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up by the International Law Commission. After a careful study of articles 56 to 67 of the draft, the Japanese delegation had come to the conclusion that to allot twelve articles to that question was too complicated a procedure and one which might create difficulties if it was desired to determine precisely the status of honorary consular officials. Mention was made in article 56 of honorary consular officials, although that article was part of chapter II, under the heading "Facilities, privileges and immunities of career consular officials and consular employees". Chapter III dealt solely with honorary consular officials and did not explicitly regulate the case of persons who were employed on half-time work in a consulate and were engaged at the same time in private gainful occupation. It would be a good solution to draw up a positive list and a negative list. The Japanese amendment would simplify the position with regard to honorary consular officials or employees and personnel on the same footing, and the procedure outlined would be of help to the Conference in its work.

21. The CHAIRMAN pointed out that the Committee had decided to study the Japanese proposal together with article 56. The proposal advocated a method different from that adopted by the International Law Commission. If the Committee decided to discuss the principle on which the Japanese proposal was based, it would be discussing the amendment itself. If it approved the principle, it could be considered as having approved the amendment, at least in part.

22. Mr. LEVI (Yugoslavia) pointed out that if the Committee rejected the Japanese proposal, then it would no longer lie before the Committee, and the Japanese delegation would be able to propose an amendment to each of the articles from 56 to 67.

23. The CHAIRMAN thought that if the Committee did not accept the proposed procedure it would not thereby be making a decision on the substance of the text itself.

24. Mr. VRANKEN (Belgium) said that the Committee would have to decide whether it would prefer to retain chapter III or adopt a single article. If the principle of the proposal were accepted, the substance would have to be examined; if it were rejected, the Committee would then have to study each article, from article 56 to article 67. If the method proposed was not accepted, the Japanese delegation could then submit an amendment to each article.

25. Mr. VAZ PINTO (Portugal) said that the Japanese proposal raised a question of method and of substance. He asked if the Japanese delegation would be willing to withdraw its amendment and submit amendments to each of the articles, 56 to 67.

26. Mr. BLANKINSHIP (United States of America) moved the adjournment of the meeting.

It was so agreed.

The meeting rose at 12.30 p.m.

THIRTY-SEVENTH MEETING

Friday, 29 March 1963, at 3.5 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)

Proposal to replace articles 56 to 67 by a single article (continued)

1. The CHAIRMAN recalled that the Committee had before it a proposal by the delegation of Japan (A/CONF.25/C.2/L.89/Rev.1) to replace articles 56 to 67 of the International Law Commission's draft by a single new article. He proposed to ask the Committee to decide, by an immediate vote, whether it wished to discuss first the approach adopted in the Japanese proposal, i.e., the replacement of articles 56 to 67 by a single article, or to proceed at once to discuss the substance of that proposal. If the Committee decided to begin by discussing the approach, and not the substance, it would vote, after the discussion, on whether it preferred the approach proposed by the Japanese delegation or that adopted by the International Law Commission. If the vote went in favour of the Japanese presentation, the Japanese proposal would become the basic text before the Committee, and amendments to it could be submitted before the substance of the proposal was discussed. If the vote went against the Japanese presentation the Committee would revert to the International Law Commission's draft as the basic text, and would proceed to discuss, and subsequently to vote on, article 56, followed by the remaining articles and the amendments thereto. In that case, however, the Chair would permit the Japanese delegation to submit amendments to any of those articles, since the substance of its proposal would not have been rejected, but merely the principle of substituting a single article for a whole series of articles.

2. Mr. RUSSELL (United Kingdom) moved that the meeting should be suspended to enable delegations to study the revised Japanese proposal.

The motion was rejected by 25 votes to 17, with 17 abstentions.

3. Mr. HEUMAN (France) moved the closure of the debate on the Chairman's proposal for an immediate vote.

The motion for the closure of the debate was carried by 45 votes to 2, with 7 abstentions.

4. The CHAIRMAN invited the Committee to decide whether it wished to begin by discussing the approach or the substance of the Japanese proposal.

The Committee decided, by 45 votes to 1, with 10 abstentions, to begin by discussing the presentation in a single article adopted in the Japanese proposal.

5. Mr. AMLIE (Norway) said that there was no doubt that honorary consular officials could not be treated in the same way as career consular officials. The Interna-

tional Law Commission had therefore chosen a special way of dealing with the matter. In article 57, it had enumerated the articles in chapter II which could without difficulty be directly applied to honorary consular officials. It had, however, wished to go further, and because the special character of certain other articles made their direct application to honorary consular officials impossible, it had included in chapter III a number of special articles making the provisions of articles in chapter II applicable to a modified extent. It had, for example, been impossible to make direct reference to article 30, but since the International Law Commission had wished to provide that the premises of a consulate headed by an honorary consul should be inviolable, it had drafted article 58, which was a modified version of article 30. In the same way, article 46 was much too specific for application to honorary consular officials, and hence the Commission had drafted a modified version which appeared as article 62.

6. The Japanese proposal was based on an admirably thorough study of the draft articles. It was, however, not only a new technical approach: it also differed greatly in substance from the Commission's draft, and it was actually that difference in substance which made the new Japanese approach possible, because a formula such as that proposed by Japan could be used only if the privileges and immunities accorded to honorary consular officials and to consulates headed by such officials were limited to the privileges and immunities contained in those of the preceding articles which could be applied directly to such officials and consulates. If privileges and immunities were to be accorded to a greater degree than proposed by Japan, a system of cross-references was not enough: it had to be supplemented by new, modified articles. Specific provisions should be written into the draft when it was necessary to do so, as the International Law Commission had done.

7. Some representatives had criticized the system adopted by the International Law Commission. It was true that it entailed reference to a number of preceding articles; but the Japanese proposal would not be any improvement in that respect, since it merely listed a number of articles which were not to be applicable, and would therefore, just like the Commission's draft, necessitate constant reference to a certain key article.

8. Mr. JESTAEDT (Federal Republic of Germany) said that the Japanese proposal had enabled the Committee to gain a clearer idea of possible ways of dealing with the subject of honorary consular officials — a subject of the utmost importance, particularly for the smaller countries. After very careful comparison of the two different presentations, his delegation favoured the International Law Commission's draft. To have only one article to cover all cases would raise insuperable practical difficulties. For example, paragraph 1 of the Japanese proposal listed three unrelated categories of persons, comprising not only honorary consular officials and members of the consulate engaged in any private occupation for gain in the receiving State, but also members of the consulate who were "not in the full-time regular employment of the sending State". The privileges and immunities of honorary consuls should be

dealt with in a special chapter of the convention, which would make it easier for honorary consuls all over the world to ascertain the exact extent of their privileges and immunities. The Japanese proposal did, however, represent a valuable contribution towards clarifying the status of honorary consuls and he would suggest that on all the points of substance raised in it the Japanese delegation should submit amendments to the relevant articles.

9. Mr. DAS GUPTA (India) endorsed the views expressed by the representative of Norway. While he appreciated the valuable contribution made by the Japanese delegation to the Committee's discussions, the approach adopted in the proposal was complex and confusing. It made no distinction between career consuls engaged in a private occupation for gain in the receiving State and honorary consuls who might be nationals of the receiving State.

10. Mr. VAZ PINTO (Portugal) endorsed the views expressed by the representatives of Norway and the Federal Republic of Germany. He thought that to choose the Japanese proposal as the basis for discussion would involve the Committee in grave procedural difficulties.

11. Mr. SPYRIDAKIS (Greece) supported the previous speakers. While recognizing the value and importance of the Japanese proposal, the delegation of Greece, a country with many honorary consuls all over the world, was anxious that the privileges and immunities provided for in articles 57 to 67 should be given detailed consideration. It nevertheless supported the suggestion made by the representative of the Federal Republic of Germany, and strongly urged the Japanese delegation to present the valuable ideas contained in its proposal as amendments to the relevant draft articles.

12. Mr. NASCIMENTO e SILVA (Brazil) said that his delegation had found the system of cross-references adopted in the International Law Commission's draft somewhat unsatisfactory; but, although the Japanese delegation had performed a valuable task in working out its proposal, it would be preferable to keep to the draft as the basis of discussion, examining it article by article and making the necessary deletions and amendments.

13. Mr. DRAKE (South Africa) said that he was in favour of fairly detailed provisions on the position of honorary consular officials. Like many other smaller countries, South Africa both appointed and received honorary consular officials and, in his delegation's view, it would be useful for the draft articles to contain specific and separate rules to govern the situation. That did not mean that his delegation was in entire agreement with the text of the relevant articles as they stood: it had certain reservations with regard to some of them. Nevertheless, it considered that a separate regime for honorary consular officials would serve a most useful purpose.

14. The institution of honorary consuls was not a new one: it had been known in customary international law for a very long time and had been recognized by

many, if not most, countries in the past. In those circumstances it would be inopportune and unwise to dismiss it rather lightly in the convention with only one meagre and somewhat involved article — an article which must necessarily be complicated and would not be readily intelligible to the lay reader of the convention. The articles which it was proposed to replace by the Japanese proposal dealt with a number of highly important matters which should receive thorough consideration by the Committee; that consideration would be facilitated if the articles could be dealt with individually and in orderly progression, instead of in one comprehensive whole. The International Law Commission, after several years' study, had come to the conclusion that a separate chapter on honorary consuls should be included in the convention. His delegation respected that conclusion and would therefore, with regret, feel obliged to vote against the approach adopted in the Japanese proposal.

15. Mr. LEVI (Yugoslavia) endorsed the views expressed by previous speakers and agreed that, while the Japanese proposal had many good points, the International Law Commission's draft should be retained as the basis for discussion.

16. Mr. SILVEIRA-BARRIOS (Venezuela) said that his delegation, while recognizing the valuable work of the Japanese delegation, would prefer to examine all the articles drafted by the International Law Commission, since it was necessary to determine specifically in each case the question of the privileges and immunities to be enjoyed by honorary consular officials in the exercise of their consular functions.

17. Mr. REBSAMEN (Switzerland) said that his delegation could not vote in favour of the Japanese proposal, since from the practical point of view it would be preferable to take the International Law Commission's draft as the basis for discussion. He endorsed the arguments put forward by previous speakers and stressed the importance of honorary consuls for many countries including Switzerland. It was advisable to adopt clear and specific provisions regulating the situation, so that not only governments, but honorary consuls themselves, would be quite clear as to their status. He proposed that Mr. Žourek should be invited to explain to the Committee why the International Law Commission had adopted its draft articles on honorary consular officials.

18. Mr. ŽOUREK (Expert), speaking at the invitation of the Chairman, explained that his first draft had not contained a separate chapter concerning facilities, privileges and immunities for honorary consular officials. During the preliminary discussion, some members of the International Law Commission had tended to favour detailed provisions concerning honorary consuls, and in the light of the comments by governments, the Commission had recognized the need to include a separate chapter establishing the privileges and immunities of honorary consular officials as precisely as possible. It had also been necessary to take into account the fact that, although many States followed the practice of appointing and accepting consular officials, some did not.

It had therefore been decided that the regime of privileges and immunities applicable to honorary consular officials should be dealt with in a separate chapter, the last article of which (article 67) established the optional character of the institution of honorary consular officials.

19. The first draft had contained no article corresponding to article 56. After considering the comments by governments, however, the Commission had recognized that some States permitted their career consular officials to carry on a private gainful occupation, and in view of that practice it had adopted article 56.

20. Article 57 enumerated those articles which, in the opinion of a majority of the members of the Commission, could apply in full to honorary consuls. The Commission had been of the opinion that the articles of chapter II, which were not enumerated in article 57, paragraph 1, could not apply in full, but since it had acknowledged that some of the rights accorded to career consuls in those articles should also be granted to honorary consuls, it had defined — for example, in articles 62, 63 and 64 — the privileges and immunities which should be granted to honorary consuls. It would be seen that the extent of the privileges and the categories of the person benefiting from them were more restricted than in the case of career consuls.

21. An attempt had been made to include a definition of honorary consuls in the 1960 draft. However, in view of the practice of States and the considerable differences in national laws with regard to the definition, the Commission had decided at its twelfth session to leave States free to define honorary consuls in accordance with their own criteria.

22. Mr. REBSAMEN (Switzerland) expressed his complete satisfaction with the explanation given.

23. Mr. CAMPORA (Argentina) doubted, in view of rule 29 of the rules of procedure, whether the Second Committee was, in fact, competent to decide that chapter III of the International Law Commission's draft, which was the basic proposal, should be replaced by the Japanese proposal. In his opinion, only a plenary meeting of the Conference could take such a decision. While congratulating the delegation of Japan on the valuable work it had done, his delegation would prefer the International Law Commission's draft to be retained as the basis for discussion.

24. Mrs. VILLGRATTNER (Austria) stressed the fact that separate provisions on honorary consuls were necessary, in order to make it clear that the institution of honorary consuls, which was of great importance for many countries, merited special consideration. The regime applicable to honorary consular officials should be clearly defined. Moreover, in view of article 1, paragraph 2, the Japanese proposal seemed to raise certain fundamental structural difficulties, and her delegation would be unable to support it.

25. Mr. SPYRIDAKIS (Greece) moved the closure of the debate, since the general feeling of the meeting on the subject under discussion seemed to be clear.

26. Mr. DAS GUPTA (India) and Mr. REBSAMEN (Switzerland) opposed the motion.

The motion for the closure of the debate was rejected by 37 votes to 6, with 22 abstentions.

27. Mr. TILAKARATNA (Ceylon) urged the Committee to proceed without delay to consider the vital articles concerning honorary consuls, during the discussion of which the substance of the Japanese proposal could be given full consideration.

28. Mr. SCHRØDER (Denmark) fully agreed with the views expressed by the representative of Norway.

29. Mr. EVANS (United Kingdom) said that his delegation had carefully studied the Japanese proposal and the articles it would replace, and had reached the conclusion that the proposal had great merits and deserved the most serious consideration by the Committee. Not only would it replace twelve articles in a long and complicated convention by one single article, but in certain respects it was more comprehensive than the twelve articles and seemed to remedy certain obscurities and defects in them. He found it difficult to explain his reasons adequately, because of the Committee's procedural decision to discuss the approach adopted in the Japanese proposal and not the substance; he did not think that the true merits of the proposal, which were very considerable, could be properly understood without going into the substance and comparing it carefully with the International Law Commission's draft articles. He would, however, endeavour to comply with the Committee's decision and refrain from speaking in detail on the substance of the proposal.

30. The International Law Commission, in defining the scale of privileges and immunities for the persons covered by the convention, had distinguished between three main categories: first, career consuls and consular employees receiving the full scale of privileges and immunities provided for in chapter II of the convention; secondly, honorary consuls, among whom the Commission had included, through article 56, career consuls carrying on a private gainful occupation; and thirdly, nationals of the receiving State. The United Kingdom delegation was broadly in agreement with the Commission's view that the convention should establish those three scales of privileges and immunities; the Japanese proposal was concerned with the second scale and the second or middle category, comprising honorary consuls and persons assimilated to them. There was no reason at all why the persons in the second category should not be defined in a single article instead of in two articles (56 and 57). After defining the category to whom the middle scale applied, the next step was to define the privileges and immunities in that scale; and in order to do so, the International Law Commission had found it necessary to draft no less than eleven articles. The Japanese amendment, however, had demonstrated convincingly that it was possible and convenient to define the scope of the middle scale of privileges and immunities in a single article.

31. The main difference in presentation between the

Japanese proposal and the Commission's draft was that the Commission listed the articles in chapter II which would apply and the Japanese amendment listed the articles which would not. The representative of Norway had been concerned that a single article might detract from the scale of privileges and immunities accorded to honorary consuls. That did not seem a logical view, since after careful comparison he could find very little difference in substance between the privileges and immunities accorded to consular officers by the Japanese proposal and those accorded by the Commission's draft. The only differences in substance appeared to be first, in regard to articles 41, 46 and 46 A, which dealt with questions of minor importance.

32. Mr. LEVI (Yugoslavia), speaking on a point of order, said that, despite the decision adopted, the United Kingdom representative was speaking on the substance of the Japanese proposal.

33. The CHAIRMAN appealed to the United Kingdom representative to keep to the procedure decided on.

34. Mr. EVANS (United Kingdom) said he was sorry if he had infringed the procedural decision adopted earlier in the meeting; but, unless representatives could state why they considered the Japanese proposal meritorious, it could not be given fair consideration.

35. One respect in which the Japanese proposal had a very great advantage over the Commission's draft was that it included specific provisions concerning members of families and private staff of honorary consuls — an important matter on which the Commission's draft said practically nothing. The United Kingdom delegation accordingly welcomed paragraph 4 of the Japanese proposal which filled a serious gap in the draft articles.

36. Lastly, the Japanese proposal dealt with the entitlement of consulates presided over by an honorary head of post or other person in that category to facilities, privileges and immunities.

37. Mr. DAS GUPTA (India), on a point of order, said that he had every sympathy with the United Kingdom representative's difficulties, but the Committee must keep to the procedure it had adopted. He moved the closure of the debate.

38. Mr. SHARP (New Zealand) supported by Mr. BLANKINSHIP (United States of America) said it was unfortunate that the earlier motion for closure had been proposed when nearly all the speakers had been against the Japanese presentation. Now that one speaker was in favour, it would be only fair to grant him some latitude. He opposed the motion for closure.

The motion for closure was rejected by 30 votes to 9, with 26 abstentions.

39. Mr. EVANS (United Kingdom) thanked the Committee for its indulgence. Continuing his statement, he said that another point covered by the Japanese proposal was the facilities, privileges and immunities accorded to

a consulate headed by an honorary consul or person assimilated to an honorary consul. There again the United Kingdom delegation had concluded, after very careful consideration, that the matter could be satisfactorily dealt with in a single article without prejudice to the position of honorary consuls.

40. To sum up, there were four distinct problems dealt with in the Japanese proposal: the categories of officials entitled to the middle scale of privileges and immunities, the status of members of families and private staff of such officials; the privileges and immunities to which such persons should be entitled; and the privileges and immunities of consulates headed by the consular officers in question. There was great merit in a proposal which dealt with those four interrelated problems in one article. The Japanese proposal was both more concise — which was in itself a great merit — and more comprehensive than the Commission's draft articles. He therefore supported it in principle.

41. Mr. AMLIE (Norway), exercising his right of reply, said he did not agree with the United Kingdom representative that the differences between the Japanese proposal and the draft articles were insignificant. The Japanese proposal omitted any mention of the inviolability of consular premises, exemption from taxation of consular premises, attendance at court, registration of aliens, work permits, or permission for subordinates to import articles free of duty on first installation. The differences were so great that they would make the application of the Japanese proposal impossible.

42. Mr. KANEMATSU (Japan) said that the General Committee had placed the Second Committee in a dilemma by deciding that it should vote on his proposal when it came to deal with article 56. It would be impossible to vote without discussing the substance, which would require a considerable time, since his proposal affected twelve articles. In order to help the Committee he had agreed to a compromise by which the presentation and the substance of his proposal would be dealt with separately, but the United Kingdom representative had clearly demonstrated that the two things were inseparable. In his opinion, the Committee was faced with an impossible task.

43. The CHAIRMAN explained that the General Committee had considered the problem only from the practical point of view, in an effort to speed up work. It had not discussed the merits of the Japanese proposal, but had merely decided that in view of the Japanese proposal, it would not transfer articles 56, 65, 66 and 67 to the First Committee. That decision had been taken out of consideration for the delegation of Japan and the matter had been left in the hands of the Second Committee.

44. The vote to be taken next was consequent on two decisions by the Committee: the initial decision to deal with the Japanese proposal before any of the other amendments to article 56; and the decision to vote first on the presentation. He had no alternative but to follow

the procedure decided on by the Committee, and to invite it to vote on the approach proposed by the Japanese delegation whereby articles 56 to 67 would be replaced by a single new article.

At the request of the representative of the United Arab Republic, a vote was taken by roll-call.

Brazil, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: Canada, China, Federation of Malaya, Israel, Japan, Republic of Korea, Libya, Mexico, New Zealand, Turkey, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Colombia, Congo (Leopoldville), Czechoslovakia, Denmark, Finland, Federal Republic of Germany, Ghana, Greece, Hungary, India, Indonesia, Ireland, Italy, Lebanon, Liberia, Liechtenstein, Luxembourg, Mongolia, Netherlands, Nigeria, Norway, Philippines, Poland, Portugal, Romania, San Marino, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Algeria, Argentina, Austria, Belgium.

Abstaining: Cambodia, Cuba, France, Guinea, Honduras, Iran, Pakistan, Saudi Arabia, Tunisia, Republic of Viet-Nam, Australia.

The approach adopted in the Japanese proposal (A/CONF.25/C.2/L.89/Rev.1) was rejected by 45 votes to 13, with 11 abstentions.

Article 56 (Special provisions applicable to career consular officials who carry on a private gainful occupation)

45. The CHAIRMAN invited the Committee to consider article 56 and the amendments submitted to it.¹ As he had explained at the beginning of the meeting, the representative of Japan could submit an oral amendment if he wished.

46. Mr. DRAKE (South Africa) introduced his delegation's amendment (L.188), which provided that members of the families of career consular officials should not enjoy greater facilities, privileges and immunities than the consular officials themselves. Without such a provision article 56 would permit the anomalous situation that families could be in a better position than the consular officials from whom they derived their privileges. He was sure that had not been the intention of the International Law Commission.

47. Mr. HEUMAN (France), introducing the French amendment (L.211), pointed out that the draft article

¹ The following amendments had been submitted: Austria, A/CONF.25/C.2/L.51; Byelorussian Soviet Socialist Republic, A/CONF.25/C.2/L.106; India, A/CONF.25/C.2/L.179; South Africa, A/CONF.25/C.2/L.188; France, A/CONF.25/C.2/L.211.

referred only to career consular officials; since other members of a consulate might also carry on a private gainful occupation, his delegation was proposing a text which would include them.

48. Members of families should also come within the provisions of the article, however. The problem of how to deal with them was a difficult one and he congratulated the representative of Japan on paragraph 4 of his proposal, which made it clear that there were really two cases to be considered: the family of a career consular official who was carrying on a private gainful occupation, and a wife or children carrying on a private gainful occupation while the husband or father had no occupation but his career consular functions and therefore retained his privileges. Paragraph 4 (b) of the Japanese amendment was extremely important and should be embodied in article 56.

49. The French amendment filled only one of the gaps. The South African amendment did not entirely solve the other problem, because it did not cover the case of a wife or member of the family carrying on a private gainful occupation, while the member of the consulate himself did not. Unless the Japanese representative intended to propose his own paragraph 4 as an amendment to article 56, he would be willing to accept it as an addition to the French amendment.

50. Mr. KANEMATSU (Japan) said that he would be willing either to propose the addition of paragraph 4 of his proposal to article 56, or to let it be added to the French amendment.

51. Mr. DAS GUPTA (India), introducing his delegation's amendment (L.179), said that although similar in purpose to many of the other amendments, it differed from them in one respect. Article 56 was not, strictly speaking, concerned with either career consuls or honorary consuls; it was concerned with the intermediate category of career consuls whom the sending State allowed to carry on a private gainful occupation. There were three points to be considered: first, the status, privileges and immunities of the official; second, the status, privileges and immunities of members of his family; and third, the right of the sending State to allow career consular officials to carry on a private professional occupation in the receiving State. The third point was the most important, because the receiving State normally had the right to refuse permission for such an occupation. Many States, including India, did refuse permission; but the nationals of some countries were unwilling to accept consular office unless they were allowed to carry on a private occupation in the receiving State. The first part of his amendment therefore made permission for career consuls to engage in a private gainful occupation subject to the consent of the receiving State. The question would not arise for honorary consuls, who were usually nationals of the receiving State. The second part of his amendment was on the same lines as those of France and South Africa. He supported the Byelorussian amendment (L.106), which made a significant improvement to the draft, and agreed with the French representative's comments on the Japanese amendment.

52. Mr. AVAKOV (Byelorussian Soviet Socialist Republic) said that his amendment (L.106) had been submitted because the International Law Commission stated in paragraph 3 of its commentary that the expression "private gainful occupation" meant commercial, professional or other activities carried on for pecuniary gain, but did not include occasional activities such as giving university courses or editing publications. As the commentary would not appear in the Convention, the position should be made clear in the text of the article. The wording of his amendment was similar to that of article 42 of the Convention on Diplomatic Relations.

53. Mr. MARESCA (Italy) pointed out that as drafted, the reference in the French amendment to members of the consulate "other than the service staff" might be liable to misinterpretation. He supported the Austrian amendment, because it should be made clear that consular officials could not normally carry on a private gainful occupation.

54. Mr. SILVEIRA-BARRIOS (Venezuela) drew attention to certain shortcomings in article 56. In practice, it would be difficult for the receiving State to find out whether a consular official was engaging in a private gainful occupation; inquiries might interfere with normal consular relations. The term "private gainful occupation" without further definition was too vague. The Austrian amendment came closest to his own view, but he requested that the part referring to members of families should be voted on separately.

55. Mr. JESTAEDT (Federal Republic of Germany) saw some incongruity in the wording used in the article; a career consular official carrying on a private gainful occupation had never been met with in his country, though there might be a few cases among consular employees whose salaries were low. Perhaps Mr. Žourek or some member of the Committee could comment on the statement in paragraph 1 of the International Law Commission's commentary, for it seemed to him unlikely that a government would allow its career consular officials to carry on a private gainful occupation. He would support the Austrian amendment.

56. The CHAIRMAN observed that even if the situation did not exist at present, it could arise in the future.

57. Miss LAGERS (Netherlands) said that her government did not permit its career consuls to carry on private gainful occupations, but she knew of two cases in the Netherlands.

58. Mr. BLANKINSHIP (United States of America) quoted from the United States Foreign Service Act which prohibited officials in the foreign service from transacting business for profit in their own name or through the agency of another person. He was unable to quote any cases of career consular officials in the United States carrying on private gainful occupations.

The meeting rose at 6.15 p.m.