Document:-
A/CN.4/SR.549

Summary record of the 549th meeting

Topic:
Consular intercourse and immunities

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teur's original text (A/CN.4/L.86) to the revised text. The original paragraph, in referring to " other relevant international agreements ", had taken reciprocity into account and had at the same time ensured that other States concerned could not obtain the advantage of most-favoured-nation treatment. He suggested that the Special Rapporteur might consider restoring the reference to " other relevant international agreements".

80. Mr. TUNKIN thought that the Commission was agreed on the substance of the article. Clearly, the words " one of the present rules " in paragraph 2 (*a*) could only mean a rule that allowed a certain latitude; the Special Rapporteur's text might be improved to bring out that meaning. He thought that Mr. Matine-Daftary's suggestion concerning paragraph 2 (*a*) was sound, and that the Drafting Committee might be asked to prepare a final text and to explain in the commentary why the article differed from the corresponding provision of the diplomatic draft.

81. He still had some doubts, however, concerning paragraph 2 (*b*). In the first place, the reference to reciprocity might be unnecessary, for it was questionable whether the voluntary granting of greater privileges and immunities than those expressly required by the multilateral convention should be regarded as discriminatory. Secondly, he wondered whether the paragraph should be regarded as eliminating the application of the most-favoured-nation clause in the case of existing treaties containing such clauses. If State A granted State B greater privileges than did the convention and had a treaty containing a most-favoured-nation clause with State C, was State B to regard that situation as discriminatory ?

82. Mr. ERIM could not agree with the course suggested by Sir Gerald Fitzmaurice and endorsed by the Secretary. The best way of drawing attention to the possible shortcomings of article 44 of the diplomatic draft was to improve the wording of article 53 of the consular draft and to explain in the commentary why the two texts differed. Since the consensus of the Commission seemed to be that the wording of paragraph 2 (*a*) was undesirable, it would be dangerous to leave it unamended. He also doubted whether the word "latitude", suggested by Mr. Matine-Daftary, was acceptable, since even if some latitude of application was recognized, governments were not free to use that margin for discriminatory purposes. If a State enacted a general law on customs duties which applied to all States equally, that was tantamount to imposing a restriction, and the question of discrimination arose only if that State interpreted its margin of discretion liberally vis-à-vis some States and restrictively vis-à-vis others. In any case, all members seemed to agree that paragraph 2 (*a*) must not give States the opportunity to restrict any rule *per se*. Accordingly, the article could be forwarded to the Drafting Committee, with the proviso that paragraph 2 (*a*) should be clarified if it were retained.

83. Mr. AMADO observed that the complex question of the interpretation of the text of a treaty was once again before the Commission. Paragraph 2 (*a*) as now drafted amounted to a least-favoured-nation clause; since it was notoriously difficult to insert a most-favoured-nation clause in a multilateral treaty, it was obviously even more difficult to formulate such a treaty on the basis of a least-favoured-nation clause.

The meeting rose at 1.5 p.m.

549th MEETING

Monday, 30 May 1960, at 3 p.m.

Chairman: Mr. Luis PADILLA NERVO

Consular intercourse and immunities (A/CN.4/131, A/CN.4/L.86) [*continued*]

[Agenda item 2]

PROVISIONAL DRAFT ARTICLES (A/CN.4/L.86) *(continued)*

ARTICLE 53 *(Non discrimination) (continued)*

1. The CHAIRMAN invited the Commission to continue its discussion of article 53.

2. Mr. SANDSTRÖM drew attention to the explanation given in commentary 3 to article 44 of the diplomatic draft.

3. Since some of the articles in the consular draft allowed for a measure of discretion in their application by the receiving State, the provisions of article 53, paragraph 2, would be useful in that draft.

4. Mr. PAL said that he had reached the conclusion that the whole of paragraph 2 should be dropped. The paragraph had been suggested by the most favoured nation clause, which was resorted to in international relations in order to extend to other States the applicability of the terms of treaties. The use of such a clause helped to promote the stability and uniformity of commercial treaty law, and made it possible for a typical commercial treaty to play its part in establishing general legal certainty in the particular sphere with which it dealt. On the present occasion, however, the Commission was engaged in formulating rules of law which were intended to provide that very certainty where the subject under discussion was concerned. In so doing, it had not left much scope for the discretion of the receiving State. Some of the rules laid down in the draft were dependent on the consent of the receiving State; some others depended on the provisions of the municipal law of the receiving State; lastly, some of them were enabling provisions and merely stated that a certain course of action was open to the receiving State. As far as he could see, in none of

those cases would the provisions of paragraph 2 serve any purpose. None of the other articles contained any reference to the particular disadvantage against which the paragraph was designed to provide a remedy; hence, its retention in the draft would quite unnecessarily introduce a new disadvantage, in that it would obscure the meaning of the earlier provisions.

5. Mr. TUNKIN said that, on reflection, he tended to agree that it was not advisable to maintain paragraph 2 (*a*). The statement in paragraph 1 that, in the application of the rules laid down in the draft, the receiving State must not discriminate as between States, expressed quite fully the idea that the rules should not be applied differently to different States.

6. As to paragraph 2 (*b*) he did not think its provisions necessary. It was open at any time to the receiving State to grant greater privileges and immunities than those specified in the draft articles. Even in the absence of a provision like paragraph 2 (*b*), it could hardly be said that the granting of greater privileges and immunities than those required by the draft constituted a discriminatory application of the rules of the draft.

7. Lastly, he wished to know whether Sir Gerald Fitzmaurice maintained his suggestion for the addition of a paragraph 2 (*c*) stating that discrimination would not be regarded as taking place where greater privileges and immunities were given in consequence of a bilateral treaty. The question seemed to be covered by article 59, paragraph 2, and he therefore wished to have some clarification regarding the suggested addition.

8. Mr. YOKOTA recalled that at the previous meeting the great majority of members had agreed on the need to retain the provisions of paragraph 2 (*b*); it was only paragraph 2 (*a*) that had been criticized.

9. For his part, he thought that paragraph 2 (*b*) should definitely be retained. Where a receiving State granted, on the basis of reciprocity, greater privileges than those specified in the draft, it could not be expected to extend those additional privileges to all foreign consulates. For example, Japan exempted consulates from electricity, gas and water charges on a basis of reciprocity and naturally did not grant that exemption to the consulates of States which did not extend a similar privilege to Japanese consulates. It was essential to make it clear that a distinction of that type did not constitute an act of discrimination; the provisions of paragraph 2 (*b*) were therefore necessary.

10. He felt much less strongly about paragraph 2 (*a*), though be wished to point out that some of the articles of the draft were formulated in quite general terms, thus leaving room for differences in interpretation. For example, article 32 provided that the receiving State was bound to accord special protection to a foreign consul and was to take all reasonable steps to prevent any attack on his person or freedom. Such expressions as "special protection" or "all reasonable steps" were open to a wide variety of interpretations. Another instance was article 43, paragraph 2, which provided that for "a reasonable period" pending his departure a consular officer's privileges subsisted. If country A were to construe "a reasonable period" as meaning one week, country B two weeks, and country C one month, it would be proper for country X to give one week to the consul of country A, two weeks to that of country B and one month to that of country C to leave its territory.

11. For all those reasons, and because a provision similar to paragraph 2 existed in the diplomatic draft, he urged that the paragraph be maintained in the consular draft, at least for the time being, and that the article should be accompanied by a commentary along the lines of commentary 3 to article 44 of the diplomatic draft.

12. Mr. ŽOUREK, Special Rapporteur, said that in introducing article 53 he had expressed his doubts regarding paragraph 2 (*a*). He did not feel that there had emerged from the discussion any strong argument in favour of maintaining that provision. He did not think that the case mentioned by Mr. Yokota argued in favour of maintaining the provision; the "reasonable period" mentioned in article 43 must be taken to depend on the circumstances of each case; it would therefore be determined in the light of objective factors and not in accordance with the principle of reciprocity. It would seem dangerous to introduce an idea of reciprocity into the application of provisions of that kind.

13. Mr. SANDSTRÖM said that there was another case which perhaps brought out better the usefulness of paragraph 2 (*a*). Article 38 of the draft provided for some measure of exemption from customs duties, whereas it was clear from commentary 3 to article 34 of the diplomatic draft that the customs authorities of the receiving State would have considerable discretion in the application of the exemption from customs duty. The receiving State could very well make the customs treatment in question subject to reciprocity and it was necessary to preclude the interpretation that such action was discriminatory.

14. Sir Gerald FITZMAURICE said that, as he had pointed out at the previous meeting (548th meeting, paragraph 73), while there were virtually no bilateral agreements regarding diplomatic intercourse — which was governed by general international law — the position was quite different in the matter of consular intercourse. The latter rested very largely on bilateral conventions. Since those conventions were not uniform, differential treatment was very likely to result. It had been for that reason that he had suggested the possibility of adding a third sub-paragraph. However, the Drafting Committee should be asked to consider whether, in view of the terms of article 59, paragraph 2, a provision of the kind he had indicated was necessary in article 53.

15. With regard to paragraph 2 (*a*) of article 53,

he remained of the view that the provision in question should be retained because it could have some utility. There were many provisions in the consular draft which were capable of being applied in different ways without any breach of the article. For example, article 28 stated that the receiving State was required to " accord full facilities for the performance of the consular functions ". That phrase might be very differently construed in different countries. For example, in the matter of customs privileges, it was a matter of common knowledge that some countries were more liberal than others.

16. For those reasons, he thought that, on the whole, paragraph 2 (*a*) should be retained, at least for the time being, particularly since there existed a corresponding provision in the diplomatic draft. He suggested that special attention should be drawn in the commentary to the fact that paragraph 2 had elicited a rather full discussion, in the course of which a number of members had expressed doubts as to whether paragraph 2 (*a*) should be retained but that, on the whole, it had been decided to retain it for the time being, inasmuch as a corresponding provision occurred in the diplomatic draft.

17. Mr. BARTOŠ said that he could not very well oppose an idea which sprang from the concept of the comity of nations and which was intended to ensure equality of treatment to all foreign consular officers. Nevertheless, since consular privileges and immunities were accorded not in consideration of the person of the consular officer but in consideration of his functions, it was difficult to see how such privileges and immunities as were necessary for the performance of consular functions could be subordinated to the condition of reciprocity. The Commission should give the matter very close consideration before it accepted the principle that the action of a State of withholding certain privileges and immunities from foreign consular officers would debar that State from claiming similar privileges for its consuls.

18. For his part, he favoured the doctrine known in contemporary international law as the doctrine of effective reciprocity, but with certain reservations. In the first place, there were certain cases in which humanitarian reasons prevented recourse to reprisals. In the second place, if a State had recognized a certain privilege as necessary to the exercise of consular functions, the act of withholding that privilege from the consular officers of States which did not grant a similar privilege to the consular officers of the receiving State would seem inconsistent with the duty of the sending State to accord full facilities for the performance of consular functions.

19. For those reasons, he wished to go on record as holding a separate opinion : he was neither for, nor against, the idea under discussion, and held that consular privileges and immunities could not, on grounds of non-reciprocity, be withheld in such a manner as to prevent a consular officer from effectively discharging his functions.

20. The CHAIRMAN said that there seemed to be general agreement that the receiving State should not discriminate in the application of the rules laid down in the draft. The question was what acts did not fall within the definition of discrimination. It appeared to be the opinion of the majority that article 53, paragraph 2 (*a*), should mean that the rules could not be applied restrictively and that a statement should be made in the commentary to the effect that any restriction must be within the strict limits allowed by the rule in question.

21. The Commission had to decide whether article 59 or an additional paragraph in article 53 on the lines suggested by Sir Gerald Fitzmaurice at the 548th meeting *(ibid.)* would cover the cases where a receiving State granted greater privileges than those specified in the present draft under a bilateral agreement.

22. Some thought would also have to be given to the cases, mentioned by Mr. Yokota and Mr. Sandström, where the rules seem to leave some latitude of action by the receiving State, and to Mr. Bartoš' view that that State must not on any account impede the exercise of consular functions.

23. He suggested that those three points should be referred to the Drafting Committee for consideration; later, the Commission could discuss whether to delete any part of paragraph 2. He did not believe there was a fundamental difference of opinion on principle but it was doubtful whether the text was sufficiently clear.

24. There had also been the suggestion that a statement be made in the commentary concerning paragraph 2 (*a*) on the lines of that contained in the commentary to article 44 of the diplomatic draft.

The Chairman's suggestions were approved.

Chapter II

PRIVILEGES AND IMMUNITIES OF HONORARY CONSULS AND OFFICIALS ASSIMILATED TO HONORARY CONSULS

ARTICLE 54 *(Honorary consuls)*

25. Mr. ŽOUREK, Special Rapporteur, introducing chapter II of his draft, explained that it was necessary within the framework of his whole scheme to devote a special chapter to honorary consuls and officials assimilated to honorary consuls, as distinct from career consuls. It was generally agreed that honorary consuls (and persons having like status), did not enjoy the same privileges as career consuls and it would be confusing not to deal with them in a separate chapter. Another reason for adopting that method was that certain States neither appointed nor accepted honorary consuls. A number of consular conventions stipulated that consuls must be career officials. The regulations concerning the diplomatic and consular missions of foreign States in the territory of the Union of Soviet Socialist Republics, promulgated in 1927, provided that consular

representatives to the Soviet Union must be citizens of the State which they represented.[1] Certain States, though prepared to accept honorary consuls, did not themselves appoint any. In view of the diversity of international practice, for purposes of reaching agreement, the whole subject had to be dealt with in a separate chapter so as to enable those countries which did not accept the practice of appointing or receiving honorary consuls to exclude that chapter when ratifying the draft.

26. At its eleventh session (523rd meeting, paragraph 9) the Commission had provisionally adopted the article on definitions, which had included a definition of the term " honorary consul ". It must now reach a final decision regarding that definition. Once that had been done the substance of article 54 would be transposed to the definitions clause (article 1); it had merely been inserted in order to facilitate the discussion.

27. The institution of honorary consuls had originated several centuries before the common era and its main development dated from the twelfth century when the expansion of trade had necessitated the establishment of warehouses along the trade routes and when merchants had acquired the right to elect agents to look after their interests. It was interesting to note from the extremely diverse legislation on the subject that the term " honorary consul " was not often used and that category was usually designated by reference to certain criteria. Edouard Engelhardt, in his draft submitted to the Institute of International Law in 1896, listed five categories of honorary consuls : nationals of the sending State with exclusively consular functions; nationals engaged on other functions as well as consular, but not in commerce or industry; nationals of the sending State engaged in commerce and industry; nationals of the receiving State some engaged in commerce and industry and others not; and finally persons who were not nationals of either of the two States and who were not engaged in commerce in addition to their consular functions.

28. In seeking a uniform definition which it should be noted might affect other provisions in the draft, the Commission must review a wide number of differing criteria. For instance, according to Swiss legislation the decisive criterion was that honorary consuls did not receive remuneration; according to Finnish legislation, on the other hand, honorary consuls were distinguished from *consules missi* in that they were appointed locally, though they might receive remuneration. In certain legislations an honorary consul was one who in addition to his consular functions carried on another gainful occupation, while others such as that of Peru provided that an honorary consul could not be a national of the receiving State.

29. The decisive criterion, he thought, was that a consular official who was an established member of a consular service, who was in receipt of a regular salary, who was entitled to pension rights and who was subject to disciplinary action by the sending State must be regarded as a career consul. All other consular officials were honorary.

30. Perhaps the definition provisionally adopted at the eleventh session and set out in the present text of article 54 might, with some simplification, adequately cover the main criteria.

31. Lastly, he drew attention to the fact that, in certain legislations — though they were not numerous — career consuls were allowed to engage in commercial pursuits or other private activities of a gainful nature. A study of the consular conventions showed that such consuls, who were in an intermediate category, were always assimilated to honorary consuls in the matter of privileges and immunities.

32. Mr. VERDROSS thanked the Special Rapporteur for his lucid exposition of the subject, but considered that the definition contained in article 54 went too far. The two criteria — that an honorary consul did not receive a regular salary and that he was authorized to engage in commerce or other gainful occupation —could not be regarded as criteria valid in law, though they described what was normally the case. Surely wealthy persons exercising no profession or retired officials living on a pension could be appointed honorary consuls.

33. In his view the sole legal difference between career consuls and honorary consuls was that the former were established officials who formed part of their country's administrative service and the latter were not.

34. Mr. EDMONDS said that the term " honorary consul " was a familiar one in his country where they were nearly always United States citizens who, instead of a salary, received the fees they were authorized to charge for services rendered.

35. The words " is authorized " in article 54 might give rise to ambiguity : by whom was the authority to be given? In certain instances not only the sending but also the receiving State's authority was necessary to allow the honorary consul to carry on commercial or other gainful activities. Of course, the receiving State had the right to revoke its acceptance of any honorary consul who, having been authorized to engage in one occupation, turned to another or in some other way exceeded the rights granted to him by the receiving State. The authorization both of the sending and of the receiving State was necessary if an honorary consul was to engage in busines activities, and in his opinion that should be made very clear in the draft.

36. Mr. FRANÇOIS said that chapter II was of special interest to countries like his own where honorary consuls accounted for about 30 per cent of the total consular strength. A small country like the Netherlands with a large merchant

[1] *Laws and Regulations regarding Diplomatic and Consular Privileges and Immunities*, United Nations *Legislative Series*, vol. VII (United Nations publication, Sales No. 58.V.3), p. 338, para. 9.

[2] *Annuaire de l'Institut de droit international*, vol. 15 (1896), p. 132.

fleet needed a consul in almost every large port, but there was not enough work to occupy the consul full-time, and accordingly honorary consuls were indispensable.

37. The Special Rapporteur had indicated that certain countries refused to accept honorary consuls: those were presumably mainly the people's democracies, but what alternative could they offer ? The institution was far from obsolete and would always be needed so long as there were consular functions to perform.

38. There were many categories of honorary consuls. Formerly they had often been merchants but in modern times they were quite often persons not engaged in a gainful occupation or commerce. In his opinion the definition put forward in article 54 was inadequate. Many honorary consuls received a salary, for instance in the form of fees for services up to a given sum: the matter was merely a question of the mode of payment. Nor was the criterion of authority to engage in a gainful occupation decisive: some career consuls were so engaged and on the other hand there were honorary consuls who were not. Lastly, many honorary consuls were not appointed locally but came from the sending State.

39. The only decisive criterion was the answer to the question: had the person in question been designated as an honorary consul by the sending State ?

40. Mr. BARTOŠ observed that the Special Rapporteur had expressed two somewhat contradictory conclusions. Though admitting that it was difficult to classify all the distinguishing characteristics of honorary consuls, he had included in article 54 certain qualifications which did not correspond to the practice of all States. For example, honorary consuls did not always engage in commerce or other gainful occupation in the receiving State. Those persons might be in public professions; thus, the Yugoslav Government had appointed university professors, notaries public, bank officials and even directors of hospitals as honorary consuls. Yugoslavia was not wealthy enough to have career consuls in every country and therefore considered the system of honorary consuls to be useful.

41. With regard to the receipt of a regular salary from the sending State, he pointed out that honorary consuls received the wherewithal to maintain their offices and were regularly reimbursed for expenses incurred in the course of their official duties; indeed, there were some honorary consuls who were in charge of consulates and through whom other consular officials attached to the staff were paid.

42. It was obvious that the practice varied from country to country, and that the whole subject of honorary consuls was governed more by municipal than by international law. He was therefore inclined to favour Mr. François' suggested criterion, since the main characteristic of honorary consuls was the fact that they were appointed by the sending State and accepted as such by the receiving State. The question was largely one of the convenience of the sending State; the Special Rapporteur's enumeration was by no means exhaustive.

43. Sir Gerald FITZMAURICE doubted whether a separate chapter on honorary consuls was necessary. Perhaps the term "honorary consuls" was not a very happy one; what really mattered was that the person concerned was not a career consul. Three different points of view were possible. First, it might be decided that there was no need to distinguish between career consuls and other consuls. Secondly, if it were thought that a distinction should be made on the basis of authorization to engage in commerce or other gainful occupation, that distinction might be made in the relevant articles of the draft. Thirdly, it might be argued that a distinction was necessary where the consular official was a national of the receiving State. It was obvious that the second and the third distinction applied equally to career and non-career consuls, and it would be easier to make the distinction in the particular articles concerned.

44. Mr. AGO agreed with Sir Gerald Fitzmaurice. When drafting that section, the Special Rapporteur had thought mainly in terms of honorary consuls who were nationals of the receiving State and who were at the same time engaged in gainful occupations. Mr. François on the other hand had said that the Netherlands used the institution of honorary consuls extensively and that the persons concerned were mainly nationals of the sending State, who were officials, but not members of the consular service and in many instances were not engaged in other occupations. The question was whether such officials received different treatment from career consuls. If an honorary consul was a national of the receiving State, he obviously could not be treated on the same footing as a career consul who was not a national of that State, but the difference in treatment was accounted for by his nationality and not by his honorary status. Similarly, if an honorary consul engaged in commercial or other gainful activities in the receiving State, certain provisions of the draft, such as those of article 33, would not apply to him, but again the reason would be the fact of engaging in commerce, and not the person's status as an honorary consul. Accordingly, for the purposes of privileges and immunities, the two decisive criteria were nationality and the fact of engaging in commerce or other gainful occupation, and those criteria would best be stated in the context dealing with the specific privileges and immunities involved.

45. It had been said that some countries did not admit honorary consuls. In his opinion, however, if the receiving State in accordance with its own system, objected to the appointment of an honorary consul, it could base its objection solely on his nationality and his particular occupation, not on the fact that he was an honorary consul. All the necessary safeguards could there-

fore be applied without devoting a special chapter to honorary consuls.

46. Mr. YASSEEN observed that a number of States appointed and accepted honorary consuls and that the system could be justified by necessity. The difference between a career consul and an honorary consul did not lie in any difference in the nature of their functions, but in the extent of their powers and in the difference in the bond attaching them to the government of the sending State. Mr. Verdross had suggested that the definition of an honorary consul might be based on the notion of public functions — i.e. a career consul was a public servant, while an honorary consul was not. He would point out, however, that the notion of public functions belonged to municipal law and was liable to vary from one country to another. In some countries an official might not be paid a salary, while in others the law permitted him to engage in a gainful occupation. It was therefore a mistake to base the definition of an honorary consul on the notion of public functions prevailing in any given State. The best course would be to limit the definition to the formal criterion suggested by Mr. François, namely, that an honorary consul was a person designated as such by the sending State.

47. Mr. AMADO pointed out that all drafting bodies were constantly faced with the great difficulties of definition and with the great dangers of enumeration. The wide variety of activities carried on by persons who were appointed as honorary consuls added to the difficulty of both enumeration and definition. While he could not agree with Sir Gerald Fitzmaurice that the expression " honorary consuls " was not a happy one, he was inclined to share the general views expressed by that speaker and Mr. Ago. Nevertheless, an even better way of avoiding the difficulties might be to retain only article 56, on the legal status of honorary consuls, which seemed to provide the indispensable minimum. Despite recent developments, the institution still existed and was very important to some countries; accordingly, some mention of honorary consuls should be made in the draft.

48. Mr. MATINE-DAFTARY said that the institution of honorary consuls had been well known to his country under the capitulations system, but after that system had been abolished very few honorary consuls had been sent to Iran, which had decided not to appoint them abroad.

49. It was extremely hard to find a definition that would cover all the aspects of an honorary consul's status; in his opinion, such a definition fell largely within the administrative legislation of the sending State, and had little connexion with international law. The receiving State was affected only by the status of the person concerned as defined by the sending State, and he agreed with Mr. Amado that article 56 contained the necessary provisions. Nevertheless, if the Commission decided to retain some definition of the expression " honorary consul ", that definition should state simply that an honorary consul was a person appointed as such by the sending State and might be a national or a non-national of that State.

50. Mr. SANDSTRÖM agreed with previous speakers that the Commission would gain little by defining the expression " honorary consul ", in view of the many different meanings attached to the expression in different countries. He pointed out, however, that in article 2 (6) of the Consular Convention between the United Kingdom and Sweden of 1952 it was stated that a consular officer might be a career officer *(consul missus)* or an honorary officer *(consul electus)*. Furthermore, if he was not mistaken, the Convention distinguished between the functions and privileges and immunities of career officers and honorary officers in three cases: that of communications with the government of the sending State, in which case the honorary consul was deemed not to have the necessary training to exercise the right in question with discretion; that of exemption from detention pending trial, which was granted only to career consuls; and that of exemption from taxation, which was not extended to honorary consuls because they were not permanent employees of the sending State.

51. In his opinion, the Commission might either accept the Special Rapporteur's enumeration or state that honorary consuls enjoyed all the privileges and immunities provided for in the draft, with the exception of certain privileges yet to be listed.

52. Mr. TUNKIN expressed surprise at the ideas advanced by Sir Gerald Fitzmaurice and Mr. Ago. It could hardly be said that career and honorary consuls belonged to the same class of officers, since both the expression " career consul " and the expression " honorary consul " were defined in many consular conventions; and he had not heard any convincing arguments against making a distinction between the two classes. He endorsed Mr. Yasseen's view that the two classes were not distinguishable by reason of their functions alone. The Commission should examine the question of the legal status of honorary consuls and then decide whether the difference between the status of career consuls and that of honorary consuls justified the drafting of a separate chapter dealing with honorary consuls.

53. With regard to the definition of the expression " honorary consul ", he agreed that it would be hard to work out a definition. However, Mr. François's and Mr. Matine-Daftary's ideas might provide a basis for a conclusion and the Commission might decide to define an honorary consul as a person appointed as such by the sending State and accepted as such by the receiving State.

The meeting rose at 6 p.m.