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29th meeting of the Second Committee

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17. He had no objection to the Cambodian amendment (L.127), and paragraph 2 of the United Kingdom amendment (L.136) was also acceptable to his delegation. The Chinese amendment (L.124) was a different matter; if the Chinese delegation would agree to replace the list at the beginning of its text by the words "The persons referred to in paragraph 1", the French delegation would vote for it.

18. Mr. SHU (China) explained that his delegation had submitted its amendment (L.124) because it had wished to take account of a practice followed by a great many States and recognized in many bilateral conventions. The issue of special identity cards to the persons covered by paragraph 1 of article 46 imposed no additional obligation on the receiving State and facilitated both the exercise of consular functions and the administrative control of the receiving State. He thanked the French delegation for its suggestion and agreed to change the text of his amendment in the manner proposed.

19. Mr. MARESCA (Italy) feared that the International Law Commission's text would extend exemption to an unduly large number of persons. The text should specify that the members of consular families should not carry on a gainful occupation, and there should be proper recognition of the distinction proposed by the French delegation between the staff in the service of consular officials and the staff in the service of consular employees who did not perform administrative and technical functions. His delegation would support the amendments restricting the exemptions granted to private staff.

20. Mr. BLANKINSHIP (United States of America) said that in submitting its amendment (L.7) to paragraph 2 of the draft article his delegation had not wished to modify its sense, but to improve the text. In paragraph 1 he would exclude from exemption persons permanently residing in the receiving State. When the Committee took up article 69 it might very well amend the text in order to exclude persons in that category. Moreover, the International Law Commission, bearing in mind article 38 of the 1961 Vienna Convention, seemed to have intended to include that stipulation in its text although it had not done so. Unless draft article 69 were amended in that sense, his delegation would find itself in a difficult situation. The formula in paragraph 2 lacked clarity. It would be better to say, as in paragraph 4 of the commentary, "members of the consulate and members of the private staff". After studying the various amendments his delegation would support that of the United Kingdom (L.136).

21. Mr. REBSAMEN (Switzerland) said that, as proposed in his delegation's amendment (L.157), the words in paragraph 1 "and their private staff" should be deleted. There was no similar provision in the 1961 Vienna Convention, and it might be asked why the private staff of the consulate should enjoy an exemption which was withheld from the private staff of a diplomatic mission. In many countries, notably in Switzerland, the service staff was subject to strict control from the point of view of labour regulations and residence

permits. The periods of employment of that staff were by no means regular and if it was not composed of nationals of the sending State difficulties might arise with regard to work permits, for which, in many countries, including Switzerland, application had to be made by the employee and not the employer.

22. With regard to paragraph 2, the Swiss delegation would support the Belgian amendment (L.132) or any other proposal of the same kind.

The meeting rose at 1 p.m.

TWENTY-NINTH MEETING

Monday, 25 March 1963, at 3.15 p.m.

Chairman: Mr. GIBSON BARBOZA (Brazil)

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

Article 46 (Exemption from obligations in the matter of registration of aliens and residence and work permits) (continued)

1. The CHAIRMAN invited the Committee to continue its consideration of article 46 and the amendments thereto.¹

2. Mr. VRANKEN (Belgium) said that it must be borne in mind that there were as yet no agreed definitions of such terms as "members of the consulate", "consular official" and "private staff". When article 1 had been adopted, therefore, it would be necessary to reconsider each article to ensure that the terms used were in accordance with the definitions in article 1. The amendment submitted by his delegation (L.132) did not affect the International Law Commission's text but proposed the addition of a new paragraph to provide that the persons referred to in paragraph 1 should not enjoy the exemptions provided under article 46 if, in addition to their functions at the consulate, they were engaged in any gainful private occupation. The Belgian delegation could accept the French amendment (L.175).

3. Mr. HONG (Cambodia) said that his delegation had submitted its amendment (L.127) because it considered it desirable to state explicitly what might perhaps be implicit in the International Law Commission draft, that only those members of the private staff who were nationals of the sending State should benefit from exemption under article 46. His government could not agree that members of the private staff who were nationals of a third State should so benefit. His delegation would not press for a vote, however, since the question appeared to be mainly one of drafting, and would be prepared to withdraw the amendment and request the Chairman to refer the point to the drafting committee.

¹ For the list of amendments to article 46, see the summary record of the twenty-eighth meeting, footnote to para. 11.

4. Mr. SALLEH bin ABAS (Federation of Malaya) said it would seem that the International Law Commission draft had gone too far in including private staff under article 46. His delegation would therefore vote in favour of those amendments which restricted the categories of persons entitled to exemption. It was generally in agreement with the United Kingdom amendment (L.136) but noted that it omitted any mention of work permits. His delegation therefore suggested that the United Kingdom amendment should include a reference to work permits.

5. Mr. WOODBERRY (Australia) said that his delegation found the draft unsatisfactory although it appreciated the efforts of the International Law Commission to find a suitable text for article 46 which would be in conformity with the practice of a large number of participating States. The article conflicted with Australian legislation which did not exempt private staff from the regulations on the registration of aliens and residence permits, and only exempted members of the service staff who were sent by the government of the sending State. Article 46 provided a rather wider exemption. It would not be possible under Australian law to extend exemptions to private or service staff who were permanent residents of the receiving State or locally engaged. Under the Vienna Convention on Diplomatic Relations, the private staff of members of a diplomatic mission enjoyed no privileges or immunities which would have the effect of freeing them from the obligations referred to in article 46. There seemed no sufficient reason for conferring greater privileges in that respect on the private staff of members of a consulate than on those of a diplomatic mission. His delegation was not convinced by the explanation given by the International Law Commission in paragraph 7 of its commentary. The 1961 Convention contained no reference to service or private staff but only to diplomatic agents, the administrative and technical staff and members of their families.

6. The Australian delegation would therefore support amendments in favour of limiting exemptions for service and private staff, and also those likely to bring article 46 more into line with Australian legislation. It would support the United Kingdom amendment (L.136) and amendments for the deletion of the words "private staff" from paragraph 1. Since work permits were not necessary under Australian law, paragraph 2 of the International Law Commission draft offered no difficulty to his delegation. The Australian delegation could also support the Belgian proposal (L.132) for the addition of a new paragraph.

7. Mr. KHOSLA (India) said that article 46 must be read in conjunction with article 62, which exempted honorary consular officials from registration as aliens and the possession of residence permits, and article 69 on the privileges and immunities granted to members of the consulate, members of their families and members of the private staff who were nationals of the receiving State. The article dealt with, firstly, registration of aliens and residence permits for aliens, exemption from which should be granted only to members of the consulate, members of their family forming part of their household,

and their private staff, provided they worked exclusively for the consulate. The persons mentioned in paragraph 1 of article 46 should be exempted from all obligations with regard to work permits if they worked exclusively for the consulate, a provision which was omitted from the United Kingdom amendment, but if they were engaged in any gainful private occupation then work permits should be required. His delegation would therefore support the Belgian amendment (L.132). The Cambodian amendment (L.127) failed to take account of the International Law Commission's intention, expressed in paragraph 4 of its commentary, that the exemption from work permits applied to cases where the members of the consulate wished to employ a person who had the nationality of a third State. The Indian delegation would support the Chinese amendment (L.124) since the practice of issuing identification cards was recognized in several consular conventions. With regard to the other amendments proposed, his delegation felt that the International Law Commission's draft should be retained as far as possible.

8. Mr. MOUSSAVI (Iran) supported those members of the Committee who had advocated further restriction of the exemptions from the registration of aliens and residence and work permits. His delegation would accordingly vote for the amendments submitted by Greece, Japan, the Netherlands, Switzerland and the United Kingdom.

9. Mr. KANEMATSU (Japan) said that his delegation had proposed the deletion of the words "and their private staff" since no similar exemptions were granted to the private staff of a diplomatic mission under the Vienna Convention on Diplomatic Relations. Article 37, paragraph 4, and article 38, paragraph 2, of that convention provided that the private servants of members of a diplomatic mission, whether or not they were nationals of or permanently resident in the receiving State, might enjoy privileges and immunities only to the extent admitted by the receiving State. There was no precedent in bilateral consular conventions for the exemption granted by article 46 to the private staff of members of consulates; from the practical point of view it seemed excessive. His delegation approved the United Kingdom amendment (L.136) on the whole with the minor reservation that it could not agree to the exclusion of service staff from the provisions of paragraph 1; it could not, however, give its full support to paragraph 2 since it envisaged a different way of dealing with the exceptions to exemption under article 46. The Japanese delegation had submitted for subsequent consideration a proposal (A/CONF.25/C.2/L.89/Rev.1) for a new article which would replace articles 56 to 67 and would enumerate in a single article the categories of persons who would be excluded from benefiting from privileges and immunities not only under article 46 but also under a number of other articles.²

10. Mr. SHARP (New Zealand) supported the United Kingdom amendment, except that it contained no provision for the employment of foreign labour. The em-

² This proposal was discussed at the thirty-seventh meeting.

ployment of consular staff was governed by article 19, which stated in its paragraph 1 that "subject to the provisions of articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff". Paragraph 5 of the commentary on article 46 repeated that interpretation but the commentary would not be a permanent accompaniment to the article. Provided that it was made clear, however, that consular staff were considered to be already exempted under article 19 from obligations in the matter of work permits, his delegation would support the United Kingdom amendment, and those amendments which agreed on the substance of the matter. With regard to residence and entry permits, the procedure in New Zealand was that senior officials in possession of diplomatic passports were not required to produce any further documents, but subordinate staff were given temporary permits to allow them to enter the country which, after a short period, were automatically renewed for the duration of their stay. That procedure seemed to be in accordance with article 46.

11. Mr. HARASZTI (Hungary) said that the International Law Commission's text was broadly acceptable to his delegation and there seemed no need for severe restriction. The private staff should enjoy the same exemption under article 46 as other members of the consulate. Provision to that effect was included in several bilateral agreements concluded by Hungary. A consular employee working exclusively for the consulate should not be required to obtain a permit from the receiving State. His delegation therefore opposed the amendments submitted by the delegations of Greece, Japan, Switzerland and the United Kingdom. The French amendment (L.175) represented the only reasonable limitation which could be applied.

12. It was desirable to state clearly what had certainly been the intention of the International Law Commission, that exemption would be granted only to persons not engaged in any gainful private occupation. His delegation would therefore also support the Belgian and United States amendments. The identity cards mentioned in the amendment contained in document L.124 did not seem appropriate for inclusion in the draft articles.

13. Mr. SPYRIDAKIS (Greece) welcomed the amendments submitted by Japan (L.83) and Switzerland (L.157) which were similar to the Greek amendment (L.97). If the three delegations concerned could agree on a joint amendment, that would greatly facilitate the Committee's work.

14. Mr. KANEMATSU (Japan) accepted that suggestion.

15. Mr. CABRERA-MACIA (Mexico) supported the Belgian amendment (L.132) whereby persons engaged in any gainful private occupation would be excluded from exemption. His delegation would also support the French amendment (L.175) which gave a more limited definition of "private staff".

16. Mr. LEVI (Yugoslavia) opposed the proposals for deletion of the reference to "private staff" in article 46. Such staff, when not locally recruited, should be exempted from registration as aliens and from residence and work

permits. It was preferable to exempt them as far as possible from such obligations because in practice there were cases when the police exercised pressure on the personal staff of a diplomatic mission or of a consulate. His delegation could accept some amendments, like that of the Netherlands (L.17), which made the International Law Commission text clearer.

17. The United Kingdom proposal (L.136) contained no provision concerning work permits and his delegation saw no reason for that omission. Further, the proposal was not in his view an amendment within the meaning of rule 41 of the rules of procedure but a proposal in accordance with rule 42. He would not, however, press for a ruling on that point.

18. The CHAIRMAN suggested that the Committee should vote on article 46 paragraph by paragraph. He would therefore ask the sponsors of amendments to paragraph 1 to reply to points raised in the discussion, should they consider it necessary to do so.

19. Mr. HART (United Kingdom) said that the intention of his delegation in submitting its amendment had been to change the substance of paragraph 1 very considerably and to propose the deletion of paragraph 2. It appeared to be generally agreed that the International Law Commission text had gone beyond the requirements of existing international law and bilateral agreements and beyond the provisions of the Vienna Convention in providing exemption for private staff. If the Committee concurred, his delegation would like separate votes to be taken so that the opinion of the Committee on each point of substance could be accurately gauged.

20. Mr. HEUMAN (France) said that paragraph 1 of the United Kingdom amendment would have the same effect as the amendments submitted by Greece, Japan and Switzerland — the deletion from paragraph 1 of the International Law Commission text of "private staff". Those four proposals therefore represented an extreme position, the furthest removed from the International Law Commission text which was at the opposite extreme. The French amendment (L.175) was an attempt to find a middle way. His delegation would not oppose any request for a division of the vote on its amendment to enable the Committee to express its opinion clearly as to whether it wished exemption to be extended to both the private staff of "consular officials" and to that of "consular employees who perform administrative and technical functions".

21. Mr. BLANKINSHIP (United States of America) noted that there was a considerable measure of agreement in the Committee with respect to the extent to which article 46 was governed by article 19, which provided that the sending State might freely appoint the members of the consular staff. In view of the general acceptance of that interpretation, his delegation had decided to withdraw its amendment (L.7) since its principal purpose had been to clarify paragraph 2 of the International Law Commission text. The United States delegation would support the United Kingdom amendment whereby paragraph 2 of the International Law Commission text would be deleted, since that paragraph had become unnecessary in view of the consensus of opinion in the Committee.

22. The CHAIRMAN invited the Committee to vote on the United Kingdom amendment (L.136).

23. Mr. HEUMAN (France) asked for separate votes on paragraph 1 and paragraph 2 of the United Kingdom amendment because, although both referred to paragraph 1 of the International Law Commission text, they dealt with two very different points.

24. Mr. REBSAMEN (Switzerland) said that he foresaw some difficulty if the Committee voted first on the United Kingdom amendment which only indirectly proposed the deletion of "private staff". In his opinion the amendments submitted by the delegations of Greece, Japan and Switzerland, which specifically proposed deletion of those words, were furthest from the International Law Commission draft. He would therefore suggest that it would facilitate the Committee's work to vote first on those amendments, after which it would be easier to find the best method of continuing to vote on the amendments to article 46.

25. The CHAIRMAN said that in his view the United Kingdom amendment was further from the original text than the three amendments which specifically proposed deletion of the words "private staff", since in addition to omitting those words it rephrased paragraph 1 of the International Law Commission text. In his view, therefore, the United Kingdom amendment was furthest removed from the original text.

26. Mr. REBSAMEN (Switzerland) said that, as he did not wish to complicate the voting procedure, he would not press the matter further.

Paragraph 1 of the United Kingdom amendment (A/CONF.25/C.2/L.136) was adopted by 31 votes to 20, with 12 abstentions.

Paragraph 2 of the United Kingdom amendment was adopted by 28 votes to 17, with 20 abstentions.

27. Mr. HEUMAN (France) proposed that the Committee should vote on paragraph 1 as a whole as amended.

28. Mr. LEVI (Yugoslavia) said that the Committee, by adopting the United Kingdom amendment, had approved a new article 46. He did not, therefore, feel that the vote proposed by the representative of France would be correct procedure.

29. The CHAIRMAN said that he considered paragraph 1 of the International Law Commission text to have been replaced by paragraphs 1 and 2 of the United Kingdom amendment, and that paragraph 2 of the International Law Commission's text still stood.

30. Mr. HART (United Kingdom) said that although the object of the United Kingdom amendment had been the deletion of paragraph 2 as well as the revision of paragraph 1 of the International Law Commission's text, he did not claim that the result of the vote so far taken had been to secure the former object, because the Chairman had asked sponsors of amendments in replying to the debate to refer only to paragraph 1 of the International Law Commission's text. His delegation did not wish to take advantage of the form in which its amendment was presented to deprive the Committee of an

opportunity to take a separate decision on paragraph 2 of the International Law Commission's text.

31. The CHAIRMAN said that he would put to the vote first the United Kingdom amendment as a whole, and then paragraph 2 of article 46 and the amendments thereto.

32. Mr. HEUMAN (France) considered that the voting was null and void and that there should be a new vote. He supported the procedure suggested by the representative of Switzerland.

33. Mr. BOUZIRI (Tunisia) disagreed with the representative of France. The Chairman had made it clear before the vote that the entire United Kingdom amendment was a substitution for paragraph 1 of the International Law Commission's text and the United Kingdom representative had confirmed his explanation. The amendment had been rightly voted on first, as the furthest from the original text.

34. The CHAIRMAN pointed out that the procedure advocated by the representative of France could only be followed if, under rule 33 of the rules of procedure, the Committee decided by a two-thirds majority to reconsider its action.

35. Mr. HEUMAN (France) agreed that there had been an oral clarification and did not insist on rule 33 being applied.

36. The CHAIRMAN invited the Committee to vote on the United Kingdom amendment as a whole.

The United Kingdom amendment (A/CONF.25/C.2/L.136) was adopted by 32 votes to 17, with 13 abstentions.

37. The CHAIRMAN invited the Committee to vote on paragraph 2 of article 46 as drafted by the International Law Commission.

38. Mr. BLANKINSHIP (United States of America), speaking on a point of order, said he had withdrawn his amendment (L.7) in the belief that the United Kingdom amendment was intended as the complete text of article 46.

39. Baron van BOETZELAER (Netherlands) said that he had had the same impression. If the United Kingdom amendment was adopted there would be no need to vote on his own amendment (L.17). If it were rejected, however, he would maintain his amendment.

40. Mr. HART (United Kingdom) said that he wished to exercise his right to make a statement before the vote, in view of comments by a number of representatives who had raised questions regarding the effect of article 19 (Appointment of the consular staff).

41. Paragraphs 5 and 6 of the International Law Commission's commentary on article 46 made it clear that paragraph 2 was concerned with permits for work outside the consulate. The United Kingdom delegation considered that article 46 should not contain provision for work outside the consulate, because such work should be subject to the normal regulations for aliens. There was no comparable provision in the Convention on Diplomatic Relations; and it was not necessary to the

interests of the sending State to grant privileges to persons to engage in private occupations. The deletion of paragraph 2 would also leave article 19 as the only article dealing with work in the consulate.

42. If the purpose of the amendment was not clear, the text could be reviewed by the drafting committee.

43. The CHAIRMAN pointed out that if the Committee did not vote on paragraph 2 of the International Law Commission's draft, it would not have expressed its opinion on the question of work permits, which was the substance of the paragraph. If the paragraph was adopted the text of the whole article would be reviewed by the drafting committee to remove any inconsistencies.

44. Mr. HEUMAN (France) said that he had accepted the United Kingdom representative's explanation that the two paragraphs of his amendment were intended as a substitute for paragraph 1 of article 46. He was confused, therefore, to learn that they were now intended to replace the whole of the International Law Commission's text and that the International Law Commission's second paragraph was to become a third paragraph. He reserved the right to request a reconsideration of the vote under rule 33 of the rules of procedure, so that the Committee could make the situation clear. He suggested that the Netherlands and United States amendments should be put to the vote since the reason for their withdrawal no longer existed.

45. Mr. LEVI (Yugoslavia) supported the French representative's proposal to vote on the remaining amendments. He did not, however, agree that there was any confusion: he only regretted that some amendments had been withdrawn.

46. The CHAIRMAN said he gathered that the United States representative had withdrawn his amendment on the understanding that there would be no need to vote on paragraph 2 of the International Law Commission's draft if the United Kingdom amendment were adopted, as the latter would replace the whole draft article. Since, therefore, he had proposed — though not ruled — that paragraph 2 of the International Law Commission's draft should be put to the vote, it was only fair to ask the United States representative if he had withdrawn his amendment to that paragraph.

47. Mr. BLANKINSHIP (United States of America) confirmed that he had withdrawn his amendment (L.7): the reference to work permits was unnecessary because the Committee considered that article 19 was adequate. He suggested that the Committee should vote on whether to delete paragraph 2 or not; he had only raised his point of order because he was afraid that adoption of paragraph 2 might result in an incongruous article.

48. Mr. SILVEIRA-BARRIOS (Venezuela) said he had never had any doubt that the United Kingdom amendment referred solely to paragraph 1 of the International Law Commission's draft: he had only been confused by the subsequent reference to paragraph 2. He suggested that the Committee should consider the Netherlands amendment (L.17) — which he would support — before voting on paragraph 2.

49. Mr. HART (United Kingdom) suggested that the Committee's work would be simplified if he were allowed formally to propose, as a new amendment, the deletion of paragraph 2 which, as he had already explained, was the substance of his original amendment (L.136). Being furthest from the existing text, the amendment could be voted on forthwith.

50. The CHAIRMAN ruled that suggestion out of order.

51. Mr. AMLIE (Norway) formally re-submitted the amendment which had been withdrawn by the United States representative (L.7).

52. The CHAIRMAN invited the Committee to vote on the former United States amendment reintroduced by Norway.

53. Mr. REBSAMEN (Switzerland) requested a separate vote on the words "private staff" in the two places where they appeared in the amendment, as he had proposed their deletion from paragraph 1 of the International Law Commission's text.

54. Mr. HEUMAN (France), speaking on a point of order, said he was concerned at the United Kingdom representative's new proposal. To start with, he, together with the United States, Yugoslav and Netherlands representatives, had thought that the United Kingdom amendment was intended to replace the whole of article 46, paragraph for paragraph, but later it had been explained that it was intended to replace only paragraph 1 of the existing text. Now, he understood that the amendment implied the deletion of paragraph 2 of the International Law Commission's text. He would find it difficult to vote in the confusing circumstances and asked the Chairman if he would seriously consider whether the Committee could reverse its earlier votes.

55. The CHAIRMAN said that after careful consideration he had no alternative but to invite the Committee, in accordance with rule 33 of the rules of procedure, to decide by a two-thirds majority if it wished to reconsider its previous action. He invited the Committee to vote.

The result of the vote was 26 in favour and 16 against, with 19 abstentions.

56. The CHAIRMAN announced that a two-thirds majority had not been obtained. He therefore proposed that the Committee should vote on paragraph 2 of the International Law Commission's text because its substance was not included in the United Kingdom amendment, and the Committee should pronounce on it. He invited the Committee to vote first on the words "private staff".

57. Baron van BOETZELAER (Netherlands), speaking on a point of order, said that his own amendment (L.17) had not been withdrawn. He would maintain it if the United States amendment was rejected.

58. Mr. HART (United Kingdom), speaking on a point of order, said it was clear from his amendment (L.136) that he had intended that article 46 should refer solely to residence permits and that paragraph 2 of the International Law Commission's draft should

no longer exist. It seemed only fair that the Committee should first vote on the question whether paragraph 2 still stood.

59. The CHAIRMAN ruled that the motion was an oral amendment and therefore out of order. He invited the Committee to vote on the retention of the words "private staff" in the United States amendment (A/CONF.25/C.2/L.7) reintroduced by Norway.

The words "private staff" were rejected by 26 votes to 25, with 10 abstentions.

60. The CHAIRMAN invited the Committee to vote on the amendment as modified by the deletion of the references to "private staff".

The amendment was rejected by 22 votes to 21, with 16 abstentions.

61. Baron van BOETZELAER (Netherlands) said that he maintained his amendment because paragraph 2 of the International Law Commission's draft had not been rejected and because his amendment excluded a category of persons mentioned in paragraph 1 as adopted in the United Kingdom amendment.

62. Mr. VRANKEN (Belgium) said that his amendment (L.132) covered the same point as the Netherlands amendment but he had drafted it in a more general form so that it did not apply solely to the families of the members of the consulate. The article could apply to part-time staff.

63. Mr. HEUMAN (France) said that, although his amendment (L.175) had been implicitly rejected by the adoption of the United Kingdom amendment replacing paragraph 1, he considered that it was still valid for paragraph 2, since paragraph 2 provided exemption in respect of work permits for the persons referred to in paragraph 1. He would therefore like his amendment to be considered with the other amendments to paragraph 2.

64. The CHAIRMAN concurred.

65. Mr. BOUZIRI (Tunisia) pointed out that the rejection of the former United States amendment (L.7) was tantamount to rejecting the International Law Commission's paragraph 2, since the deletion of the references to "private staff" made the two paragraphs more or less identical. Moreover, the persons referred to in paragraph 2 were no longer the ones intended by the International Law Commission, because the Commission's first paragraph had been replaced by the United Kingdom amendment. The same applied to the Belgian amendment.

66. The CHAIRMAN said that the point was valid. The representatives of Belgium and the Netherlands might wish to reconsider their amendments to the International Law Commission's paragraph 2.

67. Mr. VRANKEN (Belgium) agreed with the representative of Tunisia. He suggested that his amendment could be altered to set out the persons concerned instead of indicating them by reference to paragraph 1.

68. Mr. SILVEIRA-BARRIOS (Venezuela) did not agree with the argument of the French representative

that his amendment (L.175) was applicable to paragraph 2. It was clearly stated in the amendment that it referred to paragraph 1.

69. Mr. HEUMAN (France) said that the Committee was still free to approve exemption in respect of work permits, for it was not bound to follow the same policy for residence permits as for work permits. He agreed with the Belgian representative's suggestion: whichever of the amendments was adopted, the opening sentence could be amended to state the persons concerned instead of referring to paragraph 1.

70. Baron van BOETZELAER (Netherlands) said that the reasoning of the representative of France would hold good if it had not been agreed to delete the reference to "private staff" from the United States and Norwegian amendment (L.7).

71. Mr. BOUZIRI (Tunisia) said that the point made by the representative of France was true but theoretical. He himself had merely pointed out that the persons referred to in paragraph 1 were no longer the same and that the fact should be taken into account in the Netherlands and Belgian amendments. Moreover, although in theory two categories of persons could exist and the decision on paragraph 1 would not necessarily affect paragraph 2, there had also been other decisions concerning paragraph 2. The words "private staff" in the United States amendment had been rejected. He could not agree that the French amendment was applicable to paragraph 2. It was proposed in respect of paragraph 1, and the words it proposed to replace no longer existed.

72. Mr. REBSAMEN (Switzerland) considered that the French amendment was valid in principle. He suggested that a separate vote should be taken on the words "private staff" in that amendment.

73. Mr. LEVI (Yugoslavia), moved the adjournment of the debate.

It was so decided.

The meeting rose at 6.10 p.m.

THIRTIETH MEETING

Tuesday, 26 March 1963, at 10.40 a.m.

Chairman: Mr. GIBSON BARBOZA (Brazil)

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

Article 46 (Exemption from obligations in the matter of registration of aliens and residence and work permits) (continued)

1. The CHAIRMAN invited the Committee to continue its consideration of article 46, paragraph 2.¹

2. Mr. MARESCA (Italy) suggested that the French amendment (L.175) applied equally to paragraph 2 of

¹ For the list of amendments to article 46, see the summary record of the twenty-eighth meeting, footnote to para. 11.