

Document:-  
**A/CN.4/SR.606**

**Summary record of the 606th meeting**

Topic:  
**Consular intercourse and immunities**

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the articles not enumerated therein from being applicable to honorary consuls.

81. The CHAIRMAN, speaking as a member of the Commission, thought that the Drafting Committee might be instructed to divide the draft into two parts, the first relating to career consuls and the second to honorary consuls. The second part might refer specifically to the provisions of the first part which were applicable to honorary consuls.

82. Mr. MATINE-DAFTARY did not consider that there would be much practical difficulty in adopting the Special Rapporteur's proposal. It seemed unnecessary to specify the articles which were not applicable to honorary consuls.

83. Sir Humphrey WALDOCK endorsed the Chairman's suggestion, but considered that the draft should be divided into three parts. Chapter I, containing general provisions, applied to both career and honorary consuls, whereas chapter II dealt with career consuls and chapter III with honorary consuls. If that system were adopted, the Special Rapporteur's proposal would be fully acceptable.

84. Mr. ŽOUREK, Special Rapporteur, supported Sir Humphrey Waldock's suggestion, which seemed to clarify the Commission's intention and was in keeping with the structure of the draft as conceived at the twelfth session. If that suggestion were approved, the existing paragraph 3 of article 54 might be placed in the commentary.

85. Mr. AGO also supported Sir Humphrey Waldock's suggestion, but thought, with regard to the wording of article 54, that paragraph 1 should enumerate the articles applicable to honorary consuls, whereas paragraph 2 should refer to articles 55 to 62 and also to the articles enumerated in the existing paragraph 3. He was fully aware, however, that that was a drafting point only.

86. The CHAIRMAN suggested that the Drafting Committee be instructed to revise the draft in the light of Sir Humphrey Waldock's suggestion, and to consider whether a paragraph along the lines of the existing paragraph 3 of article 54 would correspond to the general economy of the draft.

*It was so agreed.*

87. Mr. ŽOUREK, Special Rapporteur, said that the Spanish Government (A/CN.4/136/Add.8) had entered a reservation concerning the applicability of paragraph 2 of article 42 (Liability to give evidence) to honorary consuls. He had proposed in his third report that the reference to article 42, paragraph 2, in article 54, paragraph 2, should be replaced by a reference to article 42, paragraph 3; he agreed with the Spanish Government that the provision went too far where honorary consuls were concerned, since they were usually persons dealing mainly with professional and private business and devoted only part of their time to consular functions.

88. The same government had entered a reservation concerning the applicability of article 52 (Obligations of third States) to honorary consuls. So far as that objection was concerned, he would point out that at

the twelfth session it had been argued that honorary consuls were sometimes asked to proceed to the sending State and hence should have the same facilities as career consuls in respect of transit through the territory of a third State (574th meeting, paras. 59-70). In view of that argument alone, the Commission had mentioned article 52 among those applicable to honorary consuls.

The meeting rose at 1 p.m.

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## 606th MEETING

*Thursday, 8 June 1961, at 10.10 a.m.*

*Chairman: Mr. Grigory I. TUNKIN*

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### Consular intercourse and immunities

(A/4425; A/CN.4/136 and Add.1-11, A/CN.4/137)

*(continued)*

[Agenda item 2]

DRAFT ARTICLES (A/4425) *(continued)*

ARTICLE 54 (Legal status of honorary consuls)

*(continued)*

1. The CHAIRMAN invited the Commission to continue its consideration of article 54 of the draft on consular intercourse and immunities (A/4425).

2. Mr. ŽOUREK, Special Rapporteur, drew attention to the proposal in his third report (A/CN.4/137, *ad* article 54) that the reference to article 42, paragraph 2, in article 54, paragraph 2, should be replaced by a reference to article 42, paragraph 3. Since the date of his report, the Government of Spain (A/CN.4/136/Add.8) had sent comments in which it expressed a reservation concerning the applicability of article 42, paragraph 2, to honorary consuls.

3. The CHAIRMAN suggested that, if there were no objections, the Special Rapporteur's proposal should be accepted.

*It was so agreed.*

4. Mr. ŽOUREK, Special Rapporteur, referred to the Belgian Government's amendment (A/CN.4/136/Add.6) to article 54 to the effect that a reference to article 45, paragraph 3 (presumably paragraph 2 was meant) should be added in article 54, paragraph 2, and that the reference to that provision should be omitted from article 54, paragraph 3. The Belgian amendment would have the effect of extending tax exemption to the private staff of honorary consuls, which in his opinion was inadmissible. The tax exemption of honorary consuls themselves was dealt with separately in article 58. He advised against acceptance of the Belgian amendment.

5. The CHAIRMAN suggested that the Commission should accept the Special Rapporteur's advice.

*It was so agreed.*

6. Mr. ŽOUREK, Special Rapporteur, said that the Spanish Government had also entered a reservation with regard to reference to article 52 (Obligations of third States) in article 54, paragraph 2. Paragraph 4 of article 52, which related to freedom and protection of correspondence and other official communications in transit, seemed to be applicable to honorary consuls so far as communications in the course of consular duties were concerned. On the other hand, it was doubtful whether the first three paragraphs were in all respects applicable to honorary consuls. He suggested that only paragraph 4 of article 52 should be declared applicable to honorary consuls, a suggestion which would probably be acceptable to most States.

7. Mr. JIMÉNEZ de ARÉCHAGA pointed out that the Commission had considered that objection when discussing article 52 (604th meeting, paras. 43 to 60), but had decided not to take it into account, particularly in view of the decision to include in paragraph 1 the phrase "which has granted him a passport visa if such visa was necessary", borrowed from article 40 of the Vienna Convention on Diplomatic Relations (A/CONF. 20/13). The addition of that phrase had restricted the scope of the article to such an extent that there could be no harm in mentioning it among those applicable to honorary consuls. Article 52 as amended implied that the right of transit through third States was not automatic; reference to the provision should therefore be retained in article 54, paragraph 2.

8. The CHAIRMAN, speaking as a member of the Commission, said that, although he agreed in principle with Mr. Jiménez de Aréchaga, he doubted the advisability of retaining the reference to article 52. Indeed, even in diplomatic relations there was, as yet, no generally accepted rule of international law granting such immunities to diplomatic agents in transit, although it was a fairly general practice of *comitas gentium*. Article 52 might be regarded as a reasonable provision with regard to career consuls, but the plenipotentiary conference might consider that it would be excessive to extend it to honorary consuls.

9. Mr. TSURUOKA asked the Special Rapporteur whether it was the general practice to issue honorary consuls with diplomatic passports and visas.

10. Mr. FRANÇOIS pointed out that article 40, paragraphs 1 and 2, were not applicable to honorary consuls, but that article 52, paragraph 1, referred to the personal inviolability provided by article 40 as a whole. He asked the Special Rapporteur to clarify that point.

11. Mr. ŽOUREK, Special Rapporteur, observed that article 52, if taken literally and rendered applicable to honorary consuls, would mean that third States would have heavier obligations towards honorary consuls than the receiving State. It would obviously be difficult for most States to accept such disproportionate obligations. The problem could be solved easily

by referring only to article 52, paragraph 4, in article 54; if the majority of the Commission did not agree to such a course, however, a special article might be drafted, limiting the obligations of third States vis-à-vis honorary consuls to the provisions of paragraphs 3 and 4 of article 40. What mattered above all was that the draft should be generally acceptable to States, and inasmuch as several important States were not prepared to recognize the inviolability of the honorary consul's consular archives an excessively liberal provision concerning the position of honorary consuls in third States would have little chance of acceptance.

12. In reply to Mr. Tsuruoka, he said that, if an honorary consul was a national of the receiving State, he was not entitled to a diplomatic passport issued by the sending State. So far as other honorary consuls were concerned, law and practice in the matter varied widely from one country to another, but he had heard of exceptional cases where diplomatic passports had been issued to honorary consuls.

13. Mr. AGO said that the best solution would be to delete the reference to article 52 from the enumeration in article 54 and to draft a special article on the subject of the obligations of third States to honorary consuls, as the Special Rapporteur had suggested.

14. In reply to the argument that the immunities of honorary consuls should be restricted as far as possible, on the grounds that such persons exercised private activities, he pointed out that an honorary consul travelling in a third State in the exercise of his consular functions was an official of the sending State who might be travelling to the receiving State to take up his post. The third State concerned owed some obligation to allow the honorary consul to carry out his official work. The Commission's task was not to take up a position in favour of or against the institution of honorary consuls; the purpose of the draft was to facilitate the execution of the consular function, and it was for States to decide whether those functions should be performed by career consuls or by honorary consuls. While he agreed that paragraphs 1 and 2 of article 40 were not applicable to honorary consuls, it seemed essential to provide, for example, that the authorities of the sending State should be informed if an honorary consul proceeding to his post had been arrested or detained in a third State; the sending State must know that its official had been prevented from taking up his duties in the receiving State. He hoped that the special article suggested by the Special Rapporteur would be drafted with those considerations in mind.

15. Mr. GROS said that, although he had been greatly impressed by Mr. Ago's arguments, he still saw possibilities for abuse of the provisions of article 52 by honorary consuls. For example, an honorary consul who carried on business in the town where he performed his consular functions might travel to other countries on his private business, and come back to that town to "return to his post"; should the third States concerned accord him personal inviolability in every case? He therefore believed that the special article suggested by the Special Rapporteur should specify that the provisions concerned

would apply to honorary consuls only while they were proceeding to take up their post for the first time and when they were travelling in the exercise of their official functions. He was sure that the plenipotentiary conference would find the provision unacceptable without such restrictions.

16. Mr PAL pointed out that the inclusion of the reference to article 52 in article 54 was not as inconsistent as it might seem. It was specified in article 40, paragraphs 1 and 2, that the consular officials to whom personal inviolability was granted were those who were not nationals of the receiving State and did not carry on any gainful private activity; accordingly, honorary consuls were, by the very requirement of the article, excluded from the benefit of those provisions.

17. Mr. PADILLA NERVO said that he was not opposed to the solution of drafting a special article on the issue under discussion. Nevertheless, he fully endorsed Mr. Pal's remarks: by virtue of the system of cross-references employed it was clear that only the privileges and immunities covered by paragraphs 3 and 4 of article 40 were applicable to honorary consuls. Even if article 52 were left in the enumeration, therefore, its application to honorary consuls would be limited from the legal point of view.

18. Mr. BARTOŠ said that there were two fundamental considerations. First, third States should have some obligation to facilitate the performance of the consular function by honorary consuls; secondly, there had been complaints about the abuse of their position by honorary consuls. In connexion with Mr. Tsuruoka's question, he drew attention to a new and spreading practice of neither refusing nor granting diplomatic visas to certain officials, but issuing them with a courtesy diplomatic visa. That half-way measure meant that the visa was not granted automatically, by virtue of the official's status, but as a favour; it carried with it an intimation to the holder and to the authorities of the sending State that an element of caution must be exercised in the use of such a visa. He was in favour of the Special Rapporteur's proposal that a special article should be prepared concerning the obligations of third States in respect of honorary consuls, and agreed with Mr. Gros on the need to provide guarantees against abuse in such an article, in order to render it acceptable to the largest possible number of governments. The Drafting Committee should be instructed to take those two main considerations into account in preparing a new clause.

19. Mr. TSURUOKA said that he fully agreed with Mr. Bartoš. If third States were to be called upon to facilitate the performance of official functions by honorary consuls, both the sending State and the receiving State which recognized the honorary consul as such should also take measures to enable the third State to protect itself against malpractices.

20. Sir Humphrey WALDOCK agreed with Mr. Bartoš and Mr. Gros that a special article should be drafted and should contain guarantees against abuse. Article 52 as it stood obviously related to career consuls only, and provisions for honorary consuls should be more restrictive.

21. The CHAIRMAN said that the Commission seemed to be agreed that the reference to article 52 should be dropped from article 54, paragraph 2, and that a separate article on the subject should be drafted. He suggested that the Drafting Committee should be instructed to prepare that article on the basis of paragraph 4 of article 52 — to which the Special Rapporteur had raised no objection — and of the restrictive provision suggested by Mr. Gros.

*It was so agreed.*

22. Mr. ŽOUREK, Special Rapporteur, drew attention to the Swiss Government's comment (A/CN.4/136/Add.11) that, if article 31 and paragraphs 2 and 3 of article 53 were rendered applicable to honorary consuls, there would be no need for article 55 (Inviolability of the consular archives, the documents and the official correspondence of the consulate). The Commission had already decided (605th meeting, para. 50) that article 31 would be applicable to honorary consuls only in respect of offices used exclusively for consular functions. It was clear that article 53 would be applicable to honorary consuls only in the very rare cases where such a consul rented premises specifically for the work of the consulate. An honorary consul was not in fact obliged to exercise the consular function in an office exclusively devoted to that purpose; on the contrary, the vast majority of honorary consuls performed those functions in premises which they used for their private purposes also. It would therefore be difficult to impose the obligations of article 53, paragraph 2, on honorary consuls, save perhaps in the rare cases that he had mentioned. So far as article 53, paragraph 3, was concerned, it was extremely unlikely that an honorary consul would lease for the use of the consulate a large building which would contain offices used for other purposes.

23. The CHAIRMAN pointed out that, in dealing with the question raised by the Swiss Government, the Commission should also take into account article 61 (Respect for the laws and regulations of the receiving State), which contained a cross-reference to article 53, paragraph 1.

24. Mr. ERIM, while agreeing with the Special Rapporteur, opined that the possible, though rare, cases where honorary consuls rented special offices for consular functions should be taken into account.

25. Mr. JIMÉNEZ de ARÉCHAGA said that the Commission had decided (604th meeting, para. 94) to include in article 53 a provision to the effect that consuls had no right to provide asylum. He reserved his right to reopen the discussion on that additional provision when the final text was prepared by the Drafting Committee. It was of course true that a consul could not himself grant asylum. However, it was the practice in those countries which admitted diplomatic asylum for a diplomatic officer who had granted asylum to a person to accommodate the asylee in premises under the control of the sending State, but outside the diplomatic mission itself; consular premises had, in particular, been used in that manner.

26. If, therefore, the additional provision to be included in article 53 were to preclude, as a matter of international public policy, the use of consular premises in that manner, he would have to ask for the reconsideration of the Commission's decision. Meanwhile, however, he drew attention to the need to include in article 54 a reference to article 53, because in the absence of such a reference it might be inferred that honorary consuls, unlike career consuls, could use the consular premises in their charge for the purpose of providing asylum.

27. Mr. AGO said that paragraph 3 of article 53 was clearly inapplicable to honorary consuls. The position with regard to paragraphs 1 and 2 was more difficult. It was perhaps desirable in article 54 to refer to article 53, paragraph 1, because article 61 contained a reference to that paragraph.

28. As to article 53, paragraph 2, the decision would depend on the meaning to be attached to the term "incompatible". If it implied the prohibition of all activities other than consular functions, it would manifestly not be applicable to honorary consuls. If, however, the purpose of the term was to prevent the use of the consular premises in a manner inconsistent with the dignity of the consular office, then paragraph 2 should be made applicable to honorary consuls as well as to career consuls.

29. Mr. MATINE-DAFTARY suggested that the discussion on the inclusion of a reference to article 53 should be postponed until the Commission had taken a decision on article 61. It would be better to formulate separate provisions on honorary consuls than to attempt to make certain portions of article 53 applicable to honorary consuls merely by way of a reference in article 54. Article 53 had been drafted with career consuls in mind and its provisions were not suited to the position of honorary consuls.

30. Mr. ERIM said that much depended on the definition of consular premises. The provisions of article 53 clearly implied that the consular premises were not to be used for the purpose of carrying on a gainful private activity.

31. He drew attention to article 21, paragraph 1, of the Vienna Convention which spoke of "premises necessary" for a diplomatic mission. If the premises of a diplomatic mission, or of a consulate were defined as those necessary for the particular functions, the question would then arise who was to determine the extent of the premises needed.

32. With regard to the question raised by Mr. Jiménez de Aréchaga, he said it would seem that if any consular premises outside the diplomatic mission were used as an annex to shelter asylees, then those premises would become diplomatic premises. The provisions of the draft articles would not seem to preclude that result.

33. Mr. BARTOŠ said that the use of the term "incompatible" in paragraph 2 of article 53 was not intended to refer to any reprehensible activities. Paragraph 2 merely meant that consular premises could be used only for the exercise of consular functions. In that respect, there was a fundamental difference between career

consuls and honorary consuls. A career consul could not engage in private activities, but an honorary consul normally had another occupation. Unless, therefore, it was clearly established that the consular premises properly so-called must be kept separate from the offices used by the honorary consul for his private activities, the result would be to enable the honorary consul who engaged in business, for example, to obstruct routine inspections of his books by the Inland Revenue authorities.

34. Mr. ŽOUREK, Special Rapporteur, pointed out that an honorary consul was often a national or a resident of the receiving State. As such, he obviously had a duty to respect the laws and regulations of the receiving State. It was for that reason that a special article had been included in the draft (article 61) stating that, in addition to the duties specified in the first sentence in paragraph 1 of article 53, an honorary consul had a duty not to use his official position for purposes of internal politics or of securing a private advantage.

35. In view of the difference between the activities of honorary consuls and those of career consuls, it was not possible to make the provisions of article 53, paragraph 2, applicable to honorary consuls merely by way of a reference in article 54. The best course was to consider, at the appropriate stage, whether article 61 should be supplemented by a provision dealing with the exceptional case in which an honorary consul maintained separate premises exclusively reserved for the purpose of carrying out his consular functions.

36. The CHAIRMAN said the majority did not appear to consider it appropriate merely to refer to article 53, paragraph 2, in article 54. Most members seemed to favour the drafting of a new provision on the application of article 53 to honorary consuls. He therefore suggested that the Drafting Committee be instructed to prepare a new provision on honorary consuls, taking into account the opinions expressed by the members, the Commission's decision on article 31 and the provisions of article 53, paragraph 2.

37. The new provision could either form part of article 61 or constitute a separate article. If there were no objection, he would take it that the Commission agreed to his suggestion.

*It was so agreed.*

38. Sir Humphrey WALDOCK said that the discussion had shown that the term "incompatible" used in article 53, paragraph 2, was capable of more than one meaning. He drew attention to commentary (3) which explained that paragraph 2 meant simply that consular premises should be used only for the exercise of consular functions.

39. In the circumstances, he suggested that the Drafting Committee should be asked to make the text of article 53, paragraph 2, more explicit.

40. The CHAIRMAN said that the Drafting Committee would take that suggestion into consideration.

41. He asked the Special Rapporteur whether there were any other points connected with article 54.

42. Mr. ŽOUREK, Special Rapporteur, thought the Commission might adopt the Netherlands suggestion (A/CN.4/136/Add.4) that the term "honorary consul" should be replaced by "honorary consular official", unless it preferred to keep the expression "honorary consul" and explained that it meant any honorary consular official. The Drafting Committee would consider whether the same change of terminology should be made elsewhere in the draft.

*It was so agreed.*

43. Mr. ŽOUREK, Special Rapporteur, said that several governments had asked that an explicit reference to article 50 should be included in numerous articles, including article 54, in order to make it clear that the provisions of the articles in question did not apply to members of the consulate who were nationals of the receiving State.

44. His intention had at first been to include in article 54 a new paragraph 3, defining the status of honorary consuls who were nationals of the receiving State. That proposal was contained in his third report (A/CN.4/137). However, as he had already pointed out, he had since decided to propose the insertion in article I (Definitions) of a provision which would deal with the question of nationals of the receiving State and which would cover all the draft articles.

45. He therefore proposed that consideration of his proposed new paragraph 3 be deferred until the Commission had taken a decision on his proposal relating to article 1.

*It was so agreed.*

46. In reply to a question by Mr. JIMÉNEZ de ARÉCHAGA, Mr. ŽOUREK, Special Rapporteur, said that article 54, paragraph 2, should contain the reference to article 46 (except sub-paragraph (b),) which had been inadvertently omitted in his third report.

47. Mr. YASSEEN noted that article 46(a) gave exemption from customs duties to articles intended for the use of the consulate itself. In the circumstances, it was illogical to make that exemption conditional on the members of the consulate concerned not carrying on any gainful private activity, as was done by the opening sentence of article 46.

48. Mr. ŽOUREK, Special Rapporteur, said that although he agreed with the logic of Mr. Yasseen's reasoning, an unduly liberal text might not be acceptable to governments. In most cases, a consulate in the charge of an honorary consul amounted to no more than the person of the consul. Any extension of the privilege set forth in article 46(a) to an honorary consul who carried on a gainful private activity might be open to abuse because the consul, in that case, carried out his consular duties on his business or professional premises.

49. Mr. YASSEEN said that the opening sentence of article 46 had obviously been written with sub-paragraph (b) in mind. That sub-paragraph dealt with the exemption from customs duties of the articles needed for the establishment of members of the consulate. It was natural to limit that privilege to persons who were not engaged in a gainful private activity, but there was no reason for

applying that limitation when the imported articles were intended for the use of the consulate, in other words for the use of the sending State itself.

50. Mr. SANDSTRÖM said that there would be no danger involved in the unconditional exemption of articles intended for the use of a consulate. The onus would be on the consul concerned to prove that the articles were intended for the use of the consulate and not for his personal use.

51. Mr. ERIM agreed that it would be absurd to lay down the limitation in question in respect of articles imported for the use of a consulate. It was obvious that the wording of article 46 stood in need of improvement. Sub-paragraph (a) should constitute a first paragraph dealing with the exemption from customs duties of articles intended for the use of a consulate. A second paragraph, commencing with the initial sentence of the existing text of article 46, would deal with articles intended for the personal use of members of the consulate.

52. If article 46 were revised in that manner, there would be no difficulty in restricting to the first paragraph the reference to be included in article 54, paragraph 2.

53. The CHAIRMAN recalled the Commission's decision (602nd meeting, para. 81) to bring the wording of article 46 as far as possible into line with the corresponding provisions of the Vienna Convention.

54. The redrafting of article 46 in accordance with that decision would seem to cover the point raised by Mr. Yasseen. The Drafting Committee would, however, take it into account.

55. Mr. AMADO asked whether, under the provisions of the draft articles, an honorary consul would be entitled to exemption from customs duties on a motor car imported for his personal use.

56. Mr. ŽOUREK, Special Rapporteur, replied in the negative. By virtue of article 54, paragraph 2, article 46 (b), dealing with the exemption from customs duty of articles for personal use, was not applicable to honorary consuls.

ARTICLE 55 (Inviolability of the consular archives, the documents and the official correspondence of the consulate)

57. Mr. ŽOUREK, Special Rapporteur, introducing the comments of governments on article 55, said that the Netherlands Government had suggested that the article could be omitted if, in response to that government's comments on article 54, the Commission decided to mention article 33 in article 54, paragraph 2.

58. The Belgian Government considered that article 55 should also stipulate that the private correspondence of other persons working in a consulate on the same terms as an honorary consul, without salary, should be kept separate from the consular archives. In addition it had suggested an amendment under which "goods" connected with a gainful private activity should be kept separate, as should any books and papers relating to the honorary consul's commercial or other private activity.

59. The Swiss Government took the view that articles for official use should be specifically mentioned as also

being inviolable. That point might be left to the Drafting Committee.

60. On the other hand, the Commission itself would have to decide the question raised by the Belgian Government, viz. whether the text should refer to other persons working in an honorary capacity in a consulate headed by an honorary consul; but he thought that such cases were rare.

61. He recommended that article 55 should stand and that the Drafting Committee should be instructed to review the wording in the light of government comments.

62. Mr. BARTOŠ said that assistants would probably receive a salary from the honorary consul; the fact that they were not paid by the sending State could not form the basis of a claim to privileges and immunities.

63. Mr. VERDROSS observed that the Netherlands proposal would only be acceptable if article 33 were amended so as to require that private correspondence must be kept separate from consular archives and documents.

64. Mr. ŽOUREK, Special Rapporteur, in reply to Mr. Bartoš, said that the Belgian Government was clearly not suggesting that subordinate staff working in an honorary consulate without pay should be accorded the same privileges and immunities, but was simply anxious to ensure that, if any such persons did assist an honorary consul in the exercise of his consular functions, the consular archives would be kept separate from their private correspondence.

65. Mr. AGO suggested that the Commission would have to give some thought to the possible situation where the sending State, perhaps for reasons of economy, decided to appoint an honorary consul head of a consulate previously under a career consul. In that instance, the premises and their furnishings would presumably be the property of the sending State and, consequently, immune from search, requisition, attachment or execution.

66. The CHAIRMAN, speaking as a member of the Commission, said that suitable drafting changes, possibly the use of the expression "honorary consular official" as suggested by the Netherlands Government, might provide the answer to the Belgian comment concerning the correspondence of unpaid staff.

67. The point raised by Mr. Ago related to matters discussed at the 605th meeting in connexion with article 54.

68. Mr. AGO said that he had brought up the matter because certain governments had mentioned consular property other than archives in their comments on article 55.

69. Mr. ŽOUREK, Special Rapporteur, recalled that it had been agreed at the 605th meeting to draft a provision concerning the applicability of article 31 to honorary consuls so as to take into account their special position. The possibility to which he had drawn attention would be borne in mind by the Drafting Committee.

70. The CHAIRMAN suggested that article 55 should be referred to the Drafting Committee for review in the light of the comments made during the discussion and the comments by governments.

*It was so agreed.*

#### ARTICLE 56 (Special protection)

71. Mr. ŽOUREK, Special Rapporteur, said that the Netherlands Government had drawn attention to a discrepancy between the English and French texts of article 56.

72. The Japanese Government (A/CN.4/136/Add.9) had proposed an addition, taken from the commentary to article 56, which would undoubtedly make for greater precision. He saw no real need for such an amplification, but it was unobjectionable.

73. Mr. GARCÍA AMADOR proposed that the Drafting Committee be instructed to use the same term for special protection in article 31, paragraph 2, article 39 and article 56. The term "special duty" used in article 31 was not a familiar one in international law and should be avoided.

74. Mr. TSURUOKA believed that other governments shared the view expressed by Japan that the obligation imposed on the receiving State in article 56 should be stated explicitly.

75. The CHAIRMAN suggested that article 56 be referred to the Drafting Committee which should be instructed to bring the English text into line with the French.

*It was so agreed.*

The meeting rose at 1 p.m.

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#### 607th MEETING

*Friday, 9 June 1961, at 10 a.m.*

*Chairman: Mr. Grigory I. TUNKIN*

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#### Consular intercourse and immunities (A/4425; A/CN.4/136 and Add. 1-11; A/CN.4/137) (continued)

[Agenda item 2]

#### DRAFT ARTICLES (A/4425) (continued)

ARTICLE 57 (Exemption from obligations in the matter of registration of aliens and residence and work permits)

1. The CHAIRMAN invited the Commission to consider article 57 of the draft on consular intercourse and immunities (A/4425).

2. Mr. ŽOUREK, Special Rapporteur, summarizing the comments by governments, said that he could not agree with the Belgian Government's criticism (A/CN.4/136/Add.6) of the phrase "outside the consulate"; the phrase was necessary in order to make the intentions of the article clear. The Spanish Government (A/CN.4/136/Add.8) had found the article acceptable. The Govern-