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publics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Argentina, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Chile, Czechoslovakia, Denmark, Finland, Federal Republic of Germany, Ghana, Hungary, India, Ireland, Italy, Libya, Luxembourg, Mongolia, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, San Marino.

Abstaining: Spain, Turkey, United Arab Republic, Republic of Viet-Nam, Australia, Austria, Ceylon, China, Congo (Leopoldville), Cuba, Federation of Malaya, Israel, Japan, Republic of Korea, Kuwait, Laos, Mexico, Pakistan, Philippines.

The Nigerian amendment to paragraph 1 (b) (A/CONF.25/C.2/L.120) was rejected by 35 votes to 12, with 19 abstentions.

The Spanish amendment to paragraph 1 (b) (A/CONF.25/C.2/L.173) was adopted by 34 votes to 8, with 24 abstentions.

Paragraph 1 as a whole, as amended, was adopted by 62 votes to 2, with 3 abstentions.

The South African amendment to paragraph 2 (A/CONF.25/C.2/L.191) was rejected by 33 votes to 10, with 22 abstentions.

The Australian amendment to paragraph 2 (A/CONF.25/C.2/L.153) was adopted by 40 votes to 10, with 14 abstentions.

35. The CHAIRMAN stated that the Polish amendment which the Committee had approved for paragraph 1 could also apply to paragraph 2 by the addition of the words "or thereafter exported", and he asked the Committee to vote on that point.

The modification of paragraph 1 as a result of the adoption of the Polish amendment (A/CONF.25/C.2/L.119) was extended to paragraph 2 by 19 votes to 14, with 32 abstentions.

In paragraph 2, as amended, it was decided by 43 votes to 5, with 13 abstentions, to retain the words "except those belonging to the service staff".

Paragraph 2 as a whole, as amended, was approved by 60 votes to 2, with 3 abstentions.

The proposal by the Ukrainian Soviet Socialist Republic for the addition of a new paragraph (A/CONF.25/C.2/L.185) was adopted by 36 votes to 14, with 15 abstentions.

36. Mr. SAYED MOHAMMED HOSNI (Kuwait) asked if the last vote did not prejudice the question of whether the additional text might be inserted in the form of a new article.

37. The CHAIRMAN replied that the sponsor of the amendment had agreed that the drafting committee should decide that point.

Article 49 as a whole, as amended, was adopted by 58 votes to none, with 7 abstentions.

38. Mr. BLANKINSHIP (United States of America) said he had abstained from voting on the article as a whole because the question whether the Ukrainian amendment would be included in article 49 or become a separate article had been left open. If the amendment

were included as paragraph 3 of article 49, personal luggage accompanying consular officials and members of their families would be governed by the first part of paragraph 1 of the article: "the receiving State shall in accordance with such laws and regulations as it may adopt..." Subject to further consideration and to the instructions of his government, he might in that case find the amendment acceptable.

The meeting rose at 1.30 p.m.

THIRTY-FIFTH MEETING

Thursday, 28 March 1963, at 3.20 p.m.

Chairman: Mr. GIBSON BARBOZA (Brazil)

Consideration of the draft articles on consular relations adopted by the International Law Commission at its thirteenth session (A/CONF.25/6) (continued)

Article 50 (Estate of a member of the consulate or of a member of his family)

1. The CHAIRMAN suggested that article 50 with amendments should be discussed as a whole but voted on in three parts: the opening sentence, sub-paragraph (a) and sub-paragraph (b).¹ He proposed that only the amendment to sub-paragraph (b) in the United States amendment should be put to the vote, since the remainder only affected the drafting. As the amendments of Belgium and Chile were similar, he inquired if the sponsors would be willing to combine them.

2. Mr. BLANKINSHIP (United States of America) accepted the Chairman's suggestion.

3. Mr. VRANKEN (Belgium) and Mr. LEA-PLAZA (Chile) said that they would jointly sponsor the amendment in document L.146.

4. Mr. SMITH (Canada) said that his amendment (L.194) was submitted so that article 50 should conform to article 48 (exemption from taxation). Paragraph 1 (c) of article 48 as adopted contained the words "and duties on transfers": the word "including" in his amendment to article 50 should therefore be replaced by the word "and". During the discussion on article 48 he had pointed out that the phrase "duties on transfers" was too general and could be interpreted to permit the imposition of duties not intended by the International Law Commission; but his suggestion had not been accepted. If the Committee thought that inclusion of the phrase in article 50 might also be misleading, he would be willing for his amendment to be reviewed by the drafting committee. He merely wished it to be clear that the transfer duties in question were only those

¹ The following amendments had been submitted to article 50: Japan, A/CONF.25/C.2/L.85; Belgium, A/CONF.25/C.2/L.146; United Kingdom, A/CONF.25/C.2/L.172; Spain, A/CONF.25/C.2/L.176; United States of America, A/CONF.25/C.2/L.181; Canada, A/CONF.25/C.2/L.194; Chile, A/CONF.25/C.2/L.196.

applicable to the property referred to in the article. He supported the amendment by Belgium and Chile.

5. Mr. VRANKEN (Belgium) said that the purpose of the joint amendment by Belgium and Chile (L.146) was to exclude nationals or permanent residents of the receiving State from the provisions of the article. Article 39 (4) of the Convention on Diplomatic Relations had a similar purpose and it was desirable that consular officials should be given the same treatment as diplomats.

6. Mr. STRUDWICK (United Kingdom) said that the United Kingdom amendment (L.172) was the most far reaching as it proposed the deletion of sub-paragraph (b), so that if a member of the consulate or a member of his family died in the receiving State, the same duties would apply as in the case of any visiting alien. Reference had been made in the Committee to the adverse effects of consular privileges and immunities on citizens in the receiving State in such cases as motor accidents or refusal to give evidence. The same applied, but more forcibly, in the case of taxation, for accidents were the exception but tax was a normal occurrence. Exemptions from taxation to specific categories of persons caused resentment which was disproportionate to the amounts involved; a line had to be drawn and death duties seemed to be the appropriate point. His proposal that they should not be subject to exemption was in accordance with the law in the United Kingdom.

7. The other amendments, though less far reaching, were also designed to limit the scope of the International Law Commission's exemptions. He supported the joint amendment by Belgium and Chile (L.146) and would support the Japanese amendment (L.85) if his own were rejected. He would abstain from voting on the Canadian amendment as the inclusion of the proposed phrase might make it possible to extend the exemption unduly.

8. Mr. GARAYALDE (Spain) said that article 50, paragraph (b), as drafted by the International Law Commission was very liberal and that his delegation's amendment (L.186) was intended to restrict the scope of the provision. The expression "movable property" raised a problem of definition, with all its consequential drawbacks, particularly in the convention under discussion.

9. Under Spanish law the expression "movable property" [bienes muebles] could cover anything from a picture to a ship, and included securities. Accordingly, his delegation considered that the article should be restricted by the replacement of the words "movable property" by the word "furniture" [mobiliario], which should be construed to mean not only furniture in the narrow sense but also personal effects generally.

10. Mr. KANEMATSU (Japan) said that his amendment (L.85) was intended to exclude members of the family from the exemptions, because there was no established rule or practice for the extension of privileges to families. The argument that consular officials should be treated in the same way as diplomatic officials was not valid because conditions were different: to take one example, consular officials could follow gainful pursuits. As, however, the Committee had included members of

families under article 48, it might not be proper to reverse the decision in article 50. If, however, the Committee considered that it would be possible to make a difference in article 50, he would ask for his amendment to be put to the vote.

11. Mr. BLANKINSHIP (United States of America) said that the main purpose of his amendment (L.181) was to extend sub-paragraph (b) to cover regional and municipal, as well as national, duties and taxation; and also to introduce the idea of official functions. The amendment to sub-paragraph (b) would necessitate changes in the first part of the article.

12. The United States Government had pointed out in its written comments that article 50 did not refer to regional and municipal taxes. They were mentioned in articles 31 (Exemption from taxation of consular premises) and 48 (Exemption from taxation) and should also appear in article 50. The words "movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased" was not very clear and was liable to interpretations leading to wider exemptions than would be desirable. The International Law Commission's commentary did not clarify the scope of the article: it only stated that the text "was brought into line" with the text of article 39, paragraph 4, of the 1961 Convention on Diplomatic Relations. But the policy of aligning the consular and diplomatic conventions would be carried too far and a distinction should be made in article 50 between consular and diplomatic officials. The United States amendment therefore proposed that the exemption should be limited to apply only to movable property the presence of which in the receiving State was due solely to the performance of officials duties. He assumed that article 69 would deal with nationals of the receiving State and persons permanently resident or gainfully occupied in that State.

13. Mr. DAS GUPTA (India) said that the article as drafted by the International Law Commission was entirely adequate. It was designed to meet every side of the question and was consistent with the other relevant articles.

14. He appreciated the difficulties of the United States representative but found his amendment contradictory and illogical. Article 49 as adopted gave consular officials the privilege to import and export articles for their own or their families' use and article 50 was only concerned with a particular situation. If the right to import and export free of duty was granted in the first place, it was immoral and illogical to deny it later, particularly in the case of death. Moreover, death duties, like income tax, were imposed on a reciprocal basis and it would be unfair to make it possible for such duties to be imposed by both the receiving and the sending State. He also found the introduction of the idea of official functions unacceptable: it was vague and complicated and would nullify the true purpose of the article.

15. He could not accept the United Kingdom amendment: if exemptions were granted to living persons there was all the more reason to maintain them in the

case of death. The Spanish amendment seemed superfluous. Furniture was a movable property and there was no need to specify it. He did not fully understand the implications of the Canadian amendment. If it concerned transfer duties on sales, it was already covered, for if a diplomat sold his car or other movable property to a permanent resident or a national of the receiving State he would be liable to normal duty; and if he sold it to a diplomat he was exempt from duty. The amendment seemed redundant. The Japanese amendment was unacceptable since property acquired by the consular official for his household was imported in the official's name. A married daughter or an adult son were not included in the privileges, but it would be unfair and illegal to exclude a wife or minor child. The amendment by Belgium and Chile was implicit in article 50, which dealt with career consuls and not with honorary consuls who were nationals or permanent residents of the receiving State. The amendment would change the whole meaning of the article. He appealed to the Committee in the interests of humanity and justice to accept the International Law Commission's text.

16. Mr. NASCIMENTO e SILVA (Brazil) considered that most of the amendments, and the arguments supporting them, were too restrictive. He would prefer to see the International Law Commission's text retained and would vote in favour of it.

17. Many of the clauses criticized were generous and humanitarian in spirit and the article should be examined in detail to find out what each clause meant. Article 50 concerned the death of the career consul, a person sent to the receiving State for duty. His possessions were chiefly in the sending State and his movable possessions and salary in the receiving State would not usually be of very great value. The exceptional cases of a consul with large investments in property would be provided for in article 48. The question of succession duty was a complicated matter which came within the scope of the national laws on succession. On principle, therefore, he was against all the amendments.

18. The representative of Japan had asked whether he should maintain his amendment or not. He hoped he would not insist on a vote because the property of the family of a member of a consulate was not likely to be very large; even if it was, it would normally have no connexion with the receiving State. The United Kingdom amendment was not, he thought, necessary, for the source of revenue would be very small. With regard to the United States amendment, he appreciated the difficulties that might arise if article 50 were adopted and also understood the problems concerning regional and municipal duties, for Brazil's national legislation was similar to that of the United States. Nevertheless, he was not in favour of the reference to official functions and considered it would be undesirable to adopt different provisions for consular and for diplomatic officials. The joint amendment of Belgium and Chile (L.146) was concerned with a very rare possibility and he would vote against it, although it was to some extent justified by the drafting of article 39 (4) of the diplomatic convention.

19. He would fully support the Canadian amendment, which was generous and logical; but he would vote against all the others.

20. Mr. SPYRIDAKIS (Greece) endorsed the views of the previous speaker and supported the International Law Commission's draft of article 50, the subject of which must be treated with human feelings. His delegation, like that of Brazil, opposed the Japanese amendment and could not support the Spanish amendment which would not improve the text of sub-paragraph (b). The second part of the United States amendment, concerning sub-paragraph (b), was not acceptable to his delegation, although it understood that the United States might have special reasons for wishing to introduce such a proposal; the drafting of an international convention must be approached from a broad rather than a national point of view. His delegation also opposed the United Kingdom amendment and the amendment jointly sponsored by Belgium and Chile, although he recognized that difficulties might arise in cases where the person concerned was a national or a permanent resident of the receiving State.

21. The International Law Commission's commentary on article 50 contained no definition of "movable property", a very general and sometimes controversial term which might be held to include money and stock, for example. A definition would facilitate acceptance of the article for many countries which exercised strict currency controls.

22. There appeared to be a discrepancy between the French and English texts of draft article 50: the English text referred to a member of the family "forming part of his household", the French text used the expression "qui vivait à son foyer". It would more correctly express the meaning of the English text and would be less likely to lead to misunderstanding if the words "faisant partie de leur ménage" were used.

23. The CHAIRMAN said that the point raised by the representative of Greece would be considered by the drafting committee in connexion with a Belgian proposal relating to several of the draft articles.

24. Mr. CAMPORA (Argentina) said that the International Law Commission's draft was acceptable to his delegation because a similar provision appeared in the Vienna Convention on Diplomatic Relations. Although it was desirable that a member of the consulate and members of his family should be accorded the privileges specified in sub-paragraphs (a) and (b) of article 50, it should be clearly established that "movable property" did not include productive investments, particularly in view of the differing legal interpretations of the term, which in many countries included stocks and shares, for example.

25. Mr. KHLESTOV (Union of Soviet Socialist Republics) endorsed the views expressed in support of the International Law Commission's draft which was clear, responded to an obvious necessity and was entirely acceptable to his delegation, particularly as the legislation of the Soviet Union was in accordance with its provisions.

26. The Japanese and United Kingdom amendments were entirely inappropriate. It would be inhuman to refuse to allow the export of the movable property of the deceased in the event of the death of a member of the family forming part of the member of the consulate's household. His delegation could accept the Canadian amendment, if it was thought that the situation in some countries required the inclusion of a reference to "duties on transfers", because the purpose of the proposal appeared to be the protection of the member of the consulate and his family. The subject of the joint amendment sponsored by Belgium and Chile was already dealt with implicitly in the International Law Commission's draft, which his delegation preferred.

27. The revised sub-paragraph (b) proposed by the United States was not clearly drafted and would be extremely difficult to apply in practice. It would be impossible to determine exactly to what extent the presence of the movable property in the receiving State was due solely "to the performance of official duties" by the deceased member of the consulate. Moreover, as drafted, the United States amendment would mean that the same criterion would apply in the case of a deceased member of the family. It would be very difficult to ascertain, for example, how much of the dowry of the deceased wife of a consul had been brought to the receiving State solely for "the performance of official duties". The amendment was illogical, and the practical difficulties it would raise would further complicate recruitment for the consular service.

28. Mr. SPACIL (Czechoslovakia) agreed that the provisions of the draft article should not be restricted. To the arguments already put forward in support of the International Law Commission's draft, he would add a plea that more consideration should be given to courtesy and humanity in the sad event which was the subject of the article. The privileges and immunities conferred on the member of the consulate by virtue of his office must logically be carried on in the case of his death. It would be unfortunate and discourteous if he were suddenly to be accorded different treatment with regard to exemption from duties when his consular career was ended by death. The United Kingdom and Japanese amendments were therefore unacceptable to his delegation. The effect of the latter amendment would be to discriminate against the widow and surviving family of a member of the consulate, since a wife would be allowed to take her movable property back to her own country on her husband's retirement, while the widow of a deceased consul could not do so. His delegation endorsed the views expressed by the representative of the Soviet Union in regard to the United States amendment.

29. Mr. SALLEH bin ABAS (Federation of Malaya) said that the International Law Commission's draft was acceptable; the exemption granted was not so wide as might appear, for it was limited to movable property; immovable property was dealt with in article 48, subparagraphs 1 (b) and (c). His delegation was in complete agreement with the International Law Commission's reasoning in its commentary on article 50 that the exemption was fully justified because the persons in

question came to the receiving State to discharge a public function in the interests of the sending state. There was no reason, therefore, for property exempted from customs duties when it was brought into the receiving State to be subjected later to death duties. Finally, the International Law Commission's draft provided, rightly, that exemption from duties would be granted only 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". The phrase introduced in the United States amendment, "due solely to the performance of official duties", was an improvement on the International Law Commission's text, but the phrase could obviously only be applied to a member of the consulate and not to a member of his family. In the opinion of his delegation, the government of the receiving State was free to levy duties on movable property acquired in the territory of the receiving State by a member of the consulate or a member of his family. His delegation supported the amendment sponsored jointly by Belgium and Chile which would have the effect of reserving the right of the receiving State to levy duty in the event of the death of a member of the consulate or of a member of his family who was a national or permanent resident of the receiving State. With that amendment, his delegation would support the International Law Commission's text.

30. Mr. SMITH (Canada) fully agreed with the representative of Brazil that humanitarian considerations should be stressed. Since it was unusual for consular officials to be wealthy, the loss of revenue to the authorities of the receiving State was likely to be very small compared with the great trouble to the consular official or his widow of filing foreign tax returns and retaining lawyers at a time which was in any case very difficult. He was inclined to agree with the representatives of Czechoslovakia and Malaya that it seemed illogical to go to so much trouble to make sure that an automobile, for example, was not taxed when imported by a consular official, but would be taxed if its owner died. The acceptance of the International Law Commission's draft with the Canadian and United States amendments would avoid the possibility of double taxation.

31. He also agreed with the representative of Greece that it was necessary to define the meaning of "movable property". The United States amendment was of considerable assistance there as it made it clear that the movable property envisaged was that present in the receiving State "due solely to the performance of official duties": the exemption in that case would not apply to investment property, the presence of which in the receiving State could not be "due solely to the performance of official duties". The intention of the Canadian amendment was to clarify to some extent what was meant by movable property and by succession duties in article 50, an article which should be interpreted broadly.

32. Mr. PEREZ HERNANDEZ (Spain) explained that, although the English text of his delegation's amendment (L.176) might seem somewhat restrictive, the term

used in the original Spanish text meant personal effects, which included not only furniture, but jewels, cars and all objects in everyday use by the person concerned. The intention of the Spanish amendment was to ensure that the member of the consulate was granted the same treatment as any other resident or national of the receiving State in regard to his private fortune, which should not, therefore, be subject to exemption from estate duties. There should be no exemption if the movable property was unconnected with the exercise of consular functions. It was not certain, however, whether the International Law Commission's draft of sub-paragraph (b) made that clear in its reference to "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."

33. The International Law Commission's draft of article 50 repeated in substance article 39, paragraph 4, of the Vienna Convention on Diplomatic Relations. During the Committee's discussions, however, it had become apparent that it was undesirable to establish an analogy between consular officials and diplomatic agents in view of the different nature of their functions. The fact that a similar provision had been included in the Vienna Convention was not a sufficient reason, therefore, for approving the International Law Commission's text.

34. Nothing prevented a member of a consulate or a member of his family from acquiring as much movable property as he wished, including stocks and bonds, yachts and other luxury articles which could form the basis of a large fortune. If that fortune was quite unconnected with the exercise of consular functions, it would be illogical and unfair for it to be exempt from estate duties. That view was confirmed by article 48, paragraph 1 (c), which excepted estate, succession or inheritance duties, and duties on transfers, from exemption from taxation, "subject, however, to the provisions of article 50 concerning the succession of a member of the consulate or of a member of his family". The International Law Commission had left the door open and his delegation had no wish to close it entirely, especially in the sad event of death.

35. Mr. KANEMATSU (Japan) expressed his delegation's appreciation of the comments made on its amendment. In view of the general opinion, he would withdraw the amendment.

36. Mr. STRUDWICK (United Kingdom) agreed that the subject of the article was a sad one, but said that the existence of death duties must be recognized. It was, of course, necessary to show courtesy and humanity, but the International Law Commission's text of sub-paragraph (b) as drafted did, in fact, allow members of the consulate to be subjected to death duties in respect of property they might have in the receiving State. In reply to criticisms which had been made of the United Kingdom proposal to delete sub-paragraph (b), he would point out that it did not affect sub-paragraph (a) and therefore would not prevent the export of the movable property of the deceased. His delegation would have preferred a vote to be taken on the Japanese amendment.

37. Mr. BLANKINSHIP (United States of America) said that his delegation's amendment had been introduced in the general interests of all countries represented in the Conference, and not for special reasons which applied only to the United States. The precise scope and meaning of article 50 as drafted was far from clear, and the amendment was intended to assist tax authorities to attain a degree of certainty as to what was meant by the International Law Commission text — that certainty which was the bedrock of fairness and equity. The criticisms made by the representatives of Brazil and the Soviet Union had been based on somewhat emotional grounds, but it was necessary to consider the situation objectively. As drafted, the article appeared to give some kind of exemption based on the mere presence of the member of the consulate or his family in the receiving State. "Movable property" seemed an innocuous term, but it too must be examined a little more fully. It was far from clear in the International Law Commission's draft whether exemption applied only to movable property imported at the time of initial entry or also to movable property acquired subsequently; whether it encompassed stocks, bonds and bank accounts, for example; or whether the type of property contemplated would normally accompany a person from place to place. "Movable property" did not merely consist of the consular official's clothes or an old car, for example; it might include his bank account, or very valuable pictures. His delegation did not wish the provision to be unduly restrictive. The International Law Commission's draft would not, however, achieve the purpose of avoiding tax evasion and abuse and it was necessary that there should be a provision with greater certainty to allow the tax authorities to carry out their task properly.

38. The CHAIRMAN invited the Committee to vote on the amendment submitted jointly by Belgium and Chile (A/CONF.25/C.2/L.146) to the introductory paragraph of article 50.

The joint amendment was adopted by 32 votes to 13, with 17 abstentions.

39. The CHAIRMAN suggested that, since there were no amendments to sub-paragraph (a) of article 50, it would be unnecessary to take a vote on it.

Sub-paragraph (a) of article 50 was adopted without amendment.

40. The CHAIRMAN invited the Committee to vote on the four amendments which had been submitted to sub-paragraph (b) of article 50.

The United Kingdom proposal (A/CONF.25/C.2/L.172) to delete sub-paragraph (b) was rejected by 45 votes to 3, with 16 abstentions.

The United States amendment (A/CONF.25/C.2/L.181) was rejected by 29 votes to 11, with 23 abstentions.

The Spanish amendment (A/CONF.25/C.2/L.176) was rejected by 41 votes to 5, with 18 abstentions.

The Canadian amendment (A/CONF.25/C.2/L.194), as orally revised by its sponsor, was adopted by 38 votes to 7, with 19 abstentions.

Sub-paragraph (b), as amended, was adopted by 58 votes to 2, with 2 abstentions.

Article 50 as a whole, as amended, was adopted by 62 votes to none, with 2 abstentions.

41. Mr. HEUMAN (France) explained that his delegation had voted against the Canadian amendment because it could not understand the purpose of including in a provision which concerned only the estate of a deceased person a reference to "duties on transfers"; it had voted against the joint amendment sponsored by Belgium and Chile because the inclusion of a reference to "permanent resident of the receiving State" in article 50 would become redundant when article 69 was approved.

42. Mr. SPYRIDAKIS (Greece) said that he had abstained from voting on the United States amendment (L.181) to article 50. Although the amendment was more detailed, he found the International Law Commission's text more suitable to an international convention and more readily acceptable to a large number of States.

The meeting rose at 6 p.m.

THIRTY-SIXTH MEETING

Friday, 29 March 1963, at 10.35 a.m.

Chairman: Mr. GIBSON BARBOZA (Brazil)

Consideration of the draft articles on consular relations adopted by the International Law Commission at its thirteenth session (A/CONF.25/6) (continued)

Article 51

(Exemption from personal services and contributions)

1. The CHAIRMAN invited the Committee to consider article 51, to which amendments had been submitted by Belgium (A/CONF.25/C.2/L.147) and Romania (A/CONF.25/C.2/L.207).

2. Mr. ANGHEL (Romania) said that he approved the motives of the International Law Commission's draft article 51. One question, however, had attracted the attention of the Romanian delegation, causing it to submit its amendment. By refusing to grant to the service staff exemption from personal services and contributions — and it appeared from paragraph 1 of the International Law Commission's commentary on that article that members of the service staff might be subject to military service, service in the militia, jury service and other forms of service — the work of the consulate might be paralysed, especially if it employed only a small staff, because that staff would no longer be able to carry out its functions. After all, the service staff was sent to the receiving State for the same purpose as the other members of the consulate. Citizens of the sending State who belonged to the service staff should certainly not be drafted into the armed forces of the militia of the receiving State; as was well known, international law exempted aliens from any obligation to serve in the armed forces of a State other than their own. The question had undoubtedly escaped the attention of

the International Law Commission, and a solution should be found. Besides, in the course of the discussions in the International Law Commission, Mr. Padilla Nervo and Mr. Amado had spoken in favour of the exemption of the service staff from personal services and contributions, and particularly military service.¹ The Romanian amendment was not intended to impose additional obligations on the receiving State, but rather to avoid tension between States and to ensure the functioning of consular posts in the best possible manner. That was the reason for the amendment (L.207). He would, however, be prepared to accept a text for article 51 which would exempt members of the service staff from military obligations.

3. Mr. VRANKEN (Belgium) said that the purpose of the Belgian amendment (L.147) was plain. It seemed normal that a consular employee who carried on a private gainful occupation and enjoyed whatever advantages he might be given by the receiving State should also be under the obligation to serve it in the event of catastrophe or public calamity, for instance. The amendment did not affect the consular employees alone, but also all the members of their families.

4. Mr. MARESCA (Italy) said that consular immunities in respect of personal services were normally restricted to consuls and consular officials. Any extension of those immunities to other persons would be an innovation which would have to be restricted. The Belgian amendment was based on that consideration, and he would therefore support it. With regard to the Romanian amendment concerning service staff, account must be taken of the decisions reached in the 1961 Convention, since article 35 of that convention made no mention of service staff.

5. Mr. HEUMAN (France) said he had no objection to the substance of the Belgian amendment, but would raise a few objections of a technical nature. The Committee had doubtless noted that the question of members of the families of consular employees had arisen in connexion with so many articles that it would probably be better to deal with that matter in a general article which would then cover all the others, and that article could only be article 56.

6. The other general question — namely, the exclusion of permanent residents — should be dealt with in article 69. It was useless to overburden each article with an exclusion clause which the drafting committee might have to delete subsequently if the general safeguard clause was inserted in article 69. He therefore proposed that the Belgian representative should for the time being withdraw his amendment to article 51, pending the adoption of article 56. It would be advisable perhaps in that case to take up article 69 immediately after article 56.

7. The CHAIRMAN thanked the representative of France for his suggestion, but said that he was not convinced that such a procedure would help the Committee in its work, because, before considering article 56,

¹ See *Yearbook of the International Law Commission, 1961*, vol. I (United Nations publication, Sales No. 61.V.1, vol. I), p. 134.