

# **United Nations Conference on Diplomatic Intercourse and Immunities**

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## **32nd meeting of the Committee of the Whole**

Extract from Volume I of the *Official Records of the United Nations Conference on Diplomatic Intercourse and Immunities (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

**THIRTY-SECOND MEETING**

Tuesday, 28 March 1961, at 10.30 a.m.

Chairman: Mr. LALL (India)

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

**Article 31 (Exemption from social security legislation)**  
(resumed from the thirtieth meeting)

1. The CHAIRMAN, inviting the Committee to resume its debate on article 31, drew attention to the redraft (L.310) prepared by the working party appointed (30th meeting, para. 27) to revise the article on the basis of the Austrian amendment (L.265) and in the light of comments made in debate.

2. Mr. KIRCHSCHLAEGER (Austria), speaking as Chairman of the working party, explained the points of difference between the working party's redraft and the Austrian amendment.

3. The working party had restored the term "social security" used by the International Law Commission, but had replaced the word "legislation" by the word "provisions", which seemed more appropriate.

4. The words "the members of the mission and the members of their families who form part of their households" were not in conformity with articles 27, 28, 29, 30, 32, 33 and 34, where the words "diplomatic agent" were used. The working party had therefore preferred the latter expression, and had assumed that it would not conflict with article 36, paragraph 1, which dealt with the application of the privileges and immunities specified in articles 27 to 34. However, article 36, paragraph 2, did not provide that service staff should be exempt from social security provisions, and the working party therefore suggested that some such words as "and the exemption from social security provisions provided by article 31" should be added to the end of the paragraph. If, when considering article 36, the Committee decided that it would be desirable to specify in each of the articles 27 to 34 the persons entitled to privileges and immunities, then the words "members of the mission and the members of their families who form part of their households" could be restored in article 31.

5. In accordance with the United States amendment (L.262), paragraph 1 of the working party's redraft provided for exemption from social security legislation with respect to services rendered for the sending State.

6. By referring to social security provisions which "may be" in force, the redraft recognized the fact that not every country had a social security system.

7. The term "private servants" was used in paragraph 2, in conformity with article 1 (Definitions).

8. Paragraph 3 of the redraft used the words "shall observe the obligations" in preference to the words "shall be subject to the obligations" thus ensuring that

in accordance with article 29, paragraph 3 (Immunity from jurisdiction), no measures of execution could be taken in respect of a diplomatic agent as employer, but that he would have to pay social insurance contributions and fulfil the other obligations of an employer.

9. In paragraph 5, the working party had thought it desirable to provide for bilateral or multilateral agreements between States; but the reference to the conclusion of future conventions could be put in a separate paragraph if that were preferred.

10. In conclusion he thanked the International Labour Office for its most helpful co-operation.

11. The CHAIRMAN asked whether the Committee would approve the redraft of article 31. The only possible difficulty was the term: "diplomatic agent"; he believed it would be better to adopt that term and make the necessary change in article 36 at the appropriate time.

12. Mr. BARTOŠ (Yugoslavia) said that if the amendment were put to a vote he would abstain for reasons which he had explained during the discussion of article 31.

13. Mr. de VAUELLES (France) associated himself with the previous speaker. He would not vote against the amendment, because it did contain some improvement; but he would abstain because he feared that difficulties would arise in the application of the article.

14. Mr. BOUZIRI (Tunisia) said that he would also abstain.

*The redraft of article 31 (L.310) was adopted by 53 votes to none, with 14 abstentions.*

**Article 36 (Persons entitled to diplomatic privileges and immunities)**

15. The CHAIRMAN invited debate on article 36 and the amendments thereto.<sup>1</sup>

16. Mr. SCHRØDER (Denmark) withdrew his delegation's amendment (L.213) in favour of the Australian amendment (L.278/Add.1).

17. Mr. GLASSE (United Kingdom) said that as the first of his delegation's amendments (L.205) involved only a drafting change, he would not press it to a vote, but would be willing for it to be referred to the Drafting Committee.

18. Mr. de ROMREE (Belgium) said that his delegation's amendment (L.216) could be dealt with in the same way.

<sup>1</sup> The following amendments had been submitted: Netherlands, A/CONF.20/C.1/L.189; Italy, A/CONF.20/C.1/L.199; United Kingdom, A/CONF.20/C.1/L.205; Libya, Morocco and Tunisia, A/CONF.20/C.1/L.211/Rev.1; Denmark, A/CONF.20/C.1/L.213; Belgium, A/CONF.20/C.1/L.216; Burma, Ceylon and Federation of Malaya, A/CONF.20/C.1/L.228/Rev.1; Venezuela, A/CONF.20/C.1/L.233; Austria, A/CONF.20/C.1/L.237; Switzerland, A/CONF.20/C.1/L.242; Japan, A/CONF.20/C.1/L.249; India, A/CONF.20/C.1/L.256; Canada, A/CONF.20/C.1/L.258; United States of America, A/CONF.20/C.1/L.273 and Rev.1; Australia, A/CONF.20/C.1/L.278 and Add.1; Viet-Nam, A/CONF.20/C.1/L.285/Rev.1; Brazil, A/CONF.20/C.1/L.295; Sweden, A/CONF.20/C.1/L.308.

19. Mr. WESTRUP (Sweden) said that the effect of the first amendment and of the new paragraph proposed by his delegation (L.308) would be, if read together, to limit the exemption of administrative and technical staff from customs duties to articles imported in connexion with their installation in the receiving State. There seemed, however, to be a trend of opinion in the Committee in favour of excluding administrative and technical staff from the benefit of customs exemption entirely. If that opinion prevailed, he would withdraw his amendment.

20. Mr. BOUZIRI (Tunisia), introducing the amendment submitted by Libya, Morocco and Tunisia (L.211/Rev.1), said that he and his co-sponsors considered article 36 quite unacceptable. They were astonished that the International Law Commission, previously so cautious and so careful to respect international law, should have shown such unexpected boldness in article 36. For that article went far beyond the limits of the rules of international law regarding diplomatic privileges and immunities and it was clear from its commentary (A/3859) that the Commission had known it was making an innovation. The Commission had clearly recognized that it was the general practice and a rule of international law to grant to members of the diplomatic staff of a mission the same privileges as were enjoyed by heads of mission; it had also recognized that there was no uniformity in the practice of States in deciding which members of the staff of a mission should enjoy privileges and immunities. It was therefore difficult to see why the Commission had tried to establish a universal rule in article 36. There were dangers in such a rule and the extension of privileges and immunities to other than diplomatic staff could place a crushing burden on receiving States. The United States amendment (L.273/Rev.1) went even further than article 36, but he would refrain from extensive comment on it and would only say that he found it entirely unrealistic.

21. The amendment of which he was a joint sponsor was a reasonable one. It took account of realities and admitted the granting of certain immunities to administrative and technical staff, chiefly by virtue of their official work; it also provided for the granting of further immunities by agreement between the receiving State and the sending State.

22. Mr. MONACO (Italy) said that article 36 was one of the most difficult and controversial in the draft. It had been studied and discussed at length by the International Law Commission and was the result of a decision by the majority, though it was clear from the commentary that there had been great diversity of opinion among members.

23. The Italian delegation, considering that the Conference was concerned with the codification and not with the progressive development of international law, had therefore submitted an amendment (L.199) excluding administrative and technical staff and their families from the provisions of paragraph 1. The International Law Commission had recognized the difficulty of distinguishing between different kinds of staff and in order to overcome it had drawn up the rather general

rule to which so many delegations were opposed; but that was not the way to codify existing practice in international law.

24. Mr. NGUYEN-QUOC DINH (Viet-Nam), introducing his delegation's amendment (L.285/Rev.1) to paragraph 1, said that with the increase in the number of foreign diplomatic missions and in the size of their staffs, the question of the position of administrative and technical staff had become extremely important, for it was most disturbing for a receiving State to have in its territory many thousands of persons who were not amenable to its authority.

25. Only diplomatic agents were representatives and they alone enjoyed the full measure of immunities. The administrative and technical staff of diplomatic missions should enjoy immunity only in respect of acts performed in the course of their duties, as was proposed in his delegation's amendment to paragraph 2. It was, of course, difficult to distinguish between those acts and acts performed outside official duties, but he recalled that the distinction in question was made in the Conventions on the Privileges and Immunities of the United Nations and of the specialized agencies.

26. Mr. CARMONA (Venezuela) said that no fewer than ten States, in their comments (A/3859, annex) on the International Law Commission's 1957 draft, had voiced objections to the extension of privileges and immunities to administrative and technical staff. Notwithstanding those objections, the Commission in 1958 had decided in favour of that extension, as a matter of progressive development of international law, while recognizing in its commentary on article 36 that state practice was not uniform in the matter.

27. Many amendments had been submitted, either deleting the reference to administrative and technical staff entirely or excluding such staff from the benefit of the customs exemption provided for in article 34, or limiting that exemption to articles imported at the time of first installation. The number of those amendments clearly showed that the Commission had gone too far in trying "to establish a general and uniform rule based on what would appear to be necessary and reasonable" (paragraph 4 of the commentary on article 36).

28. Preferably the whole subject matter of article 36 should be left to be settled by special agreements between States, as was proposed in his delegation's amendment (L.233). Such agreements could, of course, be either bilateral, regional or multilateral.

29. If his delegation's amendment should not be adopted, he would support the deletion of the reference to administrative and technical staff.

30. U BA THAUNG (Burma) introduced the revised amendments (L.228/Rev.1) sponsored by his delegation jointly with those of Ceylon and the Federation of Malaya. The effect of the first two of those amendments would be to restrict the privileges of administrative and technical staff in two ways. First, customs exemption would not apply to such staff; it was only granted in some countries by courtesy. Secondly, the immunities

specified in articles 27 to 33 would only apply to persons who were neither nationals of, nor resident in, the receiving State. Because of the large number of aliens living in Burma, his government was particularly anxious not to create a privileged class of foreign residents.

31. Mr. RIPHAGEN (Netherlands), introducing his delegation's amendment (L.189), pointed out that article 29 excluded from immunity from jurisdiction persons who exercised private professional or commercial activities in the receiving State. It was therefore appropriate to exclude such persons from the benefit of the immunities specified in articles 31 to 34, except, of course, in so far as the receiving State allowed them to enjoy such immunities.

32. Mr. KIRCHSCHLAEGER (Austria), introducing his delegation's amendment (L.237), said that its effect would be to exclude the administrative and technical staff of diplomatic missions from customs exemption under article 34. His delegation placed a high value on the services of such staff, but saw no real need to grant them customs exemption. That exemption was granted in the interest of the sending State, which did not require such a privilege for administrative and technical staff.

33. There was no objection to granting administrative and technical staff the privileges specified in articles 27 to 33; but to grant them customs exemption as well would be a complete departure from the existing practice, at least in Austria.

34. Mr. PINTO de LEMOS (Portugal) said that, in general, his delegation supported the International Law Commission's draft articles; but it could not accept article 36, paragraph 1, as it stood.

35. The Commission had recognized in paragraph 2 of its commentary that "while it was the general practice to accord to members of the diplomatic staff of a mission the same privileges and immunities as were enjoyed by heads of mission", there was "no uniformity in the practice of States" regarding other categories of staff.

36. Since there was thus no uniform state practice to support the extension of diplomatic privileges and immunities to administrative and technical staff, it was appropriate to consider whether the Commission's decision on that matter was consistent with its approach to the problem of the theoretical basis of diplomatic privileges. In its introductory general comments to section II of the draft, the Commission had stated that it had been guided by the "functional necessity" theory in solving problems on which practice gave no clear pointers, while also bearing in mind the representative character of the head of the mission and of the mission itself. On the basis of the "functional necessity" theory there was no reason to grant diplomatic privileges and immunities to administrative and technical staff otherwise than in connexion with acts performed in the course of their official duties. Moreover, such staff had no representative character, and consequently were not eligible for privileges on that basis either.

37. In paragraph 8 of its commentary on article 36 the Commission had sought to justify the extension of pri-

ileges and immunities to administrative and technical staff by referring to borderline cases of persons who performed confidential tasks, such as an ambassador's secretary or an archivist, who might be "as much the repository of secret or confidential knowledge as members of the diplomatic staff". The Commission had concluded that "Such persons equally need protection of the same order against possible pressure by the receiving State." He could not accept that conclusion, which was based on special cases; a rule could not be based on exceptions.

38. Mr. SMITH (Canada), introducing his delegation's amendments (L.258/Rev.1), said that the first and fourth would have the effect of limiting the privileges enjoyed by administrative and technical staff. In the first place, they would not enjoy any privileges if they were nationals of the receiving State or nationals of a third State ordinarily resident in the receiving State immediately prior to their appointment or employment; on that latter point, his delegation shared the views expressed by Burma. In the second place, the benefit of customs privileges would be limited in all cases to articles imported at the time of first arrival.

39. His delegation's amendments gave members of the administrative and technical staff all the privileges needed to enable them to carry out their official duties unhindered, and to secure reasonable living facilities. In substance his delegation's amendments were similar to those proposed by Burma, Ceylon and the Federation of Malaya (L.228/Rev.1), but he thought the Canadian text was preferable and hoped that it would find general acceptance.

40. Mr. MATINE-DAFTARY (Iran) said that undue importance should not be attached to the designation given to officials. The distinction between diplomatic officers and administrative officers was not a matter of international law; it was a matter for the administrative law of the sending State. It was the sending State, and the sending State alone which was empowered to say which of its officials was a diplomatic agent; the receiving State had neither the authority nor the means to exercise control over such a designation.

41. Administrative officers were not infrequently more important than certain members of the diplomatic staff. It was unthinkable that the head of the chancery of a diplomatic mission or a cypher officer should be placed in the same position as a domestic servant in the matter of diplomatic privileges. When the International Law Commission had decided to extend diplomatic privileges and immunities to members of the administrative and technical staff, it had not taken that decision lightly.

42. He urged the Committee to take a realistic view and to accept the article as it stood, which constituted a contribution to the progressive development of international law.

43. Mr. JEZEK (Czechoslovakia) said that his delegation agreed with the International Law Commission's view that members of the administrative and technical staff should, in general, enjoy the same privileges as diplomatic agents. His government had been convinced

of the justice of that view by the reasons given by the International Law Commission in its commentary. The developments which had taken place in recent years should be borne in mind; certain members of the administrative staff of a diplomatic mission performed functions which in the past had been performed exclusively by diplomatic agents. It followed that such persons should enjoy the same privileges and immunities as diplomatic agents.

44. It was the general practice to grant diplomatic privileges and immunities to administrative and technical staff, and the only disagreement arose in connexion with customs privileges. In his opinion the exemption from customs duties provided in article 34, paragraph 1, should extend to administrative and technical staff; but the exemption from customs inspection provided in article 34, paragraph 2, was usually only granted to them as a matter of courtesy, and hence there was no reason to specify it in the convention.

45. In conclusion, he expressed his support for article 36 as it stood, which constituted a valuable step forward in the progressive development of diplomatic law.

46. Mr. TAKAHASHI (Japan), introducing his delegation's amendments (L.249) said that they were not intended to affect the extent of the privileges enjoyed by members of the family of the diplomatic staff of the mission. Their purpose was to restrict the enjoyment of privileges by members of the administrative and technical staff to persons who were nationals of the sending State and were not nationals of the receiving State. That formulation would not exclude those who had dual nationality of both the sending and a third State. He was prepared to accept a change of wording along the lines proposed by Australia (L.278) which would also exclude persons who resided permanently in the receiving State.

47. Since his delegation's amendments would subsist whatever changes were made with respect to privileges and immunities provided for in the final paragraph of the article, he requested that they should be put to the vote after the other substantive amendments to paragraph 1.

48. Mr. NAFEH ZADE (United Arab Republic) said that he could not accept the principle that all the privileges specified in articles 27 to 34 should be extended to administrative and technical staff and members of their families forming part of their households, subject only to the condition that those persons were not nationals of the receiving State.

49. Diplomatic privileges and immunities should be extended only to members of the diplomatic staff. Administrative and technical staff should enjoy immunity only in respect of acts performed in the course of their official duties, and exemption from taxation only in respect of their remuneration.

50. The distinction between diplomatic staff and other staff of the mission was a fundamental one in the draft articles. For instance, under article 8, as adopted by the Committee only members of the diplomatic staff could be declared *persona non grata*. Other members of the

staff could only be declared unacceptable. It had also been agreed, in connexion with article 17, that only a diplomatic agent could be a *chargé d'affaires ad interim*. Because of their greater responsibilities, diplomatic agents needed a greater measure of privileges and immunities than members of the administrative staff.

51. Lastly, there was a practical reason why full diplomatic privileges and immunities should not be accorded to administrative and technical staff. Since the Second World War, the size of such staff had greatly increased, which caused difficulties for receiving States.

52. For those reasons, his delegation could not accept the extension of diplomatic privileges and immunities to administrative and technical staff, except in so far as was necessary for the performance of their functions and to provide exemption from taxation on their salaries.

53. Mr. RUEGGER (Switzerland) said that the amendment introduced at the wish of his government (L.242) resembled, in its intention, some amendments submitted by other delegations, particularly that of Italy (L.199). Although his delegation wished to maintain, as far as possible, the text of the draft articles adopted by the International Law Commission, which had given them long and careful consideration, it found that the serious disagreement on article 36 within the Commission was reflected in the text of the article and in the present discussion. The Conference should remain on the solid ground of codification of existing law and should not attempt to create new rules. Those were the considerations underlying the Swiss amendment. The Swiss Confederation had concluded a large number of agreements with the international organizations established in its territory and had thus extended considerable privileges to a wide circle of persons. It was undesirable to extend too far the circle of persons eligible for the benefit of immunities, as would happen if a new provision like that proposed by the International Law Commission were adopted.

54. Mr. BARTOŠ (Yugoslavia) said that his government had been opposed to the extension of privileges and immunities, but if the majority should decide in favour of such an extension he would accept it, as his government's main concern was that the rule should be the same in all countries. The Yugoslav practice was to grant diplomatic privileges and immunities to diplomats only; to other categories of the staff of a diplomatic mission certain privileges and immunities might be granted by courtesy and reciprocity. The personal immunity of administrative and technical staff should be recognized, but there should be some limitation, and his delegation would therefore support those amendments which accorded only limited privileges and immunities to administrative and technical staff.

55. Mr. KRISHNA RAO (India) said that no existing rule of international law required the extension of privileges and immunities to staff other than diplomatic staff. The International Law Commission had therefore recognized that article 36 was a development of the law, not a codification. His delegation could not disagree with the general principles underlying the Commission's

text. The ambassador's secretary or the archivist might be the repository of secret or confidential information and might also need protection against pressure from the receiving State. His delegation therefore agreed that the administrative and technical staff should enjoy the privileges and immunities specified in articles 27 to 33. Most of the amendments, however, had been directed against the application of article 34 to administrative and technical staff, and his own delegation's amendment (L.256) had the same purpose.

56. Mr. HERRERO (Spain) said that article 36 provided for an extension that was too general. His delegation would therefore support the amendments which transferred the reference to administrative and technical staff and members of their families from paragraph 1 to paragraph 2, such as those submitted by Libya, Morocco and Tunisia (L.211/Rev.1) and, particularly, by Viet-Nam (L.285/Rev.1). It would also support the amendment submitted by Burma, Ceylon and Malaya (L.228/Rev.1).

57. Mr. de SOUZA LEO (Brazil) said that the amendments submitted by his delegation (L.295) were intended to follow the International Law Commission's text as closely as possible, but also to take into consideration the position of countries like his own, which did not wish to extend all privileges and immunities to administrative and technical staff. The majority of States had not yet recognized such a considerable extension and it was felt that article 36 went too far in that respect. His delegation's amendments were intended to reconcile the opposing views.

58. Mr. GLASER (Romania) said it had been clearly recognized that the duties of administrative and technical staff in modern times differed greatly from those of similar staff a century earlier. Many non-diplomatic members of the staff of a mission had access to secret information, and the sending State must have an assurance that such persons would be protected from the possibility of action by the authorities of the receiving State, or even by private bodies, which might endanger their personal safety, in an attempt to make them divulge secrets. The formula used in paragraph 2 of article 36 to cover the immunity to be granted to members of the service staff ("in respect of acts performed in the course of their duties") was too restrictive in the case of administrative and technical staff. A cipher clerk might, for example, be arrested on a charge which was not directly connected with his actual work. It was essential that such persons should be granted full immunity so that they could not be arrested on any pretext.

59. Mr. SUCHARITAKUL (Thailand) thought that the extension of diplomatic privileges and immunities to administrative and technical staff went beyond the rules of international law. His delegation would therefore support those amendments which deleted the reference to such staff and the members of their families from paragraph 1. Such persons should be entitled to certain privileges and immunities, but they should not be placed on the same level as diplomatic staff. If any State was prepared to grant them full privileges and immunities,

that should be the subject of an agreement between the sending and receiving States concerned.

60. Mr. CAMERON (United States of America) said that the principle of article 36 was among the most important in the draft. His delegation took the view that the same privileges should be granted to administrative and technical staff as to diplomatic staff, a view reflected in its amendments (L.273 and Rev.1). The function of the mission as an organic whole should be considered, and not the individual tasks allotted to members of its staff. Members of the administrative and technical staff were sometimes in possession of highly confidential information and they needed protection of the same order as that given to the diplomatic staff against possible pressure by the receiving State.

61. A number of amendments had been submitted with the same intention as the United States amendment. His delegation would therefore agree to delete the reference to "service staff" in the first of its amendments and proposed that the Committee should vote on the principle embodied in it and in the other similar amendments, rather than on any one specific amendment.

62. His delegation's amendment provided that administrative and technical staff should "enjoy the privileges and immunities specified in articles 27 to 34". There had been considerable objection to the inclusion of a reference to article 34, which dealt with exemption from customs duties and inspection, although it was in fact a widespread practice for such exemption to be granted to administrative, technical and service staff. He therefore proposed that a separate vote be taken on the inclusion of a reference to each article, from 27 to 34, in paragraph 1 of article 36.

63. Mr. BAIG (Pakistan) said he could not accept article 36 as it stood, since it appeared to extend diplomatic privileges and immunities far beyond what his government could accept.

64. He was not unimpressed by the argument that it was the function of the mission as an organic whole which should be considered and not the actual work done by each member of its staff. It would seem idealistic and even imprudent, however, to suggest that the standards and requirements of an ambassador and his doorman were identical, although in some cases that might well be true. In that connexion he was referring less to immunities than to privileges. It has in the past been normal to extend both privileges and immunities to recognized diplomats not only by reason of their functional capacity, but because it was presumed that they knew by education, experience or training what their responsibilities were, not only to their own country, but also to the receiving State. It would, however, be undesirable to extend diplomatic privileges too far; there had been many cases in his own country in which they had been flagrantly abused. A good principle did not, of course, become a bad principle merely because it was abused and there were always remedies, but it was easier to advocate than to find them.

65. His delegation would oppose any attempt to extend diplomatic immunities and privileges beyond their

existing limits. The sending and the receiving States would still remain free to make reciprocal arrangements providing for special treatment, a procedure which his delegation would much prefer.

66. Mr. BOLLINI SHAW (Argentina) referred to the view expressed by his government in its comments on the 1957 draft (A/3859, annex) that equal consideration should be granted to administrative and technical staff in accordance with the regulations established under local legislation, subject to reciprocity. The extension of privileges and immunities to such staff, as provided for in article 36, paragraph 1, would introduce a new principle into international law. His delegation would, therefore, support the amendment proposed by Venezuela (L.233) and also that proposed by Libya, Morocco and Tunisia (L.211/Rev.1).

The meeting rose at 1.5 p.m.

### THIRTY-THIRD MEETING

*Tuesday, 28 March 1961, at 3.15 p.m.*

*Chairman:* Mr. LALL (India)

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

**Article 36 (Persons entitled to privileges and immunities)**  
(continued)

1. The CHAIRMAN invited the Committee to continue its debate on article 36 and the amendments thereto.<sup>1</sup>

2. Mr. DANKWORT (Federal Republic of Germany) said that article 36, paragraph 1, as drafted by the International Law Commission, was perfectly balanced. As the Commission had indicated in its commentary on article 36, the provision constituted progressive development. His delegation would therefore vote for paragraph 1, perhaps supplemented by the United Kingdom amendment (L.205).

3. Mr. DADZIE (Ghana) said he would support article 36, paragraph 1, as amended by India (L.256). However, his delegation suggested the deletion in that amendment of the words "under uniform rules and regulations", and the addition at the end of the sentence of the words "under rules and regulations applied to such staff without discrimination".

4. Mr. KRISHNA RAO (India) accepted that suggestion.

5. Mr. SUBARDJO (Indonesia) said that the problem was how to reconcile the different points of view on the granting of diplomatic privileges and immunities to administrative and technical staff. Perhaps the best

solution would be to provide that the treatment of such staff should be governed by reciprocity. That solution had the merit of flexibility and of allowing for the progressive development of international law. His delegation would vote for the Indian amendment (L.256), as just further amended. It would also vote for the amendment (L.228/Rev.1) proposed jointly by Burma, Ceylon and the Federation of Malaya to article 36, paragraph 1.

6. Mr. SCOTT (Canada) stated that, in conjunction with the delegations of Australia, Brazil, Burma, Ceylon, the Federation of Malaya and Sweden, his delegation had prepared a revised draft provision concerning the extension of diplomatic privileges and immunities to the administrative and technical staff of missions (L.258/Rev.1, para. 4).

7. Mr. WESTRUP (Sweden) said that the revised provision submitted by the Canadian representative did not replace sub-paragraph (ii) of the Swedish delegation's amendment (L.308) to paragraph 1 of article 36.

8. Mr. TUNKIN (Union of Soviet Socialist Republics) recalled that the International Law Commission had proposed that diplomatic privileges and immunities should be extended to administrative and technical staff because it wished to take into account the progressive development of international law. The Soviet Union had not initially supported that extension, but it recognized that the new provision would benefit small countries whose missions often had scanty staffs that had to carry out several functions at once.

9. The existing practice showed that a number of States had already started to grant the main diplomatic privileges to the administrative and technical staff of missions on the basis of legislation and bilateral agreements.

10. The practice of the Soviet Union, since 1956, had been to grant the diplomatic privileges to the administrative, technical and service staff of the foreign missions in Moscow on a reciprocal basis.

11. The Soviet Union was ready to agree to a general rule in the convention extending the main diplomatic privileges and immunities (personal inviolability, inviolability of premises, immunity from jurisdiction and so on) to the administrative and technical staff of diplomatic missions.

12. Accordingly, the USSR delegation supported in principle article 36 as it stood.

13. Mr. CARMONA (Venezuela) said that his delegation had submitted an amendment (L.233) to article 36 to the effect that diplomatic privileges and immunities could be granted to the administrative and technical staff and to the service staff of the mission on the basis of special agreements subject to reciprocity. Since the Committee apparently wished to establish a general rule on the subject, his delegation would not press its amendment and would support the Italian amendment (L.199), but remained free to vote according to circumstances on the various amendments submitted to article 36.

14. The CHAIRMAN called on the Committee to vote first on the United States amendment (L.273) to article 36,

<sup>1</sup> For the list of amendments submitted to article 36, see 32nd meeting, footnote to para. 15.