

# **United Nations Conference on Consular Relations**

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**A/CONF.25/C.2/SR.33**

**33<sup>rd</sup> meeting of the Second Committee**

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persons of two categories: those performing administrative and technical functions and those belonging to the service staff of the consulate. That definition was perhaps not sufficiently clear, and he would be prepared to amend his proposal to read "the private staff of consular officials and of those consular employees who perform administrative and technical functions".

32. Mr. HART (United Kingdom) observed that draft article 46 A dealt with work permits and not with the case of a member of a consulate who was accompanied by staff in his service; the staff would have no right of admission under article 46 A, even in the International Law Commission's text. Article 46, as amended by the Committee, granted exemption in the matter of residence permits only to consular officials and consular employees, with certain exceptions. It would be logical therefore to adopt a similar solution in respect of work permits. Moreover, the 1961 Vienna Convention did not provide any such exemption for private staff. The argument in paragraph 7 of the commentary was fallacious. It was highly probable that the receiving State would not raise any difficulty over the issue of work permits.

33. The CHAIRMAN put the joint amendment (L.206) to the vote.

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

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

*In favour:* Greece, Iran, Israel, Japan, Kuwait, Morocco, Netherlands, New Zealand, Pakistan, Portugal, Saudi Arabia, Sierra Leone, South Africa, Switzerland, Syria, Tunisia, Turkey, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, Venezuela, Australia, Austria, Chile.

*Against:* Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Ghana, Holy See, Hungary, Indonesia, Mexico, Mongolia, Norway, Poland, Romania, Sweden, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Argentina, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, China, Congo (Leopoldville), Cuba.

*Abstaining:* Federation of Malaya, Guinea, India, Ireland, Italy, Republic of Korea, Liberia, Libya, Liechtenstein, Luxembourg, Nigeria, Philippines, San Marino, Spain, United States of America, Republic of Viet-Nam, Algeria, Belgium, Brazil, Canada, Ceylon, Costa Rica.

*The joint amendment (A/CONF.25/C.2/L.206) was rejected by 26 votes to 23, with 22 abstentions.*

*The Finnish amendment (A/CONF.25/C.2/L.203) was rejected by 31 votes to 12, with 29 abstentions.*

*The Swiss amendment (A/CONF.25/C.2/L.204) was rejected by 28 votes to 21, with 22 abstentions.*

34. Mr. TÔN THẬT ÂN (Republic of Viet-Nam) requested that the French amendment (L.199) should be put to the vote in two parts, the first consisting of the words "the private staff of consular officials".

35. Mr. KHOSLA (India) and Mr. SPACIL (Czechoslovakia) opposed a separate vote on the amendment.

36. Mr. MARESCA (Italy) and Mr. DRAKE (South Africa) supported the motion for a separate vote.

37. The CHAIRMAN put to the vote the motion for a separate vote proposed by the representative of the Republic of Viet-Nam.

*The motion was rejected by 34 votes to 13, with 22 abstentions.*

*The French amendment (A/CONF.25/C.2/L.199), as orally revised by the sponsor, was adopted by 38 votes to 9, with 23 abstentions.*

38. The CHAIRMAN put to the vote the amendment of Belgium (A/CONF.25/C.2/L.205), the text of which, as amended by its sponsor and the French representative, would read: "if they do not exercise any other private gainful occupation outside the consulate".

*The amendment was adopted by 66 votes to none, with 5 abstentions.*

39. Baron van BOETZELAER (Netherlands) said that if the provisions of the amendment (L.205) applied also to the "members of their families", he would withdraw his own amendment (L.198).

40. The CHAIRMAN said that if the text of draft article 46 A, as amended, were to be approved, that amendment would automatically apply to the "members of their families".

*Article 46 A, as amended, was approved by 61 votes to 2, with 7 abstentions.*

The meeting rose at 1.15 p.m.

### THIRTY-THIRD MEETING

Wednesday, 27 March 1963, at 4.50 p.m.

*In the absence of the Chairman, Mr Kamel (United Arab Republic), Vice-Chairman, took the Chair.*

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

##### Article 49 (Exemption from customs duties)

1. The CHAIRMAN invited the Committee to consider article 49 and the amendments thereto.<sup>1</sup>

2. Mr. KHOSLA (India) said that, in the absence of any uniform state practice with regard to the extent of the exemption from customs duties granted to consular officials, the Conference was faced with the task of establishing a minimum provision which would be acceptable to all States. The International Law Commission draft of article 49 was satisfactory to the extent that it

<sup>1</sup> The following amendments had been submitted: Poland, A/CONF.25/C.2/L.119; Nigeria, A/CONF.25/C.2/L.120; Australia, A/CONF.25/C.2/L.153; United Kingdom, A/CONF.25/C.2/L.171; Spain, A/CONF.25/C.2/L.173; India, A/CONF.25/C.2/L.178; Ukrainian Soviet Socialist Republic, A/CONF.25/C.2/L.185; South Africa, A/CONF.25/C.2/L.191.

was based on the functional principle. By his delegation's amendment (L.178), the receiving State would be free to restrict the quantity of the goods imported, to designate the period during which importation must take place, and to specify the period within which the goods might not be resold. The receiving State should be able to prescribe in what conditions goods could be imported free of duty. Under the existing municipal laws and regulations of India, for example, consular officials were not permitted to import motor vehicles free of duty. The proposed provision was intended mainly to safeguard the interests of the less developed countries, which were the most likely to be affected by the unrestricted importation of duty-free goods, and which stood to lose most by way of import duties. Consular officers from highly industrialized countries were more likely to wish to import goods from their home country than those from the less developed countries.

3. The amendment submitted by the Ukrainian Soviet Socialist Republic (L.185) was entirely acceptable to his delegation since there was a similar provision in article 36 of the Vienna Convention on Diplomatic Relations. The Indian delegation would also favour the other amendments which gave greater authority to the receiving State to control the import of goods by consular officials. It would support the United Kingdom amendment (L.171) which made explicit what was implied in the International Law Commission draft.

4. Mr. NWOGU (Nigeria) said that paragraph 1 (b) of the International Law Commission's draft seemed to imply that a consular official could import articles for his personal use both at the time of his first installation in the receiving country and thereafter; that would not be in accordance with the practice in many countries where consular officials enjoyed exemption from customs duties only on first arriving in the country and for a limited period, perhaps three months, so as to allow him ample time to import the articles he might require for his establishment. The Nigerian amendment (L.120) was not intended to deprive consular officers of exemption, but to confine it to the period of first arrival in accordance with the practice of States. Any extension beyond that would, in his delegation's view, conflict with the provisions of article 48, paragraph 1 (a), which, as adopted by the Committee, provided that consular officials would be exempt from taxation save "indirect taxes of a kind which are normally incorporated in the price of goods or services". The Committee would not wish to produce a convention which was full of contradictions and would consequently not earn international respect. To grant unnecessary exemption would not be in the interests of the new and less developed countries whose revenues depended to a great extent on customs duties and other indirect taxes. Those countries considered that exemption should be limited to what was actually necessary to allow the consular official to establish himself in the receiving country, and that exemption for a period of three months would be adequate for that purpose. The intention of the Nigerian amendment was to allow consular officials the same treatment as that given to consular employees in paragraph 2 of article 49. His delegation would not ask for a vote on its amendment

if the spirit was retained and the Committee adopted the Indian amendment (L.178). Should the Indian amendment be rejected the Nigerian delegation would ask for a vote on its own proposal.

5. Mr. PAPAS (Greece) supported the amendments submitted by Australia, India and the United Kingdom. The existing practice in many countries granted consular officials exemption from customs duties only on articles for personal use and imported at the time of first installation. If exemption was to be extended, as in the International Law Commission's draft of article 49, to articles for the personal use of members of a consular official's family, for example, the receiving State must be entitled to impose certain necessary restrictions on duty-free imports by consular officials, as suggested in the Indian amendment. The consular convention conducted between Greece and the United Kingdom contained a provision which varied from paragraph 1 (b) of the International Law Commission text and merited the consideration of the Committee: it allowed the consular official to import articles for the members of his family, but did not grant them direct exemption. Under paragraph 2 of article 49, consular employees would benefit all the more from exemption at the time of first installation since their financial situation was less favourable than that of consular officials.

6. Mr. CONRON (Australia) said that the purpose of his delegation's amendment (L.153) was merely to bring paragraph 2 into line with paragraph 1 by substituting the word "exemptions" for "immunities". Since it was purely a matter of drafting, it would save time if the proposal was passed immediately to the drafting committee.

*Mr. Gibson Barboza (Brazil) took the Chair.*

7. Mr. GARAYALDE (Spain) said that the purpose of his delegation's amendment (L.173) was not to correct the International Law Commission's draft of paragraph 1 (b), but merely to define its scope in accordance with the general intention of the draft article, which should be construed restrictively. The words "in accordance with such laws and regulations as it may adopt" had been included in paragraph 1 by the International Law Commission as a safeguard against possible abuse. Articles imported by a consular official were of two types: consumer goods, and goods intended for personal use. The effect of the amendment would be to add to paragraph 1 (b) a sentence providing that the consumer goods imported should not exceed the quantities needed by the person concerned himself. In that way, the additional sentence would offer to States an objective criterion which they could follow in enacting the laws and regulations referred to in the Commission's draft. The limitation was even more important than that laid down in the draft article for the purpose of imports of goods for personal use, inasmuch as consumer goods were imported more frequently and could more easily form the subject of illicit transactions.

8. Mr. DRAKE (South Africa) supported the Spanish amendment, which would serve a useful purpose, together with the amendment submitted by Australia. His delegation had submitted an amendment (L.191) to paragraph 2,

the first sentence of which followed the International Law Commission's draft except that the words "for their personal use" were inserted after the words "in respect of articles imported"; and the words "exemptions" was substituted for "immunities", as in the Australian amendment. It was proposed further to add a new sentence to paragraph 2 to give the receiving State the right to prescribe in its discretion that particular commodities intended for consumption should not be permitted duty-free entry. In proposing the amendment, his delegation had particularly in mind the importation of liquor and tobacco by consular employees on first installation. In its view it was not unreasonable that a receiving State should in the case of consular employees have the right to impose customs duties on specific articles of a consumable nature and particularly those, which in most countries attracted high rates of duty, such as liquor, cigars and tobacco. It might be argued with some justification that consular employees were not called upon to serve their sending governments in any form of representative capacity: they did not engage in official entertaining and their representational obligations were of an essentially private character. It was certainly not the intention of the amendment to make the position of consular employees in any way uncomfortable or to attempt to regulate the categories of household goods and personal effects which it was only fair to allow them to bring in without duty at the time of their first entry, or within a reasonable period thereafter. On the contrary, the amendment was designed to ensure that certain articles which did not constitute part of a consular employee's normal personal or household effects might, at the discretion of the receiving State, be made liable to the normal duty. Otherwise a situation could be envisaged where on first arrival a consular employee might import enough whisky, for example, to last during his entire stay in the receiving State. That was clearly not the intention of the International Law Commission's draft and the amendment merely sought to tighten up the existing text in a way which was reasonable so far as the receiving State was concerned and equitable for the consular employee. The term "specific articles" was purposely used in the amendment to imply that the receiving State would have no blanket authority to impose customs duties on whole categories of goods but could, on the contrary, levy duty only on specifically named commodities of a consumable nature; that in itself would constitute a safeguard to prevent a receiving State from applying the paragraph too restrictively. His delegation considered that its amendment constituted a reasonable compromise between the International Law Commission's draft of paragraph 2 and some of the other somewhat more restrictive and far-reaching amendments before the Committee.

9. Mr. WASZCZUK (Poland) introduced his amendment to paragraph 1 (L.119), the aim of which was to remedy an omission in the International Law Commission's text. Article 49 should provide for all eventualities, to ensure that consular officials did not meet with any difficulties in connexion with their return to the sending State. The inclusion of the words "and export" would enable them to take home possessions acquired in the

receiving State during their term of office and would be in conformity with the provisions of article 50.

10. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) said that his delegation's amendment (L.185) for an additional paragraph provided that personal luggage accompanying consular officials and members of their families should be exempt from inspection except as stated. It was based on articles 36 and 37 of the Convention on Diplomatic Relations, the provisions of which should extend to consular officials. The codification of consular law meant getting rid of outworn regulations which no longer reflected the general spirit of the draft convention—the purpose of which, as stated in the preamble, was to promote and develop friendly relations among nations. Customs inspection, however carefully performed, inevitably carried with it a flavour of suspicion. There was no need to deprive consular officials of the trust and consideration to which they were entitled, merely because of the few cases of infringement that were bound to arise from time to time. Exceptions should not be allowed to affect international law.

11. Mr. CROSS (United Kingdom) welcomed the International Law Commission's draft of paragraph 49. The liberal exemptions it offered were normally contained in bilateral consular conventions and he would agree with them, subject to a reservation on the scope of exemptions applicable to honorary consuls and nationals of or permanent residents in the receiving State, which would be discussed under articles 57 and 69. Paragraph 1, and especially the words "in accordance with such laws and regulations as it may adopt", would allow for restrictions on the movement of goods where necessary in the interests of public health and safety and, as stated in paragraph 3 of the International Law Commission's commentary, for limitations of the kind mentioned in the Indian amendment (L.178). It refrained quite rightly from making personal luggage exempt from customs examination. That exemption had long been enjoyed as a traditional part of full diplomatic immunity, but as far as he was aware, it was not a traditional right of consular officials, much less of their families, for it was not essential to the exercise of their official functions. He therefore opposed the Ukrainian amendment (L.185).

12. His own amendment (L.171) was submitted solely to remove the possibility of conflict with article 48 as adopted. Paragraph 1 (a) of article 48 expressly excluded the right to exemption from indirect taxation of the kind normally included in goods or services; there was thus no obligation to provide relief from excise, sales or purchase tax on articles originating in the receiving State. But article 49 might be interpreted as going beyond its essential object of relief from customs duties on goods from abroad, by referring to "all customs duties, taxes and related charges". The United Kingdom amendment should make it clear that article 49 did not conflict with the exceptions to exemption provided in paragraph 1(a) of article 48 and did not restrict its effect on excise or sales tax. Under article 49, as at present drafted, it might be thought possible for goods made in the receiving State to be exported and re-imported free

of tax and thus the purposes of article 48 would be frustrated. His amendment, though small, was neither a trivial nor a drafting matter; it was connected with an administrative question faced by all countries that availed themselves under article 48 of the right not to give relief from normal internal taxes incorporated in the price of goods. If his amendment were adopted, it would be clear that article 49 dealt with the importation of goods from abroad and not with the receiving State's taxes on its own goods.

13. Mr. KAMEL (United Arab Republic) agreed in general with the International Law Commission's text but supported the amendments to paragraph 1 submitted by the United Kingdom and Spain. He also agreed with paragraphs (a) and (c) of the Indian amendment because they contained restrictions that were reasonable and would not affect the right to import articles during the term of duty; they merely safeguarded the interests of the receiving State. The new paragraph proposed by the Ukrainian SSR corresponded to a provision in the Convention on Diplomatic Relations and would be an advantage in the consular convention.

14. Mr. NASCIMENTO e SILVA (Brazil) said that the International Law Commission's draft was satisfactory; it was based on widespread practice and corresponded with international custom, and so should be changed as little as possible. He had been impressed by the United States representative's arguments at the 31st meeting on the desirability of retaining any terminology and rules which could be applied equally to consular and to diplomatic officials. Customs officials faced with two conflicting sets of international legislation would find their task difficult: in fact, they usually treated consular officials in the same way as diplomatic officials, for in most countries consular officials travelled with diplomatic passports. It would be impossible to harmonize all the different national laws, but the most important points should be taken into account, such as those mentioned by the Indian representative and the difficulties of the more developed and the less developed countries.

15. On the whole, he supported the International Law Commission's text. Many amendments, although their purpose was to remove the possibility of abuses, would merely introduce new sources of abuse. He would, however, support some of the amendments which did not involve any great alteration of the text, notably those by Poland, Australia and the Ukrainian SSR. The Indian amendment (L.178) agreed with the practice followed in many States and included some of the limitations adopted in Brazil. Paragraph 3 of the International Law Commission's commentary indicated that the expression in paragraph 1 "in accordance with such laws and regulations as it may adopt" was intended to cover the time limits. There should be no difficulty for States with a quota system, as they would be covered by that phrase. If a State adopted restrictive laws and regulations, article 70 could be involved. The purpose of the South African amendment was to prevent abuse by consular employees; but in such an event the receiving State could approach the diplomatic mission. The United Kingdom amendment was also concerned with

abuses. He did not agree with the interpretation of paragraph 1 (a) of article 48, for the matter had been very carefully discussed and it had been agreed that the word "normally" had a very specific meaning. The inclusion of the clause proposed by the United Kingdom would, he feared, have an adverse effect. There was no such clause in the Convention on Diplomatic Relations, and its inclusion in the consular convention would mean that diplomatic officials could import the products mentioned while consular officials could not.

16. Mr. TILAKARATNA (Ceylon), referring to the Indian, South African, Spanish and Nigerian amendments on the rules and regulations in the sending State, said that his country allowed the same exemptions for consular officials as for diplomatic officials. Exemptions must, however, be subject to certain restrictions to safeguard the interests of the receiving State, and he recognized the significance of the four amendments because the consular staff in any receiving State far exceeded the diplomatic staff in numbers. Another important point was the need in emerging countries like his own to restrict the disposal of luxury goods, which he understood to be the purpose of the Indian amendment.

17. Nevertheless, although he fully agreed with the principle in the four amendments, he would be sorry to see conditions introduced into the convention. It would be better to agree on a general amendment without stating any conditions, for he agreed with the representative of Brazil that States were covered by the phrase "in accordance with such laws and regulations as it may adopt". If, however, the Committee considered that the International Law Commission's draft obliged the receiving State to give exemptions, there were two possible ways of solving the difficulty. A provision could be introduced stating that the granting of privileges would not prejudice the receiving State's right to impose conditions on the export or disposal of the articles in question. If, however, it were agreed that the restrictions embodied in the four amendments were covered by the article as drafted, in the light of the International Law Commission's commentary, the sponsors of the amendments might be willing not to insist on a vote. That would be acting in the spirit of a multilateral convention, and he was speaking as a representative of one of the countries which could least afford to grant exemptions.

18. With regard to the Australian amendment, he thought that the word "privileges" might be better than "immunities" because it included exemptions. Moreover, the word "exemptions" did not appear in article 57. He suggested that the matter should be referred to the drafting committee. He agreed with the Ukrainian amendment but if consular officials were to receive the same immunities as diplomatic officials under the new paragraph, the same should apply under paragraphs 1 and 2. He did not support the Polish amendment because the additional words would give the article a new connotation. He agreed with some of the technical points raised by the United Kingdom representative but considered that his amendment was already fully covered by article 49.

19. Mr. SALLEH bin ABAS (Federation of Malaya) supported the idea implied in the amendments of India, Spain, South Africa and Nigeria, that paragraph 1 of article 49 as drafted by the International Law Commission restricted the receiving State's power to impose conditions on the entry of goods. He doubted, however, whether the amendments were necessary because the International Law Commission had explained in paragraph 3 of its commentary that the words "in accordance with such laws and regulations as it may adopt" in paragraph 1 of the draft left the receiving State free to decide whether it wished to impose conditions or not. The matter might perhaps be referred to the drafting committee.

20. He would abstain from voting on the United Kingdom amendment because, although he appreciated the desire to avoid any possible conflict with paragraph 1 (a) of article 48, the comments of the Brazilian representative had made him doubt the value of the amendment. He supported the amendments of Poland to paragraph 1 and of Australia and South Africa to paragraph 2; he also supported the new paragraph proposed by the Ukrainian SSR which would be a valuable contribution to consular law. In the main, he approved of the International Law Commission's text and he did not wish to see it drastically changed.

#### *Reallocation of articles*

21. The CHAIRMAN announced that the General Committee, at its first meeting, had noted that the workload of the Second Committee had been exceptionally heavy and that it was very important, for a number of reasons, that the Conference should close on time. After considerable discussion it had decided, in order to expedite the work and in the interests of the Conference as a whole, to recommend to the plenary meeting that four articles should, in the first instance, be reallocated to the First Committee: articles 52, 53, 54 and 55. Those articles concerned matters of principle and there was no reason therefore why they should not be assigned to the First Committee.

22. It had not been considered appropriate to recommend the assignment of article 69 to the First Committee since its subject was so closely linked with the matters already discussed, and the articles yet to be considered, by the Second Committee.

23. The General Committee had taken the view that article 56 could be appropriately reallocated to the First Committee together with articles 65, 66 and 67. It had, however, been impossible to recommend the immediate reallocation of those articles because the delegation of Japan had submitted a proposal (A/CONF.25/C.2/L.89) to replace articles 56-67 of the International Law Commission draft by a single article. The General Committee had reached the conclusion that the best way to deal with the matter would be for the Second Committee, when it came to consider article 56, to take the Japanese proposal before any of the other amendments submitted to that article.

24. It would appear that the Japanese proposal was in fact a new proposal under rule 42 of the rules of

procedure and not an amendment under rule 41, and could not according to those rules be considered earlier. The practical advantage of taking a decision first on the Japanese proposal was so apparent, however, that the General Committee had expressed the hope, which he personally shared, that the Second Committee could agree to consider the Japanese proposal first when it reached article 56. He would of course abide entirely by the decision of the Committee in the matter.<sup>2</sup>

*It was so agreed.*

The meeting rose at 6.45 p.m.

<sup>2</sup> The Japanese proposal was rejected at the thirty-seventh meeting, but the General Committee did not maintain its recommendation that articles 56, 65, 66 and 67 should be re-allocated to the First Committee.

### THIRTY-FOURTH MEETING

*Thursday, 28 March 1963, at 10.30 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 49*

##### *(Exemption from customs duties) (continued)*

1. The CHAIRMAN invited the Committee to continue its discussion of article 49 and the amendments relating to it.<sup>1</sup>

2. Mr. JESTAED (Federal Republic of Germany) considered that article 49 was one of the most important of the whole draft convention. His delegation regretted that, as was apparent from paragraph 2, that article did not apply to "service staff"; that was equivalent to a renunciation of the principle that one State could not levy taxes on another State. His delegation supported the Ukrainian Soviet Socialist Republic's amendment, but considered that the valuable suggestions in the Spanish and Indian amendments were already contained in the first sentence of paragraph 1. He was unable to accept the United Kingdom amendment for the reasons already stated by the Brazilian representative.

3. Mr. SAYED MOHAMMED HOSNI (Kuwait) observed that restrictive measures were advocated in a number of amendments, and that such a tendency was in the interests of the developing countries. Nevertheless, his delegation was of the opinion that the maximum amount of privilege should be granted although it realized that some amendments were aimed at avoiding possible abuses. It would not oppose the Ukrainian amendment but considered that it should be the subject of a separate article.

4. The CHAIRMAN thought that it might be left to the drafting committee to take a decision in the matter.

<sup>1</sup> For the list of the amendments to article 49, see the summary record of the thirty-third meeting, footnote to para. 1.

5. Mr. BLANKINSHIP (United States of America) said that he was in agreement with the statements made at the preceding meeting by the representatives of Brazil and Ceylon. Nevertheless, he considered the International Law Commission's original wording to be satisfactory, since paragraph 1 was taken from article 36 of the Convention on Diplomatic Relations and paragraph 2 from article 37, paragraph 2. In practice, the United States had always been very liberal in the matter of giving the same treatment to consular and diplomatic officials. He wished to point out, however, that it was his country's intention to restrict the privileges in such a way as to exclude nationals of the receiving State and persons residing permanently in that State.

6. He understood the misgivings of the Indian representative, who thought it necessary to restrict exemption from customs duties in the interests of the developing countries, but he did not think his fears were justified. All the amendments submitted were alike in showing a desire to avoid possible abuse; but it would not be reasonable to overload the convention with rules that were too detailed. The United States delegation did not share the views of the South African representative and believed, on the contrary, that consuls, like diplomats, exercised representative functions that required the free entry of some articles of consumption, always, of course, on a basis of reciprocity. The Australian amendment seemed to be a matter for the drafting committee. Lastly, the validity of the amendment of the Ukrainian SSR had not been established.

7. Mr. VRANKEN (Belgium) said that he was in favour of the amendment by the Ukrainian SSR which reproduced the wording of article 36, paragraph 2, of the 1961 Convention.

8. Mr. LEVI (Yugoslavia) said that there were three distinct categories of amendments: those that followed the corresponding clause of the 1961 Convention as closely as possible, as for instance the amendment of the Ukrainian Soviet Socialist Republic for which his delegation would vote; those which aimed at clarifying article 49, like the Indian and Spanish amendments, which his delegation would not oppose although they did not appear necessary in the light of paragraph 3 of the International Law Commission's commentary; and lastly those aimed at restricting customs exemption privileges, as, for instance, those submitted by Nigeria, the United Kingdom and South Africa. The Yugoslav delegation would vote against those amendments.

9. Mr. HEUMAN (France) said that he had no objection to the principle of the amendments of Spain, South Africa and India for the restriction of exemption from customs duties. He believed, however, that they were unnecessary, since they duplicated the introductory sentence to article 49, as drafted by the International Law Commission, which provided safeguards against possible abuses. He would accordingly abstain from voting on those three amendments.

10. He noted, as the Brazilian representative had done, that the Committee was to some extent bound by the wording of the 1961 Vienna Convention, since it was under the necessity of avoiding mistakes in interpreta-

tion, which might result in a divergence between the two documents. He regretted therefore that he would be unable to vote for the United Kingdom amendment. He suggested a re-drafting of paragraph 1 (a), where he would prefer the words "strictly administrative" to be substituted for the word "official". He also believed that the word "export" proposed by Poland in its amendment had too commercial a meaning and should, therefore, be replaced by some such term as "exit", as the antithesis of the term "entry" used in paragraph 1. On the other hand, since a divergence between the wording of the present convention and that of 1961 was undesirable, the Ukrainian amendment might be adopted. The French delegation also supported the drafting amendment proposed by the Australian representative.

11. The French delegation considered the Nigerian amendment to be the most important of all and it would give that amendment its warm and unconditional support, since its effect would be to eliminate all distinction between consular officials and consular employees who, should the amendment be adopted, would both be entitled to exemption from customs duties only at the time of first installation. That would involve a rearrangement of article 49, since paragraph 2 would necessarily have to be dropped.

12. Mr. HARASZTI (Hungary) also considered that, with respect to exemption from customs duties, the position of consular officials should be assimilated to that of diplomatic agents. His delegation was prepared to accept the International Law Commission's draft of article 49 and would vote for the amendment by Spain, sub-paragraphs (b) and (c) of the Indian amendment, the Polish amendment and that of the Ukrainian Soviet Socialist Republic; but it could not support the amendments of the United Kingdom, Nigeria or South Africa, which would have the effect of introducing restrictive features.

13. Mr. KONSTANTINOV (Bulgaria) said that he would support the original text of article 49 with the amendments by Poland, the Ukrainian Soviet Socialist Republic, India and Spain, which all helped to clarify the text. He could not, however, accept the United Kingdom and Nigerian amendments, which were unnecessarily restrictive.

14. Mr. MOUSSAVI (Iran) said that he understood the purpose of the amendments by India, Spain, the United Kingdom and Nigeria, but he would abstain from voting on the amendment by the Ukrainian SSR since the customs authorities of the receiving State should have the right to inspect the luggage of consular officials without being called upon to give their reasons.

15. Mr. REBSAMEN (Switzerland) said that the Ukrainian amendment did not reproduce word for word article 36, paragraph 2, of the 1961 Convention, but should the sponsor confirm that such was his intention, he was ready to give the amendment his support.

16. Mr. WASZCZUK (Poland) said that he could not accept the Nigerian amendment or the proposal put forward by the United Kingdom or Australia, which unduly restricted the rights of consular officials. His