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34th meeting of the Committee of the Whole

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53. The CHAIRMAN put to the Committee vote paragraph 3, as amended by Canada (L.258/Rev.1).

Paragraph 3, as amended, was adopted by 56 votes to 1, with 8 abstentions.

54. The CHAIRMAN called upon the Committee to vote on article 36 as a whole, as amended.

At the request of the representative of Tunisia, a vote was taken by roll-call.

Senegal, having been drawn by the Chairman by lot, was called upon to vote first.

In favour: Spain, Sweden, Switzerland, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Congo (Leopoldville), Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Federation of Malaya, Finland, Federal Republic of Germany, Ghana, Holy See, Hungary, India, Indonesia, Iran, Ireland, Israel, Japan, Korea, Liberia, Liechtenstein, Luxembourg, Netherlands, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Romania.

Against: Senegal, Tunisia, United Arab Republic, Venezuela, Viet-Nam, Italy, Libya, Morocco, Portugal, Saudi Arabia.

Abstentions: Turkey, Union of South Africa, Ethiopia, France, Iraq, Mexico, Panama.

Article 36, as amended, was adopted by 54 votes to 10, with 7 abstentions.

55. Mr. WESTRUP (Sweden) said he would revert to the subject matter of his delegation's proposal when the Committee came to consider article 1 in second reading.[2]

56. Mr. ZLITNI (Libya) said that his delegation had voted against the adoption of article 36 because it considered that as administrative and technical staff had no representative functions, they were not entitled to privileges granted to diplomats as such. There was no legal basis for those innovations.

57. Mr. CARMONA (Venezuela) announced that his government had sent him instructions which obliged him, in accordance with United Nations practice, to enter reservations to article 36 as adopted.

58. Mr. BESADA (Cuba) said he had voted for the adoption of the article, but had some reservations as regards the expression "permanent resident", which seemed to him insufficiently clear.

59. Mr. GLASER (Romania) pointed out that governments were at all times free to make reservations on any particular article, either during the discussion or even depositing their instruments of ratification.

60. Mr. BOUZIRI (Tunisia) considered that article 36 as adopted contained new provisions which altered the nature of a diplomatic mission, and which the Tunisian delegation could not accept. For procedural reasons, the Tunisian delegation had not taken part in the vote on some amendments.

61. Mr. SINACEUR BENLARBI (Morocco) associated himself with the representatives of Libya and Tunisia and asked that their reservations should be mentioned in the record.

62. Mr. PINTO de LEMOS (Portugal) expressed the opinion that the principles adopted were contrary to the spirit of the convention and to the rules of international law.

63. Mr. de VAUCELLES (France), while admitting that the amendments adopted had improved the text, nevertheless considered that its provisions unduly extended the scope of diplomatic privileges. For that reason the French delegation had considered it necessary to abstain from voting.

64. Mr. BIRECKI (Poland) said he was generally in favour of the extension of diplomatic privileges. Nevertheless, he was glad that it had been possible to find a compromise formula acceptable to the majority of delegations.

65. Mr. DEJANY (Saudi Arabia) reserved his government's rights in regard to the article as a whole.

66. Mr. MONACO (Italy) said that the wording as adopted contained innovations which were hardly in conformity with recognized practice or the rules of international law.

67. Mr. MARISCAL (Mexico) said he had abstained from voting because his delegation preferred article 36 as drafted by the International Law Commission.

68. Mr. MENDIS (Ceylon) said he was not very much in favour of an extension of exemptions, for fear of possible misuse and of the particularly heavy financial burdens placed on States with limited means. His delegation had nevertheless voted for the article as a mark of its appreciation of the spirit of compromise on which the redraft was based.

The meeting rose at 6 p.m.

THIRTY-FOURTH MEETING

Wednesday, 29 March 1961, at 10.30 a.m.

Chairman: Mr. LALL (India)

Consideration of the draft articles on diplomatic intercourse and immunities adopted by the International Law Commission at its tenth session (A/CONF.20/4) *(continued)*

Article 35 (Acquisition of nationality) *(resumed from the thirty-first meeting)*

1. The CHAIRMAN, inviting the Committee to continue its debate on article 35 and the amendments

[2] See 38th meeting.

thereto,[1] drew attention to the report (L.314) of the working group appointed at the thirty-first meeting (para. 110).

2. Mr. KEVIN (Australia) said that the words " first paragraph of article 36 " in his delegation's amendment (L.245) should be amended to read " first two paragraphs of article 36 ".

3. Mr. de ERICE y O'SHEA (Spain), introducing the working group's redrafting of article 35, said that the problem of the nationality of the children of diplomatic agents born in the territory of the receiving State was an extremely complex one, which causes serious difficulties for many countries. That explained why widely different amendments to article 35 had been submitted.

4. The proposed redraft, being an attempt to compromise between very different views, could not be an ideal formulation. However, it made clear that the nationality of the country of birth could not be imposed upon the children of a diplomat who, precisely because of his official duties, served outside his own country. The redraft did not specify what the children's nationality would be and consequently their possible right to opt for a nationality other than that of their parents was safeguarded.

5. A proviso (passage in brackets) limiting the application of the article to children born of parents not " having their private domicile in the receiving State according to the law of that State " had been introduced in deference to the law of the receiving State. The criterion of the private domicile of the parents was applied in the nationality legislation and constitutional provisions of several Latin American countries, and such a proviso would make the proposed text more acceptable to those countries.

6. The proposed text was sufficiently flexible to allow some latitude in interpretation by the receiving State. Of course, if the sending State did not agree to the receiving State's interpretation, it could resort to the procedure set forth in article 45 for the settlement of disputes.

7. He hoped that the compromise text would prove generally acceptable.

8. Mr. PONCE MIRANDA (Ecuador) said that the provisions of article 35 raised an extremely complex legal problem. Under the law of Ecuador, a diplomat was considered as having maintained his original domicile in the sending State and as residing temporarily in the receiving State; he therefore transmitted his nationality to his children born in the receiving State and they did not become nationals of that State. His delegation felt strongly, however, that the Conference should not attempt to settle the question — certainly not in the manner proposed in the redraft of article 35.

9. The article dealt with a case of conflict of laws and belonged in a convention on private international law rather than in a convention on diplomatic law. Moreover, the solution proposed was inconsistent with the principles of private international law applicable to the matter. The foreign law was made to prevail over the territorial law, whereas under the rules on conflict applicable in the matter of nationality, it was invariably the territorial law which prevailed. Nationality legislation involved matters of public policy (ordre public) in which the foreign law was always set aside. The attempt to make the foreign law prevail over the territorial law of the country concerned was particularly unfortunate because in many States, including Ecuador, nationality was regulated by the Constitution itself.

10. The aim pursued was the commendable one of avoiding dual nationality, but the method was unsatisfactory. He opposed both the original text of article 35 and the working group's redraft and urged that the article be deleted.

11. It has been suggested as an alternative to the adoption of an article on the acquisition of nationality, that the Conference should adopt a resolution which would recommend the amendment of municipal law so as to avoid conflicts of the nationality laws of the receiving and the sending States. But he had serious doubts whether, under its terms of reference, the Conference could make a recommendation on a subject which was outside the scope of diplomatic law.

12. Mr. MONACO (Italy) said that while in theory there might be no place for an article on the acquisition of nationality in the convention which the Committee was discussing, article 35 nevertheless served a practical purpose.

13. The question before the Committee was whether the proposed redraft was preferable to the original article 35. For his part, he supported the original text, which was of wider scope than the redraft; for it covered not only the case of children born to foreign diplomats in the territory of the receiving State, but also the acquisition of the receiving State's nationality by a woman member of the mission or a daughter of a member of the mission, as a result of marriage. The case of the children was certainly the more common and the more important one; but there was no reason to ignore the acquisition of nationality by marriage.

14. Lastly, he did not favour the adoption of a resolution recommending changes in the nationality laws of States. States were very anxious to maintain the principles underlying their nationality laws, and nationality was held to be a matter coming under domestic jurisdiction exclusively.

15. Mr. de VAUCELLES (France) said he was prepared to support the working group's redraft, but if it was not adopted by the Committee, he would reintroduce his delegation's amendment (L.223).

16. Mr. RUEGGER (Switzerland) said he was prepared to accept the working group's redraft which might perhaps gain more support than the original article 35. If the redraft were not adopted, however, he would reintroduce his delegation's amendment (L.241).

17. Mr. GLASSE (United Kingdom) recalled the terms of reference given to the working group (thirty-first

[1] For the amendments submitted, see thirty-first meeting, footnote to para. 88.

meeting, para. 110). In fact, some members of the working group had expressed serious reservations regarding the adoption of the text in the form of an article, and consequently unanimous agreement had proved impossible. Many other States represented in the Committee had similar misgivings, and he therefore proposed that the Committee should first vote on the question whether the redraft should be treated as a draft article or as a provision to be embodied in a resolution.

18. His delegation intended to vote for a resolution and maintained that article 35 should be deleted from the draft.

19. Mr. GASIOROWSKI (Poland) agreed with the comments of the Italian representative and thought it was necessary to include a provision on the acquisition of nationality. The question was an extremely important one and was connected with the need to ensure the independence of diplomatic agents with respect to local authorities. Hence, it could not be dealt with satisfactorily in a resolution, the effect of which would be much weaker than that of an article of a binding instrument.

20. He requested that when the working group's redraft was put to the vote, a separate vote be taken on the words in brackets. If those words were included, the application of article 35 would be restricted to children born of parents both of whom fulfilled two conditions: (1) that of not being nationals of the receiving State, and (2) that of not having their private domicile in the receiving State according to the law of that State. The combination of those two conditions dangerously narrowed down the scope of the article.

21. He preferred the original article 35 to the redraft.

22. Mr. YASSEEN (Iraq) saw no valid reason for drawing a distinction between members of the mission and their children. Members of the mission had the same need as their children to be exempt from the operation of the nationality laws of the receiving State. In some countries, marriage to a woman who was a national, or the mere fact of prolonged residence could result in the automatic imposition of the nationality of the country. It was therefore necessary to ensure that no member of the mission, whether male or female, could be deemed to be a national of the receiving State solely by the operation of the law of that State.

23. He would prefer a provision along the lines of the first paragraph of article 12 of the Hague Convention of 12 April 1930:

> " Rules of law which confer nationality by reason of birth on the territory of a State shall not apply automatically to children born to parents enjoying diplomatic immunities in the country where the birth occurs." [2]

Of the two texts now proposed for article 35 he preferred the original draft, but if that was not adopted, he would be prepared to accept the working group's redraft.

[2] Convention on certain questions relating to the conflict of nationality laws, signed at The Hague on 12 April 1930; League of Nations *Treaty Series*, vol. CLXXIX, p. 103, reprinted in United Nations document ST/LEG/SER.B/4, annex I, p. 567.

24. Mr. LINARES (Guatemala) said that if the working group's redraft was adopted with the words in brackets he would be prepared to withdraw his delegation's amendment (L.185). If those words were deleted, however, the text would be incompatible with the Constitution of Guatemala and he would be obliged to express reservations.

25. Mr. KRISHNA RAO (India) thought the working group's redraft created more problems than it solved. It focused attention on the children of diplomatic officers and ignored the problems raised by the effect of marriage on nationality under the law of many countries.

26. He favoured the deletion of article 35. If, however, an article on the acquisition of nationality was to be included, he found the original text more acceptable than any of the others put forward; it was well-balanced and less confusing and dealt with all the nationality problems that arose.

27. Mr. CAMERON (United States of America) said that neither the original text nor the working group's redraft was acceptable to his delegation. The law of the United States provided that all persons born in and subject to the jurisdiction of the United States were citizens of the United States. Persons enjoying diplomatic immunity were exempted from the jurisdiction of the United States, and hence their children were not deemed to be born subject to that jurisdiction within the meaning of the law. Since neither the original nor the working group's redraft covered that point, his delegation would vote for the deletion of article 35.

28. Mr. GHAZALI (Federation of Malaya) also criticized the working group's redraft for dealing only with the case of children of diplomatic officers. In fact, there were many cases in which the law of the receiving State could impose a nationality on persons enjoying diplomatic immunity. He supported the original article 35, which dealt adequately with a multitude of problems.

29. Mr. DADZIE (Ghana) said he could not support the redraft, in particular because it introduced the concept of private domicile which, even if known to international jurisprudence, was foreign to many national legal systems.

30. His delegation continued to support the original article 35, which would settle many of the difficult constitutional and legal questions raised.

31. Mr. de ERICE y O'SHEA (Spain) said that in the working group it had not been considered necessary to confuse the text by referring to the acquisition of nationality by marriage. The case of a woman member of a diplomatic mission marrying a national of the receiving State was so rare that he personally had not heard of a single instance of such an occurrence. In any event, if a woman diplomat acquired the nationality of the receiving State by marriage, the express consent of that State would be required, under article 7, for her to continue as a member of the diplomatic staff of the mission.

32. The CHAIRMAN said that the United Kingdom proposal for the deletion of article 35 (L.204), being

the furthest removed from the original, would be put to the vote first.

The proposal was rejected by 41 votes to 20, with 8 abstentions.

33. The CHAIRMAN said that the Committee had thus decided to include an article on the acquisition of nationality. He invited it to take a decision on the working group's redraft (L.314), first voting separately on the words " nor having their private domicile in the receiving State according to the law of that State ".

The words in question were rejected by 37 votes to 7, with 24 abstentions.

The working group's redraft of article 35, thus amended, was rejected by 47 votes to 13, with 9 abstentions.

34. Mr. MONACO (Italy) withdrew his delegation's amendment (L.198).

35. The CHAIRMAN recalled that the delegations of France and Guatemala had made the withdrawal of their amendments conditional on the adoption of the working group's redraft. That redraft having been rejected, the amendments in question were revived by virtue of rule 32 of the rules of procedure. In addition, the amendments submitted by Switzerland and by Australia (as amended) would be put to the vote. All those amendments related to article 35 as drafted by the International Law Commission.

The amendment submitted by France (L.223) was rejected by 44 votes to 10, with 12 abstentions.

The amendment proposed by Guatemala (L.185) was rejected by 44 votes to 6, with 15 abstentions.

The amendment proposed by Switzerland (L.241) was rejected by 48 votes to 8, with 11 abstentions.

36. Mr. CAMERON (United States of America) asked whether it would be in order to introduce an oral sub-amendment to the Australian amendment (L.245), in view of the statement by its author and its connexion with the text of article 36 as adopted by the Committee.

37. The CHAIRMAN ruled that it would not be in order to introduce a sub-amendment, since voting on the article was in progress.

38. Mr. KEVIN (Australia) suggested that the words " likewise entitled " should be added after the words " members of their families " in article 35.

39. The CHAIRMAN said that the Drafting Committee could consider that point.

The amendment submitted by Australia (L.245), as orally amended by its author, was rejected by 36 votes to 10, with 20 abstentions.

40. The CHAIRMAN put to the vote the International Law Commission's draft of article 35 without amendment (A/CONF.20/4).

Article 35 was adopted without amendment by 46 votes to 12, with 12 abstentions.

41. Mr. MATINE-DAFTARY (Iran) drew attention to the fact that the French text of article 35 did not correspond exactly to the English text.

42. Mr. MELO LECAROS (Chile), Mr. AGUDELO (Colombia), Mr. PONCE MIRANDA (Ecuador), Mr. LINARES (Guatemala) and Mr. CARMONA (Venezuela) said that their delegations would have to make express reservations concerning article 35 in so far as it was incompatible with the law of their countries.

43. Mr. GLASER (Romania) explained that his delegation had voted in favour of article 35 and against all the amendments submitted since it believed that the principle had been correctly stated in the International Law Commission's text, while the amendments had been improvised — a dangerous practice in dealing with such a complex question.

44. Mr. CAMERON (United States of America) explained that it might be necessary for his delegation to make an express reservation to article 35 because the term " members of the mission " included persons who were not granted immunity under the draft articles.

45. Mr. GLASSE (United Kingdom) said that his delegation had voted againt article 35 because, apart from its general objection to the inclusion of that provision, it considered that the difficulties to which the International Law Commission's draft would give rise had not been fully appreciated. There was, for example, no provision for the case of a child born in the receiving State, one of whose parents was a national of that State.

46. Mr. KEVIN (Australia) said that the basis of exemption for Australian citizens under Australian law was immunity similar to that accorded to an envoy; hence his delegation's amendment and his abstention in the vote on the article.

Article 37 (Diplomatic agents who are nationals of the receiving State)

47. The CHAIRMAN invited debate on article 37 and the amendments thereto.[3]

48. Mr. GLASSE (United Kingdom) said that the amendment to article 37 submitted by his delegation (L.206) was linked with the original text of article 36. Since, however, article 36 had been amended to exclude from its benefit nationals and permanent residents of the receiving State, a reference to such persons should be included in article 37. The United Kingdom amendment was no longer appropriate, therefore, and would be withdrawn on the understanding that the Drafting Committee would correlate the text of articles 36 and 37.

49. Mr. de VAUCELLES (France) explained that the intention of his delegation's amendment (L.224) was to clarify the meaning of the text. It might be inferred from paragraph 1 of the article that the inviolability of a diplomatic agent who was a national of the receiving State was absolute and that only his immunity from jurisdiction was restricted to official acts performed in the exercise of his functions. The French amendment

[3] The following amendments had been submitted: Mexico, A/CONF.20/C.1/L.180; United Kingdom, A/CONF.20/C.1/L.206; France, A/CONF.20/C.1/L.224; Venezuela, A/CONF.20/C.1/L.234; Canada, A/CONF.20/C.1/L.246/Rev.1; Japan, A/CONF.20/C.1/L.250; United States of America, A/CONF.20/C.1/L.274; Australia, A/CONF.20/C.1/L.279.

made it clear that both inviolability and immunity were so restricted.

50. Mr. DONOWAKI (Japan) said that, since his delegation's amendment to article 36 (L.249) had not been accepted and since it was clear that amendments of that kind found little favour with the Committee, he would withdraw his amendment to article 37 (L.250) in favour of the Canadian amendment (L.246). He pointed out, however, that if the Canadian amendment was adopted, persons possessing both the nationality of the sending State and that of a third State would still fall within the scope of article 37. His delegation would request that the Drafting Committee should consider article 37 in relation to article 7, paragraph 3 of which as adopted at the twelfth meeting stated that the receiving State could reserve the same right with regard to nationals of a third State who were not also nationals of the sending State.

51. Mr. KEVIN (Australia) said that in its amendment (L.279), his delegation proposed the inclusion in paragraph 2 of a reference to " persons who have entered the receiving State for permanent residence ". For the sake of consistency, he would further propose that a similar reference be included in paragraph 1 of article 37.

52. Mr. CARMONA (Venezuela), explaining his delegation's proposal (L.234) that article 37 be deleted, said that the article was superfluous. Article 7 as adopted stipulated that members of the diplomatic staff of a mission had to be nationals of the sending State unless express consent was given by the receiving State for the appointment of its own nationals. Accordingly, it covered paragraph 1 of article 37. Similarly, paragraph 2 of article 37 was rendered unnecessary by the new draft of article 36 adopted at the 33rd meeting, which specifically excluded from its benefit nationals of the receiving State and left them subject to the provisions of article 7. He would vote against article 37 as it seemed inappropriate to provide for a particular category of staff in an international convention.

53. Mr. EL-ERIAN (United Arab Republic) said he was entirely opposed to the idea of appointing members of a mission from among the nationals of the receiving State. Even though admittedly that happened sometimes, he could not accept the idea of nationals of the receiving State being immune from the jurisdiction of their own country. When the draft had been discussed in the International Law Commission in 1957 it had been agreed that a diplomatic agent who was a national of the receiving State should be granted certain minimum privileges strictly for the purpose of his official functions.[4] Article 37 as since drafted, however, introduced an entirely new conception of inviolability which would mean that a national who had committed a crime could not be punished in his own country. The question of the immunity of the national of the receiving State was one which, he strongly believed, should not be dealt with in a convention but should be left to the receiving State, like the question whether a national could be appointed to a foreign mission.

[4] For relevant discussion see ILC, 408th meeting, paras. 1 to 33.

54. Mr. YASSEEN (Iraq) said that while article 37 made it clear that a diplomatic agent who was a national of the receiving State could enjoy immunity from jurisdiction only in his official capacity, it could be interpreted as granting unconditional inviolability, to which he would be opposed. The redraft of paragraph 1 contained in the French amendment (L.224) left no room for doubt, and he would therefore support it.

55. Mr. USTOR (Hungary) said he was opposed to the recruitment of members of the diplomatic staff of a mission from among nationals of the receiving State and would therefore prefer article 37 to be deleted, as proposed by Venezuela (L.234). However, since article 7 (Appointment of nationals of the receiving State) had been adopted by the Committee, it was only logical to include in the convention some provision regarding the inviolability and immunities of such persons.

56. He fully agreed with the International Law Commission that they should not have the same inviolability and immunities as nationals of the sending State, and he would therefore support the inclusion of article 37 provided that it was amended in the sense proposed by France. On that point he shared the views of the representatives of Iraq and the United Arab Republic. He was opposed to the United States amendment (L.274) as being too far-reaching, and pointed out that according to the definition in article 1 (*e*), the term " diplomatic agent " included the head of the mission. As article 37 did not apply to the head of the mission he proposed that the expression " members of the diplomatic staff " should be used.

57. Mr. BARTOŠ (Yugoslavia) said that, although he had opposed article 7, article 37 was a logical consequence of its adoption. Once it had been accepted that a national of the receiving State could become a member of the mission of the sending State, it should be recognized that he was entitled to the inviolability and immunities necessary for the performance of his official functions. He was therefore in favour of article 37 and in the interests of clarity would also support the French amendment.

58. Mr. MONACO (Italy) was opposed to the Canadian amendment (L.246/Rev.1) because it proposed a single category for all persons not nationals of the sending State; in practice, nationals of the receiving State were in a special position. Article 37 recognized the fact that the appointment of members of a diplomatic mission from among nationals of the receiving State was a fairly frequent practice and could not be ignored. He would support paragraph 1, which provided that such people should be given the privileges and immunities necessary for the performance of their functions; but he considered paragraph 2 superfluous, since the persons to which it referred did not have diplomatic status and their position was the responsibility of the receiving State.

59. Mr. MATINE-DAFTARY (Iran) agreed that the adoption of article 7 (though he had opposed it) made article 37 necessary. He was not very happy about the article, however, for it gave the diplomatic agent who was a national of the receiving State better treatment than one who was a national of the sending State —

whose immunity did not exempt him from the jurisdiction of his own country. The result was that a diplomat who was a national of the receiving State was like a dangerous amphibian that could not be caught either in the water or on dry land. In fact, article 37 would make the national of the receiving State immune from any jurisdiction. Unless article 37 could be redrafted, therefore, he would propose that both it and article 7 be deleted.

60. Mr. CAMERON (United States of America) said that the most important part of his delegation's amendment (L.274) was the second sentence, which extended immunity from jurisdiction in respect of their official capacity to all members of the mission who were nationals or permanent residents of the receiving State. He believed that as long as they were members of the mission, nationals of the receiving State and of the sending State should enjoy the same immunity. The first sentence of his amendment was of no great importance and he would not object to its deletion; what he wished to ensure was that nationals of the receiving State, when working for the sending State, should not be impeded in the performance of their functions and should have the same immunity from jurisdiction as the ambassador whom they represented and for whom they were working.

61. Mr. SUBARDJO (Indonesia) was in favour of deleting article 37 as proposed by Venezuela, because he was opposed to the appointment of nationals of the receiving State to a foreign diplomatic mission. In a spirit of compromise, however, he would follow the example of the representative of Yugoslavia and vote for the inclusion of article 37, subject to the French amendment.

62. Mr. TALJAARD (Union of South Africa) said he would abstain from voting on article 37 because the law of his country forbade the granting of immunities, privileges and exemptions to citizens of the Union of South Africa.

63. Mr. WICK KOUN (Cambodia) said he would support the Venezuelan proposal to delete article 37 because nationals of his country were not allowed to become diplomatic agents in foreign missions established in Cambodia, and Cambodian nationals recruited as technical or administrative staff of such missions were not granted diplomatic privileges or immunities.

64. Mr. ZLITNI (Libya) said that he had opposed article 7, and he also opposed article 37. In his country it would be unacceptable for a citizen to be immune from national jurisdiction, and he thought it would be better for international relations if nationals of receiving States were not allowed to act as diplomatic agents for sending States. If they served on a foreign mission without diplomatic rank, they could be protected to the extent permitted under the laws of the receiving State.

65. The CHAIRMAN said that the Venezuelan proposal (L.234) that article 37 should be deleted would be put to the vote first.

66. Mr. MATINE-DAFTARY (Iran) requested a separate vote on the deletion of each of the two paragraphs of the article.

The Venezuelan proposal that paragraph 1 of article 37 should be deleted was rejected by 43 votes to 12, with 12 abstentions.

The Venezuelan proposal that paragraph 2 of article 37 should be deleted was rejected by 46 votes to 12, with 11 abstentions.

67. The CHAIRMAN put to the vote the amendment by Mexico (L.180).

The Mexican amendment was rejected by 26 votes to 14, with 30 abstentions.

68. Mr. CAMERON (United States of America) requested a separate vote on the first sentence of his delegation's amendment (L.274).

The first sentence of the United States amendment was rejected by 35 votes to 12, with 23 abstentions.

The second sentence of the United States amendment was rejected by 36 votes to 11, with 23 abstentions.

The amendment submitted by France (L.224) was adopted by 43 votes to 7, with 17 abstentions.

69. In reply to a question by the CHAIRMAN regarding the Australian amendment (L.279), Mr. KEVIN (Australia) confirmed that his delegation's amendment should be construed as proposing the addition of the words " or permanent resident(s) " after " national(s) " in paragraphs 1 and 2 of article 37.

The Australian amendment was adopted by 27 votes to 8, with 32 abstentions.

70. The CHAIRMAN announced that the Canadian amendment (L.246/Rev.1) was no longer applicable.

Article 37, as amended, was adopted by 52 votes to 3, with 13 abstentions.

The meeting rose at 1.10 p.m.

THIRTY-FIFTH MEETING

Wednesday, 29 March 1961, at 3.20 p.m.

Chairman: Mr. LALL (INDIA)

Consideration of the draft articles on diplomatic intercourse and immunities adopted by the International Law Commission at its tenth session (A/CONF.20/4) *(continued)*

Article 38 (Duration of privileges and immunities)

1. The CHAIRMAN invited debate on article 38 and the amendments thereto.[1]

[1] The following amendments had been submitted: Mexico, A/CONF.20/C.1/L.181; Netherlands, A/CONF.20/C.1/L.190; United Kingdom, A/CONF.20/C.1/L.207/Rev.1; France, A/CONF.20/C.1/L.225; Switzerland, A/CONF.20/C.1/L.243; France and Italy, A/CONF.20/C.1/L.251; Federation of Malaya, A/CONF.20/C.1/L.253; Spain, A/CONF.20/C.1/L.271; United States of America, A/CONF.20/C.1/L.275 and Rev.1; Sweden, A/CONF.20/C.1/L.293.