rank according to the order of precedence of these same heads of post.

5. Honorary consuls who are heads of post shall rank in each class after career heads of post, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of post have precedence over consular officials not holding such rank.

Commentary

(1) The question of the precedence of consuls, though undoubtedly of practical importance, has not as yet been regulated by international law. In many places, consuls are members of a consular corps, and the question of precedence arises quite naturally within the consular corps itself, as well as in connexion with official functions and ceremonies. In the absence of international regulations, States have been free to settle the order of precedence of consuls themselves. There would appear to be, as far as the Commission has been able to ascertain, a number of uniform practices, which the present article attempts to codify.

(2) It would seem that, according to a very widespread practice, career consuls have precedence over honorary consuls.

(3) Paragraph 4 of this article establishes the precedence of acting heads of post according to the order of precedence of the heads of post whom they replace. This is justified by the nature of the interim function. It has undoubted practical advantages, in that the order of precedence can be established easily.

(4) This text met with the almost unanimous acceptance of the Governments which have sent comments on the 1960 draft articles on consular intercourse and immunities. The Commission therefore retained the wording adopted at its previous session, with a few drafting changes. It transferred to this article the text of article 62 relating to the precedence of honorary consuls, so that all the provisions dealing with the precedence of consular officials should be grouped together in a single article. The text of former article 62 has become paragraph 5 of the present article.

*Article 17**Performance of diplomatic acts by the head of a consular post*

1. In a State where the sending State has no diplomatic mission, the head of a consular post may, with the consent of the receiving State, be authorized to perform diplomatic acts.

2. A head of consular post or other consular official may act as representative of the sending State to any inter-governmental organization.

Commentary

(1) The Commission's provisional draft, adopted at the twelfth session, contained two articles dealing with the exercise of diplomatic activities by consuls. Article 18 regulated the occasional performance of diplomatic acts in States where the sending State had no diplomatic mission and article 19 made provision for cases in which the sending State wished to entrust its consul with the performance, not merely of occasional diplomatic acts, but with diplomatic functions generally, a possibility for which the law makes provision in several States.

(2) Article 19 read as follows :

"In a State where the sending State has no diplomatic mission, a consul may, with the consent of the receiving State, be entrusted with diplomatic functions, in which case he shall bear the title of consul-general-*chargé d'affaires* and shall enjoy diplomatic privileges and immunities."

(3) The Commission considered the two articles in the light of the comments of Governments and decided to delete article 19, on the ground that the matter dealt with therein falls within the scope of diplomatic relations regulated by the Vienna Convention on Diplomatic Relations of 1961. There is nothing to prevent a head of consular post from being appointed a diplomatic agent and so acquiring diplomatic status.

(4) Having deleted article 19, the Commission broadened the provisions of former article 18 in order to enable the head of a consular post to exercise diplomatic activities to a greater extent than was contemplated by the original text of article 18.

(5) The present article takes account of the consul's special position in a country where the sending State is not represented by a diplomatic mission and where the head of a consular post is the only official representative of his State. As has been found in practice, a head of consular post in such a case tends to perform acts which are normally within the competence of diplomatic missions and hence are outside the scope of consular functions. For the performance of acts of a diplomatic nature, the consent—express or implied—of the receiving State is, under the article, indispensable.

(6) The performance of diplomatic acts, even if repeated, in no way affects the legal status of the head of a consular post and does not confer upon him any right to diplomatic privileges and immunities.

*Article 18**Appointment of the same person by two or more States as head of a consular post*

Two or more States may appoint the same person as head of a consular post in another State, unless this State objects.

Commentary

(1) This article, unlike article 7 which provides for the exercise of consular functions on behalf of a third State, deals with the case where two or more States appoint the same person as head of consular post in another State, if this State does not object. In the case covered by article 7, the consulate is an organ of the sending State alone, but is instructed to exercise consular functions on behalf of a third State. In the circumstances contemplated here, on the other hand, the head of consular post is an organ of two or more States at the same time. Accordingly, in this case there are at the same time two or more sending States, but only one receiving State.

(2) Except in so far as honorary consuls are concerned, the article represents rather an innovation in consular law. The Commission realized that the practical application of the article might even give rise to certain difficulties, since the scope of consular functions may vary according to the provisions of consular conventions and in consequence of the operation of the most-favoured-nation clause. Moreover, two States might have different interests in certain matters falling within the scope of consular functions. Nevertheless, the Commission considered that the possibility contemplated in this article might under certain conditions answer a practical need in the future development of consular law and, following the direction laid down in diplomatic law by article 6 of the 1961 Vienna Convention on Diplomatic Relations, inserted this article in the final draft.

*Article 19**Appointment of the consular staff*

1. Subject to the provisions of articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The sending State may, if such is required by its law, request the receiving State to grant the *exequatur* to a consular official appointed to a consulate in conformity with paragraph 1 of this article who is not the head of post.

Commentary

(1) The receiving State's obligation to accept consular officials and employees appointed to a consulate flows from the agreement by which that State gave its consent to the establishment of consular relations, and in particular from its consent to the establishment of the consulate. In most cases, the head of post cannot discharge the many tasks involved in the performance of consular functions without the help of assistants whose qualifications, rank and number will depend on the importance of the consulate.

(2) This article is concerned only with the subordinate staff that assists the head of post in the performance of the consular functions; the procedure relating to the appointment of the head of post, to his admission by the receiving State, and to the withdrawal of such admission is dealt with in other articles of the draft.

(3) The consular staff is divided into two categories:

(a) *Consular officials*, i.e., persons who belong to the consular service and exercise a consular function; and

(b) *Consular employees*, i.e., persons who perform administrative or technical work, or belong to the service staff.

(4) The sending State is free to choose the members of the consular staff. But there are exceptions to this rule, as appears from the proviso in paragraph 1:

(a) As stipulated in article 22, consular officials may not be appointed from among the nationals of the receiving State except with the consent of that State. The same rule may apply, if the receiving State so wishes, to the appointment of nationals of a third State.

(b) Article 20, which gives the receiving State the possibility of limiting the size of the consular staff in certain circumstances, is another exception.

(c) A third exception to the rule laid down in article 19 consists in the power given the receiving State, under article 23, at any time to declare a member of the consular staff not acceptable, or, if necessary, to refuse to consider him as a member of the consular staff.

(5) The right to appoint consular officials and employees to a consulate is expressly provided for in certain recent consular conventions, in particular the conventions concluded by the United Kingdom of Great Britain and Northern Ireland with Norway on 22 February 1951 (article 6), with France on 31 December 1951 (article 3, paragraph 6), with Sweden on 14 March 1952 (article 6), with Greece on 17 April 1953 (article 6), with Italy on 1 June 1954 (article 4), with Mexico on 20 March 1954 (article 4, paragraph 1) and with the Federal Republic of Germany of 30 July 1956 (article 4, paragraph 1).

(6) The free choice of consular staff provided for in this article naturally does not in any way imply exemption from visa formalities in the receiving State in cases where a visa is necessary for admission to that State's territory.

(7) The whole structure of this draft is based on the principle that only the head of consular post needs an exequatur or a provisional admission to enter upon his functions. According to this principle, which is well established in practice, the consent to the establishment of a consulate and the exequatur granted to the head of consular post cover the consular activities of all the members of the consular staff, as is explained in the commentary to article 11. Nevertheless, the sending State may see fit also to request an exequatur for consular officials other than the head of post. Such cases arise, in particular, if, under the law of the sending State, it is a condition of the validity of acts performed by the consular official that he must have

obtained the exequatur. In order to take these special needs into account, the Commission inserted a new provision, which constitutes paragraph 2 of this article. This paragraph provides that the sending State may, if such is required by its law, request the receiving State to grant the exequatur to a consular official who is not the head of post and who is appointed to a consulate in that State. This is an optional and supplementary measure, which is not required by international law.

Article 20

Size of the staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within reasonable and normal limits, having regard to circumstances and conditions in the consular district and to the needs of the particular consulate.

Commentary

(1) This article deals with the case where the sending State would increase the size of the consular staff disproportionately.

(2) The Commission considered that the receiving State's right to raise the question of the size of the staff should be recognized.

(3) If the receiving State considers that the consular staff is too large, it should first try to reach an agreement with the sending State. If these efforts fail, then, in the opinion of the majority of the members of the Commission, it should have the right to limit the size of the sending State's consular staff.

(4) This right of the receiving State is not, however, absolute, for this State is obliged to take into account not only the conditions prevailing in the consular district, but also the needs of the consulate concerned, i.e., it must apply objective criteria, one of the most decisive being the consulate's needs. Any decision by the receiving State tending to limit the size of the consular staff should, in the light of the two criteria mentioned in the present article, remain within the limits of what is reasonable and normal. The Commission, recognizing that in this respect there are practical differences between diplomatic missions and consulates, preferred this formulation to that used in article 11, paragraph 1, of the 1961 Vienna Convention on Diplomatic Relations, considering that it would better provide objective criteria for settling possible divergences of views between the two States concerned. In addition, it had to take into account the fact that several Governments wanted the article to be deleted, and for that reason also it did not consider it advisable to broaden the scope of the obligation stipulated in the article.

Article 21

Order of precedence as between the officials of a consulate

The order of precedence as between the officials of a consulate shall be notified by the head of post to the

Ministry for Foreign Affairs of the receiving State or to the authority designated by the said Ministry.

Commentary

As has been explained in the commentary to article 16, the question of precedence is of undoubted practical interest. In some cases, it may arise not only with regard to heads of consular posts, but also with regard to other consular officials. In that case it will be important to know the order of precedence of the officials of a particular consulate *inter se*, particularly since the rank and titles may differ from one consulate to another. Accordingly, the Commission thought it advisable to insert this article, which corresponds to article 17 of the 1961 Vienna Convention on Diplomatic Relations.

Article 22

Appointment of nationals of the receiving State

1. Consular officials should in principle have the nationality of the sending State.

2. Consular officials may not be appointed from among persons having the nationality of the receiving State except with the consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Commentary

(1) This article as adopted at the Commission's twelfth session read as follows (article 11):

"Consular officials may be appointed from amongst the nationals of the receiving State only with the express consent of that State."

(2) This text, by stipulating that consular officials may not be chosen from amongst the nationals of the receiving State except with its express consent, implied that consular officials should, as a rule, have the nationality of the sending State.

(3) At the present session, the Commission decided to draft the article in more explicit terms and to follow article 8 of the 1961 Vienna Convention on Diplomatic Relations, although several members of the Commission would have preferred to keep the wording adopted in 1960. In conformity with the Commission's decision, the article states explicitly that consular officials should in principle have the nationality of the sending State. Paragraph 2 reproduces the terms of the article as it appears in the 1960 draft, with the difference that, in order to bring the text into line with paragraph 2 of article 8 of the Vienna Convention, the word "express" was omitted and the phrase "which may be withdrawn at any time" added. Lastly, paragraph 3 of this article, consistent with article 8, paragraph 3, of the Vienna Convention on Diplomatic Relations, recognizes the receiving State's right to make the appointment of consular officials who are nationals of a third State and not also nationals of the sending State conditional on its consent.

Article 23

Withdrawal of exequatur Persons deemed unacceptable

1. If the conduct of the head of a consular post or of a member of the consular staff gives serious grounds for complaint, the receiving State may notify the sending State that the person concerned is no longer acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consulate.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this article, the receiving State may, as the case may be, either withdraw the exequatur from the person concerned or cease to consider him as a member of the consular staff.

3. A person may be declared unacceptable before arriving in the territory of the receiving State. In any such case, the sending State shall withdraw his appointment.

Commentary

(1) This article combines the provisions contained in two separate articles in the draft adopted at the previous session, namely article 20 concerning the withdrawal of the exequatur and article 23 specifying the conditions under which the receiving State may declare a member of the consular staff not acceptable. This article therefore defines what are the rights of the receiving State if the conduct of the head of a consular post or a member of the consular staff gives rise to serious grounds for complaint.

(2) The right of the receiving State to declare the head of post or a member of the consular staff unacceptable is limited to the case where the conduct of the persons in question has given serious grounds for complaint. Consequently, it is an individual measure which may only be taken in consequence of such conduct. This constitutes some safeguard for the sending State against arbitrary measures. This safeguard is all the more necessary since the arbitrary withdrawal of the exequatur of the head of a consular post or the fact that in the absence of serious grounds a member of the consular staff is declared unacceptable might cause grave prejudice to the sending State by abruptly or unjustifiably interrupting the performance of consular functions in matters where more or less daily action by the consul is absolutely essential (e.g., various trade and shipping matters, the issue of visas, the attestation of signatures, translation of documents, and the like). Such an interruption might also cause great harm to the receiving State.

(3) The expression "not acceptable" used in this article corresponds to the phrase "*persona non grata*" which is customarily used where diplomatic personnel are concerned.

(4) If the head of post or a member of the consular staff has been declared unacceptable by the receiving State, the sending State is bound to recall the person in question or to terminate his functions at the consulate, as the case may be.

(5) The expression "terminate his functions" applies above all to the case where the person concerned is a national of the receiving State or to a case where the person in question, although a national of the sending State or of a third State, was permanently resident in the territory of the receiving State before his appointment to the consulate of the sending State.

(6) If the sending State refuses to carry out the obligation specified in paragraph 1, or fails to carry it out within a reasonable time, the receiving State may, in the case of the head of post, withdraw the exequatur and, in the case of a member of the consular staff, cease to regard him as a member of the consular staff.

(7) As the text of the article implies, the sending State is entitled to ask the receiving State for the reasons for its complaint of the conduct of the consular official or employee affected.

(8) In the case of the withdrawal of the exequatur the head of post affected ceases to be allowed to exercise consular functions.

(9) If the receiving State ceases to regard a person as a member of the consular staff, that means that the person in question loses the right to participate to any extent whatsoever in the exercise of consular functions.

(10) Nevertheless, the head of a consular post whose exequatur has been withdrawn and the member of the consular staff whom the receiving State has ceased to consider as a member of the consulate continue to enjoy consular privileges and immunities under article 53 until they leave the country or until the expiry of a reasonable time limit granted to them for that purpose.

(11) As is clear from paragraph 3 of this article, the receiving State may declare a person unacceptable before his arrival in its territory. In that case, the receiving State is not obliged to communicate the reasons for its decision.

Article 24

Notification of the appointment, arrival and departure of members of the consulate, members of their families and members of the private staff

1. The Ministry for Foreign Affairs of the receiving State, or the authority designated by that Ministry, shall be notified of :

(a) The appointment of members of the consulate, their arrival after appointment to the consulate, as well as their final departure or the termination of their functions with the consulate ;

(b) The arrival and final departure of a person belonging to the family of a member of the consulate forming part of his household and, where appropriate, the fact that the person becomes or ceases to be a member of the family of a member of the consulate ;

(c) The arrival and final departure of members of the private staff in the employ of persons referred to in sub-paragraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons ;

(d) The engagement and discharge of persons resident in the receiving State as members of the consulate or

as members of the private staff entitled to privileges and immunities.

2. Where possible, prior notification of arrival and final departure shall also be given.

Commentary

(1) This article imposes on the sending State the obligation to notify the receiving State of :

(a) The appointment of members of the consulate ;

(b) The arrival of members of the consulate after their appointment to the consulate ;

(c) Their final departure or the termination of their functions with the consulate ;

(d) The arrival of members of the families of members of the consulate ;

(e) The fact that a person has become a member of the family of a member of the consulate and forms part of his household ;

(f) The final departure of a person belonging to the family of a member of the consulate, forming part of his household, and, if the case should arise, the fact that that person has ceased to be a member of the family of a member of the consulate ;

(g) The arrival of members of the private staff of members of the consulate ;

(h) The final departure of members of the private staff and, where applicable, the fact that they have left the service of the persons concerned ;

(i) The engagement or dismissal of persons residing in the receiving State either as members of the consulate or as members of the private staff.

(2) The notification is in the interest both of the receiving and of the sending State. The former has a great interest in knowing at any particular time the names of the persons belonging to the sending State's consulate, since these persons may, though in differing degrees, claim the benefit of consular privileges and immunities. And so far as the sending State is concerned, the notification is a practical measure enabling the members of its consulate, the members of their families and their private staff to become eligible as quickly as possible for the benefit of the privileges and immunities accorded to them by these articles or by other applicable international agreements.

(3) It should be noted that the enjoyment of consular privileges and immunities is not conditional on notification, except in the case of persons who were in the territory of the receiving State at the time of their appointment or at the time when they entered the household of a member of the consulate (article 53 of this draft). In this case, the notification marks the commencement of the privileges and immunities of the person in question.

(4) Save as otherwise provided by the law of the receiving State, the notification is addressed to the Ministry for Foreign Affairs, which may however, designate some other authority to which the notifications referred to in article 24 are to be addressed.

(5) The present article corresponds to article 10 of the 1961 Vienna Convention on Diplomatic Relations.

SECTION II : END OF CONSULAR FUNCTIONS

*Article 25**Modes of termination of the functions of a member of the consulate*

The functions of a member of the consulate come to an end in particular :

(a) On notification by the sending State to the receiving State that the functions of the member of the consulate have come to an end ;

(b) On the withdrawal of the exequatur or, as the case may be, the notification by the receiving State to the sending State that the receiving State refuses to consider him as a member of the consular staff.

Commentary

This article deals with the modes of termination of the functions of the members of the consulate. The enumeration is not exhaustive, and it contains only the most common causes. The functions may also be terminated by other events, e.g., the death of the consular official or employee, the closure of the consulate or the severance of consular relations, the extinction of the sending State, the incorporation of the consular district into another State. The events terminating the functions of a member of the consulate are sometimes set out in consular conventions.

*Article 26**Right to leave the territory of the receiving State and facilitation of departure*

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

Commentary

(1) This article lays down the obligation of the receiving State to allow members of the consulate, members of their families and members of the private staff in their service to leave its territory. With the exception of members of the family, this article does not apply to persons who are nationals of the receiving State.

(2) The article corresponds to and is modelled on article 44 of the Vienna Convention on Diplomatic Relations. The expression "at the earliest possible moment" should be construed as meaning, first, that the receiving State should allow the persons covered by this article to leave its territory as soon as they are ready to leave and, secondly, that it should allow them the necessary time for preparing their departure and arranging for the transport of their property.

*Article 27**Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances*

1. In the event of the severance of consular relations between two States :

(a) The receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consulate and its archives ;

(b) The sending State may entrust the custody of the consular premises, together with the property it contains and its archives, to a third State acceptable to the receiving State ;

(c) The sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event also of the temporary or permanent closure of a consulate, the provisions of paragraph 1 of the present article shall apply if the sending State has no diplomatic mission and no other consulate in the receiving State.

3. If the sending State, although not represented in the receiving State by a diplomatic mission, has another consulate in the territory of that State, that consulate may be entrusted with the custody of the archives of the consulate which has been closed and, with the consent of the receiving State, with the exercise of consular functions in the district of that consulate.

Commentary

(1) In the case referred to in paragraph 2 of this article, the sending State may entrust the custody of the consular archives to a third State acceptable to the receiving State, unless it decides to evacuate the archives. The third State having the custody of the consular premises and archives may entrust this task to its diplomatic mission or to one of its consulates.

(2) If a consulate has been temporarily or permanently closed in the receiving State, a fresh agreement between the receiving State and the sending State is necessary for the purpose of the provisional or permanent transfer of the consular functions of the closed consulate to another consulate of the sending State in the receiving State.

(3) This article corresponds to article 45 of the 1961 Vienna Convention on Diplomatic Relations.

CHAPTER II. FACILITIES, PRIVILEGES AND IMMUNITIES
OF CAREER CONSULAR OFFICIALS AND CONSULAR
EMPLOYEES

SECTION I. FACILITIES, PRIVILEGES AND IMMUNITIES
RELATING TO A CONSULATE

*Article 28**Use of the national flag and of the State coat-of-arms*

The consulate and its head shall have the right to use the national flag and coat-of-arms of the sending State on the building occupied by the consulate and

at the entrance door and on the means of transport of the head of post.

Commentary

(1) The rule set forth in this article states in the first place the right to display the national flag and the State coat-of-arms on the building in which the consulate is housed and at the entrance door of that building. This right, which is vested in the sending State, is confirmed by numerous consular conventions and must be regarded as being based on a rule of customary international law. It is commonly admitted that the inscription appearing on the coat-of-arms of the sending State may also be in the official language, or one of the official languages, of that State.

(2) In the case where the whole of the building is used for the purposes of the consulate, the national flag may be flown not only on the building but also within its precincts. The right to use the national flag is embodied in many national regulations.

(3) A study of the consular conventions shows that the right of the consulate to fly the national flag on the means of transport of the head of post is recognized by a large number of States. The means of transport in question must be individual ones, such as motor vehicles, vessels of all kinds used exclusively by the head of consular post, aircraft belonging to the consulate, etc. Accordingly, this right is not exercisable when the head of consular post uses public means of transport (trains, ships and boats, commercial aircraft).

(4) Besides the head of post who has received the *exequatur* (article 11) or been admitted on a provisional basis to the exercise of his functions (article 13), an acting head of post (article 15) may also exercise the privilege referred to in paragraph 3 of this commentary.

(5) The consular regulations applied by some States provide for the use of a consular flag (*fanion*) by their consuls. Article 28 should be interpreted as applying to these cases also.

(6) The duty of the receiving State to permit the use of the national flag of the sending State implies the duty to provide for the protection of that flag. Some conventions stipulate that consular flags are inviolable (e.g., the Convention of Caracas of 1911, article III, paragraph 1).

(7) This article corresponds to article 20 of the 1961 Vienna Convention on Diplomatic Relations.

Article 29

Accommodation

1. The receiving State shall either facilitate the acquisition in its territory, in accordance with its municipal law, by the sending State of premises necessary for its consulate or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist in obtaining suitable accommodation for the members of the consulate.

Commentary

(1) The right to procure on the territory of the receiving State the premises necessary for a consulate derives from the agreement by which that State gives its consent to the establishment of the consulate. The reference in the text of the article to the municipal law of the receiving State signifies that the sending State may procure premises only in the manner laid down by the law of the receiving State. That municipal law may however contain provisions prohibiting the acquisition of the ownership of premises by aliens or by foreign States, so that the sending State may be obliged to rent premises. Even in this case, the sending State may encounter legal or practical difficulties. Hence, the Commission decided to include in the draft an article making it obligatory for the receiving State to facilitate, as far as possible, the procuring of suitable premises for the consulate of the sending State.

(2) This article corresponds to article 21 of the 1961 Vienna Convention on Diplomatic Relations.

Article 30

Inviolability of the consular premises

1. The consular premises shall be inviolable. The agents of the receiving State may not enter them, save with the consent of the head of post.

2. The receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

3. The consular premises, their furnishings, the property of the consulate and its means of transport shall be immune from any search, requisition, attachment or execution.

Commentary

(1) The consular premises comprise the buildings or parts of buildings and the appurtenant land which, whoever the owner may be, are used for the purposes of the consulate (article 1 (j)). If the consulate uses an entire building for its purposes, the consulate premises also comprise the surrounding land and the appurtenances, including the garden, if any; for the appurtenances are an integral part of the building and are governed by the same rules. It is hardly conceivable that the appurtenances should be governed by rules different from those applicable to the building to which they are attached.

(2) The inviolability of the consular premises is a prerogative granted to the sending State by reason of the fact that the premises in question are used as the seat of its consulate.

(3) The article places two obligations on the receiving State. In the first place, that State must prevent its agents from entering the consular premises unless they have previously obtained the consent of the head of post (paragraph 1). Secondly, the receiving State is under a special duty to take all appropriate steps to protect

the consular premises against any intrusion or damage, and to prevent any disturbance of the peace of the consulate or impairment of its dignity (paragraph 2). The expression "special duty" is used to emphasize that the receiving State is required to take steps going beyond those normally taken in the discharge of its general duty to maintain public order.

(4) Paragraph 3 extends the inviolability also to the property of the consulate and in particular to the means of transport of the consulate. The paragraph provides that the consular premises must not be entered even in pursuance of an order made by a judicial or administrative authority. It confers immunity from any search, requisition, attachment or execution upon the consular premises, their furnishings and other objects therein and also on the property of the consulate, in particular the assets of the consulate and its means of transport. This immunity naturally includes immunity from military requisitioning and billeting.

(5) If the consulate uses leased premises, measures of execution which would involve a breach of the rule of inviolability confirmed by this article must not be resorted to against the owner of the premises.

(6) By reason of article 27 of the present draft, the inviolability of the consular premises will subsist even in the event of the severance of consular relations or of the permanent or temporary closure of the consulate.

(7) This article reproduces, *mutatis mutandis*, the text of article 22 of the 1961 Vienna Convention on Diplomatic Relations.

(8) The principle of the inviolability of the consular premises is recognized in numerous consular conventions, including the following: Cuba-Netherlands, 31 December 1913 (article 5); Albania-France, 5 February 1920 (article 6); Czechoslovakia-Italy, 1 March 1924 (article 9); Greece-Spain, 23 September 1926 (article 9); Poland-Yugoslavia, 6 March 1927 (article VIII); Germany-Turkey, 28 May 1929 (article 6); Costa Rica-United States of America, 12 January 1948 (article VI); Philippines-Spain, 20 May 1948 (article IX, paragraph 2); the consular conventions concluded by the United Kingdom of Great Britain and Northern Ireland with Norway on 22 February 1951 (article 10, paragraph 4), with France on 31 December 1951 (article 11, paragraph 1), with Sweden on 14 March 1952 (article 10, paragraph 4), with Greece on 17 April 1953 (article 10, paragraph 3), with Mexico on 20 March 1954 (article 10, paragraph 3) and with the Federal Republic of Germany on 30 July 1956 (article 8, paragraph 3); the conventions concluded by the Union of Soviet Socialist Republics with the Hungarian People's Republic on 24 August 1957 (article 12, paragraph 2), with the Mongolian People's Republic on 28 August 1957 (article 13, paragraph 2), with the Romanian People's Republic on 4 September 1957 (article 9, paragraph 2), with the People's Republic of Albania on 18 September 1957 (article 3, paragraph 2), with the People's Republic of Bulgaria on 16 December 1957 (article 13, paragraph 2), with the Federal Republic of Germany on 25 April 1958 (article 14, paragraph 3), with Austria on 28 February 1959 (article 13, paragraph 2), with

the Democratic Republic of Viet-Nam on 5 June 1959 (article 13, paragraph 2) and with the People's Republic of China on 23 June 1959 (article 13, paragraph 2); the consular convention of 23 May 1957 between Czechoslovakia and the German Democratic Republic (article 5, paragraph 2); and the Havana Convention of 1928 regarding consular agents (article 18). Although some of these conventions allow certain exceptions to the rule of inviolability, in that they allow the police or other territorial authorities to enter the consular premises in pursuance of an order of the courts under certain conditions, even without the consent of the head of post or in cases where his consent is presumed, as in the case of fire or other disasters or where a crime is committed on the consular premises, nevertheless many conventions lay down the rule of inviolability and admit of no exception whatsoever. As the inviolability of consular premises has the same importance for the exercise of consular functions as the inviolability of the premises of a diplomatic mission for that of diplomatic functions, the majority of the Commission was of the opinion that, in this matter, the text adopted at the Vienna Conference should be followed.

(9) Some bilateral consular conventions even recognize the inviolability of the consul's residence. The municipal law of some (though of very few) countries also recognizes the inviolability of the consul's residence.

Article 31

Exemption from taxation of consular premises

1. The sending State and the head of post shall be exempt from all national, regional or municipal dues and taxes whatsoever in respect of the consular premises, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or the head of the consular post.

Commentary

(1) The exemption provided for in article 31 relates to the dues and taxes which, but for the exemption, would, under the law of the receiving State, be leviable on the consular premises owned or leased by the sending State or by the head of a consular post. The exemption covers the dues and taxes charged on the contract of sale, or on the lease, and also those charged on the building and rents.

(2) The expression "all national, regional or municipal dues and taxes whatsoever" should be construed as meaning those charged by the receiving State or by any of its territorial or political sub-divisions such as: the State (in a federal State), *canton*, autonomous republic, province, county, region, department, district, *arrondissement*, commune or municipality.

(3) This exemption is subject to an exception indicated in the final phrase of paragraph 1 in respect of dues and taxes which represent payment for specific

services, e.g., the tax on radio and television sets, taxes on water, electricity, gas consumption, etc.

(4) This article reproduces *mutatis mutandis* the text of article 23 of the 1961 Vienna Convention on Diplomatic Relations.

Article 32

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at any time and wherever they may be.

Commentary

(1) This article lays down one of the essential rules relating to consular privileges and immunities, recognized by customary international law. While it is true that the inviolability of the consular archives and of the documents of the consulate (hereinafter designated as the papers of the consulate) is to some extent guaranteed by the inviolability of the consular premises (article 30), the papers of the consulate must as such be inviolable wherever they are, even, for example, if a member of the consulate is carrying them on his person, or if they have to be taken away from the consulate owing to its closure or on the occasion of a removal. For the reasons given, and because of the importance of this rule for the exercise of the consular functions, the Commission considered it necessary that it should form the subject of a separate article.

(2) The expression "consular archives" means the papers, documents, correspondence, books and registers of the consulate and the ciphers and codes together with the card-indexes and furniture intended for their protection or safekeeping (article 1, paragraph 1 (k)).

(3) The term "documents" means any papers which do not come under the heading of "official correspondence", e.g., memoranda drawn up by the consulate. It is clear that "civil status" documents, such as certificates of birth, marriage or death issued by the consul, and documents such as manifests, drawn up by the consul in the exercise of his functions, cannot be described for the purposes of this article as documents entitled to inviolability, for these certificates, manifests, etc., are issued to the persons concerned or to their representatives as evidence of certain legal acts or events.

(4) The protection of the official correspondence is also ensured by paragraph 2 of article 35.

(5) This article corresponds to article 24 of the 1961 Vienna Convention on Diplomatic Relations.

(6) The papers of the consulate enjoy inviolability even before the *exequatur* or special authorization is issued to the consul, for the inviolability is an immunity granted to the sending State and not to the consular official personally.

Article 33

Facilities for the work of the consulate

The receiving State shall accord full facilities for the performance of the functions of the consulate.

Commentary

(1) This article, which follows the terms of article 25 of the 1961 Vienna Convention on Diplomatic Relations, was inserted because the consulate needs the assistance of the Government and authorities of the receiving State, both during its installation and in the exercise of its functions. Consuls could not successfully carry out any of the functions enumerated by way of example in article 5 without the assistance of the authorities of the receiving State. The obligation which this article imposes on the receiving State is moreover in its own interests, for the smooth functioning of the consulate helps to develop consular intercourse between the two States concerned.

(2) It is difficult to define the facilities which this article has in view, for this depends on the circumstances of each particular case. It should, however, be emphasized that the obligation to provide facilities is confined to what is reasonable, having regard to the given circumstances.

Article 34

Freedom of movement

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the consulate freedom of movement and travel in its territory.

Commentary

This article corresponds to article 26 of the 1961 Vienna Convention on Diplomatic Relations.

Article 35

Freedom of communication

1. The receiving State shall permit and protect free communication on the part of the consulate for all official purposes. In communicating with the Government, the diplomatic missions and the other consulates of the sending State, wherever situated, the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplomatic or consular bag and messages in code or cipher. However, the consulate may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consulate shall be inviolable. Official correspondence means all correspondence relating to the consulate and its functions.

3. The consular bag, like the diplomatic bag, shall not be opened or detained.

4. The packages constituting the consular bag must bear visible external marks of their character and may contain only official correspondence and documents or articles intended for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. In the

performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. A consular bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a consular courier. The consulate may send one of its members to take possession of the consular bag directly and freely from the captain of the aircraft.

Commentary

(1) This article predicates a freedom essential for the discharge of consular functions; and, together with the inviolability of consular premises and that of the consulate's official archives, documents and correspondence, it forms the foundation of all consular law.

(2) By the terms of paragraph 1, freedom of communication is to be accorded "for all official purposes". This expression relates to communication with the Government of the sending State; with the authorities of that State, and, more particularly, with its diplomatic missions and other consulates, wherever situated; with the diplomatic missions and consulates of other States; and, lastly with international organizations.

(3) As regards the means of communication, the article specifies that the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplomatic or consular bag, and messages in code or cipher. In drafting this article, the Commission based itself on existing practice, which is as a rule to make use of the diplomatic courier service, i.e., of the couriers dispatched by the Ministry for Foreign Affairs of the sending State or by a diplomatic mission of the latter. Such diplomatic couriers maintain the consulate's communications with the diplomatic mission of the sending State, or with an intermediate post acting as a collecting and distributing centre for diplomatic mail; with the authorities of the sending State; or even with the sending State's diplomatic missions and consulates in third States. In all such cases, the rules governing the dispatch of diplomatic couriers, and defining their legal status, are applicable. The consular bag may either be part of the diplomatic bag, or may be carried as a separate bag shown on the diplomatic courier's way-bill. This last procedure is preferred where the consular bag has to be transmitted to a consulate en route.

(4) However, by reason of its geographical position, a consulate may have to send a consular courier to the seat of the diplomatic mission or even to the sending State, particularly if the latter has no diplomatic mission in the receiving State. The text proposed by the Commission provides for this contingency. The consular courier shall be provided with an official document certifying his status and indicating the number of packages constituting the consular bag. The consular courier must enjoy the same protection in the receiving State as the diplomatic courier. He enjoys inviolability of person and is not liable to any form of arrest or detention.

(5) The consular bag referred to in paragraph 1 of the article may be defined as a bag (sack, box, wallet, envelope or any sort of package) containing the official correspondence, documents or articles intended for official purposes or all these together. The consular bag must not be opened or detained. This rule, set forth in paragraph 3, is the logical corollary of the rule providing for the inviolability of the consulate's official correspondence, archives and documents, which is the subject of article 32 and of paragraph 2 of article 35 of the draft. As is specified in paragraph 4, consular bags must bear visible external marks of their character, i.e., they must bear an inscription or other external mark so that they can be identified as consular bags.

(6) Freedom of communication also covers messages in cipher, i.e., messages in secret language, and, of course, also messages in code, i.e., messages in a conventional language which is not secret and is employed for reasons of practical utility and, more particularly, in order to save time and money.

(7) Following the example of article 27, paragraph 1, of the 1961 Vienna Convention on Diplomatic Relations, the Commission has added a rule concerning the installation and use of a wireless transmitter by a consulate and stated in the text of the article the opinion which it had expressed at its previous session in paragraph (7) of the commentary to article 36. According to paragraph 1 of the present article, the consulate may not install or use a wireless transmitter except with the consent of the receiving State.

(8) The Commission, being of the opinion that the consular bag may be entrusted by a consulate to the captain of a commercial aircraft, has inserted a rule to that effect by adapting the text of article 27, paragraph 7, of the 1961 Vienna Convention on Diplomatic Relations.

(9) Correspondence and other communications in transit, including messages in cipher, enjoy protection in third States also, in conformity with the provisions of article 54, paragraph 3, of the present draft. The same protection is enjoyed by consular couriers in third States.

(10) Independently of the fact that the expression "consular archives" includes the official correspondence [article 1, paragraph 1 (k)], the Commission considered it indispensable — and in this respect it followed article 27, paragraph 2, of the Vienna Convention on Diplomatic Relations — to insert in this draft a special provision affirming the inviolability of the official correspondence. In this way it meant to stress — as is, incidentally, explained in the commentary to article 1 — that the official correspondence is inviolable at all times and wherever it may be, and consequently even before it actually becomes part of the consular archives.

Article 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) Nationals of the sending State shall be free to communicate with and to have access to the competent consulate, and the consular officials of that consulate shall be free to communicate with and, in appropriate cases, to have access to the said nationals ;

(b) The competent authorities shall, without undue delay, inform the competent consulate of the sending State if, within its district, a national of that State is committed to prison or to custody pending trial or is detained in any other manner. Any communications addressed to the consulate by the person in prison, custody or detention shall also be forwarded by the said authorities without undue delay ;

(c) Consular officials shall have the right to visit a national of the sending State who is in prison, custody or detention, for the purpose of conversing with him and arranging for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement.

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must not nullify these rights.

Commentary

(1) This article defines the rights granted to consular officials with the object of facilitating the exercise of the consular functions relating to nationals of the sending State.

(2) First, in paragraph 1 (a), the article establishes the freedom of nationals of the sending State to communicate with and have access to the competent consular official. The expression "competent consular official" means the consular official in the consular district in which the national of the sending State is physically present.

(3) The same provision also establishes the right of the consular official to communicate with and, if the exercise of his consular functions so requires, to visit nationals of the sending State.

(4) In addition, this article establishes the consular rights that are applicable in those cases where a national of the sending State is in custody pending trial, or imprisoned in the execution of a judicial decision. In any such case, the receiving State would assume three obligations under the article proposed :

(a) First, the receiving State must, without undue delay, inform the consul of the sending State in whose district the event occurs, that a national of that State is committed to custody pending trial or to prison. The consular official competent to receive the communication regarding the detention or imprisonment of a national of the sending State may, therefore, in some cases, be different from the one who would normally be competent to exercise the function of providing consular protection for the national in question on the basis of his normal residence ;

(b) Secondly, the receiving State must forward to the consular official without undue delay any commu-

nications addressed to him by the person in custody, prison or detention ;

(c) Lastly, the receiving State must permit the consular official to visit a national of the sending State who is in custody, prison or detention in his consular district, to converse with him, and to arrange for his legal representation. This provision is designed to cover cases where a national of the sending State has been placed in custody pending trial, and criminal proceedings have been instituted against him ; cases where the national has been sentenced, but the judgement is still open to appeal or cassation ; and also cases where the judgement convicting the national has become final. This provision applies also to other forms of detention (quarantine, detention in a mental institution).

(5) All the above-mentioned rights are exercised in conformity with the laws and regulations of the receiving State. Thus, visits to persons in custody or imprisoned are permissible in conformity with the provisions of the code of criminal procedure and prison regulations. As a general rule, for the purpose of visits to a person in custody, against whom a criminal investigation or a criminal trial is in process, codes of criminal procedure require the permission of the examining magistrate, who will decide in the light of the requirements of the investigation. In such a case, the consular official must apply to the examining magistrate for permission. In the case of a person imprisoned in pursuance of a judgement, the prison regulations governing visits to inmates apply also to any visits which the consular official may wish to make to a prisoner who is a national of the sending State.

(6) The expression "without undue delay" used in paragraph 1 (b) allows for cases where it is necessary to hold a person *incomunicado* for a certain period for the purposes of the criminal investigation.

(7) Although the rights provided for in this article must be exercised in conformity with the laws and regulations of the receiving State, this does not mean that these laws and regulations can nullify the rights in question.

Article 37

Obligations of the receiving State

The receiving State shall have the duty :

(a) In the case of the death of a national of the sending State, to inform the consulate in whose district the death occurred ;

(b) To inform the competent consulate without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State ;

(c) If a vessel used for maritime or inland navigation, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consulate nearest to the scene of the occurrence.

Commentary

(1) This article is designed to ensure co-operation between the authorities of the receiving State and consulates in three types of cases coming within the scope of the consular functions. The duty to report to the consulate the events referred to in this article is often included in consular conventions. If this duty could be made general by means of a multilateral convention, the work of all consulates would be greatly facilitated.

(2) In case of the death of a national of the sending State, the obligation to inform the consulate of the sending State exists, of course, only in those cases in which the authorities of the receiving State are aware that the deceased was a national of the sending State. If this fact is not established until later (e.g., during the administration of the estate) the obligation to inform the consulate of the sending State arises only as from that moment.

(3) The obligation laid down in paragraph (c) has been extended to include not only the case where a sea-going vessel or a boat is wrecked or runs aground on the coast in the territorial sea but also the case where a vessel is wrecked or runs aground in the internal waters of the receiving State.

*Article 38**Communication with the authorities of the receiving State*

1. In the exercise of the functions specified in article 5, consular officials may address the authorities which are competent under the law of the receiving State.

2. The procedure to be observed by consular officials in communicating with the authorities of the receiving State shall be determined by the relevant international agreements and by the municipal law and usage of the receiving State.

Commentary

(1) It is a well-established principle of international law that consular officials, in the exercise of their functions as set out in article 5, may address only the local authorities. The Commission was divided on the question of what these authorities are.

(2) Some members of the Commission, pointing out that the exercise of the competence of the consulate with respect to the receiving State is restricted to the consular district — as is apparent, also, from article 1 (b) of the present draft — considered that the only cases in which consular officials could address authorities outside the consular district were those where a particular service constituted the central service for the entire territory of the State, or for one of the State's territorial or political sub-divisions (e.g., the emigration or immigration services, the chambers of commerce or the Patent Office in many States). They held that if the consular official's applications to the local authorities or to the centralized services were not given due consideration, he could address the Government through the diplomatic mission of the sending State,

direct communication with a Ministry of the receiving State being permissible only if the sending State had no diplomatic mission in the receiving State.

(3) Other members of the Commission took the view that consular officials might, in the case of matters within their consular district, address any authority of the receiving State direct, including the central authorities. In their opinion, any restrictions in this sense imposed upon consular officials by the regulations of the sending State are internal measures without relevance for international law.

(4) The text of the article represents a compromise between the two points of view. It leaves it for each receiving State to determine what are the competent authorities which may be addressed by consular officials in the exercise of their functions, and yet it does not exclude recourse to central authorities. The text gives consular officials the right to apply to the authority which, in accordance with the law of the receiving State, is competent in a specific case. Nevertheless, at the same time it reserves under paragraph 2 of this article the right to regulate the procedure of this communication, in the absence of an international agreement, in accordance with the municipal law and usage of the receiving State.

(5) Paragraph 2 of the article provides, in conformity with the practice of States, that the procedure to be observed by consular officials in communicating with the authorities of the receiving State shall be determined by the relevant international agreements and by the law and usage of the receiving State. For example, the law of some countries requires consular officials who wish to address the Government of the receiving State to communicate through their diplomatic mission; or it provides that consular officials of countries which have no diplomatic representation in the receiving State may address only certain officials of the Ministry for Foreign Affairs in well-defined cases. The receiving State may also prescribe other procedures to be observed by foreign consular officials.

(6) It should be noted that the communications of consular officials with the authorities of the receiving State are often governed by consular conventions. For example, the consular convention of 1913 between Cuba and the Netherlands (article 6) and the consular convention of 1924 between Czechoslovakia and Italy (article 11, paragraph 4) provide that consular officials may not address the central authorities except through the diplomatic channel. The consular convention of 1923 between Germany and the United States of America (article 21) gives only the consul-general or consular official stationed in the capital the right to address the Government. Other conventions authorize the consular official to communicate not only with the competent authorities of his district but also with the competent departments of the central Government; however, he may do so only in cases where there is no diplomatic mission of the sending State in the receiving State. [See in particular the consular conventions concluded by the United Kingdom with Norway on 22 February 1951 (article 19, paragraph 2) and with France on 31 December 1951 (article 24, paragraph 2)]. Other conventions authorize the consular official to

correspond with the Ministries of the central Government, but stipulate that he may not communicate directly with the Ministry for Foreign Affairs except in the absence of a diplomatic mission of the sending State. [See the consular convention of 17 April 1953 between Greece and the United Kingdom (article 18, paragraph 1 (d))].

Article 39

Levying of fees and charges and exemption of such fees and charges from dues and taxes

1. The consulate may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this article, and the receipts for such fees or charges shall be exempt from all dues and taxes in the receiving State.

Commentary

(1) This article states a rule of customary international law. Since the earliest times consuls have levied fees for services rendered to their nationals, originally fixed as a percentage of the quantity or of the value of goods imported through the ports by the nationals concerned. At the present time, every State levies fees provided by law for official acts performed by its consulates. It must be borne in mind that since the levying of consular fees and charges is bound up with the exercise of consular functions it is subject to the general limitation laid down in the introductory sentence of paragraph 1 of article 55. For this reason, a consulate would not be entitled to levy charges on consular acts which are not recognized by the present articles or by other relevant international agreements in force, and which would be a breach of the law of the receiving State.

(2) Paragraph 2 of this article stipulates that the revenue obtained from the fees and charges levied by a consulate for consular acts shall be exempt from all dues and taxes levied either by the receiving State or by any of its territorial or local authorities. In addition, this paragraph recognizes that the receipt issued by a consulate for the payment of consular fees or charges are likewise exempt from dues or taxes levied by the receiving State. These dues include, amongst others, the stamp duty charged in many countries on the issuance of receipts.

(3) The exemption referred to in paragraph 2 of this article should be interpreted as including exemption from all dues or taxes charged by the receiving State or by a territorial or local authority: State (in a federal State), *canton*, autonomous republic, province, county, region, department, district, *arrondissement*, commune, municipality.

(4) This article leaves aside the question of the extent to which acts performed at a consulate between private persons are exempt from the dues and taxes levied by the law of the receiving State. The opinion was expressed that such acts should be subject to the

said dues or taxes only if intended to produce effects in the receiving State. It was contended that it would be unjustifiable for the receiving State to levy dues and taxes on acts performed, for example, between the nationals of two foreign States and intended to produce legal effects in one or more foreign States. Several Governments have declared themselves in agreement with this point of view. Nevertheless, as the Commission had not sufficient information at its disposal concerning the practice of States, it contented itself with bringing the matter to the attention of Governments.

(5) The exemption of the members of the consulate and members of their families forming part of their households from taxation is dealt with in article 48.

SECTION II: FACILITIES, PRIVILEGES AND IMMUNITIES REGARDING CONSULAR OFFICIALS AND EMPLOYEES

Article 40

Special protection and respect due to consular officials

The receiving State shall be under a duty to accord special protection to consular officials by reason of their official position and to treat them with due respect. It shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

Commentary

(1) The rule that the receiving State is under a legal obligation to accord special protection to consular officials and to treat them with respect must be regarded as forming part of customary international law. Its basis lies in the fact that, according to the view generally accepted today, the consular official represents the sending State in the consular district, and by reason of his position is entitled to greater protection than is enjoyed in the territory of the receiving State by resident aliens. He is also entitled to be treated with the respect due to agents of foreign States.

(2) The rule laid down tends in the direction of assuring to the consular official a protection that may go beyond the benefits provided by the various articles of the present draft. It applies in particular to all situations not actually provided for, and even assures to the consular official a right of special protection where he is subject to annoyances not constituting attacks on his person, freedom or dignity as mentioned in the second sentence of this article.

(3) The fact of receiving the consul places the receiving State under an obligation to ensure his personal safety, particularly in the event of tension between that State and the sending State. The receiving State must therefore take all reasonable steps to prevent attacks on the consular official's person, freedom, or dignity.

(4) Under the provisions of article 53, a consular official starts to enjoy the special protection provided for in article 40 as soon as he enters the territory of the receiving State on proceeding to take up his post, or, if already in that territory, as soon as his appoint-

ment is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry.

(5) The protection of the consul after the termination of his functions is dealt with in article 26 of the draft.

(6) The expression "appropriate steps" must be interpreted in the light of the circumstances of the case. It includes all steps which the receiving State is in a position to take, having regard to the actual state of affairs at the place where the consular official's residence or the consulate it situated, and to the physical means at its disposal.

(7) The rule codified in this article is embodied in many consular conventions, including, amongst recent ones, the conventions concluded by the United Kingdom of Great Britain and Northern Ireland with Norway on 22 February 1951 (article 5, paragraph 2), with Greece on 17 April 1953 (article 5, paragraph 2), with Mexico on 20 March 1954 (article 5, paragraph 2) and with Italy on 1 June 1954 (article 5, paragraph 2); and the convention concluded by the Soviet Union with the Federal Republic of Germany on 25 April 1958 (article 7), and with the People's Republic of China on 23 June 1959 (article 5).

Article 41

Personal inviolability of consular officials

1. Consular officials may not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this article, consular officials shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular official, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this article, in a manner which will hamper the exercise of consular functions as little as possible.

Commentary

(1) The purpose of this article is to settle the question of the personal inviolability of consular officials, which has been controversial both as a matter of doctrine, and in the practice of States, since the time when consular officials, having ceased to be public Ministers, became subject to the jurisdiction of the State in which they discharge their functions. Since the *Barbuit* case in 1737, when an English court refused to recognize the immunity from jurisdiction of a consul (agent for commerce) of the King of Prussia, the personal inviolability of consular officials has not been recognized by the case law of the national court of many countries of Europe and America.

(2) Reacting against this practice, States have attempted to provide for the personal inviolability of their

consular officials through conventions, by including personal immunity clauses in consular conventions. The practice of including a personal immunity clause has become very widespread since the Convention of Pardo, signed on 13 March 1769 between France and Spain, which provided that the consular officials of the two contracting parties should enjoy personal immunity so as not to be liable to arrest or imprisonment except for crimes of an atrocious character, or in cases where the consuls were merchants (article II).

(3) The personal immunity clause was for a long time interpreted in fundamentally different ways. Some writers claimed that it conferred virtual exemption from civil and criminal jurisdiction, except in cases where the consular official was accused of a felony. Others have interpreted the immunity as conferring exemption from arrest and from detention pending trial, except in case of felony, and exemption from attachment of the person in a civil matter. Courts, which were at first divided as to the meaning to be given to the expression "personal immunity" have interpreted the expression as meaning personal inviolability and not immunity from jurisdiction.

(4) From an analysis of recent consular conventions, it is evident that States, while asserting the subjection of consular officials to the jurisdiction of the receiving State, recognize their personal inviolability except in cases where they have committed a grave crime. While some conventions exempt consular officials not only from arrest, but also from prosecution save in cases of felony (e.g., the convention of 12 January 1948 between Costa Rica and the United States of America, article II), a very great number of recent conventions do no more than exempt consular officials simply from arrest or detention or, in general, from any restriction on their personal freedom, except in cases where they have committed an offence the degree of seriousness of which is usually defined in the convention.

(5) Some conventions provide simply for exemption from arrest and detention pending trial, while others are general in scope and cover all forms of detention and imprisonment.

(6) Apart from this difference in scope, the conventions differ only in the manner in which they determine the nature of the offences in respect of which personal inviolability is not admitted. Some conventions which recognize personal inviolability make an exception in the case of "serious criminal offences", while others (much more numerous) permit the arrest of consular officials only when they are charged with penal offences defined and punished as felonies by the criminal law of the receiving State. Sometimes the offences in respect of which inviolability is not recognized are defined by reference to the type of penalty applicable (death penalty or penal servitude). In other cases the crimes in respect of which inviolability does not apply are enumerated. Lastly, a large group of bilateral conventions uses as the criterion for determining the cases in which the arrest of consular officials is permitted the length of the sentence which is imposed by the law of the receiving State for the offence committed. Some conventions even contain two different definitions of the offence, or specify

two different lengths of sentence, one being applicable in one of the contracting States and the other in the other State.

(7) Some consular conventions allow arrest and detention pending trial only on the double condition that the offence is particularly serious (according to the definition given in the convention concerned) and that the consular official is taken *in flagrante delicto*.

(8) Where conventions do no more than exempt consular officials from arrest pending trial except in the case of felonies, they sometimes contain clauses which provide that career consular officials may not be placed under personal arrest, either pending trial, or as a measure of execution in a civil or commercial case; and equally neither in the case of an alleged offence nor as punishment for an offence subject to prosecution by way of administrative proceedings. Other conventions expressly exclude arrest in civil and commercial cases.

(9) The scope of the provisions designed to ensure personal immunity is restricted *ratione personae* in that:

(a) Conventions generally exclude consular officials who are nationals of the receiving State from the benefit of clauses granting personal inviolability; and

(b) They exclude consular officials engaged in commercial activities from exemption from personal constraint in connexion with such activities.

(10) Conventions determine in various ways what persons shall enjoy inviolability. Some grant personal inviolability to consuls only (consular officers); others grant it also to other consular officials, and some even to certain categories of consulate employees.

(11) The Commission considered that, despite the divergent views on the technical question of the definition of offences for which personal inviolability could not be admitted, there was enough common ground in the practice of States on the substance of the question of the personal inviolability of consular officials to warrant the hope that States may accept the principle of the present article.

(12) The article refers solely to consular officials, i.e., heads of post and the other members of the consulate who are responsible for carrying out consular functions in a consulate [article 1, paragraph 1 (d)]. Hence, personal inviolability does not extend to consulate employees. Moreover, only consular officials who are not nationals of the receiving State (article 69), and who do not carry on a gainful private occupation (article 56), enjoy the personal inviolability provided for in this article.

(13) Paragraph 1 of this article refers to immunity from arrest and detention pending trial. On this point the Commission proposed two variants in its 1960 draft. Under the first variant the exemption does not apply in the case of an offence punishable by a maximum term of not less than five years' imprisonment. Under the second variant the exemption was not to be granted "in case of grave crime". As most of the Governments which commented on the draft articles on consular intercourse and immunities preferred the

second alternative, the Commission has adopted that alternative. Paragraph 1 of the new text confers upon consular officials exemption from arrest and detention pending trial in every case except that of a grave crime. Even in that case, however, in accordance with the terms of paragraph 1 they cannot be placed under arrest or detention pending trial except by virtue of a decision of the competent judicial authority. It should be pointed out that this paragraph by no means excludes the institution of criminal proceedings against a consular official. The privilege under this paragraph is granted to consular officials by reason of their functions. The arrest of a consular official hampers considerably the functioning of the consulate and the discharge of the daily tasks—which is particularly serious inasmuch as many of the matters calling for consular action will not admit of delay (e.g., the issue of visas, passports and other travel documents; the legalization of signatures on commercial documents and invoices; various activities connected with shipping, etc.). Any such step would harm the interests, not only of the sending State, but also of the receiving State, and would seriously affect consular relations between the two States. It would therefore be inadmissible that a consular official should be placed under arrest or detention pending trial in connexion with some minor offence.

(14) Paragraph 2 of the article provides that consular officials, save in cases where, under paragraph 1 of the article, they are liable to arrest or detention pending trial, may not be imprisoned or subjected to any other form of restriction upon their personal freedom except in execution of a judicial decision of final effect. According to the provisions of this paragraph consular officials:

(a) May not be committed to prison in execution of a judgement unless that judgement is final;

(b) May not be committed to prison in execution of a mere decision of a police authority or of an administrative authority;

(c) Are not liable to any other restriction upon their personal freedom, such as, for instance, enforcement measures involving restrictions of personal liberty (imprisonment for debt, imprisonment for the purpose of compelling the debtor to perform an act which he must perform in person, etc.) save and except under a final judicial decision.

(15) Paragraph 3 of this article, which deals with the conduct of criminal proceedings against a consular official, prescribes that an official against whom such proceedings are instituted must appear before the competent authorities. The latter expression means other tribunals as well as ordinary courts. Save where arrest pending trial is admissible under paragraph 1, no coercive measure may be applied against a consular official who refuses to appear before the court. The authority concerned can of course always take the consular official's deposition at his residence or office, if this is permissible under the law of the receiving State and possible in practice.

(16) The inviolability which this article confers is enjoyed from the moment the consular official to whom it applies enters the territory of the receiving State to

take up his post. He must, of course, establish his identity and claim status as a consular official. If he is already in the territory of the receiving State at the time of his appointment, inviolability is enjoyed as from the moment when the appointment is notified to the Ministry for Foreign Affairs, or to the authority designated by that Ministry (see article 53 of this draft). A consular official enjoys a like inviolability in third States if he passes through or is in their territory when proceeding to take up or return to his post, or when returning to his own country (article 54, paragraph 1).

(17) By virtue of article 69, this article does not apply to consular officials who are nationals of the receiving State.

Article 42

Duty to notify in the event of arrest, detention pending trial or the institution of criminal proceedings

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of the said measures, the receiving State shall notify the sending State through the diplomatic channel.

Commentary

This article applies not only to consular officials but also to all the other members of the consulate. It establishes the obligation of the receiving State to notify the head of the consular post if a member of the consular staff is arrested or placed in custody pending trial, or if criminal proceedings are instituted against him. The duty to notify the sending State through the diplomatic channel if the head of the consular post is himself the object of the said measures is to be accounted for both by the gravity of the measures that affect the person in charge of a consulate and by practical considerations.

Article 43

Immunity from jurisdiction

Members of the consulate shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

Commentary

(1) Unlike members of the diplomatic staff, all the members of the consulate are in principle subject to the jurisdiction of the receiving State unless exempted by one of the present rules or by a provision of some other applicable international agreement. In particular, they are, like any private person, subject to the jurisdiction of the receiving State in respect of all their private acts, more especially as regards any private gainful activity carried on by them.

(2) The rule that, in respect of acts performed by them in the exercise of their functions (official acts)

members of the consulate are not amenable to the jurisdiction of the judicial and administrative authorities of the receiving State, is part of customary international law. This exemption represents an immunity which the sending State is recognized as possessing in respect of acts which are those of a sovereign State. By their very nature such acts are outside the jurisdiction of the receiving State, whether civil, criminal or administrative. Since official acts are outside the jurisdiction of the receiving State, no criminal proceedings may be instituted in respect of them. Consequently, consular officials enjoy complete inviolability in respect of their official acts.

(3) In the opinion of some members of the Commission, the article should have provided that only official acts within the limits of the consular powers enjoy immunity from jurisdiction. The Commission was unable to accept this view. It is in fact often very difficult to draw an exact line between what is still the consular official's official act performed within the scope of the consular functions and what amounts to a private act or communication exceeding those functions. If any qualifying phrase had been added to the provision in question, the exemption from jurisdiction could always be contested, and the phrase might be used at any time to weaken the position of a member of the consulate.

(4) This article does not apply to members of the consulate who are nationals of the receiving State. Their legal status is governed by article 69 of these draft articles.

Article 44

Liability to give evidence

1. Members of the consulate may be called upon to attend as witnesses in the course of judicial or administrative proceedings. Nevertheless, if a consular official should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular official shall avoid interference with the performance of his functions. In particular it shall, where possible, take such testimony at his residence or at the consulate or accept a statement from him in writing.

3. Members of the consulate are under no obligation to give evidence concerning matters connected with the exercise of their functions nor to produce official correspondence and documents relating thereto.

Commentary

(1) In contrast to members of a diplomatic mission, consular officials and other members of the consulate are not exempted by international law from liability to attend as witnesses in courts of law or in the course of administrative proceedings. However, the Commission agreed that if they should decline to attend, no coercive measure or penalty may be applied to them. This privilege is confirmed by a large number of consular conventions. For this reason, the letter of the judicial or administrative authority inviting consular officials to

attend should not contain any threat of a penalty for non-appearance.

(2) The Commission noted that consular conventions apply different methods so far as concerns the procedure to be followed in taking the testimony of consular officials. In view of the provisions contained in numerous conventions, the Commission merely inserted two fundamental rules on the subject in paragraph 2 of this article :

(a) The authority requiring the evidence shall avoid interference with the performance by the consular official of his official duties ;

(b) The authority requiring the evidence shall, where possible, arrange for the taking of such testimony at the consular official's residence or at the consulate or accept a written declaration from him.

As can be seen from the words "where possible", the testimony of a consular official cannot be taken at his residence or at the consulate unless this is permitted by the legislation of the receiving State. But even in cases where the legislation of that State allows testimony to be taken at the consular official's residence or at the consulate, e.g., through a judge deputed to act for the president of the court (*juge délégué*), there may be exceptional cases in which the consular official's appearance in court is, in the opinion of the court, indispensable. The Commission wished to make allowance for this case by inserting the word "possible". If the testimony of the consular official is to be taken at his residence or at the consulate, the date and hour of the deposition should of course be fixed by agreement between the court and the consulate to which the official in question belongs. The date of the deposition should be fixed in such a way as not to delay the proceedings unnecessarily. While the second rule may be regarded as an application of the first, the first rule nevertheless expresses a general principle which should be applied both in cases in which the consular official is to appear before the court.

(3) The right of members of the consulate to decline to give evidence concerning matters connected with the exercise of their function, and to decline to produce any official correspondence or documents relating thereto, is confirmed by a large number of consular conventions. The right to decline to produce official correspondence and papers in court is a logical corollary of the inviolability of the correspondence and documents of the consulate. However, the consulate official or any other member of the consulate should not decline to give evidence concerning events which came to his notice in his capacity as registrar of births, marriages and deaths ; and he should not decline to produce the documents relating thereto.

(4) This article applies only to career consular officials and to consular employees. By article 57, paragraph 2, honorary consular officials enjoy only the immunity conferred by paragraph 3 of this article.

(5) By virtue of article 69, only paragraph 3 of this article applies to members of the consulate who are nationals of the receiving State.

Article 45

Waiver of immunities

1. The sending State may waive, with regard to a member of the consulate, the immunities provided for in articles 41, 43 and 44.

2. The waiver shall in all cases be express.

3. The initiation of proceedings by a member of the consulate in a matter where he might enjoy immunity from jurisdiction under article 43, shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision ; in respect of such measures, a separate waiver shall be necessary.

Commentary

(1) This article, which follows closely article 32 of the 1961 Vienna Convention on Diplomatic Relations, provides that the sending State may waive the immunities provided for in articles 41, 43 and 44. The capacity to waive immunity is vested exclusively in the sending State, for that State holds the rights granted under these articles. The consular official himself has not this capacity.

(2) The text of the article does not state through what channel the waiver of immunity should be communicated. If the head of the consular post is the object of the measure in question, the waiver should presumably be made in a statement communicated through the diplomatic channel. If the waiver relates to another member of the consulate, the statement may be made by the head of the consular post concerned.

(3) Inasmuch as members of the consulate are amenable to the jurisdiction of the judicial and administrative authorities of the receiving State in respect of all acts other than acts performed in the course of duty, the rule laid down in paragraph 3 of this article applies only in cases where a member of the consulate appears as plaintiff before the courts of the receiving State in a matter where he might enjoy immunity from jurisdiction.

(4) The waiver of immunity may be made with respect to both judicial and administrative proceedings.

(5) It should be noted that once the immunity has been waived, it cannot be pleaded at a later stage of the proceedings (for example, on appeal).

Article 46

Exemption from obligations in the matter of registration of aliens and residence and work permits

1. Members of the consulate, members of their families forming part of their households and their private staff shall be exempt from all obligations under

the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The persons referred to in paragraph 1 of this article shall be exempt from any obligations in regard to work permits imposed either on employers or on employees by the laws and regulations of the receiving State concerning the employment of foreign labour.

Commentary

(1) Under article 24 of this draft, the arrival of members of the consulate, and of members of their families forming part of their households, and of their private staff, must be notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry. In accordance with the practice of numerous countries, it seemed necessary to exempt these persons from the obligation which the law of the receiving State imposes on them to register as aliens and to apply for a residence permit.

(2) In a great many States, the Ministry for Foreign Affairs issues to members of the consulate and to members of their families special cards to be used as documents of identity certifying their status as members of the consulate, or of the family of a member of the consulate. An obligation to issue such documents of identity is imposed by several consular conventions. Although the Commission considers that this practice should become general and should be accepted by all States, it did not think it necessary to include a provision to that effect in the draft in view of the largely technical character of the point involved.

(3) The extension of the said exemption to private staff is justified on practical grounds. It would in fact be difficult to require a member of the consulate who brings a member of his private staff with him from abroad to comply with the obligations in question in respect of a person belonging to his household, if he and the members of his family are themselves exempt from those obligations.

(4) The exemption from the obligations in the matter of work permits which is provided for in paragraph 2 applies only to cases where the members of a consulate wish to employ in their service a person who has the nationality of the sending State or of a third State. In some countries the legislation concerning the employment of foreign labour requires the employer or the employee to obtain a work permit. The purpose of paragraph 2 of this article is to exempt members of the consulate and members of the private staff from the obligations which the law of the receiving State might impose on them in such a case.

(5) The appointment of the consular staff to a consulate in the receiving State is governed by article 19 of the present draft. The exemption laid down in paragraph 2 cannot therefore in any case apply to the employment of these persons in the consulate. For this purpose no work permit may be demanded.

(6) By its very nature the exemption can apply to aliens only, since only they could be contemplated by legislation of the receiving State concerning the registration of aliens, and residence and work permits. The

exemption in question can accordingly have no application to members of the consulate or to members of their family who are nationals of the receiving State.

(7) There is no article corresponding to this provision in the 1961 Vienna Convention on Diplomatic Relations. The Commission considered that because of the existence of diplomatic privileges and immunities and, more particularly, of the very broad immunity from jurisdiction which the diplomatic draft accords, not only to diplomatic agents and to members of their family who form part of their households but also to members of the administrative and technical staff of the diplomatic mission and to members of their family who form part of their households, such a provision could not have the same importance in the sphere of diplomatic intercourse and immunities as it has for consular intercourse and immunities.

Article 47

Social security exemption

1. Subject to the provisions of paragraph 3 of this article, the members of the consulate shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall apply also to members of the private staff who are in the sole employ of members of the consulate, on condition :

(a) That they are not nationals of or permanently resident in the receiving State ; and

(b) That they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consulate who employ persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Commentary

(1) This exemption from social security regulations is justified on practical grounds. If whenever in the course of his career a member of the consulate is posted to consulates in different countries he ceased to be subject to the social security legislation of the sending State (health insurance, old age insurance, disability insurance, etc.), and if on each such occasion he were expected to comply with the provisions of legislation different from that of the sending State, considerable difficulties would result for the official or employee concerned. It is thus in the interests of all States to grant the exemption specified in this article, in order that the members of the consulate may continue to be subject to their national social security laws without any break in continuity.

(2) The provisions of this article do not apply to members of the consulate who are nationals of the receiving State (article 69 of the present draft).

(3) While members of the consulate in their capacity as persons employed in the service of the sending State are exempt from the local social security system, this exemption does not apply to them as employers of any persons who are subject to the social security system of the receiving State. In the latter case they are subject to the obligations imposed by the social security laws on employers and must pay their contributions to the social insurance system.

(4) At its present session the Commission amended the text of paragraph 1 of this article by introducing, in keeping with article 33 of the 1961 Vienna Convention on Diplomatic Relations, the words "with respect to services rendered for the sending State". As a consequence, members of the consulate who have a private occupation outside the consulate or who carry on private gainful activities and employ staff necessary for that purpose are excluded by this provision from the benefit of this article. The introduction of the words in question made it superfluous to mention the members of the family of a member of the consulate in paragraph 1.

(5) The reasons which justify exemption from the social security system in the case of members of the consulate also justify the exemption of members of the private staff who are in the sole employ of members of the consular staff. But since those persons may be recruited from among the nationals of the sending State permanently resident in the receiving State, or from among foreign nationals who may not be covered by any social security laws, provision has had to be made for these contingencies in paragraph 2 of the article in order that members of the private staff should have the benefit of the social security system in cases where they are not eligible for the benefit of such a system in their countries of origin.

(6) Different rules from the above can obviously be laid down in bilateral conventions. Since, however, the draft provides in article 71 for the maintenance in force of previous conventions relating to consular intercourse and immunities, there is no need for a special provision to this effect in article 47.

(7) It should be noted that this article does not apply to members of the consulate who are nationals of the receiving State (article 69).

Article 48

Exemption from taxation

1. Members of the consulate, with the exception of the service staff, and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save :

(a) Indirect taxes normally incorporated in the price of goods or services ;

(b) Dues and taxes on private immovable property situated in the territory of the receiving State, unless

held by a member of the consulate on behalf of the sending State for the purposes of the consulate ;

(c) Estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject, however, to the provisions of article 50 concerning the succession of a member of the consulate or of a member of his family ;

(d) Dues and taxes on private income having its source in the receiving State and capital taxes relating to investments made by them in commercial or financial undertakings in the receiving State ;

(e) Charges levied for specific services rendered ;

(f) Registration, court or record fees, mortgage dues and stamp duty, subject to the provisions of article 31.

2. Members of the service staff and members of the private staff who are in the sole employ of members of the consulate shall be exempt from dues and taxes on the wages which they receive for their services.

Commentary

(1) Exemption from taxation is often accorded to consular officials by consular conventions or other bilateral agreements concluded between the receiving State and the sending State. In the absence of treaty provisions, this matter is governed by the law of the receiving State, which always makes exemption from taxation conditional upon the grant of reciprocal treatment to the consular officials of the receiving State in the sending State. The extent of the exemption from taxation varies greatly from one legal system to another. The Commission considered that members of the consulate should ordinarily enjoy the same exemption from taxation as is enjoyed by the members of diplomatic missions (Vienna Convention, article 34 in conjunction with article 37). For that reason, article 48 repeats, with some changes, article 34 of the Vienna Convention.

(2) Under sub-paragraph (c), not only estate, succession and inheritance duties, but also duties on transfers are excluded from the exemption provided for in this article. The exclusion of duties on transfers is justified on the same grounds as the exclusion of estate, succession and inheritance duties.

(3) The Commission has retained in the French text of this article and of others in the present draft the expression "*vivant à leur foyer*", which it had introduced at its preceding session in order to specify those members of the family of a member of the consulate who are to enjoy the privileges and immunities conferred by these articles. It considered that these words more correctly express what it wished to convey by the words "*faisant partie de leur ménage*", or similar words, in its Draft Articles on Diplomatic Intercourse and Immunities. (The English text is not affected.)

(4) The following persons are excluded from the benefit of this article :

(a) By virtue of articles 56 and 63, members of the consulate and members of their families who carry on a gainful private occupation ;

(b) By virtue of article 69 of the present draft, members of the consulate and members of their families who are nationals of the receiving State ;

(c) By virtue of article 63 honorary consular officials.

(5) Bilateral consular conventions usually make the grant of exemption from taxation conditional on reciprocity. If there is to be a condition of this kind, enabling a party to grant limited exemption from taxation where the other party acts likewise, any provision for exemption from taxation becomes a matter for individual settlement between countries. The Commission did not think it necessary to include such a reciprocity clause in a draft multilateral convention, for it considers that reciprocity will be achieved by reason of the fact that the provision in question will be binding on all the contracting parties. It was of the opinion that the purpose which a multilateral convention should seek to achieve, i.e., the unification of the practice of States in this matter, will be more rapidly attained if no reservation regarding reciprocity is included.

(6) Since the consular premises enjoy exemption from taxation under article 31 of this draft, it was necessary to include in paragraph 1 (f) a reservation referring back to that article, in order to cover cases in which it is the consul or a member of the consulate who owns or leases the consular premises for the purposes of the consulate, and who, by reason of article 31, would in such case not be liable to pay the fees or duties specified in sub-paragraph (f). Unlike the corresponding provision of the 1961 Vienna Convention on Diplomatic Relations, sub-paragraph (f) does not contain the words "with respect to immovable property", because the Commission considered that in view of the difference between the respective situations of consuls and of diplomatic agents, these words should not be included.

Article 49

Exemption from customs duties

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on :

- (a) Articles for the official use of the consulate ;
- (b) Articles for the personal use of a consular official or members of his family forming part of his household, including articles intended for his establishment.

2. Consular employees, except those belonging to the service staff, shall enjoy the immunities specified in the previous paragraph in respect of articles imported at the time of first installation.

Commentary

(1) According to a very widespread practice, articles intended for the use of a consulate are exempt from customs duties, and this practice may be regarded as evidence of an international custom in this particular sphere. By "articles for the official use of the consulate" is meant coats-of-arms, flags, signboards, seals and stamps, books, official printed matter for the service of the consulate, and also furniture, office equipment and supplies (files, typewriters, calculating machines, stationery, etc.), and all other articles for the official use of the consulate.

(2) While the members of the consulate do not enjoy exemption from customs duties under general international law, they are being given an increasingly wide measure of exemption from customs duties under numerous individual agreements, and there is a tendency to extend to members of the consulate advantages similar to those enjoyed by members of diplomatic missions. The Commission therefore decided to reproduce in this article the text of paragraph 1 of article 36 of the Vienna Convention and to add a paragraph 2 stipulating, for consular employees, with the exception of service staff, exemptions from customs duties similar to those accorded by article 37 to the administrative and technical staff of diplomatic missions.

(3) Since States determine by domestic regulations the conditions and procedures under which exemption from customs duties is granted, and in particular the period within which articles intended for the establishment must be imported, the period during which the imported articles must not be sold, and the annual quotas for consumer goods, it was necessary to include in the article the expression "in accordance with such laws and regulations as it may adopt". Such regulations are not incompatible with the obligation to grant exemption from customs duties, provided that they are general in character. They must not be directed only to an individual case.

(4) The present article does not apply :

- (a) To members of the consulate who carry on a private gainful occupation (article 56) ;
- (b) To members of the consulate who are nationals of the receiving State (article 69) ;
- (c) To honorary consular officials (article 57).

(5) It should be noted that only articles intended for the personal use of the said members of the consulate and members of their families, forming part of their households, enjoy exemption from customs duties. Articles imported by a member of the consulate in order to be sold, clearly do not qualify for exemption.

Article 50

Estate of a member of the consulate or of a member of his family

In the event of the death of a member of the consulate or of a member of his family forming part of his household, the receiving State :

(a) **Shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the country the export of which was prohibited at the time of his death ;**

(b) **Shall not levy estate, succession or inheritance duties on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consulate or as a member of the family of a member of the consulate.**

Commentary

As in the case of a member of a diplomatic mission, the exemption of the movable property of a member of

the consulate or a member of his family forming part of his household from estate, succession or inheritance duties is fully justified, because the persons in question came to the receiving State to discharge a public function in the interests of the sending State. For the same reason, the free export of the movable property of the deceased, with the exception of any such property which was acquired in the country and the export of which was prohibited at the time of his death, is justified. At the present session the text of this was brought into line with the text of article 39, paragraph 4, of the 1961 Vienna Convention on Diplomatic Relations.

Article 51

Exemption from personal services and contributions

The receiving State shall exempt members of the consulate, other than the service staff, and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Commentary

(1) The exemptions afforded by this article cover military service, service in the militia, the functions of juryman or lay judge, and personal labour ordered by a local authority on highways or in connexion with a public disaster, etc.

(2) The exemptions provided for in this article should be regarded as constituting a part of customary international law.

(3) By virtue of article 69 of this draft, the present article applies to members of the consulate, members of their families forming part of their households, only in so far as they are not nationals of the receiving State.

(4) This article corresponds to article 35 of the 1961 Vienna Convention on Diplomatic Relations.

(5) The Commission would prefer to use in the French text an expression other than "*tout service public*" which has a special meaning in many legal systems, but it decided eventually to retain the form of words used in article 35 of the Vienna Convention on Diplomatic Relations. (The English text is not affected.)

Article 52

Question of the acquisition of the nationality of the receiving State

Members of the consulate and members of their families forming part of their households shall not, solely by the operation of the law of the receiving State, acquire the nationality of that State.

Commentary

(1) This article closely follows the text of article II of the Optional Protocol concerning acquisition of nationality signed at Vienna on 18 April 1961. Its primary purpose is to prevent :

(a) The automatic acquisition of the nationality of the receiving State :

(i) By the child of parents who are members of the consulate and who are not nationals of the receiving State, if the child is born in the territory of a State whose nationality law is based on the *jus soli* ;

(ii) By a woman who is a member of the consulate at the time when she marries a national of the receiving State ;

(b) The reinstatement of a member of the consulate or of a member of his family forming part of his household in his nationality of origin, for example, in cases where, under the law of the receiving State, this reinstatement is the consequence of the more or less prolonged residence in its territory of a person who previously had the nationality of that State.

(2) The present article does not apply if the daughter of a member of the consulate who is not a national of the receiving State marries a national of that State, for by the act of marrying she ceases to be part of the household of the member of the consulate.

(3) In view of the Convention of 20 February 1957 on the Nationality of Married Women, concluded under the auspices of the United Nations, the rule expressed in this article loses a good deal of its importance so far as concerns the acquisition of the nationality of the receiving State by a woman member of the consulate of the sending State through her marriage with a national of the receiving State.

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consulate shall enjoy the privileges and immunities provided in the present articles from the moment he enters the territory of the receiving State on proceeding to take up his post, or if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry.

2. Members of the family of a member of the consulate, forming part of his household, and members of his private staff shall enjoy their privileges and immunities from the moment they enter the territory of the receiving State. If they are in the territory of the receiving State at the time of joining the household or entering the service of a member of the consulate, privileges and immunities shall be enjoyed from the moment when the name of the person concerned is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry.

3. When the functions of a member of the consulate have come to an end, his privileges and immunities together with those of the persons referred to in paragraph 2 of this article shall normally cease at the moment when the persons in question leave the country, or on the expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. The same provision shall apply to the persons referred to in paragraph 2 above, if they cease

to belong to the household or to be in the service of a member of the consulate.

4. However, with respect to acts performed by a member of the consulate in the exercise of his functions, his personal inviolability and immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consulate, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them, until the expiry of a reasonable period enabling them to leave the territory of the receiving State.

Commentary

(1) In substance, this article is modelled on the provisions applicable to persons entitled to diplomatic privileges and immunities by virtue of article 39 of the 1961 Vienna Convention on Diplomatic Relations. In the opinion of the Commission, it is important that the date when consular privileges and immunities begin, and the date on which they come to an end, should be fixed.

(2) As regards the drafting of this article, the Commission preferred to retain the text adopted at its previous session; in its opinion, that text has the advantage of clarity, in that it draws a distinction between the position of members of the consulate on the one hand and that of members of their family and of the private staff on the other.

(3) The Commission considered that consular privileges and immunities should be accorded to members of the consulate even after their functions have come to an end. Privileges and immunities do not cease until the beneficiaries leave the territory of the receiving State, or on the expiry of a reasonable period in which to do so.

(4) The vexatious measures to which consular officials and employees have often been subjected when an armed conflict had broken out between the sending State and the receiving State justify the inclusion of the words "even in case of armed conflict" in the text of the article.

(5) Paragraph 5 of this article is intended to ensure that members of the family of a deceased member of the consulate enjoy for a reasonable period after his death the privileges and immunities to which they are entitled. This paragraph reproduces the text of article 39, paragraph 3, of the 1961 Vienna Convention on Diplomatic Relations.

Article 54

Obligations of third States

1. If a consular official passes through or is in the territory of a third State, which has granted him a visa if a visa was required while proceeding to take up or return to his post or when returning to his own country, the third State shall accord to him the personal inviolability and such other immunities provided for by these articles as may be required to ensure his transit or return. The same shall apply in the case of any

members of his family enjoying privileges and immunities who are accompanying the consular official or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the transit through their territory of other members of the consulate or of members of their families.

3. Third States shall accord to correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as are accorded by the receiving State. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to force majeure.

Commentary

(1) This article does not settle the question whether a third State should grant passage through its territory to consular officials, employees and their families. It merely specifies the obligations of third States during the actual course of the passage of such persons through their territory.

(2) The obligations of the third State under the terms of this article relate only to consular officials:

- (a) Who pass through its territory, or
- (b) Who are in its territory in order to
 - (i) Proceed to take up their posts, or
 - (ii) Return to their posts, or
 - (iii) Return to their own country.

(3) The Commission proposes that consular officials should be accorded the personal inviolability which they enjoy by virtue of article 41 of this draft, and such of the immunities provided for by these articles as are necessary for their passage or return. The Commission considers that these prerogatives should not in any case exceed those accorded to the officials in question in the receiving State.

(4) With regard to the members of the families of consular officials forming part of their households, this article imposes on third States the duty to accord the immunities provided by this draft and the facilities necessary for their transit. As regards the employees of the consulate and the members of their families, third States have a duty not to hinder their passage.

(5) The provisions of paragraph 3 of the article, which guarantee to correspondence and to other official communications in transit the same freedom and protection in third States as in the receiving State, are in keeping with the interest that all States have in the smooth and unimpeded development of consular relations.

(6) Paragraph 4 of this article reproduces *mutatis mutandis* the provisions of article 40, paragraph 4, of the 1961 Vienna Convention on Diplomatic Relations.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises must not be used in any manner incompatible with the consular functions as laid down in the present articles or by other rules of international law.

3. The rule laid down in the preceding paragraph shall not exclude the possibility of offices or other institutions or agencies being installed in the consular building or premises, provided that the premises assigned to such offices are separate from those used by the consulate. In that event, the said offices shall not, for the purposes of these articles, be deemed to form part of the consular premises.

Commentary

(1) Paragraph 1 of this article lays down the fundamental rule that it is the duty of any person who enjoys consular privileges and immunities to respect the laws and regulations of the receiving State, save in so far as he is exempted from their application by an express provision of this draft or of some other relevant international agreement. Thus for example, the laws imposing a personal contribution, and the social security laws, are not applicable to members of the consulate who are not nationals of the receiving State.

(2) The clause in the second sentence of paragraph 1 which prohibits interference in the internal affairs of the receiving State should not be interpreted as preventing members of the consulate from making representations, within the scope of their functions, for the purpose of protecting and defending the interests of their country or of its nationals, in conformity with international law.

(3) Paragraph 2 reproduces *mutatis mutandis* the rule contained in article 41, paragraph 3, of the 1961 Vienna Convention on Diplomatic Relations. This provision means that the consular premises must not be used for purposes incompatible with the consular functions. A breach of this obligation does not render inoperative the provisions of article 30 relative to the inviolability of consular premises. But equally, this inviolability does not permit the consular premises to be used for purposes incompatible with these articles or with other rules of international law. For example, consular premises may not be used as an asylum for persons prosecuted or convicted by the local authorities. Opinions were divided in the Commission on whether the article should state this particular consequence of the rule laid down in its paragraph 2. Some members

favoured the insertion of words to this effect; others, however, thought it would be sufficient to mention the matter in the commentary on the article, and pointed out in support of their view that there is no corresponding provision in the 1961 Vienna Convention on Diplomatic Relations. Moreover, certain members would have preferred to replace the text adopted at the previous session by a more restrictive form of words. After an exchange of views, the Commission decided to retain the text adopted at its previous session, which repeats the rule laid down in article 40, paragraph 3, of the Draft Articles on Diplomatic Intercourse and Immunities, now article 41, paragraph 3, of the Vienna Convention.

(4) Paragraph 3 refers to cases, which occur with some frequency in practice, where the offices of other institutions or agencies are installed in the building of the consulate or on the consular premises.

Article 56

Special provisions applicable to career consular officials who carry on a private gainful occupation

The provisions applicable to career consular officials who carry on a private gainful occupation in the receiving State shall, so far as facilities, privileges and immunities are concerned, be the same as those applicable to honorary consular officials.

Commentary

(1) A study of consular regulations has shown, and the comments of Governments have confirmed, that some States permit their career consular officials to carry on a private gainful occupation. If the practice of States is examined, it will be seen that, in the matter of privileges and immunities, States are not prepared to accord to this category of consular official the same treatment as to other career consular officials who are employed full-time in the exercise of their functions. This is understandable, for these consular officials, although belonging to the regular consular service, are in fact in a position analogous to that of honorary consuls, who, at least in the great majority of cases, also carry on a private gainful occupation. In the matter of consular privileges and immunities, the officials in question are mostly assimilated to honorary consuls by municipal law. It was in the light of this practice that the Commission, at its present session, adopted this article, which is intended to regulate the legal status of this category of consular official.

(2) In consequence of the adoption of this article it was possible to delete in certain articles of the draft, e.g., article 48 (Exemption from taxation) and 49 (Exemption from customs duties), the clause stipulating that members of the consulate who carry on a gainful private activity should not enjoy the advantages and immunities provided for by these articles.

(3) The expression "private gainful occupation" means commercial, professional or other activities carried on for pecuniary gain. The expression does not, for example, mean occasional activities or activities not

mainly intended for pecuniary gain (courses given at a university, editing a learned publication and the like).

CHAPTER III. FACILITIES, PRIVILEGES AND IMMUNITIES OF HONORARY CONSULAR OFFICIALS

INTRODUCTION

(1) The term "honorary consul" is not used in the same sense in the laws of all countries. In some, the decisive criterion is considered to be the fact that the official in question is not paid for his consular work. Other laws expressly recognize that career consuls may be either paid or unpaid, and base the distinction between career and honorary consuls on the fact that the former are sent abroad and the latter recruited locally. Under the terms of certain other consular regulations, the term "honorary consul" means an agent who is not a national of the sending State and who, in addition to his official functions, is authorized to carry on a gainful occupation in the receiving State, whether he does in fact carry on such an occupation or not. For the purpose of granting consular immunities, some States regard as honorary consuls any representatives of whatever nationality, who, in addition to their official functions, carry on a gainful occupation or profession in the receiving State. Lastly, many States regard as honorary consuls all consuls who are not career consuls.

(2) At its eleventh session, the Commission provisionally adopted the following decisions:

"A consul may be:

"(i) A 'career consul', if he is a government official of the sending State, receiving a salary and not exercising in the receiving State any professional activity other than that arising from his consular function;

"(ii) An 'honorary consul', if he does not receive any regular salary from the sending State and is authorized to engage in commerce or other gainful occupation in the receiving State."

(3) However, in view of the practice of States in this sphere and the considerable differences in national laws with regard to the definition of honorary consul, the Commission decided, at its twelfth session, to omit any definition of honorary consul from the present draft, and merely to provide in article 1, paragraph 2, that consuls may be either career consuls or honorary consuls, leaving States free to define the latter category.

(4) Some (though not very many) States allow their career consular officials, even though members of the regular consular service, to carry on a private gainful occupation in the receiving State. And there are in fact career consular officials who, on the strength of this permission, engage in commerce or carry on some other gainful occupation outside their consular functions. The Commission considered that, so long as this category of official exists, their legal status ought to be settled in this draft. In the light of the practice of States, the Commission decided that, so far as consular privileges and immunities are concerned, these persons should be placed on the same footing as honorary consuls (article 56).

Article 57

Regime applicable to honorary consular officials

1. Articles 28, 29, 33, 34, 35, 36, 37, 38, 39, 41, paragraph 3, articles 42, 43, 44, paragraph 3, articles 45, 49, with the exception of paragraph 1 (b), and article 53 of chapter II concerning the facilities, privileges and immunities of career consular officials and consular employees shall likewise apply to honorary consular officials.

2. In addition, the facilities, privileges and immunities of honorary consular officials shall be governed by the subsequent articles of this chapter.

Commentary

(1) The Commission reviewed all the articles concerning the privileges and immunities of career consuls and decided that certain of these articles are also applicable to honorary consuls. These articles are listed in paragraph 1 of the present article.

(2) Special attention should be drawn to article 69 of the draft, which is also applicable to honorary consuls. Consequently, honorary consuls who are nationals of the receiving State do not, under the terms of this draft, enjoy any consular immunities other than immunity from jurisdiction in respect of official acts performed in the exercise of their functions and the privilege conferred by article 44, paragraph 3.

(3) As regards the other articles of chapter II which are not enumerated in paragraph 1 of this article, the Commission was of the opinion that they cannot apply in full to honorary consuls. However, it acknowledged that some of the rights accorded in these articles to career consuls should also be granted to honorary consuls. The privileges and immunities which should be granted to honorary consuls are defined in the succeeding articles.

Article 58

Inviolability of the consular premises

The premises of a consulate headed by an honorary consul shall be inviolable, provided that they are used exclusively for the exercise of consular functions. In this case, the agents of the receiving State may not enter the premises except with the consent of the head of post.

Commentary

At its previous session, the Commission decided to defer its decision as to whether article 31 of the 1960 draft concerning the inviolability of consular premises is applicable to the premises of a consulate headed by an honorary consul, and it asked Governments for information on the question. In the light of the information obtained, the Commission has decided to supplement the draft by this article, under which the premises of a consulate headed by an honorary consul are inviolable provided that they are used exclusively for the exercise of consular functions. The reason for this condition, as also for that laid down in article 60,

is that in most instances honorary consular officials carry on a private gainful occupation in the receiving State.

Article 59

Exemption from taxation of consular premises

1. The sending State and the head of post shall be exempt from all national, regional or municipal dues and taxes whatsoever in respect of consular premises used exclusively for the exercise of consular functions, whether the premises are owned or leased by them, except in the case of dues or taxes representing payment for specific services rendered.

2. The exemption from taxation provided for in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the head of the consular post.

Commentary

(1) Consular premises owned or leased by the sending State or by an honorary consular official are exempt from all dues and taxes in the same way as the premises of a consulate headed by a career consular official, if they are used exclusively for the exercise of consular functions.

(2) The Commission considered that the exemption provided for in this article is justified.

(3) It should be noted that by article 69 the present article does not apply to honorary consular officials who are nationals of the receiving State.

Article 60

Inviolability of consular archives and documents

The consular archives and documents of a consulate headed by an honorary consul shall be inviolable at any time and wherever they may be, provided that they are kept separate from the private correspondence of the head of post and of any person working with him, and also from the materials, books or documents relating to their profession or trade.

Commentary

The consular archives and documents of a consulate headed by an honorary consul enjoy inviolability provided that they are kept separate from the private correspondence of the honorary consul and of persons working with him, from the goods which may be in his possession and from the books and documents relating to the profession or trade which he may carry on. This last condition is necessary, because honorary consular officials very often carry on a private gainful occupation.

Article 61

Special protection

The receiving State is under a duty to accord to an honorary consular official special protection by reason of his official position.

Commentary

As in article 40, so in this context the expression "special protection" means a protection greater than that enjoyed by foreign residents in the territory of the receiving State. It comprises above all the obligation for the receiving State to provide for the personal safety of the honorary consular official, particularly in the event of tension between the receiving State and the sending State when his dignity or life may be threatened by reason of his official functions.

Article 62

Exemption from obligations in the matter of registration of aliens and residence permits

Honorary consular officials, with the exception of those who carry on a gainful private occupation, shall be exempt from all obligations imposed by the laws and regulations of the receiving State in the matter of registration of aliens and residence permits.

Commentary

(1) This article does not apply to honorary consuls who carry on a gainful private occupation outside the consulate. Unlike article 46 this article does not apply to the members of the family of an honorary consular official.

(2) It should be noted that by article 69 this article does not apply to honorary consular officials who are nationals of the receiving State.

Article 63

Exemption from taxation

An honorary consular official shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Commentary

The majority of the members of the Commission considered that the provision contained in this article, though it goes beyond the general practice of States, should be included so as to avoid the difficulties which would be raised by the taxation of income derived from a foreign State, and because the remuneration and emoluments in question are paid by a foreign State. Nevertheless, it should be noted that by article 69 this provision does not apply to honorary consular officials who are nationals of the receiving State.

Article 64

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officials from all personal services and from all public services of any kind and also from military obligations such as those connected with requisitioning, military contributions and billeting.

Commentary

(1) The text of this article as adopted at the twelfth session tended to confer the exemption laid down in this article on consular officials and members of their families. As some of the Governments urged that the scope of this article should be restricted, the Commission re-drafted the text so as to make it applicable solely to consular officials.

(2) It should be noted that by article 69 this article does not apply to honorary consular officials who are nationals of the receiving State.

*Article 65**Obligations of third States*

Third States shall accord to the correspondence and other official communications of consulates headed by honorary consular officials the same freedom and protection as are accorded to them by the receiving State.

Commentary

At its twelfth session the Commission included article 52 respecting the obligations of third States among the articles which are applicable to honorary consular officials. As certain Governments expressed doubt concerning the application of that article in full to honorary consular officials, the Commission decided to insert in the draft a special article specifying that the obligations of third States are limited to according to the correspondence and other official communications the same freedom and protection as are accorded to them by the receiving State.

*Article 66**Respect for the laws and regulations of the receiving State*

Without prejudice to their privileges and immunities, it is the duty of honorary consular officials to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State and not to misuse their official position for the purpose of securing advantages in any private activities in which they may engage.

Commentary

(1) Honorary consular officials, like career consular officials, are under a duty to respect the laws and regulations of the receiving State. They have also the duty not to interfere in the internal affairs of that State. With regard to honorary consular officials who are nationals of the receiving State, this duty means that they must not use their official position for purposes of international politics.

(2) By reason of the fact that most honorary consuls are engaged in a private occupation for purposes of gain, it was found necessary to add the further obligation that they must not use their official position to secure advantages in their private gainful activities, if any.

*Article 67**Optional character of the institution of honorary consular officials*

Each State is free to decide whether it will appoint or receive honorary consular officials.

Commentary

This article, taking into consideration the practice of those States which neither appoint nor accept honorary consular officials, confirms the rule that each State is free to decide whether it will appoint or receive honorary consular officials.

CHAPTER IV. GENERAL PROVISIONS

*Article 68**Exercise of consular functions by diplomatic missions*

1. The provisions of articles 5, 7, 36, 37 and 39 of the present articles apply also to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State.

3. In the exercise of consular functions a diplomatic mission may address authorities in the receiving State other than the Ministry for Foreign Affairs only if the local law and usages so permit.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 shall continue to be governed by the rules of international law concerning diplomatic relations.

Commentary

(1) As is stated in article 3 of this draft, consular functions are exercised not only by consulates but also by diplomatic missions. Accordingly, it is necessary to make provision in this draft for the exercise of the consular functions by a diplomatic mission.

(2) The expression "otherwise charged with the exercise of the consular functions" in paragraph 2 relates principally to the case where the diplomatic mission has no consular section but where one or more members of the mission are responsible for exercising both consular and diplomatic functions.

(3) Paragraph 3 of this article corresponds to article 41, paragraph 2, of the 1961 Vienna Convention on Diplomatic Relations, under which all official business with the receiving State which is entrusted to the diplomatic mission is to be conducted with or through that State's Ministry for Foreign Affairs or such other Ministry as may be agreed. Paragraph 3 admits the possibility of direct communication in consular matters with authorities other than the Ministry for Foreign

Affairs in those cases only where the local law or usages so permit.

(4) The members of the mission who are responsible for the exercise of consular functions continue, as is expressly stated in paragraph 4 of this article, to enjoy the benefits of diplomatic privileges and immunities.

Article 69

Members of the consulate, members of their families and members of the private staff who are nationals of the receiving State

1. Except in so far as additional privileges and immunities may be granted by the receiving State, consular officials who are nationals of the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided for in article 44, paragraph 3, of these articles. So far as these officials are concerned, the receiving State shall likewise be bound by the obligation laid down in article 42.

2. Other members of the consulate, members of their families and members of the private staff who are nationals of the receiving State shall enjoy privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder unduly the performance of the functions of the consulate.

Commentary

(1) The present draft recognizes that the sending State may appoint consular officials and employees of the consulate from among the nationals of the receiving State. In the case of consular officials, it may do so only with the consent of the receiving State (article 22). The Commission had therefore to define the legal status of the members of the consulate who are nationals of the receiving State.

(2) In addition, as the present draft accords certain immunities also to members of the private staff in the employ of members of the consulate, it was necessary to specify whether members of the private staff who are nationals of the receiving State enjoy these immunities.

(3) As regards consular officials who are nationals of the receiving State, the present article, following the solution given to a similar problem which arose with respect to diplomatic immunities (see article 38 of the Vienna Convention) grants to such officials immunity from jurisdiction and inviolability solely in respect of official acts performed in the exercise of their functions, and the privilege to decline to give evidence concerning matters connected with the exercise of their functions and to produce official correspondence and documents relating thereto (article 44, paragraph 3). The receiving State is also under the obligation, stipulated in the present article, to inform the sending State if a member of the consulate who is a national of the receiving State is placed under arrest or in custody pending trial, or if criminal proceedings are instituted against him. The

difference as compared with the text of article 38 of the Vienna Convention is explained by the difference in the legal status of consular officials and employees as compared with that of members of diplomatic missions.

(4) Since the present article applies to the nationals of the receiving State, it uses, unlike article 43, the expression "official acts", the scope of which is more restricted than the expression used in article 43: "acts performed in the exercise of consular functions".

(5) The grant of this immunity from jurisdiction to consular officials who are nationals of the receiving State can be justified on two grounds. First, the official acts performed by officials in the exercise of their functions are acts of the sending State. It can therefore be stated that the immunity in question is not a simple personal immunity of the consular official, but rather an immunity attaching to the foreign State as such. Secondly, as the consent of the receiving State is required for the appointment of a national of that State as a consular official (article 22), it can be argued that the receiving State's consent implies consent to the official in question having the minimum immunity he needs in order to be able to exercise his functions. That minimum is the immunity from jurisdiction granted in respect of official acts. The receiving State may, of course, of its own accord grant the consular officials in question any other privileges and immunities.

(6) As regards the other members of the consulate, members of the private staff and members of families of members of the consulate, these persons enjoy only such privileges and immunities as may be granted to them by the receiving State. Nevertheless, the receiving State, under paragraph 2 of the present article, has the duty to exercise its jurisdiction over these persons in such a manner as not to hamper unduly the performance of the functions of the consulate.

Article 70

Non-discrimination

1. In the application of the present articles, the receiving State shall not discriminate as between the States parties to this convention.

2. However, discrimination shall not be regarded as taking place where the receiving State, on a basis of reciprocity, grants privileges and immunities more extensive than those provided for in the present articles.

Commentary

(1) Paragraph 1 sets forth a general rule inherent in the sovereign equality of States.

(2) Paragraph 2 relates to the case where the receiving State grants privileges and immunities more extensive than those provided for in the present articles. The receiving State is, of course, free to grant such greater advantages on the bases of reciprocity.

(3) The Commission decided to retain this article in the form in which it had been adopted at the previous session and which differs from the text proposed earlier

in its Draft Articles on Diplomatic Intercourse and Immunities (article 44, which has since become article 47 of the Vienna Convention), for it considered that the reasons which had caused it to change its view still remained valid.

Article 71

Relationship between the present articles and conventions or other international agreements

The provisions of the present articles shall not affect conventions or other international agreements in force as between States parties to them.

Commentary

(1) The purpose of this article is to specify that the convention shall not affect international conventions or other agreements concluded between the contracting parties on the subject of consular relations and immunities. It is evident that in that case the multilateral convention will apply solely to questions which are not governed by pre-existing conventions or agreements concluded between the parties.

(2) The Commission hopes that the Draft Articles on Consular Relations will also provide a basis for any particular conventions on consular relations and immunities which States may see fit to conclude.

DOCUMENT A/CONF.25/L.4 & ADD.1

Amendments to the draft articles on consular relations prepared by the International Law Commission

Transmitted in accordance with operative paragraph 2 of General Assembly resolution 1813 (XVII) of 18 December 1962¹

NOTE BY THE SECRETARY-GENERAL

1. In order to facilitate the work of the Conference, the General Assembly decided in resolution 1813 (XVII) of 18 December 1962 to invite "States which intend to participate in the Conference to submit to the Secretary-General as soon as possible, and in any event not later than 10 February 1963, for circulation to Governments, any amendments which they may wish to propose in advance of the conference to the draft articles prepared by the International Law Commission".

2. In this connexion the Sixth Committee stated in its report to the General Assembly (A/5343) that: (1) such preliminary amendments will be presented for information purposes and will not be formally before the Conference; (2) their nature, priority and subsequent action upon them will depend on the rules of procedure adopted by the Conference; (3) the word "amendment" also includes new proposals; (4) the reason for the time-limit for submission—not later than 10 February 1963—is to enable the Secretary-General to circulate the amendments to Governments in good time; (5) amendments received by the Secretary-General after that date will be communicated directly to the Conference; (6) the possibility of submitting such preliminary amendments in no way detracts from the right of the participating States to propose amendments during the Conference.

3. In accordance with resolution 1813 (XVII) the Secretary-General has the honour to transmit herewith amendments submitted by the following States: Austria, Canada, Federal Republic of Germany, Finland, Japan, Netherlands, United Kingdom of Great Britain and Northern Ireland, Belgium and Switzerland.

1. Austria

[Original: English]
[8 February 1963]

DRAFT AMENDMENTS

Article 5:

Amend the system and the wording of this article as follows:

"1. The consular functions consist *inter alia* in:

"(a) As it stands now as sub-paragraph (a) of the draft;

"(b) As it stands now as sub-paragraph (b) of the draft;

"(c) Ascertaining by all lawful means conditions and developments in the economic, commercial, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;

"2. Exercising these functions the consular officials may particularly:

"(a) Issue passports ... (unchanged sub-paragraph (d) of the draft);

"(b) Help and assist ... (unchanged sub-paragraph (e) of the draft);

"(c) Act as notary and civil registrar and in capacities of a similar kind, and perform certain functions of an administrative nature if the laws of the receiving State do not provide for the opposite;

"(d) Safeguard the interests of nationals ... (unchanged sub-paragraph (g) of the draft);

"(e) Safeguard the interests of minors ... (unchanged sub-paragraph (h) of the draft);

"(f) Represent nationals ... (unchanged sub-paragraph (i) of the draft);

"(g) In civil and commercial matters, serve judicial documents or execute letters rogatory ... (unchanged sub-paragraph (j) of the draft);

"(h) Exercise rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels used for maritime or inland navigation being listed in the register of the sending State or being otherwise entitled to show flag of the sending State, and of aircraft registered in that State, and in respect of their crews;

"(i) Extend necessary assistance to vessels and aircraft mentioned in the previous sub-paragraph, and to their crews, take statements regarding the voyage of a vessel, examine and stamp ships' papers, and, without prejudice to the powers of the receiving State, conduct investigations into any incidents which occurred during the voyage, and settle disputes of any kind between the master, the officers and the

¹ Official Records of the General Assembly, Seventeenth Session, Supplement No. 17 (A/5217).

seamen in so far as this may be authorized by the law of the sending State ;

"(j) Pass on to the entitled persons any benefits, pensions or compensation due to them in accordance with their national laws or with international conventions, in particular under social security legislation ;

"(k) Receive payment of pensions or allowances due to nationals of the sending State not duly represented from the State of residence ;".

Article 11 :

Add a new paragraph worded as follows :

"3. As regards consular agents, the formal exequatur may be replaced by an informal admission by the receiving State."

Article 23 :

Add a new paragraph worded as follows :

"4. In all the cases mentioned in paragraphs 1 and 3 the receiving State is not obliged to explain its decision."

Article 30 :

Add the following words at the end of paragraph 1 :

"... or the consent of the head of the respective diplomatic mission."

Article 32 :

Delete the words : "... and documents..."

Article 37 :

Add the following words at the end of sub-paragraph (a) :

"and, as soon as possible, to transmit a certificate of death ;"

The first part of sub-paragraph (c) should read as follows :

"(c) If a vessel used for maritime or inland navigation, being listed in the register of the sending State or being otherwise entitled to show the flag of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State ...".

Article 44

At the beginning of the second sentence of paragraph 2, replace the words : "In particular it shall" by : "it may ...".

Article 56 :

Amend the title and the wording of this article as follows :

"Exclusion of private gainful occupation for career consular officials

"Consulars officials and members of their families forming part of their households shall not in the receiving State practise, for personal profit, any professional or commercial activity."

Article 58 :

Add the following words at the end of the article :

"... or the consent of the head of the respective diplomatic mission."

Article 60 :

Delete the words : "... and documents ...".

Article 62 :

Delete the words :

"... with the exception of those who carry on a gainful private occupation, ...".

Article 71 :

Amend the wording of this article as follows :

"The provisions of the present articles shall not affect conventions or other international agreements in force or to be concluded in future between States parties to them."

2. Canada

[Original : English]
[11 February 1963]

Article 1, sub-paragraph (a) :

"'Consular post' means a consulate general, a consulate, a vice-consulate, a consular agency, or any other consular establishment."

Article 1, sub-paragraph (c) :

"Means any person charged by the sending State with the duty of acting in that capacity".

New article 9 :

1. Head of consular posts are divided into four classes :

- (1) Consuls-General ;
- (2) Consuls ;
- (3) Vice-Consuls ;
- (4) Consular agents.

2. A head of consular post must be appointed to one of the above classes and be recognized in that capacity by the receiving State.

3. The foregoing paragraph in no way restricts the power of the Contracting Parties to fix the designation of the consular officials other than the head of post.

Article 15 — Last sentence of sub-paragraph 1 :

"In the exceptional cases where no such officials are available to assume this position, a consular employee may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the consular post."

Article 17 — sub-paragraph 1 :

"1. In a State where the sending State has no diplomatic mission, a consular official may, with the

consent of the receiving State, *and without affecting his consular status*, be authorized to perform diplomatic acts."

Article 36, sub-paragraph (b) :

"The competent authorities shall inform any person in prison, custody or detention of his right to communicate with the consular officials of the sending State, and that person shall be allowed to do so if he wishes. A person in prison, custody, or detention shall have the right to communicate freely with the consular officials of the sending State. Where a person in prison, custody, or detention appears to be incapable by reason of physical or mental incapacity, of communicating with the consular officials of the sending State, the authorities of the receiving State shall so notify the relevant consular officials."

Article 63 (a) :

Delete in article 57, paragraph 1 "49, with the exception of paragraph 1 (b)"

Add new article 63 A

"Exemption from duties and taxes on imports"

"1. The receiving State shall in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage, and similar services, on articles exclusively for the official use of a consular post headed by an honorary consular official.

"2. The articles referred to in paragraph 1 are coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by the sending State to the consulate."

An alternate wording, in more general terms, of this article might be to delete paragraph 2 and to add the following phrase after "and similar services", in paragraph 1:

"on office supplies or equipment supplied by the sending State for the exclusive official use of a consulate headed by an honorary consular official".

Article 61 :

"The receiving State is under a duty to accord to an honorary consular official such additional protection as he may require by reason of his official position."

Article 69 :

Insert the words "or permanent resident of" after "nationals" in paragraphs 1 and 2.

Article 69, sub-paragraph 2 :

"2. Other members of the consulate who are nationals or permanent residents of the receiving State shall enjoy immunity from jurisdiction and personal inviolability in respect of official acts per-

formed in the exercise of their functions, and the privilege provided for in article 44, paragraph 3, of these articles. Members of the family forming part of the household of a consular official who are nationals of the receiving State, members of the family forming part of the household of a member of the consulate who is a national or permanent resident of the receiving State, members of the family forming part of the household of a member of the consulate other than a consular official who are nationals of or permanent residents of the receiving State, and members of the private staff who are nationals of or permanent residents of the receiving State shall enjoy privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder unduly the performance of the functions of the consulate."

3. Federal Republic of Germany

[Original : English]

[7 February 1963]

The Government of the Federal Republic of Germany has carefully studied the text of the draft articles adopted by the International Law Commission at its thirteenth session. It gives its general acceptance to the proposed draft which it considers a useful and appropriate basis for the adoption of a convention on consular intercourse and immunities.

In its wish to contribute to the improvement of the draft articles the Government of the Federal Republic of Germany submits the following observations :

Article 1, paragraph 1, sub-paragraph (d) :

The Government of the Federal Republic of Germany proposes to amend the definition in this sub-paragraph as follows :

"Consular officer (in French : *consul*) means any person duly appointed by the sending State, whether in the capacity of a career consular officer or of an honorary consular officer and admitted as such by the receiving State to the exercise of consular functions."

Paragraph 1, sub-paragraph 1, should be amended by adding the words "including the residence of the head of consular post". This amendment is due to the fact that in several countries the residence of the head of consular post is owned or leased by the sending State.

Article 41 :

It is proposed to draft this article as follows :

"A consular officer may not be taken into custody without proper authorization of the competent judicial authority save in the case that :

"(a) he is detected in the course of committing an offence ;

"(b) he is suspect of having committed a grave crime or ;

"(c) he is suspect of having committed any other crime and not able to prove his identity.

"He must be released or turned over to the competent judicial authority at the latest during the day following his arrestation. The competent judicial authority can order the detention of the consular officer only in the case of a grave crime.

"For the purpose of this article an offence shall be considered to be a grave crime, if for its commission a maximum sentence of at least four years imprisonment or a more severe punishment is imposed by the law of the receiving State."

Article 70 :

It would be preferable to follow the precedent of article 47 of the Vienna Convention on Diplomatic Relations and to amend paragraph 2 in order to apply the convention restrictively, where appropriate, on a reciprocal basis.

The Government of the Federal Republic of Germany wishes to reserve its right to make further observations and express its views on the draft articles during the Vienna conference beginning on 4 March 1963.

4. Finland

[Original : English]
[8 February 1963]

In article 44, paragraph 1, delete the last sentence beginning : "Nevertheless ...".

5. Japan

[Original : English]
[11 February 1963]

Article 1 :

1. At the end of sub-paragraph (d) of paragraph 1, add the following words : "a consular official may be a career consular official or an honorary official ;"

2. Delete sub-paragraph (f) of paragraph 1.

[Note : Where necessary, the expression "consular officials and employees" may be used.]

3. Delete sub-paragraph (g) of paragraph 1.

[Note : Where necessary, "consular officials other than the head of post and consular employees" may be used.]

4. In sub-paragraph (i) of paragraph 1, replace the words "Members of the private staff" by the words "Private servant".

5. At the end of sub-paragraph (j) of paragraph 1, add the following words : "including the residence of the head of post".

6. Delete paragraph 2.

7. Delete paragraph 3.

Article 3 :

Delete the whole article.

Article 4 :

1. Delete paragraph 4.

2. Replace paragraph 5 by the following :

"The sending State may, with the prior express consent of the receiving State, establish branch offices of a consulate within its consular district."

Proposal to add a new article between articles 4 and 5 of the draft articles

Add the following new article between articles 4 and 5 of the draft articles :

"Consular functions are performed by a consular official within the consular district of the consulate to which the official is appointed. A consular official may, upon notification to and in the absence of objections from the receiving State, perform consular functions outside the said consular district."

Article 5 :

1. In paragraph (a), delete the words "both individuals and bodies corporate,".

2. In paragraph (c), after the word "Ascertaining", add the words "by all lawful means".

3. In paragraph (g), delete the words "both individuals and bodies corporate," and add the words "in accordance with the law of the receiving State" at the end of the paragraph.

4. In paragraph (h), insert the words "in accordance with the law of the receiving State," between the words "nationals of the sending State," and "particularly where ...".

5. In paragraph (j), replace the words "executing letters rogatory" by the words "taking depositions."

6. In paragraph (k), replace the words "in respect of vessels used for maritime or inland navigation, having the nationality of the sending State," by the following : "in respect of vessels and seamen, having the nationality of the sending State.". Also, replace the words "and in respect of their crews ;" at the end of the paragraph by the words "and their crews ;".

7. In paragraph (l), delete the words from "taking statements ..." to the end of the paragraph.

Article 8 :

Delete the whole article.

Article 11 :

Replace the whole article by the following :

"1. The receiving State shall, on presentation of the consular commission or other notification of appointment of the head of a consular post, grant as soon as possible an exequatur or other authorization to perform consular functions. Subject to the provisions of article 13, he may not enter upon his duties until he has received an exequatur or other authorization.

"2. The receiving State may refuse to grant an exequatur or other authorization. However, the reason

for such refusal shall be communicated to the sending State by the receiving State."

Article 17 :

In paragraph 1, replace the words "the head of a consular post" by "a consulate". Also, make this paragraph an independent article to be placed in chapter IV of the draft articles.

Article 19 :

Delete paragraph 2.

Article 22 :

Delete the whole article.

Article 30 :

1. Replace paragraph 1 by the following :

"The consular premises shall not be entered by the police or other authorities of the receiving State, except with the consent of the responsible consular official or, if such consent cannot be obtained, pursuant to appropriate writ or process and with the consent of the Minister for Foreign Affairs of the receiving State. The consent of the responsible consular official shall be presumed in the event of fire or other disaster or in the event that the authorities of the receiving State have reasonable cause to believe that a crime involving violence to persons or property has been, or is being, or is about to be committed in the consular premises."

2. Replace paragraph 2 by the following and make it an additional new paragraph to be placed in article 40 of the draft articles :

"The receiving State shall afford special protection to consular premises."

3. Delete paragraph 3.

4. Add the following new paragraph to this article :

"The consular premises shall not be used to afford asylum to fugitives from justice. If a consular official refuses to surrender a fugitive from justice on the lawful demand of the authorities of the receiving State, such authorities may, in accordance with the procedure referred to in paragraph 1 of this article, enter the consular premises to apprehend the fugitive."

Article 32 :

Replace the whole article by the following :

"1. The consular archives shall be kept in a place entirely separate from the place where the private papers of members of the consulate are kept. This provision does not require the separation of diplomatic from consular archives when a consular office forms part of the diplomatic mission.

"2. The consular archives shall at all times be inviolable, and the authorities of the receiving State may not, under any pretext, examine or detain them."

Article 35 :

1. In paragraph 1, replace the words "including diplomatic or consular couriers" by the words "including diplomatic couriers".

2. Replace paragraph 5 by the following :

"Diplomatic couriers may be entrusted with the transmission of a consular bag."

Article 36 :

In sub-paragraph (b) of paragraph 1, replace the first sentence by the following :

"The competent authorities of the receiving State shall, at the request of a national of the sending State who is committed to prison or to custody pending trial or is detained in any other manner in the receiving State, inform the competent consulate of the sending State."

Article 38 :

Replace the whole article by the following :

"In the exercise of the functions specified in article 5, consular officials may address the local appropriate authorities of the receiving State. They may also address the central government of the receiving State with the consent of the latter."

Article 40 :

Delete the second sentence of this article.

Article 43 :

1. Add the following sentence at the end of this article :

"However, a consular official or employee shall be subject, with respect to the exercise of consular functions referred to in paragraphs (g), (h) and (i) of article 5, to the jurisdiction of the judicial or administrative authorities of the receiving State."

2. Add the following new paragraph to this article :

"All vehicles, vessels and aircraft owned by a consular official or employee shall be adequately insured against third party risks with an insurance company authorized to do, and actually carrying on, business in the receiving State."

Article 44 :

1. Delete the second sentence of paragraph 1.

2. Add the following sentence to paragraph 3 :

"They are also entitled to decline to give evidence as an expert witness with regard to the laws of the sending State."

Article 45 :

Replace paragraph 2 by the following :

"The waiver shall be communicated to the receiving State in writing through the diplomatic channel."

Article 46 :

Delete the words "and their private staff" in paragraph 1.

Article 48 :

1. In paragraph 1, delete the words "and members of their families forming part of their households" from the beginning part of the paragraph.

2. In paragraph 2, delete the words "and members of the private staff".

Article 50 :

1. Delete the words "or of a member of his family forming part of his household" from the beginning part of the article.

2. Delete the words "or as a member of the family of a member of the consulate" at the end of paragraph (b).

Article 52 :

Delete the whole article.

Article 53 :

In the first sentence of paragraph 2, delete the words ", and members of his private staff".

Article 54

1. Replace paragraphs 1 and 2 by the following:

"If consular officials and employees, or members forming part of their families pass through a third State, which has granted visas if visas were required while proceeding to take up or return to their post or when returning to their own country, the third State shall not hinder the transit through their territory."

2. In paragraph 3, add the word "official" between the words "accord to" and "correspondence" in the first sentence, and delete the whole second sentence.

Articles 56 to 67 :

Replace articles 56 to 67 of the draft articles by the following new article :

"1. Consular officials or employees who are :

"(a) not full-time officials or employees of the sending State, or

"(b) appointed by the sending State as honorary consuls, or

"(c) engaged in any private occupation for gain in the receiving State

shall not be accorded privileges and immunities provided for in articles 41, 44, paragraph 2, 46, 47, 48, 49, paragraphs 1 (b) and 2, 50, 51 and 54, paragraphs 1 and 2.

"2. The premises of a consulate of which the head of the post is a person who falls under the categories referred to in the preceding paragraph shall not be accorded privileges and immunities provided for in articles 30 and 31.

"3. Privileges and immunities provided for in article 46 shall not be accorded to :

"(a) members of the family of those consular officials or employees who fall under the categories referred to in paragraph 1, or

"(b) those members of the family of a consular official or employee who are engaged in private occupation for gain in the receiving State."

Article 69 :

1. In the first sentence of paragraph 1, add the words ", or permanently resident in," between the words "who are nationals of" and "the receiving State".

2. In the first sentence of paragraph 2, replace the words "Other members of the consulate, members of their families and members of the private staff who are nationals of the receiving State" by the following words :

"Consular employees who are nationals of, or permanently resident in, the receiving State and also members of the families of those consular officials and employees or those members of the family of a consular official or employee who are nationals of, or permanently resident in, the receiving State".

6. Netherlands

[Original : English]

[7 February 1963]

Article 1 :

Insert under (f) the words "consular officials and" after "all the".

Explanatory note : this amendment is proposed in order to remedy an omission in the English text. The French text is correct.

Article 5 :

Replace this article by the following text :

"1. The task of consuls is to protect, within the limits of their consular district, the rights and interests of the sending State and of its nationals and to give assistance and relief to the nationals of the sending State in accordance with international law. In addition, the task of consuls is to exercise other functions specified in the relevant international agreements in force or entrusted to them by the sending State, the exercise of which is compatible with the laws of the receiving State.

"2. Nothing in this article shall affect the relationship between the sending State and its nationals".

The object of paragraph 2 is to make it clear that the nationals of the sending State cannot claim by virtue of paragraph 1 a right to consular protection.

Article 30 :

Read paragraph 3 as follows :

"The premises of the consulate, their furnishings and other property thereon shall be immune from any search, requisition, attachment or execution".

Add the following paragraph : "The means of transport of the consulate shall be immune from any requisition".

Article 32 :

Delete the words "and documents".

Explanatory note : the words "and documents" seem to be superfluous and confusing when taken in conjunction with the definition of archives as it now stands in article 1 (k).

Article 35 :

Insert between paragraph 5 and 6 the following paragraph :

"The sending State may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge".

Explanatory note : The proposed new paragraph is corresponding to article 27, paragraph 6, of the 1961 Vienna Convention on Diplomatic Relations.

Article 41 :

Replace the word "may" in paragraph 1 by "shall".

Article 46 :

Add after paragraph 2 a new paragraph reading as follows :

"Paragraph 2 of this article shall not apply to the employment outside the consulate of persons belonging to the families of members of the consulate".

Explanatory note : It does not seem justified to exempt persons belonging to the families of members of the consulate, who are employed outside the consulate, from obligations which the law of the receiving State imposes on aliens in regard to work permits.

Article 48 :

Replace this article by the following text :

"1. Members of the consulate shall be exempt in the receiving State from all national, regional or municipal taxes or charges whatsoever, in respect of any official emoluments, salary, wages or allowances received by them as compensation for their services.

"2. Consular officials shall also be exempt in the receiving State from all national, regional or municipal taxes or charges whatsoever in respect of :

- "(a) income derived from sources outside the receiving State and already taxed or charged elsewhere ;
- "(b) the use of their residence and of the movable property installed therein ;
- "(c) the purchase, ownership or use of a motor vehicle."

Explanatory note : Especially as far as fiscal privileges are concerned it does not seem to be necessary to put members of the consulate on a par with members of the diplomatic mission. The proposed text is based on a system in which the liability to taxation of members of the consulate is made a primary consideration.

Article 52 :

Replace the text by the following wording :

"Members of the consulate and members of their families forming part of their households shall not solely by residence or birth within the territory of the receiving State acquire the nationality of the receiving State, without their consent."

Article 58 :

Replace the word "consul" by "consular official".

Article 60 :

Replace the word "consul" by "consular official".

Article 69 :

Insert in paragraphs 1 and 2 between the words "who are nationals of" and "the receiving State" the following words "or permanently resident in".

Explanatory note : In the 1961 Vienna Convention on Diplomatic Relations members of the mission who are permanently resident in the receiving State are put on a par with nationals of the receiving State.

Article 71 :

Insert between the words "agreements" and "in force" the following words : "both present and future".

Explanatory note : Although it was presumably not the intention of the drafters of the present text to preclude departure from the rules given in the convention by subsequent agreements, any uncertainty in that respect should be avoided.

7. United Kingdom of Great Britain and Northern Ireland

[Original : English]
[7 February 1963]

Her Majesty's Government in the United Kingdom, in accordance with General Assembly resolution 1813 (XVII) of 18 December 1962 wishes to submit to the Secretary-General of the United Nations the following amendments to the draft articles on Consular Relations prepared by the International Law Commission at its thirteenth session. It is, of course, understood that, in the course of the Conference at Vienna, the delegation of the United Kingdom may submit further amendments.

Article 17, paragraph 2 :

Add the following sentence at the end of the paragraph :

"A consular officer* acting in such a capacity shall be entitled to enjoy any privileges and immunities normally accorded to such a representative,

* The United Kingdom will also propose that the expression "consular officer" should be substituted for "consular official" throughout the Convention, as being more consistent with current usage.

except that no claim to immunity from jurisdiction other than that of a consular officer under the present Convention shall be made on his behalf in respect of the performance by him of any consular function."

Article 30, paragraph 1 :

Amend this paragraph to read as follows :

"Subject to the provisions of this article that part of the consular premises which is used exclusively for the purposes of the work of the consulate shall be inviolable and may not be entered by the agents of the receiving State without the consent of the head of post. In the absence of such consent it may only be entered by the agents of the receiving State on the authority of the Minister for Foreign Affairs of the receiving State or such other Minister as may be agreed, or in case of fire or other disaster, or if there is reasonable cause to believe that a crime of violence to person or property is being or is about to be or has been committed there."

Add two new paragraphs, to be numbered 4 and 5, in the following terms :

"4. Nothing in this article shall prevent an entry into the consular premises by any person entitled to enter by virtue of any contract or other private right.

"5. Consular premises shall not be used to afford asylum to fugitives from justice."

Article 31, paragraph 1 :

Replace the words "the head of post" with the words "any person in whose name property is owned or leased for consular purposes on behalf of the sending State".

Article 32 :

Amend this article to read as follows :

"The consular archives shall be inviolable at all times and wherever they may be. They shall be kept separate from any document or object relating to the private affairs of a consular officer or employee".

Article 41, paragraph 1 :

Redraft this paragraph to read as follows :

"If a consular officer is taken into custody in respect of an offence, he shall, upon the establishment of his identity, be released pending trial. However, this provision shall not apply if the consular officer is charged with a grave offence or if the sending State consents to his continued detention, provided that he shall not be detained for more than 48 hours except in pursuance of a decision by the competent judicial authority".

Add a new paragraph, to be numbered 4, in the following terms :

"For the purposes of this article the expression 'grave offence' means any offence punishable with a maximum penalty of at least four years' imprisonment under the law of the receiving State".

Article 43 :

Add to this article two new paragraphs as follows :

"2. The provisions of paragraph 1 of this article shall not, however, apply in respect of a civil action either :

"(i) arising out of a contract concluded by a consular officer or consular employee in which he did not contract expressly or impliedly as agent of the sending State ; or

"(ii) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

"3. A consular officer or consular employee shall comply with any requirement imposed by the law of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft."

Article 44 :

Paragraph 1 : Delete the second sentence.

Paragraph 2 : Redraft this paragraph to read as follows :

"In such event, all reasonable measures shall be taken to avoid interference with the work of the consulate and, in the case of a consular officer, arrangements shall, wherever possible and permissible, be made for the taking of the evidence, orally or in writing, at his office or residence".

Article 46 :

Redraft the text of the article to read as follows :

"1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

"2. The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who is engaged in a private occupation for gain in the receiving State or who is a member of the service staff, or to any member of the family of any such employee".

8. Belgium

[Original : French]
[6 February 1963]

Introduction

Pursuant to resolution 1813 (XVII) of 18 December 1962 adopted by the General Assembly of the United Nations at its seventeenth session, the Belgian Government has the honour to submit to the Secretary-General of the United Nations the following comments on the first part of the draft articles on consular relations prepared by the International Law Commission of the United Nations (thirteenth session, Geneva, 1 May to 7 July 1961).

General comments

The expression "*les membres de leur famille vivant à leur foyer*" appearing in the French text of several

articles of the draft, in particular articles 24, 26, 46, 48, 49, 50, 51, 52, 53, 54 and 69, should be replaced by the formula used in the Vienna Convention on Diplomatic Relations, namely "*les membres de leur famille faisant partie de leur ménage*".

The Belgian Government considers that it would be desirable to use, in that connexion, the same expression in both conventions.

Article 1 :

It would be desirable to profit by the experience gained the Vienna Conference on Diplomatic Intercourse and Immunities, 1961, particularly as regards the definitions of the different categories of persons employed by consulates.

Accordingly, the Belgian Government proposes that paragraphs (c) to (i) should be redrafted to read :

"(c) 'Head of consular post' means the person charged by the sending State with the duty of acting in that capacity ;

"(d) 'Members of the consulate' means the head of the consular post and the members of the staff of the consulate ;

"(e) 'Members of the staff of the consulate' means the consular officials, the consular employees and the members of the service staff of the consulate ;

"(f) 'Consular official' means any person, including the head of the consular post, entrusted with the exercise of consular functions in a consulate ;

"(g) 'Consular employee' means any person required to perform administrative or technical tasks in a consulate ;

"(h) 'Members of the service staff' means the members of the staff of the consulate in the domestic service of the consulate ;

"(i) 'Private servant' means a person employed exclusively in the private service of a member of the consulate who is not an employee of the sending State."

Article 13 :

The Belgian Government considers that it would be more correct to draft this article in the following terms :

"Pending delivery of the *exequatur*, the head of consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of this Convention shall apply to him."

The second sentence, as so drafted, would make it absolutely clear that the present Convention will apply to a consular official, as regards both rights and obligations, as from the moment when he is admitted on a provisional basis to the exercise of his functions.

Article 15 :

Paragraph 1 :

The Belgian Government wishes once again to draw attention to the fact that there is a considerable difference between diplomatic agents and consular officials. It prefers the former wording of paragraph 1, which appeared in article 16 of the text prepared by the International Law Commission at its twelfth session.

That text said :

"If the position of head of post is vacant, or if the head of post is unable to carry out his functions, an acting head of post may act provisionally as head of the consular post."

What is specified in the present text of article 15, paragraph 1, has no legal value at all, since it has been thought necessary to stipulate that this choice will be made "as a general rule".

The Belgian Government would therefore like the last two sentences of paragraph 1 to be deleted, particularly since in Belgium the Minister for Foreign Affairs has complete freedom in the choice of an acting head of post. If these provisions were retained, the Belgian Government would be obliged to enter an express reservation.

Paragraph 2 :

This paragraph should be amended to read :

"The name of the acting head of post shall be notified in advance, 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 of the acting head of post conditional on its consent."

The acting head of post would thus be treated in the same manner as the titular consular official.

Paragraph 3 :

It would be advisable to add at the end of this paragraph, a sentence in the following terms :

"The receiving State shall not, however, be obliged, under this paragraph, to grant to a person acting in a temporary capacity, the facilities, privileges and immunities which the consular official whom he replaces enjoys subject to specific conditions which the said person does not fulfil."

The effect of this sentence would be that the acting head of post would not enjoy advantages to which he would not be entitled under the present Convention if he were the titular head of post.

Paragraph 4 :

The Belgian Government suggest that the following words should be added at the end of this paragraph :

"... if the receiving State gives its consent".

Article 31 :

The Belgian Government has pointed out on a previous occasion that paragraph 1 of this article was open to misinterpretation.

In Belgium, a head of consular post does not enjoy exemption from taxes charged on immovable property unless such property is acquired on behalf of the sending State, which becomes the owner of the property.

In order to avoid misunderstanding on this point, the Belgian Government considers that the opening words of paragraph 1 should be amended to read :

"The sending State and any individual or body corporate acting on behalf of the sending State shall be exempt ..."

Article 36

The Belgian Government has previously stressed that paragraph 1 (c) of this article ought to provide for the right [of consular officials] not merely to visit and converse with a national of the sending State who is in custody or in prison, but also to write to such a person.

As re-drafted, paragraph 1 (c) would then read :

"(c) Consular officials shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse with and write to him and to arrange for his legal representation. They shall also have the right ...".

9. Switzerland

[Original : French]
[8 February 1963]

Article 5 :

Replace the opening sentence of paragraph 1 by the following text :

"The functions of consular posts, which shall be exercised within the limits of the consular district, consist, in so far as the legislation of the receiving State does not provide otherwise, more especially of :"

Article 19 :

Delete paragraph 2.

Article 23 :

Replace paragraph 1 by the following provision :

"The receiving State may at any time, and without having to explain its decision, inform the sending State that the person concerned is no longer acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consulate."

Article 28 :

Insert, at the end of this paragraph, the following words : "in accordance with the usage in force in the receiving State."

Article 35 :

In paragraph 1, delete from the second sentence the words "and the other consulates" and "wherever situated". As so amended, the provision would then read :

"1. The receiving State shall permit and protect free communication on the part of the consulate for all official purposes. In communicating with the Government and with the diplomatic missions of the sending State, the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplomatic or consular bag and messages in code or cipher. However, the consulate may install and use a wireless transmitter only with the consent of the receiving State."

Article 36 :

Insert a new paragraph 2 reading as follows (the present paragraph 2 would then become paragraph 3) :

"The application of the provisions of sub-paragraphs (b) and (c) above shall, however, be subject to the freely expressed wish of the national of the sending State who is in prison, custody or detention."

Article 37 :

Insert, at the end of the provision in sub-paragraph (b), the following sentence :

"This provision shall, however, be without prejudice to the legislative provisions of the receiving State regarding the execution of such measures."

Article 41 :

In paragraph 1, replace the words "in the case of a grave crime" by the words "in the case of a serious offence".

Article 46 :

In paragraph 1, after the words "members of their families forming part of their households", delete the phrase "and their private staff". [The comma after "consulate" should be replaced by the word "and".]

Article 48 :

Replace the provision in paragraph 1 (a) by the following text :

"(a) Indirect taxes incorporated in the price of goods or services whether invoiced separately or not."

Article 66 :

Add a paragraph 2 in the following terms :

"The premises of a consular post headed by an honorary consul shall not be used in a manner incompatible with the consular functions as laid down in the present articles or in other rules of international law."

DOCUMENT A/CONF.25/L.6

Memorandum from the United Nations High Commissioner for Refugees

[Original : English]
[4 March 1963]

The United Nations High Commissioner for Refugees has the honour to bring to the attention of Governments participating in the International Conference of Plenipotentiaries on Consular Relations the following provisions of the Statute of the Office of the United Nations High Commissioner for Refugees, for consideration in connexion with Articles 5 (a) and 36 of the Draft Articles on Consular Relations, dealing with consular functions relating to the protection of nationals of the sending State in the receiving State.

According to Article 1 of the Statute of the Office of the United Nations High Commissioner for Refugees (General Assembly Resolution 428 (V) of 14 December 1950) "the United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and ...". The persons to whom the High Commissioner's competence extends according to the Statute are defined in Articles 6 and 7 *inter alia* as follows :

...
Article 6 A (ii). "Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country. ..."

Article 6 B. "Any other person who is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence, because he has or had well-founded fear of persecution by reason of his race, religion, nationality or political opinion and is unable or because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality. ..."

Several international agreements provide for a special status of refugees. Of these the Convention relating to the Status of Refugees of 28 July 1951, to which at present thirty-seven States are parties, is the most important. For the purposes of the Convention, the term "refugee" is defined in Article 1 in a similar manner as in the Statute of the Office of the United Nations High Commissioner for Refugees. According to Article 35 of the Convention, the "Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention". These functions include, by virtue of the Statute of the Office, the international protection of refugees.

PROPOSALS AND AMENDMENTS SUBMITTED IN THE FIRST AND SECOND COMMITTEES

A. Proposals and amendments submitted in the First Committee (A/CONF.25/C.1/L.1 to A/CONF.25/C.1/L.167).

B. Proposals and amendments submitted in the Second Committee (A/CONF.25/C.2/L.1 to A/CONF.25/C.2/L.230).

NOTE: These amendments and proposals are, except where otherwise indicated, amendments and proposals relating to the draft articles on Consular Relations adopted by the International Law Commission at its thirteenth session.

The Conference, at its second plenary meeting, approved the following allocation of the draft articles:

First Committee: Preamble, articles 2 to 27, 68, 70 and 71; the final provisions; the Final Act of the Conference; and any protocols which the Conference might consider necessary.

Second Committee: Articles 28 to 67, and 69.

At its third plenary meeting, the Conference decided that articles 52, 53, 54 and 55 should be re-allocated from the Second to the First Committee. At its fourth plenary meeting, the Conference decided that the Drafting Committee should prepare the text of article 1 for submission to the First Committee prior to consideration of the article by the Conference in plenary meeting.

The proposals and amendments submitted to the plenary Conference will be found on page 166.

A. PROPOSALS AND AMENDMENTS SUBMITTED IN THE FIRST COMMITTEE

DOCUMENT A/CONF.25/C.1/L.1

Czechoslovakia: amendment to article 2

[Original: English]
[5 March 1963]

Insert the following new paragraph as paragraph 1:

"1. Every State has the right to establish consular relations with foreign States."

DOCUMENT A/CONF.25/C.1/L.2

Bulgaria: amendment to article 2

[Original: English]
[5 March 1963]

In paragraph 2, delete the words "unless otherwise stated".

DOCUMENT A/CONF.25/C.1/L.3/Rev.1

United States of America: amendment to article 23

[Original: English]
[19 March 1963]

Add the following words to the first sentence of paragraph 3: " , or, if already in the receiving State, before entering on his duties with the consulate ".

DOCUMENT A/CONF.25/C.1/L.4 and Add.1

United States of America: amendments to article 26

[Original: English]
[5 March 1963]

Add the following new paragraph:

"Where such persons or such members of their families have been subjected to the jurisdiction of the judicial authorities of the receiving State departure may be delayed pending conclusion of arrangements satisfactory to the judicial authorities with respect to the matter under adjudication."

[Original: English]
[19 March 1963]

1. Insert in the first sentence, after the words "at the earliest possible moment", the words "after the termination of their functions".

2. Delete from the first sentence the word "their" in the phrase "members of the families of such persons irrespective of their nationality" and insert at the conclusion of that phrase the words "forming part of their households".

3. Insert in the second sentence, after the words "their property", the words "with the exception of any such property acquired in the receiving State the export of which is prohibited at the time of departure".

DOCUMENT A/CONF.25/C.1/L.5**United States of America: amendments to article 27**

[Original: English]
[5 March 1963]

1. In paragraph 1, strike out the paragraph number and insert, at the end of the opening clause, immediately preceding the colon, the words "or in the event of the temporary or permanent closure of a consulate".

2. In sub-paragraph (a) of paragraph 1, amend the words "respect and protect" to read "accord all due respect and protection to".

3. In sub-paragraph (b) of paragraph 1, substitute the words "of the consulate" for the words "it contains"; insert before the words "to a third State" the words "to the diplomatic mission of the sending State in the receiving State or"; and insert at the end, between the word "State" and the semicolon, the words "or, in the case of the closure of a consulate, to one or more of the other consulates of the sending State in the receiving State".

4. In sub-paragraph (c) of paragraph 1, substitute the words "the interests" for the words "its interests and those", and change the period at the end to a semicolon.

5. Delete paragraphs 2 and 3 and substitute therefor a sub-paragraph (d) reading as follows:

"(d) In the case of closure of a consulate, the sending State may, with the consent of the receiving State, entrust the exercise of consular functions in the district of the closed consulate to one or more of the other consulates of the sending State in the receiving State."

DOCUMENT A/CONF.25/C.1/L.6**United States of America: amendments to article 68**

[Original: English]
[5 March 1963]

1. Amend paragraph 2 to read:

"2. Members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be admitted to the exercise of their consular functions in accordance with article 11."

2. Amend paragraph 4 to read:

"4. The members of a diplomatic mission admitted to the exercise of consular functions may enjoy diplomatic privileges and immunities only to the extent extended to them by the receiving State."

DOCUMENT A/CONF.25/C.1/L.7**United States of America: proposed final articles**

[Original: English]
[5 March 1963]

Article ...

The present Convention shall be open for signature by all States Members of the United Nations or of any

of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1963 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article ...

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article ...

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article ...

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article ...

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article ...:

(a) Of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles and ...;

(b) Of the date on which the present Convention will enter into force, in accordance with article

Article ...

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article

In witness whereof the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present convention.

Done at Vienna, this day of April one thousand nine hundred and sixty-three.

New article

Any dispute arising from the interpretation or application of this convention shall be submitted at the request of either of the parties to the International Court of Justice unless an alternative method of settlement is agreed upon.

DOCUMENT A/CONF.25/C.1/L.8**Netherlands : amendment to article 71***[Original : English]
[5 March 1963]*

Insert the following between the words "agreements" and the words "in force": ", both present and future,".

DOCUMENT A/CONF.25/C.1/L.9**United Arab Republic : amendment to article 2***[Original : French]
[5 March 1963]*

Amend paragraph 1 to read :

"1. The establishment of consular relations between two States takes place by mutual consent."

DOCUMENT A/CONF.25/C.1/L.10**United Arab Republic : amendment to article 3***[Original : French]
[5 March 1963]*

Amend article 3 to read :

"Consular functions are exercised :

"(a) By consulates ; or

"(b) By diplomatic missions in accordance with the provisions of article 68."

DOCUMENT A/CONF.25/C.1/L.11**Belgium : amendment to article 13***[Original : French]
[5 March 1963]*

Amend article 13 to read :

"Pending delivery of the *exequatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of this convention shall apply to him."

DOCUMENT A/CONF.25/C.1/L.12**Belgium : amendments to article 15***[Original : French]
[5 March 1963]*

1. Amend paragraph 1 to read :

"If the position of head of post is vacant, or if the head of post is unable to carry out his functions, an acting head of post may act provisionally as head of the consular post."

2. Amend paragraph 2 to read :

"The name of the acting head of post shall be notified in advance, 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 of the acting head of post conditional on its consent."

3. Add the following sentence at the end of paragraph 3 :

"The receiving State shall not, however, be obliged, under this paragraph, to grant to a person acting in a temporary capacity the facilities, privileges and immunities which the consular official whom he replaces enjoys subject to specific conditions which the said person does not fulfil."

4. Add the following words at the end of paragraph 4 : " ... if the receiving State gives its consent ".

DOCUMENT A/CONF.25/C.1/L.13**Hungary : amendment to article 2***[Original : English]
[5 March 1963]*

In paragraph 2, replace the words "unless otherwise stated" by the words "unless otherwise agreed".

DOCUMENT A/CONF.25/C.1/L.14**Hungary : amendments to article 5***[Original : English]
[5 March 1963]*

1. In sub-paragraph (c), after the word "Ascertaining", insert the words "by all lawful means".

2. To sub-paragraph (g) add the following words *in fine*: "and co-operating with the competent authorities in drawing up the inventory of the estate and in safeguarding the assets".

3. To sub-paragraph (j) add the following sentence *in fine*: "The consul, however, is entitled to serve judicial documents without duress on the nationals of the sending State."

DOCUMENT A/CONF.25/C.1/L.15**Ukrainian Soviet Socialist Republic :
amendment to article 5***[Original : Russian]
[5 March 1963]*

In sub-paragraph (j), after the words "Serving judicial documents...", add the words "on nationals of the sending State".

DOCUMENT A/CONF.25/C.1/L.16**Switzerland : amendment to article 5***[Original : French]
[5 March 1963]*

Amend the introductory sentence to read :

"The functions of consular posts, which must be exercised within the limits of the consular district, consist, in so far as the law of the receiving State does not provide otherwise, more especially of :".

DOCUMENT A/CONF.25/C.1/L.17**Switzerland : amendment to article 19***[Original : French]
[5 March 1963]*

Delete paragraph 2.

DOCUMENT A/CONF.25/C.1/L.18**Switzerland : amendment to article 23***[Original : French]
[5 March 1963]*

Replace paragraph 1 by the following :

"1. The receiving State may at any time, and without having to explain its decision, inform the sending State that the person concerned is no longer acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consulate."

DOCUMENT A/CONF.25/C.1/L.19**Brazil, Italy and United Kingdom :
amendment to article 2***[Original : English]
[5 March 1963]*

Delete paragraph 2.

DOCUMENT A/CONF.25/C.1/L.20**Venezuela : amendments to article 5***[Original : Spanish]
[5 March 1963]*

1. In sub-paragraph (a), substitute the words "Watching over" for the word "Protecting".

2. In sub-paragraph (f), add the following phrase at the end of the sub-paragraph : "provided always that there is nothing contrary thereto in the laws of the receiving State."

3. In sub-paragraph (h), add the following phrase at the end of the sub-paragraph : "within the limits imposed by the laws of the receiving State."

4. In sub-paragraph (k), substitute the words "receiving State" for the "sending State" in the third line.

DOCUMENT A/CONF.25/C.1/L.21**Spain : amendment to the title of chapter I, section I***[Original : Spanish]
[5 March 1963]*

[This amendment concerns the Spanish text only.]

DOCUMENT A/CONF.25/C.1/L.22**Spain : amendment to article 2***[Original : Spanish]
[5 March 1963]*

In paragraph 3, replace the word "severance" by the words "interruption or suspension".

DOCUMENT A/CONF.25/C.1/L.23**Spain : amendments to article 4***[Original : Spanish]
[5 March 1963]*

1. In paragraphs 2 and 3 :

This amendment concerns the Spanish text only.

2. Amend paragraph 4 to read as follows :

"4. The consent of the receiving State shall also be required for opening a vice-consulate or an agency in a different locality within the consular district of an existing consulate."

DOCUMENT A/CONF.25/C.1/L.24**Spain : amendment to article 3***[Original : Spanish]
[5 March 1963]*

Amend the second sentence to read :

"They may also be exercised by diplomatic missions in accordance with the provisions of the present convention."

DOCUMENT A/CONF.25/C.1/L.25**South Africa : amendments to article 5***[Original : English]
[5 March 1963]*

1. Add at the end of sub-paragraph (a) the following words : "... and in a manner compatible with the laws of the receiving State."

2. Insert at the beginning of sub-paragraph (f) the following words : "To the extent consistent with the laws of the receiving State ..."

3. Add at the end of sub-paragraph (f) the following words : "... on behalf of the sending State."

DOCUMENT A/CONF.25/C.1/L.26**Austria : amendments to article 5***[Original : English]
[5 March 1963]*

Amend the structure and the wording of this article as follows :

"1. The consular functions consist *inter alia* in :

"(a) [As it stands now as sub-paragraph (a) of the draft] ;

"(b) [As it stands now as sub-paragraph (b) of the draft] ;

"(c) Ascertaining by all lawful means conditions and developments in the economic, commercial, cultural and scientific life of the receiving state reporting thereon to the government of the sending State and giving information to persons interested ;

"2. Exercising these functions the consular officials may particularly :

"(a) Issue passports ... [unchanged sub-paragraph (d) of the draft] ;

"(b) Help and assist ... [unchanged sub-paragraph (e) of the draft] ;

- "(c) Act as notary and civil registrar and in capacities of a similar kind, and perform certain functions of an administrative nature if the laws of the receiving State do not provide for the opposite ;
- "(d) Safeguard the interest of nationals ... [unchanged sub-paragraph (g) of the draft] ;
- "(e) Safeguard the interests of minors ... [unchanged sub-paragraph (h) of the draft] ;
- "(f) Represent nationals ... [unchanged sub-paragraph (i) of the draft] ;
- "(g) In civil and commercial matters, serve judicial documents or execute letters rogatory ... [unchanged sub-paragraph (j) of the draft] ;
- "(h) Exercise rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels used for maritime or inland navigation being listed in the register of the sending State or being otherwise entitled to show flag of the sending State, and of aircraft registered in that State, and in respect of their crews ;
- "(i) Extend necessary assistance to vessels and aircraft mentioned in the previous sub-paragraph, and to their crews, take statements regarding the voyage of a vessel, examine and stamp ships' papers, and, without prejudice to the powers of the authorities of the receiving State, conduct investigations into any incidents which occurred during the voyage, and settle disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the law of the sending State ;
- "(j) Pass on to the entitled persons any benefits, pensions or compensation due to them in accordance with their national laws or with international conventions, in particular under social security legislation ;
- "(k) Receive payment of pensions or allowances due to nationals of the sending State not duly represented."

DOCUMENT A/CONF.25/C.1/L.27**Austria : amendment to article 11**

[Original : English]
[5 March 1963]

Add a new paragraph reading as follows :

"3. As regards consular agents, the formal *exequatur* may be replaced by an informal admission by the receiving State."

DOCUMENT A/CONF.25/C.1/L.28**Austria : amendment to article 23**

[Original : English]
[5 March 1963]

Add a new paragraph reading as follows :

"4. In all the cases mentioned in paragraphs 1 and 3 the receiving State is not obliged to explain its decision."

DOCUMENT A/CONF.25/C.1/L.29**Austria : amendment to article 71**

[Original : English]
[5 March 1963]

Amend article 71 to read :

"The provisions of the present articles shall not affect conventions or other international agreements in force or to be concluded in future between States parties to them."

DOCUMENT A/CONF.25/C.1/L.30**Republic of Viet-Nam : amendment to article 2**

[Original : French]
[5 March 1963]

Delete paragraph 2.

DOCUMENT A/CONF.25/C.1/L.31**Republic of Viet-Nam : amendment to article 4**

[Original : French]
[5 March 1963]

Amend paragraph 5 to read :

"5. The sending State must obtain the prior express consent of the receiving State whenever it wishes to establish, outside the seat of a consulate, an office forming part of that consulate."

DOCUMENT A/CONF.25/C.1/L.32**France : amendment to article 5**

[Original : French]
[5 March 1963]

In sub-paragraph (j), replace the words "Serving judicial documents or executing letters rogatory ..." by the words "Transmitting judicial and extra-judicial documents and executing letters rogatory ...".

DOCUMENT A/CONF.25/C.1/L.33**Czechoslovakia, Hungary and Romania : amendment to article 5**

[Original : English]
[5 March 1963]

Insert at the beginning of paragraph (b) the words "Developing friendly relations,".

DOCUMENT A/CONF.25/C.1/L.34**Czechoslovakia : amendment to article 5**

[Original : English]
[5 March 1963]

Replace in paragraph (j) the words "judicial documents" by the words "judicial and similar documents of juridical character".

DOCUMENT A/CONF.25/C.1/L.35**Brazil : amendment to article 4**

[Original : English]
[5 March 1963]

Amend paragraph 2 to read :

"The seat of the consulate and the consular district shall be determined by the sending State with the consent of the receiving State."

DOCUMENT A/CONF.25/C.1/L.36**India : amendment to article 2**

[Original : English]
[5 March 1963]

Add the following at the end of paragraph 2 :

"...in conformity with local laws and customs of the receiving State."

DOCUMENT A/CONF.25/C.1/L.37**India : amendments to article 5**

[Original : English]
[5 March 1963]

1. Insert the following in sub-paragraph (c) after the word "ascertaining" : "by all lawful means".

2. Add a new paragraph (m) as follows :

"(m) In addition to the functions provided for in clauses (a) to (l) of this article, consuls may also perform such other functions which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State."

DOCUMENT A/CONF.25/C.1/L.38**Cambodia : amendments to article 5**

[Original : French]
[5 March 1963]

1. In sub-paragraph (f), delete the words "notary and", and the words "and performing certain functions of an administrative nature".

2. In sub-paragraph (k), delete the words "supervision and".

3. In sub-paragraph (l), delete the words "and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the law of the sending State".

DOCUMENT A/CONF.25/C.1/L.39**Canada and Netherlands : amendment to article 5**

[Original : English]
[5 March 1963]

Replace article 5 by the following text :

"1. The principal functions ordinarily exercised by consuls are to protect, within the limits of their

consular district, the rights and interests of the sending State and its nationals and to give assistance to the nationals of the sending State in accordance with international law. Consuls may exercise other functions specified in the relevant international agreements in force or entrusted to them by the sending State, the exercise of which is compatible with the laws of the receiving State.

"2. Nothing in this article shall affect the relationship between the sending State and its nationals."

DOCUMENT A/CONF.25/C.1/L.40**United States of America : amendment to article 3**

[Original : English]
[5 March 1963]

In the first sentence, substitute the words "consular officials" for the word "consulates".

DOCUMENT A/CONF.25/C.1/L.41**Italy : amendment to article 3**

[Original : French]
[5 March 1963]

Add the following words at the end of the article : "with the consent of the receiving State".

DOCUMENT A/CONF.25/C.1/L.42**Italy : amendment to article 4**

[Original : French]
[5 March 1963]

In paragraph 2, after the words "seat of the consulate" add the words "its rank".

DOCUMENT A/CONF.25/C.1/L.43**Italy : amendments to article 5**

[Original : French]
[5 March 1963]

1. In sub-paragraph (i), delete the words "or any other reason,".

2. In sub-paragraph (l), delete the words "in so far as this may be authorized by the law of the sending State".

DOCUMENT A/CONF.25/C.1/L.44**Federal Republic of Germany : amendment to article 70**

[Original : English]
[6 March 1963]

Replace paragraph 2 by the following text :

"2. However, discrimination shall not be regarded as taking place :

"(a) Where the receiving State applies any of the provisions of the present convention restrictively because of a restrictive application of that provision to its consulates in the sending State ;

"(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present convention."

DOCUMENT A/CONF.25/C.1/L.45

Spain : amendments to article 5

[Original : Spanish]
[6 March 1963]

1. In sub-paragraph (c), replace the word "Ascertaining" by the word "Studying".

2. In sub-paragraph (d), after the words "appropriate documents" add the words ", whenever necessary,".

3. At the end of sub-paragraph (e) add the following words : "with special reference to the protection of workers and emigrants of all categories and, further, with special reference to the laws of the receiving State concerning labour and social welfare to which such persons may be subject as provided by the legislation and authorities of the receiving State".

DOCUMENT A/CONF.25/C.1/L.46

Japan : amendment to article 3

[Original : English]
[6 March 1963]

Delete article 3.

DOCUMENT A/CONF.25/C.1/L.47

Japan : amendments to article 4

[Original : English]
[6 March 1963]

1. Delete paragraph 4.

2. Replace paragraph 5 by the following text :

"5. The sending State may, with the prior express consent of the receiving State, establish branch offices of a consulate within its consular district."

DOCUMENT A/CONF.25/C.1/L.48

Japan : proposed new article between articles 4 and 5

[Original : English]
[6 March 1963]

Add the following new article between articles 4 and 5 :

"Consular functions are performed by a consular official within the consular district of the consulate to which the official is appointed. A consular official

may, upon notification to and in the absence of objections from the receiving State, perform consular functions outside the said consular district."

DOCUMENT A/CONF.25/C.1/L.49

Greece : amendment to article 4

[Original : French]
[6 March 1963]

Add a new paragraph 6 reading as follows :

"6. The consul shall not exercise his functions outside his consular district except with the consent of the receiving State."

DOCUMENT A/CONF.25/C.1/L.50

United Kingdom : amendments to article 4

[Original : English]
[6 March 1963]

1. Delete paragraph 4.

2. Amend paragraph 5 to read as follows :

"The sending State may not, without the prior consent of the receiving State, establish offices forming part of a consulate elsewhere than at the seat of the consulate."

DOCUMENT A/CONF.25/C.1/L.51

Indonesia : amendment to article 5

[Original : English]
[7 March 1963]

In sub-paragraph (a), insert the words "and by the laws of the receiving State" after the words "permitted by international law".

DOCUMENT A/CONF.25/C.1/L.52

**Spain and Republic of Viet-Nam :
amendment to article 4**

[Original : French]
[7 March 1963]

Replace paragraphs 4 and 5 by the following text :

"The consent of the receiving State shall also be required for the opening of a vice-consulate or agency in another place in the consular district of an existing consulate, or an office forming part of the said consulate but outside the seat thereof."

DOCUMENT A/CONF.25/C.1/L.53

Mexico : amendment to article 5

[Original : Spanish]
[7 March 1963]

Amend sub-paragraph (f) to read as follows :

"(f) Acting as notary with respect to documents to be executed in the sending State and as civil

registrar with respect to documents which concern nationals of the sending State, and in capacities of a similar kind in such cases, and performing certain functions of an administrative nature ;”.

DOCUMENT A/CONF.25/C.1/L.54

Japan : amendments to article 5

[Original : English]
[7 March 1963]

1. In sub-paragraph (a), delete the words “, both individuals and bodies corporate,”.

2. In sub-paragraph (c), after the word “Ascertaining”, add the words “by all lawful means”.

3. In sub-paragraph (g), delete the words “, both individuals and bodies corporate,” and add the words “in accordance with the law of the receiving State” at the end of the sub-paragraph.

4. In sub-paragraph (h), insert the words “in accordance with the law of the receiving State,” between the words “nationals of the sending State,” and the words “particularly where”.

5. In sub-paragraph (j), replace the words “executing letters rogatory” by the words “taking depositions”.

6. In sub-paragraph (k), replace the words “in respect of vessels used for maritime or inland navigation, having the nationality of the sending State,” by the words “in respect of vessels and seamen, having the nationality of the sending State,”.

Replace the words “, and in respect of their crews ;” by the words “and their crews ;”.

7. In sub-paragraph (l), delete the words from “taking statements ...” to the end of the paragraph.

DOCUMENT A/CONF.25/C.1/L.55

Japan : amendment to article 8

[Original : English]
[7 March 1963]

Delete article 8.

DOCUMENT A/CONF.25/C.1/L.56

Japan : amendment to article 11

[Original : English]
[7 March 1963]

Replace article 11 by the following text :

“1. The receiving State shall, on presentation of the consular commission or other notification of appointment of the head of a consular post, grant as soon as possible an exequatur or other authorization to perform consular functions. Subject to the provisions of article 13, he may not enter upon his duties until he has received an exequatur or other authorization.

“2. The receiving State may refuse to grant an exequatur or other authorization. However, the reason for such refusal shall be communicated to the sending State by the receiving State.”

DOCUMENT A/CONF.25/C.1/L.57

Japan : amendments to article 17

[Original : English]
[7 March 1963]

In paragraph 1 :

1. Replace the words “the head of a consular post” by the words “a consulate”.

2. Make this paragraph an independent article to be placed in chapter IV of the draft articles.

DOCUMENT A/CONF.25/C.1/L.58

Japan : amendment to article 19

[Original : English]
[7 March 1963]

Delete paragraph 2 of article 19.

DOCUMENT A/CONF.25/C.1/L.59

Japan : amendment to article 22

[Original : English]
[7 March 1963]

Delete article 22.

DOCUMENT A/CONF.25/C.1/L.60

Spain : amendments to article 13

[Original : Spanish]
[7 March 1963]

1. At the beginning of the article add “Once his consular commission or similar instrument has been presented and”.

2. At the end of the article replace the words “and to the benefit of the present articles” by the words “in conformity with the provisions of this convention.”

DOCUMENT A/CONF.25/C.1/L.61

Australia : amendment to article 5

[Original : English]
[6 March 1963]

At the beginning of sub-paragraphs (f), (g), (h) and (i), insert the words :

“So far as the laws of the receiving State do not otherwise provide,”.

DOCUMENT A/CONF.25/C.1/L.62

United Kingdom : amendment to article 7

Amend the article to read :

“Unless the receiving State objects, the sending State may exercise consular functions in the receiving State on behalf of a third State.”

DOCUMENT A/CONF.25/C.1/L.63**Norway : amendments to article 5**

[Original : English]
[7 March 1963]

1. In the introductory sentence, replace the words "more especially" by the words "*inter alia*".
2. In sub-paragraph (l), delete the word "necessary".

DOCUMENT A/CONF.25/C.1/L.64**Brazil : amendment to article 10**

[Original : English]
[7 March 1963]

In paragraph 1, delete the words "as a general rule".

DOCUMENT A/CONF.25/C.1/L.65**Brazil : amendment to article 12**

[Original : English]
[7 March 1963]

Amend article 12 to read :

"Subject to the pertinent articles of the present convention, the formalities for the appointment and admission of the head of a consular post are determined by the laws and usages of the sending and of the receiving State."

DOCUMENT A/CONF.25/C.1/L.66**Brazil : amendment to article 21**

[Original : English]
[7 March 1963]

Amend article 21 to read :

"The order of precedence as between the officials of a consulate shall be established by the head of post."

DOCUMENT A/CONF.25/C.1/L.67**Brazil : amendment to article 22**

[Original : English]
[7 March 1963]

Amend paragraph 2 to read :

"2. Consular officials may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time."

DOCUMENT A/CONF.25/C.1/L.68**Canada, Chile, Cuba, Ghana and Japan :
proposed new article between articles 4 and 5**

[Original : English]
[7 March 1963]

"A consular official may, in special circumstances, with the express consent of the receiving State, exercise his functions outside his consular district."

DOCUMENT A/CONF.25/C.1/L.69**United States of America : amendments to article 5**

[Original : English]
[8 March 1963]

1. Amend sub-paragraph (f) to read :

"(f) Preparing, attesting, receiving the acknowledgements of, certifying, authenticating, legalizing and, in general, taking such action as may be necessary to perfect or to validate any act, document, or instrument of a legal character, as well as copies thereof, including commercial documents, declarations, registrations, testamentary dispositions, and contracts, whenever such services are required by a national of the sending State for use outside the territory of the receiving State or by any persons for use in the territory of the sending State;"

2. In sub-paragraph (g), after the word "Safeguarding" insert the words ", within the discretion of the appropriate judicial authorities and if permissible under the law of the receiving State,".

3. In sub-paragraph (h), after the word "Safeguarding" insert the words ", within the discretion of the appropriate judicial authorities and if permissible under the law of the receiving State,".

4. In sub-paragraph (i), delete the word "Representing" and substitute the words "Appearing, within the discretion of the appropriate judicial authorities and if permissible under the law of the receiving State, on behalf of".

5. In sub-paragraph (l), after the word "Extending" insert the words ", to the extent consistent with the laws of the receiving State,".

DOCUMENT A/CONF.25/C.1/L.70**United States of America : proposed disputes clause**

[Original : English]
[8 March 1963]

"Any dispute arising from the interpretation or application of this convention shall be submitted at the request of either of the parties to the International Court of Justice unless an alternative method of settlement is agreed upon."

DOCUMENT A/CONF.25/C.1/L.71**Argentina, Ceylon, Ghana, India, Indonesia and United Arab Republic : proposed preamble to the Convention**

[Original : English]
[8 March 1963]

"The States parties to the present convention,

"*Recalling* that consular relations have been established among peoples of all nations since ancient times,

"*Having in mind* the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of

international peace and security, and the promotion of friendly relations among nations,

"*Considering* that the United Nations Conference on Diplomatic Intercourse and Immunities adopted on 18 April 1961 the Vienna Convention on Diplomatic Relations,

"*Believing* that an international convention on consular intercourse, privileges and immunities could also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

"*Realizing* that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consulates on behalf of their respective States,

"*Affirming* that the rules of customary international law should continue to govern matters not expressly regulated by the provisions of the present convention,

"*Have agreed* as follows :"

DOCUMENT A/CONF.25/C.1/L.72

Yugoslavia : amendment to article 5

[Original : French]
[8 March 1963]

At the end of article 5, add a new paragraph 2 reading as follows :

"2. In addition, the consular functions likewise comprise all functions referred to in the international agreements in force between the sending State and the receiving State and also the functions entrusted to the consul by the sending State, provided that the exercise of these functions is not prohibited by the law of the receiving State."

DOCUMENT A/CONF.25/C.1/L.73

Mali : amendment to article 5

[Original : French]
[8 March 1963]

At the end of sub-paragraph (a) add the following words :

"... and ensuring that the sending State and its nationals enjoy fully all the rights, prerogatives and advantages which the law and custom of the receiving State accord to aliens generally."

DOCUMENT A/CONF.25/C.1/L.74

**Brazil, Canada, Ceylon, United Kingdom,
United States of America : amendment to article 8**

[Original : English]
[11 March 1963]

Replace the words "heads of consular posts" by the words "consular officials".

DOCUMENT A/CONF.25/C.1/L.75

**Brazil, Canada, Ceylon, United Kingdom,
United States of America : amendments to article 10**

[Original : English]
[11 March 1963]

1. In paragraph 1, replace the words "The head of a consular post" by the words "A consular official", and the words "head of post" by the words "consular official".

2. In paragraph 2, replace the words "Government of the State in whose territory the head of a consular post is to exercise his functions" by the words "receiving State".

DOCUMENT A/CONF.25/C.1/L.76

**Brazil, Canada, Ceylon, United Kingdom,
United States of America : amendment to article 11**

[Original : English]
[11 March 1963]

Combine paragraphs 1 and 2 in one paragraph reading as follows :

"Subject to the provisions of articles 13 and 15, a consular official may not enter upon his duties until he has received an exequatur or other form of authorization from the receiving State."

DOCUMENT A/CONF.25/C.1/L.78

Federal Republic of Germany : amendment to article 17

[Original : French]
[11 March 1963]

Delete paragraph 1.

DOCUMENT A/CONF.25/C.1/L.79

**Federal Republic of Germany
and the United Kingdom : amendment to article 7**

[Original : English]
[11 March 1963]

Replace the text of article 7 by the following :

"Upon appropriate notification to the receiving State and unless it objects, the sending State may exercise consular functions in the receiving State on behalf of a third State."

DOCUMENT A/CONF.25/C.1/L.80

Greece : amendments to article 5

[Original : French]
[11 March 1963]

1. In sub-paragraph (a), add the following words at the end of the paragraph : "or by bilateral agreements between the sending State and the receiving State".

2. In sub-paragraph (c), after the word "Ascertain-

ing", add the words "by all lawful means and without committing the sending State".

3. In sub-paragraph (e), add the following words at the end of the paragraph: "within the limits permitted by international law and bilateral agreements between the sending State and the receiving State".

4. Replace sub-paragraph (g) by the following text:

"(g) In matters of succession *mortis causa*, safeguarding the interests of nationals of the sending State and representing those who are absent or lack full capacity".

5. In sub-paragraph (h), replace the words "particularly where any guardianship or trusteeship is required with respect to such persons" by the words "and making arrangements for their temporary guardianship or trusteeship, provided that this is not contrary to the law of the sending State, until such time as the competent authorities intervene".

6. Replace sub-paragraph (i) by the following text:

"(i) Applying, in accordance with the law of the receiving State, for the adoption of provisional measures for preservation of the rights and interests of nationals of the sending State who are absent or lack full capacity".

7. In sub-paragraph (l), (i): After the words "Extending necessary assistance" add the words "within the limits permitted by international law or bilateral agreements between the sending State and the receiving State".

(ii): Replace the words "in so far as this may be authorized by the law of the sending State" by the words "insofar as this is not contrary to the law of the sending State".

DOCUMENT A/CONF.25/C.1/L.81

South Africa : amendment to article 9

[Original : English]
[11 March 1963]

Replace paragraph 2 by the following text:

"2. The foregoing paragraph in no way restricts the right of the sending State and receiving State to agree on designations, other than those enumerated in that paragraph, for consular officials who are not heads of post."

DOCUMENT A/CONF.25/C.1/L.82

Federal Republic of Germany : amendment to article 70

[Original : English]
[8 March 1963]

Amend paragraph 2 in order to apply the convention restrictively, when appropriate, on a reciprocal basis.

DOCUMENT A/CONF.25/C.1/L.83

Italy : amendments to article 10

[Original : French]
[12 March 1963]

1. Delete paragraph 3.
2. Add the following paragraph :

"If the receiving State requires it, or if it is the practice of the sending State, consular officials other than the head of post may be furnished with a commission or similar instrument."

DOCUMENT A/CONF.25/C.1/L.84

Italy : amendment to article 12

[Original : French]
[12 March 1963]

After the words "head of a consular post", insert the words "and the other consular officials".

DOCUMENT A/CONF.25/C.1/L.85

Italy : amendment to article 13

[Original : French]
[12 March 1963]

After the words "head of a consular post", insert the words "and the other consular officials".

DOCUMENT A/CONF.25/C.1/L.86

Italy : amendment to article 14

[Original : French]
[12 March 1963]

After the words "head of a consular post", insert the words "and the other consular officials".

DOCUMENT A/CONF.25/C.1/L.87

Venezuela : amendments to article 10

[Original : Spanish]
[12 March 1963]

1. In paragraph 1, delete the words "as a general rule".

2. In paragraph 2, delete the words "or other appropriate channel".

3. Add the following sentence at the end of paragraph 3: "This notification shall contain the particulars referred to in paragraph 1".

DOCUMENT A/CONF.25/C.1/L.88

Venezuela : amendment to article 13

[Original : Spanish]
[12 March 1963]

Add the following words at the end of the article: "for a period not exceeding six months".

DOCUMENT A/CONF.25/C.1/L.89

Venezuela : amendment to article 17

[Original : Spanish]
[12 March 1963]

Delete article 17.

DOCUMENT A/CONF.25/C.1/L.90**Chile : amendment to article 23**

[Original : Spanish]
[12 March 1963]

In the sub-title and throughout the article, replace the word "unacceptable" by the words "*non grata*".

DOCUMENT A/CONF.25/C.1/L.91**Argentina : amendment to article 11**

[Original : Spanish]
[12 March 1963]

Add the following text as new paragraph 2 :

"2. The receiving State is not obliged to inform the sending State of its reasons for refusing an *exequatur*."

DOCUMENT A/CONF.25/C.1/L.92**Argentina : amendment to article 20**

[Original : Spanish]
[12 March 1963]

Replace the words "within reasonable and normal limits" by the words "within limits which it considers to be reasonable and normal".

DOCUMENT A/CONF.25/C.1/L.93**Switzerland : amendment to article 9**

[Original : French]
[12 March 1963]

Replace paragraph 1 by the following text :

- "1. Heads of consular posts are divided into three classes :
- "(1) Consuls-general ;
 - "(2) Consuls ;
 - "(3) Vice-consuls."

DOCUMENT A/CONF.25/C.1/L.94**Hungary and Ukrainian Soviet Socialist Republic : amendment to article 14**

[Original : English]
[13 March 1963]

After the word "admitted" insert the words ", even if provisionally,".

DOCUMENT A/CONF.25/C.1/L.95**Hungary and Ukrainian Soviet Socialist Republic : amendment to article 15**

[Original : English]
[13 March 1963]

In the last sentence of paragraph 1, replace the phrase beginning with the words "from among ..." by

the words "from among the members of the consulate who are entrusted with administrative and technical tasks".

DOCUMENT A/CONF.25/C.1/L.96**Hungary and Poland : amendment to article 19**

[Original : English]
[13 March 1963]

Delete paragraph 2.

DOCUMENT A/CONF.25/C.1/L.97**Hungary : amendment to article 21**

[Original : English]
[13 March 1963]

Insert after the words "The order of precedence as between the officials of a consulate" the words "and any changes thereof".

DOCUMENT A/CONF.25/C.1/L.98**Hungary : amendment to article 23**

[Original : English]
[13 March 1963]

In paragraph 3, insert after the words "A person" the words "appointed as head of a consular post or as a member of the consular staff".

DOCUMENT A/CONF.25/C.1/L.99**Hungary : amendments to article 27**

[Original : English]
[13 March 1963]

1. Amend paragraph 2 to read :

"2. In the event also of the temporary or permanent closure of a consulate the provisions of paragraph 1 (a) shall apply ; in this event the provisions of paragraphs 1 (b) and (c) shall equally apply if the sending State has no diplomatic mission and no other consulate in the receiving State."

2. In paragraph 3, insert after the words "custody of the" the words "consular premises together with the property and the".

DOCUMENT A/CONF.25/C.1/L.100**India and Yugoslavia : amendment to article 5**

[Original : English]
[13 March 1963]

Add a new sub-paragraph (m) as follows :

"(m) Performing, apart from those provided for in sub-paragraphs (a) to (l) of this article, such other consular functions entrusted by the sending State, which are not prohibited by the laws and regulations of the receiving State and to which no objection is taken by the receiving State, and those referred to in the international agreements in force between the sending State and the receiving State."

DOCUMENT A/CONF.25/C.1/L.101**India : amendment to article 11***[Original : English]
[13 March 1963]*

Add a new paragraph reading as follows :

"The State which refuses the exequatur or other authorization is not obliged to give reasons to the sending State for such refusal."

DOCUMENT A/CONF.25/C.1/L.102/Rev.1**Switzerland : proposal for new article
between articles 67 and 68***[Original : French]
[21 March 1963]*

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in the preceding paragraph may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them, shall be determined by agreement between the sending State and the receiving State.

DOCUMENT A/CONF.25/C.1/L.103**Nigeria : amendment to article 13***[Original : English]
[13 March 1963]*

Delete article 13.

DOCUMENT A/CONF.25/C.1/L.104**Nigeria : amendment to article 20***[Original : English]
[13 March 1963]*

Add a new paragraph reading as follows :

"The receiving State shall determine what are reasonable and normal limits in the absence of an express agreement."

DOCUMENT A/CONF.25/C.1/L.105**Nigeria : amendment to article 21***[Original : English]
[13 March 1963]*

Replace article 21 by the following text :

"The order of precedence as between the consular officials shall be notified by the head of post to the Ministry for Foreign Affairs of the receiving State or to the authority designated by the said Ministry."

DOCUMENT A/CONF.25/C.1/L.106**Congo (Leopoldville), Ethiopia, Guinea, Liberia, Libya,
Mali, Morocco, Sierra Leone, Tunisia, Upper Volta :
proposed preamble to the convention***[Original : French]
[14 March 1963]*

.....

"Recalling that consular relations have been established among peoples of all nations since ancient times,

"Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

"Considering that a United Nations Conference adopted on 18 April 1961 the Vienna Convention on Diplomatic Relations,

"Believing that an international convention on consular relations would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

"Affirming that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

"Have agreed as follows :"

DOCUMENT A/CONF.25/C.1/L.107**India : amendment to article 14***[Original : English]
[14 March 1963]*

Replace article 14 by the following text :

"As soon as the head of a consular post is admitted to the exercise of his functions, the receiving State shall ensure that necessary measures are taken without undue delay to enable him to carry out the duties of his office and to have the benefit of the provisions of the present articles."

DOCUMENT A/CONF.25/C.1/L.108**Canada : amendment to article 15***[Original : English]
[14 March 1963]*

In paragraph 1, delete the words "as a general rule" and amend the last sentence to read as follows :

"In the exceptional cases where no such officials are available to assume this position, a consular employee may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the consular post."

DOCUMENT A/CONF.25/C.1/L.109**Canada : amendment to article 17**[Original : English]
[14 March 1963]

Amend paragraph 1 to read :

"1. In a State where the sending State has no diplomatic mission, a consular official may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts."

DOCUMENT A/CONF.25/C.1/L.110**India : amendment to article 17**[Original : English]
[14 March 1963]

Substitute the following text for paragraph 1 :

"1. In a State where the sending State has no diplomatic mission or where the sending State is not represented by a diplomatic mission of a third State, a consular official may, with the express consent of the receiving State, be authorized to perform diplomatic acts. The performance of such acts by a consular official shall not be deemed to confer upon him any right to claim diplomatic privileges and immunities."

DOCUMENT A/CONF.25/C.1/L.111**India : amendment to article 20**[Original : English]
[14 March 1963]

Replace the words "reasonable and normal limits" by the words "limits considered by it to be reasonable and normal".

DOCUMENT A/CONF.25/C.1/L.112**China : amendment to article 22**[Original : English]
[14 March 1963]

In paragraph 2, add the word "prior" before the words "consent of that State".

DOCUMENT A/CONF.25/C.1/L.113**China : amendment to article 27**[Original : English]
[14 March 1963]

Amend the introductory sentence of paragraph 1 to read :

"In the event of severance of consular relations where the sending State has not a diplomatic mission in the receiving State, or in the event of severance of consular relations as well as diplomatic relations between two States :".

DOCUMENT A/CONF.25/C.1/L.114**Spain : amendments to article 23**[Original : Spanish]
[14 March 1963]

1. In the Spanish text of the title of the article replace the word "*retiro*" by the word "*retirada*".

2. In the title of the article replace the expression "Persons deemed unacceptable" by the expression "*Persona non grata*"; in paragraph 1 replace the phrase "no longer acceptable" by the expression "*persona non grata*"; and in paragraph 3 replace the word "unacceptable" by the expression "*persona non grata*".

3. Add a new paragraph 4 reading as follows :

"4. The receiving State is not obliged to communicate the reasons for its decision not to grant the exequatur or for its decision to withdraw the exequatur."

DOCUMENT A/CONF.25/C.1/L.115**Italy : amendments to article 15**[Original : French]
[14 March 1963]

1. In the last sentence of paragraph 1, delete the word "exceptional".

2. Amend paragraph 2 to read :

"The name of the acting head of post shall be notified by the head of post to the authority of the receiving State which is competent for this purpose. If the head of post should be unable to communicate this notice, it shall be communicated to the Ministry of Foreign Affairs through the diplomatic mission or Ministry of Foreign Affairs of the sending State. As a general rule this notice shall be communicated in advance."

DOCUMENT A/CONF.25/C.1/L.116**Italy : amendments to article 16**[Original : French]
[14 March 1963]

1. In paragraph 3, replace the word "presented" by the word "communicated".

2. In paragraph 4, replace the passage beginning "as between themselves" to the end by the following : "as between themselves, they rank according to the notification referred to in article 15, paragraph 2."

DOCUMENT A/CONF.25/C.1/L.117**Italy : amendment to article 17**[Original : French]
[14 March 1963]

In paragraph 2, after the word "may" insert the words " , after notification addressed to the receiving State,".

DOCUMENT A/CONF.25/C.1/L.118**Italy : amendment to article 18***[Original : French]
[14 March 1963]*

Delete the words "unless this State objects" and add the words "with the consent of the receiving State" after the word "may".

DOCUMENT A/CONF.25/C.1/L.119**Italy : amendment to article 19***[Original : French]
[14 March 1963]*

Add the following new paragraph 3 :

"3. The receiving State may, if such is required by its law, stipulate that a consular official who is appointed to a consulate in conformity with paragraph 1 of this article and who is not the head of post shall be admitted to the exercise of his functions by the exequatur."

DOCUMENT A/CONF.25/C.1/L.120**Italy : amendment to article 21***[Original : French]
[14 March 1963]*

Delete the words "by the head of post".

DOCUMENT A/CONF.25/C.1/L.121**Italy : amendment to article 68***[Original : French]
[14 March 1963]*

In paragraph 3, replace the words "only if the local law and usages so permit" by the words "which are competent under the law of that State".

DOCUMENT A/CONF.25/C.1/L.122**South Africa : amendment to article 14***[Original : English]
[15 March 1963]*

Replace the words "As soon as" by the word "When" and the word "immediately" by the words "as soon as possible".

DOCUMENT A/CONF.25/C.1/L.123**South Africa : amendment to article 15***[Original : English]
[15 March 1963]*

Amend the first sentence of paragraph 2 to read :

"The name of the acting head of post shall be notified by the diplomatic mission of the sending

State or, in the absence of such mission, by the head of the consular post or, if he is unable to do so, by any competent authority of the sending State, to the Ministry of Foreign Affairs of the receiving State, or to the authority designated by it."

DOCUMENT A/CONF.25/C.1/L.124

Argentina, Australia, Belgium, Colombia, Denmark, Iran, Nigeria, Sweden and United Kingdom :
proposal to add a new article between articles 5 and 6

*[Original : English/French]
[15 March 1963]*

Add the following new article between articles 5 and 6 of the draft articles :

"Nothing in this convention shall be so construed as to oblige the receiving State to recognize a consular officer of the sending State as entitled to act on behalf of, or otherwise concern himself with, a national of the sending State who is a refugee for reasons of race, nationality, political opinion or religion or who is seeking asylum in the receiving State for any of those reasons."

DOCUMENT A/CONF.25/C.1/L.124/Rev.1

Argentina, Australia, Belgium, Colombia, Denmark, Iran, Nigeria, Sweden and United Kingdom :
revised proposal for a new article between articles 5 and 6

*[Original : English/French]
[21 March 1963]*

Add the following new article between articles 5 and 6 of the draft articles :

"Nothing in this Convention shall be so construed as to oblige the receiving State to recognize a consular officer of the sending State as entitled to act on behalf of, or otherwise concern himself with, a national of the sending State who is a refugee for reasons of race, nationality, political opinion or religion or who is seeking asylum in the receiving State for any of those reasons. However, nothing in this article shall prevent any such national of the sending State from requesting assistance from a consular officer of the sending State or prevent such a consular officer from complying with such a request."

DOCUMENT A/CONF.25/C.1/L.125**United Kingdom : amendment to article 17***[Original : English]
[15 March 1963]*

Amend paragraph 2 to read :

"A head of a consular post or other consular official may act as representative of the sending State to any inter-governmental organization. When so acting he shall be entitled to enjoy any privileges and immunities normally accorded to such a representative, except that, in respect of the performance by him of any consular function, he shall not be

entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present convention."

DOCUMENT A/CONF.25/C.1/L.126

United Kingdom : amendment to article 18

[Original : English]
[15 March 1963]

Replace the words "head of a consular post" by the words "a consular officer".

DOCUMENT A/CONF.25/C.1/L.127

South Africa : amendments to article 16

[Original : English]
[15 March 1963]

1. In paragraph 3, delete the words "the exequatur or provisional" and, after the word "admission", add the words "to the exercise of their functions".

2. Amend paragraph 4 to read as follows :

"Acting heads of post rank after all heads of post in the class to which they themselves belong, and, as between themselves, they rank according to the dates on which they assumed their functions as acting heads of post indicated in the notification made in terms of paragraph 2 of article 15."

3. In paragraph 5, immediately after the words "career heads of post" insert the words "and career acting heads of post".

4. In paragraph 6, immediately after the words "Heads of post" insert the words "and acting heads of post".

DOCUMENT A/CONF.25/C.1/L.128

South Africa : amendment to article 17

[Original : English]
[15 March 1963]

In paragraph 1, after the words "the head of a consular post" insert the words "of the sending State".

DOCUMENT A/CONF.25/C.1/L.129

South Africa : amendment to article 21

[Original : English]
[15 March 1963]

Delete article 21.

DOCUMENT A/CONF.25/C.1/L.130

**Federal Republic of Germany :
amendments to article 19**

[Original : English]
[18 March 1963]

1. Insert after the first paragraph a new paragraph worded as follows :

"2. The full name, category and quality of all consular officials, other than the head of post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of article 23."

2. Re-number original paragraph 2 as paragraph 3.

DOCUMENT A/CONF.25/C.1/L.131

Spain : amendment to article 19

[Original : Spanish]
[18 March 1963]

Add at the end of paragraph 1 the words "but the receiving State shall have the right to demand that such appointments be submitted to its prior approval".

DOCUMENT A/CONF.25/C.1/L.132 and Corr.1

Spain : amendment to article 24

[Original : Spanish]
[18 March 1963]

In paragraph 1 (b), replace the words "member of the consulate" by the words "consular staff".

DOCUMENT A/CONF.25/C.1/L.133

Congo (Leopoldville) : amendment to article 16

[Original : French]
[18 March 1963]

Add a new paragraph reading as follows :

"7. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See."

DOCUMENT A/CONF.25/C.1/L.134

Mexico : amendment to article 23

[Original : Spanish]
[18 March 1963]

Amend paragraph 1 to read :

"1. The receiving State may at any time, and without being obliged to state the grounds for its decision, notify the sending State that the head of a consular post or a member of the consular staff is no longer acceptable. The sending State shall then either recall the person concerned or terminate his functions with the consulate, as may be appropriate."

DOCUMENT A/CONF.25/C.1/L.135

Turkey : amendment to article 20

[Original : French]
[18 March 1963]

After the words "reasonable and normal limits", insert the words "for the performance of consular functions", and delete the words "and to the needs of the particular consulate".

DOCUMENT A/CONF.25/C.1/L.136**Canada : amendment to article 71***[Original : English]
[18 March 1963]*

Amend article 71 to read :

"The provisions of the present articles shall not affect conventions, arrangements or other international agreements in force or concluded in the future as between States parties to them."

DOCUMENT A/CONF.25/C.1/L.137**South Africa : amendments to article 22***[Original : English]
[18 March 1963]*

1. Delete paragraph 1.
2. Amend paragraph 3 to read :

"The receiving State may reserve the same right as in paragraph 2 with regard to nationals of a third State who are not also nationals of the sending State, and to persons permanently resident in its territory irrespective of what their nationality is."

DOCUMENT A/CONF.25/C.1/L.138**South Africa : amendments to article 24***[Original : English]
[18 March 1963]*

1. In paragraph 1 (a), immediately before the words "as well as" insert the words "any change in designation,".
2. In paragraph 1 (d), delete the words "entitled to privileges and immunities".

DOCUMENT A/CONF.25/C.1/L.139**South Africa : amendment to article 25***[Original : English]
[18 March 1963]*

Delete article 25.

DOCUMENTS A/CONF.25/C.1/L.140 and Add.1**South Africa : amendments to article 68***[Original : English]
[18 and 21 March 1963]*

1. Delete paragraph 2.
2. In paragraph 3, delete the word "only".
3. In paragraph 4, add the following proviso :

"provided that no claim to immunity greater than that of a consular official or employee, as the case may be, under the present convention, shall be made on his behalf in respect of the performance by him in his consular capacity of any of the functions recognized under this convention."

DOCUMENT A/CONF.25/C.1/L.141**Portugal : amendment to article 27***[Original : French]
[18 March 1963]*

Replace paragraphs 2 and 3 by the following text :

"2. In the event of the temporary or permanent closure of a consulate :

"(a) If the sending State, although not represented in the receiving State by a diplomatic mission, has another consulate in the territory of that State, that consulate may be entrusted with the custody of the archives of the consulate which has been closed and, with the consent of the receiving State, with the exercise of consular functions in the district of that consulate ;

"(b) If the sending State has no diplomatic mission and no other consulate in the receiving State, the provisions of paragraph 1 of this article shall be applicable."

DOCUMENT A/CONF.25/C.1/L.142**United Kingdom : amendments to article 27***[Original : English]
[19 March 1963]*

1. In paragraph 2, insert the words "the same territory of" before the words "the receiving State" at the end of the paragraph.

2. In paragraph 3, insert the word "same" before the words "territory of that State".

DOCUMENT A/CONF.25/C.1/L.144**Indonesia : amendment to article 24***[Original : English]
[19 March 1963]*

In paragraph 1 (d), replace the words "members of the consulate" by the words "consular employees".

DOCUMENT A/CONF.25/C.1/L.145**Indonesia : amendment to article 26***[Original : English]
[19 March 1963]*

Amend the first sentence to read :

"The receiving State must, even in case of armed conflict, grant facilities in order to enable members of the consulate and their private staff, other than nationals of the receiving State, and members of their families, irrespective of their nationality, to leave at the earliest possible moment."

DOCUMENT A/CONF.25/C.1/L.146**Congo (Leopoldville) : amendment to article 23***[Original : French]
[19 March 1963]*

At the end of paragraph 2 add the following sentence :

"Nevertheless, before exercising this right the receiving State must satisfy itself that the notice declaring the person concerned unacceptable has in fact been received by the sending State."

DOCUMENT A/CONF.25/C.1/L.147

India : amendment to article 23

[Original : English]
[19 March 1963]

Add the following new paragraph :

"The receiving State is not obliged to give reasons to the sending State for withdrawal of the exequatur or other authorization."

DOCUMENT A/CONF.25/C.1/L.148

India : amendment to article 24

[Original : English]
[19 March 1963]

Amend paragraph 1 (a) to read :

"(a) The appointment of members of their consulate, their arrival after appointment to the consulate, their final departure or termination of their functions and any other changes that may occur at any time in the course of services with the consulate."

DOCUMENT A/CONF.25/C.1/L.149

Austria and Switzerland : amendments to article 23

[Original : English]
[19 March 1963]

1. Amend the first sentence of paragraph 1 to read :

"The receiving State may at any time notify the sending State that the head of a consular post or any other member of the consular staff is no longer acceptable."

2. Add a new paragraph 4 as follows :

"4. In the cases mentioned in paragraphs 1 and 3 the receiving State is not obliged to explain its decision."

DOCUMENT A/CONF.25/C.1/L.150

Argentina : amendment to article 23

[Original : Spanish]
[19 March 1963]

In the first sentence of paragraph 1, after the words "the sending State" add the words "without having to explain the reasons for its decision,".

DOCUMENT A/CONF.25/C.1/L.151

Czechoslovakia : amendment to article 26

[Original : English]
[19 March 1963]

Add the following words at the end of the first sentence : "and grant them the necessary time for the preparation of their departure and the transport of their property."

DOCUMENT A/CONF.25/C.1/L.152

Australia : amendment to article 27

[Original : English]
[19 March 1963]

In paragraph 2, delete the words "if the sending State has no diplomatic mission and no other consulate in the receiving State".

DOCUMENT A/CONF.25/C.1/L.153

United Kingdom : amendments to article 68

[Original : English]
[21 March 1963]

1. Amend paragraph 1 to read :

"The provisions of the present convention apply also, so far as the context permits, where consular functions are exercised by a diplomatic mission."

2. Amend paragraph 3 to read :

"In the exercise of consular functions a diplomatic mission may address :

"(a) The local authorities of their district ;

"(b) The central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by the relative international agreements."

3. Amend paragraph 4 to read as follows :

"A member of a diplomatic mission to whom paragraph 2 of this article applies shall continue to enjoy all those privileges and immunities which he derives from his diplomatic status, but, in respect of the performance by him in his consular capacity of a consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer or employee, as the case may be, is entitled under this convention."

DOCUMENT A/CONF.25/C.1/L.154

**Austria, Canada and Netherlands :
amendment to article 71**

[Original : English]
[21 March 1963]

Amend article 71 to read :

"The provisions of this convention shall not affect existing or future conventions or other international agreements between States parties to them."

DOCUMENT A/CONF.25/C.1/L.155

India : amendment to article 71

[Original : English]
[21 March 1963]

Substitute the following text for article 71.

"1. Nothing in the present convention precludes States from concluding bilateral agreements or conventions confirming or supplementing or extending

or amplifying the provisions thereof or affect the continuance in force of such conventions.

"2. States which become parties to the present convention shall review and revise, if necessary, the existing bilateral agreements or conventions in so far as they are incompatible with the basic rules embodied in the present convention."

DOCUMENT A/CONF.25/C.1/L.156

Greece: amendment to the new article proposed by Argentina, Australia, Belgium, Colombia, Denmark, Iran, Nigeria, Sweden and the United Kingdom (A/CONF.25/C.1/L.124)

[Original: French]
[22 March 1963]

Add the following sentence at the end of the proposed new article:

"The Office of the United Nations High Commissioner for Refugees can, if necessary, act as intermediary in order to give effect to such a request."

DOCUMENT A/CONF.25/C.1/L.157

Amendments to article 27 submitted by the Working Group appointed by the First Committee¹

[Original: English]
[21 March 1963]

1. Amend the introductory sentence of paragraph 1 to read:

"In the event of severance of consular relations where the sending State has not a diplomatic mission in the receiving State, or in the event of severance of consular relations as well as diplomatic relations between two States:"

2. Replace paragraphs 2 and 3 by the following provisions:

"2. In the event of the temporary or permanent closure of a consulate the provisions of paragraph 1 (a) shall apply. In addition,

"(a) If the sending State, although not represented in the receiving State by a diplomatic mission, has another consulate in the territory of that State, that consulate may be entrusted with the custody of the premises of the consulate which has been closed together with the property it contains and its archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consulate; or

"(b) If the sending State has no diplomatic mission and no other consulate in the receiving State, the provisions of paragraphs 1 (b) and (c) of this article shall be applicable."

¹ See the summary records of the 24th and 26th meetings of the First Committee.

DOCUMENT A/CONF.25/C.1/L.158

Union of Soviet Socialist Republics: amendment to the final articles proposed by the United States of America (A/CONF.25/C.1/L.7)

[Original: Russian]
[22 March 1963]

1. In the first proposed article, delete the words:

"Members of the United Nations or of any of the specialized agencies or Parties to the Status of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the convention".

2. In the third proposed article, delete the words: "Belonging to any of the four categories mentioned in article ...".

3. In the fifth proposed article, delete the words: "Belonging to any of the four categories mentioned in article ...".

4. In the first paragraph of the sixth proposed article, delete the words: "Belonging to any of the four categories mentioned in article ...".

DOCUMENT A/CONF.25/C.1/L.159

United Arab Republic and Yugoslavia: amendment to the final articles proposed by the United States of America (A/CONF.25/C.1/L.7)

[Original: French]
[22 March 1963]

In the first proposed article, after the words "International Court of Justice" insert the words "or by States whose conventions on consular relations have been registered with the Secretariat of the United Nations,".

DOCUMENT A/CONF.25/C.1/L.160

Brazil, Ceylon, Federation of Malaya, Union of Soviet Socialist Republics, United Kingdom and Upper Volta: draft resolution

[Original: English/Russian]
[23 March 1963]

The United Nations Conference on Consular Relations,

Taking note of the memorandum submitted by the United Nations High Commissioner for Refugees,² and noting the statements made by delegations during the course of the discussion,

Requests the Secretary-General of the United Nations to submit for the consideration of the appropriate organs of the United Nations all documents and records pertaining to the discussion of the refugee question mentioned in the aforesaid memorandum, and meanwhile decides not to take any decision on this question.

² Document A/CONF.25/L.6.

DOCUMENT A/CONF.25/C.1/L.161

Switzerland : proposed new article (subsidiary to the article proposed by the United States of America (A/CONF.25/C.1/L.70))

[Original : French]
[25 March 1963]

1. Any dispute between contracting parties concerning the interpretation or application of this convention which cannot be settled by negotiation shall be submitted to arbitration at the request of one of the parties. If within the six months which follow the date of the request for arbitration the parties do not succeed in agreeing on the organization of the arbitration, any one of them may submit the dispute to the International Court of Justice by making an application in conformity with the Statute of the Court.

2. Any contracting party may, at the time of signing or ratifying this convention or of acceding thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other contracting parties shall not be bound by the said paragraph with respect to any contracting party which has formulated such a reservation.

DOCUMENT A/CONF.25/C.1/L.162

Belgium : optional protocol concerning the settlement of disputes

[Original : French]
[26 March 1963]

Proposal for the drafting of an optional protocol on the settlement of disputes based on the Protocol on that subject attached to the 1961 Vienna Convention on Diplomatic Relations.

DOCUMENT A/CONF.25/C.1/L.163

Ghana and India : optional protocol concerning the compulsory settlement of disputes

[Original : English]
[26 March 1963]

Proposal that the Conference should adopt an optional protocol concerning the compulsory settlement of disputes on the model of the Optional Protocol concerning the Compulsory Settlement of Disputes attached to the Vienna Convention on Diplomatic Relations, 1961.

DOCUMENT A/CONF.25/C.1/L.164

Belgium, Portugal and Spain : optional protocol concerning acquisition of nationality

[Original : Spanish]
[27 March 1963]

Proposal for the drafting of an optional protocol on the acquisition of nationality similar to the Protocol on that subject attached to the 1961 Vienna Convention on Diplomatic Relations.

DOCUMENT A/CONF.25/C.1/L.165

South Africa : amendment to article 53³

[Original : English]
[28 March 1963]

Amend the last sentence of paragraph 3 to read as follows :

"In the case of the persons referred to in paragraph 2 above, their privileges and immunities shall come to an end immediately they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the country within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure."

DOCUMENT A/CONF.25/C.1/L.166 and Corr.1

Text of article 1 recommended by the Drafting Committee to the First Committee

[Original : English]
[2 April 1963]

*Article 1**Definitions*

1. For the purpose of the present convention, the following expressions shall have the meanings hereunder assigned to them :

(a) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency ;

(b) "Consular district" means the area assigned to a consular post for the exercise of its functions ;

(c) "Head of consular post" means the person charged with the duty of acting in that capacity ;

(d) "Consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions ;

(e) "Consular employee" means any person employed in the administrative or technical service of a consular post ;

(f) "Member of the service staff" means any person employed in the domestic service of a consular post ;

(g) "Members of the consular post" means consular officers, consular employees and members of the service staff ;

(h) "Members of the consular staff" means consular officers other than the head of a consular post, consular employees and members of the service staff ;

(i) "Member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post and who is not an employee of the sending State ;

(j) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective

³ Articles 52 to 55, originally referred to the Second Committee, were re-allocated to the First Committee by a decision of the plenary Conference. Further amendments to these articles will be found in the list of "Proposals and amendments submitted in the Second Committee".

of ownership, used for the purposes of the consular post ;⁴

(k) "Consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers.

DOCUMENT A/CONF.25/C.1/L.167

Netherlands : amendment to the text of article 1 recommended by the Drafting Committee (A/CONF.25/C.1/L.166)

[Original : English]
[4 April 1963]

Add the following words at the end of paragraph 1 (f) :

"or of a member of a consular post, who is an employee of the sending State ;".

B. PROPOSALS AND AMENDMENTS SUBMITTED IN THE SECOND COMMITTEE

DOCUMENT A/CONF.25/C.2/L.1

United States of America : amendments to article 29

[Original : English]
[5 March 1963]

1. Amend paragraph 1 to read as follows :

"The sending State shall have the right, in the territory of the receiving State, to acquire by purchase or otherwise the premises necessary for its consulate, under such forms of property tenure as exist in the receiving State. The treatment accorded to the sending State in this respect shall be no less favourable than that accorded to nationals of the receiving State under its laws."

2. In paragraph 2, replace the words "It shall also" by the words "The receiving State shall".

DOCUMENT A/CONF.25/C.2/L.2

United States of America : amendments to article 30

[Original : English]
[5 March 1963]

1. Amend paragraph 1 to read :

"Premises used exclusively for the exercise of consular functions shall be inviolable. The agents of the receiving State may not enter them save with the consent of the head of post or his designee, except in case of fire or other disaster requiring prompt protective action."

2. Amend paragraph 3 to read :

"Consular premises which are inviolable under this article, and furnishings and property thereon

⁴ With regard to the following amendments to this sub-paragraph, the Drafting Committee felt that the decision should be taken by the First Committee :

(1) Amendment submitted to the Drafting Committee by Brazil and India :

"Insert the word 'exclusively' between the words 'used' and 'for the purpose of the consular post'."

(2) Amendments submitted to the Drafting Committee by the Federal Republic of Germany, Japan and Nigeria :

"At the end of sub-paragraph (j) add the following words 'including the residence of the head of consular post'."

belonging to the sending State, shall be immune from any search, or attachment."

DOCUMENT A/CONF.25/C.2/L.3

United States of America : amendments to article 36

[Original : English]
[5 March 1963]

Amend paragraph 1 (b) as follows :

1. After the words "The competent authorities shall," add the words "at the request of a national of the sending State,".

2. Replace the words "a national of that State" by the words "such national".

3. Add the following sentence after the first sentence :

"If a person in prison, custody, or detention appears to be incapable, by reason of physical or mental incapacity, of communicating with the consular officials of the sending State, the authorities of the receiving State shall so notify the competent consulate."

DOCUMENT A/CONF.25/C.2/L.4

United States of America : amendment to article 37

[Original : English]
[5 March 1963]

Delete paragraphs (a) and (b).

DOCUMENT A/CONF.25/C.2/L.5

United States of America : amendment to article 40

[Original : English]
[5 March 1963]

Amend article 40 to read :

"The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity."

DOCUMENT A/CONF.25/C.2/L.6**United States of America : amendment to article 44***[Original : English]
[5 March 1963]*

Delete the second sentence of paragraph 1.

DOCUMENT A/CONF.25/C.2/L.7**United States of America : amendment to article 46***[Original : English]
[5 March 1963]*

Amend paragraph 2 to read :

"Members of the consulate and their private staff shall, with respect to employment in the consulate and with respect to employment in the private staff, be exempt from any obligations in regard to work permits imposed either on employers or on employees by the laws and regulations of the receiving State concerning the employment of foreign labour."

DOCUMENT A/CONF.25/C.2/L.8**United States of America : amendment to article 52***[Original : English]
[5 March 1963]*

Delete article 52.

DOCUMENT A/CONF.25/C.2/L.9**United States of America : amendment to article 53***[Original : English]
[5 March 1963]*

In paragraph 4, delete the words " , his personal inviolability and ".

DOCUMENT A/CONF.25/C.2/L.10**United States of America : amendments to article 54***[Original : English]
[5 March 1963]*

1. Amend the last clause of the first sentence of paragraph 1 to read : "...the third State shall accord to him such immunities provided for by the other articles of this convention as may be required to ensure his transit or return."

2. In the last clause of the first sentence of paragraph 3 insert, between the words "are" and "accorded", the words "required by this convention to be".

DOCUMENT A/CONF.25/C.2/L.11**United States of America : amendment to article 61***[Original : English]
[5 March 1963]*

Delete article 61.

DOCUMENT A/CONF.25/C.2/L.12**United States of America : amendment to article 69***[Original : English]
[5 March 1963]*

Amend paragraphs 1 and 2 by adding in each paragraph the words "or permanently resident in" after the words "who are nationals of".

DOCUMENT A/CONF.25/C.2/L.13**Netherlands : amendments to article 30***[Original : English]
[5 March 1963]*

1. Amend paragraph 3 to read :

"The premises of the consulate, their furnishings and other property thereon shall be immune from any search, requisition, attachment or execution."

2. Add the following new paragraph :

"The means of transport of the consulate shall be immune from any requisition."

DOCUMENT A/CONF.25/C.2/L.14**Netherlands : amendment to article 32***[Original : English]
[5 March 1963]*

Delete the words "and documents".

DOCUMENT A/CONF.25/C.2/L.15**Netherlands : amendment to article 35***[Original : English]
[5 March 1963]*

Insert the following new paragraph between paragraphs 5 and 6 :

"The sending State may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge."

DOCUMENT A/CONF.25/C.2/L.16**Netherlands : amendment to article 41***[Original : English]
[5 March 1963]*

In paragraph 1, replace the word "may" by the word "shall".

DOCUMENT A/CONF.25/C.2/L.17**Netherlands : amendment to article 46***[Original : English]
[5 March 1963]*

Add after paragraph 2 a new paragraph reading as follows :

"Paragraph 2 of this article shall not apply to the employment outside the consulate of persons belonging to the families of members of the consulate."

DOCUMENT A/CONF.25/C.2/L.18/Rev.1

Netherlands : amendment to article 48

[Original : English]
[5 March 1963]

Replace article 48 by the following text :

"1. Members of the consulate shall be exempt in the receiving State from all national, regional or municipal taxes or charges whatsoever, in respect of any official emoluments, salary, wages or allowances received by them as compensation for their services.

"2. Consular officials shall also be exempt in the receiving State from all national, regional or municipal taxes or charges whatsoever in respect of :

- "(a) Income derived from sources outside the receiving State and already taxed or charged elsewhere ;
- "(b) The use of their residence and of the movable property installed therein, held by them on behalf of the sending State for the purposes of the Consulate ;
- "(c) The purchase, ownership or use of a motor vehicle.

DOCUMENT A/CONF.25/C.2/L.19

Netherlands : amendment to article 52

[Original : English]
[5 March 1963]

Replace article 52 by the following text :

"Members of the consulate and members of their families forming part of their households shall not solely by residence or birth within the territory of the receiving State acquire the nationality of the receiving State, without their consent."

DOCUMENT A/CONF.25/C.2/L.20

Netherlands : amendment to articles 58 and 60

[Original : English]
[5 March 1963]

Replace the word "consul" by the words "consular official".

DOCUMENT A/CONF.25/C.2/L.21

Netherlands : amendment to article 69

[Original : English]
[5 March 1963]

In paragraphs 1 and 2, between the words "who are nationals of" and "the receiving State", insert the words "or permanently resident in".

DOCUMENT A/CONF.25/C.2/L.22

Switzerland : amendment to article 28

[Original : French]
[5 March 1963]

After the words "shall have the right" insert ", in accordance with the practices in force in the receiving State,".

DOCUMENT A/CONF.25/C.2/L.23

Spain : amendment to article 28

[Original : Spanish]
[5 March 1963]

Replace the words "The consulate and its head shall have" by the words "The head of the consular office shall have".

DOCUMENT A/CONF.25/C.2/L.24

Spain : amendment to article 30

[Original : Spanish]
[6 March 1963]

After the words "consular premises", add the words "including the residence of the head of the consular post".

DOCUMENT A/CONF.25/C.2/L.25

Belgium : amendment to article 36

[Original : French]
[6 March 1963]

Re-draft paragraph 1 (c) to read :

"(c) Consular officials shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse with and write to him and to arrange for his legal representation. They shall also have the right ...".

DOCUMENT A/CONF.25/C.2/L.26

Austria : amendment to article 30

[Original : English]
[6 March 1963]

Add the following words at the end of paragraph 1 : "or the consent of the head of the respective diplomatic mission".

DOCUMENT A/CONF.25/C.2/L.27

Nigeria : amendments to article 30

[Original : English]
[6 March 1963]

1. At the end of paragraph 1 add the following :

"Where the consent of the head of post is refused, the premises may be entered pursuant to appropriate writ or process and with the consent of the Minister/Secretary of State for Foreign Affairs. Also, the

consent of the head of post shall be assumed in the event of fire or other disaster or if the authorities of the receiving State have reasonable cause to believe that a crime of violence has been or is being or is about to be committed within the consular premises.”

2. Replace paragraphs 2 and 3 by the following :

“2. A consulate shall not be used to afford asylum to fugitives from justice. If the surrender of a fugitive from justice should be refused on the lawful demand of the authorities of the receiving State, these authorities, subject to the provisions of paragraph 1 of this article, may, if necessary, enter the consular premises to apprehend the fugitive.

“3. Any entry into or search of the consulate pursuant to paragraphs 1 and 2 of this article shall be conducted with due regard to the inviolability of the consular archives, as provided for in article 32.”

3. Add two new paragraphs reading as follows :

“4. The receiving State is under a special duty to take all appropriate steps to protect the consular premises, subject to the provisions of the foregoing paragraphs, against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

“5. The consular premises, their furnishings, the property of the consulate and its means of transport shall be, subject to the provisions of the foregoing paragraphs, immune from any search, requisition, attachment or execution.”

DOCUMENT A/CONF.25/C.2/L.28

Brazil : amendment to article 28

[Original : English]
[5 March 1963]

Delete the words “and its head” and “and on the means of transport of the head of post”.

DOCUMENT A/CONF.25/C.2/L.29

United Kingdom : amendments to article 30

[Original : English]
[6 March 1963]

1. Amend paragraph 1 to read :

“Subject to the provisions of this article that part of the consular premises which is used exclusively for the purposes of the work of the consuls shall be inviolable and may not be entered by the agents of the receiving State without the consent of the head of post. In the absence of such consent it may only be entered by the agents of the receiving State on the authority of the Minister for Foreign Affairs of the receiving State or such other Minister as may be agreed, or in case of fire or other disaster, or if there is reasonable cause to believe that a crime of violence to person or property is being or is about to be or has been committed there.”

2. Add two new paragraphs reading as follows :

“4. Nothing in this article shall prevent an entry into the consular premises by any person entitled to enter by virtue of any contract or other private right.

“5. Consular premises shall not be used to afford asylum to fugitives from justice.”

DOCUMENT A/CONF.25/C.2/L.30

United Kingdom : amendment to article 31

[Original : English]
[6 March 1963]

In paragraph 1, replace the words “the head of post” by the words “any person in whose name property is owned or leased for consular purposes on behalf of the sending State”.

DOCUMENT A/CONF.25/C.2/L.31

South Africa : amendment to article 31

[Original : English]
[6 March 1963]

In paragraph 1, delete the words “whether owned or leased,” and add the following words at the end of the paragraph : “provided the premises are owned by, or leased on behalf of, the Government of the sending State.”

DOCUMENT A/CONF.25/C.2/L.32

Belgium : amendment to article 31

[Original : French]
[6 March 1963]

Amend the opening words of paragraph 1 to read : “The sending State and any individual or body corporate acting on behalf of the sending State shall be exempt ...”.

DOCUMENT A/CONF.25/C.2/L.33/Rev.1

United States of America : amendment to article 31

[Original : English]
[11 March 1963]

Amend paragraph 1 to read :

“Consular premises used exclusively for consular purposes and situated in the territory of the receiving State, of which the sending State or the head of post acting for the sending State is the legal or equitable owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.”

DOCUMENT A/CONF.25/C.2/L.34

Hungary : amendment to the title of chapter II

[Original : English]
[6 March 1963]

Insert after the words “immunities of” the word “consulates.”.

DOCUMENT A/CONF.25/C.2/L.35**Italy : amendment to article 28***[Original : French]*
[5 March 1963]

Add at the end of the article the following sentence :
 "In flying the national flag the customary practices of the receiving State shall be observed".

DOCUMENT A/CONF.25/C.2/L.36**Nigeria : amendment to article 28***[Original : English]*
[5 March 1963]

Add the following sentence :

"On suitable occasions these flags may also be flown at the head of post's residence."

DOCUMENT A/CONF.25/C.2/L.37**Italy : amendment to article 31***[Original : French]*
[6 March 1963]

In paragraph 1, insert after the words "the head of post" the phrase "acting on its behalf".

DOCUMENT A/CONF.25/C.2/L.38**South Africa : amendment to article 32***[Original : English]*
[6 March 1963]

Delete the words "and documents" and add the following words at the end :

"provided they are clearly identifiable and are kept separate from other documents and property".

DOCUMENT A/CONF.25/C.2/L.39**United Kingdom : amendment to article 32***[Original : English]*
[6 March 1963]

Amend article 32 to read :

"The consular archives shall be inviolable at all times and wherever they may be. They shall be kept separate from any document or object relating to the private affairs of a consular officer or employee."

DOCUMENT A/CONF.25/C.2/L.40**United Kingdom : amendment to article 28***[Original : English]*
[6 March 1963]

Amend article 28 to read :

"The national flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consulate and at the entrance door thereof, and, subject to the laws and regulations of the receiving State, on the residence and means of transport of consular officers."

DOCUMENT A/CONF.25/C.2/L.41**Finland : amendment to article 44***[Original : English]*
[6 March 1963]

Delete the last sentence of paragraph 1.

DOCUMENT A/CONF.25/C.2/L.42**Switzerland : amendment to article 35***[Original : French]*
[6 March 1963]

In the second sentence of paragraph 1, delete the words "and the other consulates" and "wherever situated".

DOCUMENT A/CONF.25/C.2/L.43**Mexico : amendment to article 30***[Original : Spanish]*
[6 March 1963]

In paragraph 2, replace the words "appropriate steps" by the words "steps within its power".

DOCUMENT A/CONF.25/C.2/L.44**Mexico : amendment to article 32***[Original : Spanish]*
[6 March 1963]

Delete the word "consular" and after the word "documents" add the words "belonging to the consulate."

DOCUMENT A/CONF.25/C.2/L.45**Austria : amendment to article 32***[Original : English]*
[6 March 1963]

Delete the words : "and documents".

DOCUMENT A/CONF.25/C.2/L.46**Japan : amendments to article 30***[Original : English]*
[6 March 1963]

1. Replace paragraph 1 by the following text :

"1. The consular premises shall not be entered by the police or other authorities of the receiving State, except with the consent of the responsible consular official or, if such consent cannot be obtained, pursuant to appropriate writ or process and with the consent of the Minister for Foreign Affairs of the receiving State. The consent of the responsible consular official shall be presumed in the event of fire or other disaster or in the event that the authorities of the receiving State have reasonable cause to believe that a crime involving

violence to persons or property has been, or is being, or is about to be committed in the consular premises."

2. Delete paragraph 2, and insert the following as an additional paragraph in article 40:

"The receiving State shall afford special protection to consular premises."

3. Delete paragraph 3.

4. Add the following new paragraph:

"The consular premises shall not be used to afford asylum to fugitives from justice. If a consular official refuses to surrender a fugitive from justice on the lawful demand of the authorities of the receiving State, such authorities may, in accordance with the procedure referred to in paragraph 1 of this article, enter the consular premises to apprehend the fugitive."

DOCUMENT A/CONF.25/C.2/L.47

Japan : amendment to article 32

[Original : English]
[6 March 1963]

Replace article 32 by the following text:

"1. The consular archives shall be kept in a place entirely separate from the place where the private papers of members of the consulate are kept. This provision does not require the separation of diplomatic from consular archives when a consular office forms part of the diplomatic mission.

"2. The consular archives shall at all times be inviolable, and the authorities of the receiving State may not, under any pretext, examine or detain them."

DOCUMENT A/CONF.25/C.2/L.48

Spain : amendment to article 28

[Original : Spanish]
[6 March 1963]

Amend article 28 to read:

"The national flag and coat of arms of the sending State may be placed on the building occupied by the consulate and, in accordance with the laws and regulations of the receiving State, on the residence and on the means of transport of the head of the consular office."

DOCUMENT A/CONF.25/C.2/L.49

Austria : amendments to article 37

[Original : English]
[7 March 1963]

1. Add the following words at the end of sub-paragraph (a):

"and, as soon as possible, to transmit a certificate of death;"

2. Amend the first part of sub-paragraph (c) to read:

"(c) If a vessel used for maritime or inland navigation, being listed in the register of the sending State or being otherwise entitled to show the flag of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State..."

DOCUMENT A/CONF.25/C.2/L.50

Austria : amendment to article 44

[Original : English]
[7 March 1963]

At the beginning of the second sentence of paragraph 2, replace the words "In particular it shall" by the words "It may".

DOCUMENT A/CONF.25/C.2/L.51

Austria : amendment to article 56

[Original : English]
[7 March 1963]

Amend the title and the wording of this article as follows:

"Exclusion of private gainful occupation for career consular officials"

"Consular officials and members of their families forming part of their households shall not in the receiving State practise, for personal profit, any professional or commercial activity."

DOCUMENT A/CONF.25/C.2/L.52

Austria : amendment to article 58

[Original : English]
[7 March 1963]

Add the following words at the end of the article:

"or the consent of the head of the respective diplomatic mission."

DOCUMENT A/CONF.25/C.2/L.53

Austria : amendment to article 60

[Original : English]
[7 March 1963]

Delete the words "and documents".

DOCUMENT A/CONF.25/C.2/L.54

Austria : amendment to article 62

[Original : English]
[7 March 1963]

Delete the words "with the exception of those who carry on a gainful private occupation."

DOCUMENT A/CONF.25/C.2/L.55**Japan : amendments to article 35**

[Original : English]
[7 March 1963]

1. In paragraph 1, replace the words "including diplomatic or consular couriers" by the words "including diplomatic couriers".

2. Replace paragraph 5 by the following text :

"5. Diplomatic couriers may be entrusted with the transmission of a consular bag."

DOCUMENT A/CONF.25/C.2/L.56**Japan : amendment to article 36**

[Original : English]
[7 March 1963]

In paragraph 1 (b), replace the first sentence by the following text :

"The competent authorities of the receiving State shall, at the request of a national of the sending State who is committed to prison or to custody pending trial or is detained in any other manner in the receiving State, inform the competent consulate of the sending State."

DOCUMENT A/CONF.25/C.2/L.57**Japan : amendment to article 38**

[Original : English]
[7 March 1963]

Replace article 38 by the following text :

"In the exercise of the functions specified in article 5, consular officials may address the local appropriate authorities of the receiving State. They may also address the central government of the receiving State with the consent of the latter."

DOCUMENT A/CONF.25/C.2/L.58**Japan : amendments to article 40**

[Original : English]
[7 March 1963]

1. Delete the second sentence of the article.

2. Add a new paragraph reading as follows :

"The receiving State shall afford special protection to consular premises."

DOCUMENT A/CONF.25/C.2/L.59**Greece : amendment to article 30**

[Original : French]
[7 March 1963]

Amend article 30 to read :

"1. The agents of the receiving State shall not enter the consular premises except with the consent

of the head of post. Failing such consent, the police or other authorities of the receiving State shall not enter the consular premises, except under a warrant or a decision of the court and with the authorization of the Minister for Foreign Affairs of the receiving State. The consent of the head of post may, however, be presumed in the case of fire or other disaster, or if the authorities of the receiving State have reasonable grounds for believing that an offence involving violence in respect of persons or property is about to be, is being, or has been committed on the consular premises. An explanation in writing stating the grounds for such action shall be provided immediately through the diplomatic channel.

"2. The receiving State shall take all appropriate steps to ensure the protection of the consular premises.

"3. The provisions of the present article shall not be construed as a recognition of the right of asylum.

"4. The consular premises, their furnishings, the property of the consulate and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation or occupation is necessary for such purposes, all necessary steps shall be taken to avoid impeding the performance of the consular functions, and a prompt, adequate and effective indemnity shall be paid to the sending State."

DOCUMENT A/CONF.25/C.2/L.60**Belgium, Brazil, Czechoslovakia, India, Italy, Liechtenstein, Switzerland, Ukrainian Soviet Socialist Republic and United Kingdom : amendment to article 28**

[Original : English]
[7 March 1963]

Amend article 28 to read :

"1. The sending State shall have the right to the use of its national flag and coat of arms in the receiving State as provided in this article.

"2. The national flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consulate and at the entrance door thereof and on the residence and means of transport of the head of the consular post.

"3. The right accorded by this article shall be exercised in conformity with the law and usage of the receiving State."

DOCUMENT A/CONF.25/C.2/L.61**Indonesia : amendment to article 41**

[Original : English]
[7 March 1963]

In paragraph 1, after the word "judicial" insert the words "or other".

DOCUMENT A/CONF.25/C.2/L.62/Rev.1**Federal Republic of Germany : amendment to article 41**

[Original : English]
[7 March 1963]

Replace paragraph 1 by the following text :

"A consular officer may not be taken into custody without proper authorization of the competent judicial authority save in the case that :

"(a) He is detected in the course of committing an offence ;

"(b) He is suspect of having committed a grave crime ; or

"(c) He is suspect of having committed any other crime and not able to prove his identity.

"He must be released or turned over to the competent judicial authority at the latest during the day following his arrestation. The competent judicial authority can order the detention of the consular officer only in the case of a grave crime.

"For the purpose of this article an offence shall be considered to be a grave crime, if for its commission a maximum sentence of at least four years' imprisonment or a more severe punishment is imposed by the law of the receiving State."

DOCUMENT A/CONF.25/C.2/L.63**Brazil : amendment to article 37**

[Original : English]
[7 March 1963]

Add the following as sub-paragraph (d) :

"(d) Inform the competent consulate as soon as possible of the names of the nationals of the sending State who have acquired the nationality of the receiving State."

DOCUMENT A/CONF.25/C.2/L.64**Brazil : amendment to article 41**

[Original : English]
[7 March 1963]

Amend paragraph 1 to read :

"1. Consular officials shall not be liable to arrest or detention pending trial, except in case of an offence punishable by a maximum penalty of not less than five years' imprisonment, and pursuant to a decision by the competent judicial authority."

DOCUMENT A/CONF.25/C.2/L.65**Thailand : amendment to article 36**

[Original : English]
[7 March 1963]

Delete paragraph 1 (a).

DOCUMENT A/CONF.25/C.2/L.66**Thailand : amendment to article 37**

[Original : English]
[7 March 1963]

Delete sub-paragraphs (a) and (b).

DOCUMENT A/CONF.25/C.2/L.67**Thailand : amendment to article 48**

[Original : English]
[7 March 1963]

Amend paragraph 2 to read :

"2. Members of the service staff and members of the private staff who are not nationals of the receiving State nor locally recruited but are in the sole employ of members of the consulate shall be exempt from dues and taxes on the wages which they receive for their services."

DOCUMENT A/CONF.25/C.2/L.68**Thailand : amendment to article 54**

[Original : English]
[7 March 1963]

In paragraph 3, replace the word "correspondence" by the words "official correspondence".

DOCUMENT A/CONF.25/C.2/L.69**Thailand : amendment to article 65**

[Original : English]
[7 March 1963]

Replace the word "correspondence" by the words "official correspondence".

DOCUMENT A/CONF.25/C.2/L.70**Byelorussian Soviet Socialist Republic :
amendment to article 35**

[Original : Russian]
[8 March 1963]

Insert a new paragraph between paragraphs 5 and 6, reading as follows :

"The sending State, its diplomatic mission and its consulate may appoint consular couriers *ad hoc*. In that case the provisions of paragraph 5 of this article shall also be applicable, provided always that the immunities therein mentioned shall cease to apply so soon as the courier has delivered the consular bag to its destination."

DOCUMENT A/CONF.25/C.2/L.71
Greece, Japan, Nigeria and United Kingdom :
amendment to article 30

[Original: English]
 [8 March 1963]

Replace paragraph 1 by the following text :

"1. Consular premises shall be inviolable to the extent provided in this article.

"2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consulate except :

"(a) With the consent of the head of the consular post or of the head of the diplomatic mission of the sending State, or

"(b) Failing such consent, pursuant to an order of the appropriate judicial authority and with the authorization of the Minister for Foreign Affairs of the receiving State or such other Minister as may be agreed.

"3. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action or if the authorities of the receiving State have reasonable cause to believe that a crime of violence to person or property has been or is being or is about to be committed within the consular premises.

"4. If the consular premises are entered by the authorities of the receiving State without consent as provided in paragraph 2 (a) of this article, an explanation in writing stating the grounds for such action shall be furnished immediately by the receiving State to the sending State through the diplomatic channel."

DOCUMENT A/CONF.25/C.2/L.72
Australia : amendments to article 34

[Original: English]
 [12 March 1963]

1. Replace the word "ensure" by the word "permit".

2. Replace the words "in its territory" by the words "in their consular district".

DOCUMENT A/CONF.25/C.2/L.73
Federal Republic of Germany : amendment to article 35

[Original: English]
 [8 March 1963]

Replace paragraph 3 by the following text :

"3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than the corre-

spondence, documents or articles referred to in paragraph 4, they may, with the authorization of the Ministry for Foreign Affairs of the receiving State, request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of that State they may take back the bag."

DOCUMENT A/CONF.25/C.2/L.74
Federal Republic of Germany :
amendments to article 36

[Original: English]
 [8 March 1963]

1. In paragraph 1 (b), between the words "without undue delay" and "inform", add the words: "but at the latest within one month".

2. In paragraph 1 (c), between the words "Consular officials" and "shall", add the words "or persons acting on their behalf".

DOCUMENT A/CONF.25/C.2/L.75
South Africa : amendments to article 35

[Original: English]
 [8 March 1963]

1. In paragraph 1, replace the words "free communication" by the words "freedom of communication".

2. Amend paragraph 3 to read :

"3. The consular bag, like the diplomatic bag, shall not be opened or detained. The authorities of the receiving State may, however, require the opening of the consular bag if there is reasonable cause to believe that it is being used for an improper purpose. In such event, the bag shall be opened only in the presence of a representative of the consulate."

3. In paragraph 4, insert the word "exclusively" after the word "intended".

4. In paragraph 6, insert at the beginning of the last sentence the words: "By arrangement with the local airport authorities,".

DOCUMENT A/CONF.25/C.2/L.76
Federation of Malaya : amendment to article 37

[Original: English]
 [8 March 1963]

Add the following proviso after sub-paragraph (c) :

"Provided that the provisions of paragraphs (a) and (b) shall not apply where the deceased person, or the minor, or other person lacking full capacity mentioned in paragraphs (a) and (b) respectively, is under the laws and regulations of the receiving State, treated as an alien having a permanent residence."

DOCUMENT A/CONF.25/C.2/L.77**Ireland : amendment to article 37**

[Original : English]
[8 March 1963]

Replace the introductory phrase by the following :

"If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty :".

DOCUMENT A/CONF.25/C.2/L.78**Switzerland : amendment to article 36**

[Original : French]
[8 March 1963]

Insert a new paragraph 2 reading as follows (the present paragraph 2 to become paragraph 3) :

"The application of the provisions of sub-paragraphs (b) and (c) above shall, however, be subject to the freely expressed wish of the national of the sending State who is in prison, custody or detention."

DOCUMENT A/CONF.25/C.2/L.79**Switzerland : amendment to article 37**

[Original : French]
[8 March 1963]

Insert the following sentence at the end of sub-paragraph (b) :

"This provision shall, however, be without prejudice to the legislative provisions of the receiving State regarding the execution of such measures."

DOCUMENT A/CONF.25/C.2/L.80**Japan : amendments to article 43**

[Original : English]
[11 March 1963]

1. Add the following sentence at the end of the article :

"However, a consular official or employee shall be subject, with respect to the exercise of consular functions referred to in paragraphs (g), (h) and (i) of article 5, to the jurisdiction of the judicial or administrative authorities of the receiving State."

2. Add the following new paragraph :

"All vehicles, vessels and aircraft owned by a consular official or employee shall be adequately insured against third party risks with an insurance company authorized to do, and actually carrying on, business in the receiving State."

DOCUMENT A/CONF.25/C.2/L.81**Japan : amendments to article 44**

[Original : English]
[11 March 1963]

1. Delete the second sentence of paragraph 1.
2. Add the following sentence to paragraph 3 :

"They are also entitled to decline to give evidence as an expert witness with regard to the laws of the sending State."

DOCUMENT A/CONF.25/C.2/L.82**Japan : amendment to article 45**

[Original : English]
[11 March 1963]

Replace paragraph 2 by the following text :

"2. The waiver shall be communicated to the receiving State in writing through the diplomatic channel".

DOCUMENT A/CONF.25/C.2/L.83**Japan : amendment to article 46**

[Original : English]
[11 March 1963]

In paragraph 1, delete the words "and their private staff".

DOCUMENT A/CONF.25/C.2/L.84/Rev.1**Japan : amendments to article 48**

[Original : English]
[19 March 1963]

1. In paragraph 1, delete the words "and members of their families forming part of their households" from the introductory phrase.

2. In paragraph 2, delete the words "and members of the private staff who are in the sole employ of members of the consulate".

DOCUMENT A/CONF.25/C.2/L.85**Japan : amendments to article 50**

[Original : English]
[11 March 1963]

1. Delete the words "or of a member of his family forming part of his household" from the introductory phrase.

2. Delete the words "or as a member of the family of a member of the consulate" at the end of sub-paragraph (b).

DOCUMENT A/CONF.25/C.2/L.86**Japan : amendment to article 52**

[Original : English]
[11 March 1963]

Delete article 52.

DOCUMENT A/CONF.25/C.2/L.87**Japan : amendment to article 53**

[Original : English]
[11 March 1963]

In the first sentence of paragraph 2, delete the words “, and members of his private staff”.

DOCUMENT A/CONF.25/C.2/L.88**Japan : amendments to article 54**

[Original : English]
[11 March 1963]

1. Replace paragraphs 1 and 2 by the following text :

“If consular officials and employees, or members forming part of their families, pass through a third State which has granted visas if visas were required while proceeding to take up or return to their post or when returning to their own country, the third State shall not hinder the transit through their territory.”

2. In paragraph 3, insert the word “official” between the words “accord to” and “correspondence” in the first sentence, and delete the second sentence.

DOCUMENT A/CONF.25/C.2/L.89/Rev.1**Japan : proposal concerning articles 56 to 67**

[Original : English]
[29 March 1963]

Replace articles 56 to 67 by the following new article :

“1. Members of the consulate who are :

“(a) Not in the full-time regular employment of the sending State ; or

“(b) Appointed by the sending State in an honorary capacity ; or

“(c) Engaged in any private occupation for gain in the receiving State

shall not be accorded privileges and immunities provided for in article 41, paragraphs 1 and 2, article 44, paragraphs 1 and 2, articles 46, 46A, 47, 48, 49, paragraphs 1 (b) and 2, articles 50, 51 and 54, paragraphs 1 and 2, except as provided in paragraph 2 of these articles and except so far as such privileges and immunities may be granted by the receiving State, or in the case of article 54 by the third State concerned.

“2. The persons to whom paragraph 1 of this article applies shall be exempt from all dues and taxes on the remuneration and emoluments which they receive from the sending State in respect of the exercise of consular functions.

“3. The premises of a consulate of which the head of the post is a person to whom paragraph 1 of this article applies shall not be entitled to the

benefits of the provisions of articles 30 and 31 except so far as the receiving State may so agree.

“4. Privileges and immunities provided for in articles 46A, 47, 48 and 51 shall not be accorded to :

“(a) Members of the family of any of the persons to whom paragraph 1 of this article applies, nor to the private staff of any such person ; or

“(b) Those members of the family of a member of the consulate who are engaged in private occupation for gain in the receiving State.”

DOCUMENT A/CONF.25/C.2/L.90**Japan : amendments to article 69**

[Original : English]
[11 March 1963]

1. In the first sentence of paragraph 1, add the words “, or permanently resident in,” between the words “who are nationals of” and “the receiving State”.

2. In the first sentence of paragraph 2, replace the words “Other members of the consulate, members of their families and members of the private staff who are nationals of the receiving State” by the words :

“Consular employees who are nationals of, or permanently resident in, the receiving State and also members of the families of those consular officials and employees or those members of the family of a consular official or employee who are nationals of, or permanently resident in, the receiving State”.

DOCUMENT A/CONF.25/C.2/L.91**Spain : amendment to article 35**

[Original : Spanish]
[11 March 1963]

Replace paragraph 3 by the following text :

“3. Nevertheless, in cases of grave and well-founded suspicion, the authorities of the receiving State may order the consular bag to be opened in the presence of a duly authorized consular official of the sending State with a view to determining that it contains only official correspondence and documents or articles intended for the official use of the consulate.”

DOCUMENT A/CONF.25/C.2/L.92**Australia : amendment to article 35**

[Original : English]
[12 March 1963]

Replace the last sentence of paragraph 5 by the following text :

“He shall be afforded by the receiving State all facilities for the performance of his functions.”

DOCUMENT A/CONF.25/C.2/L.93**Romania : amendment to article 37***[Original : French]**[12 March 1963]*

In sub-paragraph (b), delete the words "a minor or other person lacking full capacity who is".

DOCUMENT A/CONF.25/C.2/L.94**Poland : amendment to article 37***[Original : French]**[12 March 1963]*

Replace the introductory phrase and sub-paragraph (a) of article 37 by the following text :

"The appropriate authorities of the receiving State shall have the duty :

"(a) In the case of the death of a national of the sending State, to inform without delay the consulate in whose district the death occurred ;".

DOCUMENT A/CONF.25/C.2/L.95**Greece : amendment to article 40***[Original : French]**[12 March 1963]*

Delete the words "by reason of their official position".

DOCUMENT A/CONF.25/C.2/L.96**Greece : amendment to article 43***[Original : French]**[12 March 1963]*

Replace the word "authorities" by the word "courts".

DOCUMENT A/CONF.25/C.2/L.97**Greece : amendment to article 46***[Original : French]**[12 March 1963]*

In paragraph 1, delete the words "and their private staff". (The comma after the word "consulate" to be replaced by the word "and".)

DOCUMENT A/CONF.25/C.2/L.98**Brazil : amendment to article 43***[Original : English]**[12 March 1963]*

Amend article 43 to read :

"Members of the consulate shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of official functions."

DOCUMENT A/CONF.25/C.2/L.99**Romania : amendment to article 34***[Original : French]**[12 March 1963]*

Replace the word "ensure" by the word "grant".

DOCUMENT A/CONF.25/C.2/L.100**Venezuela : amendment to article 36***[Original : Spanish]**[12 March 1963]*

Amend paragraph 1 (a) to read :

"The competent consulate and the officials of that consulate shall be free to communicate with and, if necessary, to have access to the nationals of the sending State ;".

DOCUMENT A/CONF.25/C.2/L.101**Thailand : amendment to article 36***[Original : English]**[12 March 1963]*

Delete paragraph 1 (b).

DOCUMENT A/CONF.25/C.2/L.102**Italy : amendments to article 35***[Original : French]**[13 March 1963]*

In paragraph 6 :

1. After the words "entrusted to the captain" add the words "of a passenger vessel or".

2. Delete the words "but he shall not be considered to be a consular courier".

DOCUMENT A/CONF.25/C.2/L.103**Byelorussian Soviet Socialist Republic :
amendment to article 38***[Original : Russian]**[13 March 1963]*

In paragraph 2, replace the words "municipal law and usage" by the words "municipal law and regulations and the usage".

DOCUMENT A/CONF.25/C.2/L.104/Rev.1**Byelorussian Soviet Socialist Republic :
amendment to article 41***[Original : Russian]**[19 March 1963]*

In paragraph 1, replace the words "by the competent judicial authority" by the words "by the competent judicial authority or the Procurator's office".

DOCUMENT A/CONF.25/C.2/L.105**Switzerland : amendment to article 41***[Original : French]**[13 March 1963]*

In paragraph 1, replace the words "in the case of a grave crime" by the words "in the case of a serious offence".

DOCUMENT A/CONF.25/C.2/L.106**Byelorussian Soviet Socialist Republic :
amendment to article 56***[Original : Russian]**[13 March 1963]*

Delete the word "private" and, after the word "occupation", insert the word "professionally".

DOCUMENT A/CONF.25/C.2/L.107**United Kingdom : amendments to article 36***[Original : English]**[13 March 1963]*

1. In paragraph 1 (b), delete the word "undue" in the expression "without undue delay" in both places where it appears.

2. In paragraph 2, amend the phrase "subject to the proviso, however, that the said laws and regulations must not nullify these rights" to read "subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended".

DOCUMENT A/CONF.25/C.2/L.108**Nigeria : amendments to article 35***[Original : English]**[13 March 1963]*

1. In paragraph 1, replace the last sentence by the following :

"However, the consulate may not install and use a wireless transmitter except with the consent of the receiving State".

2. Replace paragraph 3 by the following text :

"3. The consular bag shall not be opened or detained by the authorities of the receiving State save when they have serious reasons for so doing and, even then, they may only request that such sealed bags should be opened in their presence by an authorized representative of the sending State in order to satisfy themselves that they do not contain anything but official correspondence."

DOCUMENT A/CONF.25/C.2/L.109**Netherlands : proposed new articles between articles 39
and 40***[Original : English]**[14 March 1963]*

After article 39, insert two new articles reading as follows :

Article

"The consulate shall observe the obligations and provisions of the receiving State imposed upon employers concerning the levying of income taxes as far as wages and salaries are concerned which are paid by the consulate and which are not exempted from income tax in the receiving State."

Article

"The consulate shall observe the obligations and social security provisions of the receiving State imposed upon employers as far as employees are concerned who with respect to services rendered for the sending State are not exempt from social security provisions which may be in force in the receiving State."

DOCUMENT A/CONF.25/C.2/L.110**Netherlands : amendment to article 48***[Original : English]**[14 March 1963]*

Add a new paragraph reading as follows :

"Members of the consulate who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the provisions of that State impose upon employers concerning the levying of income taxes."

DOCUMENT A/CONF.25/C.2/L.111**Poland : amendment to article 38***[Original : French]**[14 March 1963]*

Replace article 38 by the following text :

"In the exercise of the functions specified in article 5, consular officials may address the competent local and central authorities of the receiving State. They may address the central authorities of the receiving State if this is permitted by the domestic law and usage of the receiving State or by international agreements regarding the matter."

DOCUMENT A/CONF.25/C.2/L.112**Canada : amendments to article 69***[Original : English]**[14 March 1963]*

1. In paragraphs 1 and 2, insert the words "or permanent residents of" after the word "nationals".

2. Amend paragraph 2 to read as follows :

"2. Other members of the consulate who are nationals or permanent residents of the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided for in article 44, paragraph 3, of these articles. Members of the family forming part of the household of a consular official who are nationals of the receiving State, members of the family forming part of the household of a member of the consulate who is a national or permanent resident of the receiving State, members of the family forming part of the household of a member of the consulate other than a consular official who are nationals of or permanent residents of the receiving State, and members of the private staff who are nationals of or permanent residents of the receiving State shall enjoy privileges and immunities only insofar as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder unduly the performance of the functions of the consulate."

DOCUMENT A/CONF.25/C.2/L.113

India : amendments to article 37

[Original : English]
[14 March 1963]

1. Amend sub-paragraph (a) to read :

"(a) As soon as their authorities obtain information about the death of a national of the sending State, to inform the consulate in whose district the death occurred."

2. Amend sub-paragraph (b) to read :

"(b) As soon as they obtain information about the existence of property or assets, forming part of the property belonging to the deceased person, to inform the consulate in whose district the property or assets are situated."

DOCUMENT A/CONF.25/C.2/L.114

Spain : amendment to article 36

[Original : Spanish]
[14 March 1963]

Add the following provision at the end of paragraph 1 (c) :

"Nevertheless, consular officials shall refrain from taking action on behalf of the national who is in custody or detention if he expressly opposes such action."

DOCUMENT A/CONF.25/C.2/L.115

Hungary : amendments to article 41

[Original : English]
[14 March 1963]

In paragraph 3 :

1. Insert after the first sentence the following sentence :

"Save where arrest pending trial is admissible under paragraph 1, no coercive measure may be applied against a consular official who refuses to appear before the court."

2. In the third sentence, delete the word "Nevertheless".

DOCUMENT A/CONF.25/C.2/L.116

Yugoslavia : amendments to article 41

[Original : English]
[18 March 1963]

1. Add the following words at the end of paragraph 2 : "of at least two years of imprisonment".

2. Add a new paragraph 4 reading as follows :

"4. Subject to the provisions of paragraphs 1 to 3 of this article, the residence of a consular official shall be inviolable."

DOCUMENT A/CONF.25/C.2/L.117

Italy : amendments to article 41

[Original : French]
[14 March 1963]

1. In paragraph 1, after the words "except in the case of a grave crime" insert the words "and in *flagrante delicto*".

2. At the end of paragraph 1, add the following sentence : "A crime shall be deemed to be a grave crime if the penalty for it is a term of imprisonment of at least five years."

DOCUMENT A/CONF.25/C.2/L.118

Nigeria : amendment to article 44

[Original : English]
[14 March 1963]

Replace paragraph 2 by the following text :

"2. The authority requiring the evidence of a consular official shall avoid interference with the performance of his functions. In particular it shall take such testimony at his residence or at the consulate or accept a statement from him in writing save in exceptional cases in which his appearance in court is, in the opinion of the court, indispensable."

DOCUMENT A/CONF.25/C.2/L.119

Poland : amendment to article 49

[Original : French]
[14 March 1963]

In paragraph 1, after the word "entry" insert the words "and export".

DOCUMENT A/CONF.25/C.2/L.120**Nigeria : amendment to article 49**

[Original : English]
[14 March 1963]

Replace the words "including articles intended for his establishment" in paragraph 1 (b) by the words "but only imported at the time of his first installation".

DOCUMENT A/CONF.25/C.2/L.121**Canada : amendment to article 61**

[Original : English]
[14 March 1963]

Amend article 61 to read :

"The receiving State is under a duty to accord to an honorary consular official such additional protection as he may require by reason of his official position".

DOCUMENT A/CONF.25/C.2/L.122/Rev.1**Canada : amendments to article 57**

[Original : English]
[25 March 1963]

1. Delete the following words in paragraph 1 : "49, with the exception of paragraph 1 (b)" and insert the words "49, paragraph 2".

2. Add new article (perhaps after article 63) reading as follows :

"Exemption from duties and taxes on imports"

"1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on articles exclusively for the official use of a consular post headed by an honorary consular official.

"2. The articles referred to in paragraph 1 are coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by the sending State to the consulate".

DOCUMENT A/CONF.25/C.2/L.123/Rev.1^a

**Brazil, Canada, Ghana, Japan
and United States of America : amendment to article 52**

[Original : English]
[27 March 1963]

Delete article 52 and incorporate it in a separate optional protocol to the Convention.

^a This joint amendment replaced an identical text submitted previously by Canada.

DOCUMENT A/CONF.25/C.2/L.124**China : amendment to article 46**

[Original : English]
[14 March 1963]

Add a new paragraph reading as follows :

"3. Members of the consulate, members of their families forming part of their households and their private staff shall be issued special cards of identification testifying their status as such."

DOCUMENT A/CONF.25/C.2/L.125**Greece : amendment to article 36**

[Original : English]
[14 March 1963]

In paragraph 1 (b), after the word "manner" insert the words "and shall state the reason why he is being deprived of his liberty".

DOCUMENT A/CONF.25/C.2/L.126**Cambodia : amendment to article 41**

[Original : French]
[15 March 1963]

In paragraph 1, after the words "Consular officials", insert the words "in the exercise of their functions".

DOCUMENT A/CONF.25/C.2/L.127**Cambodia : amendment to article 46**

[Original : French]
[15 March 1963]

In paragraph 1, after the words "their private staff", insert the words "who are nationals of the sending State".

DOCUMENT A/CONF.25/C.2/L.128**Cambodia : amendment to article 53**

[Original : French]
[15 March 1963]

In paragraph 2, after the words "and members of his private staff", insert the words "who are nationals of the sending State".

DOCUMENT A/CONF.25/C.2/L.129**Belgium : amendment to article 38**

[Original : French]
[15 March 1963]

Replace article 38 by the following text :

"In the exercise of the functions specified in article 5, consular officials may address :

"(a) The local authorities of their district ;

"(b) The authorities of the receiving State if this is allowed by the law of the receiving State."

DOCUMENT A/CONF.25/C.2/L.130**Argentina, Belgium, Brazil, Netherlands
and Venezuela : amendment to article 39***[Original : English]
[15 March 1963]*

Amend paragraph 1 to read :

"1. The consulate may levy in the territory of the receiving State and freely transfer in the currency chosen by the sending State the fees and charges provided by its laws and regulations for consular acts."

DOCUMENT A/CONF.25/C.2/L.131**France : amendment to article 36***[Original : French]
[15 March 1963]*

In paragraph 1, between sub-paragraphs (b) and (c), insert the following new sub-paragraph :

"The competent authorities shall further be required, on request by the competent consulate of the sending State, to communicate to it periodically a list of the nationals of that State who are detained, except for those who object to such information concerning them being communicated to the consulate".

DOCUMENT A/CONF.25/C.2/L.132**Belgium : amendment to article 46***[Original : French]
[16 March 1963]*

Add the following new paragraph :

"3. The persons referred to in paragraph 1 of this article shall not enjoy the exemptions provided in paragraphs 1 and 2 if, in addition to their functions at the consulate, they are engaged in any gainful private occupation."

DOCUMENT A/CONF.25/C.2/L.133**Belgium : amendments to article 48***[Original : French]
[16 March 1963]*

Amend article 48 to read :

"1. Consular officials and members of their families forming part of their household who are not carrying on any gainful private occupation, shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save :

[Sub-paragraphs (a) to (f) unchanged.]

"2. Consular employees and members of their families forming part of their household shall enjoy the exemption referred to in paragraph 1 above, provided that they are not carrying on a gainful private occupation.

"3. The following shall be exempt from dues and taxes on the wages and emoluments they receive for their services to the consulate :

- "(a) Consular employees who are carrying on a gainful private occupation ;
- "(b) Members of the service staff ;
- "(c) Members of the private staff who are in the sole employ of members of the consulate."

DOCUMENT A/CONF.25/C.2/L.134**United Kingdom : amendments to article 41***[Original : English]
[16 March 1963]*

1. Amend paragraph 1 to read :

"1. If a consular officer is taken into custody in respect of an offence, he shall, upon the establishment of his identity, be released pending trial. However, this provision shall not apply if the consular officer is charged with a grave offence or if the sending State consents to his continued detention, provided that he shall not be detained for more than 48 hours except in pursuance of a decision by the competent judicial authority."

2. Add a new paragraph to read as follows :

"For the purposes of this article the expression 'grave offence' means any offence punishable with a maximum penalty of at least four years' imprisonment under the law of the receiving State."

DOCUMENT A/CONF.25/C.2/L.135**United Kingdom : amendment to article 44***[Original : English]
[16 March 1963]*

Amend paragraph 2 to read :

"2. In such event, all reasonable measures shall be taken to avoid interference with the work of the consulate and, in the case of a consular officer, arrangements shall, wherever possible and permissible, be made for the taking of the evidence, orally or in writing, at his office or residence".

DOCUMENT A/CONF.25/C.2/L.136**United Kingdom : amendment to article 46***[Original : English]
[16 March 1963]*

Amend paragraphs 1 and 2 to read :

"1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

"2. The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who is engaged in a private occupation for gain in the receiving State or who is a member of the service staff, or to any member of the family of any such employee."

DOCUMENT A/CONF.25/C.2/L.137**United Kingdom : amendments to article 53***[Original : English]
[16 March 1963]*

1. In paragraph 1, replace the words "from the moment he enters the territory of the receiving State on proceeding to take up his post, or if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry" by the words "from the date of his admission or provisional admission by the receiving State or from the date of his entry into its territory, whichever is the later".

2. In paragraph 2, replace the words "members of his private staff" down to the end of the paragraph by the words "shall receive the privileges and immunities provided in the present articles from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the later."

DOCUMENT A/CONF.25/C.2/L.138**United Kingdom : amendments to article 54***[Original : English]
[16 March 1963]*

In paragraph 3, at the end of the first sentence, replace the words "as are accorded by the receiving State" by the words "as the receiving State is bound to accord under this convention", and add at the end of the second sentence the words "under this convention".

DOCUMENT A/CONF.25/C.2/L.139**United Kingdom : amendments to article 43***[Original : English]
[16 March 1963]*

Add two new paragraphs reading as follows :

"2. The provisions of paragraph 1 of this article shall not, however, apply in respect of a civil action either :

"(a) Arising out of a contract concluded by a consular officer of consular employee in which he did not contract expressly or impliedly as agent of the sending State ; or

"(b) By a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

"3. A consular officer or consular employee shall comply with any requirement imposed by the law of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft."

DOCUMENT A/CONF.25/C.2/L.140**Nigeria : amendment to article 57***[Original : English]
[16 March 1963]*

In paragraph 1, delete the mention of article 35 and add a separate paragraph reading as follows :

"The consular bag shall not be opened or detained, save where it emanates from a consulate headed by an honorary consular official and there are serious reasons to believe that the bag contains anything other than official correspondence."

DOCUMENT A/CONF.25/C.2/L.141**Poland : amendment to article 54***[Original : French]
[16 March 1963]*

In paragraph 1, after the words "when returning to his own country" insert the words "or making other official journeys".

DOCUMENT A/CONF.25/C.2/L.142**Ukrainian Soviet Socialist Republic :
amendments to article 48***[Original : Russian]
[16 March 1963]*

1. In paragraph 1, delete the words "with the exception of the service staff".

2. Amend paragraph 2 to read :

"Members of the private staff in the sole employ of members of the consulate shall be exempt from dues and taxes on the wages which they receive for their services."

DOCUMENT A/CONF.25/C.2/L.143**Hungary : amendment to article 41***[Original : English]
[19 March 1963]*

Add the following new paragraph :

"4. The provisions of this article shall not apply to consular couriers whose inviolability is specified in article 35."

DOCUMENT A/CONF.25/C.2/L.144**Australia : amendment to article 37***[Original : English]
[18 March 1963]*

Amend sub-paragraph (a) to read :

"In the case of the death of a national of the sending State and where the whereabouts of the next-of-kin or close relatives are not known, to inform the consulate of the sending State in whose district the death occurred."

DOCUMENT A/CONF.25/C.2/L.145

Belgium, Byelorussian Soviet Socialist Republic, Japan and Poland : amendment to article 38

[Original : English]
[18 March 1963]

Amend article 38 to read :

"In the exercise of the functions specified in article 5, consular officials may address :

- "(a) The local authorities of their district ;
- "(b) The central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State and by the relevant international agreements."

DOCUMENT A/CONF.25/C.2/L.146

Belgium : amendment to article 50

[Original : French]
[18 March 1963]

Amend the introductory passage to read :

"In the event of the death of a member of the consulate or of a member of his family forming part of his household, who was not a national or permanent resident of the receiving State, that State :".

DOCUMENT A/CONF.25/C.2/L.147

Belgium : amendment to article 51

[Original : French]
[19 March 1963]

Add the following sentence at the end of the article :

"These exemptions shall not, however, apply to members of the families of consular employees if the latter, in addition to their functions at the consulate, carry on a private gainful occupation."

DOCUMENT A/CONF.25/C.2/L.148

South Africa : amendment to article 41

[Original : English]
[18 March 1963]

Add the following sentence at the end of paragraph 3 :

"When it has become necessary to detain a consular official in terms of paragraph 1, the proceedings against him shall be instituted with the minimum of delay".

DOCUMENT A/CONF.25/C.2/L.149

Romania : amendment to article 41

[Original : French]
[19 March 1963]

Amend paragraph 1 to read :

"1. Consular officials shall not be liable to arrest or detention pending trial, except in the case of an

offence for which the maximum penalty is a term of imprisonment of at least five years and pursuant to a decision of the competent judicial authority."

DOCUMENT A/CONF.25/C.2/L.150

Spain : amendment to article 41

[Original : Spanish]
[19 March 1963]

Amend paragraph 1 to read :

"1. Consular officials shall not be liable to arrest or detention pending trial, unless taken in *flagrante delicto* or unless they are accused of an offence punishable by deprivation of liberty for a term exceeding six years and in that case solely in accordance with a decision of the competent judicial authority".

DOCUMENT A/CONF.25/C.2/L.151

Spain : amendment to article 44

[Original : Spanish]
[20 March 1963]

In paragraph 2, replace the words "avoid interference with" by the words "avoid hindering him in".

DOCUMENT A/CONF.25/C.2/L.152

Australia : amendment to article 45

[Original : English]
[19 March 1963]

In paragraph 2, add at the end of the sentence the words "except as provided in paragraph 3 of this article".

DOCUMENT A/CONF.25/C.2/L.153

Australia : amendment to article 49

[Original : English]
[19 March 1963]

In paragraph 2, replace the word "immunities" by the word "exemptions".

DOCUMENT A/CONF.25/C.2/L.154

Australia : amendment to article 57

[Original : English]
[19 March 1963]

Add at the end of paragraph 1 the words "and their consulates".

DOCUMENT A/CONF.25/C.2/L.155

Australia : amendment to article 59

[Original : English]
[19 March 1963]

In paragraph 1, insert the word "honorary" before the words "head of post".

DOCUMENT A/CONF.25/C.2/L.156**Australia : amendment to article 64**

[Original : English]
[19 March 1963]

Amend article 64 to read :

"The receiving State shall exempt honorary consular officials who are neither nationals nor permanent residents of the receiving State from all personal services and from all public services of any kind and also from military obligations such as those concerned with requisitioning, military contributions and billeting."

DOCUMENT A/CONF.25/C.2/L.157**Switzerland : amendment to article 46**

[Original : French]
[20 March 1963]

In paragraph 1, delete the words "and their private staff".

DOCUMENT A/CONF.25/C.2/L.158**Switzerland : amendment to article 48**

[Original : French]
[19 March 1963]

Replace paragraph 1 (a) by the following text :

"(a) Indirect taxes normally incorporated in the price of goods or services, whether invoiced separately or not ;".

DOCUMENT A/CONF.25/C.2/L.159**India : amendment to article 44**

[Original : English]
[19 March 1963]

Amend paragraph 1 to read :

"1. Members of the consulate may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee shall not, except in the cases mentioned in paragraph 3 of this article, decline to give evidence. If a consular official should decline to do so, no coercive measure or penalty may be applied to him."

DOCUMENT A/CONF.25/C.2/L.160**India : amendment to article 47**

[Original : English]
[19 March 1963]

Amend paragraph 1 to read :

"Subject to the provisions of paragraph 3 of this article, the members of the consulate, with respect to services rendered for the sending State and the members of their families forming part of their households who are not engaged in gainful occupation or professional or other activities, shall be exempt from social security provisions which may be in force in the receiving State."

DOCUMENT A/CONF.25/C.2/L.161**Brazil : amendment to article 69**

[Original : English]
[19 March 1963]

Amend article 69 to read :

"1. Members of the consulate who are nationals of the receiving State shall enjoy immunity from jurisdiction and personal inviolability in respect only of official acts performed in the exercise of their functions. Without prejudice to any additional privileges and immunities which may be granted to them by the receiving State, they shall also enjoy the following :

"(a) The right not to give evidence concerning matters connected with the exercise of their functions nor to produce official correspondence and documents relating thereto ;

"(b) In the event of the arrest or detention pending trial of the head of the consular post, or of criminal proceedings being instituted against him, the receiving State shall notify the sending State through official channels.

"2. The receiving State shall exercise its jurisdiction over its nationals who are members of the consulate, or over members of their families, in such a way as not to hinder unduly the performance of the functions of the consulate."

DOCUMENT A/CONF.25/C.2/L.162/Rev.1**Greece : amendments to article 53**

[Original : French]
[28 March 1963]

1. In paragraph 2, delete the words "and members of his private staff".

2. In paragraph 4, delete the words "personal inviolability and".

3. The Greek delegation also proposes that the Drafting Committee should consider the possibility of replacing the terms "privileges and immunities" where they apply to members of the family of a member of the consulate by the word "advantages".

DOCUMENT A/CONF.25/C.2/L.163**Greece : amendment to article 58**

[Original : English]
[19 March 1963]

Delete article 58.

DOCUMENT A/CONF.25/C.2/L.164**Brazil : amendment to article 52**

[Original : English]
[20 March 1963]

Delete article 52 and replace it by a special optional protocol concerning acquisition of nationality, along the lines of the one signed at Vienna on 18 April 1961.

DOCUMENT A/CONF.25/C.2/L.165**Switzerland : amendment to article 66**[Original : French]
[21 March 1963]

Add a new paragraph 2 reading as follows :

"2. The premises of a consular post conducted by an honorary consul shall not be used in a manner incompatible with consular functions as defined in the articles of this convention or in other rules of international law".

DOCUMENT A/CONF.25/C.2/L.166**Federal Republic of Germany : amendment to article 44**[Original : French]
[20 March 1963]

In paragraph 1, after the words "no coercive measure or penalty", insert the words "of a police or judicial nature".

DOCUMENT A/CONF.25/C.2/L.167**Venezuela : amendment to article 43**[Original : Spanish]
[20 March 1963]

Replace the words "Members of the consulate" by the words "Consular officials".

DOCUMENT A/CONF.25/C.2/L.168**Brazil, Federal Republic of Germany, Italy, Spain, and the United Kingdom : amendment to article 41**

Replace article 41 by the following text :

"1. Consular officers shall enjoy personal inviolability to the extent provided in this article.

"2. A consular officer shall not be liable to arrest in respect of any offence unless :

"(a) The offence is a grave offence ; or

"(b) He is detected in *flagrante delicto* ; or

"(c) He is unable to establish his identity ; or

"(d) The sending State requests or consents to his arrest.

"3. Except in the case of a grave offence or at the request or with the consent of the sending State a consular officer who has been arrested shall not be liable to detention in custody pending trial after he has established his identity.

"4. A consular officer who has been arrested and who has not been released shall be brought before a competent judicial authority not later than forty-eight hours after his arrest. Thereafter he shall not be liable to further detention pending trial unless such an authority so orders and the detention is justified in accordance with the provisions of paragraph 3 of this article.

"5. Except as provided in paragraphs 2, 3 and 4 of this article, a consular official shall not be committed to prison or subjected to any other form of restriction on his personal freedom save in execution of a judicial decision of final effect.

"6. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless the proceedings shall be conducted with the respect due to him by reason of his official position and, except where his detention in custody is justified by the provisions of paragraphs 3 and 4 of this article, in a manner which hamper the exercise of his consular functions as little as possible.

"7. For the purposes of this article the expression 'grave offence' means any offence punishable with a maximum penalty of at least five years' imprisonment under the law of the receiving State."

DOCUMENT A/CONF.25/C.2/L.168/Rev.1**Brazil, Federal Republic of Germany, Italy, Spain and the United Kingdom : revised amendment to article 41**[Original : English]
[20 March 1963]

Replace article 41 by the following text :

"1. Consular officers shall enjoy personal inviolability to the extent provided in this article.

"2. A consular officer shall not be liable to arrest in respect of any offence unless :

"(a) The offence is a grave offence ; or

"(b) He is detected in *flagrante delicto* ; or

"(c) It has not been possible to establish his identity.

"3. Except in the case of a grave offence a consular officer who has been arrested shall not be liable to detention in custody pending trial after he has established his identity.

"4. A consular officer who has been arrested and who has not been released shall be brought before a competent judicial authority not later than forty-eight hours after his arrest. Thereafter he shall not be liable to further detention pending trial unless such an authority so orders and the detention is justified in accordance with the provisions of paragraph 3 of this article.

"5. Except as provided in paragraphs 2, 3 and 4 of this article, a consular official shall not be committed to prison or subjected to any other form of restriction on his personal freedom save in execution of a judicial decision of final effect.

"6. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless the proceedings shall be conducted with the respect due to him by reason of his official position and, except where his detention in custody is justified by the provisions of paragraphs 3 and 4 of this article, in a manner which hamper the exercise of his consular functions as little as possible.

"7. For the purposes of this article the expression 'grave offence' means any offence punishable with a maximum penalty of at least five years' imprisonment under the law of the receiving State."

DOCUMENT A/CONF.25/C.2/L.169

Tunisia : amendment to article 45

[Original : French]
[20 March 1963]

At the end of paragraph 4, add the following sentence :

"Nevertheless, the sending State shall facilitate the execution of a final judgement."

DOCUMENT A/CONF.25/C.2/L.170

South Africa : amendment to article 48

[Original : English]
[20 March 1963]

Amend paragraph 1 (b) to read :

"(b) Dues and taxes on immovable property occupied in the territory of the receiving State but not owned or leased on behalf of the sending State ;".

DOCUMENT A/CONF.25/C.2/L.171

United Kingdom : amendment to article 49

[Original : English]
[20 March 1963]

Amend paragraph 1 to read :

"1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges, other than charges for storage, cartage and similar services, on articles, not the produce or manufacture of that State, which are :

"(a) For the official use of the consulate ;

"(b) For personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment."

DOCUMENT A/CONF.25/C.2/L.172

United Kingdom : amendment to article 50

[Original : English]
[20 March 1963]

Delete sub-paragraph (b).

DOCUMENT A/CONF.25/C.2/L.173

Spain : amendment to article 49

[Original : Spanish]
[20 March 1963]

Amend paragraph 1 (b) to read :

"(b) Articles for the personal use of a consular official or members of his family forming part of his household, including articles intended for his estab-

lishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned."

DOCUMENT A/CONF.25/C.2/L.174

Belgium and Ireland : amendment to article 54

[Original : English]
[21 March 1963]

Replace paragraphs 1 and 2 by the following text :

"If consular officials, or members of their families, are passing through or in the territory of a third State while proceeding to take up or return to their post or when returning to their own country, the third State shall accord to them all the necessary facilities as may be required to permit their transit through the territory."

DOCUMENT A/CONF.25/C.2/L.175

France : amendment to article 46

[Original : French]
[21 March 1963]

In paragraph 1, replace the words "their private staff" by the words "the private staff of consular officials and of consular employees who perform administrative and technical functions".

DOCUMENT A/CONF.25/C.2/L.176

Spain : amendment to article 50

[Original : Spanish]
[21 March 1963]

Amend sub-paragraph (b) to read :

"(b) Shall not levy estate, succession or inheritance duties on furniture the presence of which in the receiving State ...".

DOCUMENT A/CONF.25/C.2/L.177

India : amendment to article 48

[Original : English]
[21 March 1963]

Amend the introductory phrase of paragraph 1 to read :

"1. Members of the consulate with the exception of the service staff shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save :".

DOCUMENT A/CONF.25/C.2/L.178

India : amendment to article 49

[Original : English]
[21 March 1963]

Add a new paragraph 3 reading as follows :

"3. The exemption granted under paragraphs 1 and 2 is without prejudice to the right of the receiving State :

- "(a) To restrict quantity of the goods imported ;
- "(b) To designate the period during which the import of articles must take place ;
- "(c) To specify the period within which goods imported duty free must not be resold."

DOCUMENT A/CONF.25/C.2/L.179**India : amendment to article 56**

[Original : English]
[21 March 1963]

Amend article 56 to read :

"1. The sending State may permit career consuls to engage in private gainful occupation with the consent of the receiving State.

[Alternative text]

"1. The sending State shall, in the event of appointment of a career consular official who is permitted to engage in private gainful occupation in addition to his consular functions, notify the Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry.

"2. The provisions applicable to the persons appointed in accordance with paragraph 1 of this article shall, so far as facilities, privileges and immunities are concerned, be the same as those applicable to honorary consular officials."

DOCUMENT A/CONF.25/C.2/L.180**India : amendment to article 69**

[Original : English]
[21 March 1963]

In paragraphs 1 and 2, insert the words "or permanent residents of" after the word "nationals".

DOCUMENT A/CONF.25/C.2/L.181**United States of America : amendments to article 50**

[Original : English]
[22 March 1963]

1. In the opening clause, delete the words ", the receiving State".

2. In sub-paragraph (a), substitute the words "The receiving State shall" for the word "shall".

3. Amend sub-paragraph (b) to read :

"(b) Movable property belonging to the estate of a deceased member of the consulate or a deceased member of the family of a member of the consulate and the presence of which in the receiving State was due solely to the performance of official duties by such members of the consulate shall be exempt in the receiving State from estate, succession or inheritance duties or taxes, national, regional or municipal."

DOCUMENT A/CONF.25/C.2/L.182**United States of America : amendment to article 57**

[Original : English]
[22 March 1963]

Add articles 30, paragraphs 1 and 2, and 40 to the list of articles enumerated in paragraph 1.

DOCUMENT A/CONF.25/C.2/L.183**United States of America : amendment to article 58**

[Original : English]
[22 March 1963]

Delete article 58.

DOCUMENT A/CONF.25/C.2/L.184**United States of America : amendment to article 59**

[Original : English]
[22 March 1963]

Amend paragraph 1 to read :

"1. Consular premises headed by an honorary consular official and used exclusively for consular purposes, of which the sending State or any person acting on behalf of the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered."

(Consequential to amendment of article 31.)

DOCUMENT A/CONF.25/C.2/L.185**Ukrainian Soviet Socialist Republic :
amendment to article 49**

[Original : Russian]
[22 March 1963]

Add a new paragraph 3 reading as follows :

"Personal luggage accompanying consular officials and members of their families shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in paragraph 1 (b) of this article, or articles the import or export of which is prohibited by law or which are subject to the quarantine regulations of the receiving State. Such inspection shall be carried out in the presence of the person whose luggage is accompanying him."

DOCUMENT A/CONF.25/C.2/L.186**France : amendment to article 47**

[Original : French]
[22 March 1963]

Replace paragraph 4 by the following text :

"The provisions of this article shall not affect bilateral or multilateral agreements relating to social security concluded previously and shall not preclude the conclusion of such agreements in the future."

DOCUMENT A/CONF.25/C.2/L.187**Spain : amendment to article 55***[Original : Spanish]*
[22 March 1963]

Amend paragraph 3 to read :

"The rule laid down in the preceding paragraph shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consulate ...".

DOCUMENT A/CONF.25/C.2/L.188**South Africa : amendment to article 56***[Original : English]*
[22 March 1963]

Add the following sentence :

"In such circumstances, the members of the families of career consular officials shall not enjoy greater facilities, privileges and immunities than those enjoyed by the consular officials themselves."

DOCUMENT A/CONF.25/C.2/L.189**South Africa : amendment to article 57***[Original : English]*
[22 March 1963]

In paragraph 1, delete the mention of article 29 and article 41, paragraph 3.

DOCUMENT A/CONF.25/C.2/L.190**South Africa : amendment to article 61***[Original : English]*
[22 March 1963]

Amend article 61 to read :

"The receiving State is under a duty to accord to an honorary consular official such special protection as may be required by reason of his official position."

DOCUMENT A/CONF.25/C.2/L.191**South Africa : amendment to article 49***[Original : English]*
[22 March 1963]

Amend paragraph 2 to read :

"Consular employees, except those belonging to the service staff, shall enjoy the exemptions specified in the previous paragraph in respect of articles imported for their personal use at the time of first installation. The receiving State may, however, determine that such exemptions shall not be granted in respect of specific articles of a consumable nature."

DOCUMENT A/CONF.25/C.2/L.192**Australia : amendment to article 69***[Original : English]*
[24 March 1963]

In paragraphs 1 and 2, add the words "or permanently resident in" after the words "who are nationals of".

DOCUMENT A/CONF.25/C.2/L.193**Canada : amendment to article 48***[Original : English]*
[25 March 1963]

In paragraph 1 (c), replace the word "and" between "inheritance duties" and "duties on transfers" by the word "including".

DOCUMENT A/CONF.25/C.2/L.194**Canada : amendment to article 50***[Original : English]*
[25 March 1963]

In sub-paragraph (b) insert the words "including duties on transfers" between the words "inheritance duties" and "on movable property".

DOCUMENT A/CONF.25/C.2/L.195**France : amendments to article 48***[Original : French]*
[25 March 1963]

1. Amend paragraph 1 (a) to read :

"(a) Indirect taxes of a kind which are normally incorporated in the price of goods or services ;".

2. Amend paragraph 1 (b) to read :

"(b) Dues or taxes on private immovable property situated in the territory of the receiving State, subject, however, to the application of the provisions of article 31 to immovable property owned by the head of post or leased by him on behalf of the sending State for the purposes of the consulate ;".

DOCUMENT A/CONF.25/C.2/L.196**Chile : amendment to article 50***[Original : Spanish]*
[25 March 1963]

After the words "In the event of the death of a member of the consulate", insert the words "who is not a national of the receiving State and is not permanently resident there,".

DOCUMENT A/CONF.25/C.2/L.197**Australia : amendment to article 48***[Original : English]*
[25 March 1963]

Amend paragraph 2 to read :

"2. Members of the service staff and members of the private staff who are in the sole employ of members of the consulate as domestic servants shall be exempt from dues and taxes on the wages which they receive for their services."

DOCUMENT A/CONF.25/C.2/L.198**Netherlands : amendment to article 46A ****[Original : English]*
[26 March 1963]

Add a new paragraph 2 reading as follows :

"This article shall not apply to the employment outside the consulate of persons belonging to the families of members of the consulate."

DOCUMENT A/CONF.25/C.2/L.199**France : amendment to article 46A***[Original : French]*
[26 March 1963]

Replace the words "their private staff" by the words "the private staff of consular officials and of consular employees who perform administrative and technical functions".

DOCUMENT A/CONF.25/C.2/L.200**India : amendment to article 57***[Original : English]*
[26 March 1963]

In paragraph 1, delete the reference to articles 28 and 49.

DOCUMENT A/CONF.25/C.2/L.201**India : amendment to article 58***[Original : English]*
[26 March 1963]

Delete article 58.

DOCUMENT A/CONF.25/C.2/L.202**India : amendment to article 59***[Original : English]*
[26 March 1963]

Delete article 59.

* At its 30th meeting, the Second Committee decided that paragraph 2 of article 46 of the draft articles adopted by the International Law Commission should be considered as a separate article, provisionally numbered 46A.

DOCUMENT A/CONF.25/C.2/L.203**Finland : amendment to article 46A***[Original : English]*
[26 March 1963]

Amend article 46A to read :

"Members of the private staff shall, with respect to their employment as such, be exempt from any obligations in regard to work permits imposed either on employers or on employees by the laws and regulations of the receiving State concerning the employment of foreign labour."

DOCUMENT A/CONF.25/C.2/L.204**Switzerland : amendment to article 46A***[Original : French]*
[26 March 1963]

After the words "members of their families forming part of their households" delete the words "and their private staff".

DOCUMENT A/CONF.25/C.2/L.205**Belgium : amendment to article 46A***[Original : French]*
[26 March 1963]

After the words "their private staff" add the words "if they do not carry on any private gainful occupation"

DOCUMENT A/CONF.25/C.2/L.206**Greece, New Zealand and the United Kingdom : amendment to article 46A***[Original : English]*
[26 March 1963]

Amend article 46A to read :

"Members of the consulate shall be exempt, with respect to their employment in the consulate from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour."

DOCUMENT A/CONF.25/C.2/L.207**Romania : amendment to article 51***[Original : French]*
[26 March 1963]

Delete the words "other than the service staff".

DOCUMENT A/CONF.25/C.2/L.208**India : amendment to article 61***[Original : English]*
[27 March 1963]

Amend article 61 to read :

"The receiving State is under a duty to accord an honorary consular official special protection in times of emergency by reason of his official position."

DOCUMENT A/CONF.25/C.2/L.209**India : amendment to article 63***[Original : English]*
[27 March 1963]

Delete article 63.

DOCUMENT A/CONF.25/C.2/L.210**India : amendment to article 65***[Original : English]*
[27 March 1963]

Insert the word "official" before the word "correspondence".

DOCUMENT A/CONF.25/C.2/L.211**France : amendment to article 56***[Original : French]*
[28 March 1963]

Amend article 56 to read :

"The provisions applicable to members of the consulate, other than the service staff, who carry on a private gainful occupation in the receiving State shall, so far as facilities, privileges and immunities are concerned, be the same as those applicable to honorary consular officials."

DOCUMENT A/CONF.25/C.2/L.211/Rev.1**France and Japan : amendment to article 56***[Original : English]*
[30 March 1963]

Amend article 56 to read as follows :

"1. The provisions applicable to career consular officials and consular employees entrusted with administrative or technical tasks who carry on a private gainful occupation in the receiving State shall, so far as facilities are concerned, be the same as those applicable to honorary consular officials and consular employees."

"2. Privileges and immunities provided for under chapter II shall not be accorded to :

"(a) Members of the family of any of the persons to whom paragraph 1 of this article applies, nor to the private staff of any such person, or

"(b) Those members of the family of a member of a consulate who are engaged in private occupation for gain in the receiving State."

⁷ At the 38th meeting of the Second Committee, the representative of Japan drew attention to certain corrections to paragraph 1 of this amendment: the words "privileges and immunities" should be inserted after the word "facilities", and the words "consular employees" at the end of the paragraph should read "their employees".

DOCUMENT A/CONF.25/C.2/L.212**Norway : amendment to article 57***[Original : English]*
[1 April 1963]

Amend article 57 to read :

"1. Articles 28, 29, 33, 34, 35, 36, 37, 38, 39 and 49, paragraph 1 (a), shall likewise apply to consulates headed by an honorary consular official. In addition, the facilities, privileges and immunities of such consulates shall be governed by articles 58, 59, 60 and 65.

"2. Article 41, paragraph 3, articles 42, 43, 44, paragraph 3, articles 45 and 53 shall likewise apply to honorary consular officials. In addition, the facilities, privileges and immunities of such consular officials shall be governed by articles 61, 62, 63, 64 and 66."

DOCUMENT A/CONF.25/C.2/L.213**United Kingdom : amendments to article 57***[Original : English]*
[1 April 1963]

1. In paragraph 1 add references to articles 31, 54, paragraph 3, and 55.

2. Add at the end of paragraph 1 the words "and employees and to consulates of which the head of the post is an honorary consular official."

DOCUMENT A/CONF.25/C.2/L.214**Pakistan : amendment to article 57***[Original : English]*
[1 April 1963]

In paragraph 1, delete the references to articles 43, 44, paragraph 3, and 49, with the exception of paragraph 1 (b).

DOCUMENT A/CONF.25/C.2/L.215**Pakistan : amendment to article 58***[Original : English]*
[1 April 1963]

Delete article 58.

DOCUMENT A/CONF.25/C.2/L.216**Pakistan ; amendment to article 59***[Original : English]*
[1 April 1963]

Delete article 59.

DOCUMENT A/CONF.25/C.2/L.217**Japan : amendments to article 57***[Original : English]**[1 April 1963]*

1. Add articles 40 and 55 to the list of articles enumerated in paragraph 1 and add the following words at the end of the paragraph :

“and consular employees who are employed at a consulate headed by an honorary consular official and who are not engaged in a private gainful occupation in the receiving State.”

2. Add the following new paragraph :

“Privileges and immunities provided for in this convention shall not be accorded to members of the family of an honorary consular official or of a consular employee employed at a consulate headed by an honorary consular official.”

3. (Drafting change) :

Delete articles 28, 29 and 33 from the list of articles enumerated in paragraph 1 and insert the following new paragraph :

“Articles 28, 29 and 33 shall likewise apply to a consulate headed by an honorary consular official.”

DOCUMENT A/CONF.25/C.2/L.218**France : amendments to article 57***[Original : French]**[1 April 1963]*

1. At the end of paragraph 1, add the words “and to their employees.”.

2. In paragraph 1, replace the words “49, with the exception of paragraph 1 (b)” by the words “49, paragraph 1 (b)”.

DOCUMENT A/CONF.25/C.2/L.219**South Africa : amendment to article 58***[Original : English]**[1 April 1963]*

Replace article 58 by the following text :

“The receiving State shall take such steps as may be necessary to protect the premises of a consulate headed by an honorary consular official against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity. This obligation shall, however, relate only to that part of the premises which is used exclusively for the exercise of consular functions.”

DOCUMENT A/CONF.25/C.2/L.220**South Africa : amendment to article 59***[Original : English]**[1 April 1963]*

Amend paragraph 1 to read :

“1. The consular premises of an honorary head of post of which the sending State or any person

acting on behalf of the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered, provided such premises are used exclusively for the exercise of consular functions.”

DOCUMENT A/CONF.25/C.2/L.221**South Africa : amendment to article 60***[Original : English]**[1 April 1963]*

Amend the proviso to read :

“... provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of post and of any person working with him, and from the materials, books or documents relating to their profession or trade.”

DOCUMENT A/CONF.25/C.2/L.222**Portugal : amendment to article 63***[Original : English]**[1 April 1963]*

Add the following sentence :

“If he does not carry on a gainful private occupation, he shall enjoy also the exemption provided for in article 49, paragraph 1 (b).”

DOCUMENT A/CONF.25/C.2/L.223**United Kingdom : amendment to article 65***[Original : English]**[1 April 1963]*

Delete article 65.

DOCUMENT A/CONF.25/C.2/L.224**United Kingdom : amendment to article 66***[Original : English]**[1 April 1963]*

Delete article 66.

DOCUMENT A/CONF.25/C.2/L.225**Japan : amendment to article 62***[Original : English]**[1 April 1963]*

Delete article 62.

DOCUMENT A/CONF.25/C.2/L.226**Japan : amendment to article 67***[Original : English]**[1 April 1963]*

Delete article 67.

DOCUMENT A/CONF.25/C.2/L.228**Norway : amendment to article 69**

[Original : English]
[2 April 1963]

Amend the last sentence of paragraph 1 to read :

" So far as these officials are concerned the receiving State shall likewise be bound by the obligation laid down in article 41, paragraph 3, second sentence, and article 42."

DOCUMENT A/CONF.25/C.2/L.229**Brazil, Canada, Ceylon, India, Japan, Netherlands and South Africa : amendments to article 69**

[Original : English]
[2 April 1963]

1. In paragraph 1, after the words " who are nationals " of insert the words " or permanently resident in ".

2. Amend paragraph 2 to read :

" Other members of the consulate who are nationals of or permanently resident in the receiving State and members of their families as well as members of the families of consular officials referred to in paragraph 1 shall enjoy privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the

families of members of the consulate and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder unduly the performance of the functions of the consulate."

DOCUMENT A/CONF.25/C.2/L.230**Belgium and France :
proposed new article between articles 69 and 70**

[Original : French]
[3 April 1963]

" 1. The provisions of chapter III and of article 69 of the present convention shall apply to consular employees who carry on a private gainful occupation in the receiving State.

" 2. The privileges and immunities provided in chapters II and III of the present convention shall not be accorded :

" (a) To members of the family of a consular employee coming within the scope of paragraph 1 of this article or to his private staff ;

" (b) To members of the family of a member of the consulate who carry on a private gainful occupation in the receiving State."

REPORTS

DOCUMENT A/CONF.25/9

First report of the General Committee

[Original : English]
[27 March 1963]

1. The first meeting of the General Committee was held on 27 March 1963 to consider ways and means of expediting the work of the Conference. It had before it a suggestion by the Secretariat (A/CONF.25/BUR.1) concerning the re-allocation of articles to Committees.

2. The General Committee took note of the fact that the First Committee had almost completed the agenda allocated to it. It also took account of the fact that it now appeared that, under the original plan for the allocation of work as approved by the Conference at its second plenary meeting, the Second Committee had had an exceptionally heavy work-load.

3. With the foregoing factors in mind, the General Committee unanimously decided to recommend to the Conference, as a first step to expedite its work, that the following articles be re-allocated from the Second to the First Committee:

Article 52. Question of the acquisition of the nationality of the receiving State.

Article 53. Beginning and end of consular privileges and immunities.

Article 54. Obligations of third States.

Article 55. Respect for the laws and regulations of the receiving State.

DOCUMENT A/CONF.25/10

Second report of the General Committee

[Original : English]
[1 April 1963]

1. The second meeting of the General Committee was held on 1 April 1963 to continue consideration of ways and means of expediting the work of the Conference. The Committee had devoted its first meeting to this matter, on 27 March 1963, and had reported thereon, with recommendations, to the Conference (A/CONF.25/9). At its third plenary meeting, on 28 March 1963, the Conference approved the recommendations of the General Committee.

2. At its second meeting the General Committee took note of the fact that the First Committee had completed the agenda originally allocated to it, including articles 52, 53, 54 and 55 re-allocated to it pursuant to the decision of the Conference at its third plenary meeting. It also took into account a statement by the Chairman of the Second Committee to the effect that he believed it would be possible for the Second Committee to complete by 5 April 1963 Chapter III of the draft articles assigned to it. Finally, the General Committee noted that, under the original plan for the allocation of work as approved by the Conference at its second plenary meeting, article 1, and amendments

thereto, had been allocated to the Drafting Committee, as a final item, on the understanding that the Drafting Committee would report directly to the Conference on this article.

3. The members of the General Committee were of the opinion that it would considerably expedite the work of the Conference if the Drafting Committee could immediately take up the consideration of article 1, and could report thereon, as soon as possible, to the First Committee which would, in turn, report to the Conference. This would permit the widest possible expression of views to be taken into account on article 1 before its consideration by the Conference.

4. The General Committee has unanimously decided to recommend to the Conference that the text of article 1 prepared by the Drafting Committee be re-allocated, for the reasons outlined in the previous paragraph, to the First Committee. In view of this recommendation, the General Committee further decided not to recommend the re-allocation, at this time, of any articles from the Second to the First Committee.

DOCUMENT A/CONF.25/11**Third report of the General Committee**

[Original : English]
[17 April 1963]

1. The third meeting of the General Committee was held on 17 April 1963 to consider ways and means of expediting the work of the plenary meetings of the Conference. The Committee had before it a report by the Secretariat on the progress of the Conference.

2. The General Committee noted that, at the beginning of the final week of the Conference (16 - 19 April 1963), the Conference had before it for consideration some fifty articles, as prepared by the Drafting Committee in accordance with the instructions of the First and Second Committees, an optional protocol on acquisition of nationality, the final act of the Conference and certain resolutions. It further noted that, on the basis of two meetings a day, the Conference would be required to complete consideration of an average of seven articles at each meeting, namely fourteen articles a day, if it were to conclude its agenda on time. Finally, the Committee noted that at the first two meetings held during the final week of the Conference, the Conference had completed only five articles, thus being already nine articles behind schedule. In view of the considerations just set out, the members of the General Committee were of the opinion that measures should be taken to expedite the work of the plenary meetings of the Conference so that it might complete its agenda on time, particularly as many delegations and members of the Secretariat had other obligations which would require them to leave Vienna on the scheduled closing date of the Conference.

3. The General Committee unanimously recommends to the Conference that the following measures be taken to expedite the work of the plenary meetings :

(a) Morning meetings of the Conference should be convened at 9.30 a.m., to give the Conference an hour longer each day for consideration of its agenda.

(b) Evening meetings should be held on Wednesday, 17 April 1963 and Friday, 19 April 1963, if, on those respective dates the Conference remains appreciably behind schedule at the conclusion of its afternoon meetings. Furthermore, if the Conference has not completed its work on 19 April 1963, two meetings should, if necessary, be held on Saturday, 20 April 1963.

(c) Under rule 23 of the rules of procedure, a time limit of five minutes should be put by the Conference upon statements by representatives on each article. Furthermore, the number of interventions by each representative on each article should be limited to one. Finally, explanations of vote should be limited to two minutes. All these limitations should be subject to the right of the President to permit exceptions, to the extent of an additional two minutes to a speaker so that he might conclude his statement or make a second intervention, if, in the President's opinion, there are exceptional circumstances for so doing.

(d) In cases where joint amendments are submitted, only one of the sponsors thereof should introduce the amendment on behalf of all co-sponsors.

DOCUMENT A/CONF.25/L.10**Report of the First Committee**

[Original : English]
[5 April 1963]

I. OFFICERS OF THE COMMITTEE

1. At its first meeting on 5 March 1963, the Committee elected Mr. Nathan Barnos (Liberia) as Chairman. At its second meeting on 6 March 1963, the Committee elected the following other officers :

First Vice-Chairman : Mr. Pedro Silveira-Barrios (Venezuela) ;

Second Vice-Chairman : Mr. Jerzy Osiecki (Poland) ;

Rapporteur : Mr. Zenon P. Westrup (Sweden).

**II. TERMS OF REFERENCE
OF THE COMMITTEE**

2. At its second plenary meeting on 5 March 1963, the Conference decided to refer to the Committee Chapter I (Consular relations in general ; articles 2-27)

and Chapter IV (General provisions ; articles 68, 70 and 71) of the draft articles adopted by the International Law Commission (A/CONF.25/6) and referred to the Conference in accordance with resolution 1685(XVI) adopted by the General Assembly on 18 December 1961. The Conference at the same time also referred to the Committee the preparation of a preamble and final clauses, no drafts of which had been prepared by the Commission, and also of the Final Act of the Conference and of any protocols which the Conference might consider necessary.

3. At its third plenary meeting on 28 March 1963, the Conference, on the basis of a recommendation by the General Committee (A/CONF.25/9), unanimously decided that draft articles 52, 53, 54 and 55 adopted by the International Law Commission should be re-allocated from the Second to the First Committee.

4. At its fourth plenary meeting on 2 April 1963, the Conference, on the basis of a recommendation by the General Committee (A/CONF.25/10), unanimously decided to refer to the First Committee the text of article 1 prepared by the Drafting Committee.

III. ORGANIZATION OF THE WORK OF THE COMMITTEE

5. The Committee held 35 meetings during the period from 5 March to 4 April 1963.

6. The Committee had before it the above-mentioned draft articles adopted by the International Law Commission at its thirteenth session (A/CONF.25/6). In accordance with rule 29 of the rules of procedure of the Conference, these draft articles were taken as the basic proposal for discussion. Amendments and proposals relating to these draft articles and proposals of additional articles were submitted by delegations and considered as related below in this report.

7. The deliberations of the Committee are recorded in the summary records of its meetings (A/CONF.25/C.1/SR.1 to 35). The texts adopted by the Committee are annexed hereto.

8. The decisions taken by the Committee were referred to the Drafting Committee.

IV. CONSIDERATION OF AND VOTING UPON THE DRAFT ARTICLES AND THE AMENDMENTS AND PROPOSALS RELATING THERETO

Preamble

9. Two draft preambles were submitted: one by Argentina, Ceylon, Ghana, India, Indonesia and the United Arab Republic jointly (A/CONF.25/C.1/L.71), and the other by Congo (Leopoldville), Ethiopia, Guinea, Liberia, Libya, Mali, Morocco, Sierra Leone, Tunisia and Upper Volta jointly (A/CONF.25/C.1/L.106). The latter draft was withdrawn by its sponsors.

10. At its 29th meeting the Committee unanimously adopted the draft preamble submitted by the six powers (A/CONF.25/C.1/L.71). The Committee referred to the Drafting Committee certain of the suggestions made in the course of the discussion by France, the United Kingdom, Greece, Mexico and Italy.

Article 1

Definitions

11. Article 1 was initially allocated by the Conference in plenary meeting to the Drafting Committee, which considered a number of amendments submitted by various delegations. The Conference then decided, at the fourth plenary meeting, that the text of the article as prepared by the Drafting Committee (A/CONF.25/C.1/L.166) should be referred to the First Committee. The Drafting Committee annexed to its text two amendments to sub-paragraph (j) of paragraph 1, which it

felt should be decided upon by the First Committee. These amendments were, first, that submitted jointly by Brazil and India, and second, the identical amendment submitted by the Federal Republic of Germany, Japan and Nigeria individually.

Paragraph 1

Introductory sentence

12. No amendments were submitted. The sentence was adopted without objection.

Sub-paragraph (a)

13. No amendments were submitted. The sub-paragraph was adopted without objection.

Sub-paragraph (b)

14. No amendments were pressed to a vote. The sub-paragraph was adopted without objections.

Sub-paragraph (c)

15. No amendments were submitted. The sub-paragraph was adopted without objection.

Sub-paragraph (d)

16. Mexico suggested orally that in the Spanish text the words "*en calidad de tal*" be replaced by "*con este carácter*"; the suggestion was referred to the Drafting Committee. The sub-paragraph was adopted without objection.

Sub-paragraph (e)

17. The Federal Republic of Germany submitted an oral amendment to add "executive" after "administrative". At its thirty-fourth meeting the Committee rejected the amendment by 33 votes to 10, with 20 abstentions.

Sub-paragraph (f)

18. An amendment was submitted by the Netherlands (A/CONF.25/C.1/L.167), which was orally revised by the addition of "and" before "who". The amendment was referred to the Drafting Committee.

Sub-paragraph (g)

19. Greece orally proposed to delete this sub-paragraph. The Committee at its thirty-fourth meeting rejected the Greek oral amendment by 49 votes to 2, with 8 abstentions.

Sub-paragraph (h)

20. Greece orally proposed to delete this sub-paragraph. The Committee at its thirty-fourth meeting rejected the Greek oral amendment by 55 votes to 1, with 9 abstentions.

Sub-paragraph (i)

21. Indonesia orally proposed to delete "and who is not an employee of the sending State". Lebanon orally proposed to replace "who is not an employee of the sending State" by "without necessarily being an employee of the sending State".

22. At its thirty-fourth meeting the Committee voted as follows:

(a) By 33 votes to 17, with 14 abstentions, it rejected the Indonesian oral amendment.

(b) By 26 votes to 16, with 21 abstentions, it rejected the Lebanese oral amendment.

(c) By 48 votes to 3, with 13 abstentions, it adopted the sub-paragraph as submitted by the Drafting Committee.

Sub-paragraph (j)

23. As stated above, the Drafting Committee referred two amendments to this sub-paragraph to the First Committee. The amendment of the Federal Republic of Germany, Japan and Nigeria (A/CONF.25/C.1/L.166) was modified by the acceptance by the sponsors of a suggestion by Lebanon that the word "career" be added before "head of consular post".

24. At its thirty-fifth meeting the Committee voted as follows :

(a) The vote on the amendment of the Federal Republic of Germany, Japan and Nigeria, as orally revised, was 29 votes in favour, 29 against, with 6 abstentions, and consequently the amendment was not adopted.

(b) By 53 votes to none, with 5 abstentions, it adopted the joint amendment of Brazil and India (A/CONF.25/C.1/L.166).

(c) By 57 votes to none, with 7 abstentions, it adopted the sub-paragraph as amended.

Sub-paragraph (k)

25. No amendments were pressed to a vote. The sub-paragraph was adopted without objection.

Paragraph 2

26. No amendments were submitted. The paragraph was adopted without objection.

Article as a whole

27. At its thirty-fifth meeting the Committee, by 52 votes to none, with 1 abstention, adopted the article as amended, subject to consideration by the Drafting Committee of the Mexican oral suggestion concerning sub-paragraph (d) and of the Netherlands amendment to sub-paragraph (f).

Title of Chapter I, Section I Establishment and Conduct of Consular Relations

28. An amendment to the Spanish version of the title was submitted by Spain (A/CONF.25/C.1/L.21). At its third meeting the Committee referred the Spanish amendment to the Drafting Committee.

Article 2

Establishment of consular relations

New first paragraph proposed by Czechoslovakia

29. Czechoslovakia submitted an amendment (A/CONF.25/C.1/L.1) proposing a new first paragraph. The amendment was not pressed to a vote.

Paragraph 1

30. An amendment submitted by the United Arab Republic (A/CONF.25/C.1/L.9) was referred by the Committee to the Drafting Committee.

Paragraph 2

31. Amendments were submitted by Bulgaria, by Hungary, by Brazil, Italy and the United Kingdom jointly, by the Republic of Viet-Nam and by India (A/CONF.25/C.1/L.2, 13, 19, 30 and 36 respectively). Guinea submitted an oral sub-amendment to the Hungarian amendment, to replace the words "otherwise agreed" by the words "there is a provision to the contrary". Spain submitted an oral sub-amendment to the Indian amendment to add the words "in accordance with the present Convention and"; the sub-amendment was accepted by India.

32. At its third meeting the Committee voted as follows :

(a) By 37 votes to 35, with 3 abstentions, the Committee rejected the identical amendments of Brazil, Italy and the United Kingdom (A/CONF.25/C.1/L.19) and the Republic of Viet-Nam (A/CONF.25/C.1/L.30), calling for the deletion of paragraph 2.

(b) By 57 votes to 2, with 3 abstentions, the Committee rejected the Bulgarian amendment (A/CONF.25/C.1/L.2).

(c) By 51 votes to 7, with 13 abstentions, the Committee rejected the oral sub-amendment of Guinea to the Hungarian amendment.

(d) By 36 votes to 21, with 16 abstentions, the Committee rejected the Hungarian amendment (A/CONF.25/C.1/L.13).

(e) By 37 votes to 23, with 14 abstentions, the Committee rejected the Indian amendment (A/CONF.25/C.1/L.36), as orally revised by Spain.

(f) The Committee adopted without objection paragraph 2 of the text of the International Law Commission.

Paragraph 3

33. An amendment was submitted by Spain (A/CONF.25/C.1/L.22). After discussion, the Spanish amendment was withdrawn.

Article as a whole

34. At its third meeting the Committee adopted without objection the text of article 2 as proposed by the International Law Commission, subject to consideration by the Drafting Committee of the amendment to paragraph 1, submitted by the United Arab Republic (A/CONF.25/C.1/L.9).

Article 3

Exercise of consular functions

35. Amendments were submitted by the United Arab Republic, Spain, the United States, Italy and Japan (A/CONF.25/C.1/L.10, 24, 40, 41 and 46 respectively). Guinea and Mali submitted an oral amendment to the Spanish amendment, to delete the

word "also". The Committee decided to refer to the Drafting Committee an oral suggestion by Mexico that in the Spanish text of the amendment of Spain, the word "*Convenio*" should be replaced by "*Convencción*".

36. At its fourth meeting the Committee voted as follows:

(a) By 44 votes to 19, with 9 abstentions, the Committee rejected the amendment of Italy (A/CONF.25/C.1/L.41).

(b) By 40 votes to 19, with 13 abstentions, the Committee rejected the amendment of the United States (A/CONF.25/C.1/L.40).

(c) By 52 votes to 4, with 13 abstentions, the Committee rejected the oral sub-amendment of Guinea and Mali to the amendment of Spain.

(d) By 57 votes to 5, with 6 abstentions, the Committee adopted the amendment of Spain (A/CONF.25/C.1/L.24).

(e) By 64 votes to 1, with 6 abstentions, the Committee adopted the article as amended, subject to consideration by the Drafting Committee of the suggestion by Mexico regarding the Spanish text.

Article 4

Establishment of a consulate

Paragraph 1

37. No amendments were submitted. At its fifth meeting, the Committee approved without objection the paragraph as drafted by the International Law Commission.

Paragraph 2

38. Amendments were submitted by Spain, Brazil and Italy (A/CONF.25/C.1/L.23, 35 and 42 respectively). The Brazilian amendment was withdrawn in favour of a joint oral amendment by Brazil and Venezuela that the paragraph should read: "The seat of the consulate and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State". The Spanish amendment was withdrawn.

39. At its fifth meeting the Committee decided as follows:

(a) By 27 votes to 12, with 23 abstentions, the Committee adopted the Italian amendment (A/CONF.25/C.1/L.42).

(b) By 32 votes to 16, with 15 abstentions, the Committee adopted the joint oral amendment of Brazil and Venezuela.

(c) The Committee adopted without objection the paragraph as amended.

Paragraph 3

40. An amendment submitted by Spain (A/CONF.25/C.1/L.23) was withdrawn. The Federal Republic of Germany orally proposed that the Italian amendment to paragraph 2 (A/CONF.25/C.1/L.42) should also be applied to paragraph 3. At its fifth meeting, the Com-

mittee adopted without objection the paragraph as so amended.

Paragraph 4

41. Amendments were submitted by Spain, Japan and the United Kingdom (A/CONF.25/C.1/L.23, 47 and 50 respectively). The Spanish amendment was withdrawn.

42. At its fifth meeting the Committee, by 43 votes to 17, with 5 abstentions, rejected the identical amendments of Japan and the United Kingdom (A/CONF.25/C.1/L.47 and 50 respectively) which proposed to delete the paragraph. The Committee adopted without objection paragraph 4 of the text of the International Law Commission.

Paragraph 5

43. Amendments were submitted by the Republic of Viet-Nam, Japan and the United Kingdom (A/CONF.25/C.1/L.31, 47 and 50 respectively). The amendments of the United Kingdom and the Republic of Viet-Nam were withdrawn in favour of a joint amendment of Spain and the Republic of Viet-Nam (A/CONF.25/C.1/L.52), which was orally revised by its sponsors to read: "The prior consent of the receiving State shall also be required for the opening of an office forming part of an existing consulate, but outside the seat thereof". Venezuela orally proposed to delete the paragraph.

44. At its fifth meeting the Committee voted as follows:

(a) By 61 votes to 1, with 4 abstentions, the Committee rejected the Venezuelan oral amendment.

(b) By 36 votes to 20, with 13 abstentions, the Committee adopted the joint amendment of Spain and the Republic of Viet-Nam, as orally revised.

(c) The Committee adopted without objection the paragraph as amended.

Proposed new paragraph 6

45. An amendment submitted by Greece (A/CONF.25/C.1/L.49) proposed to add a new paragraph 6. By 46 votes to 2, with 15 abstentions, the Committee at its fifth meeting decided not to consider this amendment in connexion with article 4.

Article as a whole

46. At its fifth meeting the Committee adopted without objection the article as amended.

New article proposed by Japan

(Exercise of consular functions outside the consular district)¹

47. Japan submitted a proposal (A/CONF.25/C.1/L.48) for a new article between articles 4 and 5. The Committee, at its fifth meeting, decided to consider in conjunction therewith the amendment submitted by Greece (A/CONF.25/C.1/L.49) as a new paragraph 6 of article 4. At the sixth meeting Japan and Greece

¹ The Committee adopted the new article without a title. The above title was suggested by Hungary in the Committee.

withdrew their texts in favour of a joint proposal of Canada, Chile, Cuba, Ghana, Greece and Japan (A/CONF.25/C.1/L.68). An oral amendment by the Federal Republic of Germany to the joint proposal, providing for deletion of the word "express", was accepted by the sponsors. At the same meeting Hungary, Tunisia and Mexico submitted an oral proposal that the new article should read: "Consular functions may in special circumstances and with the consent of the receiving State be performed outside the respective consular district".

48. At its sixth meeting the Committee, by 31 votes to 30, with 9 abstentions, adopted the joint proposal of Canada, Chile, Cuba, Ghana, Greece and Japan, as revised by the oral amendment of the Federal Republic of Germany. As a result, the oral proposal of Hungary, Tunisia and Mexico was not put to the vote.

Article 5

Consular functions

49. Amendments and proposals were submitted in written form by the following: Hungary, A/CONF.25/C.1/L.14; Ukrainian SSR, A/CONF.25/C.1/L.15; Switzerland, A/CONF.25/C.1/L.16; Venezuela, A/CONF.25/C.1/L.20; South Africa, A/CONF.25/C.1/L.25; Austria, A/CONF.25/C.1/L.26; France, A/CONF.25/C.1/L.32; Czechoslovakia, Hungary and Romania, A/CONF.25/C.1/L.33; Czechoslovakia, A/CONF.25/C.1/L.34; India, A/CONF.25/C.1/L.37; Cambodia, A/CONF.25/C.1/L.38; Canada and Netherlands, A/CONF.25/C.1/L.39; Italy, A/CONF.25/C.1/L.43; Spain, A/CONF.25/C.1/L.45; Indonesia, A/CONF.25/C.1/L.51; Mexico, A/CONF.25/C.1/L.53; Japan, A/CONF.25/C.1/L.54; Australia, A/CONF.25/C.1/L.61; Norway, A/CONF.25/C.1/L.63; United States, A/CONF.25/C.1/L.69; Yugoslavia, A/CONF.25/C.1/L.72; Mali, A/CONF.25/C.1/L.73; Greece, A/CONF.25/C.1/L.80; India and Yugoslavia, A/CONF.25/C.1/L.100.

50. Of these, the proposal of Canada and the Netherlands for the text of the article was in the form of a short, general provision; the rest of the documents took as a basis the long, enumerative, non-exhaustive list of consular functions as proposed by the International Law Commission. The Committee decided first to discuss the question of principle whether the article should have a short general form or a long enumerative form.

Question of principle as to the form of the article

51. At its ninth meeting the Committee decided, on a roll-call vote, by 42 votes to 26, with 8 abstentions, not to adopt the short general form for the article. The proposal of Canada and the Netherlands (A/CONF.25/C.1/L.39) was accordingly not considered.

Introductory sentence

52. The amendments submitted by Switzerland, Austria and Norway (A/CONF.25/C.1/L.16, 26 and 63 respectively) applied to this sentence. In addition, the United Kingdom orally proposed an amendment to add

the word "ordinarily" before "consist". The Swiss amendment was withdrawn.

53. At its ninth meeting the Committee voted as follows:

(a) By 43 votes to 7, with ten abstentions, the Committee decided to replace "more especially" by "*inter alia*", as proposed by Austria and Norway (A/CONF.25/C.1/L.26 and 63 respectively).

(b) By 30 votes to 5, with 28 abstentions, the Committee rejected the oral amendment of the United Kingdom.

Sub-paragraph (a)

54. The amendments of Venezuela, South Africa, Indonesia, Japan, Mali and Greece (A/CONF.25/C.1/L.20, 25, 51, 54, 73 and 80) applied to this sub-paragraph. The amendments of Venezuela, South Africa and Greece were withdrawn.

55. At its ninth meeting the Committee voted as follows:

(a) By 48 votes to 10, with 8 abstentions, the Committee rejected the amendment of Indonesia (A/CONF.25/C.1/L.51).

(b) By 62 votes to 1, with 2 abstentions, the Committee rejected the amendment of Japan (A/CONF.25/C.1/L.54).

(c) By 35 votes to 12, with 20 abstentions, the Committee rejected the amendment of Mali (A/CONF.25/C.1/L.73).

(d) By 68 votes to none, with 1 abstention, the Committee adopted the text as drafted by the International Law Commission.

Sub-paragraph (b)

56. The amendment of Czechoslovakia, Hungary Romania (A/CONF.25/C.1/L.33) applied to this sub-paragraph. Spain submitted an oral amendment to add the words "in accordance with the provisions of the present Convention" at the end of the sub-paragraph.

57. At its tenth meeting the Committee voted as follows:

(a) On a roll-call vote, by 31 votes to 22, with 17 abstentions, the Committee adopted the principle contained in the amendment of Czechoslovakia, Hungary and Romania (A/CONF.25/C.1/L.33), leaving the task of precise formulation to the Drafting Committee.

(b) By 23 votes to 16, with 28 abstentions, the Committee adopted the Spanish oral amendment.

(c) The Committee adopted without objection the sub-paragraph as amended, subject to formulation by the Drafting Committee.

Sub-paragraph (c)

58. The amendments of Hungary, Austria, India, Japan and Greece (A/CONF.25/C.1/L.14, 26, 37, 54 and 80 respectively), which applied to this sub-paragraph, all proposed to add the words "by all lawful means" after "Ascertaining". The Greek amendment (A/CONF.25/C.1/L.80) also applied. The Spanish amendment (A/CONF.25/C.1/L.45) was withdrawn.

59. At its tenth meeting the Committee voted as follows :

(a) By 52 votes to 3, with 13 abstentions, the Committee adopted the amendments adding the words "by all lawful means".

(b) By 46 votes to 2, with 16 abstentions, the Committee rejected the amendment of Greece (A/CONF.25/C.1/L.80).

(c) The Committee unanimously adopted the sub-paragraph as amended.

Sub-paragraph (d)

60. The amendment of Spain (A/CONF.25/C.1/L.45) applied to this sub-paragraph.

61. At its tenth meeting the Committee, by 56 votes to 2, with 7 abstentions, rejected the Spanish amendment, and by 63 votes to none, with 3 abstentions, adopted the text as drafted by the International Law Commission.

Sub-paragraph (e)

62. The amendments of Spain (A/CONF.25/C.1/L.45) and Greece (A/CONF.25/C.1/L.80) applied to this sub-paragraph. The Greek amendment was withdrawn.

63. At its eleventh meeting the Committee, by 37 votes to 13, with 18 abstentions, rejected the Spanish amendment, and by 63 votes to none, with 1 abstention, adopted the sub-paragraph as drafted by the International Law Commission.

Sub-paragraph (f)

64. The amendments or proposals of Venezuela, South Africa, Austria, Cambodia, Mexico, Australia and the United States (A/CONF.25/C.1/L.20, 25, 26, 38, 53, 61 and 69 respectively) applied to this sub-paragraph. The amendments of the United States and Cambodia and the first amendment of South Africa were withdrawn.

65. At its eleventh meeting the Committee voted as follows :

(a) By 45 votes to 10, with 14 abstentions, the Committee rejected the Mexican amendment (A/CONF.25/C.1/L.53).

(b) By 28 votes to 26, with 12 abstentions, the Committee adopted the Venezuelan amendment (A/CONF.25/C.1/L.20). In view of this decision, the amendments of Austria and Australia (A/CONF.25/C.1/L.26 and 61 respectively) were not put to the vote.

(c) By 37 votes to 8, with 21 abstentions, the Committee rejected the second South African amendment (A/CONF.25/C.1/L.25).

(d) By 62 votes to none, with 6 abstentions, the Committee adopted the sub-paragraph as amended.

Sub-paragraph (g)

66. The amendments submitted by Hungary, Japan, Australia, the United States and Greece (A/CONF.25/C.1/L.14, 54, 61, 69 and 80 respectively) applied to this sub-paragraph. The Hungarian amendment and the first part of the Japanese amendment were withdrawn.

67. At its eleventh meeting the Committee voted as follows :

(a) By 26 votes to 15, with 19 abstentions, the Committee rejected the United States amendment (A/CONF.25/C.1/L.69).

(b) By 26 votes to 2, with 29 abstentions, the Committee rejected the Greek amendment (A/CONF.25/C.1/L.80).

(c) By 34 votes to 16, with 10 abstentions, the Committee adopted the principle of the Japanese and Australian amendments (A/CONF.25/C.1/L.54 and 61 respectively).

(d) By 57 votes to none, with 5 abstentions, the Committee adopted the sub-paragraph as amended.

Sub-paragraph (h)

68. The amendments of Venezuela, Japan, Australia, the United States and Greece (A/CONF.25/C.1/L.20, 54, 61, 69 and 80) applied to this sub-paragraph. The amendments of Greece and Australia were withdrawn. An oral suggestion by the United Kingdom to insert the word "other" before "persons" was referred to the Drafting Committee.

69. At its twelfth meeting the Committee voted as follows :

(a) By 26 votes to 16, with 21 abstentions, the Committee rejected the United States amendment (A/CONF.25/C.1/L.69).

(b) By 19 votes to 10, with 31 abstentions, the Committee adopted the Venezuelan amendment (A/CONF.25/C.1/L.20). In consequence of this decision, the amendment of Japan (A/CONF.25/C.1/L.54) was not put to the vote.

(c) By 56 votes to 1, with 7 abstentions, the Committee adopted the sub-paragraph as amended.

Sub-paragraph (i)

70. The amendments submitted by Italy, Australia, the United States and Greece (A/CONF.25/C.1/L.43, 61, 69 and 80 respectively) applied to this sub-paragraph. The amendments of Greece and the United States were withdrawn. Australia orally modified its amendment to add, at the beginning of the sub-paragraph, the words "Subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals ...".

71. At its twelfth meeting the Committee voted as follows :

(a) By 27 votes to 24, with 13 abstentions, the Committee adopted the Australian amendment as orally modified.

(b) By 55 votes to 4, with 6 abstentions, the Committee rejected the Italian amendment (A/CONF.25/C.1/L.43).

(c) By 57 votes to 1, with 5 abstentions, the Committee adopted the sub-paragraph as amended.

Sub-paragraph (j)

72. The amendments submitted by Hungary, the Ukrainian SSR, Austria, France, Czechoslovakia and

Japan (A/CONF.25/C.1/L.14, 15, 26, 32, 34 and 54 respectively) applied to this sub-paragraph. The amendments of the Ukrainian SSR and Japan were withdrawn.

73. At its thirteenth meeting the Committee voted as follows :

(a) By 25 votes to 6, with 27 abstentions, the Committee rejected the Austrian amendment (A/CONF.25/C.1/L.26).

(b) By 21 votes to 15, with 23 abstentions, the Committee rejected the Hungarian amendment (A/CONF.25/C.1/L.14).

(c) By 43 votes to 6, with 14 abstentions, the Committee adopted the French amendment (A/CONF.25/C.1/L.32). In view of this decision, the amendment of Czechoslovakia (A/CONF.25/C.1/L.34) was not put to the vote.

(d) By 61 votes to 1, with 1 abstention, the Committee adopted sub-paragraph (j) as amended.

Sub-paragraph (k)

74. The amendments submitted by Venezuela, Austria, Cambodia and Japan (A/CONF.25/C.1/L.20, 26, 38 and 54 respectively) applied to this sub-paragraph.

75. At its thirteenth meeting the Committee voted as follows :

(a) By 50 votes to 3, with 8 abstentions, the Committee rejected the Venezuelan amendment (A/CONF.25/C.1/L.20).

(b) By 48 votes to 2, with 9 abstentions, the Committee rejected the Japanese amendment (A/CONF.25/C.1/L.54).

(c) By 33 votes to 9, with 20 abstentions, the Committee rejected the Austrian amendment (A/CONF.25/C.1/L.26).

(d) By 48 votes to 1, with 12 abstentions, the Committee rejected the Cambodian amendment (A/CONF.25/C.1/L.38).

(e) By 62 votes to 1, with 1 abstention, the Committee adopted the sub-paragraph as drafted by the International Law Commission.

Sub-paragraph (l)

76. The amendments of Austria, Cambodia, Italy, Japan, Norway, the United States and Greece (A/CONF.25/C.1/L.26, 38, 43, 54, 63, 69 and 80 respectively) applied to this sub-paragraph. The amendments of Italy, Japan, the United States and Greece were withdrawn by their sponsors; the Italian amendment was, however, reintroduced by Congo (Leopoldville).

77. At its thirteenth meeting the Committee voted as follows :

(a) By 31 votes to 14, with 16 abstentions, the Committee adopted the Austrian amendment (A/CONF.25/C.1/L.26).

(b) By 36 votes to 3, with 23 abstentions, the Committee adopted the Norwegian amendment (A/CONF.25/C.1/L.63).

(c) By 19 votes to 18, with 23 abstentions, the Committee rejected the Italian amendment (A/CONF.25/C.1/L.43) reintroduced by Congo (Leopoldville).

(d) By 59 votes to none, with 5 abstentions, the Committee adopted the sub-paragraph as amended.

New sub-paragraph (m)

78. Austria (A/CONF.25/C.1/L.26) proposed to add two new sub-paragraphs to the article. The Austrian amendment was withdrawn. India and Yugoslavia withdrew their amendments proposing additions to the article (A/CONF.25/C.1/L.37 and 72 respectively) in favour of a joint Indian-Yugoslav amendment (A/CONF.25/C.1/L.100). The sponsors orally revised the amendment by replacing "and" by "or" between "the receiving State" and "to which no objection".

79. At the thirteenth meeting the Committee, by 35 votes to 15, with 7 abstentions, decided to retain the words "or to which no objection is taken by the receiving State" in the Indian-Yugoslav amendment (A/CONF.25/C.1/L.100), and then, by 46 votes to 5, with 12 abstentions, adopted that amendment.

Re-organization of the article proposed by Austria

80. The Austrian amendment (A/CONF.25/C.1/L.26), in addition to the changes of substance in various sub-paragraphs which have already been referred to, proposed that a new paragraph should begin after sub-paragraph (c) with the words "2. Exercising these functions the consular officials may particularly : ", and also proposed various consequential drafting changes to the ensuing sub-paragraphs.

81. The Committee at its thirteenth meeting decided to refer this proposed re-organization to the Drafting Committee, together with the oral suggestions of several representatives that the re-grouping of the sub-paragraphs should be studied.

Article as a whole

82. At its thirteenth meeting the Committee, by 59 votes to none, with 1 abstention, adopted as a whole the amended text of the article subject to the various points referred to the Drafting Committee.

Joint proposal of Argentina, Australia, Belgium, Colombia, Denmark, Iran, Nigeria, Sweden and the United Kingdom to insert a new article between articles 5 and 6

83. Argentina, Australia, Belgium, Colombia, Denmark, Iran, Nigeria, Sweden and the United Kingdom jointly proposed a new article to be inserted between articles 5 and 6 (A/CONF.25/C.1/L.124), and later revised the text (A/CONF.25/C.1/L.124/Rev.1). Greece proposed an amendment thereto (A/CONF.25/C.1/L.156).

84. The question was raised whether the Conference was competent to consider the nine-power proposal. The Committee decided at its twenty-fourth meeting, by 36 votes to 25, with 8 abstentions, in favour of its competence.

85. In view of the division of opinion on the problem, the Committee at its twenty-sixth meeting established an *ad hoc* sub-committee composed of Brazil, Ceylon, the Federation of Malaya, the Union of Soviet

Socialist Republics, the United Kingdom and Upper Volta to seek a solution. The sub-committee held one meeting, and prepared a draft resolution sponsored by all six of its members (A/CONF.25/C.1/L.160).

86. The sponsors of the other proposal and the amendment withdrew them in favour of the joint draft resolution. At its twenty-seventh meeting the Committee, by 61 votes to none, with 6 abstentions, approved the six-power joint draft resolution (A/CONF.25/C.1/L.160).

Article 6

Exercise of consular functions in a third State

87. No written amendments were submitted to the article. Italy submitted an oral amendment to delete the word "express".

88. At its eighth meeting the Committee, by 48 votes to 16, with 6 abstentions, rejected the Italian oral amendment. It then adopted without objection the text of the article as proposed by the International Law Commission.

Article 7

Exercise of consular functions on behalf of a third State

89. An amendment submitted by the United Kingdom (A/CONF.25/C.1/L.62) was withdrawn in favour of a joint amendment of the Federal Republic of Germany and the United Kingdom (A/CONF.25/C.1/L.79).

90. At its ninth meeting the Committee, by 25 votes to 19 with 21 abstentions, adopted the joint amendment of the Federal Republic of Germany and the United Kingdom (A/CONF.25/C.1/L.79). It then without objection adopted the article as amended.

Article 8

Appointment and admission of heads of consular posts

91. Amendments were submitted by Japan, and jointly by Brazil, Canada, Ceylon, the United Kingdom and the United States (A/CONF.25/C.1/L.55 and 74 respectively). The Japanese amendment was withdrawn.

92. At its fourteenth meeting the Committee, by 38 votes to 25, with 9 abstentions, rejected the joint amendment of Brazil, Canada, Ceylon, the United Kingdom and the United States (A/CONF.25/C.1/L.74). It then, by 54 votes to 5, with 10 abstentions, adopted the text of the article as drafted by the International Law Commission.

Article 9

Classes of heads of consular posts

Paragraph 1

93. An amendment was submitted by Switzerland (A/CONF.25/C.1/L.93). At its fourteenth meeting the Committee, by 29 votes to 26, with 10 abstentions, rejected the Swiss amendment. It then adopted without objection the paragraph as drafted by the International Law Commission.

Paragraph 2

94. An amendment submitted by South Africa (A/CONF.25/C.1/L.81) was referred by the Committee, at its fourteenth meeting, to the Drafting Committee. The text as drafted by the International Law Commission was adopted without objection.

Article as a whole

95. At its fourteenth meeting the Committee, by 56 votes to 1, with 8 abstentions, adopted the article as drafted by the International Law Commission, subject to consideration by the Drafting Committee of an amendment to paragraph 2.

Article 10

The consular commission

Paragraph 1

96. Amendments were submitted by Brazil, Canada, Ceylon, the United Kingdom and the United States jointly, by Brazil, and by Venezuela (A/CONF.25/C.1/L.75, 64 and 87 respectively). The Federal Republic of Germany submitted an oral amendment to transfer the words "as a general rule" so that the end of the paragraph would read "and, as a general rule, the consular district". The five-power joint amendment to this paragraph was withdrawn.

97. At its fifteenth meeting the Committee voted as follows:

(a) By 35 votes to 22, with 5 abstentions, the Committee rejected the identical amendments of Brazil and Venezuela (A/CONF.25/C.1/L.64 and 87 respectively) for the deletion of "as a general rule".

(b) By 25 votes to 21, with 14 abstentions, the Committee rejected the oral amendment of the Federal Republic of Germany.

Paragraph 2

98. Amendments were submitted by Brazil, Canada, Ceylon, the United Kingdom and the United States jointly, and by Venezuela (A/CONF.25/C.1/L.75 and 87 respectively). The five-power amendment was referred to the Drafting Committee.

99. At its fifteenth meeting the Committee, by 49 votes to 8, with 4 abstentions, rejected the Venezuelan amendment.

Paragraph 3

100. Amendments were submitted by Italy and Venezuela (A/CONF.25/C.1/L.83 and 87 respectively).

101. At its fifteenth meeting the Committee voted as follows:

(a) By 49 votes to 5, with 7 abstentions, the Committee rejected the Italian amendment (A/CONF.25/C.1/L.83) which proposed to delete the paragraph.

(b) By 27 votes to 19, with 14 abstentions, the Committee adopted the Venezuelan amendment (A/CONF.25/C.1/L.87).

New paragraph proposed by Italy

102. The amendment of Italy (A/CONF.25/C.1/

L.83) proposed a new paragraph at the end of the article. The Republic of Viet-Nam submitted an oral sub-amendment proposing that the new paragraph should begin with the words "At the request of the receiving State".

103. At its fifteenth meeting the Committee voted as follows :

(a) By 20 votes to 3, with 38 abstentions, the Committee rejected the oral sub-amendment of the Republic of Viet-Nam.

(b) By 26 votes to 21, with 15 abstentions, the Committee rejected the new paragraph proposed by Italy (A/CONF.25/C.1/L.83).

Article as a whole

104. At its fifteenth meeting the Committee unanimously approved the article as amended, subject to consideration by the Drafting Committee of an amendment to paragraph 2.

Article 11

The exequatur

105. Amendments or proposals were submitted by Austria, by Japan, by Brazil, Canada, Ceylon, the United Kingdom and the United States jointly, by Argentina, and by India (A/CONF.25/C.1/L.27, 56, 76, 91 and 101 respectively). The five-Power joint amendment was withdrawn. Japan withdrew the last sentence of paragraph 2 of its proposal.

106. At its fifteenth meeting the Committee voted as follows :

(a) By 49 votes to 3, with 9 abstentions, the Committee adopted the principle contained in the amendments of Argentina and India (A/CONF.25/C.1/L.91 and 101 respectively), referring to the Drafting Committee the preparation of the text in the light of the two amendments, and its placement within the article.

(b) By 21 votes to 13, with 26 abstentions, the Committee rejected the Austrian amendment (A/CONF.25/C.1/L.27).

(c) By 37 votes to 8, with 17 abstentions, the Committee rejected the Japanese proposal as orally modified.

(d) By 60 votes to 1, with 2 abstentions, the Committee adopted the article as amended, subject to the Drafting Committee's preparation of a text in accordance with the decisions taken.

Article 12

Formalities of appointment and admission

107. Amendments were submitted by Brazil and Italy (A/CONF.25/C.1/L.65 and 84 respectively).

108. At its sixteenth meeting the Committee voted as follows :

(a) By 17 votes to 15, with 23 abstentions, the Committee adopted the Brazilian amendment (A/CONF.25/C.1/L.65).

(b) By 26 votes to 21, with 14 abstentions, the Committee rejected the Italian amendment (A/CONF.25/C.1/L.84).

(c) By 56 votes to none, with 1 abstention, the Committee adopted the article as amended.

Article 13

Provisional admission

109. Amendments were submitted by Belgium, Spain, Italy, Venezuela and Nigeria (A/CONF.25/C.1/L.111, 60, 85, 88 and 103 respectively). Spain withdrew the second of its amendments, and Italy and Nigeria withdrew their amendments. Venezuela accepted an oral sub-amendment by Spain to replace the word "six" by "twelve".

110. At its sixteenth meeting the Committee voted as follows :

(a) By 40 votes to 8, with 17 abstentions, the Committee rejected the first Spanish amendment (A/CONF.25/C.1/L.60).

(b) By 46 votes to 6, with 16 abstentions, the Committee rejected the Venezuelan amendment (A/CONF.25/C.1/L.88) as revised through acceptance of the oral sub-amendment of Spain.

(c) By 61 votes to 1, with 2 abstentions, the Committee adopted the Belgian amendment (A/CONF.25/C.1/L.11).

(d) The Committee unanimously adopted the article as amended.

Article 14

Obligation to notify the authorities of the consular district

111. Amendments were submitted by Italy; by Hungary and the Ukrainian Soviet Socialist Republic jointly; by India; and by South Africa (A/CONF.25/C.1/L.86, 94, 107 and 122 respectively). The amendment of Italy was withdrawn. The United Arab Republic submitted an oral amendment to replace "the present articles" by "the provisions of the present Convention", which was referred to the Drafting Committee. India orally revised its amendment by deleting the word "undue".

112. At its sixteenth meeting the Committee voted as follows :

(a) By 26 votes to 17, with 22 abstentions, the Committee rejected the Indian amendment (A/CONF.25/C.1/L.107) as orally revised.

(b) By 44 votes to 2, with 17 abstentions, the Committee adopted the joint amendment of Hungary and the Ukrainian Soviet Socialist Republic (A/CONF.25/C.1/L.94).

(c) By 33 votes to 15, with 17 abstentions, the Committee rejected the South African amendment (A/CONF.25/C.1/L.122).

(d) By 63 votes to none, with 2 abstentions, the Committee adopted the article as amended.

*Article 15**Temporary exercise of the functions of head of a consular post**Paragraph 1*

113. Amendments were submitted by Belgium; by Hungary and the Ukrainian Soviet Socialist Republic jointly; by Canada; and by Italy (A/CONF.25/C.1/L.12, 95, 108 and 115 respectively).

114. At its seventeenth meeting the Committee, by 44 votes to 5, with 13 abstentions, adopted the Belgian amendment (A/CONF.25/C.1/L.12) to the paragraph. In consequence of this decision it did not vote on the other amendments.

Paragraph 2

115. Amendments were submitted by Belgium, Italy and South Africa (A/CONF.25/C.1/L.12, 115 and 123 respectively). The Italian amendment was withdrawn. Belgium orally modified its amendment so as to add the following sentence to the paragraph as drafted by the International Law Commission: "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 upon its consent".

116. At its seventeenth meeting the Committee, by 36 votes to 8, with 11 abstentions, rejected the South African amendment (A/CONF.25/C.1/L.123) to the paragraph. At its eighteenth meeting the Committee, by 40 votes to 9, with 14 abstentions, adopted the Belgian amendment as orally modified.

Paragraph 3

117. An amendment submitted by Belgium (A/CONF.25/C.1/L.12) was withdrawn by its sponsor, but was reintroduced by the Netherlands. An oral amendment by the United Arab Republic, to place a full stop after the words "head of post" in the text of the International Law Commission and to make the second sentence read: "While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as the head of the consular post concerned", was referred to the Drafting Committee.

118. At its eighteenth meeting the Committee, by 25 votes to 24, with 12 abstentions, adopted the Belgian amendment (A/CONF.25/C.1/L.12) reintroduced by the Netherlands.

Paragraph 4

119. An amendment was submitted by Belgium (A/CONF.25/C.1/L.12). Congo (Leopoldville) submitted an oral amendment to add at the end of the paragraph: "if the receiving State does not object thereto".

120. At its eighteenth meeting the Committee, by 32 votes to 26, with 8 abstentions, rejected the Belgian amendment (A/CONF.25/C.1/L.12). By 29 votes to 10, with 23 abstentions, it adopted the oral amendment of Congo (Leopoldville).

Article as a whole

121. At its eighteenth meeting the Committee, by 53 votes to 2, with 9 abstentions, adopted the article as amended.

*Article 16**Precedence**Paragraphs 1 and 2*

122. No amendments were submitted.

Paragraph 3

123. Amendments were submitted by Italy and South Africa (A/CONF.25/C.1/L.116 and 127 respectively).

124. At its eighteenth meeting the Committee, by 30 votes to 29, with 5 abstentions, adopted the Italian amendment (A/CONF.25/C.1/L.116) and, by 35 votes to 19, with 11 abstentions, rejected the South African amendment (A/CONF.25/C.1/L.127).

Paragraph 4

125. Amendments were submitted by Italy and South Africa (A/CONF.25/C.1/L.116 and 127 respectively). South Africa orally modified its amendment by deleting the words "in the class to which they themselves belong".

126. At its eighteenth meeting the Committee, by 42 votes to 16, with 8 abstentions, adopted the South African amendment (A/CONF.25/C.1/L.127) as orally modified. As a consequence, it did not vote on the Italian amendment (A/CONF.25/C.1/L.116). The paragraph as amended was adopted without objection.

Paragraph 5

127. An amendment submitted by South Africa (A/CONF.25/C.1/L.127) was rejected by the Committee at its eighteenth meeting by 24 votes to 22, with 18 abstentions.

Paragraph 6

128. An amendment was submitted by South Africa (A/CONF.25/C.1/L.127). Ghana orally proposed to delete the paragraph.

129. At its eighteenth meeting the Committee, by 23 votes to 7, with 33 abstentions, rejected the oral amendment of Ghana to delete the paragraph, and by 24 votes to 18, with 22 abstentions, rejected the South African amendment (A/CONF.25/C.1/L.127).

New paragraph 7 proposed by Congo (Leopoldville)

130. An amendment by the Congo (Leopoldville) (A/CONF.25/C.1/L.133) proposing a new paragraph 7 was withdrawn by its sponsor.

Article as a whole

131. At its eighteenth meeting the Committee, by 63 votes to none, with 1 abstention, adopted the article as amended.

*Article 17**Performance of diplomatic acts by the head of a consular post**Paragraph 1*

132. Amendments were submitted by Japan, the Federal Republic of Germany, Venezuela, Canada, India and South Africa (A/CONF.25/C.1/L.57, 78, 89,

109, 110 and 128 respectively). The Japanese amendment was withdrawn. The South African amendment was referred to the Drafting Committee. Canada and India withdrew their amendments in favour of the following joint oral amendment; "In a State where the sending State has no diplomatic mission or where the sending State is not represented by a diplomatic mission of a third State, a consular official may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular official shall not be deemed to confer upon him any right to claim diplomatic privileges and immunities".

133. At its nineteenth meeting the Committee, by 46 votes to 11, with 9 abstentions, rejected the amendments of the Federal Republic of Germany and Venezuela (A/CONF.25/C.1/L.78 and 89 respectively) for the deletion of the paragraph. It then, by 56 votes to 1, with 10 abstentions, adopted the oral joint amendment of Canada and India. The paragraph as amended was adopted by 56 votes to 2, with 6 abstentions. The suggestion that in the first sentence "and" should replace "or" was referred to the Drafting Committee.

Paragraph 2

134. Amendments were submitted by Venezuela, Italy and the United Kingdom (A/CONF.25/C.1/L.89, 117 and 125 respectively). The United Kingdom accepted an oral sub-amendment by Austria to replace the words "normally accorded" by the words "accorded by customary international law or by international agreements". Kuwait submitted an oral sub-amendment to the United Kingdom amendment, to insert the words "international or" before the words "inter-governmental organization".

135. At its nineteenth meeting the Committee voted as follows:

(a) By 54 votes to 7, with 3 abstentions, it rejected the Venezuelan amendment (A/CONF.25/C.1/L.89) to delete the paragraph.

(b) By 27 votes to 16, with 23 abstentions, it adopted the Italian amendment (A/CONF.25/C.1/L.117).

(c) By 38 votes to 5, with 22 abstentions, it rejected the oral sub-amendment of Kuwait to the United Kingdom amendment.

(d) By 62 votes to 1, with 7 abstentions, it adopted the United Kingdom amendment (A/CONF.25/C.1/L.125) as modified through the acceptance of the Austrian oral sub-amendment.

(e) By 62 votes to none, with 7 abstentions, it adopted the paragraph as amended.

Article as a whole

136. At its nineteenth meeting the Committee, by 63 votes to 1, with 4 abstentions, adopted the article as amended.

Article 18

Appointment of the same person by two or more States as a consular officer

137. Amendments were submitted by Italy and the United Kingdom (A/CONF.25/C.1/L.118 and 126 respectively).

138. At its nineteenth meeting the Committee voted as follows:

(a) By 33 votes to 14, with 15 abstentions, it adopted the Italian amendment (A/CONF.25/C.1/L.118).

(b) By 27 votes to 20, with 17 abstentions, it adopted the United Kingdom amendment (A/CONF.25/C.1/L.126). The adoption of that amendment required that, in the title of the article, "head of a consular post" should be replaced by "a consular officer".

(c) By 45 votes to none, with 19 abstentions, it adopted the article as amended.

Article 19

Appointment of the consular staff

Paragraph 1

139. An amendment submitted by Spain (A/CONF.25/C.1/L.131) was withdrawn. At its twentieth meeting the Committee adopted without objection the paragraph as drafted by the International Law Commission.

New paragraph 2 proposed by the Federal Republic of Germany

140. At its twentieth meeting the Committee, by 53 votes to 11, with 7 abstentions, adopted a new paragraph 2 proposed by the Federal Republic of Germany (A/CONF.25/C.1/L.130). The question where the new paragraph should be inserted was referred to the Drafting Committee.

Paragraph 2

141. Amendments were submitted by Switzerland, by Japan, and by Hungary and Poland jointly (A/CONF.25/C.1/L.17, 58 and 96 respectively), all calling for deletion of the paragraph.

142. At its twentieth meeting the Committee, by 33 votes to 26, with 11 abstentions, rejected the amendments calling for deletion.

New paragraph 3 proposed by Italy

143. An amendment submitted by Italy (A/CONF.25/C.1/L.119) was orally revised, by acceptance of a suggestion by South Africa, to read as follows: "Likewise the receiving State may, if such is required by its law, grant to a consular official who is appointed to a consulate in accordance with paragraph 1 of this article and who is not the head of post the exequatur".

144. At its twentieth meeting the Committee, by 40 votes to 17, with 13 abstentions, adopted the Italian amendment as orally modified. A suggestion by Nigeria that the words "the exequatur" should be replaced between "grant" and "to" was referred to the Drafting Committee.

Article as a whole

145. At its twentieth meeting the Committee, by 56 votes to 11, with 3 abstentions, adopted the article as amended.

*Article 20**Size of the staff*

146. Amendments were submitted by Argentina, Nigeria, India and Turkey (A/CONF.25/C.1/L.92, 104, 111 and 135 respectively). The amendments of Argentina, India and Nigeria were withdrawn in favour of a joint oral amendment to replace "reasonable and normal limits" by "limits considered by it to be reasonable and normal". Turkey accepted an oral sub-amendment of the United Arab Republic to add "within the consular district", and orally revised its amendment to read "to satisfy the needs of the consulate for the performance of consular functions within the limits of the consular district, having regard to the circumstances and conditions which exist therein".

147. At its twenty-first meeting the Committee voted as follows:

(a) By 48 votes to 1, with 16 abstentions, it adopted the joint oral amendments of Argentina, India and Nigeria.

(b) By 15 votes to 8, with 40 abstentions, it rejected the Turkish amendment as orally modified.

(c) By 57 votes to none, with 10 abstentions, it adopted the article as amended.

*Article 21**Order of precedence as between the officials of a consulate*

148. Amendments were submitted by Brazil, Hungary, Nigeria, Italy and South Africa (A/CONF.25/C.1/L.66, 97, 105, 120 and 129). Nigeria withdrew its amendment. Brazil orally revised its amendment, in accordance with a suggestion by Liberia, to add to its text "and shall be notified by him to the Ministry for Foreign Affairs of the receiving State or to the authority designated by the said Ministry".

149. At its twenty-first meeting the Committee voted as follows:

(a) By 48 votes to 5, with 10 abstentions, it rejected the amendment of South Africa (A/CONF.25/C.1/L.129).

(b) By 33 votes to 8, with 24 abstentions, it rejected the Brazilian amendment (A/CONF.25/C.1/L.66) as orally modified.

(c) By 45 votes to 3, with 18 abstentions, it adopted the Hungarian amendment (A/CONF.25/C.1/L.97).

(d) By 27 votes to 15, with 23 abstentions, it rejected the Italian amendment (A/CONF.25/C.1/L.120).

(e) By 61 votes to 1, with 3 abstentions, it adopted the article as amended.

*Article 22**Appointment of nationals of the sending State**Proposed deletion of the article*

150. An amendment submitted by Japan (A/CONF.25/C.1/L.59) proposed to delete the whole article. The

Committee, at its twenty-first meeting, by 52 votes to 11, with 4 abstentions, rejected that amendment.

Paragraph 1

151. An amendment submitted by South Africa (A/CONF.25/C.1/L.137), proposing deletion of the paragraph, was rejected by the Committee at its twenty-first meeting, by 45 votes to 13, with 9 abstentions. At the same meeting an oral amendment by Kuwait to replace "in principle" by "normally" was rejected by 36 votes to 9, with 20 abstentions.

Paragraph 2

152. Amendments were submitted by Brazil and China (A/CONF.25/C.1/L.67 and 112 respectively). The Netherlands submitted an oral amendment to replace the words "except with the consent of that State which may be withdrawn at any time" by the words "unless that State after prior notification does not object thereto".

153. At its twenty-first meeting the Committee voted as follows:

(a) By 47 votes to 10, with 9 abstentions, it rejected the oral amendment of the Netherlands.

(b) By 35 votes to 13, with 17 abstentions, it adopted the Brazilian amendment (A/CONF.25/C.1/L.67).

(c) By 26 votes to 5, with 23 abstentions, it rejected the Chinese amendment (A/CONF.25/C.1/L.112).

Paragraph 3

154. An amendment submitted by South Africa (A/CONF.25/C.1/L.112) was rejected by the Committee at its twenty-first meeting by 40 votes to 4, with 21 abstentions.

Article as a whole

155. At its twenty-first meeting the Committee, by 57 votes to 6, with 3 abstentions, adopted the article as amended.

*Article 23**Withdrawal of exequatur: persons deemed unacceptable*

156. The following amendments were submitted: United States, A/CONF.25/C.1/L.3/Rev.1; Switzerland, A/CONF.25/C.1/L.18; Austria, A/CONF.25/C.1/L.28; Chile, A/CONF.25/C.1/L.90; Hungary, A/CONF.25/C.1/L.98; Spain, A/CONF.25/C.1/L.114; Mexico, A/CONF.25/C.1/L.134; Congo (Leopoldville), A/CONF.25/C.1/L.146; India, A/CONF.25/C.1/L.147; Austria and Switzerland, A/CONF.25/C.1/L.149; Argentina, A/CONF.25/C.1/L.150.

157. The first of the amendments of Spain and the amendment of Hungary were referred to the Drafting Committee. The individual amendments of Switzerland and Austria were withdrawn in favour of their joint amendment, and India withdrew its amendment in favour of paragraph 2 of that joint amendment. Chile, Argentina and Mexico withdrew their amendments, and Spain withdrew the second and third of its amendments, in favour of a joint oral amendment sponsored by the four Powers, which was identical with the joint amend-

ment of Austria and Switzerland except that (i) in paragraph 1 the last word "acceptable" was replaced by "*persona grata*", and (ii) in paragraph 2 of the Spanish text the words "*a motivar*" were replaced by "*a exponer los motivos de*". The Committee considered and voted upon the two joint amendments together, leaving the differences between them to be considered by the Drafting Committee.

Paragraph 1

158. The joint amendments of Austria and Switzerland (A/CONF.25/C.1/L.149) and of Argentina, Chile, Mexico and Spain related to this paragraph. At its twenty-third meeting the Committee, by a vote of 41 to 25, with 2 abstentions, adopted those amendments. The Drafting Committee was requested to examine the question of the use of "acceptable" or of "*persona grata*" in the light of the records of the First Committee's discussions.

Paragraph 2

159. The amendment by the Congo (Leopoldville) (A/CONF.25/C.1/L.146) was rejected by the Committee at its twenty-third meeting by 17 votes to 12, with 39 abstentions.

Paragraph 3

160. The United States amendment (A/CONF.25/C.1/L.3/Rev.1) was adopted by the Committee at its twenty-third meeting by 66 votes to none, with 2 abstentions.

New paragraph 4

161. The new paragraph proposed in the joint amendments of Austria and Switzerland (A/CONF.25/C.1/L.149) and of Argentina, Chile, Mexico and Spain was adopted unanimously by the Committee at its twenty-third meeting. The question of the Spanish text was referred to the Drafting Committee.

Article as a whole

162. At its twenty-third meeting the Committee, by 66 votes to none, with 3 abstentions, adopted the article as amended.

Article 24

Notification of the appointment, arrival and departure of members of the consulate, members of their families and members of the private staff

163. Amendments were submitted by Spain, South Africa, Indonesia and India (A/CONF.25/C.1/L.132, 138, 144 and 148 respectively). The amendment of Spain was withdrawn, as was the South African amendment to sub-paragraph (a) of paragraph 1. The Indian amendment to sub-paragraph (a) of paragraph 1 was orally revised by the insertion of the words "affecting their status" between the word "changes" and the word "that".

164. At its twenty-third meeting the Committee voted as follows:

(a) By 53 votes to none, with 7 abstentions, it adopted

the Indian amendment to sub-paragraph (a) of paragraph 1 (A/CONF.25/C.1/L.148) as orally revised.

(b) By 15 votes to 11, with 34 abstentions, it rejected the Indonesian amendment to sub-paragraph (d) of paragraph 1 (A/CONF.25/C.1/L.144).

(c) By 24 votes to 15, with 25 abstentions, it rejected the South African amendment to sub-paragraph (d) of paragraph 1 (A/CONF.25/C.1/L.138).

A separate vote on each sub-paragraph of paragraph 1 having been requested:

(d) It unanimously adopted the introductory phrase to paragraph 1 as drafted by the International Law Commission.

(e) It unanimously adopted sub-paragraph (a) as amended.

(f) By 63 votes to 1, with no abstentions, it adopted sub-paragraph (b) as drafted by the International Law Commission.

(g) By 62 votes to 1, with 1 abstention, it adopted sub-paragraph (c) as drafted by the International Law Commission.

(h) By 60 votes to 2, with 3 abstentions, it adopted sub-paragraph (d) as drafted by the International Law Commission.

(i) It unanimously adopted paragraph 2 as drafted by the International Law Commission.

(j) By 65 votes to none, with 1 abstention, it adopted the article as amended.

Article 25

Modes of termination of the functions of a member of the consulate

165. An amendment was submitted by South Africa (A/CONF.25/C.1/L.139). An oral suggestion by Czechoslovakia to replace "in particular" by "*inter alia*" was referred to the Drafting Committee.

166. At its twenty-third meeting the Committee, by 53 votes to 1, with 13 abstentions, rejected the South African amendment (A/CONF.25/C.1/L.139). It then, by 60 votes to none, with 5 abstentions, adopted the article as drafted by the International Law Commission, subject to consideration by the Drafting Committee of the suggestion of Czechoslovakia.

Article 26

Right to leave the territory of the receiving State and facilitation of departure

167. Amendments were submitted by the United States, Indonesia and Czechoslovakia (A/CONF.25/C.1/L.4 and Add.1, 145 and 151 respectively). The first two amendments proposed by the United States in document A/CONF.25/C.1/L.4/Add.1 were referred to the Drafting Committee.

168. At its twenty-third meeting the Committee voted as follows:

(a) By 33 votes to 6, with 18 abstentions, it adopted the Indonesian amendment (A/CONF.25/C.1/L.145).

(b) By 45 votes to none, with 15 abstentions, it adopted in principle the amendment of Czechoslovakia (A/CONF.25/C.1/L.151), leaving the question of formulation to the Drafting Committee.

(c) By 31 votes to 3, with 29 abstentions, it adopted the third amendment of the United States in document A/CONF.25/C.1/L.4/Add.1.

(d) By 17 votes to 16, with 29 abstentions, it rejected the new paragraph proposed by the United States (A/CONF.25/C.1/L.4).

(e) By 61 votes to none, with 1 abstention, it adopted the article as amended.

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

169. Amendments were submitted by the United States, Hungary, China, Portugal, the United Kingdom and Australia (A/CONF.25/C.1/L.5, 99, 113, 141, 142 and 152 respectively). The amendments of the United States were withdrawn. At its twenty-fourth meeting the Committee appointed a working group composed of the sponsors of amendments to the article, which was requested to produce a consolidated text of the amendments for the consideration of the Committee. The text produced by the Working Group is contained in document A/CONF.25/C.1/L.157. That text was orally revised on the proposal of the United States, by replacing the words "it contains" in sub-paragraph (a) of paragraph 2 by the words "of the consulate".

170. At its twenty-sixth meeting the Committee voted as follows:

(a) By 34 votes to 23, with 12 abstentions, it rejected the amendment of the first sentence of paragraph 1 submitted by the working group (A/CONF.25/C.1/L.157).

(b) By 44 votes to none, with 21 abstentions, it adopted the new paragraph 2 (replacing paragraphs 2 and 3 of the International Law Commission's draft), submitted by the working group (A/CONF.25/C.1/L.157), as orally revised on the proposal of the United States.

(c) By 64 votes to none, with 4 abstentions, it adopted the article as amended.

Article 52

Question of the acquisition of the nationality of the receiving State

171. Amendments or proposals were submitted by the United States, by the Netherlands, by Japan, by Canada, by Brazil (A/CONF.25/C.2/L.8, 19, 86, 123 and 164 respectively) and by Belgium, Spain and Portugal jointly (A/CONF.25/C.1/L.164). The proposals of the United States, Canada, Japan and Brazil were withdrawn in favour of a joint proposal of Brazil, Canada, Ghana, Japan and the United States (A/CONF.25/C.2/L.123/Rev.1), which was similar to the joint proposal of Belgium, Spain and Portugal.

172. At its thirty-first meeting the Committee, by 52 votes to 4, with 4 abstentions, adopted the proposals of Belgium, Spain and Portugal (A/CONF.25/C.1/L.164) and of Brazil, Canada, Ghana, Japan and the United States (A/CONF.25/C.2/L.123/Rev.1) to delete article 52, and to request the Drafting Committee to prepare an optional protocol concerning acquisition of nationality similar to that approved by the United Nations Conference on Diplomatic Intercourse and Immunities in 1961. In consequence of this decision the amendment submitted by the Netherlands (A/CONF.25/C.2/L.19) was not voted on.

Article 53

Beginning and end of consular privileges and immunities

Paragraph 1

173. An amendment to the paragraph submitted by the United Kingdom (A/CONF.25/C.2/L.137) was withdrawn by its sponsor. Italy first orally reintroduced the words "from the date of his admission or provisional admission by the receiving State" from the United Kingdom amendment, and then adopted an oral suggestion by Lebanon that, in the French text of the article as drafted by the International Law Commission, the words "*à qualité admise*" should be inserted after "*Etat de résidence*".

174. At its thirty-second meeting the Committee, by 33 votes to 12, with 20 abstentions, rejected the principle of the Italian oral amendment.

Amendment affecting paragraphs 2, 3 and 5

175. Greece submitted an amendment (A/CONF.25/C.2/L.162/Rev.1, third paragraph) calling for the re-drafting of paragraphs 2, 3 and 5. At its thirty-second meeting the Committee, by 48 votes to 2, with 12 abstentions, rejected the Greek amendment.

Paragraph 2

176. Amendments were submitted by Japan, Cambodia, the United Kingdom and Greece (A/CONF.25/C.2/L.87, 128, 137 and 162/Rev.1, respectively). The amendments of Japan and Cambodia were withdrawn.

177. At its thirty-second meeting the Committee voted as follows:

(a) By 45 votes to 1, with 15 abstentions, it rejected the Greek amendment (A/CONF.25/C.2/L.162/Rev.1, paragraph 1).

(b) By 29 votes to 25, with 8 abstentions, it adopted the United Kingdom amendment to the paragraph (A/CONF.25/C.2/L.137).

Paragraph 3

178. An amendment submitted by South Africa (A/CONF.25/C.1/L.165) was adopted by the Committee at its thirty-second meeting by 22 votes to 20, with 17 abstentions.

Paragraph 4

179. Identical amendments were submitted by the United States and Greece (A/CONF.25/C.2/L.9 and

162/Rev.1, respectively). At its thirty-second meeting the Committee, by 34 votes to 19, with 10 abstentions, adopted those amendments.

Paragraph 5

180. No amendments were submitted.

Article as a whole

181. At its thirty-second meeting the Committee, by 49 votes to none, with 15 abstentions, adopted the article as amended.

Article 54

Obligations of third States

Amendments to replace paragraphs 1 and 2 by a single paragraph

182. Amendments to replace paragraphs 1 and 2 were submitted by Japan, and by Belgium and Ireland jointly (A/CONF.25/C.2/L.88 and 174 respectively). The sponsors of the joint amendment accepted an oral suggestion by Japan that the words "and employees" be inserted after "consular officials", and Japan withdrew its amendment.

183. At its thirty-third meeting the Committee, by 35 votes to 15, with 13 abstentions, rejected the joint amendment of Belgium and Ireland (A/CONF.25/C.2/L.174) as orally revised.

Paragraph 1

184. Amendments were submitted by the United States and by Poland (A/CONF.25/C.2/L.10 and 141 respectively). The United States accepted an oral suggestion by Spain that the word "such" in the United States amendment should be replaced by "all".

185. At its thirty-third meeting the Committee, by 41 votes to 10, with 11 abstentions, adopted the Polish amendment (A/CONF.25/C.2/L.141). It then, by 34 votes to 16, with 12 abstentions, adopted the United States amendment as orally revised.

Paragraph 2

186. No amendments were submitted which applied only to paragraph 2.

Paragraph 3

187. Amendments were submitted by the United States, Thailand, Japan and the United Kingdom (A/CONF.25/C.2/L.10, 68, 88 and 138 respectively). The amendment of the United States, and also the amendment of Japan proposing deletion of the second sentence, were withdrawn. Israel suggested that in view of the Second Committee's decision relating to consular couriers *ad hoc* in paragraph 6 of article 35, a reference to consular couriers *ad hoc* should be added to the second sentence; this suggestion was referred to the Drafting Committee.

188. At its thirty-third meeting the Committee, by 53 votes to 1, with 12 abstentions, adopted the United Kingdom amendment (A/CONF.25/C.2/L.138). It then, by 24 votes to 19, with 21 abstentions, adopted the amendments of Thailand and Japan (A/CONF.25/C.2/L.68 and 88 respectively), which proposed to add the word "official" before "correspondence" in the first sentence.

Paragraph 4

189. No amendments were submitted to this paragraph.

Article as amended

190. At its thirty-third meeting the Committee, by 59 votes to none, with 7 abstentions, adopted the article as amended.

Article 55

Respect for the laws and regulations of the receiving State

191. An amendment to paragraph 3 was submitted by Spain (A/CONF.25/C.2/L.187). At its thirty-second meeting the Committee, by 31 votes to none, with 28 abstentions, adopted the Spanish amendment. The article as amended was adopted unanimously.

Proposal of Switzerland to insert a new article between articles 67 and 68

Optional character of the institution of consular agents who are not heads of posts

192. A proposal for a new article to be inserted after article 67 was submitted by Switzerland (A/CONF.25/C.1/L.102/Rev.1). At its twenty-eighth meeting the Committee, by 32 votes to 12, with 17 abstentions, adopted the new article proposed by Switzerland.

Article 68

Exercise of consular functions by diplomatic missions

Paragraph 1

193. An amendment was submitted by the United Kingdom (A/CONF.25/C.1/L.153) to this paragraph. At its twenty-sixth meeting the Committee, by 42 votes to 16, with 11 abstentions, adopted the United Kingdom amendment.

Paragraph 2

194. Amendments to this paragraph were submitted by the United States and South Africa (A/CONF.25/C.1/L.6 and 140 respectively). The South African amendment was withdrawn. The United States amendment was orally revised by its sponsor so that it read: "Members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission may exercise such functions only with the consent of the receiving State if the receiving State so requires". At its twenty-sixth meeting the Committee, by 25 votes to 24, with 19 abstentions, rejected the United States amendment as orally revised.

Paragraph 3

195. Amendments to this paragraph were submitted by Italy and the United Kingdom (A/CONF.25C.1/L.121 and 153 respectively). At its twenty-sixth meeting the Committee, by 23 votes to 11, with 34 abstentions, rejected the Italian amendment, and by 39 votes to 14, with 16 abstentions, adopted the United Kingdom amendment.

Paragraph 4

196. Amendments to this paragraph were submitted by the United States, South Africa and the United Kingdom (A/CONF.25/C.1/L.6, 140/Add.1 and 153 respectively). Ghana submitted an oral amendment to delete the words "continue to"; that amendment was referred to the Drafting Committee. The amendments of the United States and South Africa were withdrawn. At its twenty-sixth meeting the Committee, by 34 votes to 18, with 17 abstentions, rejected the amendment of the United Kingdom (A/CONF.25/C.1/L.153).

Article as a whole

197. At its twenty-sixth meeting the Committee, by 61 votes to none, with 10 abstentions, adopted the article as amended.

NOTE. — Article 69 was considered by the Second Committee.

*Article 70**Non-discrimination*

198. An amendment to paragraph 2 was submitted by the Federal Republic of Germany (A/CONF.25/C.1/L.44). The United Arab Republic orally proposed to re-draft paragraph 1 to read: "In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States". The oral amendment of the United Arab Republic was referred to the Drafting Committee.

199. At its twenty-sixth meeting the Committee, by 39 votes to 15, with 14 abstentions, adopted the amendment of the Federal Republic of Germany (A/CONF.25/C.1/L.44). The article as amended was then adopted by 51 votes to 1, with 16 abstentions.

*Article 71**Relationship between the present articles and conventions or other international agreements*

200. Amendments submitted by the Netherlands, Austria, and Canada (A/CONF.25/C.1/L.8, 29 and 136 respectively) were withdrawn in favour of a joint amendment submitted by the three powers (A/CONF.25/C.1/L.154). A proposal submitted by India (A/CONF.25/C.1/L.155) was withdrawn in favour of a joint oral amendment submitted by Ceylon, India, Liberia, Mali, the United Arab Republic and Yugoslavia to add the following paragraph to the text of the International Law Commission: "2. Nothing in the present Convention precludes States from concluding agreements or conventions confirming or supplementing or extending or amplifying the provisions thereof". Ceylon, India, Mali, the United Arab Republic and Yugoslavia also orally proposed a joint draft resolution reading as follows:

"The United Nations Conference on Consular Relations

"Recommends that States which have become parties to the present Convention shall review and revise, if necessary, the existing agreements or conventions in so far as they are incompatible with the basic rules embodied in the present Convention".

201. At its twenty-eighth meeting the Committee decided to vote first on the six-Power joint oral amendment and on the five-Power joint oral draft resolution. It then voted as follows:

(a) By 23 votes to 6, with 36 abstentions, it adopted the new paragraph 2 orally proposed by Ceylon, India, Liberia, Mali, the United Arab Republic and Yugoslavia. In consequence the joint amendment of Austria, Canada and the Netherlands (A/CONF.25/C.1/L.154) was not put to the vote.

(b) The article as amended was adopted by 54 votes to none, with 9 abstentions.

(c) The five-Power joint oral draft resolution was voted on in principle, and was rejected by 27 votes to 8, with 27 abstentions.

*Provision on the settlement of disputes**Disputes clause*

202. Proposals were submitted by the United States, by Switzerland, by Belgium, and by Ghana and India jointly (A/CONF.25/C.1/L.70, 161, 162 and 163 respectively). Argentina submitted an oral amendment to the United States proposal, to replace the words "shall be submitted at the request of either of the parties to the International Court of Justice" by the words "shall be submitted by mutual consent of the parties to conciliation, to arbitration or to the International Court of Justice". The second paragraph of the Swiss proposal was withdrawn by its sponsor, but was reintroduced by Yugoslavia.

203. At its thirty-first meeting the Committee voted as follows:

(a) By 33 votes to 24, with 10 abstentions, it rejected a motion that the proposal of Ghana and India (A/CONF.25/C.1/L.163) should be voted on first.

(b) By 25 votes to 22, with 19 abstentions, it rejected the Argentine oral amendment to the United States proposal.

(c) On a roll-call vote, by 31 votes to 28, with 13 abstentions, it adopted the United States proposal. In consequence of this decision, the first paragraph of the Swiss proposal (A/CONF.25/C.1/L.161), the proposal of Belgium (A/CONF.25/C.1/L.162), and the joint proposal by Ghana and India (A/CONF.25/C.1/L.163) were not put to a vote.

(d) By 27 votes to 24, with 18 abstentions, it adopted the second paragraph of the Swiss proposal (A/CONF.25/C.1/L.161) reintroduced by Yugoslavia.

(e) On a roll-call vote, by 39 votes to 14, with 15 abstentions, it adopted the article as a whole.

Final Clauses

204. A proposal of draft final provisions was submitted by the United States (A/CONF.25/C.1/L.7).² Amendments to that proposal were submitted by the Union of Soviet Socialist Republics, and jointly by the United Arab Republic and Yugoslavia (A/CONF.25/C.1/L.158 and 159 respectively). India orally

² The disputes clause included in document A/CONF.25/C.1/L.7 was intended as a separate proposal, and was discussed separately from the final provisions.

suggested that the joint amendment of the United Arab Republic and Yugoslavia should be revised by redrafting the insertion to read: "or by parties to conventions on consular relations which have been registered with the Secretariat of the United Nations", and this suggestion was accepted by the sponsors.

205. At its twenty-eighth meeting the Committee voted as follows:

(a) On a roll-call vote, by 49 votes to 15, with 8 abstentions,³ it rejected the amendments of the Union of Soviet Socialist Republics (A/CONF.25/C.1/L.158).

(b) On a roll-call vote, by 44 votes to 16, with 12 abstentions, it rejected the joint amendment of the United Arab Republic and Yugoslavia, as revised in accordance with the suggestion of India.

(c) On a roll-call vote, by 53 votes to 11, with 10 abstentions, it adopted the first article proposed by the United States (A/CONF.25/C.1/L.7).

(d) It unanimously adopted the second article proposed by the United States.

(e) By 55 votes to 11, with 5 abstentions, it adopted the third article proposed by the United States.

(f) It unanimously adopted the fourth article proposed by the United States.

(g) By 56 votes to 10, with 5 abstentions, it adopted the fifth article proposed by the United States.

(h) By 59 votes to 11, with 5 abstentions, it adopted the sixth article proposed by the United States.

ANNEX I

Text adopted by the First Committee

PREAMBLE ⁴

The States Parties to the Present Convention,

Recalling that consular relations have been established among peoples of all nations since ancient times,⁵

³ The Delegation of Ghana informed the Secretariat that "The policy of Ghana which has always been in favour of the doctrine of 'all States' remains unchanged", and that consequently the vote of Ghana on this amendment, recorded as "abstention", should be changed to "yes".

⁴ The Committee adopted the preamble subject to rewording by the Drafting Committee. The representative of France suggested that, although the joint draft Preamble submitted by Congo (Leopoldville), Ethiopia, Guinea, Liberia, Libya, Mali, Morocco, Sierra Leone, Tunisia and Upper Volta (A/CONF.25/C.1/L.106) had been withdrawn, the Drafting Committee should take its wording into account when considering the Preamble. This draft preamble reads as follows:

"*Recalling* that consular relations have been established among peoples of all nations since ancient times,

"*Having in mind* the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

"*Considering* that a United Nations Conference adopted on 18 April 1961 the Vienna Convention on Diplomatic Relations,

"*Believing* that an international convention on consular relations would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted on 18 April 1961 the Vienna Convention on Diplomatic Relations,⁶

Believing that an international convention on consular intercourse, privileges and immunities could also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,⁷

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consulates on behalf of their respective States,⁸

Affirming that the rules of customary international law should continue to govern matters not expressly regulated by the provisions of the present convention,

Have agreed as follows:

ARTICLES

Article 1

Definitions

1. For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

(a) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(b) "Consular district" means the area assigned to a consular post for the exercise of its functions;

(c) "Head of consular post" means the person charged with the duty of acting in that capacity;

"*Affirming* that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

"*Have agreed* as follows:"

⁵ The representative of the United Kingdom suggested that the words "since ancient times" in the first paragraph might be placed before the words "consular relations" in order to bring the English text into line with the French and Spanish.

⁶ The representative of Greece considered that the third paragraph was unnecessary. The representative of the United Kingdom suggested that, in drafting this paragraph, the words "intercourse and immunities" might be omitted.

⁷ The representative of Greece suggested the replacement in this paragraph of the words "intercourse, privileges and immunities" by the word "intercourse, privileges, immunities and functions".

The representative of the United Kingdom considered it advisable to substitute, in this paragraph, the word "relations" for the phrase "intercourse, privileges and immunities".

The representative of Mexico also proposed the deletion of the words "privileges and immunities".

⁸ The representative of Italy suggested that the words "on behalf" should be replaced by the words "in their capacity of officials". The representative of the United Kingdom suggested the replacement of the word "consular" by "such" as a consequential change of his suggestions relating to the third and fourth paragraphs.

The representative of Mexico proposed that the Spanish text should be modified as follows:

(1) Replacing "*dichos*" by "*los*";

(2) Adding the word "*consulares*" after the words "*privilegios e inmunidades*";

(3) Adding the word "*individuos*" after the words "*beneficiar a*";

(4) Replacing the word "*sus*" by the word "*las*".

(d) "Consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;⁹

(e) "Consular employee" means any person employed in the administrative or technical service of a consular post;

(f) "Member of the service staff" means any person employed in the domestic service of a consular post;¹⁰

(g) "Members of the consular post" means consular officers, consular employees and members of the service staff;

(h) "Members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;

(i) "Member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post and who is not an employee of the sending State;

(j) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(k) "Consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers.

CHAPTER I. — CONSULAR RELATIONS IN GENERAL

SECTION I. — ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS¹¹

Article 2¹²

Establishment of consular relations

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

Article 3¹³

Exercise of consular functions

Consular functions are exercised by consulates. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.¹⁴

⁹ The representative of Mexico suggested that, in the Spanish text, the words "*en calidad de tal*" should be replaced by the words "*con este carácter*".

¹⁰ The Committee decided to refer the Netherlands amendment (A/CONF.25/C.1/L.167), as orally revised, to the Drafting Committee. This amendment reads:

"Delete the semi-colon at the end of sub-paragraph (f), and add the following: 'or of a member of a consular post and who is employee of the sending State.'"

¹¹ The amendment to the title of Section I of Chapter I submitted by Spain (A/CONF.25/C.1/L.21) was referred to the Drafting Committee. This amendment reads as follows: "In the Spanish text, replace the word '*conducta*' by the word '*ejercicio*'".

¹² Article 2 was adopted by the Committee, subject to the Drafting Committee's decision on the amendment to paragraph 1 submitted by the United Arab Republic (A/CONF.25/

Article 4

Establishment of a consulate

1. A consulate may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consulate, its rank, and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consulate, its rank, or in the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or an agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consulate, but outside the seat thereof.

New article between articles 4 and 5¹⁵

A consular official may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

Article 5¹⁶

Consular functions

Consular functions consist *inter alia*¹⁷ of:

(a) Protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;

(b) Promoting trade and furthering the development of economic, cultural, scientific and all other friendly relations

C.1/L.9). This amendment reads as follows: "1. The establishment of consular relations between two States takes place by mutual consent".

¹³ The United Arab Republic amendment to this article (A/CONF.25/C.1/L.10) was referred to the Drafting Committee. It reads as follows:

"Consular functions are exercised: (a) by consulates or (b) by diplomatic missions in accordance with the provisions of article 68".

In this respect, it must be pointed out that the words "article 68" which also appeared in the original text of the International Law Commission's Draft were replaced by the Committee by the words "the present Convention".

¹⁴ The representative of Mexico suggested the replacement in the Spanish text of the word "*Convenio*" by the word "*Convención*".

¹⁵ This new article was adopted by the Committee without title. The representative of Hungary, during the debate on the proposals made, suggested the following title: "Exercise of consular functions outside the consular district". The Committee referred to the Drafting Committee the question of the place where this new article should be incorporated into the Convention.

¹⁶ The Committee decided to refer the question of inserting a sentence to begin new paragraph 2 [Austrian amendment (A/CONF.25/C.1/L.26)] between sub-paragraphs (c) and (d) of the text of the International Law Commission together with the question of the whole systematic arrangement of article 5 to the Drafting Committee. The text proposed by Austria reads as follows: "2. Exercising these functions the consular officials may particularly:":

¹⁷ The Committee amended the text of the International Law Commission's draft by replacing the words "more especially" by the words "*inter alia*". Some delegates stated during the debate that this amendment applies only to the English text.

between the sending State and the receiving State in accordance with the provisions of the present Convention ;¹⁸

(c) Ascertaining by all lawful means conditions and developments in the economic, commercial, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested ;

(d) Issuing passports and travel documents to nationals of the sending State, and visas or other appropriate documents to persons wishing to travel to the sending State ;

(e) Helping and assisting nationals of the sending State ;

(f) Acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature providing always that there is nothing contrary thereto in the laws of the receiving State ;

(g) Safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the law of the receiving State ;

(h) Safeguarding, within the limits imposed by the laws of the receiving State, the interests of minors and¹⁹ persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons ;

(i) Subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, where, because of absence or any other reason, these nationals are unable at the proper time to assume the defence of their rights and interests, for the purpose of obtaining, in accordance with the law of the receiving State, provisional measures for the preservation of these rights and interests ;

(j) Transmitting judicial and extra-judicial documents or executing letters rogatory in accordance with conventions in force or, in the absence of such conventions, in any other manner compatible with the law of the receiving State ;

(k) Exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels used for maritime or inland navigation, having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews ;

(l) Extending assistance to vessels and aircraft mentioned in the previous sub-paragraph, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping ships' papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the law of the sending State.

(m) Performing, apart from those provided for in clauses (a) to (l) of this article, such other consular functions entrusted by the sending State, which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State, and those referred to in the international agreements in force between the sending State and the receiving State.

¹⁸ The Committee approved the principle of "developing friendly relations" contained in the Czechoslovak, Hungarian and Romanian amendment (A/CONF.25/C.1/L.33), leaving to the Drafting Committee the final formulation of this sub-paragraph.

¹⁹ A United Kingdom suggestion to insert the word "other" between the words "and" and "persons" was referred to the Drafting Committee.

Article 6

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consulate established in a particular State with the exercise of consular functions in a third State, unless there is express objection by one of the States concerned.

Article 7

Exercise of consular functions on behalf of a third State

Upon appropriate notification to the receiving State and unless it objects, the sending State may exercise consular functions in the receiving State on behalf of a third State.

Article 8

Appointment and admission of heads of consular posts

Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

Article 9²⁰

Classes of heads of consular posts

1. Heads of consular posts are divided into four classes :
 - (1) Consuls-general,
 - (2) Consuls,
 - (3) Vice-consuls,
 - (4) Consular agents.
2. The foregoing paragraph in no way restricts the power of the contracting parties to fix the designation of the consular officials other than the head of post.

Article 10

The consular commission

1. The head of a consular post shall be furnished by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, the full name of the head of post, his category and class, the consular district, and the seat of the consulate.
2. The sending State shall communicate the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.²¹
3. If the receiving State so accepts, the commission or similar instrument may be replaced by a notice to the same effect, addressed by the sending State to the receiving State. This notification shall contain the particulars referred to in paragraph 1.

²⁰ The Committee referred to the Drafting Committee the South African amendment to paragraph 2 of this article (A/CONF.25/C.1/L.81). The amendment proposes the replacement of the text of paragraph 2 by the following : "The foregoing paragraph in no way restricts the right of the sending State and the receiving State to agree on designations, other than those enumerated in that paragraph, for consular officials who are not heads of post".

²¹ The Committee referred to the Drafting Committee the joint amendment of Brazil, Canada, Ceylon, United Kingdom and United States of America to article 10, paragraph 2, contained in document A/CONF.25/C.1/L.75. This amendment proposes replacing the words "Government of the State in whose territory the head of a consular post is to exercise his functions" with the words "receiving State".

Article 11

The exequatur

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an exequatur, whatever the form of this authorization.

2. Subject to the provisions of articles 13 and 15, the head of a consular post may not enter upon his duties until he has received an exequatur.

[The Committee adopted in principle the two following amendments, but referred the questions of drafting and of placement in the text to the Drafting Committee :

Argentine amendment (A/CONF.25/C.1/L.91) :

As a second sentence, add the following :

"The receiving State is not obliged to inform the sending State of its reasons for refusing an exequatur."

Indian amendment (A/CONF.25/C.1/L.101) :

Add a new paragraph which reads as follows :

"The State which refuses the exequatur or other authorization is not obliged to give reasons to the sending State for such refusal."

Article 12

Formalities of appointment and admission

Subject to the pertinent articles of the present Convention the formalities for the appointment and admission of the head of a consular post are determined by the laws and usages of the sending and of the receiving State.

Article 13

Provisional admission

Pending delivery of the exequatur, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of this Convention shall apply to him.

Article 14²²

Obligation to notify the authorities of the consular district

As soon as the head of a consular post is admitted even if provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of the consular post to carry out the duties of his office and to have benefit of the provisions of the present articles.

Article 15

Temporary exercise of the functions of head of a consular post

1. If the position of head of post is vacant, or if the head of post is unable to carry out his functions, an acting head of post may act provisionally as head of the consular post.

2. 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. As a general rule, this notification shall be given in advance. 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.

3. The competent authorities shall afford assistance and protection to the acting head of post and admit him, while he is in charge of the post, to the benefit of the present articles on the same basis as the head of the consular post concerned.²³ The receiving State shall not, however, be obliged, under this paragraph, to grant to a person acting in a temporary capacity, the facilities, privileges and immunities which the consular official whom he replaces enjoys subject to specific conditions which the said person does not fulfil.

4. If a member of the diplomatic staff is instructed by the sending State to assume temporarily the direction of a consulate, he shall continue to enjoy diplomatic privileges and immunities while exercising that function if the receiving State does not object thereto.

Article 16

Precedence

1. Heads of consular posts shall rank in each class according to the date of the grant of the exequatur.

2. If, however, the head of the consular post before obtaining the exequatur is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission ; this precedence shall be maintained after the granting of the exequatur.

3. The order of precedence as between two or more heads of consular posts who obtained the exequatur or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments were communicated or of the notice referred to in article 10, paragraph 3.

4. Acting heads of post rank after all heads of post and, as between themselves, they rank according to the dates on which they assumed their functions as acting heads of post indicated in the notification made in terms of paragraph 2 of article 15.

5. Honorary consuls who are heads of post shall rank in each class after career heads of post, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of post have precedence over consular officials not holding such rank.

Article 17

Performance of diplomatic acts by the head of a consular post

1. In a State where the sending State has no diplomatic mission or where the sending State is not represented by a diplomatic mission of a third State, a consular official may, with the consent of the receiving State, and without affecting his consular status ; be authorized to perform diplomatic acts. The performance of such acts by a consular official shall not be deemed to confer upon him any right to claim diplomatic privileges and immunities.²⁴

²³ An oral amendment of the representative of the United Arab Republic was referred to the Drafting Committee. According to this amendment, the text of the first sentence of paragraph 3 would read as follows : "The competent authorities shall afford 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."

²⁴ Suggestions made by some representatives to replace the word "or" by the word "and" and to replace the expression "consular official" by the expression "consulate" were referred by the Committee to the Drafting Committee. The South African amendment to this paragraph (A/CONF.25/C.1/

²² The Committee referred to the Drafting Committee an oral amendment of the United Arab Republic to this article to replace at the end of the article the words "the present articles" by the words "the present Convention".

2. A head of a consular post or other consular official may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded by customary international law or by international agreements to such a representative, except that, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18

*Appointment of the same person by two or more States as a consular officer*²⁵

Two or more States may appoint the same person as a consular officer in another State, with the consent of the receiving State.

Article 19

Appointment of the consular staff

1. Subject to the provisions of articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and quality of all consular officials, other than the head of post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of article 23.²⁶

3. The sending State may, if such is required by its law, request the receiving State to grant the exequatur to a consular official appointed to a consulate in conformity with paragraph 1 of this article who is not the head of post.

4. Likewise the receiving State may, if such is required by its law, grant to a consular official who is appointed to a consulate in conformity with paragraph 1 of this article and who is not the head of post the exequatur.²⁷

Article 20

Size of the staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal,²⁸ having regard to circumstances and con-

ditions in the consular district and to the needs of the particular consulate.

Article 21

Order of precedence as between the officials of a consulate

The order of precedence as between the officials of a consulate and any change thereof shall be notified by the head of post to the Ministry for Foreign Affairs of the receiving State or to the authority designated by the said Ministry.

Article 22

Appointment of nationals of the receiving State

1. Consular officials should in principle have the nationality of the sending State.

2. Consular officials may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23

*Withdrawal of exequatur*²⁹

*Persons deemed non grata*³⁰

1. The receiving State may at any time notify the sending State that the head of a consular post or a member of the consular staff is no longer *persona grata*. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consulate.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this article, the receiving State may, as the case may be, either withdraw the exequatur from the person concerned or cease to consider him as a member of the consular staff.

3. A person may be declared unacceptable before arriving in the territory of the receiving State, or, if already in the receiving State, before entering on his duties with the consulate. In any such case, the sending State shall withdraw his appointment.³¹

4. In the cases mentioned in paragraphs 1 and 3 of the present article the receiving State is not obliged to explain its decision.³²

L.128) was referred by the Committee to the Drafting Committee. This amendment reads as follows: "After the words 'the head of a consular post' insert the words 'of the sending State'". It must be pointed out that in the new text adopted by the Committee the words "the head of a consular post" have been replaced by the words "a consular official".

²⁵ The adoption of the United Kingdom amendment (A/CONF.25/C.1/L.126) replacing the words "head of a consular post" by the words "a consular officer" required a consequential amendment of the title of the article as drafted by the International Law Commission.

²⁶ The Committee left to the Drafting Committee to decide at which point this new paragraph should be inserted. Some representatives suggested that it would be best to insert this paragraph in article 24.

²⁷ A suggestion of the representative of Nigeria with a view to placing the words "the exequatur" after the word "grant" was referred to the Drafting Committee.

²⁸ The insertion of the phrase "limits considered by it to be reasonable and normal" proposed by Argentina, India and Nigeria was adopted by the Committee subject to rewording by the Drafting Committee.

²⁹ The Committee referred to the Drafting Committee the amendment of Spain (A/CONF.25/C.1/L.114, No. 1) proposing to replace in the Spanish text of the title of this article the word "*retiro*" by the word "*retirada*".

³⁰ The question of the use of the words "*persona grata*" or the word "acceptable" in the text and title of this article, together with the relevant summary records of the Committee (A/CONF.25/C.1/SR.22 and SR.23), was referred to the Drafting Committee.

³¹ The Committee referred to the Drafting Committee the Hungarian amendment to this paragraph (A/CONF.25/C.1/L.98). This amendment reads as follows: "In paragraph 3 insert after the words 'A person', the words 'appointed as head of a consular post or as a member of the consular staff'."

³² The Committee referred to the Drafting Committee the final draft of the Spanish text of this paragraph in order to replace the words "*a motivar*" which appear in the Spanish text of document A/CONF.25/C.1/L.149, by the words "*a exponer los motivos de*", on the lines of the corresponding provision of the Spanish text of article 9 of the Vienna Convention on Diplomatic Relations.

Article 24

Notification of the appointment, arrival and departure of members of the consulate, members of their families and members of the private staff

1. The Ministry for Foreign Affairs of the receiving State, or the authority designated by that Ministry, shall be notified of:

(a) The appointment of members of their consulate, their arrival after appointment to the consulate, their final departure or termination of their functions and any other changes affecting their status that may occur at any time in the course of services with the consulate;

(b) The arrival and final departure of a person belonging to the family of a member of the consulate forming part of his household and, where appropriate, the fact that the person becomes or ceases to be a member of the family of a member of the consulate.

(c) The arrival and final departure of members of the private staff in the employ of persons referred to in sub-paragraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;

(d) The engagement and discharge of persons resident in the receiving State as members of the consulate or as members of the private staff entitled to privileges and immunities.

2. Where possible, prior notification of arrival and final departure shall also be given.

SECTION II. — END OF CONSULAR FUNCTIONS

Article 25

Modes of termination of the functions of a member of the consulate

The functions of a member of the consulate come to an end in particular:

(a) On notification by the sending State to the receiving State that the functions of the member of the consulate have come to an end;

(b) On the withdrawal of the *exequatur* or, as the case may be, the notification by the receiving State to the sending State that the receiving State refuses to consider him as a member of the consular staff.³³

Article 26

Right to leave the territory of the receiving State and facilitation of departure

The receiving State must, even in case of armed conflict, grant facilities in order to enable members of the consulate and their private staff, other than nationals of the receiving State, and members of their families, irrespective of their nationality, to leave at the earliest possible moment [and grant them the necessary time for the preparation of their departure and the transport of their property]. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property with the exception of any such property acquired in the receiving State the export of which is prohibited at the time of departure.³⁴

³³ This article was adopted by the Committee subject to the Drafting Committee's decision on the Czechoslovak oral proposal to replace in the introductory sentence the words "in particular" by the words "*inter alia*".

³⁴ The phrase between brackets was adopted by the Committee subject to rewording by the Drafting Committee.

The United States amendments contained in paragraphs 1 and 2 of document A/CONF.25/C.1/L.4/Add.1 were referred

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1. In the event of the severance of consular relations between two States:

(a) The receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consulate and its archives;

(b) The sending State may entrust the custody of the consular premises, together with the property it contains and its archives, to a third State acceptable to the receiving State;

(c) The sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event of the temporary or permanent closure of a consulate the provisions of paragraph 1 (a) shall apply. In addition:

(a) If the sending State, although not represented in the receiving State by a diplomatic mission, has another consulate in the territory of that State, that consulate may be entrusted with the custody of the premises of the consulate which has been closed together with the property of the consulate and its archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consulate; or

(b) If the sending State has no diplomatic mission and no other consulate in the receiving State, the provisions of paragraph 1 (b) and (c) of this article shall be applicable.³⁵

CHAPTER II. — FACILITIES, PRIVILEGES AND IMMUNITIES OF CAREER CONSULAR OFFICIALS AND CONSULAR EMPLOYEES

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES REGARDING CONSULAR OFFICIALS AND EMPLOYEES

Article 52

(Question of the acquisition of the nationality of the receiving State)

[The Committee decided to delete article 52 and request the Drafting Committee to prepare an optional protocol concerning acquisition of nationality similar to that approved by the United Nations Conference on Diplomatic Intercourse and Immunities in 1961.]

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consulate shall enjoy the privileges and immunities provided in the present articles from the moment he enters the territory of the receiving State on proceeding to take up his post, or if already in its territory, from the

by the Committee to the Drafting Committee. These amendments read as follows:

1. Insert in the first sentence after the words "at the earliest possible moment", the words "after the termination of their functions".

2. Delete from the first sentence the word "their" in the phrase "members of the families of such persons irrespective of their nationality" [as amended by the Committee this phrase reads now in the text of article 26 "and of their families, irrespective of their nationality"] and insert at the conclusion of that phrase the words "forming part of their households".

³⁵ The Committee adopted this article but referred to the Drafting Committee for consideration the words "it contains" in paragraph 1 (b), in view of the adoption of the words "of the consulate" in paragraph 2 (a).

moment when his appointment is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry.

2. Members of the family of a member of the consulate, forming part of his household, and members of his private staff shall receive the privileges and immunities provided in the present articles from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the later.

3. When the functions of a member of the consulate have come to an end, his privileges and immunities together with those of the persons referred to in paragraph 2 of this article shall normally cease at the moment when the persons in question leave the country, or on the expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 above, their privileges and immunities shall come to an end immediately they cease to belong to the household or to be in the service of a member of the consulate post provided, however, that if such persons intend leaving the country within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a member of the consulate in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consulate, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them, until the expiry of a reasonable period enabling them to leave the territory of the receiving State.

Article 54

Obligations of third States

1. If a consular official passes through or is in the territory of a third State, which has granted him a visa if a visa was required while proceeding to take up or return to his post or when returning to his own country or making other official journeys, the third State shall accord to him all immunities provided for by the other articles of this Convention as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges and immunities who are accompanying the consular official or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the transit through their territory of other members of the consulate or of members of their families.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under this Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under this Convention.³⁶

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned

³⁶ The representative of Israel pointed out that the reference made in the second sentence of paragraph 3 to the "consular couriers" would be completed with the addition of the words "and consular couriers *ad hoc*", in view of paragraph 6 of article 35 adopted by the Second Committee. This suggestion was referred to the Drafting Committee.

respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises must not be used in any manner incompatible with the consular functions as laid down in the present articles or by other rules of international law.

3. The rule laid down in the preceding paragraph shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consulate. In that event, the said offices shall not, for the purposes of those articles, be deemed to form part of the consular premises.

CHAPTER IV.—GENERAL PROVISIONS

New article

Optional character of the institution of consular agents who are not heads of post

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in the preceding paragraph may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them, shall be determined by agreement between the sending State and the receiving State.

Article 68

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, where consular functions are exercised by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State.

3. In the exercise of consular functions a diplomatic mission may address:

(a) The local authorities of their district;

(b) The central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by the relative international agreement.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 shall continue to be governed by the rules of international law concerning diplomatic relations.³⁷

³⁷ The Committee referred to the Drafting Committee an oral amendment by Ghana proposing the deletion in paragraph 4 of the words "continue to".

*Article 70**Non-discrimination*

1. In the application of the present articles, the receiving State shall not discriminate as between the States parties to this Convention.³⁸

2. However, discrimination shall not be regarded as taking place:

(a) Where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consulates in the sending State;

(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

*Article 71**Relationship between the present articles and conventions or other international agreements*

1. The provisions of the present articles shall not affect conventions or other international agreements in force as between States parties to them.³⁹

2. Nothing in the present Convention precludes States from concluding agreements or conventions confirming or supplementing or extending or amplifying the provisions thereof.

*Article ...**Settlement of disputes*

1. Any dispute arising from the interpretation or application of the Convention shall be submitted at the request of either of the parties to the International Court of Justice unless an alternative method of settlement is agreed upon.

2. Any contracting party may, at the time of signing or ratifying this Convention or of acceding thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other contracting parties shall not be bound by the said paragraph with respect to any contracting party which has formulated such a reservation.

FINAL CLAUSES

Article ...

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows, until 31 October 1963 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

³⁸ The Committee referred to the Drafting Committee an oral amendment of the United Arab Republic with a view to replacing paragraph 1 of article 70 by the following text: "1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States."

³⁹ The Committee drew the attention of the Drafting Committee to the fact that the words "the present articles" would be replaced by the words "the present Convention". This applies also to the title of the article.

Article ...

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article ...

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article ...

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article ...

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article ...:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles ..., ... and ...;

(b) of the date on which the present Convention will enter into force, in accordance with article

Article ...

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at Vienna, this day of April one thousand nine hundred and sixty-three.

ANNEX II

Draft resolution adopted by the First Committee*The United Nations Conference on Consular Relations,*

Taking note of the memorandum submitted by the United Nations High Commissioner for Refugees, and noting the statements made by delegations during the course of the discussion,

Requests the Secretary-General of the United Nations to submit for the consideration of the appropriate organs of the United Nations all documents and records pertaining to the discussion of the refugee question mentioned in the aforesaid memorandum, and meanwhile decides not to take any decision on this question.

DOCUMENT A/CONF.25/L.16 *

Report of the Second Committee

[Original : English]
[5 April 1963]

I. OFFICERS OF THE COMMITTEE

1. At its first meeting on 5 March 1963, the Committee elected Mr. Mario Gibson Alves Barboza (Brazil) as Chairman of the Committee. At its second meeting, on 6 March, the Committee elected as first Vice-Chairman, Mr. Hassan Kamel (United Arab Republic) and as Second Vice-Chairmen, Mr. A. J. Vranken (Belgium). At the same meeting, Mr. Borislav Konstantinov (Bulgaria) was elected Rapporteur.

II. TERMS OF REFERENCE OF THE COMMITTEE

2. At its second plenary meeting, on 5 March 1963, the Conference decided to refer to the Committee chapter II (Facilities, privileges and immunities of career consular officials and consular employees, articles 28-56), chapter III (Facilities, privileges and immunities of honorary consular officials, articles 57-67) and article 69 (Members of the consulate, members of their families and members of the private staff who are nationals of the receiving State) of the draft articles adopted by the International Law Commission (A/CONF.25/6) and referred to the Conference in accordance with resolution 1685 (XVI) adopted by the General Assembly on 18 December 1961.

3. At its third plenary meeting, on 28 March 1963, the Conference, on the basis of a recommendation of the General Committee (A/CONF.25/9) unanimously decided that articles 52, 53, 54 and 55 be re-allocated from the Second to the First Committee.

III. ORGANIZATION OF THE WORK OF THE COMMITTEE

4. The Committee held 44 meetings during the period from 5 March to 4 April 1963.

5. The Committee had before it the draft articles on consular relations adopted by the International Law Commission at its thirteenth session (A/CONF.25/6). In accordance with rule 29 of the rules of procedure of the Conference (A/CONF.25/7), these draft articles were taken as the basic proposal for discussion. Amendments to the draft articles and additional articles (A/CONF.25/C.2/L.1 to L.230) were submitted by delegations and considered as related below in this report.

6. The deliberations of the Committee are recorded in the summary records of its meetings (A/CONF.25/

C.2/SR.1 to 44). The texts of the articles adopted by the Second Committee are annexed hereto. The decisions taken by the Committee were referred to the Drafting Committee.

IV. CONSIDERATION AND VOTING UPON THE DRAFT ARTICLES AND THE AMENDMENTS AND PROPOSALS RELATING THERETO

FACILITIES, PRIVILEGES AND IMMUNITIES OF CAREER CONSULAR OFFICIALS AND CONSULAR EMPLOYEES

SECTION I. — FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULATE

Article 28

Use of the National Flag and of the State Coat-of-Arms

7. Seven amendments were originally submitted to article 28, by Switzerland (A/CONF.25/C.2/L.22), Spain (L.23 and L.48), Brazil (L.28), Italy (L.35), Nigeria (L.36), and the United Kingdom (L.40). These amendments were withdrawn.

8. Nigeria orally introduced an amendment, replacing its earlier amendment (A/CONF.25/C.2/L.36), reading as follows: "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."

9. A joint amendment was later submitted by Belgium, Brazil, Czechoslovakia, India, Italy, Liechtenstein, Switzerland, the United Kingdom and the Ukrainian Soviet Socialist Republic (A/CONF.25/C.2/L.60).

10. France orally introduced two sub-amendments to that joint amendment with a view (1) to deleting the words "residence and" in paragraph 2 of the joint amendment and (2) to introducing in paragraph 3 the word "regulations" between the word "law" and the words "and usage".

11. Greece also orally introduced a sub-amendment to paragraph 2 of the joint amendment, by proposing the addition, at the end, of the words "when used on official business".

12. Guinea introduced several oral sub-amendments as follows:

First sub-amendment. In paragraph 1 of the joint amendment substitute the word "consulate" for the words "sending State".

* Incorporating document A/CONF.25/L.16/Corr.1.

Second sub-amendment. In paragraph 1 of the joint amendment delete the words "in the receiving State".

Third sub-amendment. In paragraph 1 of the joint amendment delete the words "this article" and substitute the words "the following paragraphs".

Fourth sub-amendment. In paragraph 2 of the joint amendment, in the French text, delete the words "*peut être*" the second time they appear.

Fifth sub-amendment. In paragraph 2 of the joint amendment insert the word "respectively" after the words "entrance door".

Sixth sub-amendment. In paragraph 2 of the joint amendment delete the words "and on the residence and means of transport of the head of the consular post".

Seventh sub-amendment. In paragraph 3 of the joint amendment insert the word "thus" between the word "right" and the word "accorded".

Eighth sub-amendment. In paragraph 3 of the joint amendment delete the words "by this article" and substitute the words "as far as the residence and means of transport of the head of the consular post are concerned".

13. A revised version of paragraph 3 of the joint amendment was introduced, reading as follows: "In the exercise of the right accorded by this article regard shall be had to the laws, regulations and usage of the receiving State". Spain became a co-sponsor of the joint amendment as thus revised.

14. The Guinean sub-amendments were put separately to the vote. The result of the vote was as follows:

(a) *First sub-amendment*: 19 votes in favour, 32 against, with 21 abstentions,

(b) *Second sub-amendment*: 1 vote in favour, 30 against, with 31 abstentions,

(c) *Third sub-amendment*: 5 votes in favour, 23 against, with 38 abstentions,

(d) *Fourth sub-amendment*: 7 votes in favour, 11 against, with 48 abstentions,

(e) *Fifth sub-amendment*: 6 votes in favour, 13 against, with 50 abstentions,

(f) *Sixth sub-amendment*: 15 votes in favour, 30 against, with 25 abstentions,

(g) *Seventh sub-amendment*: 3 votes in favour, 15 against, with 49 abstentions,

(h) *Eighth sub-amendment*: 2 votes in favour, 18 against, with 46 abstentions.

15. The sub-amendments by Guinea were therefore not adopted by the Committee.

16. The first sub-amendment by France was rejected by the Committee by 39 votes to 11, with 18 abstentions.

17. The second sub-amendment by France was not voted upon.

18. The sub-amendment by Greece was adopted by the Committee by a vote of 22 votes to 19, with 25 abstentions.

19. At its fifth meeting, the Committee adopted the revised joint amendment as amended by the Greek sub-amendment by 53 votes to 10, with 9 abstentions.

Article 29

Accommodation

An amendment to article 29 was submitted by the United States (A/CONF.25/C.2/L.1).

20. The United States withdrew the second sentence of its amendment to paragraph 1 of article 29 and orally substituted the following text: "The receiving State is bound to facilitate as far as possible the procurement of suitable office premises for such consulates."

21. Finland submitted an oral sub-amendment to the amendment of the United States as revised, to paragraph 1 of article 29, which read: "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."

22. Canada proposed to replace the words "as far as possible" by the words "where necessary" in the United States amendment to paragraph 2.

23. At its fourth meeting, the Committee voted as follows:

(a) By 36 votes to 12, with 16 abstentions, it rejected the sub-amendment by Finland.

(b) By 35 votes to 15, with 18 abstentions, it rejected the Canadian amendment to paragraph 2 of the United States amendment.

(c) By 35 votes to 21, with 11 abstentions, it rejected the United States amendment as orally revised.

24. The Committee adopted without change the text of article 29 by 68 votes to none, with 2 abstentions.

Article 30

Inviolability of the consular premises

25. Amendments to article 30 were originally submitted by the United States, the Netherlands, Spain, Austria, Nigeria, the United Kingdom, Mexico, Japan and Greece (A/CONF.25/C.2/L.2, L.13, L.24, L.26, L.27, L.29, L.43, L.46 and L.59 respectively).

Paragraph 1

A joint amendment was submitted by Greece, Japan, Nigeria and the United Kingdom (A/CONF.25/C.2/L.71) with a view to replacing their respective amendments as far as paragraph 1 was concerned, by a joint text amending this paragraph only.

26. The Federal Republic of Germany proposed an oral sub-amendment to paragraph 1 of the amendment of the United States (A/CONF.25/C.2/L.2) whereby the words "or if there is reasonable cause to believe that a crime of violence to person or property is being or is

about to be or has been committed there" would be added at the end of that paragraph.

27. Argentina proposed an oral sub-amendment to the amendment by the United States (A/CONF.25/C.2/L.2) in the form of the addition of the word "express" before the word "consent" in the second sentence of paragraph 1 of the United States amendment.

28. These sub-amendments were accepted by the United States. As thus revised, paragraph 1 of the amendment reads:

"Premises used exclusively for the exercise of consular functions shall be inviolable. The agents of the receiving State may not enter them save with the express consent of the head of post or his designee, except in case of fire or other disaster requiring prompt protective action or if there is reasonable cause to believe that a crime of violence to person or property is being or is about to be or has been committed therein."

29. Yugoslavia moved an oral sub-amendment to the amendment of Austria (A/CONF.25/C.2/L.26) in the form of the addition of the words "his designee" at the beginning of that amendment and the addition of the words "or his designee" after the words "head of post" in paragraph 1 of article 30 of the draft articles adopted by the International Law Commission.

30. The Philippines proposed an oral sub-amendment to the joint amendment of Greece, Japan, Nigeria and the United Kingdom (A/CONF.25/C.2/L.71) in the form of the addition of the words "his designee" after the words "head of the consular post" in sub-paragraph (a) of paragraph 2.

31. Thailand also moved oral sub-amendments to the joint amendment with a view to deleting: (1) in sub-paragraph (b) of paragraph 2, the words "pursuant to an order of the appropriate judicial authority and"; and (2) deleting paragraph 4.

32. The second sub-amendment by Thailand was accepted by the co-sponsors of the joint amendment.

33. A drafting change was introduced by the sponsors to paragraph 4 of this joint amendment, the beginning of which consequently reads "If the consular premises are entered by the authorities of the receiving State as provided in paragraph 2 (b) or 3 of this article ...".

34. At its ninth meeting, the Committee voted on the amendments to paragraph 1 of article 30 as follows:

(a) By 44 votes to 15, with 13 abstentions, it adopted paragraph 1 of the joint amendment.

(b) By 48 votes to 11, with 9 abstentions, it adopted the words in paragraph 2 of the joint amendment reading: "The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the work of the consulate except ...".

(c) By 42 votes to 5, with 22 abstentions, it adopted the oral sub-amendment by the Philippines to sub-paragraph (a) of paragraph 2 of the joint amendment.

Sub-paragraph (a) of paragraph 2, as thus amended, was adopted by 45 votes to 10, with 9 abstentions.

(d) The oral sub-amendment of Thailand to sub-paragraph (b) of paragraph 2 of the joint amendment was rejected by 24 votes to 10, with 35 abstentions.

(e) Sub-paragraph (b) of paragraph 2 of the joint amendment was rejected by 31 votes to 22, with 14 abstentions.

(f) Paragraph 3 of the joint amendment was adopted by 38 votes to 23, with 8 abstentions.

(g) The joint amendment as a whole, as amended, was approved by 35 votes to 21, with 11 abstentions.

35. The Committee referred to the Drafting Committee (1) a question raised by Colombia and Spain as to whether the Spanish translation of the words "intrusion or damage" were in concordance with the other official texts; and (2) a question by Italy concerning the scope and meaning of the word "occupation".

Paragraphs 2 and 3

36. Yugoslavia moved oral sub-amendments to the amendment by the Netherlands (A/CONF.25/C.2/L.13, para. 2) to paragraph 3 and the amendment by the United States (A/CONF.25/C.2/L.2, para. 2) to the same paragraph with a view to deleting the reference to "search" in those amendments. Yugoslavia moved the same proposal as an amendment to paragraph 3.

37. Spain moved an oral amendment to article 30 in the form of the addition, to paragraph 3, of the second sentence contained in paragraph 4 of the amendment by Greece (A/CONF.25/C.2/L.59).

38. The representative of Japan announced that his delegation had withdrawn its amendment (A/CONF.25/C.2/L.46, para. 2) to paragraph 2.

39. At its ninth meeting, the Committee voted on the amendments to paragraph 2 as follows:

(a) By 32 votes to 5, with 31 abstentions, the Committee rejected the amendment of Greece (A/CONF.25/C.2/L.59, para. 2) to paragraph 2.

(b) By 31 votes to 13, with 23 abstentions, the Committee adopted the amendment by Nigeria (A/CONF.25/C.2/L.27, para. 4) to paragraph 2.

(c) By 44 votes to 7, with 17 abstentions, the Committee rejected the amendment by Mexico (A/CONF.25/C.2/L.43) to paragraph 2.

(d) By 41 votes to 10, with 15 abstentions, the Committee rejected the amendment of Japan (A/CONF.25/C.2/L.46, para. 3) to paragraph 3.

(e) By 28 votes to 19, with 19 abstentions, the Committee adopted the amendment of Greece (A/CONF.25/C.2/L.59, para. 4) to paragraph 3.

Additional paragraphs

40. Japan withdrew its amendment (A/CONF.25/C.2/L.46, para. 4), in the form of a new paragraph to article 30 on the question of asylum, in favour of the amendment on this subject proposed by the United Kingdom (A/CONF.25/C.2/L.29, para. 2).

41. Nigeria withdrew its amendment to article 30 (A/CONF.25/C.2/L.27, para. 3) concerning inviolability of consular archives.

42. At its tenth meeting the Committee voted on the proposed additional paragraphs and the proposed inclusion of a provision relating to asylum as follows :

(a) By 31 votes to 22, with 15 abstentions, the Committee rejected the amendment by the United Kingdom (A/CONF.25/C.2/L.29, para. 2), in the form of a new paragraph to article 30, concerning entry to consular premises pursuant to a private right.

(b) By 66 votes to none, with 3 abstentions, the Committee adopted a proposal by the delegate of Romania that the Committee take a vote on whether or not the Committee should consider including a provision on asylum.

(c) By 46 votes to 19, with 4 abstentions, the Committee decided not to consider including a provision on asylum.

43. By 42 votes to 16, with 12 abstentions, the Committee adopted article 30 as a whole as amended.

Article 31

Exemption from taxation of consular premises

44. Amendments to this article were submitted by the United Kingdom, South Africa, Belgium, the United States and Italy (A/CONF.25/C.2/L.30, L.31, L.32, L.33/Rev.1 and L.37 respectively).

45. Belgium and Italy replaced their amendments by a new joint text to amend the opening words of paragraph 1 to read :

"The sending State and any qualified individual acting on its behalf shall be exempt"

46. An oral sub-amendment to the amendment of the United States (A/CONF.25/C.2/L.33/Rev.1) was proposed by the United Kingdom in the form of the substitution of the words "any person acting on behalf of the sending State" for the words "the head of post acting for the sending State".

47. This sub-amendment was accepted by the United States and incorporated in its text.

48. South Africa withdrew its amendment (A/CONF.25/C.2/L.31).

49. At its eleventh meeting, the Committee voted on the amendments and the International Law Commission's text as follows :

(a) By 41 votes to 3, with 17 abstentions, the Committee adopted the amendment by the United States (A/CONF.25/C.2/L.33/Rev.1), as orally revised, to paragraph 1 of article 31.

(b) By 53 votes to none, with 10 abstentions, the Committee adopted paragraph 1 of article 31, as amended, and paragraph 2, as proposed by the International Law Commission.

50. The Committee referred to the Drafting Committee the reformulation of the words "the head of the consular post" at the end of paragraph 2 of article 31, in view of the adoption by the Committee,

in paragraph 1, of the words "any person acting on behalf of the sending State" in place of the words "the head of the post acting for the sending State".

Article 32

Inviolability of the consular archives and documents

51. Amendments to this article were submitted by the Netherlands, South Africa, the United Kingdom, Mexico, Austria and Japan (A/CONF.25/C.2/L.14, L.38, L.39, L.44, L.45 and L.47 respectively).

52. Austria withdrew its amendment (A/CONF.25/C.2/L.45) in favour of the amendment of the Netherlands (A/CONF.25/C.2/L.14), which it co-sponsored.

53. South Africa withdrew its amendment (A/CONF.25/C.2/L.38).

54. The representative of the Ukrainian Soviet Socialist Republic moved an oral sub-amendment to the amendment of the United Kingdom (A/CONF.25/C.2/L.39) in the form of the addition of the words "and documents" after the words "consular archives" in the first sentence. The representative of the United Kingdom accepted this sub-amendment.

55. Japan withdrew its amendment (A/CONF.25/C.2/L.47).

56. At its eleventh meeting, the Committee voted as follows :

(a) By 35 votes to 7, with 17 abstentions, the Committee rejected the joint amendment of Austria and the Netherlands (A/CONF.25/C.2/L.14).

(b) By 60 votes to none, with 4 abstentions, the Committee adopted the first sentence of the United Kingdom amendment as orally revised.

(c) By 22 votes to 21, with 19 abstentions, the Committee rejected the second sentence of the United Kingdom amendment as orally revised.

Article 33

Facilities for the work of the consulate

57. No amendment was originally submitted to article 33.

58. The representative of France orally proposed the deletion of article 33.

59. The representative of Nigeria introduced an oral amendment to article 33 in the form of the addition, at the end, of the words "in so far as such functions are permissible under article 5".

Both amendments were later withdrawn.

60. Ecuador proposed an oral amendment to the effect that article 33 should read : "The receiving State shall accord all indispensable facilities for the installation of the consulate and the performance of its functions."

61. At its twelfth meeting, the Committee voted as follows :

(a) By 30 votes to 14, with 21 abstentions, it rejected the Ecuadorian amendment.

(b) By 61 votes to 1, with 6 abstentions, the Committee adopted the International Law Commission's text of article 33.

62. The Committee referred to the Drafting Committee :

(1) a suggestion by the Federal Republic of Germany that article 33 should be placed either earlier in section 1 of chapter II, or possibly after article 5 ;

(2) an oral amendment by the Byelorussian Soviet Socialist Republic to the effect that the title to article 33 should read : " Assistance in the work of the consulate ".

Article 34

Freedom of movement

63. Amendments to this article were submitted by Australia and Romania (A/CONF.25/C.2/L.72 and L.99 respectively).

64. The Netherlands suggested an oral sub-amendment to the second part of the amendment of Australia (A/CONF.25/C.2/L.72) in the form of the substitution of the words " in the performance of their consular functions " for the words " in their consular district ". Australia accepted this sub-amendment, and subsequently withdrew its amendment, as orally amended, in favour of an oral amendment by the Federation of Malaya to the effect that article 34 should read :

" Subject to the laws and regulations of the receiving State concerning zones, entry into which is prohibited or regulated for reasons of national security, all members of the consulate shall have freedom of movement and travel in the performance of their consular functions ".

65. The representative of Romania withdrew his amendment (A/CONF.25/C.2/L.99). Belgium re-introduced the amendment of Romania.

66. At its twelfth meeting, the Committee voted as follows :

(a) By 26 votes to 17, with 22 abstentions, the Committee rejected the oral amendment of the Federation of Malaya.

(b) By 26 votes to 21, with 19 abstentions, the Committee rejected the Romanian amendment, reintroduced by Belgium.

(c) By 61 votes to none, with 6 abstentions, the Committee adopted the International Law Commission's text of article 34.

67. The Committee referred to the Drafting Committee a suggestion by the representative of France that article 34 should be transferred to section II of chapter II.

Article 35

Freedom of communication

68. Amendments to article 35 were submitted by the Netherlands, Switzerland, Japan, the Byelorussian Soviet Socialist Republic, the Federal Republic of Germany, South Africa, Spain, Australia, Italy and Nigeria (A/CONF.25/C.2/L.15, L.42, L.55, L.70, L.73, L.75, L.91, L.92, L.102 and L.108 respectively).

Paragraphs 1 and 2

69. South Africa and Nigeria withdrew their amendments to paragraph 1 (A/CONF.25/C.2/L.75 and L.108 respectively).

70. An oral sub-amendment by Italy to the amendment of Switzerland to paragraph 1 (A/CONF.25/C.2/L.42) was accepted by the representative of Switzerland. As thus revised the second sentence of the Swiss amendment read :

" In communicating with the Government, the diplomatic missions, wherever situated, and the consulates of the sending State in the receiving State, the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplomatic or consular bag and messages in code and cipher."

71. At its thirteenth meeting the Committee voted as follows :

(a) By 32 votes to 17, with 17 abstentions, the amendment of Switzerland, as revised, was rejected by the Committee.

(b) By 38 votes to 11, with 18 abstentions, the Committee rejected the amendment of Japan (A/CONF.25/C.2/L.55) to paragraph 1.

(c) By 60 votes to none, with 10 abstentions, the Committee adopted the International Law Commission's text of paragraph 1.

72. The Committee adopted the International Law Commission's text of paragraph 2 unanimously.

Paragraph 3

73. South Africa, Spain and Nigeria withdrew their separate amendments (A/CONF.25/C.2/L.75, L.91 and L.108) to paragraph 3. Spain co-sponsored the amendment of the Federal Republic of Germany (A/CONF.25/C.2/L.73).

74. Nigeria withdrew its amendment in favour of a revised version of the joint amendment by the Federal Republic of Germany and Spain, which read as follows :

" The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State the bag shall be returned to its place of origin."

75. At its thirteenth meeting the Committee voted as follows :

(a) By a roll-call vote of 44 to 15, with 5 abstentions, the Committee adopted the first two sentences of the joint amendment as orally revised.

(b) By a roll-call vote of 45 to 13, with 6 abstentions, the Committee adopted the third sentence of the joint amendment as orally revised.

(c) By 46 votes to 15, with 3 abstentions, the Committee adopted the joint amendment as orally revised, as a whole.

Paragraph 4

76. At its fourteenth meeting the Committee, by 39 votes to none, with 16 abstentions, adopted the amendment of South Africa (A/CONF.25/C.2/L.75) to paragraph 4.

The Committee approved paragraph 4 without a formal vote.

Paragraph 5

77. Japan withdrew its amendment (A/CONF.25/C.2/L.55).

78. Australia introduced an oral amendment, by suggesting the inclusion of the words "who shall be neither a national of the receiving State nor a permanent resident thereof", after the words "consular courier" in the first sentence and withdrew its amendment (A/CONF.25/C.2/L.92) to the first sentence.

79. The Federal Republic of Germany proposed an oral amendment in the form of the deletion of the words "shall enjoy personal inviolability and" in the last sentence.

80. The Committee referred to the Drafting Committee a suggestion by the United States that the last two sentences of paragraph 5 be combined into a single sentence.

81. Australia accepted a sub-amendment by the United Kingdom to its oral amendment. As thus revised, the amendment read:

"who shall, except with the consent of the receiving State, be neither a national of the receiving State nor a permanent resident thereof".

82. Australia withdrew its amendment (A/CONF.25/C.2/L.92) to the last sentence of paragraph 5.

83. At its fourteenth meeting the Committee:

(a) By 43 votes to 2, with 26 abstentions, adopted the revised Australian oral amendment, and referred its incorporation in the text to the Drafting Committee,

(b) By 27 votes to 14, with 29 abstentions, rejected the oral amendment of the Federal Republic of Germany.

84. By 55 votes to 1, with 15 abstentions, the Committee adopted the text of paragraph 5 as amended.

New paragraph between paragraphs 5 and 6

85. The Netherlands and the Byelorussian SSR withdrew their separate proposals (A/CONF.25/C.2/L.15 and L. 70, respectively) for a new paragraph in favour of a joint text reading:

"The sending State, its diplomatic mission and its consulates may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge."

86. At its fourteenth meeting, the Committee, by 57 votes to 2, with 8 abstentions, adopted this proposal.

87. The Committee referred the text to the Drafting Committee, and in particular the concordance of the first sentence of the proposal with paragraph 1 of article 36.

Paragraph 6

88. Chile proposed an oral amendment in the form of the addition of the words "or an authorized official" after the word "captain" in the first sentence.

89. Greece moved an oral amendment by proposing the addition, at the end of the last sentence of the words "provided he carries a letter from the head of the consular post or his representative".

90. Italy accepted an oral sub-amendment by Yugoslavia to the second part of the Italian amendment (A/CONF.25/C.2/L.102) to the effect that "but he shall be considered to be a consular courier *ad hoc*" should be substituted for the words "but he shall not be considered to be a consular courier".

91. A suggestion by Finland that definitions of "consular courier" and "consular bag" should be included in article 1 was referred by the Committee to the Drafting Committee. Colombia orally proposed that paragraph 6 be deleted.

92. Greece withdrew its oral amendment to the last sentence.

93. At its fifteenth meeting the Committee voted as follows:

(a) By 59 votes to 2, with 9 abstentions, it rejected the Colombian amendment.

(b) By 42 votes to 6, with 22 abstentions, it rejected the second amendment of Italy (A/CONF.25/C.2/L.102) as orally revised.

(c) By 57 votes to none, with 11 abstentions, it adopted the first amendment of Italy (A/CONF.25/C.2/L.102) as orally revised.

(d) By 39 votes to 13, with 18 abstentions, it rejected the oral amendment by Chile.

(e) By 26 votes to 10, with 34 abstentions, it adopted the amendment of South Africa (A/CONF.25/C.2/L.75) as orally revised.

(f) By 66 votes to none, with 5 abstentions, it adopted paragraph 6 as amended.

94. By 52 votes to 1, with 17 abstentions, the Committee adopted article 35, as a whole, as amended.

*Article 36**Communication and contact with nationals of the sending State*

95. Amendments to article 36 were submitted by the United States, Belgium, Japan, the Federal Republic of Germany, Switzerland, Venezuela, Thailand, the United Kingdom, Spain, Greece and France (A/CONF.25/C.2/L.3, L.25, L.56, L.74, L.78, L.100, L.101, L.107, L.114, L.125 and L.131 respectively).

Paragraph 1 (a)

96. India orally proposed the deletion of the words "in appropriate cases".

97. Australia moved an oral amendment in the form of the substitution of the words "subject to the wishes of the person concerned" for the words "in appropriate cases".

98. Ecuador proposed a sub-amendment to the amendment of Venezuela (A/CONF.25/C.2/L.100) with a view to deleting the words "The competent consulate and" and the words "if necessary" appearing in the Venezuelan amendment. Venezuela accepted those sub-amendments.

99. Venezuela withdrew its amendment (A/CONF.25/C.2/L.100) and announced a joint oral amendment by Spain, Ecuador, Chile, Italy and Venezuela. The joint amendment provided:

"Consular officials shall be free to communicate with the nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officials of the sending State."

100. At its sixteenth meeting the Committee voted as follows:

(a) By a roll-call vote of 44 votes to 4, with 25 abstentions, it rejected the oral amendment by Australia.

(b) By a roll-call vote of 48 votes to 3, with 22 abstentions, it adopted the joint oral amendment.

Paragraph 1 (b)

101. The United Arab Republic moved an oral amendment proposing the deletion of the first sentence and of the word "undue" in the second sentence.

102. Separate amendments by the United States (A/CONF.25/C.2/L.3), Japan (A/CONF.25/C.2/L.56), Thailand (A/CONF.25/C.2/L.101) and the oral amendment of the United Arab Republic were withdrawn by their sponsors in favour of a new oral joint amendment by Canada, Japan, Kuwait, Thailand, the United Arab Republic and the United States, to read as follows:

"A consular official shall be informed without delay by the competent authorities of the receiving State if a national of the sending State who is arrested, committed to prison or detained in any other manner, so requests. Any communications addressed to the consulate by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without undue delay".

103. The Federal Republic of Germany orally introduced a revised version of its amendment (A/CONF.25/C.2/L.74). As revised, this amendment provides for the insertion of the words "but at the latest within 48 hours" between the words "without undue delay" and the word "inform".

104. France moved an oral amendment in the form of a suggestion that reference to "arrest" should be introduced in paragraph 1 (b).

105. The Spanish translation of the term "arrest" was referred by the Committee to the Drafting Committee.

106. At its seventeenth meeting the Committee voted as follows:

(a) By 33 votes to 27, with 9 abstentions, it rejected the oral joint amendment.

(b) By 33 votes to 11, with 24 abstentions, it rejected the amendment (A/CONF.25/C.2/L.74), as orally revised, of the Federal Republic of Germany.

(c) By 37 votes to 2, with 28 abstentions, it adopted the amendment of the United Kingdom (A/CONF.25/C.2/L.107).

(d) By 39 votes to 13, with 16 abstentions, it adopted the amendment of Greece (A/CONF.25/C.2/L.125).

(e) By 42 votes to 5, with 21 abstentions, it adopted the oral amendment of France.

(f) By 43 votes to 6, with 21 abstentions, it adopted paragraph 1 (b) as amended.

Paragraph 1 (c)

107. At its eighteenth meeting, the Committee voted as follows:

(a) By 37 votes to 11, with 18 abstentions, it rejected the amendment of the Federal Republic of Germany (A/CONF.25/C.2/L.74).

(b) By 18 votes to 16, with 33 abstentions, it accepted the amendment of Spain (A/CONF.25/C.2/L.114).

(c) By 38 votes to 8, with 19 abstentions, it accepted the amendment of Belgium (A/CONF.25/C.2/L.25).

(d) By 57 votes to none, with 13 abstentions, it adopted sub-paragraph (c) of paragraph 1 as amended.

Paragraph 1, proposed new sub-paragraph

108. Yugoslavia requested a separate vote in the second part of the proposal of France (A/CONF.25/C.2/L.131), namely the words: "except for those who object to such information concerning them being communicated to the consulate".

109. At its eighteenth meeting, the Committee voted as follows:

(a) By 31 votes to 29, with 7 abstentions, it accepted the first part of the French proposal.

(b) By 45 votes to 9, with 15 abstentions, it rejected the second part of the French proposal.

[The placing of the new sub-paragraph in paragraph 1 was referred to the Drafting Committee.]

Proposed new paragraph for insertion between paragraphs 1 and 2

110. Switzerland withdrew its proposal (A/CONF.25/C.2/L.78).

Paragraph 2

111. At its nineteenth meeting, the Committee:

(a) Adopted the amendment by the United Kingdom (A/CONF.25/C.2/L.107) by 42 votes to 14, with 11 abstentions;

(b) Adopted paragraph 2 as amended, by 47 votes to 10, with 12 abstentions.

112. By 42 votes to none, with 27 abstentions, the Committee adopted article 36, as a whole, as amended.

Article 37

Obligations of the receiving State

113. Amendments to this article were submitted by the United States, Austria, Brazil, Thailand, the Federation of Malaya, Ireland, Switzerland, Romania, Poland, India and Australia (A/CONF.25/C.2/L.4, L.49, L.63, L.66, L.76, L.77, L.79, L.93, L.94, L.113 and L.144 respectively).

Introductory phrase and sub-paragraphs (a) and (b)

114. The United States and Thailand announced that their identical amendments (A/CONF.25/C.2/L.4 and L.66 respectively) should be considered as a single joint amendment.

115. A suggestion by Ireland that article 37 might be better placed in a chapter or section of the draft articles other than chapter II, section 1, was referred to the Drafting Committee.

116. At its nineteenth meeting, the Committee voted as follows :

(a) By 46 votes to 11, with 10 abstentions, it rejected the joint amendment by the United States and Thailand.

(b) By 32 votes to 12, with 19 abstentions, it adopted the amendment by Ireland (A/CONF.25/C.2/L.77) to the opening phrase.

(c) By 40 votes to 10, with 15 abstentions, it adopted the amendment by Poland (A/CONF.25/C.2/L.94) to sub-paragraph (a).

(d) By 33 votes to 18, with 16 abstentions, it rejected the amendment by Australia (A/CONF.25/C.2/L.144) to sub-paragraph (a).

(e) By 35 votes to 12, with 19 abstentions, it adopted the amendment by Austria (A/CONF.25/C.2/L.49) to sub-paragraph (a).

(f) By 38 votes to 7, with 24 abstentions, it rejected the amendment by India (A/CONF.25/C.2/L.113) to sub-paragraph (b).

(g) By 29 votes to 12, with 26 abstentions, it rejected the amendment by Romania (A/CONF.25/C.2/L.93) to sub-paragraph (b).

(h) By 35 votes to 14, with 19 abstentions, it adopted the amendment by Switzerland (A/CONF.25/C.2/L.79) to sub-paragraph (b).

(i) By 56 votes to 3, with 10 abstentions, it adopted the introductory phrase and sub-paragraphs (a) and (b) of article 37 as amended.

Sub-paragraph (c) and proposed new sub-paragraph

117. Austria withdrew its amendment (A/CONF.25/C.2/L.49) to sub-paragraph (c).

118. The Federation of Malaya withdrew its proposal (A/CONF.25/C.2/L.76) for a new sub-paragraph.

119. At its twentieth meeting the Committee :

(a) Rejected by 21 votes to 20, with 18 abstentions, the proposal of Brazil (A/CONF.25/C.2/L.63) for a new sub-paragraph.

(b) The Committee adopted sub-paragraph (c) as proposed by the International Law Commission without a formal vote.

120. By 53 votes to 1, with 5 abstentions, the Committee adopted article 37, as a whole, as amended.

Article 38

Communication with the authorities of the receiving State

121. Amendments to article 38 were submitted by Japan, the Byelorussian SSR, Poland and Belgium (A/CONF.25/C.2/L.57, L. 103, L.111 and L.129 respectively). In the course of the debate these countries withdrew their amendments and submitted a joint amendment (A/CONF.25/C.2/L.145).

122. The sponsors having accepted oral revisions, the joint amendment read in its final form as follows :

"In the exercise of their functions, consular officials may address :

"(a) The competent local authorities of their district ;

"(b) The competent central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements".

123. At its twentieth meeting, the Committee, by 52 votes to none, with 13 abstentions, adopted the joint amendment as orally revised.

124. A suggestion by the United Kingdom that the word "if", in sub-paragraph (b) of article 38 as adopted, should be replaced by the words "to the extent that" was referred to the Drafting Committee.

Article 39

Levying of fees and charges and exemption of such fees and charges from dues and taxes

125. A joint amendment by Argentina, Belgium, Brazil, the Netherlands and Venezuela (A/CONF.25/C.2/L.130) was submitted to article 39.

Paragraph 1

126. The joint amendment (A/CONF.25/C.2/L.130) by Argentina, Belgium, Brazil, the Netherlands and Venezuela was orally revised in the form of the deletion therefrom of the words "in the currency chosen by the sending State".

127. At its twenty-first meeting, the Committee rejected the joint amendment, as orally revised, by a roll-call vote of 28 votes to 20, with 22 abstentions.

128. The Committee adopted the text of paragraph 1 of the International Law Commission text by 69 votes to none, with 1 abstention.

Paragraph 2

129. At its twenty-first meeting, the Committee adopted unanimously paragraph 2 of the International Law Commission text.

130. At its twenty-first meeting, the Committee unanimously adopted article 39, as a whole.

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES REGARDING CONSULAR OFFICIALS AND EMPLOYEES

Article 40

Special protection and respect due to consular officials

131. Amendments to article 40 were submitted by the United States, Japan and Greece (A/CONF.25/C.2/L.5, L.58 and L.95 respectively).

132. Japan withdrew its amendment (A/CONF.25/C.2/L.58).

133. At its twenty-first meeting, the Committee by 37 votes to 22, with 11 abstentions, adopted the amendment of the United States (A/CONF.25/C.2/L.5).

Article 41

Personal inviolability of consular officials

134. Amendments to this article were submitted by the Netherlands, Indonesia, the Federal Republic of Germany, Brazil, the Byelorussian SSR, Switzerland, Hungary, Yugoslavia, Italy, Cambodia, the United Kingdom, South Africa, Romania and Spain (A/CONF.25/C.2/L.16, L.61, L.62/Rev.1, L.64, L.104/Rev.1, L.105, L.115, L.116, L.117, L.126, L.134, L.148, L.149 and L.150). Hungary submitted a second amendment (A/CONF.25/C.2/L.143).

135. Switzerland withdrew its amendment (A/CONF.25/C.2/L.105).

136. The amendments by Brazil, the Federal Republic of Germany, Italy, Spain and the United Kingdom (A/CONF.25/C.2/L.62, L.64, L.117, L.150 and L.134 respectively) were withdrawn in favour of a joint amendment (A/CONF.25/C.2/L.168).

137. At its twenty-fourth meeting the Committee voted as follows:

Paragraph 1 of the International Law Commission's text and amendments thereto

(a) By 41 votes to 8, with 19 abstentions, it adopted point 1 of the joint amendment (A/CONF.25/C.2/L.168/Rev.1).

(b) By 32 votes to 17, with 16 abstentions, it adopted the introductory phrase of paragraph 2 of the joint amendment.

(c) By 35 votes to 18, with 16 abstentions, it adopted sub-paragraph (a) of point 2 of the joint amendment.

(d) By 29 votes to 21, with 16 abstentions, it rejected sub-paragraph (b) of point 2 of the joint amendment.

(e) By 29 votes to 20, with 18 abstentions, it rejected sub-paragraph (c) of point 2 of the joint amendment.

(f) By 32 votes to 18, with 17 abstentions, it adopted point 2 of the joint amendment, as a whole, as amended.

(g) By 36 votes to 19, with 14 abstentions, it rejected paragraph 3 of the joint amendment.

(h) By 25 votes to 24, with 17 abstentions, it adopted point 4 of the joint amendment.

(i) By a roll-call vote of 24 votes to 22, with 21 abstentions, it rejected paragraphs 1, 2 and 4 of the joint amendment as amended.

(j) By 37 votes to none, with 21 abstentions, it adopted the amendment of the Netherlands (A/CONF.25/C.2/L.16) to paragraph 1.

(k) By 48 votes to 3, with 15 abstentions, it rejected the amendment of Indonesia (A/CONF.25/C.2/L.61) to paragraph 1.

(l) By 32 votes to 13, with 20 abstentions, it rejected the amendment of the Byelorussian SSR (A/CONF.25/C.2/L.104/Rev.1) to paragraph 1.

(m) By 49 votes to 6, with 11 abstentions, it adopted the text of paragraph 1 of article 41, as proposed by the International Law Commission, as amended.

Paragraph 2 of the International Law Commission's text and amendments thereto

(n) By 46 votes to 1, with 18 abstentions, it rejected the amendment of Yugoslavia (A/CONF.25/C.2/L.116) to paragraph 2.

(o) By 61 votes to none, with 6 abstentions, it adopted the text of paragraph 2 of article 41 as proposed by the International Law Commission.

Paragraph 3 of the International Law Commission's text and amendments thereto

(p) By 47 votes to none, with 18 abstentions, it adopted the amendment of South Africa (A/CONF.25/C.2/L.148) to paragraph 3.

(q) By 33 votes to 14, with 16 abstentions, it rejected the amendment of Hungary (A/CONF.25/C.2/L.115) to paragraph 3.

(r) By 63 votes to none, with 4 abstentions, it adopted the text of paragraph 3 of article 41 as proposed by the International Law Commission, as amended.

Proposed additional paragraphs

(s) By 30 votes to 15, with 20 abstentions, it rejected the proposed additional paragraph by Hungary (A/CONF.25/C.2/L.143).

(t) By 36 votes to 13, with 18 abstentions, it rejected the proposed new paragraph by Yugoslavia (A/CONF.25/C.2/L.116).

(u) By 29 votes to 25, with 13 abstentions, it rejected point 7 of the joint amendment.

Article 41, as a whole, as amended

138. By 53 votes to 7, with 9 abstentions, the Committee adopted the text of article 41, as a whole, as amended.

Article 42

Duty to notify in the event of arrest, detention pending trial or the institution of criminal proceedings

139. No amendments were submitted to this article. The Committee, therefore, at its twenty-first meeting, adopted, without change, the article as prepared by the International Law Commission.

*Article 43**Immunity from jurisdiction*

140. Amendments to article 43 were submitted by Japan, Greece, Brazil, the United Kingdom and Venezuela (A/CONF.25/C.2/L.80, L.96, L.98, L.139 and L.167 respectively).

141. Greece withdrew its amendment (A/CONF.25/C.2/L.96) on the understanding that it would be submitted to the Drafting Committee for consideration.

142. At its twenty-fifth meeting, the Committee voted as follows :

(a) By 30 votes to 23, with 9 abstentions, it adopted the amendment by Venezuela (A/CONF.25/C.2/L.167).

(b) By 38 votes to 13, with 11 abstentions, it rejected the amendment by Brazil (A/CONF.25/C.2/L.98).

(c) By 45 votes to 10, with 5 abstentions, it adopted the proposal of the United Kingdom to add a second paragraph to the article (A/CONF.25/C.2/L.139).

(d) By 48 votes to 9, with 5 abstentions, it adopted the proposal of the United Kingdom to add a third paragraph to the article.

(e) By 28 votes to 9, with 20 abstentions, it rejected the first proposal of Japan (A/CONF.25/C.2/L.80, point 1).

143. By 50 votes to none, with 10 abstentions, the Committee adopted article 43, as a whole, as amended.

*Article 44**Liability to give evidence*

144. Amendments to article 44 were submitted by the United States, Finland, Austria, Japan, Nigeria, the United Kingdom, Spain, India and the Federal Republic of Germany (A/CONF.25/C.2/L.6, L.41, L.50, L.81, L.118, L.135, L.151, L.159 and L.166 respectively).

145. Spain withdrew its amendment (A/CONF.25/C.2/L.151) on the understanding that it would be referred to the Drafting Committee.

146. The translation into the texts other than the English of the words "expert witness" was referred to the Drafting Committee.

147. The amendment by the United Kingdom (A/CONF.25/C.2/L.135) was withdrawn.

148. At its twenty-seventh meeting, the Committee voted as follows :

Paragraph 1 of the International Law Commission's text

(a) By 30 votes to 27, with 7 abstentions, it rejected the amendments by the United States, Finland and Japan (A/CONF.25/C.2/L.6, L.41 and L.81 respectively) to paragraph 1.

(b) By 27 votes to 12, with 27 abstentions, it adopted the amendment by India (A/CONF.25/C.2/L.159) to paragraph 1. The concordance of the English and French texts of this amendment was referred to the Drafting Committee.

(c) By 20 votes to 7, with 40 abstentions, it rejected the amendment by the Federal Republic of Germany (A/CONF.25/C.2/L.166) to paragraph 1.

(d) By 52 votes to 6, with 9 abstentions, it adopted paragraph 1 as amended.

Paragraph 2 of the International Law Commission's text

(e) By 36 votes to 10, with 21 abstentions, it rejected the amendment of Nigeria (A/CONF.25/C.2/L.118) to paragraph 2.

(f) By 52 votes to 2, with 14 abstentions, it accepted the amendment of Austria (A/CONF.25/C.2/L.50) to paragraph 2.

(g) By 63 votes to none, with 6 abstentions, it adopted the text of paragraph 2 as amended.

Paragraph 3 of the International Law Commission's text

(h) By 40 votes to 3, with 22 abstentions, it adopted the amendment of Japan.

(i) By 59 votes to 2, with 8 abstentions, it adopted paragraph 3, as amended.

Article 44, as a whole, as amended

149. By 54 votes to 2, with 12 abstentions, the Committee adopted article 44.

*Article 45**Waiver of immunities*

150. Amendments to article 45 were submitted by Japan, Australia and Tunisia (A/CONF.25/C.2/L.82, L.152 and L.169 respectively).

151. Japan accepted certain oral revisions to their amendment. Australia withdrew its amendment.

152. At its twenty-seventh meeting the Committee voted as follows :

Paragraph 1

(a) By 63 votes to none, with 1 abstention, it adopted the text of paragraph 1 proposed by the International Law Commission.

Paragraph 2

(b) By 31 votes to 22, with 11 abstentions, it accepted the words "shall be communicated to the receiving State in writing" in the Japanese amendment.

(c) By 32 votes to 13, with 19 abstentions, it rejected the words "through the diplomatic channel" in the Japanese amendment.

153. At its twenty-eighth meeting, the Committee voted as follows :

(a) By 27 votes to 11, with 21 abstentions, it adopted the amendment to paragraph 2 by Australia (A/CONF.25/C.2/L.152) as reintroduced by the representative of the Federal Republic of Germany.

(b) By 45 votes to none, with 13 abstentions, the

Committee adopted the text of paragraph 2, as proposed by the International Law Commission, as amended.

Paragraph 3

(c) The Committee unanimously adopted the text of paragraph 3 proposed by the International Law Commission.

Paragraph 4

(d) By 25 votes to 14, with 26 abstentions, it rejected the amendment of Tunisia (A/CONF.25/C.2/L.169).

(e) By 65 votes to 1, with no abstention, it adopted the text of paragraph 4 as proposed by the International Law Commission.

Article 45, as a whole as amended

154. By 65 votes to 1, with no abstention, the Committee adopted article 45, as a whole, as amended.

Article 46

Exemption from obligations in the matter of registration of aliens and residence permits

155. Amendments to article 46 were submitted by the United States, the Netherlands, Japan, Greece, China, Cambodia, Belgium, the United Kingdom, Switzerland and France (A/CONF.25/C.2/L.7, L.17, L.83, L.97, L.124, L.127, L.132, L.136, L.157 and L.175).

156. Cambodia and the United States withdrew their amendments (A/CONF.25/C.2/L.127 and L.7 respectively). The United States amendment was re-introduced by the representative of Norway. The Belgian amendment (A/CONF.25/C.2/L.132) to paragraph 2 was withdrawn.

At its twenty-ninth meeting, the Committee voted as follows:

(a) By 31 votes to 20, with 12 abstentions, and 28 votes to 17, with 20 abstentions, the Committee adopted point 1 of the amendment of the United Kingdom (A/CONF.25/C.2/L.136) to paragraph 1 of article 46.

(b) By 28 votes to 17, with 20 abstentions, the Committee adopted point 2 of the United Kingdom amendment.

(c) By 32 votes to 17, with 13 abstentions, the Committee adopted the United Kingdom amendment as a whole.

(d) By 26 votes to 25, with 10 abstentions, the words "private staff" in the United States amendment were rejected.

(e) By 22 votes to 21, with 16 abstentions, the Committee rejected the United States amendment, as a whole, as amended.

157. At its thirtieth meeting, the Committee decided, without vote, that the amendment of the United Kingdom (A/CONF.25/C.2/L.136) adopted at the twenty-ninth meeting should constitute a separate article relating only to "exemption from obligations in the matter of registration of aliens and residence

permits" and that the substance of paragraph 2 of article 46 should be made a separate article.

158. At its thirty-second meeting, the Committee, by 18 votes to 17, with 23 abstentions, rejected the Chinese amendment (A/CONF.25/C.2/L.124) to add a new paragraph to article 46.

Article 46A

Exemption from obligations in the matter of work permits

159. Article 46A was originally paragraph 2 of article 46 of the International Law Commission's text (see above, paragraph 157).

160. Amendments to article 46A were submitted by the Netherlands, France, Finland, Switzerland, Belgium and jointly by Greece, New Zealand and the United Kingdom (A/CONF.25/C.2/L.198, L.199, L.203, L.204, L.205 and L.206 respectively).

161. France and Belgium accepted oral revisions to their amendments (A/CONF.25/C.2/L.199 and L.205 respectively). The revision consisted in the addition of the word "those" before "consular employees" in the French amendment. The Belgian amendment, as revised, read as follows: after the words "private staff" add the words "if they do not exercise any other private gainful occupation outside the consulate".

162. At its thirty-second meeting, the Committee voted as follows:

(a) By a roll-call vote of 26 votes to 23, with 22 abstentions, it rejected the joint amendment by Greece, New Zealand and the United Kingdom (A/CONF.25/C.2/L.206).

(b) By 31 votes to 12, with 29 abstentions, it rejected the amendment of Finland (A/CONF.25/C.2/L.203).

(c) By 28 votes to 21, with 22 abstentions, it rejected the amendment of Switzerland (A/CONF.25/C.2/L.204).

(d) By 38 votes to 9, with 23 abstentions, it adopted the amendment of France, as orally revised.

(e) By 66 votes to none, with 5 abstentions, it adopted the amendment of Belgium (A/CONF.25/C.2/L.205).

163. By 61 votes to 2, with 7 abstentions, the Committee adopted the text of article 46A, as a whole, as amended.

Article 47

Social security exemption

164. Amendments to article 47 were submitted by India and France (A/CONF.25/C.2/L.160 and L.186). The Netherlands proposed that a new article be inserted after article 47 as a separate article or an additional paragraph (A/CONF.25/C.2/L.109).

165. France withdrew its amendment (A/CONF.25/C.2/L.186). The Federal Republic of Germany re-introduced this amendment.

166. India accepted a drafting suggestion, made by the United Kingdom, to its amendment to paragraph 1.

As revised the Indian amendment (A/CONF.25/C.2/L.160) read as follows :

" Subject to the provisions of paragraph 3 of this article, the members of the consulate, with respect to services rendered for the sending State and those members of their families forming part of their households who are not engaged in private gainful occupation of any kind, shall be exempt from social security provisions which may be in force in the receiving State."

167. A suggestion by the representative of Canada that the words "services rendered" in the above text should be replaced by the words "services they render" was referred to the Drafting Committee.

168. At its thirtieth meeting, the Committee voted as follows :

(a) By 55 votes to 3, with 7 abstentions, it adopted the Indian amendment to paragraph 1, as orally revised.

(b) It unanimously adopted paragraphs 2 and 3 of the International Law Commission's text.

(c) By 41 votes to 7, with 17 abstentions, it rejected the amendment reintroduced by the Federal Republic of Germany.

(d) By 65 votes to 1, with 2 abstentions, it adopted paragraph 4 of the International Law Commission's text.

(e) By 27 votes to 16, with 20 abstentions, it rejected the amendment of the Netherlands (A/CONF.25/C.2/L.109 (second article)).

169. By 65 votes to none, with one abstention, the Committee adopted article 47, as amended.

Article 48

Exemption from taxation

170. Amendments to article 48 were submitted by the Netherlands, Thailand, Japan, Belgium, the Ukrainian Soviet Socialist Republic, Switzerland, South Africa, India, Canada, France and Australia (A/CONF.25/C.2/L.18/Rev.1, L.67, L.84/Rev.1, L.133, L.142, L.158, L.170, L.177, L.193, L.195 and L.197 respectively). The Netherlands submitted also an amendment (A/CONF.25/C.2/L.110) with a view to adding a new article or paragraph.

171. South Africa withdrew its amendment (A/CONF.25/C.2/L.170).

172. The Ukrainian Soviet Socialist Republic withdrew its amendment to paragraph 2 after its amendment to paragraph 1 had been rejected.

173. At its thirty-first meeting the Committee voted as follows :

(a) By 32 votes to 15, with 14 abstentions, it rejected the amendment (A/CONF.25/C.2/L.142) of the Ukrainian Soviet Socialist Republic to paragraph 1.

(b) By 30 votes to 23, with 8 abstentions, it rejected the amendment (A/CONF.25/C.2/L.184/Rev.1) of Japan to paragraph 1.

(c) By 54 votes to 1, with 6 abstentions, it adopted the opening sentence of paragraph 1 as proposed by the International Law Commission.

(d) By 42 votes to 1, with 17 abstentions, it adopted the amendment of France (A/CONF.25/C.2/L.195) to sub-paragraph (a) of paragraph 1.

(e) By 20 votes to 17, with 27 abstentions, it rejected the amendment of Switzerland (A/CONF.25/C.2/L.158) to sub-paragraph (a) of paragraph 1.

(f) By 49 votes to 2, with 11 abstentions, it adopted the amendment of France (A/CONF.25/C.2/L.195) to sub-paragraph (b) of paragraph 1.

(g) By 19 votes to 12, with 31 abstentions, it rejected the amendment of Canada (A/CONF.25/C.2/L.193) to sub-paragraph (c) of paragraph 1.

(h) It unanimously adopted the text of sub-paragraph (c) of paragraph 1 as proposed by the International Law Commission.

(i) It approved sub-paragraphs (d), (e) and (f) of paragraph 1, as proposed by the International Law Commission, without a formal vote.

(j) By 60 votes to none, with 3 abstentions, it adopted paragraph 1, as a whole, as amended.

(k) By 31 votes to 17, with 12 abstentions, it rejected the amendment of Japan (A/CONF.25/C.2/L.84/Rev.1) to paragraph 2.

(l) By 31 votes to 9, with 22 abstentions, it adopted the amendment of Thailand (A/CONF.25/C.2/L.67) to paragraph 2, as orally revised.

(m) By 22 votes to 6, with 32 abstentions, it rejected the amendment of Australia (A/CONF.25/C.2/L.197) to paragraph 2.

(n) By 26 votes to 8, with 27 abstentions, it accepted the new paragraph 3 proposed by the Netherlands (A/CONF.25/C.2/L.110). The proposal of the Netherlands for a new article was withdrawn (A/CONF.25/C.2/L.109, first article).

174. By 60 votes to none, with 3 abstentions, the Committee adopted article 48, as a whole, as amended.

175. The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the words "members of" should be inserted before the words "service staff" in the opening sentence of paragraph 1, and that the word "save" should be replaced by the word "except" in the same sentence.

Article 49

Exemption from customs duties

176. Amendments to article 49 were submitted by Poland, Nigeria, Australia, the United Kingdom, Spain, India, the Ukrainian Soviet Socialist Republic and South Africa (A/CONF.25/C.2/L.119, L.120, L.153, L.171, L.173, L.178, L.185 and L.191 respectively).

177. India withdrew its amendment (A/CONF.25/C.2/L.178).

178. Poland accepted an oral revision to the amendment of its delegation (A/CONF.25/C.2/L.119), to the opening sentence of paragraph 1, in the form of the substitution, in the French text, of the word "*sortie*" for the words "*l'exportation*". The Committee referred to the Drafting Committee the translation of this revision into the other official texts.

179. At its thirty-fourth meeting, the Committee voted as follows :

(a) By 25 votes to 19, with 21 abstentions, it adopted the amendment of Poland, as revised.

(b) By 32 votes to 11, with 20 abstentions, it rejected the amendment of the United Kingdom (A/CONF.25/C.2/L.171) to the opening sentence of paragraph 1.

(c) It adopted sub-paragraph (a) of paragraph 1 without a formal vote.

(d) By a roll-call vote of 35 votes to 12, with 19 abstentions, it rejected the amendment of Nigeria (A/CONF.25/C.2/L.120) to sub-paragraph (b) of paragraph 1.

(e) By 34 votes to 8, with 24 abstentions, it adopted the amendment of Spain (A/CONF.25/C.2/L.173) to sub-paragraph (b) of paragraph 1.

(f) By 62 votes to 2, with 3 abstentions, it adopted paragraph 1, as a whole, as amended.

(g) By 33 votes to 10, with 22 abstentions, it rejected the amendment of South Africa (A/CONF.25/C.2/L.191) to paragraph 2.

(h) By 40 votes to 10, with 14 abstentions, it adopted the amendment of Australia (A/CONF.25/C.2/L.153) to paragraph 2.

(i) By 19 votes to 14, with 32 abstentions, it adopted the amendment of Poland (A/CONF.25/C.2/L.119) as orally revised, to paragraph 2. It referred to the Drafting Committee the incorporation of this amendment into the text of paragraph 2.

(j) By 43 votes to 5, with 13 abstentions, it approved the words "except those belonging to the service staff" appearing in paragraph 2 as proposed by the International Law Commission.

(k) By 60 votes to 2, with 3 abstentions, it adopted paragraph 2, as a whole, as amended.

(l) By 36 votes to 14, with 15 abstentions, it adopted the proposed new paragraph by the Ukrainian Soviet Socialist Republic (A/CONF.25/C.2/L.185). The Committee referred to the Drafting Committee the question whether this new paragraph should be inserted in article 49 or whether it should form a separate article. The Committee also referred to the Drafting Committee the formulation of the words "personal luggage accompanying consular officials" on the understanding that the notion underlying the word "accompanying" should be included in the final text.

180. By 58 votes to none, with 7 abstentions, the Committee adopted article 49, as a whole, as amended.

Article 50

Estate of a member of the consulate or of a member of his family

181. Amendments to article 50 were submitted by Japan, Belgium, the United Kingdom, Spain, the United States, Canada and Chile (A/CONF.25/C.2/L.85, L.146, L.172, L.176, L.181, L.194 and L.196 respectively).

182. Canada orally revised its amendment (A/CONF.25/C.2/L.194). Belgium and Chile announced that their amendments (A/CONF.25/C.2/L.146 and

L.196 respectively) should be regarded as a joint amendment. Japan withdrew its amendment (A/CONF.25/C.2/L.85).

183. At its thirty-fifth meeting, the Committee voted as follows :

(a) By 32 votes to 13, with 17 abstentions, it adopted the joint amendment of Belgium and Chile (A/CONF.25/C.2/L.146) to the opening phrase.

(b) It adopted paragraph (a) without formal vote.

(c) By 45 votes to 3, with 16 abstentions, it rejected the amendment of the United Kingdom (A/CONF.25/C.2/L.172) to paragraph (b).

(d) By 29 votes to 11, with 23 abstentions, it rejected the amendment of the United States (A/CONF.25/C.2/L.181) to paragraph (b).

(e) By 41 votes to 5, with 18 abstentions, it rejected the amendment of Spain (A/CONF.25/C.2/L.176) to paragraph (b).

(f) By 38 votes to 7, with 19 abstentions, it adopted the amendment of Canada (A/CONF.25/C.2/L.194) as orally revised, to paragraph (b).

(g) By 58 votes to 2, with 2 abstentions, it adopted paragraph (b) as amended.

184. By 62 votes to none, with 2 abstentions, it adopted article 50 as a whole, as amended.

Article 51

Exemption from personal services and contributions

185. Amendments to article 51 were submitted by Belgium and Romania (A/CONF.25/C.2/L.147 and L.207 respectively).

186. At its thirty-sixth meeting, the Committee voted as follows :

(a) By 23 votes to 22, with 16 abstentions, the Committee adopted the amendment of Romania (A/CONF.25/C.2/L.207).

(b) By 26 votes to 11, with 25 abstentions, the Committee adopted the amendment of Belgium (A/CONF.25/C.2/L.147).

187. By 39 votes to 2, with 20 abstentions, the Committee adopted the text of article 51, as proposed by the International Law Commission, as amended.

NOTE. — Articles 52 to 55 were referred to the First Committee.

Proposal by the delegation of Japan to replace articles 56 to 67 by a single article

188. Japan submitted an amendment (A/CONF.25/C.2/L.89/Rev.1) with a view to replacing articles 56 to 67 by a single article.

189. At its thirty-seventh meeting, the Committee :

(a) Decided by 45 votes to 1, with 10 abstentions to discuss first the approach adopted by the proposal of Japan (A/CONF.25/C.2/L.89/Rev.1),

(b) Rejected by a roll-call vote of 45 votes to 13, with 11 abstentions, the approach proposed by the delegation of Japan.

Article 56

Special provisions applicable to career consular officials who carry on a private gainful occupation

190. Amendments to article 56 were submitted by Austria, the Byelorussian Soviet Socialist Republic, India, South Africa and France (A/CONF.25/C.2/L.51, L.106, L.179, L.188 and L.211 respectively).

191. France submitted, jointly with Japan, a revised text of its amendment (A/CONF.25/C.2/L.211/Rev.1).

192. The Byelorussian Soviet Socialist Republic withdrew its amendment (A/CONF.25/C.2/L.106) on the understanding that it would be referred to the Drafting Committee. India withdrew the first alternative contained in point 1 of its amendment (A/CONF.25/C.2/L.179).

193. Austria announced oral revisions including a new paragraph 2 in its amendment (A/CONF.25/C.2/L.51), to be put to the vote in the event of a separate vote on the words "and members of their families forming part of their households" favouring the deletion of these words. As orally revised, the Austrian amendment read as follows:

"Exclusion of private gainful occupation for career consular officials"

"1. Career consular officials and members of their families forming part of their households shall not in the receiving State practise, for personal profit, any professional or commercial activity."

"2. Members of the family of a career consular official forming part of his household, who are practising, for personal profit, any professional or commercial activity in the receiving State, shall not enjoy the exemptions provided for in Chapter II of this Convention."

Reference to	In favour of deletion	Against deletion	Abstaining	Document and Sponsor
Article 28	13	55	9	India: A/CONF.25/C.2/L.200
Article 29	28	29	21	South Africa: A/CONF.25/C.2/L.189
Article 41, paragraph 3	17	43	15	South Africa: A/CONF.25/C.2/L.189
Article 43	11	57	8	Pakistan: A/CONF.25/C.2/L.214
Article 44, paragraph 3	12	59	6	Pakistan: A/CONF.25/C.2/L.214
Article 49, with the exception of paragraph 1 (b) (roll-call vote)	29	38	10	India, Pakistan and Canada: A/CONF.25/C.2/L.200, L.214 and L.122/Rev.1

199. By the votes indicated above, the Committee rejected all amendments to delete references to certain articles in article 57.

Reference to	In favour of addition	Against addition	Abstaining	Document and Sponsor
Article 30, paragraphs 1 and 2	23	39	13	United States: A/CONF.25/C.2/L.182
Article 31	29	34	13	United Kingdom: A/CONF.25/C.2/L.213
Article 40	23	40	12	United States and Japan: A/CONF.25/C.2/L.182 and L.217

194. At its thirty-eighth meeting, the Committee voted as follows:

(a) By 38 votes to 1, with 30 abstentions, it decided to delete the words "and members of their families forming part of their households" in paragraph 1 of the Austrian amendment (A/CONF.25/C.2/L.51).

(b) By 44 votes to 2, with 25 abstentions, it adopted paragraph 1 of the Austrian amendment, as thus revised.

(c) By 26 votes to 17, with 28 abstentions it rejected the joint amendment by France and Japan (A/CONF.25/C.2/L.211/Rev.1).

(d) By 61 votes to none, with 8 abstentions, it adopted paragraph 2 of the amendment of Austria, as orally introduced.

195. By 65 votes to none, with 5 abstentions, the Committee adopted article 56, as a whole, as amended.

CHAPTER III. — FACILITIES, PRIVILEGES AND IMMUNITIES OF HONORARY CONSULAR OFFICIALS

Article 57

Regime applicable to honorary consular officials

196. Amendments to article 57 were submitted by Canada, Nigeria, Australia, the United States, South Africa, India, Norway, the United Kingdom, Pakistan, Japan and France (A/CONF.25/C.2/L.122/Rev.1, L.140, L.154, L.182, L.189, L.200, L.212, L.213, L.214, L.217 and L.218 respectively).

197. Nigeria and France withdrew their amendments (A/CONF.25/C.2/L.140 and L.218 respectively) and Canada made certain oral revisions in its amendment (A/CONF.25/C.2/L.122/Rev.1).

198. At its fortieth meeting, the Committee voted as follows upon proposed deletions of references in article 57 to certain articles of the draft convention:

200. The Committee voted as follows upon proposed additions of references in article 57 to certain articles:

Reference to	In favour of addition	Against addition	Abstaining	Document and Sponsor
Article 49, paragraph 2	17	43	15	Canada : A/CONF.25/C.2/L.122/Rev.1
Article 54, paragraph 3	31	30	15	United Kingdom : A/CONF.25/C.2/L.213
Article 55	41	17	18	United Kingdom and Japan : A/CONF.25/C.2/L.213 and L.217

201. By the votes indicated above, the Committee approved the insertion of references to article 54, paragraph 3, and article 55 in the text of article 57. It rejected all other amendments to add references to certain other articles.

202. By 55 votes to 7, with 12 abstentions, the Committee decided to exclude paragraph 3 of article 49 from the list of articles applying to honorary consular officials as enumerated in article 57.

Voting on the inclusion of a reference to article 49 in the list of references contained in paragraph 1 of article 57

203. In view of some misunderstandings concerning the implications of voting on the paragraphs and sub-paragraphs of article 49 to be included in the list of articles in article 57, the Committee voted separately on the inclusion in article 57 of each paragraph and sub-paragraph of article 49.

204. Canada withdrew the first paragraph of its proposed new article (A/CONF.25/C.2/L.122/Rev.1). It was understood that paragraph 2 of that new article would be put to the vote in connexion with the vote of the Committee on the inclusion of references to paragraphs and sub-paragraphs of article 49 in article 57.

205. At its forty-first meeting, the Committee voted as follows :

(a) By 55 votes to 6, with 7 abstentions, it approved the inclusion of a reference to the introductory phrase of paragraph 1 of article 49 in the enumeration of articles contained in article 57.

(b) By 57 votes to 3, with 5 abstentions, it approved the inclusion of a reference to sub-paragraph (a) of paragraph 1 of article 49 in the enumeration of articles contained in article 57.

(c) By 50 votes to 4, with 17 abstentions, it approved paragraph 2 of the proposed new article by Canada (A/CONF.25/C.2/L.122/Rev.1), and referred its incorporation into the text to the Drafting Committee.

(d) By 68 votes to none, with 1 abstention, it decided not to include a reference to sub-paragraph (b) of paragraph 1 of article 49 in the enumeration of articles contained in article 57.

(e) By 49 votes to 7, with 12 abstentions, and 57 votes to none, with 13 abstentions, it decided not to include a reference to paragraphs 2 and 3 of article 49 in the enumeration of articles contained in article 57.

(f) By a roll-call vote of 62 votes to 2, with 6 abstentions, the Committee approved the inclusion

of reference to article 49, paragraph 1 (a), in article 57, together with the text of the proposed new paragraph by Canada.

Voting on the inclusion of a reference to article 43 in the list of references contained in paragraph 1 of article 57

A separate vote was taken on the inclusion of article 43 in the list of articles contained in paragraph 1 of article 57.

(g) By 60 votes to 2, with 4 abstentions, the Committee approved the inclusion of article 43 in the list of references contained in article 57.

Voting on the inclusion of a reference to article 35 in the list of references in paragraph 1 of article 57

(h) By 35 votes to 2, with 29 abstentions, the Committee approved the inclusion of article 35 in the list of references contained in article 57.

Voting on the inclusion of a reference to articles 28, 29, 33, 34, 36, 37, 38, 39, 41, paragraph 3, and articles 42, 44, paragraph 3, and articles 45 and 53 in the list of references contained in paragraph 1 of article 57

(i) By 49 votes to 2, with 19 abstentions, the Committee approved the inclusion in the list of references contained in article 57 of the articles proposed by the International Law Commission other than those on which separate votes had already been taken.

Voting on additions to paragraph 1 of article 57

(j) By 25 votes to 14, with 30 abstentions, the Committee rejected the additional words to paragraph 1 of article 57 as proposed by Japan (A/CONF.25/C.2/L.217, point 1).

(k) By 26 votes to 16 with 26 abstentions, the Committee rejected the additional words to paragraph 1 of article 57 as proposed by the United Kingdom (A/CONF.25/C.2/L.213).

Voting on an additional paragraph to article 57

(l) By 56 votes to 7, with 4 abstentions, the Committee adopted the words "Privileges and immunities provided for in this Convention shall not be accorded to members of the family of an honorary consular official" in the proposed additional paragraph by Japan (A/CONF.25/C.2/L.217, point 2).

(m) By 42 votes to 18, with 10 abstentions, the Committee adopted the words: "or of a consular employee employed at a consulate headed by an honorary consular official".

(n) By 52 votes to 5, with 12 abstentions, the Committee adopted the proposed additional paragraph, as a whole.

Voting on the amendment of Norway (A/CONF.25/C.2/L.212)

(o) By 56 votes to none, with 14 abstentions, the Committee decided that article 57 should be formulated along the lines proposed in the amendment of Norway.

Voting on article 57, as a whole, as amended

206. By 58 votes to 1, with 11 abstentions, the Committee adopted article 57 as a whole, as amended.

207. The formulation of the text of article 57 was entrusted to the Drafting Committee, along the lines proposed by Norway (A/CONF.25/C.2/L.212), with a view to making a distinction between those articles which apply to the consulates headed by honorary consular officials and those which apply to honorary consular officials themselves.

Article 58

Inviolability of the consular premises

208. Amendments to article 58 were submitted by the Netherlands, Austria, Greece, the United States, India, Pakistan and South Africa (A/CONF.25/C.2/L.20, L.52, L.163, L.183, L.201, L.215 and L.219 respectively).

209. The United States and Pakistan withdrew their amendments (A/CONF.25/C.2/L.183 and L.215). The amendment of the Netherlands (A/CONF.25/C.2/L.20) was referred to the Drafting Committee. Pakistan co-sponsored the amendment submitted by South Africa (A/CONF.25/C.2/L.219).

210. The question of replacing in the title the word "inviolability" by the word "protection" was referred to the Drafting Committee.

211. At its forty-first meeting, the Committee voted as follows :

(a) By 30 votes to 18, with 15 abstentions, it rejected the amendments of Greece and India (A/CONF.25/C.2/L.163 and L.201).

(b) By 44 votes to none, with 19 abstentions, it adopted the amendment submitted jointly by South Africa and Pakistan (A/CONF.25/C.2/L.219).

Article 59

Exemption from taxation of consular premises

212. Amendments to article 59 were submitted by Australia, the United States, India, Pakistan and South Africa (A/CONF.25/C.2/L.155, L.184, L.202, L.216 and L.220).

213. The Australian amendment (A/CONF.25/C.2/L.155) was referred to the Drafting Committee. India, Pakistan and South Africa withdrew their amendments (A/CONF.25/C.2/L.202, L.216 and L.220). South Africa

co-sponsored the amendment submitted by the United States (A/CONF.25/C.2/L.184).

214. At its forty-first meeting, the Committee voted as follows :

(a) By 25 votes to 19, with 18 abstentions, it decided to delete the words "or any person acting on behalf of the sending State".

(b) By 50 votes to one, with 16 abstentions, it adopted the South African and United States amendment (A/CONF.25/C.2/L.184) as amended.

(c) By 61 votes to none, with 4 abstentions, it adopted paragraph 2 of the International Law Commission text.

215. By 58 votes to one, with 6 abstentions, it adopted article 59, as amended.

216. Paragraph 2 of article 59 was referred to the Drafting Committee with a view to conforming the drafting of paragraph 2 with that of paragraph 1.

Article 60

Inviolability of consular archives and documents

217. Amendments to article 60 were submitted by the Netherlands, Austria and South Africa (A/CONF.25/C.2/L.20, L.53 and L.221 respectively).

218. The Netherlands withdrew their amendment (A/CONF.25/C.2/L.20) on the understanding that it would be referred to the Drafting Committee. Austria withdrew its amendment (A/CONF.25/C.2/L.53).

219. At its forty-second meeting the Committee, by 48 votes to none, with 4 abstentions, adopted the amendment by South Africa.

220. The Committee then unanimously adopted the text of article 60, as amended.

Article 61

Special protection

221. Amendments to article 61 were submitted by the United States, Canada, South Africa and India (A/CONF.25/C.2/L.11, L.121, L.190 and L.208 respectively).

222. The United States withdrew its amendment (A/CONF.25/C.2/L.11).

223. Canada and South Africa submitted orally a joint amendment in place of the separate amendments by Canada and South Africa (A/CONF.25/C.2/L.121 and L.190 respectively), which read as follows :

"The receiving State is under a duty to accord to an honorary consular official such protection as may be required by reason of his official position."

224. India withdrew its amendment (A/CONF.25/C.2/L.208), and co-sponsored the joint amendment.

225. The Committee referred to the Drafting Committee a suggestion by France and the United States that the word "special" in the title of article 61 should be deleted.

226. At its forty-second meeting, the Committee, by 50 votes to 1, with 11 abstentions, adopted the joint amendment.

Article 62

Exemption from obligations in the matter of registration of aliens and residence permits

227. Amendments to article 62 were submitted by Austria and Japan (A/CONF.25/C.2/L.54 and L.225 respectively). They were later withdrawn.

228. At its forty-second meeting, the Committee, by 58 votes to 2, with 4 abstentions, adopted the text of article 62, as proposed by the International Law Commission.

Article 63

Exemption from taxation

229. Amendments to article 63 were submitted by India and Portugal (A/CONF.25/C.2/L.209 and L.222 respectively).

230. At its forty-second meeting the Committee voted as follows:

(a) By 27 votes to 13, with 26 abstentions, it rejected the amendment of India (A/CONF.25/C.2/L.209).

(b) By 42 votes to 10, with 17 abstentions, it rejected the amendment of Portugal (A/CONF.25/C.2/L.222).

231. By 55 votes to 4, with 9 abstentions, it adopted the text of article 63 as proposed by the International Law Commission.

Article 64

Exemption from personal services and contributions

232. An amendment to article 64 was submitted by Australia (A/CONF.25/C.2/L.156).

233. At its forty-second meeting, the Committee voted as follows:

(a) By 53 votes to 6, with 8 abstentions, it adopted the words "who are neither nationals" appearing in the Australian amendment.

(b) By 48 votes to 7, with 10 abstentions, it adopted the words "nor permanent residents of the receiving State".

(c) By 48 votes to 5, with 15 abstentions, it adopted the Australian amendment as a whole.

234. The Committee adopted article 64, as a whole, as amended, without formal vote.

Article 65

Obligations of third States

235. Amendments to article 65 were submitted by Thailand, India and the United Kingdom (A/CONF.25/C.2/L.69, L.210 and L.223 respectively).

236. At its forty-second meeting, the Committee approved a ruling by the Chairman that article 65 should be considered as deleted, in view of the inclusion by the Committee of a reference to article 54, paragraph 3, in article 57 (see paragraph 200 above).

Article 66

Respect for the laws and regulations of the receiving State

237. Amendments to article 66 were submitted by Switzerland and the United Kingdom (A/CONF.25/C.2/L.165 and L.224 respectively).

238. At the forty-second meeting of the Committee, the Chairman ruled that, despite the inclusion of a reference to article 55 in article 57, the second sentence of article 66 remained for consideration by the Committee as it covered a principle not included in article 55, subject to the necessary drafting changes by reason of the deletion of the first sentence of article 66.

239. Switzerland withdrew its amendment (A/CONF.25/C.2/L.165).

240. At its forty-second meeting the Committee by 35 votes to 23, with 12 abstentions, adopted the amendment of the United Kingdom (A/CONF.25/C.2/L.224) to delete article 66.

Article 67

Optional character of the institution of honorary consular officials

241. An amendment to article 67 was submitted by Japan (A/CONF.25/C.2/L.226). It was later withdrawn but subsequently reintroduced by Norway.

242. At its forty-second meeting the Committee, by 56 votes to 11, with 4 abstentions, rejected the Norwegian amendment.

243. The Committee then adopted the text of article 67 as proposed by the International Law Commission, by 63 votes to 3, with 6 abstentions.

NOTE.—Article 68 was considered by the First Committee.

Article 69

Members of the consulate, members of their families and members of the private staff who are nationals of the receiving State

244. Amendments to article 69 were originally submitted by the United States, the Netherlands, Japan, Canada, Brazil, India, Australia and Norway (A/CONF.25/C.2/L.12, L.21, L.90, L.112, L.161, L.180, L.192 and L.228 respectively). A joint amendment was later submitted by Brazil, Canada, Ceylon, India, Japan, the Netherlands and South Africa (A/CONF.25/C.2/L.229). Amendments submitted previously by the co-sponsors were subsequently withdrawn.

245. Norway revised its amendment (A/CONF.25/C.2/L.228) with a view to adding to the last sentence of paragraph 1 the following:

"If criminal proceedings are instituted against such an official, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible."

246. At its forty-fourth meeting, the Committee voted as follows :

(a) By a roll-call vote of 38 votes to 8, with 20 abstentions, it adopted the joint amendment (A/CONF.25/C.2/L.229) to paragraph 1 of article 69.

(b) By 50 votes to none, with 18 abstentions, it adopted the amendment (A/CONF.25/C.2/L.228) of Norway, as orally revised, to paragraph 1 of article 69.

(c) By 48 votes to 5, with 16 abstentions, the Committee adopted paragraph 1 of article 69, as amended.

(d) By 28 votes to 15, with 25 abstentions, the Committee approved the retention of the word "unduly" in the last sentence of the joint amendment (A/CONF.25/C.2/L.229).

(e) By 48 votes to 5, with 16 abstentions, the Committee adopted paragraph 2 of the joint amendment.

247. By 46 votes to 5, with 17 abstentions, the Committee adopted article 69 as a whole, as amended.

248. The Committee referred to the Drafting Committee the concordance in the Spanish text of the last sentence of paragraph 2 of article 69 with the text of paragraph 3 of article 41.

Additional article

Consular employees, members of the service staff and members of their families who carry on a private gainful occupation and members of their private staff

249. An amendment was submitted by Belgium and France (A/CONF.25/C.2/L.230) with a view to adding a new article on this subject.

250. Belgium and France orally revised their amendment to read as follows :

"Privileges and immunities provided in chapter II of the present Convention shall not be accorded :

"(a) To a consular employee or to a member of the service staff who carries on a private gainful occupation in the receiving State ;

"(b) To members of the family of a person referred to in sub-paragraph (a) or to his private staff ;

"(c) To members of the family of a consular employee or a member of the service staff who themselves carry on a private gainful occupation in the receiving State."

251. At its forty-fourth meeting the Committee, by 60 votes to 1, with 9 abstentions, adopted the proposed new article, as orally revised.

252. The Committee referred to the Drafting Committee the appropriate place for including this new article in the text. It was suggested that the article should be inserted after article 56.

ANNEX

Articles adopted by the Second Committee

CHAPTER II. — FACILITIES, PRIVILEGES AND IMMUNITIES OF ¹ CAREER CONSULAR OFFICIALS AND CONSULAR EMPLOYEES

SECTION I. — FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULATE

Article 28

Use of the national flag and of the State coat of arms

1. The sending State shall have the right to the use of its national flag and coat of arms in the receiving State as provided in this article.

2. The national flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consulate and at the entrance door thereof and on the residence and means of transport of the head of the consular post when used on official business.

3. In the exercise of the right accorded by this article regard shall be had to the laws, regulations and usage of the receiving State.

Article 29

Accommodation

1. The receiving State shall either facilitate the acquisition in its territory, in accordance with its municipal law, by the sending State of premises necessary for its consulate or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist in obtaining suitable accommodation for the members of the consulate.

Article 30

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consulate except with the consent of the head of the consular post, his designee, or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action or if the authorities of the receiving State have reasonable cause to believe that a crime of violence to person or property has been or is being or is about to be committed within the consular premises.

3. The receiving State is under a special duty to take all appropriate steps to protect the consular premises, subject to the provisions of the foregoing paragraphs, against any intrusion or damage ² and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

4. The consular premises, their furnishing, the property of the consulate and its means of transport shall be immune

¹ The representative of Hungary agreed to the reference direct to the Drafting Committee of an amendment, submitted by his delegation, whereby the word "consulates" would be inserted after the words "immunities of" in the title of chapter II. This amendment was originally circulated in document A/CONF.25/C.2/L.34.

² The Committee referred to the Drafting Committee a question raised by the representatives of Colombia and of Spain as to whether the Spanish translation of the words "intrusion or damage" were in concordance with the other official texts.

from any form of requisition for purposes of national defence or public utility. If expropriation or occupation³ is necessary for such purposes, all necessary steps shall be taken to avoid impeding the performance of the consular functions, and a prompt, adequate and effective indemnity shall be paid to the sending State.

Article 31

Exemption from taxation of consular premises

1. Consular premises of which the sending State or any person acting on behalf of the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or the head of the consular post.⁴

Article 32

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 33⁵

Facilities for the work of the consulate⁶

The receiving State shall accord full facilities for the performance of the functions of the consulate.

Article 34⁷

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the consulate freedom of movement and travel in its territory.

Article 35

Freedom of communication

1. The receiving State shall permit and protect free communication⁸ on the part of the consulate for all official purposes. In communicating with the Government, the diplomatic missions and other consulates of the sending State, wherever situated, the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplo-

matic or consular bag and messages in code or cipher. However, the consulate may instal and use a wireless transmitter only with the consent of the receiving State.⁹

2. The official correspondence of the consulate shall be inviolable. Official correspondence means all correspondence relating to the consulate and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State the bag shall be returned to its place of origin.

4. The packages constituting the consular bag must bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier who shall, except with the consent of the receiving State, be neither a national of the receiving State nor a permanent resident thereof,¹⁰ shall be provided with an official document indicating his status and the number of packages constituting the consular bag. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.¹¹

6. The sending State, its diplomatic missions and its consulate may designate consulate couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.¹²

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consulate may send one of its members to take possession of the consular bag directly and freely from the captain of the aircraft.¹³

Article 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State :

³ The Committee referred to the Drafting Committee a question raised by the representative of Italy concerning the scope and meaning of the word "occupation".

⁴ The Committee referred to the Drafting Committee the reformulation of the words "the head of the consular post" at the end of paragraph 2 of article 31, in view of the adoption by the Committee, in paragraph 1, of the words "any person acting on behalf of the sending State" in place of the words "the head of the post acting for the sending State".

⁵ The Chairman referred to the Drafting Committee a suggestion by the representative of the Federal Republic of Germany that article 33 should be placed either earlier in section I of chapter II, or possibly after article 5.

⁶ The Committee referred to the Drafting Committee an oral amendment by the representative of the Byelorussian SSR to the effect that the title of article 33 should read "Assistance in the work of the consulate".

⁷ The Chairman referred to the Drafting Committee a suggestion by the representative of France that article 34 should be transferred to section II of chapter II.

⁸ The Committee referred to the Drafting Committee an amendment by South Africa (A/CONF.25/C.2/L.75) to substitute the words "freedom of communication" for the words "free communication".

⁹ The Committee referred to the Drafting Committee an amendment by Nigeria (A/CONF.25/C.2/L.108) to redraft the last sentence of paragraph 1 to read "However, the consulate may not instal and use a wireless transmitter except with the consent of the receiving State."

¹⁰ The Committee referred to the Drafting Committee the incorporation in paragraph 5, or possibly in another article, such as article 69, of the words "who shall, except with the consent of the receiving State, be neither a national of the receiving State nor a permanent resident thereof."

¹¹ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the last two sentences of this paragraph might be combined to read: "In the performance of his functions he shall be protected by the receiving State, enjoy personal inviolability, and shall not be liable to any form of arrest or detention."

¹² The Committee referred paragraph 6 to the Drafting Committee for review and, in particular, the concordance of the first sentence with the second sentence of paragraph 1 of article 35.

¹³ The Committee referred to the Drafting Committee a suggestion by the representative of Finland that article 1 should contain definitions of the terms "consular courier" and "consular bag".

(a) Consular officials shall be free to communicate with the nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officials of the sending State.

(b) The competent authorities shall, without delay, inform the competent consulate of the sending State if, within the district, a national of that State is arrested¹⁴ or committed to prison or to custody pending trial or is detained in any other manner and shall state the reason why he is being deprived of his liberty. Any communication addressed to the consulate by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay.

(c) The competent authorities shall further be required, on request by the competent consulate of the sending State, to communicate to it periodically a list of the nationals of that State who are detained.¹⁵

(d) Consular officials shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officials shall refrain from taking action on behalf of a national who is in custody or detention if he expressly opposes such action.¹⁶

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purpose for which the rights accorded under the article are intended.

Article 37¹⁷

Obligations of the receiving State¹⁸

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) In the case of the death of a national of the sending State, to inform without delay¹⁹ the consulate in whose district the death occurred and, as soon as possible, to transmit a certificate of death.

(b) To inform the competent consulate without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. This provision shall, however, be without prejudice to the legislative provision of the receiving State regarding the execution of such measures.

¹⁴ The Committee referred to the Drafting Committee a question raised by the representative of Spain concerning the translation into Spanish of the word "arrest".

¹⁵ The Committee referred to the Drafting Committee the question of the placing of this sub-paragraph in the text of paragraph 1.

¹⁶ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that a mention of the word "prison" should be included in the last sentence of sub-paragraph (d).

¹⁷ The Chairman referred to the Drafting Committee a suggestion by the representative of Ireland that article 37 might be better placed in a chapter or section other than chapter II, section I.

¹⁸ The representative of Hungary agreed to the reference direct to the Drafting Committee of an amendment, submitted by his delegation, whereby the words "to inform the consulate" would be added to the end of the title of article 37.

¹⁹ The Committee referred to the Drafting Committee the concordance of the words "without delay" in the English and the French texts.

(c) If a vessel used for maritime or inland navigation, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consulate nearest to the scene of the occurrence.

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officials may address:²⁰

(a) The competent local authorities of their district;

(b) The competent central authorities of the receiving State if²¹ this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

Levying of fees and charges and exemption of such fees and charges from dues and taxes

1. The consulate may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of fees and charges referred to in paragraph 1 of this article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES REGARDING CONSULAR OFFICIALS AND EMPLOYEES

Article 40

Protection and respect due to consular officials

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41

Personal inviolability of consular officials

1. Consular officials shall not be liable to arrest or detention pending trial except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this article, consular officials shall not be committed to prison or be liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular official, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this article, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain a consular official in terms of paragraph 1, the proceedings against him shall be instituted with the minimum of delay.

²⁰ The representative of Romania agreed to the reference direct to the Drafting Committee of an amendment by his delegation to replace the words "*peuvent s'adresser*" in the French text by the words "*s'adressent*".

²¹ The Chairman referred to the Drafting Committee a suggestion by the representative of the United Kingdom that the word "if" in sub-paragraph (b) should be replaced by the words "to the extent that".

*Article 42**Duty to notify in the event of arrest, detention pending trial or the institution of criminal proceedings*

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of the said measure, the receiving State shall notify the sending State through the diplomatic channel.

*Article 43**Immunity from jurisdiction*

1. Consular officials shall not be amenable to the jurisdiction of the judicial or administrative authorities²² of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this article shall not, however, apply in respect of a civil action either:

- (a) Arising out of a contract concluded by a consular officer or consular employee²³ in which he did not contract expressly or impliedly as agent of the sending State; or
- (b) By a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

3. A consular officer or consular employee shall comply with any requirement imposed by the law of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

*Article 44**Liability to give evidence*

1. Members of the consulate may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee shall not, except in the cases mentioned in paragraph 3 of this article, decline to give evidence. If a consular official should decline to do so, no coercive measure or penalty may be applied to him.²⁴

2. The authority requiring the evidence of a consular official shall avoid interference²⁵ with the performance of his functions. It may, when possible, take such testimony at his residence or at the consulate or accept a statement from him in writing.

3. Members of the consulate are under no obligation to give evidence concerning matters connected with the exercise of their functions nor to produce official correspondence and documents relating thereto. They are also entitled to decline

²² The Committee referred to the Drafting Committee an amendment by Greece, originally circulated in document A/CONF.25/C.2/L.96 (and orally revised as regards the English text) to the effect that the word "jurisdictions" should be substituted for the word "authorities".

²³ The Committee referred to the Drafting Committee a suggestion by the representative of the Federal Republic of Germany that the words "or consular employee" should be deleted from sub-paragraph (i) of paragraph 2 in view of the fact that paragraph 1 conferred jurisdictional immunities only on consular officials and not on consular employees.

²⁴ The Committee referred to the Drafting Committee the concordance of the English and French texts of paragraph 1.

²⁵ The Committee referred to the Drafting Committee an amendment by Spain (A/CONF.25/C.2/L.151) to replace, in the Spanish text of paragraph 2, the words "*evitar que se obstre*" by the words "*evitar que el funcionario consular sea perturbado* ...".

to give evidence as an expert witness²⁶ with regard to the laws of the sending State.

*Article 45**Waiver of immunities*

1. The sending State may waive, with regard to a member of the consulate, the immunities provided for in articles 41, 43 and 44.²⁷

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a member of the consulate in a matter where he might enjoy immunity from jurisdiction under article 43, shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

*Article 46**Exemption from obligations in the matter of registration of aliens and residence permits*

1. Consular officers and consular employees and members of their families²⁸ forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who is engaged in a private occupation for gain in the receiving State or who is a member of the service staff, or to any member of the family of any such employee.

*Article 46A²⁹**Exemption from obligations in the matter of work permits*

Members of the consulate, members of their families forming part of their households and the private staff of consular officials and of those consular employees who perform administrative and technical functions, if they do not exercise any other private gainful occupation outside the consulate,

²⁶ The Committee referred to the Drafting Committee a question by the representative of Japan concerning the translation into official texts, other than the English, of the words "expert witness" in paragraph 3.

²⁷ The Committee referred to the Drafting Committee the concordance of the text of paragraph 1 with the texts of articles 41, 43 and 44 as adopted by the Committee. In this respect, attention was drawn to the fact that the Committee had adopted two new paragraphs for inclusion in article 43. It was also pointed out that the immunity from jurisdiction in article 43 had been confined by the Committee to consular officials, in place of members of the consulate as had been proposed by the International Law Commission.

²⁸ The representative of Romania agreed to the reference direct to the Drafting Committee of an amendment by his delegation to the effect that a definition of "members of their families" should be inserted in paragraph 1.

²⁹ The Committee decided, at its thirtieth meeting on 26 March 1963, that the second paragraph of article 46 of the draft Articles proposed by the International Law Commission, should, for the purposes of discussion by the Committee, be considered separately as article 46A.

shall be exempt from any obligations in regard to work permits imposed either on employers or on employees by the laws and regulations of the receiving State concerning the employment of foreign labour.

Article 47

Social security exemption

1. Subject to the provisions of paragraph 3 of this article, the members of the consulate, with respect to services rendered³⁰ for the sending State, and those members of their families forming part of their households who are not engaged in private gainful occupation of any kind, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall apply also to members of the private staff who are in the sole employ of members of the consulate, on condition:

(a) That they are not nationals of or permanently resident in the receiving State; and

(b) That they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consulate who employ persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 48

Exemption from taxation

1. Members of the consulate, with the exception of the service staff, and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save:³¹

(a) Indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) Dues or taxes on private immovable property situated in the territory of the receiving State, subject, however, to the application of the provisions of article 31;

(c) Estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject, however, to the provisions of article 50 concerning the succession of a member of the consulate or of a member of his family;

(d) Dues and taxes on private income having its source in the receiving State and capital taxes relating to investments made by them in commercial or financial undertakings in the receiving State;

(e) Charges levied for specific services rendered;

(f) Registration, court or record fees, mortgage dues and stamp duty, subject to the provisions of article 31.

2. Members of the service staff and members of the private staff who are not nationals of the receiving State nor

permanent residents thereof but are in the sole employ of members of the consulate shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consulate who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the provisions of that State impose upon employers concerning the levying of income taxes.

Article 49

Exemption from customs duties

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry and export³² of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) Articles for the official use of the consulate;

(b) Articles for the personal use of a consular official or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees, except those belonging to the service staff, shall enjoy the exemptions specified in the previous paragraph in respect of articles imported at the time of first installation or thereafter exported.³³

3. Personal luggage accompanying consular officials³⁴ and members of their families shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in paragraph 1 (b) of this article, or articles the import or export of which is prohibited by law or which are subject to the quarantine regulations of the receiving State. Such inspection shall be carried out in the presence of the person whose luggage is accompanying him.³⁵

Article 50

Estate of a member of the consulate or of a member of his family

In the event of the death of a member of the consulate or of a member of his family forming part of his household, who was not a national or permanent resident of the receiving State, the State:

(a) Shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the country the export of which was prohibited at the time of his death;

(b) Shall not levy estate, succession or inheritance duties and duties on transfers on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consulate or as a member of the family of a member of the consulate.

³⁰ The Committee referred to the Drafting Committee a suggestion by the representative of Canada that the words "services rendered" in paragraph 1 should be replaced by the words "services they render".

³¹ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the words "members of" should be inserted before the words "service staff" in the opening sentence of paragraph 1, and that the word "save" should be replaced by the word "except" in the same sentence.

³² The Committee referred to the Drafting Committee the translation into the other official texts of the word "*sortie*" appearing in the French text of paragraph 1 and paragraph 2.

³³ The Committee referred to the Drafting Committee the formulation and incorporation into the texts of paragraph 2 of the words "or thereafter exported".

³⁴ The Committee referred to the Drafting Committee the formulation of the words "personal luggage accompanying consular officials" in paragraph 3 on the understanding that the notion underlying the word "accompanying" should be included in the final text.

³⁵ The Committee referred to the Drafting Committee the question whether this paragraph should remain in article 49, or whether it should form a separate article.

*Article 51**Exemption from personal services and contributions*

The receiving State shall exempt members of the consulate and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting. These exemptions shall not, however, apply to members of the families of consular employees if the latter, in addition to their functions at the consulate, carry on a private gainful occupation.

*Article 56**Exclusion of private gainful occupation for career consular officials*

1. Career consular officials shall not in the receiving State practice, for personal profit, any professional or commercial activity.³⁶

2. Members of the family of a career consular official forming part of his household, who are practising, for personal profit, any professional or commercial activity on the receiving State, shall not enjoy the exemptions³⁷ provided for in chapter II of this Convention.

CHAPTER III. — FACILITIES, PRIVILEGES AND IMMUNITIES OF HONORARY CONSULAR OFFICIALS

*Article 57³⁸**Régime applicable to honorary consular officials*

1. Articles shall likewise apply to consulates headed by an honorary consular official. In addition, the facilities, privileges and immunities of such consulates shall be governed by articles

³⁶ The Committee referred to the Drafting Committee an amendment by the Byelorussian Soviet Socialist Republic, originally circulated in document A/CONF.25/C.2/L.106 and revised in the course of discussion, to the effect that where the words "private gainful occupation" appear in the articles adopted by the Committee they should be replaced by the words "gainful occupation professionally". (The words "private gainful occupation" had appeared in the text of article 56, as proposed by the International Law Commission, but did not appear in the amendment to this article which was adopted by the Committee.)

³⁷ The Committee referred to the Drafting Committee a suggestion by the representative of the Federal Republic of Germany that the word "exemptions" should be deleted and replaced by the words "privileges and immunities".

³⁸ (a) The Committee decided that article 57 should be formulated by the Drafting Committee along the lines of an amendment proposed by Norway (A/CONF.25/C.2/L.212), in that a distinction is to be made between those articles which apply to the consulates headed by honorary consular officials and those which apply to honorary consular officials themselves. The amendment by Norway, as originally submitted, reads as follows:

"1. Articles 28, 29, 33, 34, 35, 36, 37, 38, 39 and 49, paragraph 1 (a), shall likewise apply to consulates headed by an honorary consular official. In addition, the facilities, privileges and immunities of such consulates shall be governed by articles 58, 59, 60 and 65.

"2. Article 41, paragraph 3, articles 42, 43, 44, paragraph 3, articles 45 and 53 shall likewise apply to honorary consular officials. In addition, the facilities, privileges and immunities of such consular officials shall be governed by articles 61, 62, 63, 64 and 66."

When this amendment was put to the vote, it was decided that the articles specifically referred to therein would be replaced or amended where necessary by the Drafting Com-

2. Articles shall likewise apply to honorary consular officials. In addition, the facilities, privileges and immunities of such consular officials shall be governed by articles

3. Privileges and immunities provided for in this Convention shall not be accorded to members of the family of an honorary consular official or of a consular employee employed at a consulate headed by an honorary consular official.

*Article 58**Inviolability³⁹ of the consular premises*

The receiving State shall take such steps as may be necessary to protect the premises of a consulate headed by an honorary consular official against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity. This obligation shall, however, relate only to that part of the premises which is used exclusively for the exercise of consular functions.

*Article 59**Exemption from taxation of consular premises*

1. Consular premises headed by an honorary consular official and used exclusively for consular purposes, of which the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation provided for in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the head of the consular post.

*Article 60**Inviolability of consular archives and documents*

The consular archives and documents of a consulate headed by an honorary consul⁴⁰ shall be inviolable at any time and wherever they may be, provided that they are kept separate

mittee to correspond with the articles contained in chapter II which the Committee decided specifically to include in article 57, and as enumerated in the following paragraph.

(b) The Committee decided that the provisions of articles 28, 29, 33, 34, 35, 36, 37, 38, 39, 41, paragraph 3, articles 42, 43, 44, paragraph 3, articles 45, 49, paragraph 1 (a), articles 53, 54, paragraph 3, and article 55 of chapter II concerning the facilities, privileges and immunities of career consular officials and consular employees should likewise apply to honorary consular officials.

(c) The Committee adopted an amendment by Canada (A/CONF.25/C.2/L.122/Rev.1) as orally revised, which provides that the application of article 49, paragraph 1 (a) to consulates headed by an honorary consular official, is subject to the provision that the "articles" mentioned therein "are coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consulate". The incorporation of this amendment into the text was referred to the Drafting Committee.

(d) The Committee referred to the Drafting Committee a question concerning the proper formulation of the reference to "article 41, paragraph 3" in article 57, in view of the fact that paragraph 3 of article 41, contains reference to paragraph 1 of the same article which is not applicable to honorary consular officials.

³⁹ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the word "protection" should be substituted for the word "inviolability" in the title of article 58.

⁴⁰ The Committee referred to the Drafting Committee an amendment by the Netherlands (A/CONF.25/C.2/L.20) to replace the word "consul" by the words "consular official"

from other papers and documents and, in particular, from the private correspondence of the head of post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 61

Special⁴¹ protection

The receiving State is under a duty to accord to an honorary consular official such protection as may be required by reason of his official position.

Article 62

Exemption from obligations in the matter of registration of aliens and residence permits

Honorary consular officials with the exception of those who carry on a gainful private occupation, shall be exempt from all obligations imposed by the laws and regulations of the receiving State in the matter of registration of aliens and residence permits.

Article 63

Exemption from taxation

An honorary consular official shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Article 64

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officials who are neither nationals nor permanent residents of the receiving State from all personal services and from all public services of any kind and also from military obligations such as those concerned with requisitioning, military contributions and billeting.

Article 67⁴²

Optional character of the institution of honorary consular officials

Each State is free to decide whether it will appoint or receive honorary consuls.

⁴¹ The Committee referred to the Drafting Committee a suggestion by the representatives of France and of the United States that the word "special" should be deleted from the title of article 61.

⁴² The Committee decided to delete entirely articles 65 and 66.

CHAPTER IV.—GENERAL PROVISIONS

Article 69

Members of the consulate, members of their families and members of the private staff who are nationals of the receiving State

1. Except in so far as additional privileges and immunities may be granted by the receiving State, consular officials who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided for in article 44, paragraph 3, of these articles. So far as these officials are concerned, the receiving State shall likewise be bound by the obligation laid down in article 42. If criminal proceedings are instituted against such an official the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.⁴³

2. Other members of the consulate who are nationals of or permanently resident in the receiving State and members of their families as well as members of the families of consular officials referred to in paragraph 1 shall enjoy privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consulate and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder the performance of the functions of the consulate.

Additional article⁴⁴

Consular employees, members of the service staff and members of their families who carry on a private gainful occupation and members of their private staff

Privileges and immunities provided in chapter II of the present Convention shall not be accorded:

(a) To a consular employee or to a member of the service staff who carries on a private gainful occupation in the receiving State;

(b) To members of the family of a person referred to in subparagraph (a) or to his private staff;

(c) To members of the family of a consular employee or a member of the service staff who themselves carry on a private gainful occupation in the receiving State.

⁴³ The Committee referred to the Drafting Committee the concordance, in the Spanish text, of the last sentence of paragraph 1, and the second sentence of paragraph 3 of article 41.

⁴⁴ The Committee referred to the Drafting Committee the appropriate place for including this additional article in the text. In this connexion, it was suggested that the article should follow immediately after article 56.

DOCUMENT A/CONF.25/L.37**Report of the Credentials Committee**

[Original : English]
[17 April 1963]

1. At its second plenary meeting, held on 5 March 1963, the Conference appointed the Credentials Committee consisting of the following States : Canada, El Salvador, Greece, Guinea, Indonesia, Mexico, Nigeria, the Union of Soviet Socialist Republics and the United States of America.

2. The Credentials Committee met on 16 April 1963. The Committee unanimously elected Mr. G. Sicotte (Canada) as Chairman.

3. The Secretariat reported to the Committee as follows :

(a) Credentials for the representatives of the following States issued by the Head of State or Government or the Minister for Foreign Affairs had been submitted to the Executive Secretary of the Conference in accordance with rule 3 of the rules of procedure : Albania, Algeria, Argentina, Australia, Austria, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Leopoldville), Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, El Salvador, Ethiopia, Federal Republic of Germany, Federation of Malaya, Finland, France, Ghana, Greece, Holy See, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Kuwait, Laos, Lebanon, Liberia, Libya, Liechtenstein, Luxembourg, Mali, Mexico, Mongolia, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Viet-Nam, Romania, Rwanda, San Marino, Saudi Arabia, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

(b) In respect of the representatives of Belgium, Guinea, Madagascar and Upper Volta, an authorization to represent their Governments at the Conference had been received by cablegram emanating from the Minister for Foreign Affairs.

(c) The names of representatives of the following States had been submitted to the Executive Secretary of the Conference in communications emanating from the respective Permanent Missions to the United Nations or Embassies in Vienna : Dominican Republic, Honduras, Iran, Iraq, Morocco.

(d) No credentials or communications had been received in respect of the representatives of Burundi and Jordan. The Secretariat had been informed that credentials for the representatives concerned would be submitted before the end of the Conference.

(e) Credentials had also been received for observers from Guatemala and Paraguay.

4. The representative of the Union of Soviet Socialist Republics raised the question of the representation of China and asserted that only representatives appointed by the Government of the People's Republic of China were qualified to represent China at the Conference. He further stated that the delegation of the Union of Soviet Socialist Republics could not recognize credentials submitted on behalf of China by any other persons and requested that these credentials should be considered as not valid.

5. The Chairman referred to General Assembly resolution 1685 (XVI) in which the General Assembly requested the Secretary-General of the United Nations to convoke the Conference on Consular Relations and invited States Members of the United Nations, States members of the specialized agencies and States parties to the Statute of the International Court of Justice to participate in the Conference. As the Secretary-General had, pursuant to the said resolution, invited the Government of the Republic of China to attend the Conference, the only question within the competence of the Credentials Committee was whether the credentials issued by the Government of the Republic of China were in proper order. The Chairman then stated that since those credentials were issued in accordance with rule 3 of the rules of procedure, the proposal of the representative of the Union of Soviet Socialist Republics was out of order.

6. The representative of the Union of Soviet Socialist Republics challenged the Chairman's ruling. The Committee upheld the Chairman's ruling by 6 votes to 3.

7. The representative of the United States of America reserved his Government's position in regard to the credentials of the Hungarian delegation.

8. The representative of the Union of Soviet Socialist Republics stated that the reservation made by the representative of the United States of America was groundless.

9. The Chairman proposed that the Credentials Committee should find the received credentials of all representatives in order and submit to the Conference a report with the recommendation for its approval.

10. This proposal was adopted unanimously.

11. The representative of the Union of Soviet Socialist Republics stated that his vote in favour of the report of the Credentials Committee should not be interpreted as a change in his delegation's position in regard to the representation of China.

12. Accordingly, the Credentials Committee recommends that the Conference approve its Report.

DOCUMENT A/CONF.25/L.11 AND ADD.1-8

Text prepared by the Drafting Committee in accordance with the decisions
of the First and Second Committees

[Original : English/French/Spanish]
[5-20 April 1963]

Draft Vienna Convention on consular relations

Preamble

The States Parties to the present Convention,

Recalling that consular relations have been established between peoples since ancient times,

Having in mind the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,¹

Believing that an international convention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,

Affirming that the rules of customary international law should continue to govern matters not expressly regulated by the provisions of the present Convention,

Have agreed as follows :

*Article 1**Definitions*

1. For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them :

(a) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency ;

(b) "Consular district" means the area assigned to a consular post for the exercise of consular functions ;

(c) "Head of consular post" means the person charged with the duty of acting in that capacity ;

(d) "Consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions ;

(e) "Consular employee" means any person employed in the administrative or technical service of a consular post ;

¹ The representative of France proposed to substitute the words "a United Nations Conference" for the words "The United Nations Conference on Diplomatic Intercourse and Immunities".

(f) "Member of the service staff" means any person employed in the domestic service of a consular post ;

(g) "Members of the consular post" means consular officers, consular employees and members of the service staff ;

(h) "Members of the consular staff" means consular officers other than the head of a consular post, consular employees and members of the service staff ;

(i) "Member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post ;

(j) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post ;

(k) "Consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers.

CHAPTER I. — CONSULAR RELATIONS IN GENERAL

SECTION I. — ESTABLISHMENT AND CONDUCT
OF CONSULAR RELATIONS*Article 2**Establishment of consular relations*

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

*Article 3**Exercise of consular functions*

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

*Article 4**Establishment of a consular post*

1. A consular post may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consular post, its classification, and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification, or the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

Article 5

Consular functions

Consular functions consist in :

(a) Protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law ;

(b) Furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention ;

(c) Ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested ;

(d) Issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State ;

(e) Helping and assisting nationals, both individuals and bodies corporate, of the sending State ;

(f) Acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State ;

(g) Safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State ;

(h) Safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons ;

(i) Subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending

State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests ;

(j) Transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with conventions in force or, in the absence of such conventions, in any other manner compatible with the laws and regulations of the receiving State ;

(k) Exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews ;

(l) Extending assistance to vessels and aircraft mentioned in the previous sub-paragraph, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State ;

(m) Performing any other functions entrusted to a consular post by the sending State, which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 5A

Exercise of consular functions outside the consular district

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

Article 6

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

Article 7

Exercise of consular functions on behalf of a third State

Upon appropriate notification to the receiving State the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

*Article 8 (formerly article 9)²**Classes of heads of consular posts*

1. Heads of consular posts are divided into four classes, namely:

- (a) Consuls-general;
- (b) Consuls;
- (c) Vice-consuls;
- (d) Consular agents.

2. Paragraph 1 of this article in no way restricts the right of any of the contracting parties to fix the designation of consular officers other than the heads of consular post.

*Article 9 (formerly article 8)³**Appointment and admission of heads of consular posts*

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations and usage of the sending State and of the receiving State respectively.

*Article 10**The consular commission on notification of appointment*

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.

2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.

3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this article.

*Article 11**The exequatur*

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an exequatur, whatever the form of this authorization.

² The Drafting Committee agreed to reverse the order of articles 8 and 9.

³ The Drafting Committee agreed to merge this article with article 12, the latter becoming paragraph 2 of the present article 9.

2. A State which refuses to grant an exequatur is not obliged to give to the sending State reasons for such refusal.

3. Subject to the provisions of articles 13 and 15, the head of a consular post shall not enter upon his duties until he has received an exequatur.

Article 12

(now paragraph 2 of article 9)

*Article 13**Provisional admission of heads of consular posts*

Pending delivery of the exequatur, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of the present Convention shall apply.

*Article 14**Notification to the authorities of the consular district*

As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

*Article 15**Temporary exercise of the functions of head of a consular post*

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified, either by the head of the consular 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 that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford 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. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of consular post enjoys only subject to conditions not fulfilled by the acting head of post.

⁴ See footnote 3 to article 9.

4. When, in the circumstances referred to in paragraph 1 of this article, a member of the diplomatic staff is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

Article 16

Precedence as between heads of consular posts

1. Heads of consular posts shall rank in each class according to the date of the grant of the exequatur.

2. If, however, the head of a consular post before obtaining the exequatur is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission, this precedence shall be maintained after the granting of the exequatur.

3. The order of precedence as between two or more heads of consular posts who obtained the exequatur or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of article 10 were presented to the receiving State.

4. Acting heads of post shall rank after all heads of consular post and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of post as indicated in the notifications given under paragraph 2 of article 15.

5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of consular posts shall have precedence over consular officers not having that status.

Article 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18

Appointment of the same person by two or more States as a consular officer

Two or more States may, with the consent of the receiving State, appoint the same person as a consular officer in that State.

Article 19

Appointment of members of consular staff

1. Subject to the provisions of articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and class of all consular officers, other than the head of consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of article 23.

3. The sending State may, if required by its laws and regulations, request the receiving State to grant an exequatur to a consular officer other than the head of a consular post.

4. The receiving State may, if required by its laws and regulations, grant an exequatur to a consular officer other than the head of a consular post.

Article 20

Size of the Staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

Article 21

Precedence as between consular officers of a consular post

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the head of the consular post to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

Article 22

Appointment of nationals of the receiving State as consular officers

1. Consular officers should, in principle, have the nationality of the sending State.

2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23

Persons declared non grata

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this article, the receiving State may, as the case may be, either withdraw the exequatur from the person concerned or cease to consider him as a member of the consular staff.

3. A person appointed as a member of a consular post may be declared unacceptable before arriving in the territory of the receiving State, or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this article, the receiving State is not obliged to give to the sending State reasons for its decision.

Article 24

Notification to the receiving State of appointments, arrivals and departures

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of :

(a) The appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post ;

(b) The arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family ;

(c) The arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such ;

(d) The engagement and discharge of persons resident in the receiving State as members of consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departure shall also be given.

SECTION II. — END OF CONSULAR FUNCTIONS

Article 25

Termination of the functions of a member of a consular post

The functions of a member of a consular post shall come to an end *inter alia* :

(a) On notification by the sending State to the receiving State that his functions have come to an end ;

(b) On withdrawal of the exequatur or on notification by the receiving State to the sending State that the receiving State refuses to consider him as a member of the consular staff.

Article 26

Departure from the territory of the receiving State

The receiving State shall, even in case of armed conflict, grant to members of the consular post and members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and leave at the earliest possible moment after the termination of the functions of the members concerned. In particular, it shall, in case of need place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1. In the event of the severance of consular relations between two States :

(a) The receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives ;

(b) The sending State may entrust the custody of the consular premises, together with the property contained therein and the consular archives, to a third State acceptable to the receiving State ;

(c) The sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event of the temporary or permanent closure of a consular post, the provisions of subparagraph (a) of paragraph 1 of this article shall apply. In addition,

(a) if the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post ; or

(b) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of subparagraphs (b) and (c) of paragraph 1 of this article shall apply.

CHAPTER II. — FACILITIES, PRIVILEGES AND IMMUNITIES
RELATING TO CONSULAR POSTS, CAREER CONSULAR
OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I. — FACILITIES, PRIVILEGES AND IMMUNITIES
RELATING TO A CONSULAR POST

Article 27A
(formerly article 33)⁵

Facilities for the work of the consular post

The receiving State shall accord full facilities for the performance of the functions of the consular post.

Article 28

Use of national flag and coat of arms

1. The sending State shall have the right to the use of its national flag and coat of arms in the receiving State in accordance with the provisions of this article.

2. The national flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.

3. In the exercise of the right accorded by this article regard shall be had to the laws, regulations and usages of the receiving State.

Article 29

Accommodation

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

Article 30

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action or if the authorities of the receiving State have reasonable cause to believe that a crime of violence to person or property has been or

is being or is about to be committed within the consular premises.

3. Subject to the provisions of paragraph 2 of this article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

Article 31

Exemption from taxation of consular premises

1. Consular premises of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 32

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 33

(now article 27A)⁶

Article 34

Freedom of movement

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

Article 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means,

⁵ The Drafting Committee agreed to place article 33 as the first article in section I of Chapter II.

⁶ See footnote to article 27A.

including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State nor a permanent resident thereof. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) Consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) The competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner and shall state the reason why he is being deprived of his liberty. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay;

(c) The competent authorities of the receiving State shall further be required, at the request of a consular post of the sending State, to furnish it periodically with a list of the nationals of that State who are detained within the consular district of that consular post;

(d) Consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended.

Article 37

Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) In the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred and, as soon as possible, to transmit to it a certificate of death;

(b) To inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

(c) If a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officers may address:

(a) The competent local authorities of their consular district ;

(b) The competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this article, and the receipts for such fees and charges, shall be exempt from all dues and taxes on the receiving State.

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

Article 40

Protection of consular officers

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this article, consular officers shall not be committed to prison or be liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 42

Notification of arrest, detention or prosecution

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving

State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

Article 43⁷

Immunity from jurisdiction

1. Consular officers shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this article shall not, however, apply in respect of a civil action either :

(a) Arising out of a contract concluded by a consular officer in which he did not contract expressly or impliedly as an agent of the sending State ; or

(b) By a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.⁸

Article 44⁹

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions nor to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witness with regard to the law of the sending State.

Article 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a member of the consular post in a matter where he might enjoy

⁷ See footnote to paragraph 4 of article 53.

⁸ The Drafting Committee agreed to remove paragraph 3 from article 43 and to insert its text as a separate article between articles 55 and 56.

⁹ See footnote to paragraph 4 of article 53.

immunity from jurisdiction under article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 46

Exemption from registration of aliens and residence permits

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

Article 46A

Exemption from work permits

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this article.

Article 47

Social security exemption

1. Subject to the provisions of paragraph 3 of this article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

(a) That they are not nationals of or permanently resident in the receiving State; and

(b) That they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in para-

graph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 48

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) Indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) Dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of article 31;

(c) Estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of article 50;

(d) Dues and taxes on private income having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;¹⁰

(e) Charges levied for specific services rendered;

(f) Registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of article 31.

2. Members of the service staff and members of the private staff in the sole employ of members of the consular post shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income taxes.

Article 49

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit import and export of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) Articles for the official use of the consular post;

(b) Articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed

¹⁰ The majority of the Drafting Committee agreed to delete in this sub-paragraph the words "by them" after the word "made", so that the text would conform with the similar provisions of sub-paragraph (d) of article 34 of the Vienna Convention on Diplomatic Relations.

the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this article in respect of articles imported at the time of first installation or exported thereafter.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in subparagraph (b) of paragraph 1 of this article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

Article 50

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State :

(a) Shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death ;

(b) Shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 51

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 52

(Deleted)¹¹

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory

¹¹ The First Committee decided to delete article 52 and to request the Drafting Committee to prepare an optional protocol concerning acquisition of nationality.

of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a member of the consular post in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.¹²

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

Article 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State or making other official journeys, the third State shall accord to him all immunities provided for by the other articles of the present Convention as may be

¹² The Drafting Committee considered whether the words "member of the consular post" should be amended to read "consular officer" in conformity with article 43 (1). Some members of the Committee were opposed to this on the ground that the words "immunity from jurisdiction" in article 53 (4) could be interpreted to refer to the privilege given to members of a consular post under article 44 (3) as well as to the immunity accorded by article 43 (1). The Committee therefore decided to make no change in article 53 (4), but to draw the attention of the Conference to the point.

required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 55A¹³

(former paragraph 3 of article 43)

Insurance against third party risks

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

¹³ See footnote 8 to article 43.

Article 56¹⁴

Special provisions concerning private gainful occupation

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.

2. Privileges and immunities provided in this chapter shall not be accorded:

(a) To consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;

(b) To members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;

(c) To members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III. — REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 57

General provisions relating to facilities, privileges and immunities

1. Articles 27A, 28, 29, 34, 35, 36, 37, 38 and 39, paragraph 3 of article 54 and paragraphs 2 and 3 of article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by articles 58, 59, 60 and 60A.

2. Articles 42 and 43, paragraph 3 of article 44, articles 45 and 53 and paragraph 1 of article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by articles 60B, 61, 62, 63 and 64.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

Article 58

Protection of the consular premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 59

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State

¹⁴ The Drafting Committee agreed to merge the new article following immediately article 69 as adopted by the Second Committee with article 56.

is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 60

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at any time and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 60A

Exemption from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit import and export of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats of arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 60B

Criminal proceedings

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 61

Protection of honorary consular officers

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

Article 62

Exemption from registration of aliens and residence permits

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be

exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

Article 63

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Article 64

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 67¹⁵

Optional character of the institution of honorary consular officers

Each State is free to decide whether it will appoint or receive honorary consular officers.

CHAPTER IV. — GENERAL PROVISIONS

Article 67A

Consular agents who are not heads of consular posts

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in paragraph 1 of this article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

Article 68

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

¹⁵ The Second Committee decided to delete entirely articles 65 and 66.

3. In the exercise of consular functions a diplomatic mission may address :

(a) The local authorities of the consular district ;

(b) The central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 69

Nationals or permanent residents of the receiving State

1. Except in so far as additional privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this article shall enjoy privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder unduly the performance of the functions of the consular post.

Article 70

Non-discrimination

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place :

(a) Where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular post in the sending State.

(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 71

Relationship between the present Convention and other international agreements

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.

2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

Article 72¹⁶

Settlement of disputes

1. Any dispute arising from the interpretation or application of the present Convention shall be submitted at the request of either of the Parties to the International Court of Justice unless an alternative method of settlement is agreed upon.

2. Any Contracting Party may, at the time of signing or ratifying the present Convention or of acceding thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other Contracting Parties shall not be bound by the said paragraph with respect to any Contracting Party which has made such a declaration.

CHAPTER V. — FINAL PROVISIONS

Article 73

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows : until 31 October 1963 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article 74

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 75

Accession

The present Convention shall remain open for accession by any State belonging to any of the four categories

¹⁶ Some members of the Drafting Committee suggested that the Conference might wish to consider the inclusion in this article of an additional paragraph reading as follows :

"3. Any Contracting Party which has made a declaration under paragraph 2 of this article may at any time withdraw such a declaration by a notification addressed to the Secretary-General of the United Nations."

mentioned in article 73. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 76

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 77

Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article 73:

(a) Of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles 73, 74 and 75;

(b) Of the date on which the present Convention will enter into force, in accordance with article 76;

(c) Of the declarations made under paragraph 2 of article 72.

Article 78

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article 73.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at Vienna, this . . . day of April one thousand nine hundred and sixty-three.

Draft resolution on refugees

The United Nations Conference on Consular Relations,

Taking note of the memorandum submitted by the United Nations High Commissioner for Refugees (A/CONF.25/L.6), and noting the statements made by delegations during the course of the discussion,

Requests the Secretary-General of the United Nations to submit for the consideration of the appropriate organs of the United Nations all documents and records pertaining to the discussion of the refugee

question mentioned in the aforesaid memorandum, and meanwhile resolves not to take any decision on this question.

Optional protocol concerning acquisition of nationality

The States Parties to the present Protocol and to the Vienna Convention on Consular Relations, hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 4 March to [] April 1963,

Expressing their wish to establish rules between them concerning acquisition of nationality by members of the consular post and by members of their families forming part of their households,

Have agreed as follows:

Article I

For the purpose of the present Protocol, the expression "members of the consular post" shall have the meaning assigned to it in sub-paragraph (g) of paragraph 1 of article 1 of the Convention — namely "consular officers, consular employees and members of the service staff".

Article II

Members of the consular post not being nationals of the receiving State, and members of their families forming part of their households, shall not, solely by the operation of the law of the receiving State, acquire the nationality of that State.

Article III

The present Protocol shall be open for signature by all States which may become Parties to the Convention, as follows: until 31 October 1963 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article IV

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article V

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VI

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or of accession to the Protocol with the Secretary-General of the United Nations, whichever date is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article VII

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention :

(a) Of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with articles III, IV and V ;

(b) Of the date on which the present Protocol will enter into force, in accordance with article VI.

Article VIII

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article III.

IN WITNESS WHEREOF the undersigned plenipotentiaries being duly authorized thereto by their respective governments, have signed the present Protocol.

Done at Vienna, this day of April one thousand nine hundred and sixty-three.

Draft final act

of the United Nations Conference on consular relations

1. The General Assembly of the United Nations, by resolution 1685 (XVI) of 18 December 1961, decided to convene an international conference of plenipotentiaries to consider the question of consular relations and to embody the results of its work in an international convention and such other instruments as it might deem appropriate. The General Assembly, accepting an invitation extended by the Federal Government of Austria, also asked the Secretary-General to convoke the conference at Vienna at the beginning of March 1963.

2. The United Nations Conference on Consular Relations met at the Neue Hofburg in Vienna, Austria, from 4 March to . . . April 1963.

3. The Governments of the following 92 States were represented at the Conference : Albania, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Leopoldville), Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Federal Republic of Germany, Federation of Malaya, Finland, France, Ghana, Greece, Guinea, Holy See, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan,

Jordan, Kuwait, Laos, Lebanon, Liberia, Libya, Liechtenstein, Luxembourg, Madagascar, Mali, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Viet-Nam, Romania, Rwanda, San Marino, Saudi Arabia, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela and Yugoslavia.

4. The Governments of Bolivia, Guatemala and Paraguay were represented at the Conference by observers.

5. The General Assembly invited the specialized agencies and interested intergovernmental organizations to send observers to the Conference. The following specialized agencies and interested intergovernmental organizations accepted this invitation :

International Labour Organisation,

Food and Agriculture Organization of the United Nations,

International Atomic Energy Agency,

Council of Europe.

6. The Conference elected Mr. Stephan Verosta (Austria) as President.

7. The Conference elected as Vice-Presidents the representatives of the following States : Algeria, Argentina, Canada, Ceylon, China, Colombia, Czechoslovakia, France, Indonesia, Italy, Mexico, Romania, Thailand, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Upper Volta and Yugoslavia.

8. The following committees were set up by the Conference :

General Committee

Chairman : The President of the Conference.

Members : The President of the Conference, the Vice-Presidents, and the Chairmen of the First and Second Committees.

First Committee

Chairman : Mr. Nathan Barnes (Liberia)

First Vice-Chairman : Mr. Pedro Silveira-Barrios (Venezuela)

Second Vice-Chairman : Mr. Jorzy Osiocki (Poland)

Rapporteur : Mr. Zenon P. Westrup (Sweden)

Second Committee

Chairman : Mr. Mario Gibson Alves Barboza (Brazil)

First Vice-Chairman : Mr. Hassan Kamel (United Arab Republic)

Second Vice-Chairman : Mr. A. J. Vranken (Belgium)

Rapporteur : Mr. Borislav Konstantinov (Bulgaria)

Drafting Committee

Chairman : Mr. K. Krishna Rao (India)

Members : Mr. José Maria Ruda (Argentina), Mr. Geraldo Eulalio de Nascimento e Silva (Brazil), Mr. Nan-ju Wu (China), Mr. Bernard de Menthon (France), Mr. Emmanuel Kodjo Dadzie (Ghana), Mr. Endre Ustor (Hungary), Mr. José S. de Erice (Spain), Mr. Rudolf L. Bindschedler (Switzerland), Mr. Oleg Khlestov (Union of Soviet Socialist Republics), Mr. W. V. J. Evans (United Kingdom of Great Britain and Northern Ireland), Mr. Warde M. Cameron (United States of America).

Credentials Committee

Chairman : Mr. Gilles Sicotte (Canada)

Members : Canada, El Salvador, Greece, Guinea, Indonesia, Mexico, Nigeria, Union of Soviet Socialist Republics, United States of America.

9. The Secretary-General of the United Nations was represented by Mr. C. A. Stavropoulos, the Legal Counsel. Mr. Yuen-li Liang, Director of the Codification Division of the Office of Legal Affairs of the United Nations, acted as Executive Secretary. Mr. J. Zourek, Special Rapporteur of the International Law Commission on the subject of consular relations, acted as expert.

10. The General Assembly, by its resolution 1685 (XVI) convening the Conference, referred to the Conference as the basis for its consideration of the question of consular relations, chapter II of the Report of the International Law Commission covering the work of its Thirteenth Session, containing the text of draft articles on consular relations and commentaries adopted by the Commission at that session.

11. The Conference also had before it the following documentation :

(a) Observations submitted by governments during successive stages of the work of the International Law Commission on consular relations ;

(b) The records of the relevant debates in the General Assembly ;

(c) Amendments submitted by governments in advance of the convening of the Conference, pursuant to General Assembly resolution 1813 (XVII) of 21 December 1962 to the draft articles on consular relations ;

(d) The text of the Convention regarding consular agents adopted by the Sixth International American Conference and signed at Havana on 20 February 1928 ;

(e) A collection of bilateral consular treaties, a collection of laws and regulations regarding diplomatic and consular privileges and immunities, a bibliography on

consular relations, a guide to the draft articles on consular relations, and other pertinent documentation prepared by the Secretariat of the United Nations.

12. The Conference initially allocated the consideration of the draft articles on consular relations adopted by the International Law Commission and the preparation of the preamble, final provisions, final acts and any protocols it might consider necessary, in the course of its work, to the First and Second Committees as follows :

First Committee : draft articles 2 to 27, 68, 70 and 71 ; preamble ; final provisions ; final act of the Conference, and any protocols which the Conference might consider necessary.

Second Committee : draft articles 28 to 67 and 69.

Subsequently, the Conference re-allocated draft articles 52 to 55 from the Second to the First Committee. The Conference also initially allocated draft article 1 to the Drafting Committee, for report direct to the Conference, but, subsequently, the Conference decided that the Drafting Committee should report on that draft article to the Conference through the First Committee.

13. On the basis of the deliberations, as recorded in the records of the plenary meetings and in the records and reports of the First and Second Committees, the Conference prepared the following Convention and Protocol(s) :

14. The foregoing Convention and Protocol(s), which are subject to ratification, were adopted by the Conference on ... April 1963, and opened for signature on ... April 1963, in accordance with their provisions, until 31 October 1963 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York. The same instruments were also opened for accession, in accordance with their provisions.

15. After the closing date for signature at the Federal Ministry for Foreign Affairs of Austria on 31 October 1963, the Convention and Protocol(s) will be deposited with the Secretary-General of the United Nations.

16. In addition, the Conference adopted the following resolution(s), which are annexed to this Final Act : ...

IN WITNESS WHEREOF the representatives have signed this Final Act.

Done at Vienna this day of April, one thousand nine hundred and sixty-three, in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. By unanimous decision of the Conference, the original of this Final Act shall be deposited in the archives of the Federal Ministry for Foreign Affairs of Austria.

PROPOSALS AND AMENDMENTS SUBMITTED TO THE PLENARY CONFERENCE

DOCUMENT A/CONF.25/L.8 & ADD.1 AND 2

**Iran, Spain, Union of Soviet Socialist Republics
and United Arab Republic : draft resolution**

[Original : English]
[26 March 1963]

The United Nations Conference on Consular Relations,

Having adopted the Vienna Convention on Consular Relations on the basis of draft articles prepared by the International Law Commission,

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution to the codification and development of the rules of international law on consular relations.

DOCUMENT A/CONF.25/L.9 AND ADD.1-8

Argentina, Belgium, Brazil, Chile, China, Colombia, Czechoslovakia, El Salvador, Federal Republic of Germany, Federation of Malaya, France, Guinea, Holy See, India, Iran, Japan, Lebanon, Liberia, Liechtenstein, Mexico, Mongolia, Morocco, Spain, Thailand, Tunisia, Union of Soviet Socialist Republics, United Kingdom, United States of America : draft resolution

[Original : English]
[26 March 1963]

The United Nations Conference on Consular Relations,

Having adopted the Vienna Convention on Consular Relations,

Expresses its deep appreciation to the Government and people of the Republic of Austria for making possible the holding of the Conference in Vienna and for their generous hospitality and great contribution to the successful completion of the work of the Conference.

DOCUMENT A/CONF.25/L.12

**Ghana and Spain : amendment to article 1
of the draft convention (A/CONF.25/L.11)**

[Original : English/French/Spanish]
[8 April 1963]

At the end of sub-paragraph (j), add the phrase : "including the residence of the career head of a consular post when established in the same building."

DOCUMENT A/CONF.25/L.13

Ukrainian Soviet Socialist Republic : amendment to article 30 of the draft convention (A/CONF.25/L.11)

[Original : Russian]
[8 April 1963]

Replace paragraph 4 by the following text :

"The consular premises, their furnishings, the

property of the consulate and its means of transport shall be immune from any search, requisition, attachment or execution."

DOCUMENT A/CONF.25/L.13/REV.1

Ghana, Norway and Ukrainian Soviet Socialist Republic : amendment to article 30 of the draft convention (A/CONF.25/L.11)

[Original : English]
[18 April 1963]

Replace paragraph 4 by the following text :

"The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any search, requisition, attachment or execution. Expropriation may only be carried out for purposes of national defence or public utility. In case of such expropriation all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State."

DOCUMENT A/CONF.25/L.14

Ukrainian Soviet Socialist Republic : amendment to article 43 of the draft convention (A/CONF.25/L.11)

[Original : Russian]
[8 April 1963]

In paragraph 1, insert the words "and consular employees" between the words "Consular officers" and "shall not be amenable".

DOCUMENT A/CONF.25/L.15

**Norway : amendment to article 22
of the draft convention (A/CONF.25/L.11)**

[Original : English]
[8 April 1963]

Delete paragraph 1 of article 22.

DOCUMENT A/CONF.25/L.17

Ghana : amendment to article 36 of the draft convention (A/CONF.25/L.11)

[Original : English]
[8 April 1963]

Delete paragraph 2 of article 36.

DOCUMENT A/CONF.25/L.19

Austria : amendment to article 5 of the draft convention (A/CONF.25/L.11)

[Original : English]
[8 April 1963]

In sub-paragraph (j) of article 5, insert after the words "in the absence of such conventions" the following words "and save in criminal matters".

DOCUMENT A/CONF.25/L.20

Byelorussian Soviet Socialist Republic and Czechoslovakia : amendment to article 15 of the draft convention (A/CONF.25/L.11)

[Original : Russian]
[8 April 1963]

In paragraph 4, after the words "a member of the diplomatic staff", insert the words "of the diplomatic mission of the sending State in the receiving State".

DOCUMENT A/CONF.25/L.21

Czechoslovakia and Ukrainian Soviet Socialist Republic : amendment to article 40 of the draft convention (A/CONF.25/L.11)

[Original : Russian]
[8 April 1963]

Replace this article by the following text :

"The receiving State shall be under a duty to accord special protection to consular officials by reason of their official position and to treat them with due respect. It shall take all appropriate steps to prevent any attack on their persons, freedom or dignity."

DOCUMENT A/CONF.25/L.22

Ukrainian Soviet Socialist Republic : amendment to article 68 of the draft convention (A/CONF.25/L.11)

[Original : Russian]
[8 April 1963]

Amend paragraph 3 to read :

"3. In the exercise of consular functions a diplomatic mission may address the local and the central authorities of the receiving State, according to the order laid down by the laws, regulations and usages of that State or by relevant international agreements."

DOCUMENT A/CONF.25/L.24

Federal Republic of Germany and Japan : amendment to article 31 of the draft convention (A/CONF.25/L.11)

[Original : English]
[8 April 1963]

In paragraph 1, insert between the words "Consular premises" and "of which" the words "and the residence of the career head of consular post".

DOCUMENT A/CONF.25/L.25

Italy : amendment to article 15 of the draft convention (A/CONF.25/L.11)

[Original : English]
[8 April 1963]

In the first sentence of paragraph 2 of article 15, after the words "shall be notified, either", insert the following : "by the diplomatic mission of the sending State, or, if that State has no such mission in the receiving State,".

DOCUMENT A/CONF.25/L.26

Italy : amendment to article 19 of the draft convention (A/CONF.25/L.11)

[Original : French]
[8 April 1963]

In paragraph 1, after the words "articles 20, 22" delete "and 23" and substitute "23 and 24".

DOCUMENT A/CONF.25/L.27

Italy : amendment to article 21 of the draft convention (A/CONF.25/L.11)

[Original : French]
[8 April 1963]

After the words "shall be notified", insert the words "by the diplomatic mission of the sending State, or, if that State has no such mission,".

DOCUMENT A/CONF.25/L.28

Turkey : amendment to article 20 of the draft convention (A/CONF.25/L.11)

[Original : French]
[9 April 1963]

[This amendment concerns the French text only.]

DOCUMENT A/CONF.25/L.29

Philippines : amendment to article 35 of the draft convention (A/CONF.25/L.11)

[Original : English]
[10 April 1963]

Delete the last sentence of paragraph 5.

DOCUMENT A/CONF.25/L.31

Denmark : amendment to article 35 of the draft convention (A/CONF.25/L.11)

[Original : English]
[11 April 1963]

In paragraph 5 :

(a) Insert after the word "nor" the words "unless he is a citizen of the sending State,".

(b) Replace the word "thereof" by the words "of the receiving State".

DOCUMENT A/CONF.25/L.30

Federation of Malaya, Japan, Philippines, Thailand, United Arab Republic and Venezuela : amendment to article 36 of the draft convention (A/CONF.25/L.11)

[Original : English]
[10 April 1963]

Amend the first sentence of sub-paragraph (b) of paragraph 1 to read as follows :

"(b) The competent authorities of the receiving

State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State who is arrested or committed to prison or to custody pending trial or is detained in any other manner so requests."

DOCUMENT A/CONF.25/L.32

China : amendment to article 42 of the draft convention (A/CONF.25/L.11)

[Original : English]

[11 April 1963]

Insert the words "or other appropriate" between the words "through the diplomatic" and the word "channel".

DOCUMENT A/CONF.25/L.33

Belgium, Canada, Federal Republic of Germany, Ghana, India, Norway, Poland, Ukrainian Soviet Socialist Republic : amendment to article 43 of the draft convention (A/CONF.25/L.11)

[Original : English]

[11 April 1963]

In paragraph 1, replace the words "consular officers" by the words "members of the consular post".

DOCUMENT A/CONF.25/L.34

Union of Soviet Socialist Republics : amendment to article 36 of the draft convention (A/CONF.25/L.11)

[Original : Russian]

[16 April 1963]

Amend paragraph 2 to read :

"The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must not nullify these rights."

DOCUMENT A/CONF.25/L.35

Belgium : amendment to article 41 of the draft convention (A/CONF.25/L.11)

[Original : French]

[16 April 1963]

In paragraph 1, replace the words "grave crime" by the words "grave offence".

DOCUMENT A/CONF.25/L.36

Ceylon, Federal Republic of Germany, France, Greece, Guinea : Italy, Japan, Liberia, Mali, Nigeria, Saudi Arabia, Tunisia, United Kingdom, United States of America : amendment to article 30 of the draft convention (A/CONF.25/L.11)

[Original : English]

[16 April 1963]

Amend paragraph 2 to read as follows :

"The authorities of the receiving State shall not enter that part of the consular premises which is used

exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State or, failing such consent, in pursuance of a warrant or of a judicial decision and with the authorization of the Minister for Foreign Affairs of the receiving State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action."

DOCUMENT A/CONF.25/L.38

Spain : amendment to article 48 of the draft convention (A/CONF.25/L.11)

[Original : Spanish]

[17 April 1963]

In paragraph 1 (d), after the words "Dues and taxes on private income", insert the words "including capital gains".

DOCUMENT A/CONF.25/L.39

Tunisia : amendment to article 41 of the draft convention (A/CONF.25/L.11)

[Original : French]

[18 April 1963]

1. Amend paragraph 1 to read :

"Consular officers shall not be liable to arrest or detention pending trial, except :

"(a) In the case of a crime and pursuant to a decision by the competent judicial authority ; or

"(b) In a case of *flagrante delicto*, provided that under the law of the receiving State the offence is punishable by imprisonment for a term of at least five years. In this case, consular officers may not be held in custody for more than 48 hours except by virtue of a decision by the competent judicial authority."

2. In paragraph 2, replace the word "case" by the word "cases".

3. In the second sentence of paragraph 3, replace the word "case" by the word "cases".

DOCUMENT A/CONF.25/L.40

Czechoslovakia and Ukrainian Soviet Socialist Republic : proposal for the reconsideration of article 36

[Original : English]

[18 April 1963]

Reconsider article 36 on the basis of the text of that article as drafted by the International Law Commission (A/CONF.25/6).

DOCUMENT A/CONF.25/L.41 AND ADD.1

Algeria, Ceylon, Congo (Brazzaville), Congo (Leopoldville), Guinea, India, Indonesia, Iran, Lebanon, Liberia, Mali, Nigeria, Pakistan, Republic of Korea, Sierra Leone, Tunisia, Upper Volta : proposed text for article 36

[Original : English]
[18 April 1963]

Word article 36 as follows :

*Communication and contact with nationals
of the sending State*

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State :

(a) Consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State ;

(b) Unless he expressly opposes it, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay ;

(c) Consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purpose for which the rights accorded under this article are intended.

DOCUMENT A/CONF.25/L.42

**Switzerland : amendment to article 57
of the draft convention (A/CONF.25/L.11)**

[Original : French]
[18 April 1963]

In paragraph 3, delete the words "or of a consular employee employed at a consular post headed by an honorary consular officer".

DOCUMENT A/CONF.25/L.43

**Australia : amendment to article 69
of the draft convention (A/CONF.25/L.11)**

[Original : English]
[18 April 1963]

1. In paragraph 1, insert the word "facilities" before the words "privileges and immunities".

2. In the first and second sentences of paragraph 2, insert the word "facilities" before the words "privileges and immunities".

DOCUMENT A/CONF.25/L.44

**Switzerland : amendment to article 57
of the draft convention (A/CONF.25/L.11)**

[Original : French]
[18 April 1963]

Add a fourth paragraph as follows :

"4. The exchange of consular bags between two consular posts headed by honorary consular officers shall not be allowed without the consent of the two receiving States concerned."

DOCUMENT A/CONF.25/L.45

**Uruguay : amendment to article 68
of the draft convention (A/CONF.25/L.11)**

[Original : Spanish]
[18 April 1963]

Replace the full stop at the end of paragraph 2 of article 68 by a comma, and add the words "for the consent of the receiving State".

DOCUMENT A/CONF.25/L.46 AND CORR.1

Algeria, Ceylon, Congo (Brazzaville), Congo (Leopoldville), Federation of Malaya, Ghana, Guinea, India, Indonesia, Libya, Mali, Mongolia, Nigeria, Saudi Arabia, Sierra Leone, Spain, Syria, Tunisia, United Arab Republic, Upper Volta : proposal for an optional protocol concerning the compulsory settlement of disputes

[Original : English]
[19 April 1963]

**VIENNA CONVENTION
ON CONSULAR RELATIONS**

*Optional Protocol
concerning the Compulsory Settlement of Disputes*

The States parties to the present protocol and to the Vienna Convention on Consular Relations, hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 4 March to ... April 1963,

Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to

the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period,

Have agreed as follows :

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a party to the present protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

Article IV

States parties to the Convention, to the Optional Protocol concerning Acquisition of Nationality, and to the present protocol may at any time declare that they will extend the provisions of the present protocol to disputes arising out of the interpretation or application of the Optional Protocol concerning Acquisition of Nationality. Such declarations shall be notified to the Secretary-General of the United Nations.

Article V

The present protocol shall be open for signature by all States which may become parties to the Convention, as follows: until ... at the Federal Ministry of Foreign Affairs of Austria and subsequently, until ... at the United Nations Headquarters in New York.

Article VI

The present protocol is subject to ratification. The instrument of ratification shall be deposited with the Secretary-General of the United Nations.

Article VII

The present protocol shall remain open for accession by all States which may become parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VIII

1. The present protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the protocol with the Secretary-General of the United Nations, whichever day is the later.

2. For each State ratifying or acceding to the present protocol after its entry into force in accordance with paragraph 1 of this article, the protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article IX

The Secretary-General of the United Nations shall inform all States which may become parties to the Convention :

(a) Of signatures to the present protocol and of the deposit of instruments of ratification or accession, in accordance with articles V, VI, and VII ;

(b) Of declarations made in accordance with article IV of the present protocol ;

(c) Of the date on which the present protocol will enter into force, in accordance with article VIII.

Article X

The original of the present protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article V.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present protocol.

Done at Vienna, this ... day of April one thousand nine hundred and sixty-three.

DOCUMENT A/CONF.25/L.47

**Belgium : amendment to article 53
of the draft convention (A/CONF.25/L.11)**

*[Original : French]
[19 April 1963]*

In paragraph 2, delete the words " or from the date of their entry into the territory of the receiving State ".

DOCUMENT A/CONF.25/L.48

**United Kingdom : amendment to article 53
of the draft convention (A/CONF.25/L.11)**

*[Original : English]
[19 April 1963]*

In paragraph 1, replace the words " from the moment when his appointment is notified to the Ministry for Foreign Affairs or to the authority designated by that Ministry " by the words " from the moment when he enters on his duties with the consular post ".

Explanatory note by the sponsor

This amendment is desirable having regard to paragraph 3 of article 23, read together with paragraph 2 of article 19. It seems clear that the crucial date for the commencement of privileges and immunities should be the date on which the member of the consular post enters on his duties with the consular post in accordance with paragraph 3 of article 23 and not the date of the notification made under paragraph 2 of article 19.

Paragraph 1 of article 53 is similar to paragraph 1 of article 39 of the Vienna Convention on Diplomatic Relations, but in the view of the United Kingdom delegation, the 1961 Convention should not be followed on the above point. The 1961 Convention contains no provisions corresponding to paragraph 3 of article 23 or paragraph 2 of article 19 of the present convention.

DOCUMENT A/CONF.25/L.49

Canada, Ceylon, Congo (Brazzaville), Congo (Leopoldville), Ecuador, Federation of Malaya, Guinea, India, Indonesia, Japan, Liberia, Mali, Pakistan, Philippines, Republic of Korea, Sierra Leone, Syria, Thailand, United Arab Republic, Venezuela : amendment to the text of article 36 proposed in document A/CONF. 25/L.41

*[Original : English]
[20 April 1963]*

In paragraph 1, sub-paragraph (b), replace the words "unless he expressly opposes it" by the words "if he so requests".

DOCUMENT A/CONF.25/L.50

United Kingdom : amendment to the text of article 36 proposed in document A/CONF.25/L.41

*[Original : English]
[20 April 1963]*

Add at the end of sub-paragraph (b) of paragraph 1 :
"The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph".

DOCUMENT A/CONF.25/L.51

Greece : amendment to article 69 of the draft convention (A/CONF.25/L.11)

*[Original : French]
[20 April 1963]*

Add a paragraph 3 in the following terms :

"3. The provisions of article 35 concerning diplomatic and consular couriers and concerning the consular bag shall not apply to consular posts which are headed by an honorary consular officer who is a national of the receiving State."

**CONVENTION, FINAL ACT, OPTIONAL PROTOCOLS
AND RESOLUTIONS ADOPTED BY THE CONFERENCE**

DOCUMENT A/CONF.25/12

Vienna Convention on Consular Relations

The States Parties to the present Convention,

Recalling that consular relations have been established between peoples since ancient times,

Having in mind the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,

Believing that an international convention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,

Affirming that the rules of customary international law continue to govern matters not expressly regulated by the provisions of the present Convention,

Have agreed as follows :

Article 1

Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them :

(a) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency ;

(b) "Consular district" means the area assigned to a consular post for the exercise of consular functions ;

(c) "Head of consular post" means the person charged with the duty of acting in that capacity ;

(d) "Consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions ;

(e) "Consular employees" means any person employed in the administrative or technical service of a consular post ;

(f) "Member of the service staff" means any person employed in the domestic service of a consular post ;

(g) "Members of the consular post" means consular officers, consular employees and members of the service staff ;

(h) "Members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff ;

(i) "Member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post ;

(j) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post ;

(k) "Consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers ; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by article 71 of the present Convention.

CHAPTER I. — CONSULAR RELATIONS IN GENERAL

SECTION I. — ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS

Article 2

Establishment of consular relations

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

Article 3

Exercise of consular functions

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

Article 4

Establishment of a consular post

1. A consular post may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consular post, its classification and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

Article 5

Consular functions

Consular functions consist in :

(a) Protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law ;

(b) Furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention ;

(c) Ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested ;

(d) Issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State ;

(e) Helping and assisting nationals, both individuals and bodies corporate, of the sending State ;

(f) Acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State ;

(g) Safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State ;

(h) Safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons ;

(i) Subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending

State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests ;

(j) Transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State ;

(k) Exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews ;

(l) Extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State ;

(m) Performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 6

Exercise of consular functions outside the consular district

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

Article 7

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

Article 8

Exercise of consular functions on behalf of a third State

Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

*Article 9**Classes of heads of consular posts*

1. Heads of consular posts are divided into four classes, namely:

- (a) Consuls-general;
- (b) Consuls;
- (c) Vice-consuls;
- (d) Consular agents.

2. Paragraph 1 of this article in no way restricts the right of any of the Contracting Parties to fix the designation of consular officers other than the heads of consular posts.

*Article 10**Appointment and admission of heads of consular posts*

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations and usages of the sending State and of the receiving State respectively.

*Article 11**The consular commission or notification of appointment*

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.

2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.

3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this article.

*Article 12**The exequatur*

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an exequatur, whatever the form of this authorization.

2. A State which refuses to grant an exequatur is not obliged to give to the sending State reasons for such refusal.

3. Subject to the provisions of articles 13 and 15, the head of a consular post shall not enter upon his duties until he has received an exequatur.

*Article 13**Provisional admission of heads of consular posts*

Pending delivery of the exequatur, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of the present Convention shall apply.

*Article 14**Notification to the authorities of the consular district*

As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

*Article 15**Temporary exercise of the functions of the head of a consular post*

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular 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 that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford 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. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

*Article 16**Precedence as between heads of consular posts*

1. Heads of consular posts shall rank in each class according to the date of the grant of the exequatur.

2. If, however, the head of a consular post before obtaining the exequatur is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the exequatur.

3. The order of precedence as between two or more heads of consular posts who obtained the exequatur or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of article 11 were presented to the receiving State.

4. Acting heads of posts shall rank after all heads of consular posts and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of posts as indicated in the notifications given under paragraph 2 of article 15.

5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of consular posts shall have precedence over consular officers not having that status.

Article 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18

Appointment of the same person by two or more States as a consular officer

Two or more States may, with the consent of the receiving State, appoint the same person as a consular officer in that State.

Article 19

Appointment of members of consular staff

1. Subject to the provisions of articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and class of all consular officers, other than the head of a consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of article 23.

3. The sending State may, if required by its laws and regulations, request the receiving State to grant an exequatur to a consular officer other than the head of a consular post.

4. The receiving State may, if required by its laws and regulations, grant an exequatur to a consular officer other than the head of a consular post.

Article 20

Size of the consular staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

Article 21

Precedence as between consular officers of a consular post

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

Article 22

Nationality of consular officers

1. Consular officers should, in principle, have the nationality of the sending State.

2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23

Persons declared non grata

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this article, the receiving State may, as the

case may be, either withdraw the *exequatur* from the person concerned or cease to consider him as a member of the consular staff.

3. A person appointed as a member of a consular post may be declared unacceptable before arriving in the territory of the receiving State or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this article, the receiving State is not obliged to give to the sending State reasons for its decision.

Article 24

Notification to the receiving State of appointments, arrivals and departures

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of:

(a) The appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;

(b) The arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family;

(c) The arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;

(d) The engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departure shall also be given.

SECTION II. — END OF CONSULAR FUNCTIONS

Article 25

Termination of the functions of a member of a consular post

The functions of a member of a consular post shall come to an end *inter alia*:

(a) On notification by the sending State to the receiving State that his functions have come to an end;

(b) On withdrawal of the *exequatur*;

(c) On notification by the receiving State to the sending State that the receiving State has ceased to consider him as a member of the consular staff.

Article 26

Departure from the territory of the receiving State

The receiving State shall, even in case of armed conflict, grant to members of the consular post and

members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and to leave at the earliest possible moment after the termination of the functions of the members concerned. In particular, it shall, in case of need, place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1. In the event of the severance of consular relations between two States:

(a) The receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives;

(b) The sending State may entrust the custody of the consular premises, together with the property contained therein and the consular archives, to a third State acceptable to the receiving State;

(c) The sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event of the temporary or permanent closure of a consular post, the provisions of subparagraph (a) of paragraph 1 of this article shall apply. In addition:

(a) If the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post; or

(b) If the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of subparagraphs (b) and (c) of paragraph 1 of this article shall apply.

CHAPTER II. — FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I. — FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

Article 28

Facilities for the work of the consular post

The receiving State shall accord full facilities for the performance of the functions of the consular post.

*Article 29**Use of national flag and coat of arms*

1. The sending State shall have the right to the use of its national flag and coat of arms in the receiving State in accordance with the provisions of this article.

2. The national flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.

3. In the exercise of the right accorded by this article regard shall be had to the laws, regulations and usages of the receiving State.

*Article 30**Accommodation*

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

*Article 31**Inviolability of the consular premises*

1. Consular premises shall be inviolable to the extent provided in this article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

3. Subject to the provisions of paragraph 2 of this article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

*Article 32**Exemption from taxation of consular premises*

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee

shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

*Article 33**Inviolability of the consular archives and documents*

The consular archives and documents shall be inviolable at all times and wherever they may be.

*Article 34**Freedom of movement*

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

*Article 35**Freedom of communication*

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither

a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State :

(a) Consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State ;

(b) If he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph ;

(c) Consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended.

Article 37

Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty :

(a) In the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred ;

(b) To inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments ;

(c) If a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officers may address :

(a) The competent local authorities of their consular district ;

(b) The competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charge provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

Article 40

Protection of consular officers

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

*Article 41**Personal inviolability of consular officers*

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this article, consular officers shall not be committed to prison or be liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

*Article 42**Notification of arrest, detention or prosecution*

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

*Article 43**Immunity from jurisdiction*

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this article shall not, however, apply in respect of a civil action either :

(a) Arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State ; or

(b) By a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

*Article 44**Liability to give evidence*

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the

cases mentioned in paragraph 3 of this article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

*Article 45**Waiver of privileges and immunities*

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision ; in respect of such measures, a separate waiver shall be necessary.

*Article 46**Exemption from registration of aliens and residence permits*

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

*Article 47**Exemption from work permits*

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this article.

Article 48

Social security exemption

1. Subject to the provisions of paragraph 3 of this article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition :

(a) That they are not nationals of or permanently resident in the receiving State ; and

(b) That they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except :

(a) Indirect taxes of a kind which are normally incorporated in the price of goods or services ;

(b) Dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of article 32 ;

(c) Estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of article 51 ;

(d) Dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State ;

(e) Charges levied for specific services rendered ;

(f) Registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

Article 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on :

(a) Articles for the official use of the consular post ;

(b) Articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in subparagraph (b) of paragraph 1 of this article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

Article 51

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State :

(a) Shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death ;

(b) Shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 52

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming

part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

Article 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other articles of the present Convention as may be required to ensure his transit or

return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 56

Insurance against third party risks

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

Article 57

Special provisions concerning private gainful occupation

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.

2. Privileges and immunities provided in this chapter shall not be accorded :

(a) To consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State ;

(b) To members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff ;

(c) To members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III. — REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 58

General provisions relating to facilities, privileges and immunities

1. Articles 28, 29, 30, 34, 35, 36, 37, 38 and 39, paragraph 3 of article 54 and paragraphs 2 and 3 of article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by articles 59, 60, 61 and 62.

2. Articles 42 and 43, paragraph 3 of article 44, articles 45 and 53 and paragraph 1 of article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by articles 63, 64, 65, 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving States concerned.

Article 59

Protection of the consular premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 62

Exemption from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer : coats of arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 63

Criminal proceedings

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 64

Protection of honorary consular officers

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

Article 65

Exemption from registration of aliens and residence permits

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be

exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

Article 66

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Article 67

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 68

Optional character of the institution of honorary consular officers

Each State is free to decide whether it will appoint or receive honorary consular officers.

CHAPTER IV. — GENERAL PROVISIONS

Article 69

Consular agents who are not heads of consular posts

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in paragraph 1 of this article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

Article 70

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

3. In the exercise of consular functions a diplomatic mission may address :

(a) The local authorities of the consular district ;

(b) The central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 71

Nationals or permanent residents of the receiving State

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligations laid down in article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.

Article 72

Non-discrimination

1. In the application of the provisions of the present Convention the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place :

(a) Where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular posts in the sending State ;

(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

*Article 73**Relationship between the present Convention and other international agreements*

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.

2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

CHAPTER V. — FINAL PROVISIONS

*Article 74**Signature*

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

*Article 75**Ratification*

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 76**Accession*

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article 74. The instruments of accession

shall be deposited with the Secretary-General of the United Nations.

*Article 77**Entry into force*

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

*Article 78**Notifications by the Secretary-General*

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article 74 :

(a) Of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles 74, 75 and 76 ;

(b) Of the date on which the present Convention will enter into force, in accordance with article 77.

*Article 79**Authentic texts*

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article 74.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at Vienna, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

DOCUMENT A/CONF.25/13

Final Act of the United Nations Conference on Consular Relations

1. The General Assembly of the United Nations, by resolution 1685 (XVI) of 18 December 1961, decided to convene an international conference of plenipotentiaries to consider the question of consular relations and to embody the results of its work in an international convention and such other instruments as it might deem appropriate. The General Assembly, accepting an invitation extended by the Federal Government of the Republic of Austria, also asked the

Secretary-General to convoke the conference at Vienna at the beginning of March 1963.

2. The United Nations Conference on Consular Relations met at the Neue Hofburg in Vienna, Austria, from 4 March to 22 April 1963.

3. The Governments of the following ninety-two States were represented at the Conference : Albania, Algeria, Argentina, Australia, Austria, Belgium, Brazil,

Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Leopoldville), Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Federal Republic of Germany, Federation of Malaya, Finland, France, Ghana, Greece, Guinea, Holy See, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kuwait, Laos, Lebanon, Liberia, Libya, Liechtenstein, Luxembourg, Madagascar, Mali, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Vietnam, Romania, Rwanda, San Marino, Saudi Arabia, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela, Yugoslavia.

4. The Governments of Bolivia, Guatemala and Paraguay were represented at the Conference by observers.

5. The General Assembly invited the specialized agencies and interested intergovernmental organizations to send observers to the Conference. The following specialized agencies and interested intergovernmental organizations accepted this invitation :

International Labour Organisation,
Food and Agriculture Organization of the United Nations,
International Atomic Energy Agency,
Council of Europe.

6. The Conference elected Mr. Stephan Verosta (Austria) as President.

7. The Conference elected as Vice-Presidents the representatives of the following States : Algeria, Argentina, Canada, Ceylon, China, Colombia, Czechoslovakia, France, Indonesia, Italy, Mexico, Romania, Thailand, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Upper Volta, Yugoslavia.

8. The following committees were set up by the Conference :

General Committee

Chairman : The President of the Conference

Members : The President of the Conference, the Vice-Presidents, and the Chairmen of the First and Second Committees.

First Committee

Chairman : Mr. Nathan Barnes (Liberia)

First Vice-Chairman : Mr. Pedro Silveira-Barrios (Venezuela)

Second Vice-Chairman : Mr. Jerzy Osiecki (Poland)

Rapporteur : Mr. Zenon P. Westrup (Sweden).

Second Committee

Chairman : Mr. Mario Gibson Alves Barboza (Brazil)

First Vice-Chairman : Mr. Hassan Kamel (United Arab Republic)

Second Vice-Chairman : Mr. A. J. Vranken (Belgium)

Rapporteur : Mr. Borislav Konstantinov (Bulgaria)

Drafting Committee

Chairman : Mr. K. Krishna Rao (India)

Members : Mr. José Maria Ruda (Argentina), Mr. Geraldo Eulalio do Nascimento e Silva (Brazil), Mr. Nan-ju Wu (China), Mr. Bernard de Menthon (France), Mr. Emmanuel Kodjo Dadzie (Ghana), Mr. Endre Ustor (Hungary), Mr. José S. de Erice (Spain), Mr. Rudolf L. Bindschedler (Switzerland), Mr. Olog Khlestov (Union of Soviet Socialist Republics), Mr. W. V. J. Evans (United Kingdom of Great Britain and Northern Ireland), Mr. Warde M. Cameron (United States of America).

Credentials Committee

Chairman : Mr. Gilles Sicotte (Canada)

Members : Canada, El Salvador, Greece, Guinea, Indonesia, Mexico, Nigeria, Union of Soviet Socialist Republics, United States of America.

9. The Secretary-General of the United Nations was represented by Mr. C. A. Stavropoulos, the Legal Counsel. Mr. Yuen-li Liang, Director of the Codification Division of the Office of Legal Affairs of the United Nations, acted as Executive Secretary. Mr. J. Zourek, Special Rapporteur of the International Law Commission on the subject of consular relations, acted as expert.

10. The General Assembly, by its resolution 1685 (XVI) convening the Conference, referred to the Conference, as the basis for its consideration of the question of consular relations, chapter II of the "Report of the International Law Commission covering the Work of its Thirteenth Session",¹ containing the text of draft articles on consular relations and commentaries adopted by the Commission at that session.

11. The Conference also had before it the following documentation :

(a) Observations submitted by governments during successive stages of the work of the International Law Commission on consular relations ;²

(b) The records of the relevant debates in the General Assembly ;

(c) Amendments submitted by governments in advance of the convening of the Conference, pursuant to General Assembly resolution 1813 (XVII) of 21 December 1962, to the draft articles on consular relations ;³

(d) The text of the Convention regarding Consular Agents adopted by the Sixth International American Conference and signed at Havana on 20 February 1928 ;⁴

¹ *Official Records of the General Assembly, Sixteenth Session, Supplement No. 9 (A/4843). Reprinted in Yearbook of the International Law Commission, 1961, vol. II (United Nations publication, Sales No.: 61.V.1, vol. II), p. 89.*

² A/5171 and Add.1 and 2.

³ Reproduced in document A/CONF.25/L.4 and Add.1.

⁴ Reproduced in document A/CONF.25/L.2.

(e) A collection of bilateral consular treaties, a collection of laws and regulations regarding diplomatic and consular privileges and immunities, a bibliography on consular relations, a guide to the draft articles on consular relations, and other pertinent documentation prepared by the Secretariat of the United Nations.

12. The Conference initially allocated the consideration of the draft articles on consular relations adopted by the International Law Commission and the preparation of the preamble, final provisions, final act and any protocols it might consider necessary in the course of its work, to the First and Second Committees as follows:

First Committee: draft articles 2 to 27, 68, 70 and 71; preamble; final provisions; final act of the Conference; and any protocols which the Conference might consider necessary.

Second Committee: draft articles 28 to 67 and 69.

Subsequently, the Conference re-allocated draft articles 52 to 55 from the second to the First Committee. The Conference also initially allocated draft article 1 to the Drafting Committee, for report direct to the Conference but, subsequently, the Conference decided that the Drafting Committee should report on that draft article to the Conference through the First Committee.

13. On the basis of the deliberations, as recorded in the records of the plenary meetings and in the records and reports of the First and Second Committees, the Conference prepared the following Convention and Protocols:

Vienna Convention on Consular Relations;
Optional Protocol concerning Acquisition of Nationality;
Optional Protocol concerning the Compulsory Settlement of Disputes.

14. The foregoing Convention and Protocols, which are subject to ratification, were adopted by the Conference on 22 April 1963, and opened for signature on 24 April 1963, in accordance with their provisions, until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and, subsequently, until 31 March 1964, at the United Nations Headquarters in New York. The same instruments were also opened for accession, in accordance with their provisions.

15. After the closing date for signature at the Federal Ministry for Foreign Affairs of the Republic of Austria on 31 October 1963, the Convention and Protocols will be deposited with the Secretary-General of the United Nations.

16. In addition, the Conference adopted the following resolutions, which are annexed to this Final Act:

Resolution on Refugees;

Resolution expressing a tribute to the International Law Commission;

Resolution expressing a tribute to the Federal Government and to the people of the Republic of Austria.

IN WITNESS WHEREOF the representatives have signed this Final Act.

Done at Vienna this twenty-fourth day of April, one thousand nine hundred and sixty-three, in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. By unanimous decision of the Conference, the original of this Final Act shall be deposited in the archives of the Federal Ministry for Foreign Affairs of the Republic of Austria.

DOCUMENT A/CONF.25/14

Vienna Convention on Consular Relations Optional protocol concerning acquisition of nationality

The States Parties to the present Protocol and to the Vienna Convention on Consular Relations, hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 4 March to 22 April 1963,

Expressing their wish to establish rules between them concerning acquisition of nationality by members of the consular post and by members of their families forming part of their households,

Have agreed as follows.

Article I

For the purposes of the present Protocol, the expression "members of the consular post" shall have the meaning assigned to it in sub-paragraph (g) of paragraph 1 of article 1 of the Convention, namely, "con-

sular officers, consular employees and members of the service staff".

Article II

Members of the consular post not being nationals of the receiving State, and members of their families forming part of their households, shall not, solely by the operation of the law of the receiving State, acquire the nationality of that State.

Article III

The present Protocol shall be open for signature by all States which may become Parties to the Convention, as follows: until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and, subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article IV

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article V

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VI

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever date is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article VII

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention :

(a) Of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with articles III, IV and V ;

(b) Of the date on which the present Protocol will enter into force, in accordance with article VI.

Article VIII

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article III.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

Done at Vienna, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

DOCUMENT A/CONF.25/15**Vienna Convention on Consular Relations****Optional protocol concerning the compulsory settlement of disputes**

The States Parties to the present Protocol and to the Vienna Convention on Consular Relations, hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 4 March to 22 April 1963,

Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period,

Have agreed as follows :

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International

Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

Article IV

States Parties to the Convention, to the Optional Protocol concerning Acquisition of Nationality, and to the present Protocol may at any time declare that they will extend the provisions of the present Protocol to disputes arising out of the interpretation or application of the Optional Protocol concerning Acquisition of Nationality. Such declarations shall be notified to the Secretary-General of the United Nations.

Article V

The present Protocol shall be open for signature by all States which may become Parties to the Convention

as follows: until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and, subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article VI

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article VII

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VIII

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever date is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this article, the Protocol shall enter into

force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article IX

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention:

(a) Of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with articles V, VI and VII;

(b) Of declarations made in accordance with article IV of the present Protocol;

(c) Of the date on which the present Protocol will enter into force, in accordance with article VIII.

Article X

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article V.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

Done at Vienna, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

DOCUMENT A/CONF.25/13/Add.1

Resolutions adopted by the Conference

I. — Refugees

The United Nations Conference on Consular Relations,

Taking note of the memorandum submitted by the United Nations High Commissioner for Refugees (document A/CONF.25/L.6), and noting the statements made by delegations during the course of the discussion,

Requests the Secretary-General of the United Nations to submit for the consideration of the appropriate organs of the United Nations all documents and records pertaining to the discussion of the refugee question mentioned in the aforesaid memorandum, and meanwhile resolves not to take any decision on this question.

II. — Tribute to the International Law Commission

The United Nations Conference on Consular Relations,

Having adopted the Vienna Convention on Consular Relations on the basis of draft articles prepared by the International Law Commission,

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution to the codification and development of the rules of international law on consular relations.

**III. — Tribute to the Federal Government
and to the people of the Republic of Austria**

The United Nations Conference on Consular Relations,

Having adopted the Vienna Convention on Consular Relations,

Expresses its deep appreciation to the Federal Government and to the people of the Republic of Austria for making possible the holding of the Conference in Vienna and for their generous hospitality and great contribution to the successful completion of the work of the Conference.

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