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Report of the Second Committee

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Report of the Second Committee

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I. OFFICERS OF THE COMMITTEE

1. At its first meeting on 5 March 1963, the Committee elected Mr. Mario Gibson Alves Barboza (Brazil) as Chairman of the Committee. At its second meeting, on 6 March, the Committee elected as first Vice-Chairman, Mr. Hassan Kamel (United Arab Republic) and as Second Vice-Chairmen, Mr. A. J. Vranken (Belgium). At the same meeting, Mr. Borislav Konstantinov (Bulgaria) was elected Rapporteur.

II. TERMS OF REFERENCE OF THE COMMITTEE

2. At its second plenary meeting, on 5 March 1963, the Conference decided to refer to the Committee chapter II (Facilities, privileges and immunities of career consular officials and consular employees, articles 28-56), chapter III (Facilities, privileges and immunities of honorary consular officials, articles 57-67) and article 69 (Members of the consulate, members of their families and members of the private staff who are nationals of the receiving State) of the draft articles adopted by the International Law Commission (A/CONF.25/6) and referred to the Conference in accordance with resolution 1685 (XVI) adopted by the General Assembly on 18 December 1961.

3. At its third plenary meeting, on 28 March 1963, the Conference, on the basis of a recommendation of the General Committee (A/CONF.25/9) unanimously decided that articles 52, 53, 54 and 55 be re-allocated from the Second to the First Committee.

III. ORGANIZATION OF THE WORK OF THE COMMITTEE

4. The Committee held 44 meetings during the period from 5 March to 4 April 1963.

5. The Committee had before it the draft articles on consular relations adopted by the International Law Commission at its thirteenth session (A/CONF.25/6). In accordance with rule 29 of the rules of procedure of the Conference (A/CONF.25/7), these draft articles were taken as the basic proposal for discussion. Amendments to the draft articles and additional articles (A/CONF.25/C.2/L.1 to L.230) were submitted by delegations and considered as related below in this report.

6. The deliberations of the Committee are recorded in the summary records of its meetings (A/CONF.25/

C.2/SR.1 to 44). The texts of the articles adopted by the Second Committee are annexed hereto. The decisions taken by the Committee were referred to the Drafting Committee.

IV. CONSIDERATION AND VOTING UPON THE DRAFT ARTICLES AND THE AMENDMENTS AND PROPOSALS RELATING THERETO

FACILITIES, PRIVILEGES AND IMMUNITIES OF CAREER CONSULAR OFFICIALS AND CONSULAR EMPLOYEES

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

*Article 28**Use of the National Flag and of the State Coat-of-Arms*

7. Seven amendments were originally submitted to article 28, by Switzerland (A/CONF.25/C.2/L.22), Spain (L.23 and L.48), Brazil (L.28), Italy (L.35), Nigeria (L.36), and the United Kingdom (L.40). These amendments were withdrawn.

8. Nigeria orally introduced an amendment, replacing its earlier amendment (A/CONF.25/C.2/L.36), reading as follows: "The consulate shall have the right to fly the national flag and display the coat-of-arms of the sending State on the building occupied by the consulate and at the entrance door and, subject to the laws and customs of the receiving State, the flag of the sending State may be flown on the residence and means of transport of the head of the consular post."

9. A joint amendment was later submitted by Belgium, Brazil, Czechoslovakia, India, Italy, Liechtenstein, Switzerland, the United Kingdom and the Ukrainian Soviet Socialist Republic (A/CONF.25/C.2/L.60).

10. France orally introduced two sub-amendments to that joint amendment with a view (1) to deleting the words "residence and" in paragraph 2 of the joint amendment and (2) to introducing in paragraph 3 the word "regulations" between the word "law" and the words "and usage".

11. Greece also orally introduced a sub-amendment to paragraph 2 of the joint amendment, by proposing the addition, at the end, of the words "when used on official business".

12. Guinea introduced several oral sub-amendments as follows:

First sub-amendment. In paragraph 1 of the joint amendment substitute the word "consulate" for the words "sending State".

* Incorporating document A/CONF.25/L.16/Corr.1.

Second sub-amendment. In paragraph 1 of the joint amendment delete the words "in the receiving State".

Third sub-amendment. In paragraph 1 of the joint amendment delete the words "this article" and substitute the words "the following paragraphs".

Fourth sub-amendment. In paragraph 2 of the joint amendment, in the French text, delete the words "*peut être*" the second time they appear.

Fifth sub-amendment. In paragraph 2 of the joint amendment insert the word "respectively" after the words "entrance door".

Sixth sub-amendment. In paragraph 2 of the joint amendment delete the words "and on the residence and means of transport of the head of the consular post".

Seventh sub-amendment. In paragraph 3 of the joint amendment insert the word "thus" between the word "right" and the word "accorded".

Eighth sub-amendment. In paragraph 3 of the joint amendment delete the words "by this article" and substitute the words "as far as the residence and means of transport of the head of the consular post are concerned".

13. A revised version of paragraph 3 of the joint amendment was introduced, reading as follows: "In the exercise of the right accorded by this article regard shall be had to the laws, regulations and usage of the receiving State". Spain became a co-sponsor of the joint amendment as thus revised.

14. The Guinean sub-amendments were put separately to the vote. The result of the vote was as follows:

(a) *First sub-amendment*: 19 votes in favour, 32 against, with 21 abstentions,

(b) *Second sub-amendment*: 1 vote in favour, 30 against, with 31 abstentions,

(c) *Third sub-amendment*: 5 votes in favour, 23 against, with 38 abstentions,

(d) *Fourth sub-amendment*: 7 votes in favour, 11 against, with 48 abstentions,

(e) *Fifth sub-amendment*: 6 votes in favour, 13 against, with 50 abstentions,

(f) *Sixth sub-amendment*: 15 votes in favour, 30 against, with 25 abstentions,

(g) *Seventh sub-amendment*: 3 votes in favour, 15 against, with 49 abstentions,

(h) *Eighth sub-amendment*: 2 votes in favour, 18 against, with 46 abstentions.

15. The sub-amendments by Guinea were therefore not adopted by the Committee.

16. The first sub-amendment by France was rejected by the Committee by 39 votes to 11, with 18 abstentions.

17. The second sub-amendment by France was not voted upon.

18. The sub-amendment by Greece was adopted by the Committee by a vote of 22 votes to 19, with 25 abstentions.

19. At its fifth meeting, the Committee adopted the revised joint amendment as amended by the Greek sub-amendment by 53 votes to 10, with 9 abstentions.

Article 29

Accommodation

An amendment to article 29 was submitted by the United States (A/CONF.25/C.2/L.1).

20. The United States withdrew the second sentence of its amendment to paragraph 1 of article 29 and orally substituted the following text: "The receiving State is bound to facilitate as far as possible the procurement of suitable office premises for such consulates."

21. Finland submitted an oral sub-amendment to the amendment of the United States as revised, to paragraph 1 of article 29, which read: "The sending State shall have the right in the territory of the receiving State, in accordance with the municipal law in force in the latter State, to acquire by purchase or otherwise the premises necessary for its consulate. The receiving State shall facilitate such acquisition as far as possible."

22. Canada proposed to replace the words "as far as possible" by the words "where necessary" in the United States amendment to paragraph 2.

23. At its fourth meeting, the Committee voted as follows:

(a) By 36 votes to 12, with 16 abstentions, it rejected the sub-amendment by Finland.

(b) By 35 votes to 15, with 18 abstentions, it rejected the Canadian amendment to paragraph 2 of the United States amendment.

(c) By 35 votes to 21, with 11 abstentions, it rejected the United States amendment as orally revised.

24. The Committee adopted without change the text of article 29 by 68 votes to none, with 2 abstentions.

Article 30

Inviolability of the consular premises

25. Amendments to article 30 were originally submitted by the United States, the Netherlands, Spain, Austria, Nigeria, the United Kingdom, Mexico, Japan and Greece (A/CONF.25/C.2/L.2, L.13, L.24, L.26, L.27, L.29, L.43, L.46 and L.59 respectively).

Paragraph 1

A joint amendment was submitted by Greece, Japan, Nigeria and the United Kingdom (A/CONF.25/C.2/L.71) with a view to replacing their respective amendments as far as paragraph 1 was concerned, by a joint text amending this paragraph only.

26. The Federal Republic of Germany proposed an oral sub-amendment to paragraph 1 of the amendment of the United States (A/CONF.25/C.2/L.2) whereby the words "or if there is reasonable cause to believe that a crime of violence to person or property is being or is

about to be or has been committed there" would be added at the end of that paragraph.

27. Argentina proposed an oral sub-amendment to the amendment by the United States (A/CONF.25/C.2/L.2) in the form of the addition of the word "express" before the word "consent" in the second sentence of paragraph 1 of the United States amendment.

28. These sub-amendments were accepted by the United States. As thus revised, paragraph 1 of the amendment reads:

"Premises used exclusively for the exercise of consular functions shall be inviolable. The agents of the receiving State may not enter them save with the express consent of the head of post or his designee, except in case of fire or other disaster requiring prompt protective action or if there is reasonable cause to believe that a crime of violence to person or property is being or is about to be or has been committed therein."

29. Yugoslavia moved an oral sub-amendment to the amendment of Austria (A/CONF.25/C.2/L.26) in the form of the addition of the words "his designee" at the beginning of that amendment and the addition of the words "or his designee" after the words "head of post" in paragraph 1 of article 30 of the draft articles adopted by the International Law Commission.

30. The Philippines proposed an oral sub-amendment to the joint amendment of Greece, Japan, Nigeria and the United Kingdom (A/CONF.25/C.2/L.71) in the form of the addition of the words "his designee" after the words "head of the consular post" in sub-paragraph (a) of paragraph 2.

31. Thailand also moved oral sub-amendments to the joint amendment with a view to deleting: (1) in sub-paragraph (b) of paragraph 2, the words "pursuant to an order of the appropriate judicial authority and"; and (2) deleting paragraph 4.

32. The second sub-amendment by Thailand was accepted by the co-sponsors of the joint amendment.

33. A drafting change was introduced by the sponsors to paragraph 4 of this joint amendment, the beginning of which consequently reads "If the consular premises are entered by the authorities of the receiving State as provided in paragraph 2 (b) or 3 of this article ...".

34. At its ninth meeting, the Committee voted on the amendments to paragraph 1 of article 30 as follows:

(a) By 44 votes to 15, with 13 abstentions, it adopted paragraph 1 of the joint amendment.

(b) By 48 votes to 11, with 9 abstentions, it adopted the words in paragraph 2 of the joint amendment reading: "The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the work of the consulate except ...".

(c) By 42 votes to 5, with 22 abstentions, it adopted the oral sub-amendment by the Philippines to sub-paragraph (a) of paragraph 2 of the joint amendment.

Sub-paragraph (a) of paragraph 2, as thus amended, was adopted by 45 votes to 10, with 9 abstentions.

(d) The oral sub-amendment of Thailand to sub-paragraph (b) of paragraph 2 of the joint amendment was rejected by 24 votes to 10, with 35 abstentions.

(e) Sub-paragraph (b) of paragraph 2 of the joint amendment was rejected by 31 votes to 22, with 14 abstentions.

(f) Paragraph 3 of the joint amendment was adopted by 38 votes to 23, with 8 abstentions.

(g) The joint amendment as a whole, as amended, was approved by 35 votes to 21, with 11 abstentions.

35. The Committee referred to the Drafting Committee (1) a question raised by Colombia and Spain as to whether the Spanish translation of the words "intrusion or damage" were in concordance with the other official texts; and (2) a question by Italy concerning the scope and meaning of the word "occupation".

Paragraphs 2 and 3

36. Yugoslavia moved oral sub-amendments to the amendment by the Netherlands (A/CONF.25/C.2/L.13, para. 2) to paragraph 3 and the amendment by the United States (A/CONF.25/C.2/L.2, para. 2) to the same paragraph with a view to deleting the reference to "search" in those amendments. Yugoslavia moved the same proposal as an amendment to paragraph 3.

37. Spain moved an oral amendment to article 30 in the form of the addition, to paragraph 3, of the second sentence contained in paragraph 4 of the amendment by Greece (A/CONF.25/C.2/L.59).

38. The representative of Japan announced that his delegation had withdrawn its amendment (A/CONF.25/C.2/L.46, para. 2) to paragraph 2.

39. At its ninth meeting, the Committee voted on the amendments to paragraph 2 as follows:

(a) By 32 votes to 5, with 31 abstentions, the Committee rejected the amendment of Greece (A/CONF.25/C.2/L.59, para. 2) to paragraph 2.

(b) By 31 votes to 13, with 23 abstentions, the Committee adopted the amendment by Nigeria (A/CONF.25/C.2/L.27, para. 4) to paragraph 2.

(c) By 44 votes to 7, with 17 abstentions, the Committee rejected the amendment by Mexico (A/CONF.25/C.2/L.43) to paragraph 2.

(d) By 41 votes to 10, with 15 abstentions, the Committee rejected the amendment of Japan (A/CONF.25/C.2/L.46, para. 3) to paragraph 3.

(e) By 28 votes to 19, with 19 abstentions, the Committee adopted the amendment of Greece (A/CONF.25/C.2/L.59, para. 4) to paragraph 3.

Additional paragraphs

40. Japan withdrew its amendment (A/CONF.25/C.2/L.46, para. 4), in the form of a new paragraph to article 30 on the question of asylum, in favour of the amendment on this subject proposed by the United Kingdom (A/CONF.25/C.2/L.29, para. 2).

41. Nigeria withdrew its amendment to article 30 (A/CONF.25/C.2/L.27, para. 3) concerning inviolability of consular archives.

42. At its tenth meeting the Committee voted on the proposed additional paragraphs and the proposed inclusion of a provision relating to asylum as follows :

(a) By 31 votes to 22, with 15 abstentions, the Committee rejected the amendment by the United Kingdom (A/CONF.25/C.2/L.29, para. 2), in the form of a new paragraph to article 30, concerning entry to consular premises pursuant to a private right.

(b) By 66 votes to none, with 3 abstentions, the Committee adopted a proposal by the delegate of Romania that the Committee take a vote on whether or not the Committee should consider including a provision on asylum.

(c) By 46 votes to 19, with 4 abstentions, the Committee decided not to consider including a provision on asylum.

43. By 42 votes to 16, with 12 abstentions, the Committee adopted article 30 as a whole as amended.

Article 31

Exemption from taxation of consular premises

44. Amendments to this article were submitted by the United Kingdom, South Africa, Belgium, the United States and Italy (A/CONF.25/C.2/L.30, L.31, L.32, L.33/Rev.1 and L.37 respectively).

45. Belgium and Italy replaced their amendments by a new joint text to amend the opening words of paragraph 1 to read :

“The sending State and any qualified individual acting on its behalf shall be exempt”

46. An oral sub-amendment to the amendment of the United States (A/CONF.25/C.2/L.33/Rev.1) was proposed by the United Kingdom in the form of the substitution of the words “any person acting on behalf of the sending State” for the words “the head of post acting for the sending State”.

47. This sub-amendment was accepted by the United States and incorporated in its text.

48. South Africa withdrew its amendment (A/CONF.25/C.2/L.31).

49. At its eleventh meeting, the Committee voted on the amendments and the International Law Commission's text as follows :

(a) By 41 votes to 3, with 17 abstentions, the Committee adopted the amendment by the United States (A/CONF.25/C.2/L.33/Rev.1), as orally revised, to paragraph 1 of article 31.

(b) By 53 votes to none, with 10 abstentions, the Committee adopted paragraph 1 of article 31, as amended, and paragraph 2, as proposed by the International Law Commission.

50. The Committee referred to the Drafting Committee the reformulation of the words “the head of the consular post” at the end of paragraph 2 of article 31, in view of the adoption by the Committee,

in paragraph 1, of the words “any person acting on behalf of the sending State” in place of the words “the head of the post acting for the sending State”.

Article 32

Inviolability of the consular archives and documents

51. Amendments to this article were submitted by the Netherlands, South Africa, the United Kingdom, Mexico, Austria and Japan (A/CONF.25/C.2/L.14, L.38, L.39, L.44, L.45 and L.47 respectively).

52. Austria withdrew its amendment (A/CONF.25/C.2/L.45) in favour of the amendment of the Netherlands (A/CONF.25/C.2/L.14), which it co-sponsored.

53. South Africa withdrew its amendment (A/CONF.25/C.2/L.38).

54. The representative of the Ukrainian Soviet Socialist Republic moved an oral sub-amendment to the amendment of the United Kingdom (A/CONF.25/C.2/L.39) in the form of the addition of the words “and documents” after the words “consular archives” in the first sentence. The representative of the United Kingdom accepted this sub-amendment.

55. Japan withdrew its amendment (A/CONF.25/C.2/L.47).

56. At its eleventh meeting, the Committee voted as follows :

(a) By 35 votes to 7, with 17 abstentions, the Committee rejected the joint amendment of Austria and the Netherlands (A/CONF.25/C.2/L.14).

(b) By 60 votes to none, with 4 abstentions, the Committee adopted the first sentence of the United Kingdom amendment as orally revised.

(c) By 22 votes to 21, with 19 abstentions, the Committee rejected the second sentence of the United Kingdom amendment as orally revised.

Article 33

Facilities for the work of the consulate

57. No amendment was originally submitted to article 33.

58. The representative of France orally proposed the deletion of article 33.

59. The representative of Nigeria introduced an oral amendment to article 33 in the form of the addition, at the end, of the words “in so far as such functions are permissible under article 5”.

Both amendments were later withdrawn.

60. Ecuador proposed an oral amendment to the effect that article 33 should read : “The receiving State shall accord all indispensable facilities for the installation of the consulate and the performance of its functions.”

61. At its twelfth meeting, the Committee voted as follows :

(a) By 30 votes to 14, with 21 abstentions, it rejected the Ecuadorian amendment.

(b) By 61 votes to 1, with 6 abstentions, the Committee adopted the International Law Commission's text of article 33.

62. The Committee referred to the Drafting Committee :

(1) a suggestion by the Federal Republic of Germany that article 33 should be placed either earlier in section 1 of chapter II, or possibly after article 5 ;

(2) an oral amendment by the Byelorussian Soviet Socialist Republic to the effect that the title to article 33 should read : " Assistance in the work of the consulate ".

Article 34

Freedom of movement

63. Amendments to this article were submitted by Australia and Romania (A/CONF.25/C.2/L.72 and L.99 respectively).

64. The Netherlands suggested an oral sub-amendment to the second part of the amendment of Australia (A/CONF.25/C.2/L.72) in the form of the substitution of the words " in the performance of their consular functions " for the words " in their consular district ". Australia accepted this sub-amendment, and subsequently withdrew its amendment, as orally amended, in favour of an oral amendment by the Federation of Malaya to the effect that article 34 should read :

" Subject to the laws and regulations of the receiving State concerning zones, entry into which is prohibited or regulated for reasons of national security, all members of the consulate shall have freedom of movement and travel in the performance of their consular functions ".

65. The representative of Romania withdrew his amendment (A/CONF.25/C.2/L.99). Belgium re-introduced the amendment of Romania.

66. At its twelfth meeting, the Committee voted as follows :

(a) By 26 votes to 17, with 22 abstentions, the Committee rejected the oral amendment of the Federation of Malaya.

(b) By 26 votes to 21, with 19 abstentions, the Committee rejected the Romanian amendment, reintroduced by Belgium.

(c) By 61 votes to none, with 6 abstentions, the Committee adopted the International Law Commission's text of article 34.

67. The Committee referred to the Drafting Committee a suggestion by the representative of France that article 34 should be transferred to section II of chapter II.

Article 35

Freedom of communication

68. Amendments to article 35 were submitted by the Netherlands, Switzerland, Japan, the Byelorussian Soviet Socialist Republic, the Federal Republic of Germany, South Africa, Spain, Australia, Italy and Nigeria (A/CONF.25/C.2/L.15, L.42, L.55, L.70, L.73, L.75, L.91, L.92, L.102 and L.108 respectively).

Paragraphs 1 and 2

69. South Africa and Nigeria withdrew their amendments to paragraph 1 (A/CONF.25/C.2/L.75 and L.108 respectively).

70. An oral sub-amendment by Italy to the amendment of Switzerland to paragraph 1 (A/CONF.25/C.2/L.42) was accepted by the representative of Switzerland. As thus revised the second sentence of the Swiss amendment read :

" In communicating with the Government, the diplomatic missions, wherever situated, and the consulates of the sending State in the receiving State, the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplomatic or consular bag and messages in code and cipher."

71. At its thirteenth meeting the Committee voted as follows :

(a) By 32 votes to 17, with 17 abstentions, the amendment of Switzerland, as revised, was rejected by the Committee.

(b) By 38 votes to 11, with 18 abstentions, the Committee rejected the amendment of Japan (A/CONF.25/C.2/L.55) to paragraph 1.

(c) By 60 votes to none, with 10 abstentions, the Committee adopted the International Law Commission's text of paragraph 1.

72. The Committee adopted the International Law Commission's text of paragraph 2 unanimously.

Paragraph 3

73. South Africa, Spain and Nigeria withdrew their separate amendments (A/CONF.25/C.2/L.75, L.91 and L.108) to paragraph 3. Spain co-sponsored the amendment of the Federal Republic of Germany (A/CONF.25/C.2/L.73).

74. Nigeria withdrew its amendment in favour of a revised version of the joint amendment by the Federal Republic of Germany and Spain, which read as follows :

" The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State the bag shall be returned to its place of origin."

75. At its thirteenth meeting the Committee voted as follows :

(a) By a roll-call vote of 44 to 15, with 5 abstentions, the Committee adopted the first two sentences of the joint amendment as orally revised.

(b) By a roll-call vote of 45 to 13, with 6 abstentions, the Committee adopted the third sentence of the joint amendment as orally revised.

(c) By 46 votes to 15, with 3 abstentions, the Committee adopted the joint amendment as orally revised, as a whole.

Paragraph 4

76. At its fourteenth meeting the Committee, by 39 votes to none, with 16 abstentions, adopted the amendment of South Africa (A/CONF.25/C.2/L.75) to paragraph 4.

The Committee approved paragraph 4 without a formal vote.

Paragraph 5

77. Japan withdrew its amendment (A/CONF.25/C.2/L.55).

78. Australia introduced an oral amendment, by suggesting the inclusion of the words "who shall be neither a national of the receiving State nor a permanent resident thereof", after the words "consular courier" in the first sentence and withdrew its amendment (A/CONF.25/C.2/L.92) to the first sentence.

79. The Federal Republic of Germany proposed an oral amendment in the form of the deletion of the words "shall enjoy personal inviolability and" in the last sentence.

80. The Committee referred to the Drafting Committee a suggestion by the United States that the last two sentences of paragraph 5 be combined into a single sentence.

81. Australia accepted a sub-amendment by the United Kingdom to its oral amendment. As thus revised, the amendment read :

"who shall, except with the consent of the receiving State, be neither a national of the receiving State nor a permanent resident thereof".

82. Australia withdrew its amendment (A/CONF.25/C.2/L.92) to the last sentence of paragraph 5.

83. At its fourteenth meeting the Committee :

(a) By 43 votes to 2, with 26 abstentions, adopted the revised Australian oral amendment, and referred its incorporation in the text to the Drafting Committee,

(b) By 27 votes to 14, with 29 abstentions, rejected the oral amendment of the Federal Republic of Germany.

84. By 55 votes to 1, with 15 abstentions, the Committee adopted the text of paragraph 5 as amended.

New paragraph between paragraphs 5 and 6

85. The Netherlands and the Byelorussian SSR withdrew their separate proposals (A/CONF.25/C.2/L.15 and L. 70, respectively) for a new paragraph in favour of a joint text reading :

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

86. At its fourteenth meeting, the Committee, by 57 votes to 2, with 8 abstentions, adopted this proposal.

87. The Committee referred the text to the Drafting Committee, and in particular the concordance of the first sentence of the proposal with paragraph 1 of article 36.

Paragraph 6

88. Chile proposed an oral amendment in the form of the addition of the words "or an authorized official" after the word "captain" in the first sentence.

89. Greece moved an oral amendment by proposing the addition, at the end of the last sentence of the words "provided he carries a letter from the head of the consular post or his representative".

90. Italy accepted an oral sub-amendment by Yugoslavia to the second part of the Italian amendment (A/CONF.25/C.2/L.102) to the effect that "but he shall be considered to be a consular courier *ad hoc*" should be substituted for the words "but he shall not be considered to be a consular courier".

91. A suggestion by Finland that definitions of "consular courier" and "consular bag" should be included in article 1 was referred by the Committee to the Drafting Committee. Colombia orally proposed that paragraph 6 be deleted.

92. Greece withdrew its oral amendment to the last sentence.

93. At its fifteenth meeting the Committee voted as follows :

(a) By 59 votes to 2, with 9 abstentions, it rejected the Colombian amendment.

(b) By 42 votes to 6, with 22 abstentions, it rejected the second amendment of Italy (A/CONF.25/C.2/L.102) as orally revised.

(c) By 57 votes to none, with 11 abstentions, it adopted the first amendment of Italy (A/CONF.25/C.2/L.102) as orally revised.

(d) By 39 votes to 13, with 18 abstentions, it rejected the oral amendment by Chile.

(e) By 26 votes to 10, with 34 abstentions, it adopted the amendment of South Africa (A/CONF.25/C.2/L.75) as orally revised.

(f) By 66 votes to none, with 5 abstentions, it adopted paragraph 6 as amended.

94. By 52 votes to 1, with 17 abstentions, the Committee adopted article 35, as a whole, as amended.

*Article 36**Communication and contact with nationals of the sending State*

95. Amendments to article 36 were submitted by the United States, Belgium, Japan, the Federal Republic of Germany, Switzerland, Venezuela, Thailand, the United Kingdom, Spain, Greece and France (A/CONF.25/C.2/L.3, L.25, L.56, L.74, L.78, L.100, L.101, L.107, L.114, L.125 and L.131 respectively).

Paragraph 1 (a)

96. India orally proposed the deletion of the words "in appropriate cases".

97. Australia moved an oral amendment in the form of the substitution of the words "subject to the wishes of the person concerned" for the words "in appropriate cases".

98. Ecuador proposed a sub-amendment to the amendment of Venezuela (A/CONF.25/C.2/L.100) with a view to deleting the words "The competent consulate and" and the words "if necessary" appearing in the Venezuelan amendment. Venezuela accepted those sub-amendments.

99. Venezuela withdrew its amendment (A/CONF.25/C.2/L.100) and announced a joint oral amendment by Spain, Ecuador, Chile, Italy and Venezuela. The joint amendment provided:

"Consular officials shall be free to communicate with the nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officials of the sending State."

100. At its sixteenth meeting the Committee voted as follows:

(a) By a roll-call vote of 44 votes to 4, with 25 abstentions, it rejected the oral amendment by Australia.

(b) By a roll-call vote of 48 votes to 3, with 22 abstentions, it adopted the joint oral amendment.

Paragraph 1 (b)

101. The United Arab Republic moved an oral amendment proposing the deletion of the first sentence and of the word "undue" in the second sentence.

102. Separate amendments by the United States (A/CONF.25/C.2/L.3), Japan (A/CONF.25/C.2/L.56), Thailand (A/CONF.25/C.2/L.101) and the oral amendment of the United Arab Republic were withdrawn by their sponsors in favour of a new oral joint amendment by Canada, Japan, Kuwait, Thailand, the United Arab Republic and the United States, to read as follows:

"A consular official shall be informed without delay by the competent authorities of the receiving State if a national of the sending State who is arrested, committed to prison or detained in any other manner, so requests. Any communications addressed to the consulate by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without undue delay".

103. The Federal Republic of Germany orally introduced a revised version of its amendment (A/CONF.25/C.2/L.74). As revised, this amendment provides for the insertion of the words "but at the latest within 48 hours" between the words "without undue delay" and the word "inform".

104. France moved an oral amendment in the form of a suggestion that reference to "arrest" should be introduced in paragraph 1 (b).

105. The Spanish translation of the term "arrest" was referred by the Committee to the Drafting Committee.

106. At its seventeenth meeting the Committee voted as follows:

(a) By 33 votes to 27, with 9 abstentions, it rejected the oral joint amendment.

(b) By 33 votes to 11, with 24 abstentions, it rejected the amendment (A/CONF.25/C.2/L.74), as orally revised, of the Federal Republic of Germany.

(c) By 37 votes to 2, with 28 abstentions, it adopted the amendment of the United Kingdom (A/CONF.25/C.2/L.107).

(d) By 39 votes to 13, with 16 abstentions, it adopted the amendment of Greece (A/CONF.25/C.2/L.125).

(e) By 42 votes to 5, with 21 abstentions, it adopted the oral amendment of France.

(f) By 43 votes to 6, with 21 abstentions, it adopted paragraph 1 (b) as amended.

Paragraph 1 (c)

107. At its eighteenth meeting, the Committee voted as follows:

(a) By 37 votes to 11, with 18 abstentions, it rejected the amendment of the Federal Republic of Germany (A/CONF.25/C.2/L.74).

(b) By 18 votes to 16, with 33 abstentions, it accepted the amendment of Spain (A/CONF.25/C.2/L.114).

(c) By 38 votes to 8, with 19 abstentions, it accepted the amendment of Belgium (A/CONF.25/C.2/L.25).

(d) By 57 votes to none, with 13 abstentions, it adopted sub-paragraph (c) of paragraph 1 as amended.

Paragraph 1, proposed new sub-paragraph

108. Yugoslavia requested a separate vote in the second part of the proposal of France (A/CONF.25/C.2/L.131), namely the words: "except for those who object to such information concerning them being communicated to the consulate".

109. At its eighteenth meeting, the Committee voted as follows:

(a) By 31 votes to 29, with 7 abstentions, it accepted the first part of the French proposal.

(b) By 45 votes to 9, with 15 abstentions, it rejected the second part of the French proposal.

[The placing of the new sub-paragraph in paragraph 1 was referred to the Drafting Committee.]

Proposed new paragraph for insertion between paragraphs 1 and 2

110. Switzerland withdrew its proposal (A/CONF.25/C.2/L.78).

Paragraph 2

111. At its nineteenth meeting, the Committee:

(a) Adopted the amendment by the United Kingdom (A/CONF.25/C.2/L.107) by 42 votes to 14, with 11 abstentions;

(b) Adopted paragraph 2 as amended, by 47 votes to 10, with 12 abstentions.

112. By 42 votes to none, with 27 abstentions, the Committee adopted article 36, as a whole, as amended.

Article 37

Obligations of the receiving State

113. Amendments to this article were submitted by the United States, Austria, Brazil, Thailand, the Federation of Malaya, Ireland, Switzerland, Romania, Poland, India and Australia (A/CONF.25/C.2/L.4, L.49, L.63, L.66, L.76, L.77, L.79, L.93, L.94, L.113 and L.144 respectively).

Introductory phrase and sub-paragraphs (a) and (b)

114. The United States and Thailand announced that their identical amendments (A/CONF.25/C.2/L.4 and L.66 respectively) should be considered as a single joint amendment.

115. A suggestion by Ireland that article 37 might be better placed in a chapter or section of the draft articles other than chapter II, section 1, was referred to the Drafting Committee.

116. At its nineteenth meeting, the Committee voted as follows :

(a) By 46 votes to 11, with 10 abstentions, it rejected the joint amendment by the United States and Thailand.

(b) By 32 votes to 12, with 19 abstentions, it adopted the amendment by Ireland (A/CONF.25/C.2/L.77) to the opening phrase.

(c) By 40 votes to 10, with 15 abstentions, it adopted the amendment by Poland (A/CONF.25/C.2/L.94) to sub-paragraph (a).

(d) By 33 votes to 18, with 16 abstentions, it rejected the amendment by Australia (A/CONF.25/C.2/L.144) to sub-paragraph (a).

(e) By 35 votes to 12, with 19 abstentions, it adopted the amendment by Austria (A/CONF.25/C.2/L.49) to sub-paragraph (a).

(f) By 38 votes to 7, with 24 abstentions, it rejected the amendment by India (A/CONF.25/C.2/L.113) to sub-paragraph (b).

(g) By 29 votes to 12, with 26 abstentions, it rejected the amendment by Romania (A/CONF.25/C.2/L.93) to sub-paragraph (b).

(h) By 35 votes to 14, with 19 abstentions, it adopted the amendment by Switzerland (A/CONF.25/C.2/L.79) to sub-paragraph (b).

(i) By 56 votes to 3, with 10 abstentions, it adopted the introductory phrase and sub-paragraphs (a) and (b) of article 37 as amended.

Sub-paragraph (c) and proposed new sub-paragraph

117. Austria withdrew its amendment (A/CONF.25/C.2/L.49) to sub-paragraph (c).

118. The Federation of Malaya withdrew its proposal (A/CONF.25/C.2/L.76) for a new sub-paragraph.

119. At its twentieth meeting the Committee :

(a) Rejected by 21 votes to 20, with 18 abstentions, the proposal of Brazil (A/CONF.25/C.2/L.63) for a new sub-paragraph.

(b) The Committee adopted sub-paragraph (c) as proposed by the International Law Commission without a formal vote.

120. By 53 votes to 1, with 5 abstentions, the Committee adopted article 37, as a whole, as amended.

Article 38

Communication with the authorities of the receiving State

121. Amendments to article 38 were submitted by Japan, the Byelorussian SSR, Poland and Belgium (A/CONF.25/C.2/L.57, L. 103, L.111 and L.129 respectively). In the course of the debate these countries withdrew their amendments and submitted a joint amendment (A/CONF.25/C.2/L.145).

122. The sponsors having accepted oral revisions, the joint amendment read in its final form as follows :

“ In the exercise of their functions, consular officials may address :

“(a) The competent local authorities of their district ;

“(b) The competent central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements ”.

123. At its twentieth meeting, the Committee, by 52 votes to none, with 13 abstentions, adopted the joint amendment as orally revised.

124. A suggestion by the United Kingdom that the word “ if ”, in sub-paragraph (b) of article 38 as adopted, should be replaced by the words “ to the extent that ” was referred to the Drafting Committee.

Article 39

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

125. A joint amendment by Argentina, Belgium, Brazil, the Netherlands and Venezuela (A/CONF.25/C.2/L.130) was submitted to article 39.

Paragraph 1

126. The joint amendment (A/CONF.25/C.2/L.130) by Argentina, Belgium, Brazil, the Netherlands and Venezuela was orally revised in the form of the deletion therefrom of the words “ in the currency chosen by the sending State ”.

127. At its twenty-first meeting, the Committee rejected the joint amendment, as orally revised, by a roll-call vote of 28 votes to 20, with 22 abstentions.

128. The Committee adopted the text of paragraph 1 of the International Law Commission text by 69 votes to none, with 1 abstention.

Paragraph 2

129. At its twenty-first meeting, the Committee adopted unanimously paragraph 2 of the International Law Commission text.

130. At its twenty-first meeting, the Committee unanimously adopted article 39, as a whole.

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES
REGARDING CONSULAR OFFICIALS AND EMPLOYEES

Article 40

Special protection and respect due to consular officials

131. Amendments to article 40 were submitted by the United States, Japan and Greece (A/CONF.25/C.2/L.5, L.58 and L.95 respectively).

132. Japan withdrew its amendment (A/CONF.25/C.2/L.58).

133. At its twenty-first meeting, the Committee by 37 votes to 22, with 11 abstentions, adopted the amendment of the United States (A/CONF.25/C.2/L.5).

Article 41

Personal inviolability of consular officials

134. Amendments to this article were submitted by the Netherlands, Indonesia, the Federal Republic of Germany, Brazil, the Byelorussian SSR, Switzerland, Hungary, Yugoslavia, Italy, Cambodia, the United Kingdom, South Africa, Romania and Spain (A/CONF.25/C.2/L.16, L.61, L.62/Rev.1, L.64, L.104/Rev.1, L.105, L.115, L.116, L.117, L.126, L.134, L.148, L.149 and L.150). Hungary submitted a second amendment (A/CONF.25/C.2/L.143).

135. Switzerland withdrew its amendment (A/CONF.25/C.2/L.105).

136. The amendments by Brazil, the Federal Republic of Germany, Italy, Spain and the United Kingdom (A/CONF.25/C.2/L.62, L.64, L.117, L.150 and L.134 respectively) were withdrawn in favour of a joint amendment (A/CONF.25/C.2/L.168).

137. At its twenty-fourth meeting the Committee voted as follows:

Paragraph 1 of the International Law Commission's text and amendments thereto

(a) By 41 votes to 8, with 19 abstentions, it adopted point 1 of the joint amendment (A/CONF.25/C.2/L.168/Rev.1).

(b) By 32 votes to 17, with 16 abstentions, it adopted the introductory phrase of paragraph 2 of the joint amendment.

(c) By 35 votes to 18, with 16 abstentions, it adopted sub-paragraph (a) of point 2 of the joint amendment.

(d) By 29 votes to 21, with 16 abstentions, it rejected sub-paragraph (b) of point 2 of the joint amendment.

(e) By 29 votes to 20, with 18 abstentions, it rejected sub-paragraph (c) of point 2 of the joint amendment.

(f) By 32 votes to 18, with 17 abstentions, it adopted point 2 of the joint amendment, as a whole, as amended.

(g) By 36 votes to 19, with 14 abstentions, it rejected paragraph 3 of the joint amendment.

(h) By 25 votes to 24, with 17 abstentions, it adopted point 4 of the joint amendment.

(i) By a roll-call vote of 24 votes to 22, with 21 abstentions, it rejected paragraphs 1, 2 and 4 of the joint amendment as amended.

(j) By 37 votes to none, with 21 abstentions, it adopted the amendment of the Netherlands (A/CONF.25/C.2/L.16) to paragraph 1.

(k) By 48 votes to 3, with 15 abstentions, it rejected the amendment of Indonesia (A/CONF.25/C.2/L.61) to paragraph 1.

(l) By 32 votes to 13, with 20 abstentions, it rejected the amendment of the Byelorussian SSR (A/CONF.25/C.2/L.104/Rev.1) to paragraph 1.

(m) By 49 votes to 6, with 11 abstentions, it adopted the text of paragraph 1 of article 41, as proposed by the International Law Commission, as amended.

Paragraph 2 of the International Law Commission's text and amendments thereto

(n) By 46 votes to 1, with 18 abstentions, it rejected the amendment of Yugoslavia (A/CONF.25/C.2/L.116) to paragraph 2.

(o) By 61 votes to none, with 6 abstentions, it adopted the text of paragraph 2 of article 41 as proposed by the International Law Commission.

Paragraph 3 of the International Law Commission's text and amendments thereto

(p) By 47 votes to none, with 18 abstentions, it adopted the amendment of South Africa (A/CONF.25/C.2/L.148) to paragraph 3.

(q) By 33 votes to 14, with 16 abstentions, it rejected the amendment of Hungary (A/CONF.25/C.2/L.115) to paragraph 3.

(r) By 63 votes to none, with 4 abstentions, it adopted the text of paragraph 3 of article 41 as proposed by the International Law Commission, as amended.

Proposed additional paragraphs

(s) By 30 votes to 15, with 20 abstentions, it rejected the proposed additional paragraph by Hungary (A/CONF.25/C.2/L.143).

(t) By 36 votes to 13, with 18 abstentions, it rejected the proposed new paragraph by Yugoslavia (A/CONF.25/C.2/L.116).

(u) By 29 votes to 25, with 13 abstentions, it rejected point 7 of the joint amendment.

Article 41, as a whole, as amended

138. By 53 votes to 7, with 9 abstentions, the Committee adopted the text of article 41, as a whole, as amended.

Article 42

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

139. No amendments were submitted to this article. The Committee, therefore, at its twenty-first meeting, adopted, without change, the article as prepared by the International Law Commission.

*Article 43**Immunity from jurisdiction*

140. Amendments to article 43 were submitted by Japan, Greece, Brazil, the United Kingdom and Venezuela (A/CONF.25/C.2/L.80, L.96, L.98, L.139 and L.167 respectively).

141. Greece withdrew its amendment (A/CONF.25/C.2/L.96) on the understanding that it would be submitted to the Drafting Committee for consideration.

142. At its twenty-fifth meeting, the Committee voted as follows:

(a) By 30 votes to 23, with 9 abstentions, it adopted the amendment by Venezuela (A/CONF.25/C.2/L.167).

(b) By 38 votes to 13, with 11 abstentions, it rejected the amendment by Brazil (A/CONF.25/C.2/L.98).

(c) By 45 votes to 10, with 5 abstentions, it adopted the proposal of the United Kingdom to add a second paragraph to the article (A/CONF.25/C.2/L.139).

(d) By 48 votes to 9, with 5 abstentions, it adopted the proposal of the United Kingdom to add a third paragraph to the article.

(e) By 28 votes to 9, with 20 abstentions, it rejected the first proposal of Japan (A/CONF.25/C.2/L.80, point 1).

143. By 50 votes to none, with 10 abstentions, the Committee adopted article 43, as a whole, as amended.

*Article 44**Liability to give evidence*

144. Amendments to article 44 were submitted by the United States, Finland, Austria, Japan, Nigeria, the United Kingdom, Spain, India and the Federal Republic of Germany (A/CONF.25/C.2/L.6, L.41, L.50, L.81, L.118, L.135, L.151, L.159 and L.166 respectively).

145. Spain withdrew its amendment (A/CONF.25/C.2/L.151) on the understanding that it would be referred to the Drafting Committee.

146. The translation into the texts other than the English of the words "expert witness" was referred to the Drafting Committee.

147. The amendment by the United Kingdom (A/CONF.25/C.2/L.135) was withdrawn.

148. At its twenty-seventh meeting, the Committee voted as follows:

Paragraph 1 of the International Law Commission's text

(a) By 30 votes to 27, with 7 abstentions, it rejected the amendments by the United States, Finland and Japan (A/CONF.25/C.2/L.6, L.41 and L.81 respectively) to paragraph 1.

(b) By 27 votes to 12, with 27 abstentions, it adopted the amendment by India (A/CONF.25/C.2/L.159) to paragraph 1. The concordance of the English and French texts of this amendment was referred to the Drafting Committee.

(c) By 20 votes to 7, with 40 abstentions, it rejected the amendment by the Federal Republic of Germany (A/CONF.25/C.2/L.166) to paragraph 1.

(d) By 52 votes to 6, with 9 abstentions, it adopted paragraph 1 as amended.

Paragraph 2 of the International Law Commission's text

(e) By 36 votes to 10, with 21 abstentions, it rejected the amendment of Nigeria (A/CONF.25/C.2/L.118) to paragraph 2.

(f) By 52 votes to 2, with 14 abstentions, it accepted the amendment of Austria (A/CONF.25/C.2/L.50) to paragraph 2.

(g) By 63 votes to none, with 6 abstentions, it adopted the text of paragraph 2 as amended.

Paragraph 3 of the International Law Commission's text

(h) By 40 votes to 3, with 22 abstentions, it adopted the amendment of Japan.

(i) By 59 votes to 2, with 8 abstentions, it adopted paragraph 3, as amended.

Article 44, as a whole, as amended

149. By 54 votes to 2, with 12 abstentions, the Committee adopted article 44.

*Article 45**Waiver of immunities*

150. Amendments to article 45 were submitted by Japan, Australia and Tunisia (A/CONF.25/C.2/L.82, L.152 and L.169 respectively).

151. Japan accepted certain oral revisions to their amendment. Australia withdrew its amendment.

152. At its twenty-seventh meeting the Committee voted as follows:

Paragraph 1

(a) By 63 votes to none, with 1 abstention, it adopted the text of paragraph 1 proposed by the International Law Commission.

Paragraph 2

(b) By 31 votes to 22, with 11 abstentions, it accepted the words "shall be communicated to the receiving State in writing" in the Japanese amendment.

(c) By 32 votes to 13, with 19 abstentions, it rejected the words "through the diplomatic channel" in the Japanese amendment.

153. At its twenty-eighth meeting, the Committee voted as follows:

(a) By 27 votes to 11, with 21 abstentions, it adopted the amendment to paragraph 2 by Australia (A/CONF.25/C.2/L.152) as reintroduced by the representative of the Federal Republic of Germany.

(b) By 45 votes to none, with 13 abstentions, the

Committee adopted the text of paragraph 2, as proposed by the International Law Commission, as amended.

Paragraph 3

(c) The Committee unanimously adopted the text of paragraph 3 proposed by the International Law Commission.

Paragraph 4

(d) By 25 votes to 14, with 26 abstentions, it rejected the amendment of Tunisia (A/CONF.25/C.2/L.169).

(e) By 65 votes to 1, with no abstention, it adopted the text of paragraph 4 as proposed by the International Law Commission.

Article 45, as a whole as amended

154. By 65 votes to 1, with no abstention, the Committee adopted article 45, as a whole, as amended.

Article 46

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

155. Amendments to article 46 were submitted by the United States, the Netherlands, Japan, Greece, China, Cambodia, Belgium, the United Kingdom, Switzerland and France (A/CONF.25/C.2/L.7, L.17, L.83, L.97, L.124, L.127, L.132, L.136, L.157 and L.175).

156. Cambodia and the United States withdrew their amendments (A/CONF.25/C.2/L.127 and L.7 respectively). The United States amendment was re-introduced by the representative of Norway. The Belgian amendment (A/CONF.25/C.2/L.132) to paragraph 2 was withdrawn.

At its twenty-ninth meeting, the Committee voted as follows:

(a) By 31 votes to 20, with 12 abstentions, and 28 votes to 17, with 20 abstentions, the Committee adopted point 1 of the amendment of the United Kingdom (A/CONF.25/C.2/L.136) to paragraph 1 of article 46.

(b) By 28 votes to 17, with 20 abstentions, the Committee adopted point 2 of the United Kingdom amendment.

(c) By 32 votes to 17, with 13 abstentions, the Committee adopted the United Kingdom amendment as a whole.

(d) By 26 votes to 25, with 10 abstentions, the words "private staff" in the United States amendment were rejected.

(e) By 22 votes to 21, with 16 abstentions, the Committee rejected the United States amendment, as a whole, as amended.

157. At its thirtieth meeting, the Committee decided, without vote, that the amendment of the United Kingdom (A/CONF.25/C.2/L.136) adopted at the twenty-ninth meeting should constitute a separate article relating only to "exemption from obligations in the matter of registration of aliens and residence

permits" and that the substance of paragraph 2 of article 46 should be made a separate article.

158. At its thirty-second meeting, the Committee, by 18 votes to 17, with 23 abstentions, rejected the Chinese amendment (A/CONF.25/C.2/L.124) to add a new paragraph to article 46.

Article 46A

Exemption from obligations in the matter of work permits

159. Article 46A was originally paragraph 2 of article 46 of the International Law Commission's text (see above, paragraph 157).

160. Amendments to article 46A were submitted by the Netherlands, France, Finland, Switzerland, Belgium and jointly by Greece, New Zealand and the United Kingdom (A/CONF.25/C.2/L.198, L.199, L.203, L.204, L.205 and L.206 respectively).

161. France and Belgium accepted oral revisions to their amendments (A/CONF.25/C.2/L.199 and L.205 respectively). The revision consisted in the addition of the word "those" before "consular employees" in the French amendment. The Belgian amendment, as revised, read as follows: after the words "private staff" add the words "if they do not exercise any other private gainful occupation outside the consulate".

162. At its thirty-second meeting, the Committee voted as follows:

(a) By a roll-call vote of 26 votes to 23, with 22 abstentions, it rejected the joint amendment by Greece, New Zealand and the United Kingdom (A/CONF.25/C.2/L.206).

(b) By 31 votes to 12, with 29 abstentions, it rejected the amendment of Finland (A/CONF.25/C.2/L.203).

(c) By 28 votes to 21, with 22 abstentions, it rejected the amendment of Switzerland (A/CONF.25/C.2/L.204).

(d) By 38 votes to 9, with 23 abstentions, it adopted the amendment of France, as orally revised.

(e) By 66 votes to none, with 5 abstentions, it adopted the amendment of Belgium (A/CONF.25/C.2/L.205).

163. By 61 votes to 2, with 7 abstentions, the Committee adopted the text of article 46A, as a whole, as amended.

Article 47

Social security exemption

164. Amendments to article 47 were submitted by India and France (A/CONF.25/C.2/L.160 and L.186). The Netherlands proposed that a new article be inserted after article 47 as a separate article or an additional paragraph (A/CONF.25/C.2/L.109).

165. France withdrew its amendment (A/CONF.25/C.2/L.186). The Federal Republic of Germany re-introduced this amendment.

166. India accepted a drafting suggestion, made by the United Kingdom, to its amendment to paragraph 1.

As revised the Indian amendment (A/CONF.25/C.2/L.160) read as follows :

" Subject to the provisions of paragraph 3 of this article, the members of the consulate, with respect to services rendered for the sending State and those members of their families forming part of their households who are not engaged in private gainful occupation of any kind, shall be exempt from social security provisions which may be in force in the receiving State."

167. A suggestion by the representative of Canada that the words "services rendered" in the above text should be replaced by the words "services they render" was referred to the Drafting Committee.

168. At its thirtieth meeting, the Committee voted as follows :

(a) By 55 votes to 3, with 7 abstentions, it adopted the Indian amendment to paragraph 1, as orally revised.

(b) It unanimously adopted paragraphs 2 and 3 of the International Law Commission's text.

(c) By 41 votes to 7, with 17 abstentions, it rejected the amendment reintroduced by the Federal Republic of Germany.

(d) By 65 votes to 1, with 2 abstentions, it adopted paragraph 4 of the International Law Commission's text.

(e) By 27 votes to 16, with 20 abstentions, it rejected the amendment of the Netherlands (A/CONF.25/C.2/L.109 (second article)).

169. By 65 votes to none, with one abstention, the Committee adopted article 47, as amended.

Article 48

Exemption from taxation

170. Amendments to article 48 were submitted by the Netherlands, Thailand, Japan, Belgium, the Ukrainian Soviet Socialist Republic, Switzerland, South Africa, India, Canada, France and Australia (A/CONF.25/C.2/L.18/Rev.1, L.67, L.84/Rev.1, L.133, L.142, L.158, L.170, L.177, L.193, L.195 and L.197 respectively). The Netherlands submitted also an amendment (A/CONF.25/C.2/L.110) with a view to adding a new article or paragraph.

171. South Africa withdrew its amendment (A/CONF.25/C.2/L.170).

172. The Ukrainian Soviet Socialist Republic withdrew its amendment to paragraph 2 after its amendment to paragraph 1 had been rejected.

173. At its thirty-first meeting the Committee voted as follows :

(a) By 32 votes to 15, with 14 abstentions, it rejected the amendment (A/CONF.25/C.2/L.142) of the Ukrainian Soviet Socialist Republic to paragraph 1.

(b) By 30 votes to 23, with 8 abstentions, it rejected the amendment (A/CONF.25/C.2/L.184/Rev.1) of Japan to paragraph 1.

(c) By 54 votes to 1, with 6 abstentions, it adopted the opening sentence of paragraph 1 as proposed by the International Law Commission.

(d) By 42 votes to 1, with 17 abstentions, it adopted the amendment of France (A/CONF.25/C.2/L.195) to sub-paragraph (a) of paragraph 1.

(e) By 20 votes to 17, with 27 abstentions, it rejected the amendment of Switzerland (A/CONF.25/C.2/L.158) to sub-paragraph (a) of paragraph 1.

(f) By 49 votes to 2, with 11 abstentions, it adopted the amendment of France (A/CONF.25/C.2/L.195) to sub-paragraph (b) of paragraph 1.

(g) By 19 votes to 12, with 31 abstentions, it rejected the amendment of Canada (A/CONF.25/C.2/L.193) to sub-paragraph (c) of paragraph 1.

(h) It unanimously adopted the text of sub-paragraph (c) of paragraph 1 as proposed by the International Law Commission.

(i) It approved sub-paragraphs (d), (e) and (f) of paragraph 1, as proposed by the International Law Commission, without a formal vote.

(j) By 60 votes to none, with 3 abstentions, it adopted paragraph 1, as a whole, as amended.

(k) By 31 votes to 17, with 12 abstentions, it rejected the amendment of Japan (A/CONF.25/C.2/L.84/Rev.1) to paragraph 2.

(l) By 31 votes to 9, with 22 abstentions, it adopted the amendment of Thailand (A/CONF.25/C.2/L.67) to paragraph 2, as orally revised.

(m) By 22 votes to 6, with 32 abstentions, it rejected the amendment of Australia (A/CONF.25/C.2/L.197) to paragraph 2.

(n) By 26 votes to 8, with 27 abstentions, it accepted the new paragraph 3 proposed by the Netherlands (A/CONF.25/C.2/L.110). The proposal of the Netherlands for a new article was withdrawn (A/CONF.25/C.2/L.109, first article).

174. By 60 votes to none, with 3 abstentions, the Committee adopted article 48, as a whole, as amended.

175. The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the words "members of" should be inserted before the words "service staff" in the opening sentence of paragraph 1, and that the word "save" should be replaced by the word "except" in the same sentence.

Article 49

Exemption from customs duties

176. Amendments to article 49 were submitted by Poland, Nigeria, Australia, the United Kingdom, Spain, India, the Ukrainian Soviet Socialist Republic and South Africa (A/CONF.25/C.2/L.119, L.120, L.153, L.171, L.173, L.178, L.185 and L.191 respectively).

177. India withdrew its amendment (A/CONF.25/C.2/L.178).

178. Poland accepted an oral revision to the amendment of its delegation (A/CONF.25/C.2/L.119), to the opening sentence of paragraph 1, in the form of the substitution, in the French text, of the word "*sortie*" for the words "*l'exportation*". The Committee referred to the Drafting Committee the translation of this revision into the other official texts.

179. At its thirty-fourth meeting, the Committee voted as follows :

(a) By 25 votes to 19, with 21 abstentions, it adopted the amendment of Poland, as revised.

(b) By 32 votes to 11, with 20 abstentions, it rejected the amendment of the United Kingdom (A/CONF.25/C.2/L.171) to the opening sentence of paragraph 1.

(c) It adopted sub-paragraph (a) of paragraph 1 without a formal vote.

(d) By a roll-call vote of 35 votes to 12, with 19 abstentions, it rejected the amendment of Nigeria (A/CONF.25/C.2/L.120) to sub-paragraph (b) of paragraph 1.

(e) By 34 votes to 8, with 24 abstentions, it adopted the amendment of Spain (A/CONF.25/C.2/L.173) to sub-paragraph (b) of paragraph 1.

(f) By 62 votes to 2, with 3 abstentions, it adopted paragraph 1, as a whole, as amended.

(g) By 33 votes to 10, with 22 abstentions, it rejected the amendment of South Africa (A/CONF.25/C.2/L.191) to paragraph 2.

(h) By 40 votes to 10, with 14 abstentions, it adopted the amendment of Australia (A/CONF.25/C.2/L.153) to paragraph 2.

(i) By 19 votes to 14, with 32 abstentions, it adopted the amendment of Poland (A/CONF.25/C.2/L.119) as orally revised, to paragraph 2. It referred to the Drafting Committee the incorporation of this amendment into the text of paragraph 2.

(j) By 43 votes to 5, with 13 abstentions, it approved the words "except those belonging to the service staff" appearing in paragraph 2 as proposed by the International Law Commission.

(k) By 60 votes to 2, with 3 abstentions, it adopted paragraph 2, as a whole, as amended.

(l) By 36 votes to 14, with 15 abstentions, it adopted the proposed new paragraph by the Ukrainian Soviet Socialist Republic (A/CONF.25/C.2/L.185). The Committee referred to the Drafting Committee the question whether this new paragraph should be inserted in article 49 or whether it should form a separate article. The Committee also referred to the Drafting Committee the formulation of the words "personal luggage accompanying consular officials" on the understanding that the notion underlying the word "accompanying" should be included in the final text.

180. By 58 votes to none, with 7 abstentions, the Committee adopted article 49, as a whole, as amended.

Article 50

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

181. Amendments to article 50 were submitted by Japan, Belgium, the United Kingdom, Spain, the United States, Canada and Chile (A/CONF.25/C.2/L.85, L.146, L.172, L.176, L.181, L.194 and L.196 respectively).

182. Canada orally revised its amendment (A/CONF.25/C.2/L.194). Belgium and Chile announced that their amendments (A/CONF.25/C.2/L.146 and

L.196 respectively) should be regarded as a joint amendment. Japan withdrew its amendment (A/CONF.25/C.2/L.85).

183. At its thirty-fifth meeting, the Committee voted as follows :

(a) By 32 votes to 13, with 17 abstentions, it adopted the joint amendment of Belgium and Chile (A/CONF.25/C.2/L.146) to the opening phrase.

(b) It adopted paragraph (a) without formal vote.

(c) By 45 votes to 3, with 16 abstentions, it rejected the amendment of the United Kingdom (A/CONF.25/C.2/L.172) to paragraph (b).

(d) By 29 votes to 11, with 23 abstentions, it rejected the amendment of the United States (A/CONF.25/C.2/L.181) to paragraph (b).

(e) By 41 votes to 5, with 18 abstentions, it rejected the amendment of Spain (A/CONF.25/C.2/L.176) to paragraph (b).

(f) By 38 votes to 7, with 19 abstentions, it adopted the amendment of Canada (A/CONF.25/C.2/L.194) as orally revised, to paragraph (b).

(g) By 58 votes to 2, with 2 abstentions, it adopted paragraph (b) as amended.

184. By 62 votes to none, with 2 abstentions, it adopted article 50 as a whole, as amended.

Article 51

Exemption from personal services and contributions

185. Amendments to article 51 were submitted by Belgium and Romania (A/CONF.25/C.2/L.147 and L.207 respectively).

186. At its thirty-sixth meeting, the Committee voted as follows :

(a) By 23 votes to 22, with 16 abstentions, the Committee adopted the amendment of Romania (A/CONF.25/C.2/L.207).

(b) By 26 votes to 11, with 25 abstentions, the Committee adopted the amendment of Belgium (A/CONF.25/C.2/L.147).

187. By 39 votes to 2, with 20 abstentions, the Committee adopted the text of article 51, as proposed by the International Law Commission, as amended.

NOTE. — Articles 52 to 55 were referred to the First Committee.

Proposal by the delegation of Japan to replace articles 56 to 67 by a single article

188. Japan submitted an amendment (A/CONF.25/C.2/L.89/Rev.1) with a view to replacing articles 56 to 67 by a single article.

189. At its thirty-seventh meeting, the Committee :

(a) Decided by 45 votes to 1, with 10 abstentions to discuss first the approach adopted by the proposal of Japan (A/CONF.25/C.2/L.89/Rev.1),

(b) Rejected by a roll-call vote of 45 votes to 13, with 11 abstentions, the approach proposed by the delegation of Japan.

Article 56

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

190. Amendments to article 56 were submitted by Austria, the Byelorussian Soviet Socialist Republic, India, South Africa and France (A/CONF.25/C.2/L.51, L.106, L.179, L.188 and L.211 respectively).

191. France submitted, jointly with Japan, a revised text of its amendment (A/CONF.25/C.2/L.211/Rev.1).

192. The Byelorussian Soviet Socialist Republic withdrew its amendment (A/CONF.25/C.2/L.106) on the understanding that it would be referred to the Drafting Committee. India withdrew the first alternative contained in point 1 of its amendment (A/CONF.25/C.2/L.179).

193. Austria announced oral revisions including a new paragraph 2 in its amendment (A/CONF.25/C.2/L.51), to be put to the vote in the event of a separate vote on the words "and members of their families forming part of their households" favouring the deletion of these words. As orally revised, the Austrian amendment read as follows:

"Exclusion of private gainful occupation for career consular officials"

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

"2. Members of the family of a career consular official forming part of his household, who are practising, for personal profit, any professional or commercial activity in the receiving State, shall not enjoy the exemptions provided for in Chapter II of this Convention."

Reference to	In favour of deletion	Against deletion	Abstaining	Document and Sponsor
Article 28	13	55	9	India: A/CONF.25/C.2/L.200
Article 29	28	29	21	South Africa: A/CONF.25/C.2/L.189
Article 41, paragraph 3	17	43	15	South Africa: A/CONF.25/C.2/L.189
Article 43	11	57	8	Pakistan: A/CONF.25/C.2/L.214
Article 44, paragraph 3	12	59	6	Pakistan: A/CONF.25/C.2/L.214
Article 49, with the exception of paragraph 1 (b) (roll-call vote)	29	38	10	India, Pakistan and Canada: A/CONF.25/C.2/L.200, L.214 and L.122/Rev.1

199. By the votes indicated above, the Committee rejected all amendments to delete references to certain articles in article 57.

Reference to	In favour of addition	Against addition	Abstaining	Document and Sponsor
Article 30, paragraphs 1 and 2	23	39	13	United States: A/CONF.25/C.2/L.182
Article 31	29	34	13	United Kingdom: A/CONF.25/C.2/L.213
Article 40	23	40	12	United States and Japan: A/CONF.25/C.2/L.182 and L.217

194. At its thirty-eighth meeting, the Committee voted as follows:

(a) By 38 votes to 1, with 30 abstentions, it decided to delete the words "and members of their families forming part of their households" in paragraph 1 of the Austrian amendment (A/CONF.25/C.2/L.51).

(b) By 44 votes to 2, with 25 abstentions, it adopted paragraph 1 of the Austrian amendment, as thus revised.

(c) By 26 votes to 17, with 28 abstentions it rejected the joint amendment by France and Japan (A/CONF.25/C.2/L.211/Rev.1).

(d) By 61 votes to none, with 8 abstentions, it adopted paragraph 2 of the amendment of Austria, as orally introduced.

195. By 65 votes to none, with 5 abstentions, the Committee adopted article 56, as a whole, as amended.

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

Article 57

Regime applicable to honorary consular officials

196. Amendments to article 57 were submitted by Canada, Nigeria, Australia, the United States, South Africa, India, Norway, the United Kingdom, Pakistan, Japan and France (A/CONF.25/C.2/L.122/Rev.1, L.140, L.154, L.182, L.189, L.200, L.212, L.213, L.214, L.217 and L.218 respectively).

197. Nigeria and France withdrew their amendments (A/CONF.25/C.2/L.140 and L.218 respectively) and Canada made certain oral revisions in its amendment (A/CONF.25/C.2/L.122/Rev.1).

198. At its fortieth meeting, the Committee voted as follows upon proposed deletions of references in article 57 to certain articles of the draft convention:

200. The Committee voted as follows upon proposed additions of references in article 57 to certain articles:

Reference to	In favour of addition	Against addition	Abstaining	Document and Sponsor
Article 49, paragraph 2	17	43	15	Canada : A/CONF.25/C.2/L.122/Rev.1
Article 54, paragraph 3	31	30	15	United Kingdom : A/CONF.25/C.2/L.213
Article 55	41	17	18	United Kingdom and Japan : A/CONF.25/C.2/L.213 and L.217

201. By the votes indicated above, the Committee approved the insertion of references to article 54, paragraph 3, and article 55 in the text of article 57. It rejected all other amendments to add references to certain other articles.

202. By 55 votes to 7, with 12 abstentions, the Committee decided to exclude paragraph 3 of article 49 from the list of articles applying to honorary consular officials as enumerated in article 57.

Voting on the inclusion of a reference to article 49 in the list of references contained in paragraph 1 of article 57

203. In view of some misunderstandings concerning the implications of voting on the paragraphs and sub-paragraphs of article 49 to be included in the list of articles in article 57, the Committee voted separately on the inclusion in article 57 of each paragraph and sub-paragraph of article 49.

204. Canada withdrew the first paragraph of its proposed new article (A/CONF.25/C.2/L.122/Rev.1). It was understood that paragraph 2 of that new article would be put to the vote in connexion with the vote of the Committee on the inclusion of references to paragraphs and sub-paragraphs of article 49 in article 57.

205. At its forty-first meeting, the Committee voted as follows :

(a) By 55 votes to 6, with 7 abstentions, it approved the inclusion of a reference to the introductory phrase of paragraph 1 of article 49 in the enumeration of articles contained in article 57.

(b) By 57 votes to 3, with 5 abstentions, it approved the inclusion of a reference to sub-paragraph (a) of paragraph 1 of article 49 in the enumeration of articles contained in article 57.

(c) By 50 votes to 4, with 17 abstentions, it approved paragraph 2 of the proposed new article by Canada (A/CONF.25/C.2/L.122/Rev.1), and referred its incorporation into the text to the Drafting Committee.

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

(e) By 49 votes to 7, with 12 abstentions, and 57 votes to none, with 13 abstentions, it decided not to include a reference to paragraphs 2 and 3 of article 49 in the enumeration of articles contained in article 57.

(f) By a roll-call vote of 62 votes to 2, with 6 abstentions, the Committee approved the inclusion

of reference to article 49, paragraph 1 (a), in article 57, together with the text of the proposed new paragraph by Canada.

Voting on the inclusion of a reference to article 43 in the list of references contained in paragraph 1 of article 57

A separate vote was taken on the inclusion of article 43 in the list of articles contained in paragraph 1 of article 57.

(g) By 60 votes to 2, with 4 abstentions, the Committee approved the inclusion of article 43 in the list of references contained in article 57.

Voting on the inclusion of a reference to article 35 in the list of references in paragraph 1 of article 57

(h) By 35 votes to 2, with 29 abstentions, the Committee approved the inclusion of article 35 in the list of references contained in article 57.

Voting on the inclusion of a reference to articles 28, 29, 33, 34, 36, 37, 38, 39, 41, paragraph 3, and articles 42, 44, paragraph 3, and articles 45 and 53 in the list of references contained in paragraph 1 of article 57

(i) By 49 votes to 2, with 19 abstentions, the Committee approved the inclusion in the list of references contained in article 57 of the articles proposed by the International Law Commission other than those on which separate votes had already been taken.

Voting on additions to paragraph 1 of article 57

(j) By 25 votes to 14, with 30 abstentions, the Committee rejected the additional words to paragraph 1 of article 57 as proposed by Japan (A/CONF.25/C.2/L.217, point 1).

(k) By 26 votes to 16 with 26 abstentions, the Committee rejected the additional words to paragraph 1 of article 57 as proposed by the United Kingdom (A/CONF.25/C.2/L.213).

Voting on an additional paragraph to article 57

(l) By 56 votes to 7, with 4 abstentions, the Committee adopted the words "Privileges and immunities provided for in this Convention shall not be accorded to members of the family of an honorary consular official" in the proposed additional paragraph by Japan (A/CONF.25/C.2/L.217, point 2).

(m) By 42 votes to 18, with 10 abstentions, the Committee adopted the words: "or of a consular employee employed at a consulate headed by an honorary consular official".

(n) By 52 votes to 5, with 12 abstentions, the Committee adopted the proposed additional paragraph, as a whole.

Voting on the amendment of Norway (A/CONF.25/C.2/L.212)

(o) By 56 votes to none, with 14 abstentions, the Committee decided that article 57 should be formulated along the lines proposed in the amendment of Norway.

Voting on article 57, as a whole, as amended

206. By 58 votes to 1, with 11 abstentions, the Committee adopted article 57 as a whole, as amended.

207. The formulation of the text of article 57 was entrusted to the Drafting Committee, along the lines proposed by Norway (A/CONF.25/C.2/L.212), with a view to making a distinction between those articles which apply to the consulates headed by honorary consular officials and those which apply to honorary consular officials themselves.

Article 58

Inviolability of the consular premises

208. Amendments to article 58 were submitted by the Netherlands, Austria, Greece, the United States, India, Pakistan and South Africa (A/CONF.25/C.2/L.20, L.52, L.163, L.183, L.201, L.215 and L.219 respectively).

209. The United States and Pakistan withdrew their amendments (A/CONF.25/C.2/L.183 and L.215). The amendment of the Netherlands (A/CONF.25/C.2/L.20) was referred to the Drafting Committee. Pakistan co-sponsored the amendment submitted by South Africa (A/CONF.25/C.2/L.219).

210. The question of replacing in the title the word "inviolability" by the word "protection" was referred to the Drafting Committee.

211. At its forty-first meeting, the Committee voted as follows :

(a) By 30 votes to 18, with 15 abstentions, it rejected the amendments of Greece and India (A/CONF.25/C.2/L.163 and L.201).

(b) By 44 votes to none, with 19 abstentions, it adopted the amendment submitted jointly by South Africa and Pakistan (A/CONF.25/C.2/L.219).

Article 59

Exemption from taxation of consular premises

212. Amendments to article 59 were submitted by Australia, the United States, India, Pakistan and South Africa (A/CONF.25/C.2/L.155, L.184, L.202, L.216 and L.220).

213. The Australian amendment (A/CONF.25/C.2/L.155) was referred to the Drafting Committee. India, Pakistan and South Africa withdrew their amendments (A/CONF.25/C.2/L.202, L.216 and L.220). South Africa

co-sponsored the amendment submitted by the United States (A/CONF.25/C.2/L.184).

214. At its forty-first meeting, the Committee voted as follows :

(a) By 25 votes to 19, with 18 abstentions, it decided to delete the words "or any person acting on behalf of the sending State".

(b) By 50 votes to one, with 16 abstentions, it adopted the South African and United States amendment (A/CONF.25/C.2/L.184) as amended.

(c) By 61 votes to none, with 4 abstentions, it adopted paragraph 2 of the International Law Commission text.

215. By 58 votes to one, with 6 abstentions, it adopted article 59, as amended.

216. Paragraph 2 of article 59 was referred to the Drafting Committee with a view to conforming the drafting of paragraph 2 with that of paragraph 1.

Article 60

Inviolability of consular archives and documents

217. Amendments to article 60 were submitted by the Netherlands, Austria and South Africa (A/CONF.25/C.2/L.20, L.53 and L.221 respectively).

218. The Netherlands withdrew their amendment (A/CONF.25/C.2/L.20) on the understanding that it would be referred to the Drafting Committee. Austria withdrew its amendment (A/CONF.25/C.2/L.53).

219. At its forty-second meeting the Committee, by 48 votes to none, with 4 abstentions, adopted the amendment by South Africa.

220. The Committee then unanimously adopted the text of article 60, as amended.

Article 61

Special protection

221. Amendments to article 61 were submitted by the United States, Canada, South Africa and India (A/CONF.25/C.2/L.11, L.121, L.190 and L.208 respectively).

222. The United States withdrew its amendment (A/CONF.25/C.2/L.11).

223. Canada and South Africa submitted orally a joint amendment in place of the separate amendments by Canada and South Africa (A/CONF.25/C.2/L.121 and L.190 respectively), which read as follows :

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

224. India withdrew its amendment (A/CONF.25/C.2/L.208), and co-sponsored the joint amendment.

225. The Committee referred to the Drafting Committee a suggestion by France and the United States that the word "special" in the title of article 61 should be deleted.

226. At its forty-second meeting, the Committee, by 50 votes to 1, with 11 abstentions, adopted the joint amendment.

Article 62

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

227. Amendments to article 62 were submitted by Austria and Japan (A/CONF.25/C.2/L.54 and L.225 respectively). They were later withdrawn.

228. At its forty-second meeting, the Committee, by 58 votes to 2, with 4 abstentions, adopted the text of article 62, as proposed by the International Law Commission.

Article 63

Exemption from taxation

229. Amendments to article 63 were submitted by India and Portugal (A/CONF.25/C.2/L.209 and L.222 respectively).

230. At its forty-second meeting the Committee voted as follows:

(a) By 27 votes to 13, with 26 abstentions, it rejected the amendment of India (A/CONF.25/C.2/L.209).

(b) By 42 votes to 10, with 17 abstentions, it rejected the amendment of Portugal (A/CONF.25/C.2/L.222).

231. By 55 votes to 4, with 9 abstentions, it adopted the text of article 63 as proposed by the International Law Commission.

Article 64

Exemption from personal services and contributions

232. An amendment to article 64 was submitted by Australia (A/CONF.25/C.2/L.156).

233. At its forty-second meeting, the Committee voted as follows:

(a) By 53 votes to 6, with 8 abstentions, it adopted the words "who are neither nationals" appearing in the Australian amendment.

(b) By 48 votes to 7, with 10 abstentions, it adopted the words "nor permanent residents of the receiving State".

(c) By 48 votes to 5, with 15 abstentions, it adopted the Australian amendment as a whole.

234. The Committee adopted article 64, as a whole, as amended, without formal vote.

Article 65

Obligations of third States

235. Amendments to article 65 were submitted by Thailand, India and the United Kingdom (A/CONF.25/C.2/L.69, L.210 and L.223 respectively).

236. At its forty-second meeting, the Committee approved a ruling by the Chairman that article 65 should be considered as deleted, in view of the inclusion by the Committee of a reference to article 54, paragraph 3, in article 57 (see paragraph 200 above).

Article 66

Respect for the laws and regulations of the receiving State

237. Amendments to article 66 were submitted by Switzerland and the United Kingdom (A/CONF.25/C.2/L.165 and L.224 respectively).

238. At the forty-second meeting of the Committee, the Chairman ruled that, despite the inclusion of a reference to article 55 in article 57, the second sentence of article 66 remained for consideration by the Committee as it covered a principle not included in article 55, subject to the necessary drafting changes by reason of the deletion of the first sentence of article 66.

239. Switzerland withdrew its amendment (A/CONF.25/C.2/L.165).

240. At its forty-second meeting the Committee by 35 votes to 23, with 12 abstentions, adopted the amendment of the United Kingdom (A/CONF.25/C.2/L.224) to delete article 66.

Article 67

Optional character of the institution of honorary consular officials

241. An amendment to article 67 was submitted by Japan (A/CONF.25/C.2/L.226). It was later withdrawn but subsequently reintroduced by Norway.

242. At its forty-second meeting the Committee, by 56 votes to 11, with 4 abstentions, rejected the Norwegian amendment.

243. The Committee then adopted the text of article 67 as proposed by the International Law Commission, by 63 votes to 3, with 6 abstentions.

NOTE. — Article 68 was considered by the First Committee.

Article 69

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

244. Amendments to article 69 were originally submitted by the United States, the Netherlands, Japan, Canada, Brazil, India, Australia and Norway (A/CONF.25/C.2/L.12, L.21, L.90, L.112, L.161, L.180, L.192 and L.228 respectively). A joint amendment was later submitted by Brazil, Canada, Ceylon, India, Japan, the Netherlands and South Africa (A/CONF.25/C.2/L.229). Amendments submitted previously by the co-sponsors were subsequently withdrawn.

245. Norway revised its amendment (A/CONF.25/C.2/L.228) with a view to adding to the last sentence of paragraph 1 the following:

"If criminal proceedings are instituted against such an official, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible."

246. At its forty-fourth meeting, the Committee voted as follows :

(a) By a roll-call vote of 38 votes to 8, with 20 abstentions, it adopted the joint amendment (A/CONF.25/C.2/L.229) to paragraph 1 of article 69.

(b) By 50 votes to none, with 18 abstentions, it adopted the amendment (A/CONF.25/C.2/L.228) of Norway, as orally revised, to paragraph 1 of article 69.

(c) By 48 votes to 5, with 16 abstentions, the Committee adopted paragraph 1 of article 69, as amended.

(d) By 28 votes to 15, with 25 abstentions, the Committee approved the retention of the word "unduly" in the last sentence of the joint amendment (A/CONF.25/C.2/L.229).

(e) By 48 votes to 5, with 16 abstentions, the Committee adopted paragraph 2 of the joint amendment.

247. By 46 votes to 5, with 17 abstentions, the Committee adopted article 69 as a whole, as amended.

248. The Committee referred to the Drafting Committee the concordance in the Spanish text of the last sentence of paragraph 2 of article 69 with the text of paragraph 3 of article 41.

Additional article

Consular employees, members of the service staff and members of their families who carry on a private gainful occupation and members of their private staff

249. An amendment was submitted by Belgium and France (A/CONF.25/C.2/L.230) with a view to adding a new article on this subject.

250. Belgium and France orally revised their amendment to read as follows :

"Privileges and immunities provided in chapter II of the present Convention shall not be accorded :

"(a) To a consular employee or to a member of the service staff who carries on a private gainful occupation in the receiving State ;

"(b) To members of the family of a person referred to in sub-paragraph (a) or to his private staff ;

"(c) To members of the family of a consular employee or a member of the service staff who themselves carry on a private gainful occupation in the receiving State."

251. At its forty-fourth meeting the Committee, by 60 votes to 1, with 9 abstentions, adopted the proposed new article, as orally revised.

252. The Committee referred to the Drafting Committee the appropriate place for including this new article in the text. It was suggested that the article should be inserted after article 56.

ANNEX

Articles adopted by the Second Committee

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

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

Article 28

Use of the national flag and of the State coat of arms

1. The sending State shall have the right to the use of its national flag and coat of arms in the receiving State as provided in this article.

2. The national flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consulate and at the entrance door thereof and on the residence and means of transport of the head of the consular post when used on official business.

3. In the exercise of the right accorded by this article regard shall be had to the laws, regulations and usage of the receiving State.

Article 29

Accommodation

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

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

Article 30

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consulate except with the consent of the head of the consular post, his designee, or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action or if the authorities of the receiving State have reasonable cause to believe that a crime of violence to person or property has been or is being or is about to be committed within the consular premises.

3. The receiving State is under a special duty to take all appropriate steps to protect the consular premises, subject to the provisions of the foregoing paragraphs, against any intrusion or damage² and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

4. The consular premises, their furnishing, the property of the consulate and its means of transport shall be immune

¹ The representative of Hungary agreed to the reference direct to the Drafting Committee of an amendment, submitted by his delegation, whereby the word "consulates" would be inserted after the words "immunities of" in the title of chapter II. This amendment was originally circulated in document A/CONF.25/C.2/L.34.

² The Committee referred to the Drafting Committee a question raised by the representatives of Colombia and of Spain as to whether the Spanish translation of the words "intrusion or damage" were in concordance with the other official texts.

from any form of requisition for purposes of national defence or public utility. If expropriation or occupation³ is necessary for such purposes, all necessary steps shall be taken to avoid impeding the performance of the consular functions, and a prompt, adequate and effective indemnity shall be paid to the sending State.

Article 31

Exemption from taxation of consular premises

1. Consular premises of which the sending State or any person acting on behalf of the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or the head of the consular post.⁴

Article 32

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 33⁵

Facilities for the work of the consulate⁶

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

Article 34⁷

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

Article 35

Freedom of communication

1. The receiving State shall permit and protect free communication⁸ on the part of the consulate for all official purposes. In communicating with the Government, the diplomatic missions and other consulates of the sending State, wherever situated, the consulate may employ all appropriate means, including diplomatic or consular couriers, the diplo-

³ The Committee referred to the Drafting Committee a question raised by the representative of Italy concerning the scope and meaning of the word "occupation".

⁴ The Committee referred to the Drafting Committee the reformulation of the words "the head of the consular post" at the end of paragraph 2 of article 31, in view of the adoption by the Committee, in paragraph 1, of the words "any person acting on behalf of the sending State" in place of the words "the head of the post acting for the sending State".

⁵ The Chairman referred to the Drafting Committee a suggestion by the representative of the Federal Republic of Germany that article 33 should be placed either earlier in section I of chapter II, or possibly after article 5.

⁶ The Committee referred to the Drafting Committee an oral amendment by the representative of the Byelorussian SSR to the effect that the title of article 33 should read "Assistance in the work of the consulate".

⁷ The Chairman referred to the Drafting Committee a suggestion by the representative of France that article 34 should be transferred to section II of chapter II.

⁸ The Committee referred to the Drafting Committee an amendment by South Africa (A/CONF.25/C.2/L.75) to substitute the words "freedom of communication" for the words "free communication".

matic or consular bag and messages in code or cipher. However, the consulate may instal and use a wireless transmitter only with the consent of the receiving State.⁹

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

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State the bag shall be returned to its place of origin.

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

5. The consular courier who shall, except with the consent of the receiving State, be neither a national of the receiving State nor a permanent resident thereof,¹⁰ shall be provided with an official document indicating his status and the number of packages constituting the consular bag. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.¹¹

6. The sending State, its diplomatic missions and its consulate may designate consulate couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.¹²

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consulate may send one of its members to take possession of the consular bag directly and freely from the captain of the aircraft.¹³

Article 36

Communication and contact with nationals of the sending State

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

⁹ The Committee referred to the Drafting Committee an amendment by Nigeria (A/CONF.25/C.2/L.108) to re-draft the last sentence of paragraph 1 to read "However, the consulate may not instal and use a wireless transmitter except with the consent of the receiving State."

¹⁰ The Committee referred to the Drafting Committee the incorporation in paragraph 5, or possibly in another article, such as article 69, of the words "who shall, except with the consent of the receiving State, be neither a national of the receiving State nor a permanent resident thereof."

¹¹ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the last two sentences of this paragraph might be combined to read: "In the performance of his functions he shall be protected by the receiving State, enjoy personal inviolability, and shall not be liable to any form of arrest or detention."

¹² The Committee referred paragraph 6 to the Drafting Committee for review and, in particular, the concordance of the first sentence with the second sentence of paragraph 1 of article 35.

¹³ The Committee referred to the Drafting Committee a suggestion by the representative of Finland that article 1 should contain definitions of the terms "consular courier" and "consular bag".

(a) Consular officials shall be free to communicate with the nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officials of the sending State.

(b) The competent authorities shall, without delay, inform the competent consulate of the sending State if, within the district, a national of that State is arrested¹⁴ or committed to prison or to custody pending trial or is detained in any other manner and shall state the reason why he is being deprived of his liberty. Any communication addressed to the consulate by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay.

(c) The competent authorities shall further be required, on request by the competent consulate of the sending State, to communicate to it periodically a list of the nationals of that State who are detained.¹⁵

(d) Consular officials shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officials shall refrain from taking action on behalf of a national who is in custody or detention if he expressly opposes such action.¹⁶

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purpose for which the rights accorded under the article are intended.

*Article 37*¹⁷

*Obligations of the receiving State*¹⁸

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) In the case of the death of a national of the sending State, to inform without delay¹⁹ the consulate in whose district the death occurred and, as soon as possible, to transmit a certificate of death.

(b) To inform the competent consulate without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. This provision shall, however, be without prejudice to the legislative provision of the receiving State regarding the execution of such measures.

¹⁴ The Committee referred to the Drafting Committee a question raised by the representative of Spain concerning the translation into Spanish of the word "arrest".

¹⁵ The Committee referred to the Drafting Committee the question of the placing of this sub-paragraph in the text of paragraph 1.

¹⁶ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that a mention of the word "prison" should be included in the last sentence of sub-paragraph (d).

¹⁷ The Chairman referred to the Drafting Committee a suggestion by the representative of Ireland that article 37 might be better placed in a chapter or section other than chapter II, section I.

¹⁸ The representative of Hungary agreed to the reference direct to the Drafting Committee of an amendment, submitted by his delegation, whereby the words "to inform the consulate" would be added to the end of the title of article 37.

¹⁹ The Committee referred to the Drafting Committee the concordance of the words "without delay" in the English and the French texts.

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

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officials may address:²⁰

(a) The competent local authorities of their district;

(b) The competent central authorities of the receiving State if²¹ this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

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

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

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

SECTION II. — FACILITIES, PRIVILEGES AND IMMUNITIES REGARDING CONSULAR OFFICIALS AND EMPLOYEES

Article 40

Protection and respect due to consular officials

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41

Personal inviolability of consular officials

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

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

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

²⁰ The representative of Romania agreed to the reference direct to the Drafting Committee of an amendment by his delegation to replace the words "*peuvent s'adresser*" in the French text by the words "*s'adressent*".

²¹ The Chairman referred to the Drafting Committee a suggestion by the representative of the United Kingdom that the word "if" in sub-paragraph (b) should be replaced by the words "to the extent that".

*Article 42**Duty to notify in the event of arrest, detention pending trial or the institution of criminal proceedings*

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

*Article 43**Immunity from jurisdiction*

1. Consular officials shall not be amenable to the jurisdiction of the judicial or administrative authorities²² of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this article shall not, however, apply in respect of a civil action either:

- (a) Arising out of a contract concluded by a consular officer or consular employee²³ in which he did not contract expressly or impliedly as agent of the sending State; or
- (b) By a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

3. A consular officer or consular employee shall comply with any requirement imposed by the law of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

*Article 44**Liability to give evidence*

1. Members of the consulate may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee shall not, except in the cases mentioned in paragraph 3 of this article, decline to give evidence. If a consular official should decline to do so, no coercive measure or penalty may be applied to him.²⁴

2. The authority requiring the evidence of a consular official shall avoid interference²⁵ with the performance of his functions. It may, when possible, take such testimony at his residence or at the consulate or accept a statement from him in writing.

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

²² The Committee referred to the Drafting Committee an amendment by Greece, originally circulated in document A/CONF.25/C.2/L.96 (and orally revised as regards the English text) to the effect that the word "jurisdictions" should be substituted for the word "authorities".

²³ The Committee referred to the Drafting Committee a suggestion by the representative of the Federal Republic of Germany that the words "or consular employee" should be deleted from sub-paragraph (i) of paragraph 2 in view of the fact that paragraph 1 conferred jurisdictional immunities only on consular officials and not on consular employees.

²⁴ The Committee referred to the Drafting Committee the concordance of the English and French texts of paragraph 1.

²⁵ The Committee referred to the Drafting Committee an amendment by Spain (A/CONF.25/C.2/L.151) to replace, in the Spanish text of paragraph 2, the words "*evitar que se obstre*" by the words "*evitar que el funcionario consular sea perturbado* ...".

to give evidence as an expert witness²⁶ with regard to the laws of the sending State.

*Article 45**Waiver of immunities*

1. The sending State may waive, with regard to a member of the consulate, the immunities provided for in articles 41, 43 and 44.²⁷

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this article, and shall be communicated to the receiving State in writing.

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

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

*Article 46**Exemption from obligations in the matter of registration of aliens and residence permits*

1. Consular officers and consular employees and members of their families²⁸ forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who is engaged in a private occupation for gain in the receiving State or who is a member of the service staff, or to any member of the family of any such employee.

*Article 46A²⁹**Exemption from obligations in the matter of work permits*

Members of the consulate, members of their families forming part of their households and the private staff of consular officials and of those consular employees who perform administrative and technical functions, if they do not exercise any other private gainful occupation outside the consulate,

²⁶ The Committee referred to the Drafting Committee a question by the representative of Japan concerning the translation into official texts, other than the English, of the words "expert witness" in paragraph 3.

²⁷ The Committee referred to the Drafting Committee the concordance of the text of paragraph 1 with the texts of articles 41, 43 and 44 as adopted by the Committee. In this respect, attention was drawn to the fact that the Committee had adopted two new paragraphs for inclusion in article 43. It was also pointed out that the immunity from jurisdiction in article 43 had been confined by the Committee to consular officials, in place of members of the consulate as had been proposed by the International Law Commission.

²⁸ The representative of Romania agreed to the reference direct to the Drafting Committee of an amendment by his delegation to the effect that a definition of "members of their families" should be inserted in paragraph 1.

²⁹ The Committee decided, at its thirtieth meeting on 26 March 1963, that the second paragraph of article 46 of the draft Articles proposed by the International Law Commission, should, for the purposes of discussion by the Committee, be considered separately as article 46A.

shall be exempt from any obligations in regard to work permits imposed either on employers or on employees by the laws and regulations of the receiving State concerning the employment of foreign labour.

Article 47

Social security exemption

1. Subject to the provisions of paragraph 3 of this article, the members of the consulate, with respect to services rendered³⁰ for the sending State, and those members of their families forming part of their households who are not engaged in private gainful occupation of any kind, shall be exempt from social security provisions which may be in force in the receiving State.

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

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

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

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

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

Article 48

Exemption from taxation

1. Members of the consulate, with the exception of the service staff, and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save:³¹

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

(b) Dues or taxes on private immovable property situated in the territory of the receiving State, subject, however, to the application of the provisions of article 31;

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

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

(e) Charges levied for specific services rendered;

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

2. Members of the service staff and members of the private staff who are not nationals of the receiving State nor

³⁰ The Committee referred to the Drafting Committee a suggestion by the representative of Canada that the words "services rendered" in paragraph 1 should be replaced by the words "services they render".

³¹ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the words "members of" should be inserted before the words "service staff" in the opening sentence of paragraph 1, and that the word "save" should be replaced by the word "except" in the same sentence.

permanent residents thereof but are in the sole employ of members of the consulate shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consulate who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the provisions of that State impose upon employers concerning the levying of income taxes.

Article 49

Exemption from customs duties

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry and export³² of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) Articles for the official use of the consulate;

(b) Articles for the personal use of a consular official or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees, except those belonging to the service staff, shall enjoy the exemptions specified in the previous paragraph in respect of articles imported at the time of first installation or thereafter exported.³³

3. Personal luggage accompanying consular officials³⁴ and members of their families shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in paragraph 1 (b) of this article, or articles the import or export of which is prohibited by law or which are subject to the quarantine regulations of the receiving State. Such inspection shall be carried out in the presence of the person whose luggage is accompanying him.³⁵

Article 50

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

In the event of the death of a member of the consulate or of a member of his family forming part of his household, who was not a national or permanent resident of the receiving State, the State:

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

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

³² The Committee referred to the Drafting Committee the translation into the other official texts of the word "*sortie*" appearing in the French text of paragraph 1 and paragraph 2.

³³ The Committee referred to the Drafting Committee the formulation and incorporation into the texts of paragraph 2 of the words "or thereafter exported".

³⁴ The Committee referred to the Drafting Committee the formulation of the words "personal luggage accompanying consular officials" in paragraph 3 on the understanding that the notion underlying the word "accompanying" should be included in the final text.

³⁵ The Committee referred to the Drafting Committee the question whether this paragraph should remain in article 49, or whether it should form a separate article.

*Article 51**Exemption from personal services and contributions*

The receiving State shall exempt members of the consulate and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting. These exemptions shall not, however, apply to members of the families of consular employees if the latter, in addition to their functions at the consulate, carry on a private gainful occupation.

*Article 56**Exclusion of private gainful occupation for career consular officials*

1. Career consular officials shall not in the receiving State practice, for personal profit, any professional or commercial activity.³⁶

2. Members of the family of a career consular official forming part of his household, who are practising, for personal profit, any professional or commercial activity on the receiving State, shall not enjoy the exemptions³⁷ provided for in chapter II of this Convention.

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

*Article 57*³⁸*Régime applicable to honorary consular officials*

1. Articles shall likewise apply to consulates headed by an honorary consular official. In addition, the facilities, privileges and immunities of such consulates shall be governed by articles

³⁶ The Committee referred to the Drafting Committee an amendment by the Byelorussian Soviet Socialist Republic, originally circulated in document A/CONF.25/C.2/L.106 and revised in the course of discussion, to the effect that where the words "private gainful occupation" appear in the articles adopted by the Committee they should be replaced by the words "gainful occupation professionally". (The words "private gainful occupation" had appeared in the text of article 56, as proposed by the International Law Commission, but did not appear in the amendment to this article which was adopted by the Committee.)

³⁷ The Committee referred to the Drafting Committee a suggestion by the representative of the Federal Republic of Germany that the word "exemptions" should be deleted and replaced by the words "privileges and immunities".

³⁸ (a) The Committee decided that article 57 should be formulated by the Drafting Committee along the lines of an amendment proposed by Norway (A/CONF.25/C.2/L.212), in that a distinction is to be made between those articles which apply to the consulates headed by honorary consular officials and those which apply to honorary consular officials themselves. The amendment by Norway, as originally submitted, reads as follows:

"1. Articles 28, 29, 33, 34, 35, 36, 37, 38, 39 and 49, paragraph 1 (a), shall likewise apply to consulates headed by an honorary consular official. In addition, the facilities, privileges and immunities of such consulates shall be governed by articles 58, 59, 60 and 65.

"2. Article 41, paragraph 3, articles 42, 43, 44, paragraph 3, articles 45 and 53 shall likewise apply to honorary consular officials. In addition, the facilities, privileges and immunities of such consular officials shall be governed by articles 61, 62, 63, 64 and 66."

When this amendment was put to the vote, it was decided that the articles specifically referred to therein would be replaced or amended where necessary by the Drafting Com-

2. Articles shall likewise apply to honorary consular officials. In addition, the facilities, privileges and immunities of such consular officials shall be governed by articles

3. Privileges and immunities provided for in this Convention shall not be accorded to members of the family of an honorary consular official or of a consular employee employed at a consulate headed by an honorary consular official.

*Article 58**Inviolability³⁹ of the consular premises*

The receiving State shall take such steps as may be necessary to protect the premises of a consulate headed by an honorary consular official against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity. This obligation shall, however, relate only to that part of the premises which is used exclusively for the exercise of consular functions.

*Article 59**Exemption from taxation of consular premises*

1. Consular premises headed by an honorary consular official and used exclusively for consular purposes, of which the sending State is the owner or lessee, shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

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

*Article 60**Inviolability of consular archives and documents*

The consular archives and documents of a consulate headed by an honorary consul⁴⁰ shall be inviolable at any time and wherever they may be, provided that they are kept separate

mittee to correspond with the articles contained in chapter II which the Committee decided specifically to include in article 57, and as enumerated in the following paragraph.

(b) The Committee decided that the provisions of articles 28, 29, 33, 34, 35, 36, 37, 38, 39, 41, paragraph 3, articles 42, 43, 44, paragraph 3, articles 45, 49, paragraph 1 (a), articles 53, 54, paragraph 3, and article 55 of chapter II concerning the facilities, privileges and immunities of career consular officials and consular employees should likewise apply to honorary consular officials.

(c) The Committee adopted an amendment by Canada (A/CONF.25/C.2/L.122/Rev.1) as orally revised, which provides that the application of article 49, paragraph 1 (a) to consulates headed by an honorary consular official, is subject to the provision that the "articles" mentioned therein "are coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consulate". The incorporation of this amendment into the text was referred to the Drafting Committee.

(d) The Committee referred to the Drafting Committee a question concerning the proper formulation of the reference to "article 41, paragraph 3" in article 57, in view of the fact that paragraph 3 of article 41, contains reference to paragraph 1 of the same article which is not applicable to honorary consular officials.

³⁹ The Committee referred to the Drafting Committee a suggestion by the representative of the United States that the word "protection" should be substituted for the word "inviolability" in the title of article 58.

⁴⁰ The Committee referred to the Drafting Committee an amendment by the Netherlands (A/CONF.25/C.2/L.20) to replace the word "consul" by the words "consular official"

from other papers and documents and, in particular, from the private correspondence of the head of post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 61

Special⁴¹ protection

The receiving State is under a duty to accord to an honorary consular official such protection as may be required by reason of his official position.

Article 62

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

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

Article 63

Exemption from taxation

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

Article 64

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officials who are neither nationals nor permanent residents of the receiving State from all personal services and from all public services of any kind and also from military obligations such as those concerned with requisitioning, military contributions and billeting.

Article 67⁴²

Optional character of the institution of honorary consular officials

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

⁴¹ The Committee referred to the Drafting Committee a suggestion by the representatives of France and of the United States that the word "special" should be deleted from the title of article 61.

⁴² The Committee decided to delete entirely articles 65 and 66.

CHAPTER IV.—GENERAL PROVISIONS

Article 69

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

1. Except in so far as additional privileges and immunities may be granted by the receiving State, consular officials who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided for in article 44, paragraph 3, of these articles. So far as these officials are concerned, the receiving State shall likewise be bound by the obligation laid down in article 42. If criminal proceedings are instituted against such an official the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.⁴³

2. Other members of the consulate who are nationals of or permanently resident in the receiving State and members of their families as well as members of the families of consular officials referred to in paragraph 1 shall enjoy privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consulate and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over these persons in such a way as not to hinder the performance of the functions of the consulate.

Additional article⁴⁴

Consular employees, members of the service staff and members of their families who carry on a private gainful occupation and members of their private staff

Privileges and immunities provided in chapter II of the present Convention shall not be accorded:

(a) To a consular employee or to a member of the service staff who carries on a private gainful occupation in the receiving State;

(b) To members of the family of a person referred to in subparagraph (a) or to his private staff;

(c) To members of the family of a consular employee or a member of the service staff who themselves carry on a private gainful occupation in the receiving State.

⁴³ The Committee referred to the Drafting Committee the concordance, in the Spanish text, of the last sentence of paragraph 1, and the second sentence of paragraph 3 of article 41.

⁴⁴ The Committee referred to the Drafting Committee the appropriate place for including this additional article in the text. In this connexion, it was suggested that the article should follow immediately after article 56.