

# **United Nations Conference on Consular Relations**

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**41<sup>st</sup> meeting of the Second Committee**

Extract from the  
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*(Summary records of plenary meetings and of meetings of*  
*the First and Second Committees)*

of Soviet Socialist Republics, Upper Volta, Uruguay, Yugoslavia, Argentina, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Chile, Colombia, Congo (Leopoldville), Costa Rica, Cuba, Czechoslovakia, Denmark, Finland, Federal Republic of Germany, Ghana, Hungary, Italy, Liberia.

*Abstaining:* Austria, Cambodia, Canada, China, Ecuador, El Salvador, Honduras, Ireland, Japan, Republic of Korea.

*The Indian proposal (A/CONF.25/C.2/L.200) to delete all reference to article 49 was rejected by 38 votes to 29, with 10 abstentions.*

47. The CHAIRMAN invited the Committee to vote on proposals to add references to other articles in article 57.

*The United States proposal (A/CONF.25/C.2/L.182) to add a reference to article 30, paragraphs 1 and 2, was rejected by 39 votes to 23, with 13 abstentions.*

*The United Kingdom proposal (A/CONF.25/C.2/L.213) to add a reference to article 31 was rejected by 34 votes to 29, with 13 abstentions.*

*The proposals by the United States (A/CONF.25/C.2/L.182) and Japan (A/CONF.25/C.2/L.217) to add a reference to article 40 was rejected by 40 votes to 23, with 12 abstentions.*

*The proposal by Canada (A/CONF.25/C.2/L.122/Rev.1) to add a reference to article 49, paragraph 2, was rejected by 43 votes to 17, with 15 abstentions.*

48. The CHAIRMAN pointed out that the adoption of the United Kingdom proposal to add a reference to article 54, paragraph 3, would imply the deletion of article 65 of the International Law Commission's draft.

*The United Kingdom proposal (A/CONF.25/C.2/L.213) to add a reference to article 54, paragraph 3, was adopted by 31 votes to 30, with 15 abstentions.*

*The proposals by the United Kingdom (A/CONF.25/C.2/L.213) and Japan (A/CONF.25/C.2/L.217) to add a reference to article 55 was adopted by 41 votes to 17, with 18 abstentions.*

49. Mr. DE CASTRO (Philippines) asked whether the decision to include a reference to article 55 implied the deletion of article 66 of the International Law Commission draft.

50. Mr. JESTAEDT (Federal Republic of Germany) pointed out that article 66 incorporated a principle which had not been voted on and which his delegation considered to be of great importance since it referred to the duty of honorary consuls "not to misuse their official position for the purpose of securing advantages in any private activities in which they may engage".

51. The CHAIRMAN suggested that when the Committee came to consider article 66 it should vote, not on the article as a whole, but on the inclusion of the principle to which the representative of the Federal Republic of Germany had referred, and which would, if approved, be taken into account by the drafting committee.

*It was so agreed.*

52. Mr. HEUMAN (France) said that a similar procedure might be appropriate in connexion with article 65 since article 54, paragraph 3, concerned freedom of communication to a very limited extent.

53. The CHAIRMAN suggested that it would be preferable to consider the matter when the Committee came to discuss article 65.

*It was so agreed.*

54. Mr. HEUMAN (France) assumed that the express rejection by the Committee of the Canadian proposal to include a reference to article 49, paragraph 2, implied that the reference in article 57, paragraph 1, would be to article "49, with the exception of paragraph 1 (b) and paragraph 2".

55. Mr. LEVI (Yugoslavia) objected that the Committee had rejected both parts of the Canadian proposal for the amendment of article 57, paragraph 1, and that the reference should therefore remain as in the International Law Commission text, which would mean that article 49 "with the exception of paragraph 1 (b)" would apply to honorary consular officials.

56. Mrs. VILLGRATTNER (Austria) pointed out that a new paragraph 3 had been added by the Committee to article 49. In her view, a separate vote should be taken on the inclusion of a reference to that paragraph in article 57.

*The Committee decided, by 55 votes to 7, with 12 abstentions, to exclude article 49, paragraph 3, from the list of articles applying to honorary consular officials.*

57. Mr. OCHIRBAL (Mongolia), supported by Mr. VRANKEN (Belgium), said that there seemed to have been some misunderstanding with regard to the vote on the Canadian proposal, since it had been opposed by delegations that wished the provisions of article 49, paragraph 2, to be extended to honorary consuls.

58. The CHAIRMAN said that the matter would be discussed at the next meeting.

The meeting rose at 1.40 p.m.

#### FORTY-FIRST MEETING

*Tuesday, 2 April 1963, at 3.40 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 57 (Regime applicable to honorary consular officials) (continued)*

1. The CHAIRMAN said that, as some misunderstanding had arisen at the preceding meeting as to the meaning to be attached to votes on the paragraphs or sub-paragraphs of article 49 to be mentioned in the enumeration in article 57, paragraph 1, the best course would be to take each paragraph and sub-paragraph of

article 49, as approved by the Committee, separately. In that way the Committee would be able to decide unambiguously what provisions should also apply to honorary consular officials, in other words, which provisions should be cited in article 57, paragraph 1. The Canadian delegation had announced that it wished to withdraw paragraph 1 but to maintain paragraph 2 of the new article proposed in its amendment (L.122/Rev.1).<sup>1</sup> Should that amendment be adopted, the drafting committee would have to decide where in the draft convention the new article should be inserted.

2. Mr. VRANKEN (Belgium) said that he hoped that the drafting committee would insert the Canadian proposal, if adopted, in the form of a new article.

3. Mr. HEUMAN (France) said that, because paragraph 2 of the new article proposed by the Canadian delegation purported to be an exhaustive enumeration of goods admitted free of duty, it was discriminatory; he would not vote for that provision.

*The inclusion of a reference to the introductory sentence of article 49, paragraph 1, in the enumeration of articles contained in article 57 was approved by 55 votes to 6, with 7 abstentions.*

*The inclusion of a reference to sub-paragraph (a) of paragraph 1 of article 49 in the enumeration of articles contained in article 57 was approved by 57 votes to 3, with 5 abstentions.*

*Paragraph 2 of the new article proposed by Canada (A/CONF.25/C.2/L.122/Rev.1) was adopted by 50 votes to 4, with 17 abstentions.*

*By 68 votes to none, with 1 abstention, it was decided not to include a reference to sub-paragraph (b) of paragraph 1 of article 49 in the enumeration of articles contained in article 57.*

*By 49 votes to 7, with 12 abstentions, it was decided not to include a reference to paragraph 2 of article 49 in the enumeration of articles contained in article 57.*

*By 57 votes to none, with 13 abstentions, it was decided not to include a reference to paragraph 3 of article 49 in the enumeration of articles contained in article 57.*

4. The CHAIRMAN invited the Committee to vote on the inclusion of a reference to article 49 in article 57; he explained that the vote would in effect relate to the inclusion of article 49, paragraph 1 (a), in the enumeration in article 57, as well as the text of paragraph 2 of the new article proposed by Canada.

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

*The Sudan, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Sweden, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Republic of Viet-Nam, Yugoslavia, Argentina, Australia, Austria, Brazil, Bulgaria, Byelorussian Soviet Socialist

Republic, Canada, Chile, China, Colombia, Congo (Leopoldville), Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Federation of Malaya, Finland, France, Federal Republic of Germany, Ghana, Greece, Guinea, Honduras, Hungary, Ireland, Israel, Italy, Japan, Republic of Korea, Liberia, Libya, Liechtenstein, Luxembourg, Mexico, Mongolia, Netherlands, New Zealand, Norway, Panama, Philippines, Portugal, Romania, San Marino, Saudi Arabia, South Africa, Spain.

*Against:* Ceylon, India.

*Abstaining:* Belgium, Indonesia, Mali, Nigeria, Pakistan, Sierra Leone.

*The inclusion of a reference to article 49, paragraph 1 (a), and the text of the additional paragraph proposed by Canada were approved by 62 votes to 2, with 6 abstentions.*

5. Mr. MOLITOR (Luxembourg) considered that the Committee should vote separately on the inclusion of a reference to article 43.

*The inclusion of a reference to article 43 in the enumeration in article 57 was approved by 60 votes to 2, with 4 abstentions.*

6. Mr. PAPAS (Greece) said that, in view of the new provisions adopted by the Committee, the last of article 41, paragraph 3, should be amended.

7. Mr. LEVI (Yugoslavia) thought that the matter might be left to the drafting committee.

8. The CHAIRMAN said that he would put to the vote the reference to articles enumerated in article 57 concerning the retention of which the Committee had not yet taken a decision.

9. Mr. HEUMAN (France) and Mr. PAPAS (Greece) asked for a separate vote on the inclusion of article 35.

*The inclusion of a reference to article 35 in article 57 was approved by 35 votes to 2, with 29 abstentions.*

*The inclusion of references to the other articles mentioned in the draft of article 57<sup>2</sup> was approved by 49 votes to 2, with 19 abstentions.*

10. The CHAIRMAN put to the vote the phrase the addition of which was proposed in part 1 of the Japanese amendment.

*Part 1 of the Japanese amendment (A/CONF.25/C.2/L.217) was rejected by 52 votes to 14, with 30 abstentions.*

*Part 2 of the United Kingdom amendment (A/CONF.25/C.2/L.213) was rejected by 26 votes to 16, with 26 abstentions.*

11. The CHAIRMAN invited the Committee to vote on part 2 of the Japanese amendment (L.217).

12. Mr. VRANKEN (Belgium) asked for a separate vote on the words "Privileges and immunities provided for in this convention shall not be accorded to members of the family of an honorary consular official"; his delegation could accept those words but not the rest of the paragraph concerning consular employees employed at a consulate headed by an honorary consul.

<sup>1</sup> For the list of amendments to article 57, see the summary record of the thirty-ninth meeting, footnote to para. 4.

<sup>2</sup> i.e., articles 28, 29, 33, 34, 36, 37, 38, 39, 41 (paragraph 3), 42, 44 (paragraph 3), 45 and 53.

13. Mr. KANEMATSU (Japan), in reply to the representative of Belgium, pointed out that his delegation's amendment contained a mistake and that in part 2 the words "nor to" should be replaced by the words "or of".

*Part 2 of the Japanese amendment (A/CONF.25/C.2/L.217) up to and including the words "of an honorary consular official," was adopted by 56 votes to 7, with 4 abstentions.*

14. The CHAIRMAN put to the vote the words "or of a consular employee employed at a consulate headed by an honorary consular official" in part 2 of the Japanese amendment.

*The words were adopted by 42 votes to 18, with 10 abstentions.*

*The new paragraph proposed in part 2 of the Japanese amendment (A/CONF.25/C.2/L.217) was adopted as a whole by 52 votes to 5, with 12 abstentions.*

15. The CHAIRMAN said that the drafting committee would bring the text just adopted into line with the Norwegian amendment (L. 212), if approved.

16. Mr. RUSSELL (United Kingdom) said that the second part of his delegation's amendment (L.213), which the Committee had rejected, was based on the same idea as paragraph 1 of the Norwegian amendment. That being so, it occurred to him to inquire whether it was correct to put the Norwegian amendment to the vote. He was raising the point as a matter of procedure only; he certainly did not wish to embarrass the Norwegian delegation.

17. The CHAIRMAN said that the rejection of the United Kingdom amendment did not affect the Norwegian amendment, which was still before the Committee. If the Norwegian amendment was adopted, the Committee would not have to vote on paragraph 2 of the original draft article.

18. Mr. BLANKINSHIP (United States of America) asked that it should be made quite clear that the vote on the Norwegian amendment would apply only to the structure of the text and not to the articles listed therein, for those articles would subsequently be added by the drafting committee.

19. The CHAIRMAN confirmed the interpretation of the United States representative.

20. He put to the vote the Norwegian amendment (A/CONF.25/C.2/L.212) concerning the formulation of article 57.

*It was decided by 56 votes to none, with 14 abstentions, that article 57 should be formulated in the manner proposed by Norway.*

21. The CHAIRMAN put to the vote article 57 as a whole, as amended, subject to drafting changes.

*Article 57 as a whole, as amended, was adopted by 58 votes to 1, with 11 abstentions.*

22. Mr. ALVARADO GARAICOA (Ecuador) explained that he had voted for the Canadian amend-

ment limiting the customs exemption to be granted to honorary consular officials, on the ground that, while the institution of honorary consuls might be defensible, their privileges should be limited.

23. Mrs. VILLGRATTNER (Austria) said that her delegation had voted for the new paragraph proposed by Canada. It had abstained from voting on the first part of the second of the Japanese amendments, because it thought it unnecessary to specify that members of the family of an honorary consular official did not enjoy privileges and immunities. It had, however, voted for the second part of the same provision because it thought it necessary to mention consular employees.

24. Mr. WOODBERRY (Australia) explained that his delegation had voted for the article as a whole, as amended, on the understanding that the drafting committee would insert in either that or in another article of the convention, in regard to paragraph 5 of article 35, an appropriate limitation concerning the nationality of consular couriers. His position was also subject to the amendment of article 69 by the addition of a reference to permanent residents, as proposed by various delegations, including his own.

25. Mr. NWOGU (Nigeria) said that he had abstained from voting because he failed to reconcile the adoption of the Canadian amendment with the approval of the inclusion of a reference to paragraph 1 (a) of article 49.

26. Mr. KHOSLA (India) said that he had voted against the Norwegian amendment because, since the adoption of articles 58 and 59 was by no means certain, that proposal prejudged the issue.

27. Mr. VRANKEN (Belgium) said that he had abstained from voting for the reasons he had given concerning the reference to consular employees.

28. Mr. REBSAMEN (Switzerland) said that he had voted against the new paragraph proposed by Japan which had been approved by the Committee. He had consequently been compelled to vote against article 57 as a whole. His delegation was surprised at the Committee's approval of the article, which was quite broad in scope and which was on the whole unfavourable to the institution of honorary consular officials. He reserved the right to revert in plenary session to the provision concerning consular employees, and requested that his comments should be recorded.

29. Mr. PAPAS (Greece) said that he had endorsed the French delegation's proposal that the reference to article 35 should be voted on separately. His delegation, which had earlier made reservations concerning article 35, could not agree that that provision should be applicable to honorary consular officials and wished its statement to be recorded.

30. Mr. DRAKE (South Africa) suggested that the drafting committee should include in article 57 the word "duty", which appeared in article 55, inasmuch as a reference to article 55 had been added.

31. Mr. MOLITOR (Luxembourg) said that he had abstained from voting on the Norwegian amendment,

because he was unable to estimate the effect that the new drafting of the articles might have on the interpretation of article 69, which had not yet been adopted.

32. Mr. TSHIMBALANGA (Congo, Leopoldville) said that he had voted for the article as a whole, which, despite certain omissions, was acceptable to his delegation.

33. Mr. HEUMAN (France) said that he had voted against paragraph 2 of the Canadian amendment for reasons both of substance and of form. The introductory phrase of article 49 made it unnecessary to insert the detailed provisions proposed by Canada, which in fact constituted an amendment to article 49 and not to article 57.

34. Mr. JESTAEDT (Federal Republic of Germany) associated himself with the comments of the Swiss representative.

35. Mr. MARESCA (Italy) said that article 55 had been added to the list in article 57 to which he had no objection in substance. However, the drafting committee should be warned against including references to very diverse provisions in one and the same article.<sup>3</sup>

#### *Article 58 (Inviolability of the consular premises)*

36. The CHAIRMAN said that the amendments to article 58 submitted by Greece, India and Pakistan were identical; he suggested that their sponsors might agree to regard them as a joint amendment. The delegation of the United States had withdrawn its amendment.<sup>4</sup>

37. Mr. PAPAS (Greece) said that article 58 did not answer any practical need, because honorary consular officials rarely occupied premises that were used exclusively for the performance of consular functions. Accordingly, his delegation proposed the deletion of the article.

38. Mr. ENDEMANN (South Africa) said that the article provided more extensive immunities than article 30 as approved by the Committee, and hence should be amended. He could not, however, agree to its deletion, as was suggested by some delegations. The inviolability of the premises of a consulate headed by an honorary consul should not be as categorical as that of the premises of a consulate headed by a career consul. The inviolability of the archives, as provided for in article 60, alone was really essential. Nevertheless, if article 58 were modelled, *mutatis mutandis*, on the provisions of paragraph 3 of article 30, protection of the premises would be better provided for, and accordingly his delegation had submitted an amendment (L.219) which it considered to be an acceptable compromise solution.

39. Mr. DAS GUPTA (India) said that the premises used by honorary consuls in the exercise of their functions

<sup>3</sup> For further explanations of vote on article 57, see the summary record of the forty-third meeting, paras. 1-3.

<sup>4</sup> The following amendments had been submitted: Netherlands, A/CONF.25/C.2/L.20; Austria, A/CONF.25/C.2/L.52; Greece, A/CONF.25/C.2/L.163; United States of America, A/CONF.25/C.2/L.183; India, A/CONF.25/C.2/L.201; Pakistan, A/CONF.25/C.2/L.215; South Africa, A/CONF.25/C.2/L.219.

were generally also used for private purposes. Since the essential point was to ensure the inviolability of the consular archives and documents, for which there was special provision in article 60, his delegation regarded article 58 as entirely superfluous.

40. Mrs. VILLGRATTNER (Austria) said that in connexion with article 30, her delegation had submitted an amendment (L.26) similar to that (L.52) which it was proposing for article 58. The earlier amendment had been approved after being merged in the relevant United Kingdom amendment. Her delegation still thought that the inviolability of the consular premises should be safeguarded, particularly in view of the amendment of article 30. In some places, certain consular functions were performed by the heads of diplomatic missions, and the purpose of the Austrian amendment to article 58 was precisely to take account of such cases.

41. Mr. HABIBUR RAHMAN (Pakistan) announced the withdrawal of his delegation's amendment (L.215) in favour of that of South Africa (L.219), and asked to be regarded as a co-sponsor of the latter.

42. Mr. RUSSELL (United Kingdom) agreed with the representatives of Greece and India that article 58 should be deleted; it went far beyond the requirements of international law and practice. It would be recalled that article 30, of which article 58 was the counterpart, had given rise to a long and difficult discussion; in the outcome it had been decided to introduce certain important modifications into article 30 with the result that it had become more restrictive than article 58; it was obviously anomalous that a provision regarding the premises of an honorary consulate should be less restrictive than a corresponding provision regarding the premises of a career consulate. It was important that honorary consuls should be given the facilities necessary for the performance of their functions but, from that point of view, while it was essential to ensure the inviolability of the consular archives, it was not essential and, indeed, would be undesirable to extend inviolability to the premises themselves. Quite apart from the question of principle it would be very difficult in practice to establish what part of the premises was used exclusively by honorary consuls for the performance of their consular functions, since they frequently used the same premises for their own personal and commercial activities. His delegation would therefore vote in favour of the Greek and Indian amendments. If those amendments were not adopted, it would vote for the joint amendment of South Africa and Pakistan.

43. Mr. WESTRUP (Sweden) said that he had reached the same conclusions as the United Kingdom representative. While realizing that article 58 was not acceptable to many delegations, he would regret the omission from the convention of any reference to the inviolability of the consular premises used by honorary consuls. He would therefore vote for the South African amendment, which was a satisfactory compromise.

44. Mr. BLANKINSHIP (United States of America) said that, while sharing the opinion of the United Kingdom and Swedish representatives, he considered, like

the latter, that it would be better to adopt the solution proposed by South Africa. In the title of the article, he would suggest that the word "inviolability" should be replaced by the word "protection" in deference to the views of some delegations.

45. The CHAIRMAN said that that suggestion would be referred to the drafting committee.

46. Mr. LEVI (Yugoslavia) said that, having read the commentary to article 58, he considered that the International Law Commission had had sound reasons for proposing the text under consideration. However, in view of the amendment to article 30, the text of article 58 went too far, even if modified as proposed by the Austrian delegation. He therefore shared the view of the United Kingdom and United States representatives and thought that the South African amendment should be adopted, without any reference to inviolability.

47. Mr. BREWER (Liberia) endorsed the South African amendment for the reasons stated by the United Kingdom and Swedish representatives, subject to the amendment to the title suggested by the representative of the United States of America.

48. Mr. ENDEMANN (South Africa) welcomed the representative of Pakistan as a co-sponsor of his amendment. In reply to the Indian representative's remarks he said that admittedly it was often impossible in any particular case to distinguish between consular premises and those used for private purposes; in such cases, the provisions of the article would be deemed not to apply.

*The amendment by Greece (A/CONF.25/C.2/L.163) and India (A/CONF.25/C.2/L.201) were rejected by 30 votes to 18, with 15 abstentions.*

*The joint amendment by South Africa and Pakistan (A/CONF.25/C.2/L.219) was adopted by 44 votes to none, with 19 abstentions.*

#### Article 59

(Exemption from taxation of consular premises)

49. The CHAIRMAN invited the Committee to consider article 59 and amendments thereto.<sup>5</sup>

50. Mr. BLANKINSHIP (United States of America) pointed out that his delegation's amendment (L.184), which was consequential on the changes made in article 31, was practically identical with the South African amendment (L.220). The Committee might wish to discuss the two amendments together.

51. Mr. ENDEMANN (South Africa) agreed, and suggested that it be left to the drafting committee to choose between the two amendments. However, if for voting purposes the Committee should wish to deal with only one document, he was ready to withdraw his delegation's amendment and to become a sponsor of the United States proposal. The object of his amendment was merely to bring the language of article 59 into

line with that of article 31, and to extend the provisions of that article to cover the premises of a consulate headed by an honorary consular official.

52. Mr. WOODBERRY (Australia) said that his delegation's amendment (L.155) made only drafting changes, and hence could be referred to the drafting committee.

*It was so agreed.*

53. Mr. DAS GUPTA (India) said that he would have no objection to article 59 provided that it was made clear that it applied exclusively to premises used for the exercise of consular functions. But in most cases it was very difficult to determine whether the premises of an honorary consul were used exclusively for consular purposes. For that reason the Indian delegation had submitted an amendment (L.202) for the elimination of article 59. Since, however, the joint United States and South Africa amendment (L.184) provided the necessary clarification, he would withdraw his own delegation's amendment.

54. Mr. HABIBUR RAHMAN (Pakistan) agreed that it was hard to determine to what extent premises occupied by an honorary consul were used for consular functions or for private purposes. Hence, the application of the provisions on exemption from taxation was liable to be very difficult. Nevertheless, he would withdraw his delegation's amendment (L.216) since the phrase "used exclusively for consular purposes" in the United States and South African amendment would suffice.

55. Mr. MARESCA (Italy) asked that the phrase "or any person acting on behalf of the sending State", which appeared in the amendment of the United States and South Africa, should be put to the vote separately. Whereas such a clause was inoffensive in the case of career consuls, it was very dangerous where honorary consuls were concerned.

58. Mrs. VILLGRATTNER (Austria) said that she from the phrase "used exclusively for consular purposes" the new wording of article 59, paragraph 1, as proposed by the United States was to all intents and purposes the same as that of article 31. Unless the Committee wished to adopt an article discriminating against honorary consuls, it would be preferable merely to refer to article 31 in article 57.

57. The CHAIRMAN said he shared that view, but since the Committee seemed to desire a separate article he would have to put article 59 and the amendments thereto to the vote.

58. Mrs. VILLGRATTNER (Austria) said that she fully agreed with the Italian representative's comments and supported his request for a separate vote. Whether the article tended to be discriminatory or not would depend on the result of that vote.

59. The CHAIRMAN put to the vote the phrase "or any person acting on behalf of the sending State" in the joint amendment by the United States and South Africa (A/CONF.25/C.2/L.184).

<sup>5</sup> The following amendments had been submitted: Australia, A/CONF.25/C.2/L.155; United States of America, A/CONF.25/C.2/L.184; India, A/CONF.25/C.2/L.202; Pakistan, A/CONF.25/C.2/L.216; South Africa, A/CONF.25/C.2/L.220.

*The phrase was rejected by 25 votes to 19, with 18 abstentions.*

*The joint amendment by the United States and South Africa (A/CONF.25/C.2/L.184), as so amended, was adopted by 50 votes to 1, with 16 abstentions.*

*Article 59, paragraph 2, was adopted by 61 votes to none, with 4 abstentions.*

*Article 59 as a whole, as amended, was adopted by 58 votes to 1, with 6 abstentions.*

60. Mr. VRANKEN (Belgium) said that he had voted against paragraph 1 as proposed by the United States because under that paragraph the premises of honorary consuls would receive greater protection than those of career consuls.

61. Mrs. VILLGRATTNER (Austria) asked that the drafting committee be instructed to bring the wording of paragraph 2 into line with that of the new paragraph 1.

The meeting rose at 6.5 p.m.

#### FORTY-SECOND MEETING

*Wednesday, 3 April 1963, at 10.10 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 60*

(Inviolability of consular archives and documents)

1. The CHAIRMAN invited the Committee to consider article 60, to which amendments had been submitted by the Netherlands (A/CONF.25/C.2/L.20), Austria (A/CONF.25/C.2/L.53) and South Africa (A/CONF.25/C.2/L.221).

2. Mr. DRAKE (South Africa) introduced his amendment in which he said it was proposed to amplify the wording in the International Law Commission's draft of article 60 to include papers and documents other than those mentioned in the text, which was too specific. The honorary consular official was almost invariably a citizen, or at least a permanent resident of the receiving State, and would in either case usually be occupied in carrying on his own private business; his duties as an honorary consul would normally be of a part-time character only. It might reasonably be assumed, therefore, that he would have on his business premises — which would probably also house the consulate as well — material of a non-official character, as was recognized in the article. The text did not go far enough, however, for it did not stipulate that the consular archives and documents must be kept separate from all non-official material or property which might happen to be on the premises. The draft article did not mention the possibility that the property of third parties, employed neither in the consulate nor in the business in which the honorary consul might be associated, might from time to time

come to be on the premises as a normal consequence of the honorary consul's business activities.

3. Even if article 69 were to be amended subsequently to include permanent residents as well as nationals of the receiving State, it did not cover the inviolability of consular archives and documents, which was an immunity attached not to the individual but to the archives themselves. It would therefore in no way affect the operation of article 60, which had a wide application extending to all honorary consulates, whether the honorary consul concerned was a national or a permanent resident of the receiving State, or a national of the sending State or of a third State. It was therefore all the more necessary to consider the article with care.

4. Mr. RUSSELL (United Kingdom) supported the South African amendment.

5. Miss LAGERS (Netherlands) explained that the amendment submitted by her delegation (L.20) concerned drafting only, since it proposed the replacement of the word "consul" by "consular official".

6. The CHAIRMAN said that the drafting committee would take the proposed change into consideration, and that it would therefore be unnecessary to put the Netherlands amendment to the vote.

7. Mrs. VILLGRATTNER (Austria) withdrew her delegation's amendment (L.53), since a similar amendment had not been upheld in connexion with an earlier article.

*The South African amendment (A/CONF.25/C.2/L.221) was adopted by 48 votes to none, with 4 abstentions.*

*Article 60, as amended, was adopted unanimously.*

##### *Article 61 (Special protection)*

8. The CHAIRMAN announced that the United States proposal (L.11) to delete article 61 had been withdrawn since it had been introduced as dependent on the adoption of the United States proposal (L.182) to add a reference to article 40 in article 57, which had, however, been rejected by the Committee at its fortieth meeting. The Committee therefore had before it amendments to article 61 submitted by Canada (A/CONF.25/C.2/L.121), South Africa (A/CONF.25/C.2/L.190) and India (A/CONF.25/C.2/L.208).

9. Mr. LEE (Canada) said that the International Law Commission's draft of article 61 on the receiving State's duty to accord "special protection" to an honorary consular official suggested that an honorary consular official should enjoy a more privileged status than citizens of the receiving State. In the view of his delegation, the criterion should be the honorary consul's need for protection which, it was recognized, might in certain circumstances be greater than that of the ordinary citizen. His delegation had therefore submitted an amendment to provide that the honorary consul should be accorded such additional protection as he might require by reason of his official position. In order to expedite the Committee's work, however, his delegation had decided, after consultation with the South