

Provisional Agenda of Conference to Open at Geneva on Monday, 28 May 1951, at 11 a.m.

By General Assembly | 09 March 1951

1. Inaugural address by the Secretary-General's Representative
2. Election of the Chairman and Vice-Chairmen
3. Adoption of the agenda
4. Adoption of the rules of procedure
5. Procedure for the consideration of
 - (a) the draft Convention on the Status of Refugees
 - (b) the draft Protocol on the Status of Stateless Persons
6. Discussion of the draft Convention
7. Discussion of the draft Protocol
8. Adoption and signature of the instruments adopted by the Conference and of the Final Act.

Texts of the Draft Convention and the Draft Protocol To Be Considered by the Conference: Note by the Secretary-General

By General Assembly | 12 March 1951

At its fifth session the General Assembly decided (Resolution 429 (V)), "to convene in Geneva a conference of plenipotentiaries to complete the drafting of, and to sign, both the Convention relating to the Status of Refugees and the Protocol relating to the Status of Stateless Persons". In order to facilitate the work of this Conference, the Secretary-General has assembled in this document the various parts of the draft Convention and the draft Protocol which have been prepared:

A. DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES

- (a) Preamble: The text of the preamble was adopted by the Economic and Social Council on 11 August 1950 (resolution 319 II (XI));
- (b) Article 1 (Definition of the term "refugee"): The text of Article 1 appears in the Annex of Resolution 429 (V), adopted by the General Assembly on 14 December 1950; it represents a modification of the text adopted by the Economic and Social Council on 11 August 1950 (resolution 319 B II (XI));

(c) Remaining articles and annexes: This text was prepared by the ad hoc Committee on Refugees and Stateless Persons (Report of the second session, 14-25 August 1950, E/1850, Annex I).

(d) Specimen Travel Document: The text of this document was also prepared by the ad hoc Committee on Refugees and Stateless Persons (Report of the Second Session, E/1850/Annex).

B. DRAFT PROTOCOL RELATING TO THE STATUS OF STATELESS PERSONS

The text of the draft protocol was prepared by the ad hoc Committee on Refugees and Stateless Persons (Report of the second session, E/1850, Annex II).

A. DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES

PREAMBLE ¹

1. Considering that the Charter of the United Nations and the Universal Declaration of Human Rights establish the principle that human beings shall enjoy fundamental rights and freedoms without discrimination;
2. Considering that the United Nations has, on various occasions, and most recently in General Assembly Resolution 319 A (IV), manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms;
3. Considering that, in the light of experience, the adoption of an international convention would appear to be one of the most effective ways of guaranteeing refugees the exercise of such rights;
4. Considering further that it is desirable to revise and consolidate previous international agreements relating to the protection of refugees, to extend the scope of such agreements to additional groups of refugees, and to increase the protection accorded by these instruments;
5. Considering, however, that the exercise of the right of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation;
6. Considering that the United Nations High Commissioner for Refugees will be called upon to supervise the application of this Convention, and that the effective implementation of this Convention depends on the full co-operation of States with the High Commissioner and on a wide measure of international co-operation.
7. Expressing the hope finally that this Convention will be regarded as having a value as an example exceeding its contractual scope, and that without prejudice to any recommendations the General Assembly may be led to make in order to invite the High Contracting Parties to extend to other categories of persons the benefits of this Convention, all nations will be guided by it in granting to persons who might come to be present in their territory in the capacity of refugees and who would not be covered by the following provisions, treatment affording the same rights and advantages.

CHAPTER I GENERAL PROVISIONS²

*Article 1. Definition of the term "refugee"*³

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Since 1 August 1914 has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions as to eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of the present article;

(2) As a result of events occurring before 1 January 1951, and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it;

In the case of a person who has more than one nationality, the above term "the country of his nationality" shall mean any of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. The present Convention shall cease to apply to any person falling under the term of section A if:

(1) He has voluntarily reavailed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, claim grounds other than those of personal convenience for continuing to refuse to avail himself of the protection of the country of his nationality. Reasons of a purely economic character may not be invoked; or

(6) Being a person who has no nationality, he can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist and he is able to return to the country of his former habitual residence, claim grounds other than those of personal convenience for continuing to refuse to return to that country.

C. The present Convention shall not apply to persons who are at present receiving from other organs or agencies of the United Nations protection or assistance.

D. The present Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

E. The provisions of the present Convention shall not apply to any person with respect to whom there are serious reasons for considering that (a) he has committed a crime specified in article VI of the London Charter of the International Military Tribunal; or (b) he falls under the provisions of article 14, paragraph 2, of the Universal Declaration of Human Rights.

F. The Contracting States may agree to add to the definition of the term "refugee" contained in the present article persons in other categories, including such as may be recommended by the General Assembly.

Article 2 General obligations⁴

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3 Non-discrimination

No Contracting State shall discriminate against a refugee within its territory on account of his race, religion, or country of origin, or because he is a refugee.

Article 3(A)

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees prior to or apart from this Convention.

Article 3(B)

For the purpose of this Convention:

(a) The term "In the same circumstances" implies that the refugee must satisfy the same requirements, including the same length and conditions of sojourn or residence, which are prescribed for the national of a foreign State for the enjoyment of the right in question,

(b) In those cases in which the refugee enjoys the "same treatment accorded to nationals" the refugee must satisfy the conditions required of a national for the enjoyment of the right in question.

Article 4 Exemption from reciprocity

1. Except where this Convention contains more favourable provisions a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. Where aliens enjoy rights and benefits subject to reciprocity, a Contracting State shall continue to accord these rights and benefits, without regard to reciprocity, to a refugee who was already entitled to enjoy them at the date on which this Convention comes into force in relation to that State.

As regards other refugees a Contracting State shall accord the same rights and benefits to them, without regard to reciprocity, when they shall have been resident in its territory for a certain period.

3. The provisions of paragraph 2 apply equally to the rights and benefits referred to in articles 8, 13, 14 and 16 of this Convention as well as to rights and benefits other than those specified in this Convention.

Article 5 Exemption from exceptional measures

1. With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State, solely on account of such nationality.

2. Nothing in this Article shall prevent a Contracting State, in time of war or national emergency, from taking provisionally measures essential to the national security in the case of any person, pending a determination that the particular person is in fact a refugee and that such measures are still necessary in his case in the interests of national security.

Article 6 Continuity of residence

The Contracting States agree that:

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is residing there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has subsequently returned there, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

CHAPTER II JURIDICAL STATUS

Article 7 Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights dependent on personal status, more particularly rights attaching to marriage, previously acquired by a refugee, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities prescribed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

Article 8 Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 9 Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, industrial designs or models, trade marks, trade names, and of rights in literary, scientific and artistic works, a refugee shall be accorded in the country in which he is resident the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he is resident.

Article 10 Right of Association

As regards non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 11 Access to Courts

1. A refugee shall have free access to the courts of law on the territory of the Contracting States.
2. In the country in which he has his habitual residence, a refugee shall enjoy in this respect the same rights and privileges as a national. He shall, on the same conditions as a national, enjoy the benefit of legal assistance and be exempt from *cautio judicatum solvi*.
3. In countries other than that in which he has his habitual residence, a refugee shall be accorded, in these matters, the treatment granted to a national of the country of his habitual residence.

CHAPTER III PRACTICE OF PROFESSIONS

Article 12 Wage-earning employment

1. The Contracting State shall accord to refugees lawfully living in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.
2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
 - (a) He has completed three years' residence in the country;
 - (b) He has a spouse possessing the nationality of the country of residence;
 - (c) He has one or more children possessing the nationality of the country of residence.
3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees in this regard to those of nationals, and in particular those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 13 Self-employment

The Contracting State shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally

to aliens in the same circumstances, as regards the right to engage in agriculture, industry, handicrafts and commerce to establish commercial and industrial companies.

Article 14 Liberal professions

1. The Contracting States shall accord to refugees lawfully in their territory who hold diplomas recognized by the competent authorities of the country of residence, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in their colonies, protectorates or in Trust Territories under their administration.

CHAPTER IV WELFARE

Article 15 Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be treated on the same footing as nationals.

Article 16 Housing

As regards housing, the Contracting States in so far as the matter is regulated by laws or regulations, or is subject to the control of public authorities, shall accord to refugees lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances.

Article 17 Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees the most favourable treatment accorded to nationals of a foreign country with respect to education other than elementary education and, in particular, as regards access to studies, the remission of fees and charges and the award of scholarships.

Article 18 Public relief

The Contracting States shall accord to refugees lawfully in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 19 Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully in their territory the same treatment as is accorded to nationals in respect of the following matters:

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities; remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training,

women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provisions in respect of employment injury, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States whose nationals enjoy the benefits of agreements for the maintenance of acquired rights and rights in the process of acquisition in regard to social security, shall extend the benefits of such agreements to refugees subject only to the conditions which apply to their nationals.

4. The Contracting States will give sympathetic consideration to extending to individual refugees so far as possible the benefits of similar agreements which may have been concluded by such Contracting States with the country of the individual's nationality or former nationality.

CHAPTER V ADMINISTRATIVE MEASURES

Article 20 Administrative assistance

1. The Contracting States in whose territory the exercise of a right by aliens would normally require the assistance of the authorities of his country of nationality shall arrange that such assistance be afforded to refugees by an authority or authorities, national or international.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered to refugees such documents or certifications as would normally be delivered to other aliens by their national authorities.

3. Documents or certifications so delivered shall stand in the stead of and be accorded the same validity as would be accorded to similar instruments delivered to aliens by their national authorities.

4. Subject to such exceptional treatment as may be granted to indigent refugees, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 22 and 23.

Article 21 Freedom of movement

The Contracting States shall accord to refugees lawfully in their territory the right to choose their place of residence and to travel freely within their territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 22 Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document issued pursuant to article 23.

Article 23 Travel documents

1. The Contracting States shall issue, on request, to a refugee lawfully resident in their territory, a travel document for the purpose of travel outside their territory; and the provisions of the Schedule to this Convention shall apply with respect to such document. The Contracting States may issue such a travel document to any other refugee in their territory who is not in possession of such a document, and shall give sympathetic consideration to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 24 Fiscal charges

1. The Contracting States shall not impose upon refugees in their territory duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

3. The Contracting States reserve the right to impose upon refugees a special duty, of a moderate amount, payable either on identity cards, or residence permits or on travel documents. Revenue accruing from this duty shall be wholly applied to charities for the relief of refugees.

Article 25 Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit a refugee to transfer assets which he has brought with him into its territory, to another country where he has been admitted for the purposes of resettlement.

2. The Contracting State shall give sympathetic consideration to the application of a refugee for permission to transfer assets wherever they may be and which are necessary for his resettlement to another country where he has been admitted.

Article 26 Refugees not lawfully admitted

1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who enters or who is present in their territory without authorization,

and who presents himself without delay to the authorities and shows good cause for his illegal entry or presence.

2. The Contracting States shall not apply to such refugees restrictions of movement other than those which are necessary and such restrictions shall only be applied until his status in the country is regularized or he obtains admission into another country. The Contracting States shall allow such refugee a reasonable period and all the necessary facilities to obtain admission into another country.

Article 27 Expulsion of refugees lawfully admitted

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such refugee shall be only in pursuance of a decision reached in accordance with due process of law. The refugee shall have the right to submit evidence to clear himself and to appeal to and be represented before competent authority.

3. The Contracting States shall allow such refugees a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 28 Prohibition of expulsion to territories where the life or freedom of a refugee is threatened

No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion.

Article 29 Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI EXECUTORY AND TRANSITORY PROVISIONS

Article 30 Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the United Nations High Commissioner's Office for Refugees, or other agency charged by the United Nations with the international protection of refugees, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the High Commissioner's Office or other appropriate agency of the United Nations to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with any data, statistics, and information requested concerning

(a) the condition of refugees,

(b) the implementation of this Convention, and

(c) all regulations, laws, decrees, etc., made by them concerning refugees.

Article 31 Measures of implementation of the Convention

Each of the Contracting States shall, within a reasonable time and in accordance with the constitution, adopt legislative or other measures to give effect to the provisions of this Convention, if such measures are not already in effect.

Article 32 Relation to previous Conventions

1. Without prejudice to article 23, paragraph 2, of this Convention, this Convention replaces the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, and the Agreement of 15 October 1946, as between all parties to this Convention.

2. As between two States parties to a previous instrument mentioned in paragraph 1 of this article, one of which is not party to this Convention, the previous agreement shall continue in force.

3. Each of the above-mentioned instruments shall be deemed to be terminated when all the States parties thereto shall have become parties to this Convention.

CHAPTER VII FINAL CLAUSES

Article 33 Settlement of disputes

If any dispute shall arise between parties to this Convention relating to its interpretation or application, and if such dispute cannot be settled by other means, the dispute shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice.

Article 34 Signature, ratification and accession

1. This Convention shall be open until ... (one year after the Convention is opened for signature) for signature on behalf of any Member State of the United Nations and on behalf of any non-member State to which an invitation has been addressed by the Economic and Social Council.

2. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The States mentioned in the first paragraph which have not signed the Convention by the ... (date indicated in the first paragraph) may accede to it.

Accession shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 35 Colonial clause

1. Any State may, at the time of signature, ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that the present Convention shall extend to all or any of the territories for the international relations of which it is responsible. This Convention shall extend to the

territory or territories named in the notification as from the thirtieth day after the day of receipt by the Secretary-General of the United Nations of this notification.

2. Each State undertakes with respect to those territories to which the Convention is not extended at the time of signature, ratification or accession to take as soon as possible the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

3. The Secretary-General of the United Nations shall communicate the present Convention to the States referred to in article 36 for transmission to the responsible authorities of:

(a) Any Non-Self-Governing Territory administered by them;

(b) Any Trust Territory administered by them;

(c) Any other non-metropolitan territory for the international relations of which they are responsible.

Article 36 Reservations

1. At the time of signature, ratification or accession, Contracting States may make reservations to articles of the Convention other than articles 1, 3, 11 (1), 28 and Chapters VI and VII.

2. The Contracting State making reservations in accordance with paragraph 1 of this article may at any time withdraw these reservations by a communication to that effect addressed to the Secretary-General. The Secretary-General shall bring such communication to the attention of the other Contracting States.

Article 37 Entry into force

This Convention shall come into force on the ninetieth day following the day of deposit of the second instrument of ratification or accession.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 38 Denunciation

1. Any Contracting State may denounce this Convention at any time by a written notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any Contracting State which has made a declaration under article 35, paragraph 1, may at any time thereafter, by a written notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 39 Revision

Any Contracting State may request revision of this Convention at any time by a written notification addressed to the Secretary-General of the United Nations.

The Economic and Social Council shall recommend the steps, if any to be taken in respect of such request.

Article 40 Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 34:

- (a) Of signatures, ratifications and accessions received in accordance with article 34;
- (b) Of the date on which this Convention will come into force in accordance with article 37;
- (c) Of reservations made in accordance with article 36;
- (d) Of denunciations received in accordance with article 38;
- (e) Of requests for revision received in accordance with article 39.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments, and of which the Chinese, English, French, Russian and Spanish official texts are equally authentic.

Done at this day of, in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the Members of the United Nations and to the non-members States referred to in article 34.

ANNEX

(see article 23)

Paragraph 1 (3)⁵

1. The travel document referred to in article 23 of this Convention shall be similar to the specimen annexed hereto.
2. The document shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2 (4)

Subject to the regulations obtaining in the country of issue, children may be included in the document of an adult refugee.

Paragraph 3 (5)

Without prejudice to the provisions of Article 24, paragraph 3, of this Convention the fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4 (6)

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5 (7)

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6 (8)

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.

2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7 (9)

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 23 of this Convention.

Paragraph 8 (10)

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9 (11)

The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.

Paragraph 10 (12)

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11 (13)

When a refugee has lawfully taken up residence in the territory of another Contracting State, the power to issue a new document will be in the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12 (14)

The authority issuing a new document shall withdraw the old document.

Paragraph 13 (15)

1. The document shall entitle the holder to leave the country where it has been issued and, during the period of validity of the document, to return thereto without a visa from the authorities of that country, subject only to those regulations which apply to returning resident aliens bearing duly visaed passports or re-entry permits. Where a visa is required of a returning national a visa may be required of a returning refugee but shall be issued to him on request and without delay.

2. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14 (16)

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15 (17)

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16 (18)

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

ANNEX Specimen Travel Document⁶

The document will be in booklet form (approximately 15 x 10 centimetres).

It is recommended that it be so printed that any erasure or alteration by chemical or other means can be readily detected, and that the words "Convention of " be printed in continuous repetition on each page, in the language of the issuing country.

(Cover of booklet)
TRAVEL DOCUMENT
(Convention of)
No.....

(1)
TRAVEL DOCUMENT
(Convention of)
This document expires on unless its validity is extended or renewed..
Name
Forename (s)
Accompanied by child (children).

1. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality

2. The holder is authorized to return to[state here the country whose authorities are issuing the document] on or before unless some later date is hereafter specified..[The period during which the holder is allowed to return must not be less than three months.]

3. Should the holder take up residence in a country other than that which issued the present document, he must, if he wishes to travel again, apply to the competent authorities of his country of residence for a new document.

(This document contains pages, exclusive of cover)

Place and date of birth Occupation Present residence..... Maiden name and forename (s) of wife Name and forename (s) of husband

Description

Height

Hair

Colour of eyes

Nose

Shape of face

..... Complexion

..... Special peculiarities

..... Children accompanying holder

Name

Forename(s).....

Place and date of birth.....

Sex.....

*Strike out whichever does not apply..

(This document contains pages, exclusive of cover.)

(3)

Photograph of holder and stamp of issuing authority

Finger-prints of holder

(if required)

Signature of holder

(This document contains pages, exclusive of cover.)

(4)

1. This document is valid for the following countries:

.....

.....

.....

2. Document or documents on the basis of which the present document is issued:

.....

.....

.....

Issued at

Date

Signature and stamp of authority
issuing the document:

Fee paid:

(This document contains pages, exclusive of cover.)

(5)

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority
extending or renewing the validity of the document:

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority
extending or renewing the validity of the document:

(This document contains pages, exclusive of cover.)

(6)

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority
extending or renewing the validity of the document:

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority
extending or renewing the validity of the document:

(This document contains pages, exclusive of cover.)

(7-32)

Visas

The name of the holder of the document must be repeated in each visa..

(This document contains pages, exclusive of cover.)

B. DRAFT PROTOCOL RELATING TO THE STATUS OF STATELESS PERSONS⁷

The Contracting States,

Considering that the Convention Relating to the Status of Refugees dated deals only with refugees, whether stateless or not, who are the special concern of the United Nations, as evinced in numerous resolutions of the General Assembly, and

Considering, moreover, that there are many stateless persons not covered by the said Convention who do not enjoy any national protection and, pending a more special solution of the problem of such persons, it appears desirable to improve the status of these persons,

Now therefore undertake to apply, *mutatis mutandis*, the provisions of Articles 2 to 4, 6 to 11, 12 paragraph 1, 13, 14 paragraph 1, 15 to 23, 24 paragraphs 1 and 2, 27, 29 and 31 of the Convention relating to the Status of Refugees, to stateless persons to whom that Convention does not apply.

This Protocol shall not apply to persons referred to in paragraph 5 of part B of Article I of said Convention.⁸

The standard final clauses follow.

[1](#) Text adopted by the Economic and Social Council (see Note by the Secretary-General above, A (a)).

[2](#) The revised text of the draft Convention reproduced in Annex I to the Report of the ad hoc Committee on Refugees and Stateless Persons, second session (E/1850) is not subdivided into chapters. It has been considered useful, however, to reproduce the titles of chapters adopted by the Committee at its first session (E/1618, Annex I).

[3](#) Text adopted by the General Assembly (see Note by the Secretary-General, above, A (b)).

[4](#) The text of articles 2 to 10 and of the annexes were prepared by the ad hoc Committee on Refugees and Stateless Persons (see note by the Secretary-General above, A (c)).

[5](#) The numbers in brackets refer to the article of the London Agreement of 15 October 1946, set out on page 154 of document E/1112, which correspond in substance.

[6](#) This text was prepared by the Ad Hoc Committee on Refugees and Stateless Persons (see Note by the Secretary-General above, A (d)).

[7](#) This text was prepared by the Ad Hoc Committee on Refugees and Stateless Persons (See Note by the Secretary-General, above, B.)

[8](#) The draft protocol refers to the definition of the term "refugee" adopted by the Economic and Social Council at its eleventh session (see Resolution 319 B II (XI)). As it has been noted (see Note by the Secretary-General, above, A(b)) this definition has been amended by the General Assembly. The provision appearing in paragraph 5 of Part B of the text of Article 1 adopted by the Council has disappeared from the text adopted by the General Assembly. It appears, however, from the discussions of the Third Committee of the General Assembly that Part D of the definition adopted by the General Assembly refers in

particular to persons referred to in paragraph 5 of Part B of the definition adopted by the Council.

Provisional Rules of Procedure

By General Assembly | 13 April 1951

I. REPRESENTATION AND CREDENTIALS

Rule 1

Each State participating in the Conference shall be represented by plenipotentiaries, one of whom shall be the head of the delegation, and by such alternate representatives and advisers as may be required.

Rule 2

The credentials of representatives and the names of alternate representatives and other members of delegations shall be communicated to the Executive Secretary without delay. The President and Vice-Presidents shall examine the credentials and submit their report to the Conference.

Rule 3

Pending the decision of the Conference upon the report on credentials, all representatives shall be entitled provisionally to be seated in the Conference.

II. PRESIDENT AND VICE-PRESIDENTS

Rule 4

The Conference shall elect a President and two Vice-Presidents from among the heads of the delegations.

If the President is absent from a meeting or any part thereof, a Vice-President nominated by him shall take his place.

Rule 5

The President, or Vice-President acting as President, shall participate in the proceedings of the Conference in that capacity. He shall not vote, but shall appoint another member of his delegation to vote in his place.

III. SECRETARIAT

Rule 6

The Executive Secretary of the Conference, appointed by the Secretary-General, shall be responsible for making all arrangements connected with the meetings of the Conference. He may make either oral or written statements concerning any question under consideration. He may appoint an assistant to take his place at any meeting.

IV. CONDUCT OF BUSINESS

Rule 7

A quorum shall be constituted by a majority of the representatives of the States participating in the Conference.

Rule 8

The President shall declare the opening and closing of each meeting of the Conference. At such meetings he shall direct the discussions, accord the right to speak, put questions to the vote, announce decisions, rule on points of order, and, subject to these rules of procedure, have complete control of the proceedings. If a ruling of the President is challenged, he shall immediately put it to the vote of the Conference.

V. VOTING

Rule 9

Each Government represented at the Conference shall have one vote.

Rule 10

Decisions of the Conference shall be made by a majority of the representatives of States participating in the Conference present and voting.

Representatives who abstain from voting shall be considered as not voting.

Rule 11

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposals.

Rule 12

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment further removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on, until all the amendments have been put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon.

A motion is considered an amendment to a proposal if it merely adds to, deletes, or revises any part of that proposal.

Rule 13

The Conference may, at the request of the representative of a State participating in the Conference, decide to put to the vote separately the various parts of a proposal or a resolution. In such case the text resulting from the various votes shall be put to the vote as a whole.

Rule 14

1. When the President has announced that the voting has begun, it may not be interrupted except on a point of order in connexion with the actual conduct of the voting.
2. Representatives of States participating in the Conference may explain their votes either before or after the voting.

Rule 15

All elections shall be held by secret ballot unless otherwise decided by the Conference.

VI. LANGUAGES

Rule 16

Chinese, English, French, Russian and Spanish shall be the official languages of the Conference. English and French shall be the working languages.

Rule 17

Speeches made in any of the working languages shall be interpreted into the other working language.

Rule 18

Speeches made in any of the other three official languages shall be interpreted into both working languages.

Rule 19

Any representative may make a speech in a language other than the official languages. In such case he shall provide for interpretation into one of the working languages. Interpretation into the other working language by a Secretariat interpreter may be based on the interpretation given in the first working language.

VII. RECORDS

Rule 20

The Secretariat shall draw up a summary record in the working languages of each meeting of the Conference.

Rule 21

All resolutions, recommendations and other formal decisions of the Conference shall be drawn up in the official languages.

VIII. PUBLICITY OF MEETINGS

Rule 22

The meetings of the Conference shall be held in public unless the Conference decides otherwise.

IX. COMMISSIONS

Rule 23

1. The Conference shall establish such commission as it may deem necessary for the performance of its functions. It shall define the terms of reference and composition of each commission.
2. Each commission shall elect its own officers.

Rule 24

So far as they are applicable, the rules of procedure of the Conference shall apply to the proceedings of commissions. Commissions may, by agreement, decide to adopt, for interpretation purposes, provisions simpler than those in the present rules of procedure.

X. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Rule 25

The United Nations High Commissioner for Refugees, or his representative, shall participate, without the right to vote, in the deliberations of the Conference and may make any statement he considers necessary.

XI. OBSERVERS FROM STATES NOT PARTICIPATING IN THE CONFERENCE

Rule 26

1. A State not participating in the Conference may delegate an observer to it. The name of the observer shall be communicated without delay to the Executive Secretary.
2. Observers shall take part, without a right to vote, in the deliberations of the Conference.

XII. SPECIALIZED AGENCIES AND NON-GOVERNMENTAL ORGANIZATIONS

Rule 27

1. Representatives of the specialized agencies taking part in the Conference shall be authorized to be present, without a right to vote, at the proceedings of the Conference and to submit proposals which may be put to the vote at the request of the representative of a State participating in the Conference.
2. Representatives of non-governmental organizations which have been granted consultative status by the Economic and Social Council, who are attending the Conference, may submit oral or written statements to the Conference in accordance with paragraphs 28, 29 and 30 of the arrangements for consultation with non-governmental organizations approved by the Economic and Social Council in its resolution 288 B(X) of 27 February 1950.

XIII. AMENDMENTS

Rule 28

The Conference may amend these rules of procedure.

Provisional Rules of Procedure

By General Assembly | 21 May 1951

Add the following new paragraph 3 to Rule 27:

“3. Representatives of non-governmental organizations entered by the Secretary-General in the register referred to in Economic and Social Council Resolution 288 B (X), paragraph 17, who are attending the Conference, may submit written or oral statements to the Conference in accordance with the provisions of paragraph 29, sub-paragraph (e), and paragraph 30, sub-paragraph (b), of the above Resolution.

Juxtaposition of Article 1 of the Draft Convention relating to the Status of Refugees with Chapter II, Paragraphs 6 and 7 of the Statute of the Office of the United Nations High Commissioner for Refugees: Note

By General Assembly | 21 May 1951

The Secretary-General has the honour to set out side by side in this document, for the convenience of the Conference, the annex to Resolution 429 (V) of the General Assembly of 14 December 1950 (definition of the term “refugee”), recommended by the General Assembly to the attention of governments taking part in the Conference, and Chapter II, paragraphs 6 and 7 of the Statute of the Office of the United Nations High Commissioner for Refugees (annex to Resolution 428 (V) of the General Assembly of 14 December 1950), which defines the persons to whom the competence of the High Commissioner shall extend.

Some of the provisions in both documents are identical, others are similar in substance but are worded differently or appear in a different order, while others again only appear in one document without an equivalent in the other.

The provisions which appear in one document only and differences in wording are marked by underlining.

Article 1, draft Convention relating to the Status of Refugees

Statute of the Office of the United Nations High Commissioner for Refugees

Remarks

Definition of the term “refugee”

A. For the purposes of the present Convention, the term “refugee” shall apply to any person who:

A..For the purposes of the present Convention, the term “refugee” shall apply to any person who:

(1) *Since 1 August 1914* has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions as to eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of *paragraph 2* of the present *article*;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it;

In the case of a person who has more than one nationality, the above term "the country of his nationality" shall mean any of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. The present Convention shall cease to apply to any person *falling under the terms* of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily re-acquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, claim grounds other than those of personal convenience for continuing to refuse to avail himself of the protection of the country of his nationality. Reasons of a purely economic character may not be invoked; or

(6) Being a person who has no nationality, he can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist and he is able to return to the country of his former habitual residence, claim grounds other than those of personal convenience for continuing to refuse to return to that country.

C..*The present Convention shall not apply to persons who are at present receiving* from other organs or agencies of the United Nations protection or assistance.

D..*The present Convention shall not apply to a person* who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

E..*The provisions of the present Convention shall not apply to any person with respect to whom there are serious reasons for considering that* (a) he has committed a crime *specified* in article VI of the London Charter of the International Military Tribunal; or (b) he *falls under the provisions* of article 14, paragraph 2, of the Universal Declaration of Human Rights.

F. The Contracting States may agree to add to the definition of the term “refugee” contained in the present article persons in other categories, including such as may be recommended by the General Assembly.

6..*The competence of the High Commissioner shall extend to:*

A (i) Any person who has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

(ii) Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it.

Decisions as to eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the 'status of refugee being accorded to persons who fulfil the conditions of the present paragraph;

The competence of the High Commissioner shall cease to apply to any person *defined in section A above* if:

(a) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(b) Having lost his nationality, he has voluntarily re-acquired it; or

(c) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(d) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(e) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, claim grounds other than those of personal convenience for continuing to refuse to avail himself of the protection of the country of his nationality. Reasons of a purely economic character may not be invoked; or

(f) Being a person who has no nationality, he can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist and he is able to return to the country of his former habitual residence, claim grounds other than those of personal convenience for continuing to refuse to return to that country;

B..Any other person who is outside the country of his nationality or, if he has no nationality, the country of his former habitual residence, because he has or had well-founded fear of persecution by reason of his race, religion, nationality or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the

government of the country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence.

7. Provided that the competence of the High Commissioner as defined in paragraph 6 above shall not extend to a person:

(a) *Who is a national of more than one country unless he satisfies the provisions of the preceding paragraph in relation to each of the countries of which he is a national; or*

(b) who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country; or

(c) who continues to receive from other organs or agencies of the United Nations protection or assistance; or

(d) *in respect of whom there are serious reasons for considering that he has committed a crime covered by the provisions of treaties of extradition or a crime mentioned in article VI of the London Charter of the International Military Tribunal or by the provisions of article 14, paragraph 2, of the Universal Declaration of Human Rights.*

This provision appears in the Statute after paragraph 6 (A) (ii).

This provision appears in para. A (1) second sub-paragraph of Article 1 of the draft Convention.

See paragraph 7 (a) of the Statute.

There is no counterpart for this provision in Article 1 of the Draft Covenant. See, however, paragraph F of that text.

See paragraph 7 (c) of the Statute.

See sub-paragraph 2 of paragraph A of Article 1 of the draft Convention.

See paragraph C of Article 1 of the draft Convention.

There is no counterpart for this provision in the Statute. See, however, sub-paragraph B of paragraph 7 of that text.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons. Texts of the Draft Convention and the Draft Protocol to be Considered by the Conference: Corrigendum

By General Assembly | 22 May 1951

The following corrections apply to the English text of the document:

Page 21, heading..”ANNEX” should read “SCHEDULE”

Page 22. Paragraph 13, sub-para..2, line 2.

“where the refugee stay ...” should read “refugee’s stay’.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons.
Comments of Governments on the Draft Convention Relating to the Status of
Refugees and the Draft Protocol Relating to the Status of Stateless Persons - New
Zealand**

By General Assembly | 11 June 1951

**CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND
STATELESS PERSONS**

**Comments of Governments on the draft Convention relating to the Status of
Refugees and the draft Protocol relating to the Status of Stateless Persons**

2. NEW ZEALAND

The New Zealand Government have examined the texts of the draft Convention relating to the Status of Refugees and of the draft Protocol relating to the Status of Stateless Persons which are being considered by the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons.

The objects of the draft Convention and the draft Protocol have a limited relevance to New Zealand conditions. Few of the refugees and stateless persons whom they seek to protect have sought asylum in New Zealand. On the other hand, a considerable number of displaced persons - the majority of whom would be refugees or stateless persons - have been accepted for resettlement in New Zealand under arrangements made with the International Refugee Organization. These displaced persons are required to remain at least two years in the employment for which they are chosen on their arrival in New Zealand, and may also be required, for purposes of education and the arranging of accommodation and employment, to spend a short period of residence in a holding camp. Subject to these conditions, displaced persons accepted for resettlement have the same rights and receive the same treatment as other aliens admitted to New Zealand for permanent residence.

Under New Zealand law it is a general rule that all aliens (including stateless persons) lawfully admitted to New Zealand receive national treatment, that is to say, they have, with few exceptions, the same rights and privileges as British subjects. The only important exceptions are those relating to the registration of aliens, the exercise of the franchise and employment in a small number of professions and occupations which are reserved for British subjects. Furthermore, there is in New Zealand no discrimination as between various classes of aliens, other than the conditions as to employment and residence, referred to above, which attach to migrants who have come to New Zealand under one of a number of assisted migration schemes. Accordingly, the status of aliens in New Zealand, including that of refugees and stateless persons, is in no way dependent upon reciprocity.

Since New Zealand is a country of immigration, the New Zealand Government are concerned that all immigrants should be given every possible encouragement to adapt themselves to conditions of life in New Zealand. It is believed that the absence of

discrimination between various classes of aliens and the extent to which all aliens are given the rights and privileges of British subjects contribute to this end.

It is clear that the standards proposed in the draft Convention and in the draft Protocol are substantially realized in existing New Zealand practice; and in many respects the treatment accorded to refugees and to stateless persons, as to all aliens, is more favourable than that proposed in the present drafts. It follows that the drafts are, in a large measure, directed to the resolution of problems which exist in countries other than New Zealand. Moreover, the New Zealand Government could not contemplate the acceptance of any provisions in the draft Convention or the draft Protocol which would require discrimination in favour of refugees or stateless persons as against other aliens.

The attitude of the New Zealand Government to the signature and ratification of any Convention or Protocol drawn up by the Conference of Plenipotentiaries will be determined in relation to the considerations set out above.

Memorandum by the Secretary-General

By General Assembly | 11 June 1951

In his letter of 13 April 1951 (SOA 325/5/04), the Secretary-General referred to his note SOA 325/5/04 of 26 March 1951, inviting Governments to participate in the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, and forwarded to them document A/CONF.2/1 containing the "Texts of the Draft Convention and the Draft Protocol to be considered by the Conference".

In the earlier letter of 26 March 1951, the Secretary-General had requested Governments to inform him of any comments or proposals which they might wish to put forward for circulation to the Governments participating in the Conference. Such comments or proposals, as received, will be circulated as addenda to this document under the symbol A/CONF.2/6/Add.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons. Comments of Governments on the Draft Convention Relating to the Status of Refugees and the Draft Protocol Relating to the Status of Stateless Persons - Pakistan

By General Assembly | 11 June 1951

The Government of Pakistan are of the opinion that Article 26 of the Convention should be revised as follows:

" The contracting States may at their discretion exempt from penalties on account of his illegal entry or presence a refugee who enters or who is present in their territory without authorization, and who presents himself without delay to the authorities and shows and who presents himself without delay to the authorities and shows good cause for his illegal entry or presence."

As regards Article 35 they think that the Convention should be made binding on all contracting parties both in regard to their metropolitan as well as Colonial possessions. If this is accepted, paragraphs 2 and 3 of this article will disappear.

Draft Convention Relating to the Status of Refugees and Draft Protocol Relating to the Status of Stateless Persons. Note by the Secretariat on Documentation

By General Assembly | 30 June 1951

The attention of the Conference is drawn to the following documents previously issued in regard to the draft Convention and the draft Protocol to be considered by the Conference:

1. Resolution 429 (V) of the General Assembly adopted on 14 December 1950 pursuant to which the Conference has been convened (A/1951).
2. Resolution 319 B II (XI) of the Economic and Social Council, adopted on 11 August 1950 (E/1818).
3. A study on Stateless, prepared in pursuance of the request addressed by the Economic and Social Council to the Secretary General in resolution 116 D (VI), dated 1 and 2 March 1948 (E/1112 and Add.1).^{1*}
4. Report of the ad hoc Committee on Stateless and related problems which met at Lake Success, New York, from 16 January to 16 February 1950 (E/1618).
5. Report of the ad hoc Committee on Refugees and Stateless Persons, which met in its Second Session at Geneva from 14 August to 25 August 1950 (E/1850).

¹ In view of the limited numbers of copies of this document available, representatives are requested to bring their copies to each meeting.

Provisional Rules of Procedure. Belgium: Proposed Additional Rule

By General Assembly | 02 July 1951

The representative of the Council of Europe, invited to participate in the Conference, is authorised to take part in its proceedings without voting rights and to submit proposals which may be put to the vote at the request of the representative of a participating State.

Rules of Procedure adopted by the Conference at its Second Meeting on 2 July 1951

By General Assembly | 02 July 1951

I. REPRESENTATION AND CREDENTIALS

Rule 1

Each State participating in the Conference shall be represented by plenipotentiaries, one of whom shall be the head of the delegation, and by such alternate representatives and advisers as may be required.

Rule 2

The credentials of representatives and the names of alternate representatives and other members of delegations shall be communicated to the Executive Secretary without delay. The President and Vice-Presidents shall examine the credentials and submit their report to the Conference.

Rule 3

Pending the decision of the Conference upon the report on credentials, all representatives shall be entitled provisionally to be seated in the Conference.

II. PRESIDENT AND VICE-PRESIDENTS

Rule 4

The Conference shall elect a President and two Vice-Presidents from among the heads of the delegations.

If the President is absent from a meeting or any part thereof, a Vice-President nominated by him shall take his place.

Rule 5

The President, or Vice-President acting as President, shall participate in the proceedings of the Conference in that capacity. He shall not vote, but shall appoint another member of his delegation to vote in his place.

III. SECRETARIAT

Rule 6

The Executive Secretary of the Conference, appointed by the Secretary-General, shall be responsible for making all arrangements connected with the meetings of the Conference. He may make either oral or written statements concerning any question under consideration. He may appoint an assistant to take his place at any meeting.

IV. CONDUCT OF BUSINESS

Rule 7

A quorum shall be constituted by a majority of the representatives of the States participating in the Conference.

Rule 8

The President shall declare the opening and closing of each meeting of the Conference. At such meetings he shall direct the discussions, accord the right to speak, put questions to the vote, announce decisions, rule on points of order, and, subject to these rules of procedure, have complete control of the proceedings. If a ruling of the President is challenged, he shall immediately put it to the vote of the Conference.

V. VOTING

Rule 9

Each Government represented at the Conference shall have one vote.

Rule 10

Decisions of the Conference shall be made by a majority of the representatives of States participating in the Conference present and voting.

Representatives who abstain from voting shall be considered as not voting.

Rule 11

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposals.

Rule 12

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment further removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on, until all the amendments have been put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon.

A motion is considered an amendment to a proposal if it merely adds to, deletes, or revises any part of that proposal.

Rule 13

The Conference may, at the request of the representative of a State participating in the Conference, decide to put to the vote separately the various parts of a proposal or a resolution. In such case the text resulting from the various votes shall be put to the vote as a whole.

Rule 14

1. When the President has announced that the voting has begun, it may not be interrupted except on a point of order in connexion with the actual conduct of the voting.
2. Representatives of States participating in the Conference may explain their votes either before or after the voting.

Rule 15

All elections shall be held by secret ballot unless otherwise decided by the Conference.

VI. LANGUAGES

Rule 16

Chinese, English, French, Russian and Spanish shall be the official languages of the Conference. English and French shall be the working languages.

Rule 17

Speeches made in any of the working languages shall be interpreted into the other working language.

Rule 18

Speeches made in any of the other three official languages shall be interpreted into both working languages.

Rule 19

Any representative may make a speech in a language other than the official languages. In such case he shall provide for interpretation into one of the working languages. Interpretation into the other working language by a Secretariat interpreter may be based on the interpretation given in the first working language.

VII. RECORDS

Rule 20

The Secretariat shall draw up a summary record in the working languages of each meeting of the Conference.

Rule 21

All resolutions, recommendations and other formal decisions of the Conference shall be drawn up in the official languages.

VIII. PUBLICITY OF MEETINGS

Rule 22

The meetings of the Conference shall be held in public unless the Conference decides otherwise.

IX. COMMISSIONS

Rule 23

1. The Conference shall establish such commission as it may deem necessary for the performance of its functions. It shall define the terms of reference and composition of each commission.

2. Each commission shall elect its own officers.

Rule 24

So far as they are applicable, the rules of procedure of the Conference shall apply to the proceedings of commissions. Commissions may, by agreement, decide to adopt, for interpretation purposes, provisions simpler than those in the present rules of procedure.

X. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Rule 25

The United Nations High Commissioner for Refugees, or his representative, shall participate, without the right to vote, in the deliberations of the Conference and may make any statement he considers necessary.

XI. OBSERVERS FROM STATES NOT PARTICIPATING IN THE CONFERENCE

Rule 26

1. A State not participating in the Conference may delegate an observer to it. The name of the observer shall be communicated without delay to the Executive Secretary.

2. Observers shall take part, without a right to vote, in the deliberations of the Conference.

XII. INTER-GOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Rule 27

1. Representatives of the specialized agencies taking part in the Conference shall be authorized to be present, without a right to vote, at the proceedings of the Conference and to submit proposals which may be put to the vote at the request of the representative of a State participating in the Conference.

2. The representative of the Council of Europe invited to take part in the Conference shall be authorized to be present, without a right to vote, at the proceedings of the Conference and to submit proposals which may be put to the vote at the request of the representative of a State participating in the Conference.

3. Representatives of non-governmental organizations which have been granted consultative status by the Economic and Social Council, who are attending the Conference, may submit oral or written statements to the Conference in accordance with paragraphs 28, 29 and 30 of the arrangements for consultation with non-governmental organizations approved by the Economic and Social Council in its resolution 288 B(X) of 27 February 1950.

4. Representatives of non-governmental organizations entered by the Secretary-General in the register referred to in Economic and Social Council Resolution 288 B (X), paragraph 17, who are attending the Conference, may submit written or oral statements to the Conference in accordance with the provisions of paragraph 29, sub-paragraph (e), and paragraph 30, sub-paragraph (b), of the above Resolution.

XIII. AMENDMENTS

Rule 28

The Conference may amend these rules of procedure.

Draft Convention Relating to the Status of Refugees. Australia: Amendment to Article 2

By General Assembly | 03 July 1951

Article 2 to reread:-

Every refugee has duties to the country in which he finds himself which require in particular that he conform to its laws and regulations and to measures taken for the maintenance of public order and that he observe the conditions upon which his entry into the country was permitted.

Draft Convention Relating to the Status of Refugees. Australia: Proposal for an Additional Article 3 (c)

By General Assembly | 03 July 1951

Additional Article 3 (c)

“Nothing in this Convention shall be deemed to confer upon a refugee any rights greater than those enjoyed by other aliens”.

Draft Convention Relating to the Status of Refugees. Australia: Proposal for an Additional Article to Precede Article 3

By General Assembly | 03 July 1951

Nothing in this Convention shall be deemed as absolving a refugee from observing the conditions under which was admitted to, or authorized to stay in, the territory of a Contracting State.

Draft Convention Relating to the Status of Refugees. Egypt: Amendment to Article 3

By General Assembly | 03 July 1951

Add to the text of Article 3 the following words: “subject to the requirements of public order and morals”.

Draft Convention Relating to the Status of Refugees. Egypt: Amendment to Article 1

By General Assembly | 03 July 1951

Add the following provision to the text of Article 1, as a second sub-paragraph of paragraph C.

“When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the United Nations General Assembly, they shall ipso facto be entitled to the benefit of this Convention”.

Draft Convention Relating to the Status of Refugees. Yugoslavia: Amendment to Article 3

By General Assembly | 03 July 1951

Add at the end of Article 3 the words: “or for other reasons”.

Draft Convention Relating to the Status of Refugees. France: Amendment to Article 2

By General Assembly | 03 July 1951

Add a second paragraph worded as follows:

“Any refugee guilty of grave dereliction of duty and who constitutes a danger to the internal or external security of the receiving country may, by appropriate procedure ensuring maximum safeguards to the person concerned, be declared to have forfeited the rights pertaining to the status of refugee, as defined in this Convention.”

Draft Convention Relating to the Status of Refugees. France: Amendment to Article 3

By General Assembly | 03 July 1951

Delete from the text of Article 3 the words “within its territory”.

Draft Convention Relating to the Status of Refugees. Yugoslavia: Amendment to Article 6(2)

By General Assembly | 03 July 1951

Art..6, para..2 - After the words: “and has subsequently returned there,” insert: “.... until the date of the entering into force of this Convention.”

Draft Convention Relating to the Status of Refugees. Memorandum Prepared by the Legal Department

By General Assembly | 03 July 1951

FEDERAL AND TERRITORIAL APPLICATION CLAUSE MEMORANDUM PREPARED BY THE LEGAL DEPARTMENT

The question of the federal and colonial clauses was discussed at the fifth General Assembly as a result of the decision of the Economic and Social Council Resolution 303 I (XI) transmitting the Draft Covenant on Human Rights and Measures of Implementation to the General Assembly for consideration with a view to reaching policy decisions on, among other questions, the desirability of including special articles on its application to

Federal States and to non-self-governing and trust territories. The question was referred to the Third Committee.

At the request of the Commission on Human Rights, the Legal Department prepared a report (E/1721) containing all federal and colonial clauses adopted by United Nations organs as well as summaries of the discussions in connection therewith. This paper contains a summary of the discussion on the federal and colonial clauses at the Third Committee and the Plenary Session and should be considered as an addition to the background material contained in Document E/1721.

Separate Discussions on Both Clauses¹

The United States Delegation suggested that in order to simplify matters, the federal clause and the colonial clause should be discussed separately. Contrary to this view, the Belgian delegate stated that both the colonial and the federal clause tended to restrict the scope of the obligations inherent in participation in a treaty. That similarity called for a comparative simultaneous examination which, although it might not necessarily lead to conclusions applicable to both clauses, would certainly contribute to a better understanding of the problems involved. It was decided to consider both clauses separately.

The Colonial Clause²

Opinions Favouring Inclusion:

The representative of Brazil said that his Delegation was in favour of including a clause on the application of the covenant to the non-self-governing territories. He stated that not all the non-self-governing territories had reached the same stage of development and the principles of the covenant could not therefore be made effective immediately. The administering powers nevertheless should do everything possible to stimulate their development and it was incumbent on the administering authorities to apply the covenant with due regard the degree of development in each territory on the basis of a realistic approach both to the problems of the non-self-governing populations and to the needs of the minority of settlers living among them.

The Delegate of the United Kingdom emphasized that the question before the Committee was not whether it was right or wrong that a colonial system should still exist in the 20th Century but merely whether, with such system in existence a colonial clause should be incorporated in the Covenant. The U.K. had never claimed that the peoples of the territories under its administration were sovereign and independent. No one could deny however that those peoples were constantly progressing along the road to self-government and independence and it was precisely in order to take such progress into account that a colonial clause should be inserted in the Covenant. As a rule the U.K. Government undertook no obligations on behalf of the colonies under any convention or treaty without consulting the local Governments. If the colonial clause were omitted, the participation of colonies in an international convention would become automatic and those territories would thus find themselves deprived of the right to decide for themselves. The opponents of the colonial clause would therefore seem to be illogical since they demanded autonomy for the peoples of the non-self-governing territories while at the same time denying them the right to decide for themselves. In his opinion the only correct and

democratic solution was to incorporate in the covenant an article allowing a colonial power to accede immediately to the covenant for its metropolitan territory and subsequently, after consultation with the colonial territories, for each of the colonies when they had declared their willingness to have the covenant extended to them. If the colonial clause were not incorporated in the covenant the metropolitan Governments would be obliged to consult all their colonial territories before ratifying the covenant. In the case of the U.K., that would not prevent the Government from applying the covenant but would delay its accession to it.

The representative of France considered that the problem of a colonial or territorial clause was essentially the same as that of the federal clause. It was a question of determining whether or not certain constituent parts of a given State could accede to an international instrument before other parts of the same State. France based its policy in the matter primarily on Art. 73 of the Charter and Art. 2 of the Universal Declaration on Human Rights which precluded all discriminatory measures, but it should be understood that the problem was not as simple as some believed. The French Delegate undertook to determine the scope of obligation of the so-called colonial clause with respect to the French Union and discussed the use that France had made of the colonial clauses that were included in previous instruments.

He warned the Committee against omitting a territorial clause, which would represent a double disadvantage. It might subject countries inhabited by different peoples to uniform obligations and the standards that they adopted for their legislation would be those applicable to peoples still in the lowest stage of development; or in the case, for example, of a convention on the rights of the family, it would involve transformations that might require several months in metropolitan France but could only be carried out in the overseas territories after a long period of time and then under conditions that might endanger public orders since the peoples would not be ready for such changes. In either case, such measures would run the risk of retarding human progress.

The Delegation of Greece was in favour of the Colonial clause stating that a policy of compulsion would indeed be ineffective, since it was not enough to pass a law to bring customs into line. Such a policy might even prove dangerous since there were already enough potential sources of trouble in the world. The delegation of Greece entirely approved the proposal of the Government of Australia (E/1681, Annex I, page 22) requiring the administering authorities state the reasons for which they had not extended the application of the covenant to all their territories.

The Delegate of the United States said that the U.S. was not obliged to obtain the consent of the territories which it administered before it extend to them the obligation of an international convention that it had signed and, ratified on their behalf as well as on that of the metropolitan territory. Nevertheless, the U.S. Delegation was aware of the constitutional difficulties that might be encountered by certain States in that connection and would therefore support the inclusion of a colonial clause in the draft covenant.

The representative of Australia stating that his delegation was in favour of including a colonial clause in the draft covenant, nevertheless considered that it would be premature to take a final decision in that connection since the purpose of the current debate was to find out the views of members of the committee and especially of those who were

members neither of the Commission on Human Rights nor of the Economic and Social Council in order that the Commission might take such views into consideration when it had to reconsider the draft. He pointed out that Chapters XI and XII of the United Nations Charter., concerning non-self-governing territories and the International Trusteeship System, had drafted with special care. Both chapters make clear that the Administering Powers must allow for the particular circumstances of each territory and its peoples and their varying stages of development. Article 73a. specifically mentioned "due respect for the culture of the peoples concerned". Certainly no authority could be derived from the Charter for the proposition that covenants like that on human rights should be applied automatically to such territories.

He drew attention to the discussions of Articles 3 to 18 to the effect it was not enough to include in the Covenant provisions which only constitute lowest common denominator of rights that were already acknowledged throughout the world. Under such principles the instrument which was to be drawn up would not correspond at least for the time being to the conditions prevailing in the most backward countries. In those circumstances it seemed right and necessary to provide a clause which would make it possible to apply the Covenant immediately whenever that was possible and to apply it by degrees in other cases. The Australian delegation respected the sincerity of the representatives of countries who had recently achieved their independence, but it did not feel that it was defending the by-gone colonial era by defending the colonial clause. He agreed with the argument of the United Kingdom to the effect that administering powers should not accede to international conventions on behalf of colonial or trust territories without having duly consulted the wishes of the peoples governed. That applied particularly where self-governing institutions existed. A vote against the colonial clause would therefore to some extent stultify the development of the practice of self-government in these areas.

The representative of New Zealand considered that the inclusion of the colonial clause in the Covenant was desirable in the interests of securing the prompt and extensive application of that Covenant. Far from promoting the chose of the independence of non-self-governing territories, the attitude of the delegations which wished to reject the colonial clause could only serve to delay the application in large part of the world of instruments such as the Covenant which should nevertheless be accepted and implemented by all governments as soon as possible.

The representative of Canada stated that he would vote for the inclusion of the colonial clause since the experience of Canada itself enabled him to vouch for the sincere good intentions of the administering powers. It was in fact his feeling for the interests of the local authorities rather than any concern for those of the administering powers which prompted his support of the clause. Under articles 73 and 76 of the Charter the administering powers morally bound to promote to the utmost the protection of human rights and fundamental freedoms in territories whose peoples had not yet attained a full measure of self-government. Furthermore to promote to the utmost was a very different matter from imposing by force; to impose the rights laid down in the first 18 articles of the draft covenant would obviously itself be a fragrant violation of the sacred principles of self-determination.

The representative of Belgium was in favour of the inclusion of the colonial clause and said that the Government of Belgium hoped that it would not be compelled to give

immediate automatic effect in the Congo to the principles of the covenant but would be permitted to judge the best and most practical time to do so. He thought that the attacks launched against the administer powers might be traced to a form of resentment complex felt by countries which had suffered in the past from foreign domination.

The history of Belgium itself provided a parallel for that of the Congo and other non-self-governing territories. Originally, Belgians had been me a collection of tribes which had been overrun by the Roman Empire. While contemporary Belgians were extremely proud of the leaders of those tribes which had battled valiantly for independence, they were well aware that they owed much of their existing civilization to Rome, and through Rome to Greece. It had, however, required centuries for Belgium to take its place in the fore-front of civilization as currently understood.

Opinions against its inclusion:

The delegation of India was convinced that the colonial clause would the metropolitan powers the right to impose their will upon the peoples of the Non-Self-Governing Territories. The Indian delegation was the more strongly opposed to the insertion of the colonial clause because it was precisely in the Non-Self-Governing Territories and in the colonies that the Covenant should be especially applied., since it was there that violations of human rights were unfortunately most frequent.

The delegate of Yugoslavia stated that in his opinion, the question should be studied in the light of the Charter and in particular of Article 73. By accepting those obligations, the metropolitan powers had undertaken to allow the peoples of the territories to participate in all the obligations which contracted in the international field, and in particular in those arising from the conventions and agreements adopted by the United Nations. It would, therefore, be contrary to the spirit and even the letter of the Charter to attempt to authorize the metropolitan powers to exclude the territories placed under their administration from 'the application of the Covenant on Human Rights.

Those who upheld the colonial clause had taken their stand solely on constitutional grounds, but it should be recalled that under the Charter of the United Nations, Member States had accepted the obligation to bring their constitutions into line with the provisions of the Charter and even, if necessary, to recognize that those provisions took precedence over the corresponding clauses of their own constitutions. It was not a question of imposing obligations on a territory without the previous consent of its population, but simply of granting the rights which were its due.

Either the colonies enjoyed self-government, in which case they could freely accede to international agreements, or such self-government did not exist; in which case only the metropolitan powers were able to accede to such agreements.

The Syrian delegation stated its opinion against the inclusion of the colonial clause adding that the Covenant, in consecrating a number of essential rights, represented a step forward in social and humanitarian development. It was convinced that the application of the Covenant would assist backward countries to develop. There was no question of imposing a decision or a covenant upon those countries but only of supplying them with the means of progress, For that reason, the Syrian delegation would willingly agree to the insertion of the colonial clause if that clause would really enable the colonies,

protectorates and Trust Territories to have a voice in the various commitments entered into on their behalf; but that was not the case.

The Syrian delegation considered, moreover, that the colonial clause would be contrary to the United Nations Charter, which was based upon the principle of equality of human rights. What was to be feared was not the refusal of territories to accede to the Covenant, but the refusal of the colonial Powers to apply the Covenant.

The delegate of the Union of Soviet Socialist Republics recalled that his delegation had already given the reasons why it objected to the inclusion of a Federal clause in the Covenant on Human Rights. The same reasons led it to object to the adoption of a colonial clause.

It considered that any State which acceded to an international Covenant was obliged to extend its application to all the territories under its jurisdiction, without any exception. The purpose of the so-called colonial clause was to enable the colonial Powers to exclude the populations of the territories they administered from the field of application of the instrument concerned.

He recalled that, by signing the Charter, all the Member States of the United Nations had undertaken a solemn obligation to promote to the greatest possible extent the welfare and prosperity of the peoples dependent upon them. He quoted the provisions of Article 73 and Article 76 of the Charter and referred in particular to paragraph (c) of the latter Article, which mentioned among the essential purposes of the Trusteeship System the obligation "To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

He also recalled the wording of article 2 of the Universal Declaration of Human Rights. The second paragraph of that article provided that "no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs whether it be independent., trust, non-self-governing or under any other limitation of sovereignty.

The Ukrainian delegation stated that inclusion of such a clause would be contrary to the fundamental principles and purposes of the United Nations, to the provisions of Chapters XI and XII of the Charter and to the Universal Declaration of Human Rights.

It was considered in certain quarters that there were still regions in the world where the stage of development was such that the inhabitants should not be allowed to enjoy all the rights set forth in the draft Covenant. That was indeed surprising, if it was remembered that those rights related to life personal integrity, the freedom of the individual, his equality before the law, his freedom to work and freedom of access to educational establishments.

He wished the Committee to disregard juridical, constitutional and other considerations, which were merely excuses; it should allow itself to be guided solely by the wish to give all the peoples of the world, especially those which did not yet enjoy their independence, the guarantee that they could benefit fully by their status as human beings and citizens of the world.

The delegate of Ethiopia wished to state that his delegation was opposed to the inclusion of the colonial clause. He reviewed the first eighteen articles proposed for the first

Covenant and stated that he could find nothing in them that could not apply to colonies and non-self-governing territories and nothing that might give rise to difficulties in the relations between those territories and the metropolitan powers.

The representative of Czechoslovakia stated that the United Nations must not seek evasive formulas but frame a Covenant which would help the oppressed peoples to become aware of their right and help the colonial powers to apply its provisions so as to promote respect for human rights and fundamental freedoms and to insure equality of treatment in the economic and social fields. The draft Covenant set forth in detail the obligations contained in the Charter and those obligations could not and should not in any way be restricted so as to favour any of the signatory states. He wished to state that his delegation was categorically opposed to the inclusion of a colonial clause.

The delegate of Poland said that the colonial clause was not new and that for a long time it had been one of the devices used by the colonial powers to escape the responsibilities and duties incumbent upon them in connection with non-self-governing territories under their administration. Owing to certain specific obligations imposed upon the colonial powers, under Article 73 of the Charter, it was their duty to extend the provisions of the draft Covenant to their dependent areas. In the view of his delegation, the inclusion of the colonial clause in any treaty was contrary to Chapter XI of the Charter. The colonial clause would leave the colonial powers free in respect of the application of the principles and provisions of the draft Covenant in the very territories where the defense of human rights was most urgently needed.

The delegate of China spoke against the inclusion of the Colonial clause and noted from paragraph 34 of the Secretary-General's Report on the question (E/1721 and Corr.1) that the General assembly had eliminated the colonial clause from the 1921 Convention for the Suppression of the Traffic in Women and Children, the 1933 Convention for the Suppression of the Traffic in Women of Full age, and the 1923 Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications. If it had been possible to eliminate the colonial clause from those conventions it would surely be inadvisable to reintroduce it by including it in the draft Covenant. After all the draft Covenant dealt with the field of human rights and it would be difficult for the United Nations to explain why those rights should not be applied in the non-self-governing territories.

The delegate of Pakistan stated that the metropolitan powers should consult their non-self-governing territories before the Covenant was drafted and again at the time for signature. To the constitutional arguments favouring inclusion of the Colonial clause he replied that the total population of the colonies was vastly greater than that of the metropolitan countries. In practice, millions of people were represented in the United Nations only by their governors, who pleaded that they could not in fact represent the peoples of their colonies, but, on the other hand argued that the colonial peoples could not represent themselves. If, however, the metropolitan countries did not, and did not even claim to, represent the colonial peoples, it was legitimate to inquire why no proposal had ever been made in the United Nations that representatives of those peoples should be invited to attend the meetings, if only in a consultative capacity.

The representative of Iraq stated that her delegation opposed the inclusion of the colonial clause in the Covenant on Human Rights and added that however weighty the arguments advanced for its inclusion it would deprive the Covenant of all practical effectiveness; the very aim of the Covenant was to insure the obligation of human rights to peoples who were deprived of them, who lived in ignorance of what was due to them as human beings.

The representative of Saudi Arabia explained the effects of the colonial situation upon the problem under discussion, So long as the colonies remained indispensable to the economic survival of the metropolitan powers, those powers could not afford to allow the dependent peoples to enjoy the advantages of instruments like the Covenant which would make them conscious of their rights. He himself had thirty years' experience in a number of territories and had seen the indigenous inhabitants ask for the enjoyment of inalienable rights such as those laid down in the Covenant and had seen them brutally refused in the name of the law and of the public order. He had seen the inhabitants of those same territories called upon to fight and die for causes which were not their own without being consulted in any way by the metropolitan powers. He asked whether the colonial powers feared that the peoples of non-self-governing territories would be driven to rebel if immediate effect were given to the Covenant in those territories; or, if they wished, to postpone its application until they had settled their economic difficulties.

The representative of the Byelorussian Soviet Socialist Republic said that the adoption of that clause would mean discriminating against hundreds of millions of human beings. It would be offensive to human dignity and would create situations in which the colonial powers could refrain from applying the provisions of the Covenant in their territories.

The representative of Indonesia pointed out that if the clause were included the General Assembly would in effect be giving a privileged class of human beings the right to decide arbitrarily how far the rights enjoyed unreservedly by themselves could be granted to less favoured classes. Her delegation thought that at their current stage of development all peoples whoever they were could claim the right to life, liberty and security of person and demand the abolition of slavery and servitude and the suppression of torture and cruel and inhuman or degrading treatment or punishment.

The representative of Lebanon emphasized that his delegation was not opposed in principle to the inclusion of a colonial clause - it had supported it in the case of other conventions for example, that on road transport and it would be quite prepared to recognize the validity of that argument, were it not that the Covenant on Human Rights was in question. He believed that in the special case of the Covenant the rights granted could not be made dependent on accidental Circumstances, nor on the degree of development of the peoples concerned., nor on the political, legal, or international status of the country of which those peoples were nationals. The purpose of the Covenant was not to protect governments but to protect peoples.

The representative of Mexico spoke against inclusion of the colonial clause, stating that the United Nations Charter, especially in its Chapter XI, imposed on all Member States the unavoidable obligation of insuring the fundamental rights and freedoms of all human beings Without exception. In view of that mandatory provision it was impossible to agree that the benefits of the provisions of the Covenant on Human Rights could be denied to a

large section of humanity and still less to suppose that the populations concerned might themselves refuse that privilege.

He stressed the importance of the so-called federal clause which apart from its effect on the Covenant on Human Rights would decide the fate and value of a large number of the multilateral instruments which would be signed by the members of the United Nations in the years to come. He recalled that reservations were the most delicate point in the legal structure of a Covenant or treaty for they might frustrate an agreement completely. The colonial and federal clauses were reservations embodied in the actual text of treaties. He remarked that an absolute excess of local law might lead to the ruin of any federal State.. 'To admit the federal clause would be to admit that the states concerned possessed two personalities - one on the international level, the other on the federal level. It was to be inferred from the draft declaration on rights and duties of states, that some states, although sovereign, form parts of other states. But international law was binding upon all states whether or not they form part of a federation. He stated that the federal clause was tantamount to a reservation and a unilateral escape clause. It violated the principle of equality of states and ran counter to the principle of reciprocity and undermined unity in the struggle for the economic, social and cultural objectives of the United Nations. It permitted the automatic abrogation of obligations in advance and made its implementation impossible. It would make it impossible to call a federal state to account for failure to fulfil its obligations. The arguments based upon the limitation to the powers of the Senate of a federal state were untenable. The Senate could approve or reject a treaty and its members represented their states.'

Because of the text approved by the Third Committee referring to the elimination of the colonial clause, federal states which are responsible for non-self-governing territories will 'automatically be deprived of the benefits of a federal clause. The text of draft resolution II runs as follows: "the provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan state and to all the territories, be they non-self-governing, trust, or colonial territories, which are being administered or governed by such metropolitan state". This makes it perfectly clear that federal states which are responsible for non-self-governing territories or trust territories will not be able to avail themselves of the federal clause.

The representative of Chile wished to point out that it was customary to refer indifferently to colonies, non-self-governing territories and trust territories. It should not be forgotten, however, that the populations of the trust territories were sovereign peoples and that the responsibility for their administration laid solely with the United Nations, which delegated that responsibility to one of its members with the reservation clearly stipulated in one of the clauses of the trusteeship agreement, that that member would administer the territory concerned as it would administer one of its own territories. Thus, the current discussion could have no bearing whatsoever on the trust territories. It referred only to the non-self-governing territories and colonies for which the United Nations was not directly responsible.

The Chilean Delegation stated that it strongly objected to any colonial clause.

The representative of Afghanistan stated that those who claimed they were trying to civilize the peoples whom they were colonizing should at least give them, the right to learn

how to become conscious of their human dignity, The representative of Egypt said that his delegation had voted in favour of separate consideration of the federal clause and the colonial clause because in its view those two clauses were based on rather different considerations. The first appeared to be linked up with the procedure for ratification of the Covenant and the second with the applicability of the principles of human rights. It seemed that the inclusion of a colonial clause in the Covenant would lead to the non-application, or at least to the incomplete application of human rights in the colonial and semi-colonial territories while those rights would be fully applied throughout the rest of the world. The Egyptian delegation objected therefore to the inclusion of the colonial clause unless that clause were drafted in the mandatory form proposed by the delegation of the Philippines, a form which appeared in the Report on the Commission of Human Rights, sixth session (F./1681, Annex 1, p.22)

The Delegate of the Philippines said the purpose of the draft resolution submitted jointly by the Philippines and Syria (A/C.3/L.71/Rev.1) was to do away once and for all with the so-called colonial clause which constituted a constant source of irritation, as well as of embarrassment for the colonial powers. Because the U.N. Charter., in several passages mentioned human rights and the human person., a new concept had arisen in public international law - that the individual could be the subject of international law. The benefits of the covenant should therefore be extended human beings everywhere. The Philippine and Syrian draft resolution stressed two points: from the legal viewpoint the metropolitan powers might be regarded as principals whose international commitments should automatically extend to the colonial territories From the moral viewpoint the inhabitants of the dependent territories were clearly as much entitled to the enjoyment of human rights as anyone else.

The Federal Clause ³(1)

Opinion in favour of its inclusion:

The delegate of the United States proposed at the Third Committee for consideration a proposal made by the same delegation at the sixth' session of the Commission on Human Rights which stated that "with respect to any articles of the Covenant which were determined in accordance with the constitutional processes of a State to be appropriate in whole or in part for federal action, the obligations of the federal government should be the same as those of contracting parties which were not federal States, whereas with respect to any articles which were determined to be appropriate in whole or in part for action by the constituent parts of the federal State, the federal government should bring such articles, with favourable recommendation, to the notice of the appropriate authorities of the constituent parts at the earliest possible moment."

'In order to make it possible for federal States to adhere to the Covenant, an article based on the principles laid down should be included. This was the case with the United States. The federal government of the United States was ready to subscribe to the obligations contained in the Covenant on any matters within its competence, but it could not do more than bring any obligations within the competence of the appropriate authorities in the forty-eight states to the attention of those authorities, with favourable recommendation, at the earliest possible moment. As was well known the text of Article 43, proposed by the United

States, was largely based on Article 19, paragraph 7, of the Constitution of the International Labour Organisation.

The Australian delegation supported these views and stated that many of questions dealt with by the Commission on Human Rights were primarily within the competence of the constituent states. They included such fundamental questions as capital punishment and judicial process, retroactive legislation, and punishment, liberty of movement, freedom of speech and thought, freedom of association and assembly. The Australian delegation believed that it would premature to reject the federal clause and that the question should be refer back to the Commission on Human Rights so that it could study the matter more thoroughly and draft a text.

The representative of Canada associated himself with the United States delegation and added that at the time of the signature of the Covenant there might be some doubt as to the extent of the obligations assumed by a federal government itself. It was always possible, though, to obtain an adequate knowledge of the division of powers in a federal State.

As to the objection that the obligations under the Covenant would not be equal for all States, the federal authorities would certainly make every effort to encourage the provincial or state governments to take the necessary measures, and the moral obligation would so strongly reinforce the juridical obligation that any lack of reciprocity would be more apparent than real.

The representative of the Netherlands stated that the adoption of a federal clause would result in considerable disparity of obligations between the unitary states, which would be engaged unconditionally and the non-unitary states which would be engaged only to the extent authorized by their respective constitutions. Such inequality of treatment obviously presents serious disadvantages; but it must be remembered that if a federal clause was not concluded, a number of member states might refuse to ratify the Covenant. He thought the Committee should choose the lesser of two evils. He stated also that his delegation was prepared to suggest the addition of a new paragraph to the effect that the government of a federal State should each year inform the Secretary-General of the United Nations of the progress made by each state., province, or canton, constituting the federal state in regard to the implementation of the Covenant.

The representative of New Zealand shared the view of the representative of the Netherlands that the federal governments should report on the measure of implementation given to the Covenant by the governments of their constituent states.

The representative of the United Kingdom, recognizing the particular position of the federal States, referred to the text submitted by the United States at the fifth session of the Commission on Human Rights which provided that in the case of a federal State certain provisions would apply with respect to any articles of the Covenant "which the federal government regards as appropriate under its constitutional system, in whole or in part, for federal action". He also referred to the text proposed by the representative of India which was worded in a slightly different manner stipulating that the provisions in question would apply with respect to any articles of the Covenant "the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction"... The United Kingdom Government preferred the text proposed by India for it could not admit that a

state party to the Covenant should be left free to determine the extent of its own obligations. Moreover as a general rule the governments of said states were not granted such power by their constitution. In most federal states, at least such decisions were taken not by the federal government but by the supreme judiciary organ which was responsible for interpreting the constitution. He also referred to the proposal made by the United Kingdom representative on the Commission on Human Rights to the effect of including a paragraph providing that upon the request of any state party to the Covenant a federal state party to the Covenant should make known the extent to which the provisions of the Covenant were being implemented by the governments of its constituent states, provinces or cantons.

The French delegate stated that if a delay of some years were to be avoided it would be necessary to permit federal States to ratify the Covenant without delay, and that better results would probably be obtained by confidence and persuasion than by compulsion.

The representative of Greece stated that the disparity shown during the discussions might disappear if the said clause was converted into a constitutional clause under which, in the case of a said state, ratification of the Covenant would be contingent upon the consent of certain organs or by means of a plebiscite or a decision by a parliamentary body. The inequality inherent in the said clause in its existing form could thus be removed, even from a chronological point of view, and the wishes of its advocates would still be met.

The representative of Lebanon stated that he had every consideration for the difficulties of the federal States but he asked them to furnish the largest number of guarantees in order to wipe out any inequality between them and the unitary states. For instance, they might make a statement indicating which of their constituent states had been able to accept the articles of the Covenant and those articles to which the remainder could not commit themselves. Such a step would enable the other signatory states to know what the situation was in the federal States. If the line of demarcation between federal and local authority was impossible to determine, that step would at least allow a list of the States accepting the articles of the Covenant to be made available.

Opinions against its inclusion:

The delegate of Pakistan stated that it should not be forgotten that each member of the Committee represented a sovereign State able to assume international obligations, and not a federal or central government. It might be admitted that those States were bound to ask the opinion of the parties composing them regarding certain parts of the Covenant. They should therefore consult those parties and then sign, pledging all their responsibility if they had received authority to do so. Even if that procedure took two or three years, it would be a very little time in history. The members of the Committee represented sovereign States, some of which would sign with reservations, while others would accept full responsibility. He considered that the federal clause was useless and asked the Committee to think of the unhappy moral consequences which the inclusion of that clause would have; it would encourage the adoption of a colonial clause which was even more open to criticism.

The representative of Yugoslavia thought it was necessary to provide that the Covenant could not be ratified by the federal States until they had given a preliminary assurance that it would be applied in all their constituent territories. The Yugoslav delegation had

submitted an amendment to that effect to the text which appeared as the report of the Commission on Human Rights on its third session

The representative of Uruguay stated that the application of the federal clause would establish in respect of the obligations arising out of treaties a disparity to the disadvantage of unitary states. With due regard to the difficulties of federal states, the Uruguayan representative considered that the objectives of federal States would be amply safeguarded by the traditional procedure of signing treaties with reservations which would make it unnecessary to introduce a federal clause and so prevent the disparity to which that clause would give rise.

The representative of Denmark thought it highly undesirable to include in the Covenant a federal clause which appeared to favour said states over unitary states, It was understandable though that by reason of their peculiar constitutional-position, said States would need some time before they could ratify that instrument. That delay., though regrettable., was infinitely preferable to the inclusion of a federal clause of the type proposed which would probably have the effect of preventing many unitary states from adhering to the Covenant.

The representative of Cuba stated that the adoption of said clause would be equivalent to introducing a multilateral reservation. Even if certain constitutions did not permit immediate ratification, it should be recognized that human rights was a subject in which it would not be advisable to invoke the federal clause,

The representative of Mexico associated himself with the remarks of the representative of Pakistan, Uruguay, Colombia and Cuba and considered that the inclusion of a federal clause would import a glaring inequality between federal and unitary states. Moreover, it was very difficult to define precisely the character of a federal State and to indicate those of its functions which required the consent of its constituent parts, One of the major arguments against the insertion of the federal clause was, however, the exalted nature of the document under consideration by the Committee. The object was to defend an ideal and to consolidate what had already been achieved in different countries. He recalled the distinction that had been drawn 30 frequently, particularly previous meetings of the Committee, between moral obligations deriving from Universal Declaration of Human Rights and legal obligations deriving from the Covenant. He agreed on the need for certain reservations in that type of Covenant, but considered that the said clause would introduce an element of uncertainty into the Covenant.

Final Action by the General Assembly

The General Assembly at its 317th Plenary Meeting in Resolution 421 (V) C "Calls upon the Economic and Social Council to request the Commission on Human Rights to study a federal State article and to prepare, for the consideration of the General Assembly at its sixth session, recommendations which will have as their purpose the securing of the maximum extension of the Covenant to the constituent units of federal States, and the meeting of the constitutional problems of federal States"

As for the colonial clause, Resolution 422 (V) "Requests the Commission on Human Rights to include the following article in the International Covenant on Human Rights: The provisions of the present Covenant shall extend to or be applicable equally to a signatory

metropolitan State and to all the territories, be they Non-Self-Governing, Trust or Colonial Territories, which are being administered or governed by such metropolitan State”.

[1](#) General Assembly, Fifth Session. Third Committee, 292nd Meeting.

[2](#) General Assembly, Fifth Session. Third Committee, 294th, 295th, 296th Meeting, General Assembly Fifth Session, 317th Plenary Meeting.

[3](#) General Assembly, 5th Sess, 3rd Committee, 292nd, 308th and 309th Meetings, 317th Plenary Meeting.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 1

By General Assembly | 03 July 1951

Article 1

Substitute for Paragraph (2) of Section A, down to the words “is unwilling to return to it”, the following:

“As a result of events occurring before 1st Jan..1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality, or, if he has no nationality, the country of his habitual residence, and is unable, or, owing to such fear or for reasons other than personal convenience is unwilling to avail himself of the protection of the country of his nationality; or, if he has no nationality, to return to the country of his former habitual residence”.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 5

By General Assembly | 03 July 1951

Article 5

Delete Paragraph 2 and add a new Article in the following terms:

“Nothing in this Convention shall prevent a Contracting State, in time of war or national emergency, from taking provisional measures which it considers to be essential to the national security in the case of any person, pending a determination by the Contracting State that the particular person is in fact a refugee and that such measures are still necessary in his case in the interests of national security”.

Draft Convention Relating to the Status of Refugees. Denmark: Amendment to the Australian Amendment to Article 3 (A/CONF.2/20)

By General Assembly | 03 July 1951

Insert after the words “admitted to” the phrase:

“or authorized to stay in” so that the text would read:

“provided that this Article shall not be deemed to absolve a refugee from observing the conditions under which he was admitted to or authorized to stay in such territory”.

Draft Convention Relating to the Status of Refugees. Austria: Amendment to Article 1, Paragraph B (3)

By General Assembly | 03 July 1951

Insert the following between “nationality;” and “or:”

“..... he shall, however, continue to enjoy the rights which he possessed under this Convention before acquiring the new nationality and to the international welfare measures provided for refugees”

Draft Convention Relating to the Status of Refugees. Federal People’s Republic of Yugoslavia

By General Assembly | 03 July 1951

Amendment to Article 1, paragraph A

Substitute the following text:

“For the purposes of the present Convention the term “refugee” shall apply to any person who, as a result of persecution for defending the principles of democracy, national liberty, freedom of cultural and scientific work, political and religious opinions, or on account of his nationality or race, or owing to the upheavals caused by the war or to other events giving rise to similar upheavals, has been forced to leave the state of which he is a national, or in which he was domiciled, and had sought refuge and protection in one of the States signatories to the present Convention.”

Draft Convention Relating to the Status of Refugees. Australia: Amendment to Article 3

By General Assembly | 03 July 1951

To Article (3) add:-

“provided that this Article shall not be deemed to absolve a refugee from observing the conditions under which he was admitted to such territory”

Draft Convention Relating to the Status of Refugees. Australia: Amendment to Article 5

By General Assembly | 03 July 1951

Article 5 Para 2.... Amendment to Article 5

“Nothing in this Article should prevent a Contracting State in time of war or national emergency or in the interests of national security, from taking provisionally essential measures in the case of any person, pending a determination that the particular person is in fact a refugee and that such measures are still necessary in his case in the interests of national security.”

Draft Convention Relating to the Status of Refugees. Australia: Amendment to Article 3 (B)

By General Assembly | 03 July 1951

ADD TO ARTICLE 3 (B) Subsection (c)

The term “discriminate” shall be taken to mean discriminate between refugees and other aliens

Draft Convention Relating to the Status of Refugees. Federal People’s Republic of Yugoslavia: Amendments to the Draft Convention

By General Assembly | 04 July 1951

Article 7, paragraph 1: Substitute the following text:

“The personal status of refugees having a nationality shall be determined in accordance with the regulations applicable in each country to aliens who are nationals of another country. The personal status of refugees having no nationality shall be governed by the law of the country of their domicile or, if they have no domicile, by the law of the country of their residence.”

Paragraph 2: After the word "Rights" insert the words "and duties".

Article 11, paragraph 3:

After the words “habitual residence” insert the following words:

“and if he is considered by such countries as being a refugee under the terms of this Convention....”

Article 12: Substitute the following text:

“As regards the right to engage in wage-earning employment, the Contracting States shall accord to refugees lawfully living in their territory the same treatment as they accord to their own nationals.”

Delete paragraphs 2 and 3.

Article 13:

In place of the words “treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances” insert the words “the same treatment as is accorded to their own nationals”.

Article 16: Substitute the following text:

“As regards housing, the Contracting States in so far as the matter is regulated by laws or regulations, or is subject to the control of public authorities, shall accord to refugees lawfully settled in their territory the same treatment as they accord to their own nationals.”

Article 17: Substitute the following text:

“The Contracting States shall accord the same treatment to refugees as to their own nationals with respect to elementary education and also to education other than elementary education and, in particular, as regards access to studies, the remission of fees and charges and the award of scholarships.”

Article 21

Delete the full-stop at the end of the paragraph and add the words:

“and to the conditions under which the said refugees were admitted,”

Article 23

Paragraph 1.

Substitute the word: “may” for “shall” before “issue” on line 1.

Paragraph 2: Substitute the following text:

“Travel documents issued to refugees under previous international agreements by parties thereto shall be replaced, within one year, by documents issued in accordance with the provisions of this Convention.”

Article 24

Delete paragraphs 2 and 3.

Article 30

Delete the words “or other agency charged by the United Nations with the international protection of refugees”.

Article 34

Paragraph 1:

Replace the words “the Economic and Social Council” by “the General Assembly”.

Article 35. Substitute the following for the present text:

“The provisions of this Convention shall extend or apply both to the metropolitan territory of a signatory state and to all territories, whether Non-Self-Governing, Trust or Colonial territories, administered or governed by that State”.

Article 36

Mention also the following Articles: 10, 12, 15, 16, 17, 18, 19, 20, 24.

Article 37

First paragraph: Substitute the word "tenth" for "second".

Second paragraph: Replace the words "after the deposit of the second" by "after the deposit of the tenth".

Article 38

Delete paragraph 3.

Article 39

Second paragraph: Replace the present text by the following:

"The General Assembly shall recommend the steps, if any, to be taken in respect of such request".

ANNEX

Paragraph 3

Replace the present text by the following:

"The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports".

Paragraph 5

Replace the words "of either one or two years" by "or between six months and two years". The text will thus read: "The document shall have a validity of between six months and two years, at the discretion of the issuing authority".

Paragraph 9

Insert a new paragraph to read as follows: "The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien. A visa may also be refused to any person regarded by the State for which such visa is requested as its own national".

Paragraph 12

Delete the full-stop at the end of the text, and add: " and return it to the country of issue".

Draft Convention Relating to the Status of Refugees. Switzerland: Amendment to Article 10

By General Assembly | 04 July 1951

Amend the beginning of Article 10 to read:

"as regards non-political and non-profit-making associations and trade unions"

Draft Convention Relating to the Status of Refugees. Belgium - France: Amendment to Article 4

By General Assembly | 04 July 1951

Redraft the second paragraph to read as follows:

“The rights and benefits already enjoyed by certain refugees, without regard to reciprocity, at the date of entry into force of this Convention shall continue to be accorded to them by the Contracting States.

In future, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States after a period of three years' residence”.

Draft Convention Relating to the Status of Refugees. Austria: Amendment to Article 7

By General Assembly | 04 July 1951

Delete paragraph 1 and substitute the following text:

“1. The personal status of a refugee shall be governed by the law of the country of his habitual residence, (see Article 11, paragraph 2), or, if he has no habitual residence, by the law of the country of his residence.”

Draft Convention Relating to the Status of Refugees. Switzerland: Amendment to Article 7, Paragraph 2

By General Assembly | 04 July 1951

Amend Article 7, paragraph 2 as follows:

“ shall be respected by a Contracting State, subject to the provisions concerning public order and to compliance, if this be necessary, with the formalities prescribed by the law of the country of his domicile or”.

Draft Convention Relating to the Status of Refugees. Netherlands: Amendment to Article 7

By General Assembly | 04 July 1951

In view of the fact that the meaning of the words “domicile” and “residence” under Anglo-Saxon law is completely different from that continental law understands by these terms, it is proposed to redraft Article 7 as follows:

“1. The personal status of a refugee shall be governed by the law of the country of his habitual residence or, if he has no habitual residence, by the law of the country of his residence.

“2. Rights dependent on personal status, more particularly rights attaching to marriage, previously acquired by a refugee, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities prescribed by the law of the country of his habitual residence or, if he has no habitual residence, by the law of the country of his residence.”

Draft Convention Relating to the Status of Refugees. Sweden: Amendment to Article 5(1)

By General Assembly | 05 July 1951

Article 5, paragraph 1, should read:

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State, solely on account of such nationality, or shall provide for appropriate exemptions in respect of such refugees

Draft Convention Relating to the Status of Refugees. Sweden: Amendment to Article 9

By General Assembly | 05 July 1951

In respect of the protection of industrial property, such as inventions, industrial designs or models, trade marks, trade names and of rights in literary, scientific and artistic work, a refugee shall be accorded in the country in which he has his domicile the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his domicile.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 7

By General Assembly | 05 July 1951

Amend paragraph 2 of this Article to read as follows (the amendment is underlined):-

“2. Rights dependent on personal status, more particularly rights attaching to marriage, previously acquired by a refugee, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right is one which would have been recognized by the law of that State had he not become a refugee”.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 12

By General Assembly | 05 July 1951

In paragraph 2 (a) of Article 12, substitute the word “four” for the word “three”.

Delete paragraph 2 (c)

Draft Convention Relating to the Status of Refugees. Austria: Amendment to Article 9

By General Assembly | 05 July 1951

Replace the phrase “in which he is resident” by “in which he has his habitual residence or, if he has no habitual residence, in which he resides”.

The Article will then read:

“In respect of the protection of industrial property, such as inventions, industrial designs or models, trade marks, trade names, and of rights in literary, scientific and artistic works, a refugee shall be accorded in the country in which he has his habitual residence or, if he has no habitual residence, in which he resides, the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence or, if he has no habitual residence, in which he resides.”

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted by the Conference on 4 and 5 July 1951

By General Assembly | 05 July 1951

Article 5 (a)

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstance, from taking provisional measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that such measures are still necessary in his case in the interests of national security.

Article 6 Continuity of residence

The Contracting States agree that:

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is residing there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.
2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and had subsequently returned there prior to the entering into force of this Convention, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 8 Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 9 Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, industrial designs or models, trade marks, trade names, and of rights in literary, scientific and artistic works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 10 Right of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 11 Access to Courts

1. A refugee shall have free access to the courts of law on the territory of the Contracting States.
2. In the country in which he has his habitual residence, a refugee shall enjoy in this respect the same rights and privileges as a national. He shall, on the same conditions as a national, enjoy the benefit of legal assistance and be exempt from *cautio judicatum solvi*.
3. In country other than that in which he has his habitual residence, a refugee shall be accorded, in these matters, the treatment granted to a national of the country of his habitual residence.

Draft Convention Relating to the Status of Refugees. Austria: Amendment to Article 20, Paras..2 and 3

By General Assembly | 06 July 1951

Amend paragraphs 2 and 3 of article 20 to read:

"2. The authority or authorities mentioned in paragraph 1 shall, *as far as possible*, deliver or cause to be delivered to refugees such documents or certifications as would normally be delivered to other aliens by their national authorities.

"3. Documents or certifications so delivered may stand in the stead of and be accorded the same validity as would be accorded to similar instruments delivered to aliens by their national authorities."

Draft Convention Relating to the Status of Refugees. Egypt: Proposed New Article 14 (a)

By General Assembly | 06 July 1951

After article 14, add the following, which might possibly form a new article:

“It is understood that the provisions of articles 12, 13, and 14 above refer only to the right to engage in any form of industry or commerce, or to practise any trade or profession which the laws of the country concerned do not or may not in future reserve for its nationals or which are not covered by special regulations.”

Draft Convention Relating to the Status of Refugees. Netherlands: Amendment to Article 20

By General Assembly | 06 July 1951

Redraft the second paragraph to read as follows:

“2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered to refugees such documents or certifications as are required for the exercise of a right and which would normally be delivered to other aliens by their national authorities”.

Draft Convention Relating to the Status of Refugees. Australia: Proposal for a New Article 11(a)

By General Assembly | 06 July 1951

Add following new article which might either precede 12 or be placed with other interpretative articles.

New Article between Articles 11 and 12

“Articles 12, 13, 14 and 21 of this Convention shall be read subject to the proviso that a Contracting State shall have the right in the interests of public welfare to impose reasonable conditions as to the type and place of employment, for a limited period, upon any immigrant who seeks admission to its territory, for the expressed purpose of taking up permanent residence therein”.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 19

By General Assembly | 06 July 1951

Paragraph 3

Substitute for the words “such agreements” the words:

“any agreements which may at any time be in force between Contracting States”

Paragraph 4

Add at the end of this paragraph the words:

“or which may at any time be in force between such Contracting States and non-Contracting States”.

Draft Convention Relating to the Status of Refugees. Netherlands: Amendment to Article 23

By General Assembly | 06 July 1951

Redraft the first paragraph to read as follows:

"1. The Contracting States shall issue, on request to a refugee lawfully resident in their territory, a travel document for the purpose of travel outside their territory, *subject to the conditions which apply to their nationals; and the provisions etc.*"

Draft Convention Relating to the Status of Refugees. Belgium: Amendment to Article 12

By General Assembly | 06 July 1951

Supplement sub-paragraph 2(b) as follows:

“2 (b) He has a spouse possessing the nationality of the country of residence and resides with that spouse;”

Draft Convention Relating to the Status of Refugees. Egypt: Draft Amendment to Article 27

By General Assembly | 06 July 1951

Delete paragraphs 1 and 2 of this article and substitute the following text:

1) The Contracting States shall not expel a refugee lawfully in their territory save on one of the following grounds:

(a) because he has been convicted of a crime or offence punishable by more than three month's imprisonment;

(b) because he has engaged in activities of a subversive nature or which are prejudicial to public order, the internal or external security of the State, public morals or health;

(c) because he is indigent and is a charge on the State.

2) In every case, expulsion shall apply solely to individuals. Expulsion may only be effected by a ministerial order communicated to the person to be expelled.

3) No change.

Draft Convention Relating to the Status of Refugees: Australia: Proposal for a New Article

By General Assembly | 06 July 1951

Add new article to interpretative articles.

“The present Convention shall not apply to a person who has been admitted to the territory of a Contracting State for a specific purpose and who did not at the time of entry apply for permission to reside permanently therein, unless such person can establish to the satisfaction of the contracting State that since the date of his admission circumstances have arisen which justify his claiming the rights and privileges intended to be secured by this convention for a bona fide refugee.”

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted by the Conference on 6 July 1951

By General Assembly | 06 July 1951

Article 12 Wage-earning employment

1. The Contracting State shall accord to refugees lawfully living in their territory the most favourable treatment accorded to nationals of a foreign-country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

- (a) He has completed three year's residence in the country;
- (b) He has a spouse possessing the nationality of the country of residence.

A refugee may not invoke the benefits of this provision if he has abandoned his spouse.

- (c) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees in this regard to those of nationals, and in particular those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 13 Self-employment

The Contracting State shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 15 Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be treated on the same footing as nationals.

Article 16 Housing

As regards housing, the Contracting States in so far as the matter is regulated by laws or regulations, or is subject to the control of public authorities, shall accord to refugees lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances.

Article 17 Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment no less favourable than that accorded generally to aliens in the same circumstances with respect to education other than elementary education and, in particular, as regards access to studies, the remission of fees and charges and the award of scholarships.

Article 18 Public relief

The Contracting States shall accord to refugees lawfully in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Draft Convention Relating to the Status of Refugees. Federal Republic of Germany: Amendment t Article 17

By General Assembly | 06 July 1951

Substitute the following text for Article 17:

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to all types of education including access to studies. They shall let refugees participate in the award of scholarships and in remissions of fees and charges.
2. The Contracting States shall accord to refugees the right to pass examinations, recognized by the state, on the same conditions as accorded to nationals.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons. Extract of the Decisions of the Second Conference of Non-Governmental Organizations Interested in Migration

By General Assembly | 09 July 1951

CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

Dual Distribution

EXTRACT OF THE DECISIONS OF THE SECOND CONFERENCE OF NON-GOVERNMENTAL ORGANIZATIONS INTERESTED IN MIGRATION

held in Geneva, 16-22 March 1951, under the auspices of the United Nations and of the International Labour Office

Statement submitted by the INTERNATIONAL UNION FOR CHILD WELFARE, a non-governmental organization in consultative relationship with the Economic and Social Council

The Executive Secretary has received the following statement which is circulated in accordance with rule 27 of the Rules of Procedure of the Conference.

Submitted: 9 July 1951

Received: 9 July 1951

**GENERAL PRINCIPLES CONCERNING THE PROTECTION OF MIGRANTS
based on the Universal Declaration of Human Rights**

**THE CONFERENCE OF NON-GOVERNMENTAL ORGANIZATIONS INTERESTED IN
MIGRATION**

CONSIDERING that for social, economic or political reasons, many people leave their country of origin or of residence,

CONSIDERING that at the present time migrants are faced with difficulties particularly of a legal, political, economic and administrative nature preventing their freedom of emigration, immigration and resettlement,

CONSIDERING that “the inherent dignity and the equal and inalienable rights of all members of the human family” must likewise be recognised in the case of migrants,

DRAWS ATTENTION TO the United Nations Charter which lays on Member States the duty of “promoting universal respect for, and observance of, human rights,”

DRAWS ATTENTION TO the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10 December 1948, several articles of which are of paramount importance for the welfare of migrants (in particular, Articles 2,6,7,13,14,15,16,22,23,25)

URGES all individuals and all organs of Society, in a spirit of understanding and broad human solidarity, bearing in mind everywhere and in all circumstances the provisions of the Universal Declaration of Human Rights, to observe the following principles in the field of protection of migrants:

I The right to leave any country, including his own” being internationally recognized for all human beings, this right shall not be limited by political considerations or legal or administrative provisions, or impeded by prohibitive charges or confiscatory measures.

II All States shall frame and interpret their legislation in a truly liberal spirit and without regard to reciprocity, with a view to facilitating the departure, transit, admission, freedom of residence and settlement of migrants.

III Migratory movements, in view of their of their international repercussions, should be planned and carried out rationally in conformity with the common interest of migrants and States alike, through the broadest collaboration of countries and public and private international bodies.

IV Every Migrant shall be entitled to receive, free of all charge, complete and unbiased information regarding the conditions of life and work likely to influence his free choice in migrating. He should be protected again his all misleading propaganda in this field.

V THE MIGRANT who is obliged to have recourse to the right of asylum shall also be entitled to special protection appropriate to his special status, both by the State granting asylum and by all States.

VI There shall be no discrimination, de facto or de jure, against a migrant for reasons such as race, religion, political opinions, financial means, country of origin of status as an alien.

VII Every migrant shall have the right in the receiving country to treatment on less favourable than that granted to nationals of that country, especially in all social, educational and religious matters, as well as in the sphere of civil rights.

VIII Every migrant shall have the right to do work in accordance with his abilities and within the limits of the laws which apply to the population generally. He shall be entitled to all rights enjoyed by workers who are nationals of the country as regards conditions of employment, wages, freedom of trade union, affiliation, public assistance and social security.

IX Every migrant, although he should endeavour to become part of the new community, shall be free to retain his cultural and religious heritage so as to stimulate the exchange of those spiritual values which are the common heritage of mankind. He shall be entitled to the free use of his mother tongue and, if need be, to the services of an interpreter.

X Every migrant shall have the benefit of suitable assistance during the period of his adjustment to living conditions in the country of settlement.

XI Every migrant shall be allowed to acquire citizenship of the country of settlement after a reasonable period of residence in such country.

XII No migrant, once admitted into a country, shall be expelled, deported or otherwise removed therefrom, unless such a measure is justified on grounds of public security and imposed by due process of law. Indigence, sickness, or unemployment shall in no circumstances be regarded as sufficient grounds for such removal. Persons entitled to invoke the right of asylum shall not be expelled or sent back to a territory where their lives or liberty would de in danger.

XIII Since the family is “the natural and fundamental unit of society”, it shall be protected and migrants shall have the right to preserve its unity. The measures necessary to preserve that unity must be guaranteed. When the head of a family

satisfies the necessary conditions for admission to a country, his dependents shall thereby become eligible for admission.

XIV The rights granted to a migrant shall extend to the members of his family.

XV Special measures shall be taken for the protection of migrant minors, particularly of parentless children and young girls, especially in the matter of guardianship and adoption.

XVI Every migrant shall be entitled at all stages of emigration and settlement to the moral legal and material assistance of voluntary societies. States and inter-governmental organizations shall encourage and support the efforts of such organizations in every possible way.

XVII Every migrant shall bear in mind that all these rights all these rights imply a corresponding series of duties to the new community which receives him.

PROBLEMS CONCERNING REFUGEES AND MIGRANTS CREATED BY THE EXPIRATION OF THE INTERNATIONAL REFUGEE ORGANIZATION

.. IV. The Conference advocates that the eligibility of refugees coming under the high Commissioner's mandate should, in the final instance, be determined by the High Commissioner or an inter-Governmental body assisting him, and that arrangements be made to that end by the inclusion of appropriate clauses in the Convention relating to the Status of Refugees or by other suitable means..

The Conference also advocates the adoption of a similar procedure for determining whether particular individuals are entitled to enjoy the right of asylum.

RESOLUTION ON DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES

The Conference expresses the wish that the Draft Convention relating to the Status of Refugees and the Draft Protocol relating to the Status of Stateless Persons be adopted at an early date and that thereafter these instruments be ratified by as many States as possible.

List of Non-Governmental Organizations Represented at the 2nd Conference/Liste des Organisations non-gouvernementales représentées à la deuxième conférence

Agudas Israel world Organization (Organisation Mondiale Agudas Israel)

Aid Suisse à l'Europe

American Jewish Joint Distribution Committee

Australian Council for International social service

Caritas Internationalis

Catholic International Union of Social Service

Commission of the Churches on International Affairs (Comité des Eglises pour les Affaires internationales)

Comité Israelita de Socorros

Co-ordinating Board of Jewish Organizations for Consultation with ECOSOC

(Comité de Coordination d'Organisations juives chargé des consultations avec le Conseil économique et social des Nations Unies)

Consultative Council of Jewish Organizations (Conseil consultatif d'Organisations

juives)

International Bureau for the Unification of Penal Law (Association Internationale de droit pénal)

International Catholic Girls society (Association Catholique internationale des oeuvres de protection de la jeune fille)

International Catholic Migration Commission

International Committee of the Red Cross (Comité international de la Croix-Rouge)

International Confederation of Free Trade Unions (Confédération internationale des syndicats libres)

International Co-operative Alliance (Alliance coopérative internationale)

International Council of Women (Conseil international des Femmes)

International Federation of Christian Trade Unions (Confédération internationale des syndicats chrétiens)

International Federation of Friends of Young Women (Fédération internationale des Amies de la jeune fille)

International Federation of University Women (Fédération internationale des Femmes diplômées des Universités)

International League for the Rights of Man (Ligue internationale des droits de l'homme)

International Legal Assistance

International Relief Committee for Intellectual workers (Comité international d'aide aux intellectuels)

International Rescue Committee

International Social Service

International Union of Catholic Women's Leagues (Union internationale des Ligues féminines catholiques)

International Union for Children Welfare

Inter-Parliamentary Union (Union interparlementaire)

League of Red Cross Societies (Ligue des sociétés de la Croix-Rouge)

Pax Romana

Salvation Army (Armée du Salut)

Union OSE

United Service For New Americans

War Relief Services ? National Catholic Welfare Conference

Women's International League for Peace and Freedom (Ligue Internationale des Femmes pour la Paix et la Liberté)

World's Alliance of Y.M.C.A. (Alliance universelle des Unions chrétiennes de jeunes gens)

World Federation of Trade Unions (Fédération syndicale mondiale des Associations pour les Nations Unies)

World Jewish Congress (Congrès juif mondial)

World Federation of United Nations Associations

World Jewish Congress

World's Young Women's Christian Association (Alliance universelle des Unions chrétiennes de jeunes filles)

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons.
Extract of the Decisions of the Second Conference of Non-Governmental
Organizations Interested in Migration**

By General Assembly | 09 July 1951

UNITED NATIONS General Assembly
Distr. GENERAL
A/CONF.2/NGO.13
9 July 1951

ENGLISH

Original: ENGLISH/FRENCH

**CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND
STATELESS PERSONS**

Dual Distribution

**EXTRACT OF THE DECISIONS OF THE SECOND CONFERENCE OF NON-
GOVERNMENTAL ORGANIZATIONS INTERESTED IN MIGRATION**

held in Geneva, 16-22 March 1951, under the auspices of the United Nations and of the
International Labour Office

Statement submitted by the INTERNATIONAL UNION FOR CHILD WELFARE, a non-
governmental organization in consultative relationship with the Economic and Social
Council

The Executive Secretary has received the following statement which is circulated in
accordance with rule 27 of the Rules of Procedure of the Conference.

Submitted: 9 July 1951

Received: 9 July 1951

GENERAL PRINCIPLES CONCERNING THE PROTECTION OF MIGRANTS
based on the Universal Declaration of Human Rights

**THE CONFERENCE OF NON-GOVERNMENTAL ORGANIZATIONS INTERESTED IN
MIGRATION**

CONSIDERING that for social, economic or political reasons, many people leave their
country of origin or of residence,

CONSIDERING that at the present time migrants are faced with difficulties particularly of a
legal, political, economic and administrative nature preventing their freedom of emigration,
immigration and resettlement,

CONSIDERING that "the inherent dignity and the equal and inalienable rights of all
members of the human family" must likewise be recognised in the case of migrants,

DRAWS ATTENTION TO the United Nations Charter which lays on Member States the
duty of "promoting universal respect for, and observance of, human rights,"

DRAWS ATTENTION TO the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10 December 1948, several articles of which are of paramount importance for the welfare of migrants (in particular, Articles 2,6,7,13,14,15,16,22,23,25)

URGES all individuals and all organs of Society, in a spirit of understanding and broad human solidarity, bearing in mind everywhere and in all circumstances the provisions of the Universal Declaration of Human Rights, to observe the following principles in the field of protection of migrants:

I The right to leave any country, including his own" being internationally recognized for all human beings, this right shall not be limited by political considerations or legal or administrative provisions, or impeded by prohibitive charges or confiscatory measures.

II All States shall frame and interpret their legislation in a truly liberal spirit and without regard to reciprocity, with a view to facilitating the departure, transit, admission, freedom of residence and settlement of migrants.

III Migratory movements, in view of their of their international repercussions, should be planned and carried out rationally in conformity with the common interest of migrants and States alike, through the broadest collaboration of countries and public and private international bodies.

IV Every Migrant shall be entitled to receive, free of all charge, complete and unbiased information regarding the conditions of life and work likely to influence his free choice in migrating. He should be protected again his all misleading propaganda in this field.

V THE MIGRANT who is obliged to have recourse to the right of asylum shall also be entitled to special protection appropriate to his special status, both by the State granting asylum and by all States.

VI There shall be no discrimination, de facto or de jure, against a migrant for reasons such as race, religion, political opinions, financial means, country of origin of status as an alien.

VII Every migrant shall have the right in the receiving country to treatment on less favourable than that granted to nationals of that country, especially in all social, educational and religious matters, as well as in the sphere of civil rights.

VIII Every migrant shall have the right to do work in accordance with his abilities and within the limits of the laws which apply to the population generally. He shall be entitled to all rights enjoyed by workers who are nationals of the country as regards conditions of employment, wages, freedom of trade union, affiliation, public assistance and social security.

IX Every migrant, although he should endeavour to become part of the new community, shall be free to retain his cultural and religious heritage so as to stimulate the exchange of those spiritual values which are the common heritage of mankind. He shall be entitled to the free use of his mother tongue and, if need be, to the services of an interpreter.

X Every migrant shall have the benefit of suitable assistance during the period of his adjustment to living conditions in the country of settlement.

XI Every migrant shall be allowed to acquire citizenship of the country of settlement after a reasonable period of residence in such country.

XII No migrant, once admitted into a country, shall be expelled, deported or otherwise removed therefrom, unless such a measure is justified on grounds of public security and imposed by due process of law. Indigence, sickness, or unemployment shall in no circumstances be regarded as sufficient grounds for such removal. Persons entitled to invoke the right of asylum shall not be expelled or sent back to a territory where their lives or liberty would be in danger.

XIII Since the family is "the natural and fundamental unit of society", it shall be protected and migrants shall have the right to preserve its unity. The measures necessary to preserve that unity must be guaranteed. When the head of a family satisfies the necessary conditions for admission to a country, his dependents shall thereby become eligible for admission.

XIV The rights granted to a migrant shall extend to the members of his family.

XV Special measures shall be taken for the protection of migrant minors, particularly of parentless children and young girls, especially in the matter of guardianship and adoption.

XVI Every migrant shall be entitled at all stages of emigration and settlement to the moral, legal and material assistance of voluntary societies. States and inter-governmental organizations shall encourage and support the efforts of such organizations in every possible way.

XVII Every migrant shall bear in mind that all these rights all these rights imply a corresponding series of duties to the new community which receives him.

PROBLEMS CONCERNING REFUGEES AND MIGRANTS CREATED BY THE EXPIRATION OF THE INTERNATIONAL REFUGEE ORGANIZATION

.. IV. The Conference advocates that the eligibility of refugees coming under the High Commissioner's mandate should, in the final instance, be determined by the High Commissioner or an inter-Governmental body assisting him, and that arrangements be made to that end by the inclusion of appropriate clauses in the Convention relating to the Status of Refugees or by other suitable means.

The Conference also advocates the adoption of a similar procedure for determining whether particular individuals are entitled to enjoy the right of asylum.

RESOLUTION ON DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES

The Conference expresses the wish that the Draft Convention relating to the Status of Refugees and the Draft Protocol relating to the Status of Stateless Persons be adopted at an early date and that thereafter these instruments be ratified by as many States as possible.

List of Non-Governmental Organizations Represented at the 2nd Conference/Liste des Organisations non-gouvernementales représentées à la deuxième conférence

Agudas Israel world Organization (Organisation Mondiale Agudas Israel)
Aid Suisse à l'Europe

American Jewish Joint Distribution Committee
Australian Council for International social service
Caritas Internationalis
Catholic International Union of Social Service
Commission of the Churches on International Affairs (Comité des Eglises pour les Affaires internationales)
Comité Israelita de Socorros
Co-ordinating Board of Jewish Organizations for Consultation with ECOSOC (Comité de Coordination d'Organisations juives chargé des consultations avec le Conseil économique et social des Nations Unies)
Consultative Council of Jewish Organizations (Conseil consultatif d'Organisations juives)
International Bureau for the Unification of Penal Law (Association Internationale de droit pénal)
International Catholic Girls society (Association Catholique internationale des oeuvres de protection de la jeune fille)
International Catholic Migration Commission
International Committee of the Red Cross (Comité international de la Croix-Rouge)
International Confederation of Free Trade Unions (Confédération internationale des syndicats libres)
International Co-operative Alliance (Alliance coopérative internationale)
International Council of Women (Conseil international des Femmes)
International Federation of Christian Trade Unions (Confédération internationale des syndicats chrétiens)
International Federation of Friends of Young Women (Fédération internationale des Amies de la jeune fille)
International Federation of University Women (Fédération internationale des Femmes diplômées des Universités)
International League for the Rights of Man (Ligue internationale des droits de l'homme)
International Legal Assistance
International Relief Committee for Intellectual workers (Comité international d'aide aux intellectuels)
International Rescue Committee
International Social Service
International Union of Catholic Women's Leagues (Union internationale des Ligues féminines catholiques)
International Union for Children Welfare
Inter-Parliamentary Union (Union interparlementaire)
League of Red Cross Societies (Ligue des sociétés de la Croix-Rouge)
Pax Romana
Salvation Army (Armée du Salut)
Union OSE
United Service For New Americans
War Relief Services - National Catholic Welfare Conference
Women's International League for Peace and Freedom (Ligue Internationale des Femmes pour la Paix et la Liberté)
World's Alliance of Y.M.C.A. (Alliance universelle des Unions chrétiennes de jeunes gens)
World Federation of Trade Unions (Fédération syndicale mondiale des Associations pour

les Nations Unies)
World Jewish Congress (Congrès juif mondial)
World Federation of United Nations Associations
World Jewish Congress
World's Young Women's Christian Association (Alliance universelle des Unions chrétiennes de jeunes filles)

Draft Convention Relating to the Status of Refugees. Austria: Amendment to Article 26

By General Assembly | 09 July 1951

Austria: Amendment to Article 26

Add at the end of paragraph 1:

“This shall not apply, however, to a refugee against whom an expulsion or residence order has been issued under a judicial or administrative decision of the State in which he seeks asylum.”

Draft Convention Relating to the Status of Refugees. Italy: Amendment to Article 27

By General Assembly | 09 July 1951

Article 27

Delete the second sentence of paragraph 2.

Draft Convention Relating to the Status of Refugees. Italy: Amendments to Article 23

By General Assembly | 09 July 1951

Insert a new paragraph 2 worded as follows:

“As a purely exceptional measure, the Contracting States may reserve the right to withhold the issue of the travel document to refugees suspected on reasonable grounds of engaging in illicit traffic.”

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 27

By General Assembly | 09 July 1951

Article 27

At end of paragraph 2 add the words:-

“or a person or persons specially designated by the competent authority”

Draft Convention Relating to the Status of Refugees. France: Amendment to the Annex Concerning Travel Documents

By General Assembly | 09 July 1951

Paragraph 13, sub-paragraph 1: Delete the words:

“without a visa from the authorities of that country.”

Draft Convention Relating to the Status of Refugees. Belgium: Amendments to Article 32

By General Assembly | 09 July 1951

Article 32

Substitute the following for paragraph 2:

“As between two States parties to a previous instrument mentioned in paragraph 1 of this article, if one of the States is not party to this Convention, the previous agreement shall continue in force between the two States in respect of the subject with which it deals.”

Draft Convention Relating to the Status of Refugees. Colombia: Amendment to Article 26

By General Assembly | 09 July 1951

Substitute the following for the existing text:

“1. The Contracting States may grant territorial asylum to a refugee who enters or who is present in their territory without authorization, who presents himself without delay to the authorities, and who is classifiable as a political refugee.”

Draft Convention Relating to the Status of Refugees. Belgium: Amendment to Article 23

By General Assembly | 09 July 1951

Article 23 Travel documents

Subject to the requirements of national security or public order, the Contracting States shall issue to refugees lawfully resident in their territory travel documents for the purpose of travel outside their territory, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory and shall give sympathetic consideration to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

Draft Convention Relating to the Status of Refugees. Belgium: Amendment to Article 19

By General Assembly | 09 July 1951

Article 19

Substitute the following text for paragraph 3:

The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in questions.

Draft Convention Relating to the Status of Refugees. Belgium: Amendment to Article 20

By General Assembly | 09 July 1951

Article 20

Replace paragraphs 1, 2 and 3 by the following:

1. When the exercise of a right by a refugee would normally require the assistance of authorities in a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to other aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be regarded as authentic in the absence of proof to the contrary.

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted by the Conference on 9 July 1951

By General Assembly | 09 July 1951

Article 19 Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully in their territory the same territory the same treatment as is accorded to nationals in respect of the following matters:
 - (a) In so far as such matters are laws or regulations or are subject to the control of administrative authorities; remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions

on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provisions in respect of employment injury, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death or a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to individual refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-Contracting States.

Article 20 Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities in a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to other aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be regarded as authentic in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent refugees, fees may be charged for services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 22 and 23.

Article 21 Freedom of movement

The Contracting States shall accord to refugees lawfully in their territory the right to choose their place of residence and to travel freely within their territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 22 Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document issued pursuant to article 23.

Article 24 Fiscal charges

1. The Contracting States shall not impose upon refugees in their territory duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Draft Convention Relating to the Status of Refugees. Colombia: Amendment to Article 25

By General Assembly | 09 July 1951

Substitute the following for the existing text:

“A Contracting State shall permit a refugee to import and export assets under the same conditions as those imposed by its laws and regulations on other aliens.”

Delete paragraph 2.

Draft Convention Relating to the Status of Refugees. Belgium: Amendment to Article 27

By General Assembly | 10 July 1951

Amend the second sentence of paragraph 2 to read:

“Insofar as national security permits, the refugee shall be allowed to submit evidence to clear himself and to appeal to and be represented before a competent authority.”

Draft Convention Relating to the Status of Refugees. Sweden: Amendment to Article 26 (Paragraph 2)

By General Assembly | 10 July 1951

Amend paragraph 2 to read as follows:

“2. The Contracting States shall not apply to such refugees restrictions of movement other than those which are necessary and, except for reasons of national security, such

restrictions shall only be applied until his status in the country is regularised or he obtains admission into another country. The Contracting States shall allow such refugee a reasonable period and all the necessary facilities to obtain admission into another country.”

Draft Convention Relating to the Status of Refugees. Note Communicated by the International Labour Office

By General Assembly | 10 July 1951

With reference to the statement made by the representative of the I.L.O. on the question of refugee seafarers at the twelfth meeting of the Conference on 9 July 1951, the following text was submitted as a suggestion for consideration in connexion with article 23:

“2. For the purpose of paragraph I of this Article, the Contracting States shall give sympathetic consideration, in the case of a refugee who is a bona fide seafarer, to the possibility of allowing such a refugee to reckon any period spent as a crew member on board a ship flying the flag of a Contracting State as residence in the territory of that State.”

Draft Convention Relating to the Status of Refugees. Italy: Amendment to the text of the Travel Document Shown in the Annex to Document A/CONF.2/1

By General Assembly | 10 July 1951

Page 24: The fifth line of the text of the Travel Document to be amended to read:

“Accompanied by child (children) under sixteen years of age”.

Page 24/25: Add the following sentence to paragraph 3:

“The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it”.

Draft Convention Relating to the Status of Refugees. France: Amendment to Article 26

By General Assembly | 10 July 1951

Amend paragraph 1 to read as follows:

“1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee *coming direct from his country of origin*, who enters or who is present in their territory without authorization, *provided* he presents himself without delay to the authorities and shows good cause for his illegal entry or presence.”

Draft Convention Relating to the Status of Refugees. Australia - Canada: Amendment to Article 23

By General Assembly | 10 July 1951

Add the following:

“As an exceptional measure a Contracting State may withhold the issue of a travel document to a refugee if the circumstances are such that the issue of a passport would be withheld from a national of that State”.

Draft Convention Relating to the Status of Refugees. France: Amendment to Article 27

By General Assembly | 10 July 1951

Amend the second sentence of paragraph 2 to read as follows:

“The refugee shall as far as possible be allowed to submit evidence to clear himself and to appeal to and be represented before competent authority.”

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted on 10 July 1951

By General Assembly | 10 July 1951

Article 25 Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit a refugee to transfer assets which he has brought into its territory, to another country where he has been admitted for the purposes of resettlement.
2. The Contracting State shall give sympathetic consideration to the application of a refugee for permission to transfer assets wherever they may be and which are necessary for his resettlement to another country where he has been admitted.

Article 26 Refugees not lawfully admitted

- “1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who, being unable to find asylum even temporarily in a country other than one in which his life or freedom would be threatened enters or is present in their territory without authorization, provided he presents himself without delay to the authorities and shows good cause for his illegal entry or presence.”
2. The Contracting States shall not apply to such refugees restrictions of movement other than those which are necessary and such restriction shall only be applied until his status in the country is regularized or he obtains admission into another country. The Contracting States shall allow such refugee a reasonable period and all the necessary facilities to obtain admission into another country.

Draft Convention Relating to the Status of Refugees. Australia: Amendment to Article 30 (Paragraph 2)

By General Assembly | 11 July 1951

Replace the words ... “with any data”... etc. by ... “with any necessary data”... etc.

Draft Convention Relating to the Status of Refugees. Sweden: Amendment to Article 28

By General Assembly | 11 July 1951

Redraft article 28 as follows:

No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion, or where he would be exposed to the risk of being sent to a territory where his life or freedom would thereby be endangered.

By way of exception, however, such measures shall be permitted in the case where the presence of

Draft Convention Relating to the Status of Refugees. France - United Kingdom: Amendment to Article 28

By General Assembly | 11 July 1951

Add a new paragraph 2 worded as follows:

“The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is residing, or who, having been lawfully convicted in that country of particularly serious crimes or offences, constitutes a danger to the community thereof.”

Draft Convention Relating to the Status of Refugees. Report of the Committee Appointed to Study Article 3 (Non-Discrimination) of the Draft Convention Relating to the Status of Refugees

By General Assembly | 11 July 1951

1. Following a preliminary discussion of Article 3, in the fourth and fifth meetings of the Conference on July 4th, the conference approved the suggestion of the President that a committee consisting of the delegates of Australia, Belgium, France, Israel, United Kingdom and United States of America should be appointed. The President presided over the deliberations of the Committee. Its terms of reference were: “To discuss the text in question and to submit an approved draft to the conference for its further consideration”.

The Committee held seven meetings on July 5, 6, 9 (two meetings) 10 and 11 (two meetings).

2. The difficulties which arose in connection with this article were due mainly to the difference in wording of the French and English texts of Article 3.

The French text of this Article reads as follows: "Aucun Etat contractant ne prendra de mesures discriminatoires sur son territoire, contre un réfugié en raison de sa religion ou de son pays d'origine."

The English version reads as follows: "No Contracting state shall discriminate against a refugee within its territory on account of his race, religion or country of origin."

The difficulties referred to above can be summarized as follows:

a. It was maintained that while the English version contained a prohibition of discrimination against refugees only "within the territory" of the contracting states, the French version implied that this prohibition extended to all activities of States in regard to refugees, be they within their boundaries or beyond them. While non-discrimination on grounds of race or religion did not raise any difficulties, apprehension was felt that non-discrimination on the ground of country of origin might be interpreted as prohibiting systems of selective immigration on the basis of quotas assigned to particular countries.

b. It was thought that the words "within, its territory" in the place where they occur in the English text could be interpreted a contrario as permitting such discrimination outside the territory of the Contracting State. A document drawn up under the auspices of the United Nations ought not to be susceptible of such an interpretation.

c. It was furthermore felt by some delegations that the expression "within its territory" in the English text might - if restrictively interpreted - exclude the operation of the non-discrimination clause, in regard to those articles of the Convention whose effect is extra-territorial, as, for instance, Articles 7, 11 (par.3), 19 (par.2) and 23.

d. Finally, it was thought by other members of the committee that a provision on non-discrimination must be an explicit one, and could not appropriately be inserted in Articles establishing facts, but not imposing obligations, as, for instance, Article 1.

3. It was noted during the discussion that, whatever might be the scope of Article 26, the convention does not deal either with the admission of refugees (in countries of first or second asylum) or with their resettlement (in countries of immigration).

4. The members of the Committee were in full agreement in their adherence to the principle of non-discrimination, in their desire to reach an acceptable (preferably a unanimous) solution which should cover the whole Convention, and in their determination not to "legislate" beyond the Convention.

5. As a result of the discussion, the Committee was faced with the following choices:

(1): the English version of article 3.

(2): the French version of Article 3 as interpreted by the French-speaking delegations.

(3): the following text of Article 3:

"No Contracting State shall discriminate against a refugee on account of his race, religion or country of origin."

(It will be noted that the words “within its territory” have been emitted.)

(4): an Article 3 consisting of 2 paragraphs of which the first is identical with choice (3) and the second should read as follows:

“The present provision does not affect the conditions of immigration or residence-permit to which foreigners, whether or not they are refugees are subject”.

(5): delete Article 3 and insert in Article 1 (Definition) Section A, second line, between the words “to any persons” and “who” the words: “without discrimination as to race, religion or country of origin.”

(6): a new Article which would replace Article 3 and would immediately follow Article 1 reading as follows:

“The Contracting States shall apply the provisions of this Convention to persons defined in Article 1, without discrimination as to race, religion or country of origin.”

6. The President took the sense of the Committee on these six choices. The members were asked to indicate whether or not they objected to any one of these choices. The result of this canvass was as follows:

Choice (1) = 2 objections

Choice (2) = 3 objections

Choice (3) = 2 objections

Choice (4) = 2 objections

Choice (5) = 1 objections

Choice (6) = no objection but some members raised the problem of the connection between the non-discriminatory clause and the final text of Article 1.

7. The Committee unanimously decided to submit this report to the Plenary Conference for further consideration.

Draft Convention Relating to the Status of Refugees. Netherlands: Amendment to Article 1

By General Assembly | 12 July 1951

Substitute for paragraph (3) of Section B the following two paragraphs:

“(3a) Having voluntarily acquired a new nationality;

(3b) Having involuntarily acquired a new nationality, he nevertheless avails himself of the protection of the country of his new nationality”.

Draft Convention Relating to the Status of Refugees. Text of an Article Adopted by the Conference on 12 July 1951

By General Assembly | 12 July 1951

Article 23 - Travel documents

1. The Contracting States shall issue to refugees lawfully resident in their territory travel documents for purpose of travel outside their territory, unless imperative reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory and shall give sympathetic consideration to refugee in their territory who are unable to obtain a travel document from the country of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted by the Conference on 11 July 1951

By General Assembly | 12 July 1951

Article 27 Expulsion of refugees lawfully admitted

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
- 2.¹ Except where this is precluded for imperative reasons of national security, the refugee shall be allowed to submit evidence to clear himself, to lodge an appeal and be represented for the purpose before a competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such refugees a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 28 Prohibition of expulsion to territories where the life or freedom of a refugee is threatened

1. No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he finds himself, or whom having been definitely convicted of particularly serious crimes, constitutes a danger to the community thereof.

Article 29 Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

1 The Conference adopted this paragraph on the basis of the French text. The above wording is a translation made by the Secretariat.

Draft Convention Relating to the Status of Refugees. France: Amendment to Article 1

By General Assembly | 13 July 1951

Article 1

A - paragraph 2.

After the words “As a result of events occurring”, insert the words “in Europe”.

Draft Convention Relating to the Status of Refugees. Netherlands: Amendment to Article 1

By General Assembly | 13 July 1951

Add the following paragraph to Section B:

“(f) Within a period of ten consecutive years of habitual residence in the country where he has been lawfully admitted, he has not availed himself of the possibility or the opportunity to acquire the nationality of that country, or, having applied for the nationality of that country, he has not acquired it because of his misbehaviour during the time of his residence in the country.”

Draft Convention Relating to the Status of Refugees. Federal Republic of Germany: Amendment to Article 1

By General Assembly | 13 July 1951

Substitute the following for the text of paragraph E:

E. The provisions of the present Convention shall not apply to any person with respect to whom there are serious reasons for considering that (a) he has committed a war crime or a crime against humanity as specified in article 147 of the Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War and in the corresponding articles of the three other Geneva Conventions of the same date and in article III of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948; or (b) he has committed a crime against peace, namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing; or (c) he falls under the provisions of article 14, paragraph 2, of the Universal Declaration of Human Rights.

Draft Convention Relating to the Status of Refugees. United Kingdom: Alternative Amendments to Section E of Article I

By General Assembly | 13 July 1951

Alternative 1

Delete paragraph (b)

Alternative 2

Substitute for paragraph (b) the following:

“(b) that he has committed an act contrary to the purposes and principles of the United Nations”²⁴

Draft Convention Relating to the Status of Refugees. Holy See: Amendment to Article 1

By General Assembly | 16 July 1951

Insert the following after the words “before 1 January 1951” in section A (2):

“In Europe, or in Europe and other continents, as specified in a statement to be made by each High Contracting Party at the time of signature, accession or ratification.”

Draft Convention relating to the Status of Refugees. Israel: Amendment to Article 1

By General Assembly | 16 July 1951

Article 1 Section B/5/ to be redrafted as follows:

He can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality.

Provided that this paragraph shall not apply to refugees falling under section A/1/ of this Article who are able to invoke compelling family reasons, or reasons arising out of previous persecutions for refusing to avail themselves of the protection of the country of nationality.

Draft Convention Relating to the Status of Refugees. Belgium: Amendments to Article 1

By General Assembly | 16 July 1951

In Section A, paragraph 1, delete the words “Since 1 August 1914”.

In Section D (French text only) replace the words “élu domicile” by the words “a établi sa résidence”.

Replace Section F by the following provisions:

“If a Contracting State decides to add to the definition of the term ‘refugee’ contained in the present article persons in other categories, including such as may be recommended by the General Assembly, it shall notify the Secretary-General of the United Nations, who shall request the other Contracting States to inform him whether they accept that extension and, if so, when it may be considered as entering into force in their territory. The Secretary-General shall notify all Contracting States of any decisions taken in the matter”.

Draft Convention Relating to the Status of Refugees. People’s Federal Republic of Yugoslavia: Amendments to article 1

By General Assembly | 16 July 1951

Amendments to article 1

Section A, paragraph (1) - Delete the present text of sub-paragraph 2 and substitute the following:

“Decisions as to eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of the present article or withdrawn from persons who do not fulfil them”.

Section F - Insert the words “Subject to the provisions of paragraph E” before the present text.

Draft Convention Relating to the Status of Refugees. Israel: Amendment to Article 1

By General Assembly | 16 July 1951

Article 1, Section B (b) to be redrafted as follows:

Being a person who has no nationality he can no longer, because the circumstances in connexion with which he has been recognised as a refugee have ceased to exist and he is able to return to the country of his former habitual residence

Provided that this paragraph shall not apply to refugees falling under section A/1/ of this Article who are able to invoke compelling family reasons, or reasons arising out of previous persecutions for refusing to return to the country of his habitual residence.

Draft Convention Relating to the Status of Refugees. Israel - United Kingdom: Note on Article 3 (B)

By General Assembly | 17 July 1951

1. Article 3 (B) of the Draft Convention reads as follows:

Article 3 (B)

For the purpose of this Convention:

(a) The term “In the same circumstances” implies that the refugee must satisfy the same requirement, including the same length and conditions of sojourn or residence, which are prescribed for the national of a foreign State for the enjoyment of the right in question,

(b) In those cases in which the refugee enjoys the “same treatment accorded to nationals” the refugees must satisfy the conditions required of a national for the enjoyment of the right in question.

2. The Australian Delegation submitted on 3 July the following amendment to this Article (A/CONF.2/14):

ADD TO ARTICLE 3 (B) Subsection (c)

The term “discriminate” shall be taken to mean discriminate between refugees and other aliens.

which, however, was withdrawn in the fifth meeting of the Conference.

3. During the debate in the fifth meeting, the delegate of Israel called attention to the fact that in certain cases refugees could not satisfy the same requirements as those prescribed for nationals or “aliens in general”. He called for recognition of the particular nature of the refugee and suggested that the Article 3 (B) needs reformulation. He was supported by the delegate of U.K. who expressed the hope that a reformulation of this clause might allay some apprehensions of the Australian Government.

The president asked the delegates of Israel and U.K. to get together and redraft Article 3 (B).

During lunch-time, the two delegates got together for a brief exchange of views which were summarised by the delegate of U.K. as follows:

Mr. HOARE (United Kingdom) said that he and the Israeli representative had not been able to do more than consider the issues involved in the article. The first point was whether it was necessary to define the terms “In the same circumstances” and “same treatment accorded to nationals”. The argument could be adduced that those were not the only terms which would need interpretation, but that other terms such as “lawfully and habitually resident” which were used throughout the text of the draft Convention should also be defined. If the Conference were to embark on a study of definitions, however, it would have to extend its work.

The second question was, did sub-paragraph (b) of Article 3(B) serve any useful purpose? The Israeli representative had rightly pointed out at the preceding meeting that a refugee might not be able to satisfy the conditions required, because he was a refugee and not a national. It would be very difficult so to redraft that sub-paragraph as to exclude those conditions which a refugee was incapable of fulfilling. The provision consequently had somewhat dangerous aspects.

Sub-paragraph (a) might indeed serve a useful purpose and might possibly be combined with the Australian proposal for an additional article (A/CONF.2/19).

Such definitions as were retained should, in his view, be included in the final clauses. He therefore believed that the wisest method would be to defer consideration of Article 3 (B)

A second consultation between the two delegations took place on July 12. The results of this consultation are summarized in the following paragraphs:

4. A survey of the particular articles of the Convention (A/CONF.2/1 and A/CONF.2/L.12 Add.1, 2, 3, 4)¹ reveals that:

a) national treatment is accorded to refugees in Articles 9, 11(1,2,3), 15, 17(1), 18 and 19. The languages used in this connection are:

aa) ...”as is accorded to nationals” (Article 9 - Artistic Rights and Industrial Property; Article 17(1), Elementary education; Article 19(1), Labour Legislation and social Security);

bb) “ as is accorded to their nationals (Article 18 - Public Relief);

cc) “ the treatment granted to a national” (Article 11(3), Access to Courts);

dd) “Same rights and privileges as a national” “on the same conditions as a national”, (Article 11(2), Access to Courts).

ee) “ treated on the same footing as nationals” (Art..15, Rationing);

Attention is called to the fact that no uniform language is used in describing “national treatment”. In addition, only once (Art..11(2)) is there any express reference to the same conditions as must in fact be subject to certain conditions.

b) treatment accorded to aliens generally in the same circumstances is mentioned in Articles 8,13,14(1), 16, 17(2), 21). The language used is as follows:

aa) “ accorded generally to aliens in the same circumstances” Art..8, Movable and immovable property; Art..13 Self-employment; Art..14 1 , Liberal professions; Art..16, Housing; Art..172, Education other than elementary);

bb) “.... Subject to any regulations applicable to aliens generally in the same circumstances” (Art..21, Freedom of movement);

c) treatment accorded to the most favoured foreigners in the same circumstances is mentioned in Articles 10, 12.1 The language used is:

“ the most favourable treatment accorded to nationals of a foreign country in the same circumstances”.

5. Provided that the language of the Articles mentioned in paragraphs a) and b) above has been uniformly redrafted, it is suggested in regard to Article 3 (B):

(1) to drop paragraph (b) as meaningless: the optimum of this Conventions is to give to refugees national treatment but not more than that. This certainly implies that this treatment is given under the same conditions as to nationals in those particular respects, as artistic rights, access to Courts, rationing, elementary education, public relief, labour legislation and social security. The use of the expression “on the same conditions as a national” in Art..11 2 , seems therefore to be undesirable and could be avoided by re-drafting, e.g.:

“... He shall enjoy the same treatment as regards the benefit of legal assistance and exemption from the *cautio judicatum solvi* as is accorded to a national”.

(2) As regards paragraph (a), the following wording is suggested to meet the difficulties raised in the fifth meeting:

The term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

It is thought that the reference to the particular individual will remove a difficulty of the present text - namely that within the general category of “nationals” or “aliens generally” conditions and requirements may not be uniform, and it is not clear which of them would be applicable to the case of a particular refugee. The new wording proposed should therefore assist to meet the points raised by the Australian delegation. The exception is intended to exclude conditions which a refugee, as such, is incapable of fulfilling, as, for instance, the requirement of *HEIMATRECHT* in certain Central-European countries for enjoyment of social security.

6. It is suggested that if the above redraft of paragraph (a) of article 3 (B) is adopted it should be placed at the end of the Convention, either as the only interpretative provision or along with others whose insertion in the Convention may be deemed by the Conference to be necessary.

1 The language referred to in the following pages is that used in the respective Articles as they have been amended by this Conference.

Draft Convention Relating to the Status of Refugees. Netherlands: Amendment to Article 31

By General Assembly | 17 July 1951

Substitute for the present text the following:

“Each of the Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which it may adopt to ensure the application of this Convention.”

Draft Convention Relating to the Status of Refugees. Israel: Amendment to Article 1

By General Assembly | 17 July 1951

Article 1, Section B (6) to be redrafted as follows:

Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, unable to return to the country of his former habitual residence

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling family reasons, or reasons arising out of previous persecutions for refusing to return to the country of his habitual residence.

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted on 17 July 1951

By General Assembly | 17 July 1951

Article 2 General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulation as well as to measures taken for the maintenance of public order.

Article 3

The Contracting States shall apply the provisions of this Convention to persons defined in Article 1, without discrimination as to race, religion or country of origin.

Article 4 Exemption from reciprocity

1. Except where this Convention contains more favourable provisions a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. The rights and benefits already enjoyed by certain refugees, without regard to reciprocity, at the date of entry into force of this Convention shall continue to be accorded to them by the Contracting states.

In future, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States after a period of three years.

3. The provisions of paragraph 2 apply equally to the rights and benefits referred to in articles 8, 13, 14 and 16 of this convention as well as to rights and benefits other than those specified in this Convention.

Article 7 Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights dependent on personal status, more particularly rights attaching to marriage, previously acquired by a refugee, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right is one which would have been recognised by the law of that State had he not become a refugee.

Article 30 Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the office of the United Nations High Commissioner for refugees, or any agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this convention.

2. In order to enable the Office of the High Commissioner or other appropriate agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with data, statistics, and information requested concerning.

(a) the condition of refugees,

(b) the implementation of this convention, and

(c) all regulations, laws, decrees, etc., made by them concerning refugees.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 5

By General Assembly | 17 July 1951

Add new paragraph after paragraph I as follows:-

“Nothing in this Article shall prevent a Contracting State from exercising any rights over property or interests which it may acquire or has acquired as an Allied or Associated Power under a treaty of peace or other agreement or arrangement for the restoration of peace which has been or may be concluded as a result of the second world war. Furthermore the provisions of this Article shall not affect the treatment to be accorded to any property or interests which at the date of this Convention are under the control of such Contracting State by reason of a state of war which exists or existed between it and any other State.”

Report on Credentials

By General Assembly | 17 July 1951

In accordance with rule 2 of the rules of Procedure of the Conference, the President and Vice-Presidents have examined the credentials of representatives and have the honour to report as follows to the Conference:

1. The following 26 governments have designated representatives to the Conference:

AUSTRALIA, AUSTRIA, BELGIUM, BRAZIL, CANADA, COLOMBIA, DENMARK, EGYPT, FRANCE, FEDERAL REPUBLIC OF GERMANY, GREECE, HOLY SEE, IRAQ, ISRAEL, ITALY, LUXEMBOURG, MONACO, NETHERLANDS, NORWAY, SWEDEN, SWITZERLAND (the Swiss delegation is also representing LIECHTENSTEIN), TURKEY, UNITED KINGDOM, UNITED STATES OF AMERICA, VENEZUELA, YUGOSLAVIA.

A. REPRESENTATIVES OF GOVERNMENTS AUTHORIZED TO PARTICIPATE IN THE CONFERENCE.

2. The representatives of the following 25 Governments have submitted satisfactory credentials and other communications of appointment authorizing them to participate in the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:

AUSTRALIA, AUSTRIA, BELGIUM, BRAZIL, CANADA, COLOMBIA, DENMARK, EGYPT, FRANCE, FEDERAL REPUBLIC OF GERMANY, HOLY SEE, IRAQ, ISRAEL, ITALY, LUXEMBOURG, MONACO, NETHERLANDS, NORWAY, SWEDEN, SWITZERLAND (also for LIECHTENSTEIN), TURKEY, UNITED KINGDOM, UNITED STATES OF AMERICA, VENEZUELA, YUGOSLAVIA.

3. The Executive Secretary of the Conference has received a letter signed on behalf of the Greek Minister in Switzerland informing him of the appointment of the Greek delegation. The representative of GREECE has not yet submitted his credentials.

B. REPRESENTATIVES OF GOVERNMENTS AUTHORIZED TO SIGN THE INSTRUMENTS PREPARED BY THE CONFERENCE.

4. The plenipotentiaries of the following 11 Governments have produced due authority enabling them to sign, on behalf of their respective Governments, the diplomatic instruments to be drawn up by the Conference:

AUSTRIA, BELGIUM, DENMARK, HOLY SEE, LUXEMBOURG, MONACO, NORWAY, SWEDEN, SWITZERLAND (also on behalf of LIECHTENSTEIN), UNITED KINGDOM, YUGOSLAVIA.

5. Cables have been received from the Ministers of foreign affairs of BRAZIL, ISRAEL and TURKEY

Stating that the representatives of these three countries are entitled to sign on behalf of their respective Governments the instruments to be drawn up by Conference. These cables further state that formal credentials have been despatched.

The Minister of Foreign Affairs of COLOMBIA, in a letter received by the Secretary-General, states that the representative of this country will be provided with the necessary power to sign, in the name of the Government of Colombia, the Convention and Protocol on the Status of Refugees and Stateless Persons.

The formal credentials enabling the representatives of the four countries mentioned above to sign have not yet been submitted.

Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to Article 31

By General Assembly | 17 July 1951

Delete Article 31.

Draft Convention Relating to the Status of Refugees. Article 34: Text Suggested by the Secretariat

By General Assembly | 18 July 1951

1. This Convention shall be opened for signature at Geneva (date of ceremony of signature at close of Conference) and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from to July 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 1951 to 1952.
2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other state invited to attend the Conference of Plenipotentiaries on the status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the Economic and Social Council. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. This Convention shall be open from (first date selected in paragraph 1 for opening for signature at United Nations Headquarters) for accession by the states referred to in paragraph 2 of this Article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Draft Convention Relating to the Status of Refugees. Text of Articles Adopted on 18 July 1951

By General Assembly | 18 July 1951

Article 3 (B)

For the purpose of this Convention the term “ in the same circumstances “ implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 31

Each of the Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which it may adopt to ensure the application of this Convention.

Article 32 Relation to previous Conventions

1. Without prejudice to article 23, paragraph 2, of this Convention, this Convention replaces the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, and the Agreement of 15 October 1946, as between all parties to this Convention.
2. As between two States parties to a previous instrument mentioned in paragraph 1 of this article, one of which is not party to this Convention, the previous agreement shall continue in force.

3. Each of the above-mentioned instruments shall be deemed to be terminated when all the States parties thereto shall have become parties to this Convention.

Article 33 Settlement of disputes

If any dispute shall arise between parties to this Convention relating to its interpretation or application, and if such dispute cannot be settled by other means, the dispute shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice.

Article 34

1. This Convention shall be opened for signature at Geneva (date of ceremony of signature at close of Conference) and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office to United Nations from to 31 July 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 1951 to 31 December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from (first date selected in paragraph 1 for opening for signature at United Nations Headquarters) for accession by the States referred to in paragraph 2 of this Article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 35 Colonial clause

1. Any State may, at the time of signature, ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that the present Convention shall extend to all or any of the territories for the international relations of which it is responsible. This Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the day of receipt by the Secretary-General of the United Nations of this notification.

2. Each State undertakes with respect to those territories to which the Convention is not extended at the time of signature, ratification or accession to take as soon as possible the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

3. The Secretary-General of the United Nations shall communicate the present Convention to the States referred to in article 36 for transmission to the responsible authorities of:

- (a) Any Non-Self-Governing Territory administered by them;
- (b) Any Trust Territory administered by them;

(c) Any other non-metropolitan territory for the international relations of which they are responsible.

Article 36 Reservations

1. At the time of signature, ratification or accession, Contracting States may make reservations to articles of the Convention other than articles 1, 3, 11 (1), 28, 31 and following.
2. The Contracting State making reservations in accordance with paragraph 1 of this article may at any time withdraw these reservations by a communication to that effect addressed to the Secretary-General. The Secretary-General shall bring communication to the attention of the other Contracting States.

Article 37 Entry into force

This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 38 Denunciation

1. Any Contracting State may denounce this Convention at any time by a written notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.
3. Any Contracting State which has made a declaration under article 35, paragraph 1, may at any time thereafter, by a written notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 39 Revision

Any Contracting State may request revision of this Convention at any time by a written notification addressed to the Secretary-General of the United Nations.

The General Assembly shall recommend the steps, if any to be taken in respect of such request.

Draft Convention Relating to the Status of Refugees. Style Committee: Matters to be Drawn to the Attention of the Style Committee

By General Assembly | 18 July 1951

NOTE BY THE SECRETARIAT

ARTICLE 1 Section D

The attention of the Style Committee is drawn to a discrepancy between the English and French texts. The English text reads “The country in which he has taken residence” and the French text reads “Du pays dans lequel cette personne a élu domicile.”

ARTICLE 3

The attention of the Style Committee is drawn to the fact that article 3 may require redrafting in the light of the text adopted for Article 1, Section A (par.2).

ARTICLE 3 A

The attention of the Style Committee is drawn to the discrepancy in the English and French texts: in English “prior to or part from” and in French “indépendamment de”.

ARTICLE 14

Paragraph 2 of article 14 was adopted by the Conference on the understanding that the words “In their colonies, protectorates or in trust territories under their administration” might require redrafting.

ARTICLE 17

The attention of the Style Committee is drawn to the fact that the text of the article requires revision in order to introduce that title “Public education” into the text of the article itself, as the title will be deleted in the final text of the Convention.

ARTICLE 19

The attention of the Style Committee is drawn to the suggestion made in the Plenary Conference that the word “individual” before “refugee” in the English text might be deleted.

ARTICLE 21

The attention of the Style Committee is drawn to the discrepancy in the English and French texts in the use of the words in English “Lawfully in their territory” and in French “régulièrement sur leur territoire”.

ARTICLE 25

The attention of the Style Committee is drawn to the discrepancy in the English and French texts in the phrase in English “to transfer assets which he has brought with him into its territory” and in French “transférer les avoirs qu'ils ont fait entrer sur leur territoire”.

ARTICLE 27

Paragraph 2 of this article was adopted on the basis of the French text. The Style Committee may wish to review the English translation prepared by the Secretariat.

ARTICLE 28

The attention of the Style Committee is drawn to the English text which reads “particularly serious crimes” and the French which reads “pour des crimes ou délits particulièrement graves”.

Draft Convention Relating to the Status of Refugees. Style Committee: Text of Articles Adopted

By General Assembly | 18 July 1951

Article 2 General obligations

Every refugee has duties to the country in which he finds himself which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3 Non-discrimination

The Contracting States shall apply the provisions of this Convention to persons defined in Article 1, without discrimination as to race, religion or country of origin.

Article 3(A)

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees prior to or apart from this Convention.

Article 3(B)

For the purpose of this Convention

(a) The term "in the same circumstances implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 4 Exemption from reciprocity

1. Except where this Convention contains more favourable provisions a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
2. The rights and benefits already enjoyed by certain refugees, without regard to reciprocity, at the date of entry into force of this Convention shall continue to be accorded to them by the Contracting States.

In future, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States after a period of three years' residence.

3. The provisions of paragraph 2 apply equally to the rights and benefits referred in articles 8, 13, 14 and 16 of this Convention as well as to rights and benefits other than those specified in this Convention.

Article 5 (a)

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstance, from taking provisional measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting state that that person is in fact a refugee and that such measures are still necessary in his case in the interests of national security.

Article 6 Continuity of residence

The Contracting States agree that:

1. Where a refugee has been forcibly displaced during the Second World war and removed to the territory of a Contracting State, and is residing there, the period of 'such enforced sojourn shall be considered to have been lawful residence within that territory.
2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has subsequently returned there prior to the date of the entering into force of this Convention, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 7 Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights dependent on personal status, more particularly rights attaching to marriage, previously acquired by a refugee, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right is one which would have been recognised by the law of that State had he not become a refugee.

Article 8 Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 9 Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, industrial designs or models, trade marks, trade names, and of rights in literary, scientific and artistic works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 10 Right of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 11 Access to Courts

1. A refugee shall have free access to the courts of law on the territory of the Contracting States.

2. In the country in which he has his habitual residence, a refugee shall enjoy in this respect the same rights and privileges as a national. He shall, on the same conditions as a national, enjoy the benefit of legal assistance and be exempt from *cautio judicatum solvi*.

3. In countries other than that in which he has his habitual residence a refugee shall be accorded, in these matters, the treatment granted to a national of the country of his habitual residence.

Article 12 Wage-earning employment

1. The Contracting State shall accord to refugees lawfully living in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

(a) He has completed three years' residence in the country;

(b) He has a spouse possessing the nationality of the country, of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse.

(c) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees in this regard to those of nationals, and in particular those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 13 Self-employment

The Contracting State shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances., as regards the right to engage on his own account in agriculture., industry., handicrafts and commerce and to establish commercial and industrial companies.

Article 14 Liberal professions

1. The Contracting States shall accord to refugees lawfully in their territory who hold diplomas recognized by the competent authorities of the country of residence, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in their colonies, protectorates or in Trust Territories under their administration.

Article 15 Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be treated on the same footing as nationals.

Article 16 Housing

As regards housing, the Contracting States in so far as the matter is regulated by laws or regulations, or is subject to the control of public authorities, shall accord to refugees lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances.

Article 17 Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment no less favourable than that accorded generally to aliens in the same circumstances with respect to education other than elementary education and, in particular, as regards access to studies, the remission of fees and charges and the award of scholarships.

Article 18 Public relief

The Contracting States shall accord to refugees lawfully in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 19 Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully in their territory the same treatment as is accorded to nationals in respect of the following matters:
 - (a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities; remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;
 - (b) Social security (legal provisions in respect of employment injury, maternity, sickness, disability) old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
 - (i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
 - (ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.
3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.
4. The Contracting States will give sympathetic consideration to extending to individual refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-Contracting States.

Article 20 Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities in a foreign country to whom he cannot have recourse the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to other aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be regarded as authentic in the absence of proof to the contrary.
4. Subject to such exceptional treatment as may be granted to indigent refugees, fees may be charged for the service's mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
5. The provisions of this article shall be without prejudice to articles 22 and 23.

Article 21 Freedom of movement

The Contracting States shall accord to refugees lawfully in their territory the right to choose their place of residence and to travel freely within their territory subject to any regulations applicable to aliens generally in the same circumstances.

Article 22 Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document issued pursuant to article 23.

Article 23 Travel documents

1. The Contracting States shall issue to refugees lawfully resident in their territory travel documents for the purpose of travel outside their territory, unless Imperative reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents, The Contracting States may issue such a travel document to any other refugee in their territory and shall give

sympathetic consideration to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 24 Fiscal charges

1. The Contracting States shall not impose upon refugees in their territory duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 25 Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit a refugee to transfer assets which he has brought into its territory, to another country where he has been admitted for the purposes of resettlement.

2. The Contracting State shall give sympathetic consideration to the application of a refugee for permission to transfer assets wherever they may be and which are necessary for his resettlement to another country where he has been admitted.

Article 26 Refugees not lawfully admitted

“1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who, being unable to find asylum even temporarily in a country other than one in which his life or freedom would be threatened, enters or is present in their territory without authorization, provided he presents himself without delay to the authorities and shows good cause for his illegal entry or presence.”

2. The Contracting States shall not apply to such refugees restrictions of movement other than those, which are necessary and such restrictions shall only be applied until his status in the country is regularized or he obtains admission into another country. The Contracting States shall allow such refugee a reasonable period and all the necessary facilities to obtain admission into another country.

Article 27 Expulsion of refugees lawfully admitted

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2.¹ Except where this is precluded for imperative reasons of national security the refugee shall be allowed to submit evidence to clear himself, to lodge an appeal and be represented for the purpose before a competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such refugees a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 28 Prohibition of expulsion to territories where the life or freedom of a refugee is threatened

1. No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he finds himself, or who, having been definitely convicted of particularly serious crimes, constitutes a danger to the community thereof.

Article 29 Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Article 30 Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the office of the United Nations High Commissioner for Refugees, or any agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of High Commissioner or other appropriate agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with data, statistics, and information requested concerning

(a) the condition of refugees,

(b) the implementation of this Convention, and

(c) all regulations, laws, decrees, etc., made by them concerning refugees.

[1](#) The Conference adopted this paragraph on the basis of the French text.

The above wording is a translation made by the Secretariat.

Draft Protocol Relating to the Status of Stateless Persons. Draft Final Clauses (Prepared by the Secretariat on the Request of the President of the Conference)

By General Assembly | 19 July 1951

Article A

If any dispute shall arise between parties to this Protocol relating to its interpretation or application, and of such dispute cannot be settled by other means, the dispute shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice.

Article B

1. This Protocol shall be opened for signature at Geneva (date of ceremony of signature at close of Conference) and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from to 31 July 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 1951 to 31 December 1952.

2. This Protocol shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Protocol shall be open from (first date selected in paragraph 1 for opening for signature at United Nations Headquarters) for accession by the States referred to in paragraph 2 of this Article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article C

1. Any State may, at the time of signature, ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that the present Protocol shall extend to all or any of the territories for the international relations of which it is responsible. This Protocol shall extend to the territory or territories named in the notification as from the thirtieth¹ day after the day of receipt by the Secretary-General of the United Nations of this notification²

2. Each State undertakes with respect to those territories to which the Protocol is not extended at the time of signature, ratification or accession to take as soon as possible the necessary steps in order to extend the application of this Protocol to such territories, subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

3. The Secretary-General of the United Nations shall communicate the present Protocol to the States referred to in article D for transmission to the responsible authorities of:

(a) Any Non-Self-Governing Territory administered by them;

(b) Any trust Territory administered by them;

(c) Any other non-metropolitan territory for the international relations of which they are responsible.

Article D

1. At the time of signature, ratification or accession, any State may make reservations in respect of the application, mutatis mutandis, to stateless persons to whom the Convention relating to the Status of Refugees does not apply, of the provisions of that Convention other than those contained in Articles 3 and 11(1) thereof.

2. The Contracting State making reservations in accordance with paragraph 1 of this article may at any time withdraw these reservations by a communication to that effect addressed to the Secretary-General.

Article E

This Protocol shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

For each State ratifying or acceding to the Protocol after the deposit of the sixth instrument of ratification or accession, the Protocol shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article F

1. Any Contracting State may denounce this Protocol at any time by a written notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any Contracting State which has made a declaration under article C, paragraph 1, may at any time thereafter, by a written notification to the Secretary-General of the United Nations, declare that the Protocol shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article G

Any Contracting State may request revision of this Protocol at any time by a written notification addressed to the Secretary-General of the United Nations.

The General Assembly shall recommend the steps, if any, to be taken in respect of such request.

Article H

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article B:

- (a) Of signatures, ratifications and accessions received in accordance with article B;
- (b) Of the date on which this Protocol will come into force in accordance with article E;
- (c) Of reservations, or withdrawals thereof, made in accordance with article D;
- (d) Of denunciations received in accordance with article F;
- (e) Of requests for revision received in accordance with article G.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments, and of which the English and French official texts are equally authentic.

Done at this day of, in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the Members of the United Nations and to the non-member States referred to in article B.

1 Attention is drawn to the need to bring this provision into line with Article E below, in respect of the time of coming into force of the Protocol for the territory or territories named in notifications under Article C, paragraph 1.

2 It will be observed that this draft paragraph, which is adapted from Article 35, paragraph 1, of the draft Convention relating to the Status of Refugees, would in its present form have the effect of extending the Protocol to the territory or territories referred to a certain period after receipt of a notification made, not only at the time of ratification or accession, but also at the time of signature. The provision appears to call for adjustment in this respect

Draft Convention Relating to the Status of Refugees. Austria: Amendment to paragraph 3

By General Assembly | 19 July 1951

Delete from paragraph 3 the mention of Article 27 of the Convention

Draft Convention Relating to the Status of Refugees. France: Proposal for the Inclusion of a New Article 6 (a)

By General Assembly | 19 July 1951

Article 6 (a)

“For the purposes of this Convention, the Contracting States shall give sympathetic consideration, in the case of a refugee who is a bona fide seafarer, to the possibility of allowing such a refugee to reckon any period spent as a crew member on board a ship flying the flag of a Contracting State as residence in the territory of that State.”

Draft Convention Relating to the Status of Refugees. Israel: Proposal for a New Article

By General Assembly | 19 July 1951

Federal Clause

“a) With respect to any articles of this Convention which the Federal Government regards as appropriate under its constitutional system, in whole or in part, for federal legislative action, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States.

b) In respect of articles which the Federal Government regards as appropriate under its constitutional system, in whole or in part, for legislative action by the constituent states, provinces, or cantons, the Federal Government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the states, provinces or cantons at the earliest possible moment”.

Draft Convention Relating to the Status of Refugees. Report of the Working Group Appointed to Study Section E of Article I of the Draft Convention Relating to the Status of Refugees

By General Assembly | 19 July 1951

1. Following a preliminary discussion of Section E of Article 1, in the twenty-fourth meeting, the Conference approved the suggestion of the President that a Working Group should be appointed consisting of the delegates of France, the federal Republic of Germany, Israel and the United Kingdom. The High Commissioner for Refugees was also invited to participate in the working Group’s discussions. The terms of reference of the working Group were: “To discuss the text in question and the proposed amendments thereto (A/CONF.2/74 and 76) and to submit an approved draft to the Conference for its consideration.”

2. The Committee held two meetings on July 17 and 19 under the Chairmanship of the President.

3. After an exchange of views, the representative of the United Kingdom proposed that (a) of Section E should be amended to read as follows:

“ (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes.”

The delegation of the Federal Republic of Germany has accepted this wording. The representative of Israel reserved the position of his delegation.

4. The Working Group was not in a position to take action on point (b) of Section E.

Draft Convention Relating to the Status of Refugees. Luxembourg: Suggested New Article 17 (a)

By General Assembly | 19 July 1951

Article 17 (a)

The Contracting States shall grant refugees within their territories complete freedom to practise their religion both in public and in private and to ensure that their children are taught the religion they profess.

Draft Convention Relating to the Status of Refugees. Report of the Working Group Appointed to Study paragraph 13 of the Schedule to the Convention relating to the Status of Refugees and the Annex thereto (Specimen Travel Document)

By General Assembly | 19 July 1951

1. At its 18th meeting, the Conference appointed a Working Group consisting of the representatives of Canada, France, Italy, UK, USA and Venezuela, together with the High Commissioner for Refugees, to reformulate paragraph 13 of the Schedule to the Convention and to examine the Annex (Specimen travel Document) to the schedule.

2. The Committee held two meetings, on 18 and 19 July, 1951, under the chairmanship of the Conference.

3. The working Group agreed to propose that paragraph 13 sub-paragraph 1 of the Schedule be replaced by the following text:

“ 1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with Article 23 of this Convention shall be readmitted to its territory at any time during the period of its validity.

“2. Subject to the provisions of the preceding paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.”

Sub-paragraph 2 of paragraph 13 of the existing text of the Schedule would then become sub-paragraph 3.

4. In agreeing to the text, the French representative withdrew his amendment (A/CONF.2/59) to paragraph 13 (1) of the schedule. The representative of Venezuela reserved the position of his Delegation on the question of the proposed change in paragraph 13.

5. The Working Group decided to recommend the insertion, after paragraph 3 of the Specimen Travel Document, of an indication that each Contracting State may add at that point of a Travel Document issued by it the following phrase: “The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it.”

6. Subject to this proposed addition the Annex to the Schedule was approved.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Text of Article Adopted on 19 July 1951

By General Assembly | 19 July 1951

Article 5¹

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality, or shall, in appropriate cases, grant exemptions in favour of such refugees.

¹ The Conference adopted this article on the basis of the French text. The above text is a revised translation made by the Secretariat.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment to the Preamble

By General Assembly | 20 July 1951

[The Contracting States]

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have reaffirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination;

Considering that the United Nations has, on various occasions, and most recently by Resolution number 319 A (iv) of the General Assembly, manifested its profound concern for refugees and the need for their international protection;

Considering that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot be achieved without international co-operation;

Desiring to revise and consolidate previous international agreements relating to the protection of refugees and to extend the scope of the protection accorded by such instruments by means of a new agreement;

Noting that the High Commissioner for refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of states with the High Commissioner;

Have agreed as follows:

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Note by the Representative of Canada on the Federal Clause

By General Assembly | 20 July 1951

The following is the text of an alternative Federal State clause as read to the Conference by the representative of Canada at its thirtieth meeting on 20 July 1951:

“In the case of a Federal or non-unitary State the following provisions shall apply:

(a) With respect to those articles of this convention that come within the legislative jurisdiction of the federal legislative authority the obligations of the federal Government shall to this extent be the same as those parties which are not federal states:

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states, provinces or cantons, the Federal Government shall bring such articles with favourable recommendation to the notice of appropriate authorities of states, provinces or cantons at the earliest possible moment.

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.”

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment
to Article 6 (a)**

By General Assembly | 20 July 1951

In the case of refugees who are regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them, or their temporary admission to its territory for the purpose of establishment elsewhere.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. United Kingdom: Draft
Recommendation for Inclusion in the Final Act of the Conference**

By General Assembly | 20 July 1951

Considering that the issue and recognition of travel documents is necessary to facilitate the movement of refugees, and in particular their resettlement,

Urges Governments which are parties to the Inter-Governmental Agreement on Refugee Travel Documents signed in London on 15 October 1946, or which recognize travel documents issued in accordance with the Agreement, to continue to issue or to recognize such travel documents, and to extend the issue of such documents to refugees as defined in Article 1 of the Present Convention or to recognize the travel documents so issued to such persons, until they shall have undertaken obligations under Article 23 of the present Convention.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment
to the Proposal in the Federal Clause (A/CONF.2/90)**

By General Assembly | 20 July 1951

Add a new paragraph:

C) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has given to that provision by legislative or other action.

**Draft Convention Relating to the Status of Refugees. Text of an Article Adopted on
18 July 1951**

By General Assembly | 20 July 1951

Article 40 Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 34:

- (a) Of signatures, ratifications and accessions received in accordance with article 34
- (b) Of the date on which this Convention will come into force in accordance with article 37;
- (c) Of reservations made in accordance with article 36;
- (d) Of denunciations received in accordance with article 38;
- (e) Of requests for revision received in accordance with article 39.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments, and of which the English and French texts are equally authentic.

Done at this day of in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the Members of the United Nations and to the non-member States referred to in article 34.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons.
Style Committee: Note by the Secretariat on Documentation**

By General Assembly | 20 July 1951

The text of articles adopted by the Conference may be found in the following documents:

Article 1

A/CONF.2/L.1/Add.10

Article 2-4, 5(a), 6, 7-17, 18-30	A/CONF.2/AC.1/R.2
Article 5	A/CONF.2/L.1/Add.8
Article 6(a)	A/CONF.2/L.1/Add.11
Article 17(a)	A/CONF.2/L.1/Add.11
Article 31-39	A/CONF.2/L.1/Add.7
Article 40	A/CONF.2/L.1/Add.9
Article on the Federal Clause	A/CONF.2/L.1/Add.11
Schedule amp; Travel Document	A.Conf.2/L.1/Add.12

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Federal People's Republic of Yugoslavia: Suggested New Article

By General Assembly | 20 July 1951

The Contracting States shall do all within their power to prevent the refugee problem from becoming a cause of friction between States. To this end, they shall forbid all hostile activity on the part of political or other refugee organizations directed against the country of origin of the refugees concerned and intended to create tension in the relations between that state and those in which the refugees are living; all activity aimed at inciting the nationals of other countries to seek refuge or at preventing voluntary repatriation; activity designed to exploit the difficult position of refugees, with a view to using it for political ends contrary to the principles and purposes of the United Nations Charter. They shall further forbid the creation of refugee military formations.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Style Committee. Matters to be drawn to the attention of the Style Committee

By General Assembly | 21 July 1951

ARTICLE 5

The attention of the Style Committee is drawn to the fact that Article 5 was adopted on the basis of the French text and that the English version is a translation made by the Secretariat.

ARTICLE 6(a)

Article 6 (a) was adopted in substance by the Conference on the understanding that it would be redrafted by the Style Committee.

ARTICLE 17(a)

The principle expressed in Article 17 (a) was voted on and adopted by the Conference on the understanding that it would be redrafted by the Style Committee.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. Belgium: Draft
Recommendation for Inclusion in the Final Act of the Conference**

By General Assembly | 21 July 1951

THE CONFERENCE,

HAVING RECOGNIZED that it might be useful and expedient, should there be any differences of opinion relating to the interpretation or application of the Convention which cannot be resolved by other means, to allow the United Nations High Commissioner for Refugees to approach the International Court of Justice directly rather than wait until a Contracting State takes the initiative of submitting the matter to it in application of the relevant article of the Convention.

EXPRESSES THE HOPE that the General Assembly of the United Nations will authorize the United Nations High Commissioner for Refugees, in accordance with article 96 of the Charter of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of his activities.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. Israel: Proposal Concerning
the Preamble**

By General Assembly | 21 July 1951

The Conference of Plenipotentiaries on the Status of Refugees and Stateless persons convened in Geneva on 2 July 1951 under resolution 429 (V) of the General Assembly

- (1) Considering that the Charter of the United Nations reaffirmed faith in fundamental human rights and that the Universal Declaration of Human Rights was proclaimed on 10 December 1948;
- (2) Considering that the exercise of the right of asylum may place unduly heavy burdens on some countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation;
- (3) Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms;
- (4) Desiring to revise and consolidate previous international agreements relating to the protection of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement;

(5) Noting that the High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co/operation of State with the High Commissioner;

Have agreed as follows:-

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. Style Committee: Matters to be
Drawn to the Attention of the Style Committee. Note by the Secretariat**

By General Assembly | 21 July 1951

Article 32

The attention of the Style Committee is drawn to the Belgian amendment (A/CONF.2/53) to paragraph 2, which was submitted to the Conference but withdrawn on the understanding that it would be considered by the Style Committee.

Article 33

The Conference especially drew the attention of the Committee to the wording of Article 33, which requires redrafting.

Article 36

The attention of the Committee is drawn to the following drafting suggestions, which were made to the Conference by the Assistant Secretary-General in charge of the department of Legal Affairs:

1. Delete the word "Contracting" before "States" so that it might read:

" any State may make reservations....."

2. Delete the last sentence of paragraph 2 of Article 36 and amend subparagraph (c) of Article 40 to read: "of reservations made or withdrawals thereof"

Article 38

The attention of the Committee is drawn to the suggestion made to the Conference that the phrase "Any Contracting State" in paragraph 3 might read: "Any State".

Article 40

Attention is drawn to the suggestion that sub-paragraph (a) should read: "in accordance with Articles 34 and 35".

Attention is also drawn to the note relating to Article 36, containing the suggestion that sub-paragraph (c) might read: "of reservations made or withdrawals thereof"

Article on the Federal Clause

The attention of the Committee is drawn to the fact that the second sentence of paragraph (b) was voted in substance on the understanding that it would be redrafted by the Style Committee.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Style Committee: Matters to be Drawn to the Attention of the Style Committee. Note by the Secretariat

By General Assembly | 21 July 1951

Article 1

Section A, paragraph (1)

The attention of the Style Committee is drawn to the phrase reading in English: "Decisions as to eligibility" and in French "Les décisions d'éligibilité" at the beginning of the second sub-paragraph. The view expressed in the Conference that this might be redrafted by the Committee.

Paragraph 2

The attention of the Committee is drawn to the amendment presented by the United Kingdom representative (A/CONF.2/27) which was not voted upon by the Conference, but which it was thought might be redrafted by the Committee.

Section D

See note in Document A/CONG.2/AC.1/R.1

Section E

The attention of the Committee is drawn to the fact that sub-paragraphs (b) and (c) were adopted in French. The English text is a translation made by the Secretariat.

Section F

The Style Committee may bear in mind the suggestion that Section F be placed immediately after Section A.

Attention is drawn to the phrase reading in French: "s'ils acceptent cette extension en ce qui les concerne" and in English: "whether they accept that extension as far as it concerns them" which may require redrafting.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Style Committee. United Kingdom: Amendment to Article 1

By General Assembly | 23 July 1951

Substitute the following for the present Section A:

A.1. For the purposes of the present Convention the term “refugee” shall, subject to the provisions of Article X, apply to any person who is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence, and who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organisation;

(2) As a result of events occurring before 1 January 1951 is unable or, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is unwilling to avail himself of the protection of the country of his nationality, or, if he has no nationality is unable, or owing to such fear is unwilling to return to the country of his former habitual residence.

2. Decisions as to eligibility taken by the International Refugee Organisation during the period of its activities shall not prevent the status of refugees being granted to persons who fulfil the conditions of paragraph 1(2) of Section A of this article.

3. In the case of a person who has more than one nationality the term “country of his nationality” shall mean any of the countries of which he is a national, etc. etc. as in the present last paragraph of Article A.

Amendment to Section C of Article 1 (as it appears in paper A/CONF.2/L 1.Add 10). In the first paragraph omit the word “other” and insert after “United Nations” the words “other than the High Commissioner for Refugees”.

Proposed new article:

Article X. For the purposes of this Convention the words “as a result of events” in Article 1, Section A, shall mean either “as a result of events in Europe” or “as a result of events in Europe and other continents” and each Contracting State shall make a declaration at the time of signature, accession or ratification signifying which of these meanings it adopts for the purpose of its obligations under this Convention.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Holy See: Draft Recommendations for Inclusion in the Final Act of the Conference

By General Assembly | 24 July 1951

I

CONSIDERING that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened by a variety of measures relating either to admission to the receiving country, or to other circumstances connected with the refugee's life,

THE CONFERENCE

RECOMMENDS governments to take the necessary measures for the protection of the refugee's family, especially with a view to:

- 1) ensuring that the unity of the refugee's family is maintained, particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country;
- 2) extending the rights granted to the refugee to cover all the members of his family; and
- 3) providing special protection for refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.

II

CONSIDERING that in the moral, legal and material spheres, refugees need the help of suitable welfare services, especially that of appropriate non-governmental organizations;

THE CONFERENCE

RECOMMENDS governments and inter-governmental bodies to facilitate, encourage and sustain the efforts of properly qualified organizations.

III

CONSIDERING that at the present time a great many refugees leave their country of origin for political reasons and are entitled to special protection on account of their special position,

THE CONFERENCE

RECOMMENDS governments in the countries of first refuge to grant the right of asylum within their territories with the utmost liberality, and

RECOMMENDS all governments to undertake jointly with the countries of first reception to bear the costs arising out of the right of asylum in respect of refugees whose lives are in danger.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Text of Article 1 proposed by the Drafting Group (Belgium, Canada, Holy See, United Kingdom)

By General Assembly | 24 July 1951

New Section B of Article 1 to replace Section B (formerly Section F)

1. For the purposes of this Convention the words " events occurring before 1 January 1951" in Article 1, Section A, shall be understood to mean either

- (a) "events occurring in Europe before 1 January 1951"; or
- (b) "events occurring in Europe or elsewhere before 1 January 1951";

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

2. Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Report of the Style Committee

By General Assembly | 24 July 1951

CHAPTER V ADMINISTRATIVE MEASURES

Article 25 (formerly article 20) Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
5. The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26 (formerly article 21) Freedom of movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 27 (formerly article 22) Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document issued pursuant to article 28.

Article 28 (formerly article 23) Travel documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their

territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29 (formerly article 24) Fiscal charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30 (formerly article 25) Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. The Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31 (formerly article 26) Refugees unlawfully in the country of refuge

1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who, being unable to find asylum even temporarily in a country other than one in which his life or freedom would be threatened, enters or is present in their territory without authorization, provided he presents himself without delay to the authorities and shows good cause for his illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32 (formerly article 27) Expulsion of refugees lawfully admitted

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33 (formerly article 28) Prohibition of expulsion or return to territories where the life or freedom of a refugee is threatened

1. No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a trial judgement of a particular serious crime, constitutes a danger to the community of that country.

Article 34 (formerly article 29) Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI EXECUTORY AND TRANSITORY PROVISIONS

Article 35 (formerly article 30) Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the office of the United Nations High Commissioner for Refugees, or any agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or other appropriate agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

(a) the condition of refugees,

(b) the implementation of this Convention, and

(c) laws, regulations and decrees which are or may hereafter be in force relating to refugees

Article 36 (formerly article 31) Information on National Legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 37 (formerly article 32) Relation to previous Conventions

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30

June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946, as between all parties to this Convention.

CHAPTER VII FINAL CLAUSES

Article 38 (formerly article 33) Settlement of disputes

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39 (formerly article 34) Signature, Ratification or Accession

1. This Convention shall be opened for signature at Geneva on July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from to 31 August 1951 and shall be reopened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from (first date selected in paragraph 1 for opening for signature at United Nations Headquarters) for accession by the States referred to in paragraph 2 of this Article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40 (formerly article 35) Territorial Application Clause

1. Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which the Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

Article 41 (Federal Clause)

In the case of a Federal or non-unitary State under whose constitutional system ratification or accession does not bind the constituent States, Provinces or Cantons in matters within their legislative competence the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority the obligations of the Federal Government shall to this extent be the same as those parties which are not Federal States:

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons, the Federal Government shall bring such articles with favourable recommendation to the notice of appropriate authorities of States, provinces or cantons at the earliest possible moment. This paragraph shall not apply in a Federal State where the constituent States are, under its constitutional system, obliged to take such legislative action.

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42 (formerly article 36) Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1,3,4,16 (1), 33, 36-46 inclusive.
2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43 (formerly article 37) Entry into force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44 (formerly article 38) Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.
3. Any State which has made a declaration or notification under article 40, may at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45 (formerly article 39) Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. The General Assembly shall recommend the steps, if any, to be taken in respect of such request.

Article 46 (formerly article 40) Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

- (a) Of signatures, ratifications and accessions received in accordance with article 39;
- (b) Of declarations or notifications in accordance with article 40;
- (c) Of reservations and withdrawals in accordance with article 42;
- (d) Of the date on which this Convention will come into force in accordance with article 43;
- (e) Of denunciations and notifications in accordance with article 44;
- (f) Of requests for revision in accordance with article 45.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

Done at this day of, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

SCHEDULE AND TRAVEL DOCUMENT

(See document A/CONF.2/102/Add.3)

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Report of the Style Committee

By General Assembly | 24 July 1951

PREAMBLE

The High Contracting Parties

1. Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.

2. Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

3. Considering that it is desirable to advise and consolidate previous international agreements relating to the status of refugees and to extend the scope of the protection accorded by such instruments by means of new instruments.

4. Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international cooperation,

5. Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees shall do everything within their power to prevent this problem from becoming a cause of tension between States,

6. Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective coordination of measures taken to deal with this problem will depend upon the cooperation of States with the High Commission.

Have agreed as follows:

CHAPTER I GENERAL PROVISIONS

Article 1 Definition of the term “Refugee”

A. For the purposes of the present Convention, the term “refugee” shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitutions of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 in Europe, or in Europe and other continents, ¹ as specified in a statement² to be made by each High Contracting Party at the time of signature, accession or ratification, and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or owing to such fear is unwilling to return to it;

In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid

reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (Formerly Section F). Any Contracting State may at any time extend the obligations assumed in the statement made under article 1 (2) within the limits in choices provided in the said provision, by notification³ to the Secretary-General of the United Nations.

C. (Formerly Section B). This Convention shall cease to apply to a person falling under the terms of section a if:

(1) he has voluntarily reavailed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality.

Provided that this paragraph shall not apply to refugees falling under section A (1) of this Article who are able to invoke compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of the country of nationality.

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence.

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his habitual residence.

D. (Formerly Section C). This Convention shall not apply to persons who are at present receiving from or agencies or the United Nations other than the United Nations High Commissioner for refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the United Nations General Assembly, these persons shall ipso facto be entitled to the benefit of this Convention.

E. (Formerly Section D). This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. (Formerly Section E). The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

[1](#) The Committee could not agree on the meaning of the words "or in Europe and other continents" and felt that it was for the Plenary conference to decide whether these words should be maintained or another formulation substituted for them.

[2](#) Article 46 (formerly Article 40) should be amended to include a reference to such statements.

[3](#) Article 46 (formerly Article 40) should be amended to include a reference to such notifications.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Report of the Style Committee

By General Assembly | 24 July 1951

CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

(Item 6 of the Agenda)

Dual Distribution

DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES REPORT OF THE STYLE COMMITTEE

1. The Conference, at its twenty-sixth meeting on 18 July 1951, appointed a Style Committee composed of the President of the Conference and the representatives of Belgium, France, Israel, Italy, the United Kingdom and the United States of America to review the text of the draft Convention from the point of view of drafting and the concordance of the English and French texts and to take into consideration certain specific points referred to it by the Conference (A/CONF.2/R.1 and Add.1 - 3).

2. The Committee elected Mr. George L. Warren (United States of America) as its Chairman. It held six meetings on 19, 20, 21, and 23 July 1951.

3. At its first meeting the Committee decided that in the interests of uniformity, and to follow the practice established in other conventions, it would use the phrase "the present Convention" ("La presente Convention") the first time the Convention is mentioned in the text, and then use throughout the wording: "this Convention" ("Cette Convention").

4. The Committee thought that the English and French texts should agree in the use, in each text, of either the singular or the plural of the term “refugee,” and has in this respect amended the text where necessary.

5. The Committee experienced some difficulty with the phrases “lawfully in the territory” in English and “résident régulièrement sur le territoire” in French. It decided however that latter phrase in French should be rendered in English by “lawfully staying in the territory” and that “lawfully in the territory” would read in French: “se trouvant régulièrement sur le territoire.”

6. The Committee has maintained the general sequence of articles as adopted by the Conference in first reading with the exception of article 17 (a) (now entitled Religion) which it decided to place immediately after article 3 (non-discrimination). The article on the federal clause is included as article 41.

7. The Committee also decided to retain both the chapter headings and the headings of the individual articles.

8. In addition to these general decisions the Committee reviewed each article of the draft Convention with the exception of the Schedule and Travel document which it had not time to consider. The text as adopted by the Conference is contained in document A/CONF.2/L.1/Add.12. The Committee did not adopt a text for article 5 or paragraph 2 of article 14. The text contained in the Annex to this report is that which was adopted by the Conference itself. The Committee presents the following text of the Convention Relating to the Status of Refugees for the consideration of the Conference in second reading:

CONVENTION RELATING TO THE STATUS OF REFUGEES PREAMBLE (See document A/CONF.2/102/Add.2)

CHAPTER I GENERAL PROVISIONS

Article 1

(See document A/CONF.2/102/Add.2)

Article 2 General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conforms to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3 Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4 (formerly article 17 (a))

Religion

The Contracting States shall accord to refugees within their territories the same treatment as is accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

Article 5 (formerly article 3 (a))

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a contracting state to refugees apart from this convention.

Article 6 (formerly article 3 (b))

For the purpose of this convention the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7 (formerly article 4)

Exemption from Reciprocity

1. Except where this convention contains more favourable provisions a Contracting State shall accord to refugees the same treatment as in accorded to aliens generally.
2. After a period of three years' residence, all refugees shall enjoy exemption from Legislative reciprocity in the territory of the Contracting States.
3. Each Contracting State shall continue to accord to refugees, the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this convention for that State.
4. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, and 21 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8 (formerly article 5)*

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality, or shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9 (formerly article 5(a))

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10 (formerly article 6)

Continuity of Residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.
2. Where a refugee has been forcibly displaced during the Second World War from the territory of a contracting State and has, prior to the date of entry into force of this convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11 (formerly article 6 (a))

In the case of refugees who are regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II JURIDICAL STATUS

Article 12 (formerly article 7)

Personal Status

1. The personal status of a refugee shall be governed by the Law of the country of his domicile or, if he has no domicile, by the Law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the Law of that State, provided that the right in question is one which would have been recognized by the Law of that State had he not become a refugee.

Article 13 (formerly article 8)

Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14 (formerly article 9)

Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15 (formerly article 10)

Right of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16 (formerly article 11)

Access to Courts

1. A refugee shall have free access to the courts of law on the territory of all contracting states.
2. A refugee shall enjoy in the contracting state in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence. Article 15 (formerly article 10)

CHAPTER III PRACTICE OF PROFESSIONS

Article 17 (formerly article 12)

Wage-earning employment

1. The contracting state shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.
2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the contracting state concerned, or who fulfils one of the following conditions:
 - (a) He has completed three years residence in the country;
 - (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse.
 - (c) He has one or more children possessing the nationality of the country of residence.
3. The contracting states shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18 (formerly article 13)

Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19 (formerly article 14)

Liberal professions

1. Each contracting state shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that state, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2..*The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in their colonies, protectorates or in Trust Territories under their administration.

CHAPTER IV WELFARE

Article 20 (formerly article 15)

Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21 (formerly article 16)

Housing

As regards housing, the Contracting States in so far as the matter is regulated by laws or regulations, or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22 (formerly article 17)

Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment no less favourable than that accorded to aliens generally in the same circumstances with respect to education other than elementary education and, in particular, as regards access to studies, the remission of fees and charges and the award of scholarships.

Article 23 (formerly article 18)

Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24 (formerly article 19)

Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities; remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provision in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-Contracting States.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. United Kingdom: Amendment
to Article 6 (Formerly Article 3 (b))**

By General Assembly | 24 July 1951

Substitute for this Article the following:-

For the purposes of this Convention the term “in the same circumstances” implies that any requirements as to length and conditions of sojourn or residence which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him.

Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons

By General Assembly | 25 July 1951

UNITED NATIONS CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

Held at Geneva, Switzerland, from 2 to 25 July 1951

FINAL ACT AND CONVENTION RELATING TO THE STATUS OF REFUGEES

FINAL ACT OF THE UNITED NATIONS CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

I. The General Assembly of the United Nations, by Resolution 429 (V) of 14 December 1950, decided to convene in Geneva a Conference of Plenipotentiaries to complete the drafting of, and to sign, a Convention relating to the Status of Refugees and a Protocol relating to the Status of Stateless Persons.

The Conference met at the European Office of the United Nations in Geneva from 2 to 25 July 1952.

The Governments of the following twenty-six States were represented by delegates who all submitted satisfactory credentials or other communications of appointment authorizing them to participate in the Conference:

Australia, Austria, Belgium, Brazil, Canada, Colombia, Denmark, Egypt, France, Federal Republic of Germany, Greece, Holy See, Iraq, Israel, Italy, Luxembourg, Monaco, Netherlands, Norway, Sweden, Switzerland (the Swiss delegation also represented Liechtenstein), Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia

The Governments of the following two States were represented by observers: Cuba, Iran.

Pursuant to the request of the General Assembly, the United Nations High Commissioner for Refugees participated without the right to vote, in the deliberations of the Conference.

The International Labour Organisation and the International Refugee Organization were represented at the Conference without the right to vote.

The Conference invited a representative of the Council of Europe to be represented at the Conference without the right to vote.

Representatives of the following Non-Governmental Organizations in consultative relationship with the Economic and Social Council were also present as observers:

Category A

International Confederation of Free Trade Unions
International Federation of Christian Trade Unions
Inter-Parliamentary Union

Category B

Agudas Israel World Organization
Caritas Internationalis
Catholic International Union for Social Service
Commission of the Churches on International Affairs
Consultative Council of Jewish Organizations
Co-ordinating Board of Jewish Organizations
Friends' World Committee for Consultation
International Association of Penal Law
International Bureau for the Unification of Penal Law
International Committee of the Red Cross
International Council of Women
International Federation of Friends of Young Women
International League for the Rights of Man
International Social Service
International Union for Child Welfare
International Union of Catholic Women's Leagues
Pax Romana
Women's International League for Peace and Freedom
World Jewish Congress
World Union for Progressive Judaism
World Young Women's Christian Association Register
International Relief Committee for Intellectual Workers
League of Red Cross Societies
Standing Conference of Voluntary Agencies
World Association of Girl Guides and Girl Scouts
World University Service

Representatives of Non-Governmental Organizations which have been granted consultative status by the Economic and Social Council as well as of those entered by the Secretary-General on the Register referred to in Resolution 288 B (X) of the Economic and Social Council, paragraph 17, had under the rules of procedure adopted by the Conference the right to submit written or oral statements to the Conference.

The Conference elected Mr. Knud Larsen, of Denmark, as President, and Mr. A. Herment, of Belgium, and Mr. Talat Miras, of Turkey, as Vice-Presidents.

At its second meeting, the Conference, acting on a proposal of the representative of Egypt, unanimously decided to address an invitation to the Holy See to designate a plenipotentiary representative to participate in its work. A representative of the Holy See took his place at the Conference on 10 July 1951.

The Conference adopted as its agenda the Provisional Agenda drawn up by the Secretary-General (A/CONF.2/2/Rev.1). It also adopted the Provisional Rules of

Procedure drawn up by the Secretary-General, with the addition of a provision which authorized a representative of the council of Europe to be present at the Conference without the right to vote and to submit proposals (A/CONF.2/3/Rev.1).

In accordance with the Rules of Procedure of the Conference, the President and Vice-Presidents examined the credentials of representatives and on 17 July 1951 reported to the Conference the results of such examination, the Conference adopting the report.

The Conference used as the basis of its discussions the draft Convention relating to the Status of Refugees and the draft Protocol relating to the Status of Stateless Persons prepared by the ad hoc Committee on Refugees and Stateless Persons at its second session held in Geneva from 14 to 25 August 1950, with the exception of the preamble and article 1 (Definition of the term "refugee") of the draft Convention. The text of the preamble before the Conference was that which was adopted by the Economic and Social Council on 11 August 1950 in Resolution 319 BII (XI). The text of article 1 before the Conference was that recommended by the General Assembly on 14 December 1950 and contained in the Annex to Resolution 429 (V). The latter was a modification of the text as it had been adopted by the Economic and Social Council in Resolution 319 B II (XI).*

The Conference adopted the Convention relating to the Status of Refugees in two readings. Prior to its second reading it established a Style Committee composed of the President and the representatives of Belgium, France, Israel, Italy, the United Kingdom of Great Britain and Northern Ireland and the United States of America, together with the High Commissioner for Refugees, which elected as its Chairman Mr. G. Warren of the United States of America. The Style Committee re-drafted the text which had been adopted by the Conference on first reading, particularly from the point of view of language and of concordance between the English and French texts.

The Convention was adopted on 25 July by 24 votes to none with no abstentions and opened for signature at the European Office of the United Nations from 28 July to 31 August 1951. It will be re-opened for signature at the permanent headquarters of the United Nations in New York from 17 September 1951 to 31 December 1952.

The English and French texts of the Convention, which are equally authentic, are appended to this Final Act.

II. The Conference decided, by 17 votes to 3 with 3 abstentions, that the titles of the chapters and of the articles of the Convention are included for practical purposes and do not constitute an element of interpretation.

III. With respect to the draft Protocol relating to the Status of Stateless Persons, the Conference adopted the following resolution:

"THE CONFERENCE,

"HAVING CONSIDERED the draft Protocol relating to the Status of Stateless Persons,

"CONSIDERING that the subject still requires more detailed study,

"DECIDES not to take a decision on the subject at the present Conference and refers the draft Protocol back to the appropriate organs of the United Nations for further study."

IV. The Conference adopted unanimously the following recommendations:

A. "THE CONFERENCE,

CONSIDERING that the issue and recognition of travel documents is necessary to facilitate the movement of refugees, and in particular their resettlement,

URGES Governments which are parties to the Inter-Governmental Agreement on Refugee Travel Documents signed in London on 15 October 1946, or which recognize travel documents issued in accordance with the Agreement, to continue to issue or to recognize such travel documents, and to extend the issue of such documents to refugees as defined in article 1 of the Convention relating to the Status of Refugees or to recognize the travel documents so issued to such persons, until they shall have undertaken obligations under article 28 of the said Convention."

B. "THE CONFERENCE,

CONSIDERING that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and

NOTING with satisfaction that, according to the official commentary of the ad hoc Committee on Statelessness and Related Problems (E/1618, p..40) the rights granted to a refugee are extended to members of his family,

RECOMMENDS Governments to take the necessary measures for the protection of the refugee's family, especially with a view to:

(1) Ensuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country:

(2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption."

C. "THE CONFERENCE,

CONSIDERING that, in the moral, legal and material spheres, refugees need the help of suitable welfare services, especially that of appropriate non-governmental organizations:

RECOMMENDS Governments and inter-governmental bodies to facilitate, encourage and sustain the efforts of properly qualified organizations."

D. "THE CONFERENCE,

CONSIDERING that many persons still leave their country of origin for reasons of persecution and are entitled to special protection on account of their position,

RECOMMENDS that Governments continue to receive refugees in their territories and that they act in concert in a true spirit of international co-operation in order that these refugees may find asylum and the possibility of resettlement."

E. "THE CONFERENCE,

EXPRESSES the hope that the Convention relating to the Status of Refugees will have value as an example exceeding its contractual scope and that all nations will be guided by it in granting so far as possible to persons in their territory as refugees and who would not be covered by the terms of the Convention, the treatment for which it provides.”

IN WITNESS WHEREOF the President, Vice-Presidents and the Executive Secretary of the Conference have signed this Final Act.

DONE at Geneva this twenty-eighth day of July one thousand nine hundred and fifty-one in a single copy in the English and French languages, each text being authentic.

Translations of this Final Act into Chinese, Russian and Spanish will be prepared by the Secretary-General of the United Nations, who will, on request, send copies thereof to each of the Governments invited to attend the Conference.

The President of the Conference:
KNUD LARSEN

The Vice-Presidents of the Conference:
HERMENT TALAT MIRAS

The Executive Secretary of the Conference:
JOHN P. HUMPHREY

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. United Kingdom:
Recommendation for Inclusion in the Final Act**

By General Assembly | 25 July 1951

Expresses the hope that this Convention will have value as an example exceeding its contractual scope and that all nations will be guided by it in granting so far as possible to persons present in their territory as refugees and who would not be covered by the terms of paragraph A of Article 1 the treatment for which this Convention provides.

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Draft Convention Relating to the Status of Refugees. Israel - Netherlands:
Amendment to Article 7 (Formerly Art. 4)**

By General Assembly | 25 July 1951

CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND
STATELESS PERSONS (Item 6 of the agenda) Dual distribution

DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES Israel-Netherlands:
Amendment to article 7 (formerly art..4)

Add the following paragraph:

5. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3.

Paragraph 4 to become 5

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Tenth Meeting

By General Assembly | 21 November 1951

Present:

President:	Mr. LARSEN
Members:	
Australia	Mr. BURBAGE
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. De OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Federal Republic of Germany	Mr. Von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
	Mr. KAHANY
Italy	Mr. THEODOLI
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS

United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO
Observers:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. Van HEUVEN GOEDHART
Representatives of specialized agencies and other inter-governmental organizations:	
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. Von SCHMIEDEN
Representatives of non-governmental organizations:	
Category A	
Inter-Parliamentary Union	Mr. ROLLIN
	Mr. BOISSIER
	Mr. ROBINET de CLERY
Category B and Register	
Caritas Internationalis	Mr. BRAUN
	Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organization	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Council of Women	Dr. GIROD
International Federation of Friends of Young Women	Mrs. FIECHTER
	Miss van WERVEKE
International Student Service	Mr. RIEGNER
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. BUENSOD

World Jewish Congress

Mr. RIEGNER

Secretariat:

Mr. Humphrey

Executive Secretary

Miss Kitchen

Deputy Executive
Secretary

1. STATEMENT BY THE REPRESENTATIVE OF THE INTER-PARLIAMENTARY UNION

The PRESIDENT said that, before consideration of the draft Convention was resumed, he would call upon Senator Rollin to address the Conference on behalf of the Inter-Parliamentary Union.

Mr. ROLLIN (Inter-Parliamentary Union) thanked the members of the conference for giving his Union the opportunity of acquainting it with the text of the resolution if had adopted at its last meeting, held in Monaco in March, 1951. The present occasion was the first time that the Union had made direct contact with a diplomatic conference, and it might be hoped that it would not be the last. International activity had considerably increased in recent years, its field of interests had widened, and it now took in a whole series of questions normally dealt with by national parliaments. Moreover, the procedure which left governments and ministries to draft conventions, and allowed parliaments only the alternative of adopting or rejecting them was no longer satisfactory. For that reason, the States represented at the present Conference had agreed to the direct co-operation of a non-governmental organization in elaborating the Convention before them. In that respect, it was to be observed that the Inter-Parliamentary Conference of the three Benelux States had recently expressed the hope that in future governments would submit the text of conventions they proposed to sign to a joint commission on which parliaments would be represented. Similarly, the Charter of the United Nations provide for representation of and consultation with non-governmental organizations. His Union proposed to use the opportunity afforded to it, first, to demonstrate its interest in the Convention before the Conference, and secondly, to draw the attention of the members of the Conference to certain observations which were important because they reflected misgivings which might later find expression within the various national parliaments. The Council of the Inter-parliamentary Union would be meeting the following month. It had nevertheless desired to shoulder its responsibilities in the matter, and, after consultation with its legal and political committees, to communicate to the Conference its reflections on the text of the draft Convention on the Status of Refugees. The resolution expressing the Union's views, which would be circulated later to members of the Conference, had the merit of brevity. Of the six paragraphs it contained, only four contained comments on the Convention; the first was limited to approval of the draft before the Conference, of which the Union had appreciated the clarity and precision, and the last transmitted the text of the resolution to the members of the Conference.

With regard to the draft Convention, the Inter-Parliamentary Union approved of its general pattern, and hoped that the Conference would use it as the basis for a convention which

would be ratified by all governments. The Union had nevertheless considered it necessary to submit four specific observations, which could not, however, be regarded as a final judgement of the value of the draft. The short time the Union had to study it had not permitted it to reach a final opinion. Its observations were solely concerned with the imperfections which had struck it most forcibly, and which it thought susceptible of adequate revision.

In the case of article 4, on exemption from reciprocity, the Inter-Parliamentary Union considered that the second sub-Paragraph of paragraph 2 might give rise to misunderstandings. It provided that other refugees (that was, those not enjoying at the date on which the Convention came into force the rights and benefits laid down in the first sub-paragraph of paragraph 2), would enjoy those same rights and benefits, without regard to reciprocity, when they had been resident in the territory of the Contracting State for a certain period. By "the same rights and benefits" was therefore meant rights and benefits which certain refugees had been enjoying without regard to reciprocity, which was tantamount to promising to refugees the status of the aliens most favoured by the reciprocity clause. The results would accordingly be different in each country, according to the rights and benefits granted to aliens in virtue of such a clause.

Furthermore, the Inter-parliamentary Union considered it essential to draft the reciprocity clause in the most liberal spirit. In the draft Convention, provision had been made for three different regimes according to the rights in question: in respect of the protection of artistic, industrial and scientific rights, refugees would have the same treatment as nationals. In other cases (articles 10 and 12 on the right of association and wage-earning employment respectively), they would receive the most favourable treatment accorded to aliens. Finally, they might also have the treatment accorded to aliens generally. Moreover, certain provisions mitigated those conditions by specifying that refugees would be granted treatment as favourable as possible, and, at the very least, the same treatment as aliens generally.

The question arose whether the term "treatment as favourable as possible" had any legal weight, or whether its application would be left to the discretion of the Contracting States, those States then being free to decide at their sole discretion the extent of the rights it was possible for them to grant to refugees.

Furthermore, it was stipulated that refugees would be exempt from reciprocity when they had been resident in the territory of the Contracting State "for a certain period". In the opinion of the Inter-Parliamentary Union, it would be advisable to revise that provision and consider the possibility of granting such exemption forthwith. The fact was that conditions in the countries of origin of refugees were usually such as to render it unlikely that agreements would be concluded between them and other States, providing for the grant of specific rights on the basis of reciprocity. Furthermore, even if treaties of that kind did exist between the States of origin and the receiving country, the refugee, who was looked upon with an unfavourable eye by his own Government, would hardly be able to invoke them. In any event, if certain States considered it impossible to grant exemption from reciprocity forthwith, their viewpoint could quite well be reconciled with that of the States which favoured such exemption, since article 36 of the draft Convention provided that Contracting States could make reservations to a number of articles, including article 4.

Turning to article 6, on continuity of residence, he urged that if an attempt was to be made to place refugees in different categories, such classification should be based essentially on humane and psychological principles. There were some refugees who neither hoped nor desired ever to return to their own countries, and other who regarded their exile as merely temporary. The former aspired above all to shed their refugee status and become naturalized, thus becoming part of the nation which had received them. Many of them were stateless persons, whose main hope, so far as the Conference was concerned, was that it would adopt provisions facilitating their naturalization. Article 6 met their desires in part, since it made naturalization generally conditional on a period of residence; and it was an important matter, for a refugee in the first group, to be credited, as constituting residence, with the time spent by him in enforced displacement, or with the period before or after such displacement, in cases where the refugee had returned to his receiving country to re-establish his residence there. The latter provision was all the more useful in view of the fact that, under certain national legislation, the period of residence normally stipulated had to be extended if residence was interrupted. Nevertheless, the provisions of article 6 merely remedied an occasional situation caused by the second world war, without providing any solution in respect of the first category of refugees to which he had referred. Accordingly, the Inter-Parliamentary Union trusted that the Conference would consider reducing the period of residence required for naturalization. That step, he pointed out, would not render naturalization a right, and conferment of nationality would remain subject to the approval of the competent authorities.

However, in cases where no political obstacles arose, the shortening of the period of residence would considerably improve the lot of those refugees who desired naturalization. It was, he might add, a question of plain common sense. The length of the waiting period imposed on applicants for naturalization was intended to provide time to verify that the link formerly existing between them and their country of origin had been severed. In the case of stateless persons or refugees, it could be presumed, with greater force than in the case of other aliens, that they were sincerely attached to their host country.

For all those reasons, the Inter-Parliamentary Union trusted that the conference would consider the possibility of reducing the period of residence for refugees who wished to be naturalized, at least so far as stateless persons were concerned.

With regard to article 7, which stipulated that the personal status of a refugee would be governed by the law of the country of his domicile or, if he had no domicile, by the law of the country of his residence, he pointed out that a large number of the countries of continental Europe had shown a tendency to determine the personal status of aliens in accordance with their national law. It therefore appeared, at first sight, that it would be simpler for them to apply their national laws uniformly to refugees residing in their territory, regardless of the latter's country of origin. There were, however, certain difficulties in the way of applying those provisions to refugees. That a political refugee who had a horror of his country of origin, and had no intention whatsoever of returning to it, should find himself given the personal status provided by the legislation of his host country seemed reasonable. But would it be reasonable, it might well be asked, to impose on refugees who were still attached to their country of origin and lived only in the hope of returning to it (as formerly the German anti-fascists had done and as the Spanish

Republicans were doing at present), a personal status which might vary considerably according to their country of residence, and to adopt that measure, according to changes in circumstances of the country of domicile, without the person affected having an opportunity of expressing his own desires on the matter? Incidentally, the reservation expressed in paragraph 2 of article 7, referring to respect for previously acquired rights, was, he suggested, somewhat ambiguous. For example, a refugee married under the system of separate estate without contract who came to Belgium would be subject, under that country's legislation, to the system of joint estate in the absence of a contract. If such a refugee inherited personal estate, the question would arise whether the possession of such property was governed by the rights attaching to the receiving country. The courts might find that in contracting marriage the refugee had not acquired a right in the property, but only the capacity to acquire a right, and that, by virtue of his property, but only the capacity to acquire a right, and that, by virtue of his change of status, the property must revert to joint conjugal estate. That example illustrated the practical difficulties to which application of article 7 might give rise, and that was why it seemed preferable to limit the withdrawal of personal national status to stateless persons only. The Inter-Parliamentary Union addressed a wish to that effect of the Conference, and also asked that the question of withdrawal of personal status from refugees be re-examined.

He then examined article 33, laying down methods for settlement of disputes. The Inter-Parliamentary Union, which had won its laurels in the campaign for arbitration, could have no objections to the principle underlying that article. It nevertheless felt that the wording was insufficiently clear to ensure reasonable supervision over the application of the Convention. In fact, the article referred solely to disputes that might arise between States; whereas the persons really concerned were not States, but individuals, who would not possess the nationality of the Contracting States and who would not be protected by their country of origin. The United Nations had recently established an embryonic international organization comprising a High Commissioner for Refugees whose task it would be to assist refugees in different countries. The Inter-Parliamentary Union therefore suggested - and it was a point to which it attached vital importance - that it would be advisable to ensure observance of the Convention by a different procedure from that provided for in article 33. It was not a question of replacing that article by a new text, but rather of adding supplementary provisions to it. In the Union's opinion, the High Commissioner might be granted consular powers which would enable him to render invaluable services both to refugees and to the contracting States themselves and, if the need arose, to seek advisory opinions from the International Court of Justice. The last suggestion might, perhaps, go beyond the powers of the Conference; if so, instead of inserting formal provisions to that effect in the text of the Convention itself, it might include the *voeu* in an annex. All the documents would be transmitted to the General Assembly, which would have to settle the question. He recalled that when the draft International Covenant on Human Rights had been course of preparation, a provision to that effect had been adopted, and, without giving individuals access to the International Court of Justice or even to a European court, it had been provided that they might approach a Committee which, in turn, could refer a dispute to a European court. In the light of that fact, the request of the Inter-Parliamentary Union seemed very moderate. It was legitimate to use the opportunity provided by the Charter, under which subordinate organs of the United Nations could ask the International Court of Justice for advisory opinions; and such power could be given to the High

Commissioner for Refugees, upon whom the practical application of the Convention would in fact depend.

He concluded by expressing the hope that Geneva, where the league of Nations had left lasting evidence of its work, might again be the scene of an outstanding international event, and that the work of the Conference would result in a constructive solution of one of the most painful problems of the modern world.

The PRESIDENT thanked the representative of the Inter-Parliamentary Union on behalf of the Conference for his clear and admirable statement. Once the text of the resolution adopted by the Inter-Parliamentary Union had been circulated, members of the Conference would no doubt give it careful attention and bear in mind the points with which it dealt.

Mr. Rollin (Inter-Parliamentary Union) withdrew.

2. CONSIDERATION OF THE DRAFT CONVENTION OF THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/2/5) (resumed from the ninth meeting)

The PRESIDENT invited representatives to resume their consideration of the draft Convention, and drew their attention to article 15.

(i) Article 15 - Rationing

Article 15 was adopted by 17 votes to none, with 1 abstention.

(ii) Article 16 - Housing (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that the Yugoslav delegation had introduced an amendment to article 16 (A/CONF.2/31, page 2) because it would be unfair to refugees in countries where housing was controlled by the public authorities if they were treated differently from nationals in respect of housing. Unless refugees were given identical treatment, it would be impossible for them to secure accommodation.

The Yugoslav amendment was rejected by 9 votes to 1, with 7 abstentions.

Article 16 was adopted by 17 votes to none, with 1 abstention.

(iii) Article 17 - Public Education (A/CONF.2/31, A/CONF.2/45, A/CONF.2/NGO.1)

The PRESIDENT drew attention to the fact that amendments to article 17, public education, had been submitted by the delegations of Yugoslavia (A/CONF.2/31, page 2) and the Federal Republic of Germany (A/CONF.2/45).

Mr. MAKIEDO (Yugoslavia) withdrew his amendment in favour of that submitted by the delegation of the Federal Republic of Germany. The Yugoslav delegation held that no distinction should be made between refugees and nationals in the field of education.

Mr. Von TRÜTZSCHLER (Federal Republic of Germany) said that the purpose of the first sentence of paragraph 1 of his amendment (A/CONF.2/45) was to grant refugees facilities in higher as well as in elementary education. Such generosity would not only benefit refugees, but also the countries in which they resided. Indeed, there was a kind of moral obligation on public authority to help young people who, through no fault of their own, had

been placed in unfavourable conditions. Moreover, although assimilation was difficult for the elderly, everything should be done to make it possible and easy for young people to share fully in the life of the country of their adoption. They should consequently be allowed access to all education opportunities in their new homeland. It was with that principle in mind that the International Refugee Organization (IRO) had established universities, which had done excellent work for young refugees.

From the point of view of the State, there was too much of a tendency to look upon refugees as a burden, and a burden alone. It should not be forgotten that in the past emigrants had made fruitful contributions to the culture of the countries of their adoption; he would only mention, with the French representative's permission, the group of French refugees who had come to Germany after the revocation of the Edict of Nantes, who had greatly enriched German life. It was true that the factors of expense and of competition in the liberal professions must be taken into account. The number of persons involved was, however, limited, since the Convention would in due course circumscribe the number of refugees who would benefit from it by imposing a dateline (Paragraph A(2) of Article 1). The effects of competition, moreover, would not be felt immediately, and it was to be hoped that the situation would be adapted to meet existing circumstances in the course of time.

The second sentence of paragraph 1 of his amendment did not go quite so far as his delegation would have liked, since it did not grant refugees the same treatment as nationals in respect of the award of scholarships and the remission of fees and charges. In that matter, Germany had certain constitutional difficulties because of the Länder system and the educational responsibilities exercised by the authorities of the various Länder.

Turning to paragraph 2 of his amendment, he would point out that refugees should not only be permitted to sit for examinations, but should also be granted the appropriate diplomas. He believed that that point should be specifically covered by the article dealing with education, the more so since it was in harmony with the provisions of article 14, which dealt with the recognition of diplomas in the liberal professions. German legislation had granted refugees the same opportunities as German nationals to exercise the liberal professions. If it proved impossible to provide for the granting of diplomas, refugees should at least be allowed to pass examinations which would prove of help to them in their careers.

Mr. ROCHEFORT (France) said he would have been glad to support the German Federal Republic's amendment (A/CONF.2/45) if it had been compatible with his delegation's instructions.

Should that amendment be adopted, it would be necessary to go back on the decisions already taken with regard to the right to work if those provisions were not to remain entirely illusory. The French Government considered that, except in the case of highly gifted persons, it should not, by means of scholarships, encourage studies to be undertaken in fields for which there were no professional openings in France. On the other hand, all educational establishments were open to aliens with the exception of some of the great national schools.

Mr. RIEGNER (World Jewish Congress), speaking at the invitation of the PRISIDENT, drew attention to the proposal, similar to that at present under consideration, put forward

by the World Jewish Congress in the memorandum it had submitted to the Conference (A/CONF.2/NGO.1). He wished to add a few words in his personal capacity as Vice-Chairman of the World University Service. In that position he had had the opportunity of learning the views of university students representing many nationalities, religions and schools of political thought. Indeed, the whole problem of the education of refugees had been carefully examined by the World University Service at the instigation of its French branch. Article 17 of the draft Convention, which was modelled on similar articles contained in previous conventions, was not satisfactory. The question of scholarships was of the utmost importance to students, but under article 17 as at present drafted, refugees would not be granted the most favourable treatment accorded to aliens, because that treatment derived from bilateral agreements which provide for a certain number of fixed scholarships and exchanges of students between the Contracting States. Thus, paragraph 2 of article 17 would, in effect, not be applicable to refugee students unless the matter was governed in the future by legislative acts of a general character and not by bilateral agreements. The inquiry carried out by the World University Service had proved that the mechanism of bilateral agreements would be inapplicable to refugees. The question was the more serious because the valuable and generous assistance given to students by IRO would shortly cease to be available.

Another difficulty which must be taken into account was that of the recognition of diplomas. The question needed careful study. He was afraid that the wording of paragraph 2 of the amendment submitted by the Federal Republic of Germany might in practice operate to the disadvantage of refugee students.

Mr. ROCHEFORT (France) wished to point out that in France there was a distinction between scholarships awarded under bilateral treaties, and those by which refugees could benefit. In the latter case, IRO 's contributions accounted for only a part of the funds required, and their cessation would not check the efforts of the French Government in that field. At present, a large number of refugees held such scholarships, and although the French Government was prepared to give refugees all possible assistance in that direction, it could not go beyond the measures already taken.

Mr. HOARE (United Kingdom) said that article 17 raised issues of some difficulty for the United Kingdom Government. The general purpose of the article was wholly acceptable, but he must point out that, although the title of article 17 read "Public education", paragraph 1 referred to "elementary education", not to "public elementary education". The title would, however, not appear in the final text of the Convention, and it was therefore desirable to make it perfectly clear that paragraph 1 was therefore desirable to make it perfectly clear that paragraph 1 was intended to refer to elementary education admission to which was controlled by the State. There existed both in the United Kingdom and elsewhere institutions whose educational character was recognized, but over whose administration and rules of admission of exclusion the State had no control whatsoever. What the Conference must do was to bind States to give equality of treatment to refugees in the institutions over which the State had control.

The difficulty which had already been described by other representatives as latent in paragraph 2 existed also for the United Kingdom. Most-favoured-nation treatment raised the problem of such special arrangements as might be made between various countries. The United Kingdom had, for instance, made special and far reaching provisions, including

provision for education, for the Polish soldiers who had remained in the country at the end of the recent war. That had necessitated the introduction of special legislation which was far more favourable than that normally applied to aliens. In the United Kingdom Government's view the legal effect of paragraph 2 would be to impose upon it the obligation of treating all refugees as favourably as it had done one particular group. The countries linked by the Brussels treaty were also endeavouring to extend reciprocal arrangements between them to a large number of fields. It might be that schemes for the exchange of students and for scholarships would be developed. There again, such special arrangements would be inapplicable to refugees. He would therefore suggest that a more general phrase be used in paragraph 2, for instance: "treatment no less favourable than that accorded generally to aliens in the same circumstances". Unless some such change were made, the United Kingdom Government would be obliged to make a reservation on paragraph 2, and he could not but feel that it would be preferable so to redraft the text as to make it generally acceptable rather than to adopt it as it stood and oblige a number of governments to enter reservations.

Mr. FRITZER (Austria) supported the United Kingdom representative's point that explicit reference should be made in paragraph 1 to "public elementary education".

Mr. HERMENT (Belgium) also supported the United Kingdom representative. The same difficulties arose in the case of Belgium. Accordingly, although his delegation could support paragraph 1 of article 17, it considered, with regard to paragraph 2, that it must be provided that refugees should receive the treatment accorded to aliens generally. Otherwise, it would have to make an express reservation on that issue.

Mr. THEODOLI (Italy) supported the Belgian and United Kingdom representatives, and stated that he would also have to make a similar reservation on paragraph 2.

Mr. ZUTTER (Switzerland) said that the Swiss delegation could accept the text of article 17 as it stood in the draft Convention. On the other hand, it could not support the amendment of the German federal republic, since in Switzerland the cantonal, and not the federal, authorities were responsible for education.

He also declared that the Swiss Federal government would continue to give refugees all the necessary facilities for continuing their studies, as it had done in the past.

Mr. CHANCE (Canada) said that circumstances in Canada made it possible for his government to take a very liberal attitude with regard to paragraph 2 of article 17; but he thought that the United Kingdom representative's point was valid, and would therefore support an amendment along the lines suggested by that representative. He (Mr. Chance) also agreed that "public elementary education" should be specifically mentioned in paragraph 1.

He must further point out that, since in Canada education was not within the sovereign competence of the Federal Government, the insertion of the article generally known as the federal State clause was essential from his Government's point of view in respect of article 17 as a whole.

The PRESIDENT asked the representative of the federal republic of Germany to elucidate one aspect of his amendment. In some countries higher education was given in private institutions, and was then followed by a university course at the end of which a student

was deemed qualified to exercise a profession. In other countries - and he believed that such was the case in Germany - degrees in certain subjects, such as law, were valueless unless followed by a period of service under the auspices of the public authorities. Only at the end of a two-year or three-year probationary period was the final examination taken and the student become fully qualified to exercise his profession. Did paragraph 2 of the amendment (A/CONF.2/45) include such a system in its reference to "the right to pass examinations...?"

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that he had intended his amendment to deal with all public education and all examinations, including State ones. If a refugee fulfilled all the conditions required of a German national, he would be entitled to take the final examination even if it involved a period of service in an official administration. It was, however, doubtful whether he would then be taken into State employment unless he had in fact become a German national.

Mr. HERMENT (Belgium) thought it necessary to explain that the mere fact of being eligible for university examinations in no way conferred the right to practise a profession. University degrees might be of a purely academic nature; consequently, in order to realize the intention of paragraph 2 of article 17, it would be necessary to specify examinations giving the right to practise a profession, and not, in general, an examination recognized by the State.

Mr. ROCHEFORT (France) said that the French delegation was not opposed to article 17, although it would prefer a formula which took account of the difficulties mentioned by previous speakers. The reservations made by his delegation concerned the award of scholarships to aliens, and in that connexion it should be noted that in France all aliens had access to all educational establishments, except certain large schools which prepared candidates for posts from which aliens were excluded, such as the Teacher's Training College, the Polytechnic and the like, although they might, in certain conditions, be admitted with alien status.

The PRESIDENT, speaking as representative of Denmark, observed that, so far as he was aware, Scandinavian countries made no distinction between nationals and foreigners in the matter of education. But if that were not so, it might be necessary for the Scandinavian countries to enter general regional reservations on article 17.

Baron van BOETZELAER (Netherlands) supported the suggested United Kingdom amendment to paragraph 1, and thought it possible that the Netherlands Government might find it necessary to formulate a reservation similar to that mentioned by other representatives on paragraph 2.

Mr. PETREN (Sweden) was not sure that the position in all Scandinavian countries was exactly as the President had described it. He personally preferred to take the same position as the United Kingdom representative.

The PRESIDENT observed that, as the United Kingdom representative had pointed out, the title "Public education" would disappear from the final text. It would therefore be necessary to revise the text in order to make it clear that only State-controlled education was meant; but he thought that could be left to the Style Committee.

Mr. BUENSOD (Pax Romana), speaking at the invitation of the PRESIDENT, observed that paragraph 2 of article 17 applied to university degrees. However, as had been said, there was a difference between taking a degree and practising a liberal profession; thus, while permitting refugees to enter for examinations recognized by the State under the same conditions as nationals, States would still be able to restrict access to the liberal professions.

The PRESIDENT put to the vote the amendment submitted by the delegation of the Federal Republic of Germany (A/CONF.2/45).

The amendment was rejected by 10 votes to 3, with 6 abstentions.

The PRESIDENT put to the vote the United Kingdom amendment to paragraph 2, namely, that the phrase "the most favourable treatment accorded to nationals of a foreign country" should be replaced by the phrase "treatment no less favourable than that accorded generally to aliens in the same circumstances".

The United Kingdom amendment was adopted by 12 votes to 1, with 5 abstentions.

The PRESIDENT put to the vote article 17 as amended.

Article 17, as amended, was adopted by 16 votes to none, with 2 abstentions.

(iv) Article 18 - Public relief

Mr. THEODOLI (Italy) recalled the special effort made by his Government when, by an agreement concluded with IRO in November, 1950, it had undertaken to receive a large number of refugees, 1,000 of whom had been hard-core cases requiring hospital treatment. In respect of those cases, the Italian Government had agreed to pay the same benefits as to Italians in receipt of public assistance, for as long as the refugees concerned lived. That represented a very considerable burden, particularly as there was small probability of their being able to work. Thus it would be very difficult for the Italian Government to give an undertaking in the terms of article 18 in respect of an indefinite number of refugees. For that reason, his delegation wished to notify the Conference that, after further consultation with the Italian Government, it might find that it had to make a reservation on that article. He would add that if such responsibilities were in the future undertaken at international level by some organ of the United Nations, Italy would do her part in the collective effort to help those unfortunate people.

The PRESIDENT put article 18 to the vote.

Article 18 was unanimously adopted.

(v) Article 19 - Labour legislation and social security

The PRESIDENT, speaking as representative of Denmark, said that in Denmark an insured person only made a formal contribution to the social security scheme, and that it was in reality the State that contributed to the various funds. The Danish Government was prepared to extend social security to refugees, but under the Danish system it would be necessary for the benefits to be paid to refugees on that count to come from funds other than the old age pension fund and the like. Subject to the understanding that such an

arrangement would not be regarded as failure to conform to the provisions of article 19, the Danish delegation would not require to make a reservation on that point.

Mr. HOARE (United Kingdom) observed that a similar situation arose in the United Kingdom. There were certain old age pensions for which foreigners were not eligible, but their grant depended on the applicants' means, and a foreigner whose means were the same would get the equivalent under the general social security legislation. He had assumed that article 19 could be interpreted broadly enough to meet the requirements of Denmark and the United Kingdom in that respect.

Mr. ZUTTER (Switzerland) said that the Swiss delegation could not wholly subscribe to the provisions of article 19. Although it approved the provisions of sub-paragraph 1 (a), it was obliged to reserve its position to some extent so far as apprenticeship and training were concerned. In that respect, refugees certainly received favourable treatment in Switzerland; nevertheless, Switzerland could not undertake unconditionally to treat them on an equal footing with Swiss nationals and, for example, to place them as apprentices even at times when the number of openings in certain occupations was insufficient to meet the inflow of young Swiss nationals. In that field, therefore, refugees would have to be treated like other aliens. In other words, they would be subject to no restrictions if they held a permit to settle in Switzerland; but if they held only a residence permit they would have to apply for special permission in each case. He might add that applications from refugees would receive sympathetic consideration from the Swiss authorities.

As to the question of according to refugees the same treatment as was accorded to nationals in the field of social security, such a provision would create certain difficulties with regard to unemployment and old-age insurance, since, under Swiss law, foreign workers could normally insure against unemployment only if they were allowed to accept work, that was, if they were not debarred from finding employment by some regulation relating to aliens. Aliens who had been living in Switzerland for a fairly short period, and therefore did not have a permit to settle there, were subject to such restrictions, so that they could not take employment and were, consequently, not insurable. Nevertheless, there was a growing tendency to lift restrictions on refugees in respect of employment, and most of them could insure against unemployment. Accordingly, they were normally treated as well as, if not better than, other aliens. On the other hand, the Swiss Federal Government could not formally undertake to accord them the same treatment as it accorded to nationals, and would therefore be obliged to enter a reservation to the effect that the treatment accorded to refugees in the matter of unemployment insurance would be the same as that accorded to aliens generally.

As to old-age insurance and allowances paid to next-of-kin of deceased, the existing Swiss regulations were still more complex. Although aliens, and hence refugees, were insured, they were subject to certain special provisions. The Swiss Federal Government could not see its way at that juncture to amend the law relating to old-age insurance and allowances paid to next-of-kin of deceased, and would therefore be obliged to enter a reservation on article 19, sub-paragraph 1 (b), to the effect that in those matters refugees would enjoy, not the treatment accorded to nationals, but that accorded to aliens generally.

Mr. CHANCE (Canada) observed that in Canada some of the matters dealt with in article 19 came under federal and others under provincial jurisdiction. No distinction was made between nationals and aliens or refugees, although there were differences between the laws of the various Provinces. Subject to the acceptance of that position, the Canadian delegation could support article 19 without difficulty.

Mr. PETREN (Sweden), said that, generally speaking, the Swedish delegation could accept article 19. He would point out, however, that, so far as sub-paragraph 1 (b) was concerned, although most of the social security benefits in Sweden were granted to aliens and nationals alike, in some cases - especially with regard to old age pensions - the actual form of assistance was different as between aliens and nationals. It therefore might be necessary for the Swedish Government to enter reservations on the paragraph.

The PRESIDENT, speaking as representative of Denmark, said that the Danish Government would have no difficulty in assuming the obligations laid down in paragraph 1, but that it might be necessary for it to make certain reservations on paragraph 2. Danes were not allowed to draw pensions when resident abroad, so that it might not be possible, for instance, to allow the compensation payable on the death of a refugee to be transferred to his widow resident outside the country.

Mr. HOARE (United Kingdom) doubted whether the United Kingdom could comply with the provisions of paragraph 2, for the same reason as that given by the Danish representative.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his delegation's position was similar. He had not, however, considered that the phrase " the right to compensation " implied the transfer of such compensation outside the territory of the Contracting State.

Mr. THEODOLI (Italy) reference to his delegation's statement on articles 12-14 of the draft Convention, and added that in Italy social security and labour legislation was closely linked to the question of paid employment.

Baron van BOETZELAER (Netherlands) stated that Netherlands delegation would be obliged to make a reservation on paragraph 2, because of the possibility of transfer of compensation, which would be governed by the existing foreign exchange rules and regulations.

Mr. ANKER (Norway) recalled the remarks on Norwegian social insurance legislation which he had made in the course of his general statement at an earlier meeting. Norway's position was the same as that of Sweden and Denmark, and he associated himself with the observations of the representatives of those countries. Some Norwegian social security schemes applied to all inhabitants of the country; old-age pensions, for example, were paid to all inhabitants, subject to a minimum period of residence in the country. Other schemes, however, applied only to Norwegian nationals. The Norwegian Government could not, therefore, accept the provisions of sub-paragraph 1 (b) without amending its legislation, and would have to enter a reservation on that sub-paragraph, although, of course, it was its intention to work towards equality of treatment as between nationals and refugees.

Mr. HOARE (United Kingdom) observed that paragraph 3 seemed to apply to refugees the benefits of agreements made between States to permit the nationals of one country to retain in another some or all of the social security rights acquired in their own country. He

had no objection to the principle that those agreements, of which there were many, should apply equally to refugees and to nationals, but the text of paragraph 3 as drafted would appear to permit of the possibility that, under a bilateral agreement concluded between a State Party to the Convention and a State non-Party to the Convention, the former would be required to apply to refugees from the latter the same conditions as it would apply to its own nationals. Such a unilateral obligation would be an unjustifiable burden on the State Party to the Convention, and he doubted whether it would be practicable without the co-operation of the non-Contracting State. He believed the original intention had been that where such agreements existed between Contracting States, they should be automatically applied to refugees from both countries. In the circumstances, he proposed that the words "such agreements" in the third line of paragraph 3 should be replaced by the words "any agreements which may be in force between Contracting States".

Mr. ROBINSON (Israel) considered that the meaning of paragraph 3 was narrower than that suggested by the United Kingdom representative. The Ad hoc Committee had taken the hypothetical case of an agreement between France and Poland concerning the benefits to be enjoyed mutually by the citizens of those two countries, and the question had been asked whether the benefits accruing to a refugee in Poland before he left that country would cease when he applied to the French Government for treatment as a refugee. That, he thought, was the case contemplated in paragraph 3.

Mr. HOARE (United Kingdom) observed that that might be a possible interpretation of the purpose of paragraph 3; he was not, however, aware of the history of the matter. In the field of social security, most bilateral agreements were of recent origin, and he doubted whether agreements of that kind had been concluded between possible Contracting States and so-called States of persecution.

Mr. HERMENT (Belgium) said that, to his knowledge, such an agreement did in fact exist, namely, that conclude between Belgium and France, which covered persons who had paid contributions with a view to drawing social insurance benefits later, and who had subsequently transferred their residence from one country to the other. The agreement provided that, from the standpoint of admission to social security benefits, contributions paid in the first of the two countries would be considered as if they had been paid in the second country of residence, irrespective of which of the two countries the worker was a national.

A codicil had subsequently been concluded between France and Belgium extending the benefits of the agreement to refugees who had paid social insurance contributions in either country.

Mr. HOARE (United Kingdom) thought that the Israeli representative might have had in mind the provision in paragraph 4, rather than the provision in paragraph 3. He endorsed the observations of the Belgian representative.

Mr. HERMENT (Belgium) fully agreed with the United Kingdom representative's interpretation. Such agreements included a signed undertaking between the Contracting States. In the present case, the High Commissioner for Refugees might approach the Contracting States with a request that they extend to refugees the benefits of the arrangements applied to nationals of both countries. But it should be noted, in that

connexion, that there would be no question of an obligation, but only of a recommendation.

Mr. ROBINSON (Israel) agreed that paragraph 4 covered the case he had in mind. He also agreed with the Belgian representative's remarks. However, he believed that, before a vote was taken on that most important point, it would be advisable to look up the records of the earlier discussions on the subject.

The PRESIDENT requested the Israeli representative to examine those records and to enlighten the Conference at its next meeting. In the meantime, he would put paragraphs 1 and 2 of article 19 to the vote.

Paragraphs 1 and 2 of article 19 were adopted by 17 votes to none, with 1 abstention.

The meeting rose at 5.45 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twelfth Meeting

By General Assembly | 22 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
	Mr. COLEMAR
Greece	Mr. PAPAYANNIS
	Mr. AL PACHACHI
Iraq	Mr. COLEMAR

Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO
Observers:	
Iran	Mr. KAZEMI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Labour Office	Mr. NOWAT
	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. von SCHMIEDEN
Representatives of non-governmental organizations:	
Category B and Register	
Caritas Internationalis	Mr. BRAUN
Catholic International Union of Social Service	Miss. De ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Council of Women	Mrs. GIROD

International Federation of Friends of Young Women	Mrs. FIECHTER
--	---------------

	Mrs. GIROD
--	------------

International Union of Catholic Women's Leagues	Miss de ROMER
---	---------------

Standing Conference of Voluntary Agencies	Mr. REES
---	----------

World Jewish Congress	Mr. RIEGNER
-----------------------	-------------

Secretariat:

Mr. Humphrey	Executive Secretary
--------------	---------------------

Miss Kitchen	Deputy Executive Secretary
--------------	----------------------------

1. LETTER FROM THE PRESIDENT OF THE SWISS CONFEDERATION

The PRESIDENT announced that he had received a letter from the President of the Swiss Confederation thanking the Conference for the telegram sent to him on the occasion of his seventieth birthday, and wishing it every success in its work.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (resumed from the eleventh meeting):

(i) Article 23 - Travel documents (A/CONF.2/31, A-CONF.2/56)

The PRESIDENT, inviting the Conference to resume its consideration of the draft Convention, drew the attention of representatives to the Yugoslav, Netherlands and Italian amendments to article 23 (A/CONF.2/31, A/CONF.2/49 and A/CONF.2/56 respectively).

Mr. MOWAT (International Labour Organisation) said that he wished to refer, in connexion with article 23, to the position of seamen, whose labour conditions had been the concern of the International Labour Organisation for the last thirty years. Refugees who were continuing in that calling, or who had adopted it after leaving their country of origin, might not be very numerous; in fact, the International Labour Organisation did not possess any accurate statistics on the matter. However, even though only a few might be involved, that should not prevent them from being accorded equitable treatment; yet it was known that refugees did not always enjoy the same working conditions as other members of a ship's crew who benefited by the proper protection of their government.

The question had been brought to the notice of the International Labour Organisation by the International Refugee Organization (IRO) at the end of 1950, and had been placed on the agenda of the Joint Maritime Commission of the International Labour Organisation. That Commission had decided that the question deserved consideration, and had adopted a resolution for transmission to the Governing Body of the International Labour Office, which had approved it at a recent meeting. Under that resolution the Director-General of the International Labour Office had been instructed to bring the matter to the notice of the

High Commissioner for Refugees and of governments, urging them to take measures to alleviate the situation of such refugee seamen. It was also suggested that the time spent by seamen serving in a ship belonging to a given country should count towards the period of residence necessary to secure the right to travel documents. He realized that it might be difficult for many governments represented at the Conference to enter into a specific commitment of that kind; if so, perhaps the suggestion might be incorporated in a separate recommendation. He would, however, tentatively put forward for consideration the following text:

“For the purpose of paragraph 1 of this article, Contracting States shall give sympathetic consideration, in the case of a refugee who is a bona fide seafarer, to the possibility of allowing such a refugee to reckon any period spent as a crew member on board a ship flying the flag of a Contracting State as residence in the territory of that State.”

There was no need to emphasize that that provision was, of course, intended to benefit only genuine seamen and not refugees who were escaping by sea from their country.

The PRESIDENT suggested that the phrase “in their territory”, which occurred several times in paragraph 1 of article 23, was unnecessarily restrictive. He failed to understand why a Contracting State should be prevented from issuing a travel document to a refugee outside its borders. For example, the Danish Government might issue a travel document to enable a refugee to emigrate overseas. There was no valid reason why it should not, if it wished, issue a similar document for that refugee’s wife, even though she happened to be in another country at the pertinent time. Any difficulty arising from the deletion of that phrase was, in his opinion, not by the word “may” in the second sentence of paragraph 1.

Baron van BOETZELAER (Netherlands) said that in the Netherlands the issue of a passport was a favour, not a right. The object of his amendment (A/CONF.2/49) had been to apply the same treatment to refugees as to Netherlands nationals, but, after mature consideration, he thought the amendment unnecessary, and would therefore withdraw it. The Netherlands delegation would enter a reservation on article 23 when it signed the Convention.

Referring to the Italian amendment (A/CONF.2/56), he felt certain that the Governments of Contracting States would refuse to issue a travel document to refugees engaging in illicit traffic, and that there was therefore no need to mention the point specifically in the draft Convention.

Mr. COLEMAR (France) wished to make a reservation of substance on paragraph 1 of article 23. Under paragraph 13 of the Schedule annexed to the draft Convention, refugees would not require entry and exit visas for the country issuing the travel document. France already granted facilities to refugees covered by the 1933 Convention, and could enter into no formal undertaking for the future, since circumstances might make it necessary for her to keep a check on the movements of refugees and aliens. She could therefore accept article 23 only subject to reservations on paragraph 13 of the Schedule.

Mr. PETREN (Sweden) stated that the Swedish Government had acceded to the agreement relating to the issue of a travel document to refugees who were the concern of the Inter-Governmental Committee on Refugees set up in 1946. However, it had found that there were certain disadvantages in allowing freedom of movement to refugees in and

out of Sweden without control of any sort. In the interests of national security, the Swedish Government wished to reserve its right to exercise some supervision over the movements of such persons, and he might at a later stage have to enter a reservation to that effect.

Mr. del DRAGO (Italy) said that the position of the Italian Government to article 23 was similar to that of the French and Swedish Governments. His delegation's amendment (A/CONF.2/56) was so clear that it called for no comment.

Mr. SHAW (Australia) said that the Netherlands representative had raised an extremely pertinent point. The issue of travel documents was a matter for the discretion of each government. There might be cases where a Contracting State, for good reason, refused a passport to one of its own nationals to travel for a certain purpose. It would be anomalous in the extreme if a refugee wishing to travel for a similar purpose were entitled to be issued with a travel document. He believed that some change in the sense of the Netherlands amendment was necessary in the case of article 23.

Mr. HERMENT (Belgium) fully understood that there must be certain limitations on the issue of travel documents to refugees and aliens, but such persons could not be required to conform to the same conditions as nationals, who were subject, for example, to certain restrictions by reason of their military status. Some other wording must therefore be found for paragraph 13 of the Schedule (A/CONF.2/1, Annex) covering the issue of the travel documents referred to in article 23.

The Belgian delegation was unable to accept the Yugoslav amendment; the substitution of the words "may issue" for the words "shall issue" would deprive paragraph 1 of all force.

Mr. CHANCE (Canada) stated that the position of the Canadian Government was similar to that of the Australian Government. Passports were issued in pursuance of the royal prerogative, and no citizen had an inalienable right to receive a passport. The issue of a passport could be refused in certain circumstances, but so far, to the best of his knowledge, that had never been done on the ground of the political opinions held by the applicant. It was, however, conceivable that that might occur in the future under the pressure of public opinion. It was obvious that refugees could not be given preferential treatment over nationals in that respect, and he might be obliged to enter some kind of reservation on the point unless article 23 was appropriately amended.

Mr. MAKIEDO (Yugoslavia) said that he was largely in agreement with the preceding speakers and would be interested to hear the views of the Conference on his amendment, which, he added, he did not propose to press, although, if article 23 as finally adopted was not satisfactory, the Yugoslav Government would also have to enter a reservation on it.

The PRESIDENT suggested that the Schedule annexed to the draft Convention (A/CONF.2/1, page 21-27) be considered in conjunction with article 23, to which it related.

Mr. HERMENT (Belgium) felt it would be preferable first to examine article 23 by itself, since the question at issue was one of principle.

It was so agreed.

Mr. HERMENT (Belgium) proposed that, as the President had already suggested, the words "in their territory" should be deleted wherever they occurred in paragraph 1 of article

23, for Contracting States should clearly be in a position to issue travel documents to refugees outside their territories.

Mr. HOARE (United Kingdom) contended that adoption of that suggestion would weaken article 23 by making it no longer the primary obligation of the Contracting State in whose territory the refugee was resident to issue travel documents.

Mr. COLEMAR (France) agreed with the United Kingdom representative. The principle must be maintained by which a travel document had to be issued by the authorities of the country where the refugee was domiciled.

The PRESIDENT said he would not press his suggestion. If, however, the unconditional obligation on States to issue travel documents laid down in the first sentence of paragraph 1 of article 23 was retained, the Conference would have to make some provision to cover cases in which Contracting States could legitimately refuse to do so.

Mr. HERMENT (Belgium) suggested that the words "and subject to the requirements of national security" should be inserted after the words "lawfully resident in their territory", in the second line of paragraph 1 of article 23. That proviso should allay the fears expressed by certain representatives.

The PRESIDENT suggested that the difficulty mentioned by the Belgian representative was met by the provisions of paragraph 14 of the Schedule.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) emphasized the vital importance of article 23. The issue of travel documents was one of the most essential aspects of the treatment accorded to refugees. Any proposed changes in article 23 should be approached with the greatest caution. The adoption of the Yugoslav amendment, for example, would virtually vitiate its intention, for the article would then mean that refugees would have no guarantee that they would be able to secure travel documents. However, he realized the cogency of the objections raised by certain representatives concerning the mandatory obligation imposed by the first sentence of article 23. They might be disposed of by substituting the words "undertake to issue to refugees" for the words "shall issue, on request, to a refugee". The principle would then be more generally stated, and the acquisition of travel documents would not be defined as a right belonging to the individual. In conclusion, he earnestly appealed to representatives to refrain from weakening the article as a whole.

Mr. FRITZER (Austria) agreed with the High Commissioner. He thought that the existing wording of article 23 was adequate to meet the requirements of the situation in which the refugees found themselves. The clauses contained in the Schedule were quite sufficient to allay the anxieties expressed by certain representatives.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) expressed agreement with the High Commissioner's arguments and his amendment. The objections raised by certain representatives to the wording of article 23 should be met by the provisions of paragraph 14 of the Schedule.

Mr. PETREN (Sweden) doubted whether the mandatory terms of paragraph 13 of the Schedule, which opened with the words "The document shall entitle the holder to leave the country where it has been issued and, during the period of validity of the document, to

return thereto", were consistent with paragraph 14. Some modification seemed to be called for.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) was unable to grasp the Swedish representative's difficulty. If a refugee possessed a travel document, he was entitled to leave the country in which it had been issued. The problem arose only in cases where refugees did not possess travel documents.

The PRESIDENT said that he, too, saw no objection to the High Commissioner's amendment. Its effect would be similar to that of article 2 of the 1933 Convention relating to the International Status of Refugees. A suitable proviso, recognizing the right of Contracting States to refuse travel documents or to withdraw them, could be inserted in the Schedule.

Mr. CHANCE (Canada) also supported the High Commissioner's amendment.

Mr. SHAW (Australia) suggested that the High Commissioner's amendment would not substantially alter the implications of article 23. The general obligation laid on States would be interpreted as being to respect a right to which the individual refugee was entitled, and refugees might thus be in a position to claim something which was denied to nationals. His principal objection to the original text of article 23 therefore still remained valid.

Mr. ZUTTER (Switzerland) shared the opinion expressed by the Australian representative.

Mr. HERMENT (Belgium) thought that the words "s'engagent" should be used in the French text of the High Commissioner's amendment, not "s'engageront". The idea expressed by the present tense was different from that expressed by the future.

Mr. CHANCE (Canada) stated that if the High Commissioner's amendment failed to command general approval, he might be prepared to accept the original text of article 23 on the understanding that certain provisos would be included in the Schedule annexed to the Convention.

Mr. SHAW (Australia) asked whether the Netherlands representative had formally withdrawn his amendment. (A/CONF.2/49).

The PRESIDENT replied in the affirmative, but pointed out that an amendment which had been withdrawn by its author could always be re-introduced by another representative.

Mr. HERMENT (Belgium) drew the Conference's attention to the fact that the London Agreement of 1946, concerning the issue of travel documents to refugees coming under the mandate of the Inter-Governmental Committee on Refugees, had been signed by 19 States, and that no difficulties had arisen in its application. That was a consideration which should be borne in mind.

Mr. FRITZER (Austria) observed that each country had specific legislation or regulations governing the issue of passports, which stipulated, no doubt, the cases in which issue could be refused. Such regulations presumably extended to the issue of passports to refugees. No provision in the Convention could impair that sovereign right of States. He therefore believed that article 23 should prove acceptable as it stood.

Mr. ROBINSON (Israel) reminded representatives that the Schedule relating to article 23 and annexed to the draft Convention had been drafted by experts in 1946. Its provisions had stood the test of six years' application. It might be imprudent to attempt to make substantial changes to it, particularly as many delegations to the present Conference did not include qualified experts on the subject. The Ad hoc Committee on Refugees and Stateless Persons had been careful not to go into the technical details of the Schedule, and it would be wise for the Conference to follow that example. It was true that the situation had changed somewhat since the 1946 Agreement had been signed, and that many governments were at present more keenly aware of the requirements of national security. However, he believed that such preoccupations would be fully met by the addition of a provision such as that proposed in the Italian amendment (A/CONF.2/56).

Mr. PETREN (Sweden) said that, owing to the unfortunate experiences of the Swedish Government with the uncontrolled movement of refugees under the 1946 Agreement, it considered that article 23 required modification. In reply to the Austrian representative's argument, he must state clearly that Swedish domestic legislation did not provide an adequate safeguard.

Mr. COLEMAR (France), replying to the observations made by the Israeli representative, explained that he was not pressing for an examination of the provisions of the Schedule paragraph by paragraph. However, article 23 referred to the Schedule, and raised an important question of principle, on which a definite position would have to be adopted if France were not to be obliged to enter a reservation in respect of that article. Admittedly, the issued of travel documents to refugees would have to be subject to certain conditions, but the principle governing their issue should nevertheless be enunciated. Perhaps the Netherlands amendment, changed slightly to meet the points raised by the Belgian representative, might be taken up again. It would not be difficult, he thought, to reach an agreement on those lines.

Mr. de OLIVEIRA (Brazil) suggested that the problem could be solved by combining the suggestions made by the High Commissioner and the Belgian representative.

Mr. ZUTTER (Switzerland) was afraid the Conference was getting bogged down. Switzerland was prepared to accept the present text of article 23 and of the Schedule. However, in view of the fact that certain representatives had raised various objections to those texts, it would only be proper to ask them to set down their views in the form of amendments, which could then be examined formally.

Mr. HOARE (United Kingdom) believed that it would be regrettable to attempt substantial amendment of an article which embodied a principle accepted by the signatories of the 1946 Agreement. The arguments put forward in the discussion possibly reflected the fact that the situation had deteriorated since that time. If governments, while accepting article 23 in principle, had to enter certain reservations to it, those reservations might be wider in scope than any amendment the Conference might devise. If modifications were to be introduced, he believed that their proper place was in article 23, where the circumstances in which refugees had a right to acquire travel documents were broadly defined, and not in the Schedule, which was concerned only with the machinery for providing them with such documents. It should be made clear that the purpose of any modifications that might be made was to cover purely exceptional cases in which refugees would be treated on the

same footing as nationals. He would suggest a provision based on the Italian proposal (A/CONF.2/56) and reading as follows:

“As a purely exceptional measure a Contracting State may withhold the issue of a travel document to a refugee if its issue is for a purpose for which the issue of a passport to a national of that State could be refused”.

Mr. ROBINSON (Israel) said that, although the United Kingdom amendment went one step further than the Italian amendment towards meeting the aspirations of refugees, it might be preferable not to press article 23 to a vote for the time being. Several representatives were somewhat diffident about accepting that article, and they should be given every chance of submitting whatever amendments and suggestions they desired. He therefore proposed that 1 p.m. on Tuesday, 10 July, should be fixed as a dateline for the submission of amendments to article 23, that discussion of the article should be deferred until the afternoon of 10 July, and that the Conference should in the meantime pass on to article 24.

Mr. COLEMAR (France) asked the President whether amendments could be submitted to the provisions of the Schedule to which article 23 referred, or whether those provisions must be regarded as being automatically adopted.

The PRESIDENT explained that consideration of those parts of the Schedule which pertained to article 23 would be suspended on the same conditions as the discussion on article 23 itself.

The Israeli proposal was adopted.

(ii) Article 24 - Fiscal charges (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) pointed out that under paragraph 3 of article 24 it would be possible to impose on refugees a duty to which other foreigners were not subject. He appreciated the fact that the revenue accruing from the duty was to be applied to charities for the relief of refugees, but felt that such a provision would be more troublesome than useful. He would not press too strongly for the adoption of his amendment to article 24 (A/CONF.2/31, page 3), but would welcome the opinions of other delegations.

Mr. MIRAS (Turkey) opposed the deletion of paragraph 2 of article 24, which contributed to the clarification of that article.

With regard to paragraph 3, refugees had already been assimilated to nationals in respect of public assistance (article 18) and labour legislation and social security (article 19). Was it therefore absolutely necessary also to contemplate imposing a tax intended to provide relief for refugees? He thought not. The Turkish delegation therefore supported the Yugoslav proposal that paragraph 3 be deleted.

Mr. MAKIEDO (Yugoslavia) said that he would withdraw his proposal that paragraph 2 be deleted. His amendment would therefore only affect paragraph 3.

Mr. FRITZER (Austria) supported the Yugoslav proposal. Paragraph 3 should be deleted.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) asked whether some member of the Ad hoc Committee could explain why it had been decided to include the special provision in paragraph 3.

The PRESIDENT replied that he had voted against the provision in the Ad hoc Committee, but would nevertheless try to explain why it had been included.

Paragraph 2 of article 24 merely stated that Contracting States could charge refugees for the type of documents mentioned in article 20. Nationals of a given country had birth certificates or other valid documents, whereas refugees required affidavits instead. It had been thought in the Ad hoc Committee that refugees should not be supplied with affidavits free of charge.

There had been a considerable amount of discussion on paragraph 3 in the Ad hoc Committee. In the past, the regulations relating to Nansen passports had provided for two charges in respect of such documents: the normal passport fee plus a special stamp fee of 5 gold francs, the revenue from the latter fee accruing to the funds of the Nansen Office. Certain delegations to the Ad hoc Committee had felt that there was no need to replace the Nansen system by a similar one, whereas others had thought that, since refugees under the Nansen system had been accustomed to paying the stamp fee in question, and as the system had worked efficiently, there was no reason why the practice should not be continued. Under the Nansen system it had been the duty of the State concerned to impose the fee, and the existing wording of paragraph 3 had been adopted by the Ad hoc Committee as a compromise.

Mr. PETREN (Sweden) asked the President whether what he had said about paragraph 2 did not apply to all documents issuable to refugees, and not merely to those provided for in article 20.

The PRESIDENT replied that paragraph 2 did indeed state expressly that identity papers were included. He would therefore interpret it as applying to all the documents, including identity papers, referred to in the draft Convention. There might be other articles necessitating the issue of other administrative documents, and Contracting States should reserve the right to charge a small fee for delivering them.

Mr. PETREN (Sweden) presumed that the documents in question were thus all those required by refugees but not by nationals.

The PRESIDENT replied that such appeared to be the case.

Mr. HOARE (United Kingdom) sympathized with the motives which had prompted the Yugoslav representative to propose the deletion of paragraph 3, and supported that proposal.

Mr. PETREN (Sweden) favoured the deletion of paragraph 3. In Sweden, aliens were treated differently from nationals in the matter of certain taxes, for instance, taxes levied upon commercial travellers and performing artistes. That did not necessarily imply that a higher charge would be levied on them than on nationals, but Sweden would be obliged to enter a slight reservation in that respect the scope of which, however, would be considerably reduced if paragraph 1 of article 24 was amended to refer to refugees

lawfully resident in the territory of a Contracting State. The Swedish delegation would nevertheless not press that amendment if it raised difficulties for other delegations.

The PRESIDENT thought that the problem referred to by the Swedish representative, which was a question of domicile or habitual residence rather than of nationality, could indeed be solved within the framework of paragraph 1. For example, if a Swedish artiste resident in Denmark went back to Sweden to perform for a short period, he would be subject to the same taxes as, for instance, a Danish artiste in the same position.

Baron van BOETZELAER (Netherlands) had no strong feelings about the retention or deletion of paragraph 3. He preferred the French text to the English wording of the last sentence of that paragraph, because he believed the sense to be that the total amount of money accruing from the duty should be wholly applied to charities for the relief of refugees. The Style Committee might take that linguistic point into account.

The PRESIDENT put to the vote the Yugoslav proposal that paragraph 3 should be rejected.

The Yugoslav proposal was adopted by 15 votes to 1, with 4 abstentions.

The PRESIDENT then put to the vote article 24, as amended.

Article 24, as amended, was adopted by 19 votes to none, with 1 abstention.

Mr. CHANCE (Canada) recalled that the Ad hoc Committee, and subsequently the Conference itself, had benefited from the distinguished assistance of Dr. Paul Weis. Dr. Weis was not a member of the Style Committee, to which the Conference had delegated a great amount of work, and representatives might wish to consider the advantage of Dr. Weis' participating in the work of that Committee. The point was, however, one which could be dealt with informally.

The PRESIDENT fully concurred with the Canadian representative's appreciation of Dr. Weis. He would regard it as the privilege of the Style Committee to call upon the services of Dr. Weis if it so desired.

The meeting rose at 5 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirteenth Meeting

By General Assembly | 22 November 1951

Present:

President: Mr. LARSEN

Members;

Australia

Mr. SHAW

Austria

Mr. FRITZER

Belgium	Mr. HERMENT
Brazil	Mr. De OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO- JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observers:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialised agencies and of other intergovernmental organisations:

International Labour Organisation	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. von SCHMIEDEN

Representatives of non-governmental organizations:

Category A

International Federation of Christian Trade Unions	Mr. EGGERMANN
--	---------------

Category B and Register

Caritas Internationalis	Abbé HAAS
-------------------------	-----------

	Mr. BRAUN
--	-----------

	Mr. METTERNICH
--	----------------

Catholic International Union for Social Service	Miss de ROMER
---	---------------

Commission of the Churches on International Affairs	Mr. REES
---	----------

Consultative Council of Jewish Organizations	Mr. MEYROWITZ
--	---------------

Co-ordinating Board of Jewish Organizations	Mr. WARBURG
---	-------------

Friends' World Committee for Consultation	Mr. BELL
---	----------

International Council of Women	Mrs. FIECHTER
--------------------------------	---------------

International Federation of Friends of Young Women	Mrs. FIECHTER
--	---------------

International League for the Rights of Man	Mr. de MADAY
--	--------------

International Union of Catholic Women's Leagues	Miss de ROMER
---	---------------

Standing Conference of Voluntary Agencies	Mr. REES
---	----------

Category B and Register (continued)

Women's International League for Peace and Freedom	Mrs. BAER
--	-----------

World Jewish Congress	Mr. RIEGNER
-----------------------	-------------

Secretariat:

Mr. Humphrey	Executive Secretary
--------------	---------------------

Miss Kitchen	Deputy Executive
--------------	------------------

**CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES
(item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (continued):**

(i) Article 25 - Transfer of assets (A/CONF.2/54)

Mr. GIRALDO-JARAMILLO (Colombia), introducing the Colombian amendment to article 25 (A/CONF.2/54), said that so far as paragraph 1 was concerned, his delegation had merely endeavoured to find a clear and simple solution to the complex problem of the transfer of assets.

With regard to paragraph 2, his delegation proposed that it be deleted, in the light of the statements made by many speakers, and particularly by the Netherlands representative, who had emphasized the futility of the wishes, no doubt full of goodwill but not mandatory in character, expressed at various points in the text of the draft Convention.

Mr. HERMENT (Belgium) pointed out that the purpose of article 25 was in fact to lift in the case of the refugee the restrictions imposed in receiving countries on the transfer of assets. The Colombian amendment, however, sought to make the provisions laid down for aliens applicable to refugees, and consequently to subject the refugee to the restrictions prescribed in such provisions.

Mr. GIRALDO-JARAMILLO (Colombia) remarked that, generally speaking, the laws and regulations in force in the various countries enabled aliens to transfer assets more freely than nationals. The Belgian representative's interpretation was correct, but it was nevertheless true that, if the Colombian amendment seemed more restrictive in principle, it would be easier to apply in practice, having regard to the numerous difficulties by which the transfer of funds was usually attended.

Mr. HERMENT (Belgium) thought that the Conference should first decide the question of substance, that was, whether refugees should enjoy favourable treatment, or the treatment accorded to aliens generally.

Mr. GIRALDO-JARAMILLO (Colombia) recalled the fact that when the Conference had taken a decision on the rights laid down in Chapter III of the Convention (Practice of Professions), it had considered the question of the treatment to be given to refugees, as compared with the treatment enjoyed by aliens. It had decided that refugees should be granted the same treatment as aliens in general. It was in that spirit that his amendment had been conceived.

Mr. ZUTTER (Switzerland) supported the Belgian representative. He considered it essential the original wording of article 25, and not to narrow the scope of the rights it granted.

Mr. HOARE (United Kingdom) also supported the views of the Belgian representative. Article 25 had been framed in mandatory terms in the interest of refugees, but paragraph 1 contained the important and necessary proviso "in conformity with its laws and regulations". Thus, any provisions that might be applied by a State with regard to currency control were covered. But if it was explicitly provided that the treatment accorded to refugees in that respect should be the same as that accorded to aliens generally, the

discretionary powers of Contracting States to accord refugees better treatment might appear to be limited.

From the point of view of the United Kingdom Government the text of paragraph 1 was perfectly satisfactory as it stood.

Mr. CHANCE (Canada) recalled the fact that article 25 had initially been drafted with specific reference to countries of initial asylum or secondary residence. The purpose of paragraph 1 was to ensure that a refugee who entered a country with the intention and possibility of ultimately settling elsewhere should not be deprived of the material assets he had been able to bring with him, since such assets might be of considerable help to him in settling overseas. The Canadian Government, which represented a country of final settlement for refugees, was opposed to any restriction of the text of paragraph 1.

The PRESIDENT, speaking as representative of Denmark, recalled that article 25 had first been proposed by a European country, and hence a country of asylum, and that members of the Ad hoc Committee had agreed that it was their duty to help a refugee to re-settle permanently.

Furthermore, he would point out that currency restrictions in general made a distinction, not between aliens and nationals but between residents and non-residents. The Colombian amendment (A/CONF.2/54) might give rise to difficulties for that very reason, and the Danish delegation would therefore be unable to support it.

Mr. GIRALDO-JARAMILLO (Colombia) regretted that the principle stated in his amendment had evoked no response in the Conference. He emphasized that his concern was not to safeguard the interests of his own country, whose legislation relating to the transfer of assets was reasonably liberal, but to meet the general needs of refugees. As the Conference appeared to think that those needs would be provided for more adequately if the original wording of article 25 were kept, he would not press his amendment.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) drew attention to a discrepancy between the French and English texts of paragraph 1, reference to which had been made in the concordance drawn by the Secretariat (A/CONF.2/5, page 6). Whereas the French text read: "transférer les avoirs qu'ils ont fait entrer sur leur territoire", the English read: "[assets] which he has brought with him". The French wording was more liberal than the English, which explicitly referred to the moment of a refugee's entry into the country of asylum he hoped that the Conference would agree that the English text should be brought into line with the French. That could best be done by deleting the words "with him" from the English text of paragraph 1.

The PRESIDENT said that the intention of the Ad hoc Committee had been to allow a refugee to take out of the country of asylum the money and assets that he owned. It would not be fair to interpret the position in terms only of such assets as a refugee might have in his pocket. On the other hand, cases might arise of persons who had, over a period of time, transferred considerable assets to a foreign country, and who, having subsequently become refugees in that country, wished to emigrate further. Inevitably such assets must be subject to the currency control regulations of the country of asylum. Finally, the point must be borne in mind that during his period of residence in the country of asylum a

refugee might earn money. Should he not be allowed to transfer his earnings? There were thus three distinct types of circumstances to be considered. His interpretation was that paragraph 1 of article 25 related to the assets which the refugee brought into the country of asylum as a refugee. Any other assets the refugee might possess in that country would come under paragraph 2 of the same article.

As the High Commissioner's proposed amendment to the English text of paragraph 1, he would suggest that the words "as a refugee" be substituted for the words "with him", the text then reading: " to transfer assets which he has brought as a refugee into its territory"

MOSTAFA Bey (Egypt) said that the interpretation of paragraph 1 which the President had just given a restrictive interpretation so far as concerned the right of refugees to transfer any assets they might have acquired during their stay in the country of asylum raised the following problem: would it not be better to grant refugees the rights accorded to aliens generally? In Egypt, for example, aliens had the right to transfer such assets. If that right were withheld from refugees, they would enjoy less favourable treatment than aliens generally, which seemed contrary to the general intentions of the members of the Conference. In that connexion, he considered it necessary to settle once and for all the question whether refugees should be treated on a par with aliens, or should enjoy less favourable or more favourable treatment than that accorded to aliens generally.

The PRESIDENT, speaking as representative of Denmark, said that the attitude of countries towards the export of funds by resident nationals or aliens inevitably depended on the currency position; for instance, States which suffered from a dollar shortage could not allow the export of dollars. Thus, a refugee who owned property in Denmark would not be able, on emigrating, to change the Danish currency he got from the sale of that property into dollars, but in the Danish Government's view it would be unfair to deprive a refugee of dollars which he had brought into Denmark and wished to take with him on emigrating, even if he had in the meantime sold those dollars in accordance with the Danish currency regulations. That, indeed, had been the attitude taken by the Ad hoc Committee, and it was for that reason, and in order to cover such cases, that paragraph 2 had been included in article 25.

Mr. GIRALDO-JAMARILLO (Colombia) thought that the substantive issue raised by the Egyptian representative was of great importance. He (Mr. Giraldo-Jaramillo) was glad to have submitted an amendment which had given rise to such a constructive exchange of views. The purpose of the Colombian amendment was to accord to refugees the rights enjoyed by aliens generally in respect of the transfer of assets; the amendment had not met with general approval, since it had been considered that refugees should receive more favourable treatment than aliens. But according to the restrictive, and indeed legitimate, interpretation placed on the original text of article 25 by certain representatives, that text would give refugees more limited rights than those enjoyed by aliens in certain countries.

Baron van BOETZELAER (Netherlands) remarked that some of the comments made during the discussion might give a false impression of the position of refugees. Cases of refugees wishing to transfer very large sums were most exceptional. It hardly seemed necessary, therefore, to go very deeply into the consequences that article 25 might have

in such cases, especially as it was specifically provided in that article that the transfer of assets should be effected in accordance with the laws and regulations in force in the countries concerned.

Mr. WARREN (United States of America) agreed with the United Kingdom representative that the reference in paragraph 1 to the laws and regulations of Contracting States fully covered the cases mentioned by previous speakers. It was surely only fair that a refugee should be able to take out of the country of asylum whatever assets he had brought into it, as well as any money that he might have earned, within the limits prescribed by national regulations.

As to the textual discrepancy, he was inclined to favour the French version of paragraph 1.

MOSTAFA Bey (Egypt) thought the problem under discussion deserved thorough consideration. The Colombian amendment would make it obligatory for Contracting States to treat refugees on the same footing as aliens. The original text referred the reader to the laws and regulations in force in the country concerned, which might well stipulate that refugees should be given less favourable treatment than that enjoyed by aliens generally. The question to be settled, therefore, was whether the purpose of the Convention was to ensure that refugees should be given more favourable treatment than that enjoyed by aliens.

The PRESIDENT emphasized that the Ad hoc Committee had wished to ensure that the conditions imposed on refugees should be less stringent than those imposed on nationals and other aliens. That was why the solo proviso contained in paragraph 1 was that national laws and regulations should be respected; for the rest, the text was mandatory, in that it read: "A Contracting State shall permit"

Mr. SHAW (Australia) said that Australia was often used by refugees as a place of temporary residence before they re-settled elsewhere. Such refugees brought in money in various currencies. The Australian Government could not interpret article 25 as overruling national laws and regulations in respect of hard currencies.

Mr. CHANCE (Canada) pointed out that paragraph 1 explicitly referred to the transfer of assets to countries where refugees were being admitted for "purposes of resettlement". Once a refugee had been resettled, he could not be treated, with regard to his assets, as if he were still in a country of asylum. Indeed, he (Mr. Chance) was unable to appreciate the objections which had been raised. Surely, if paragraph 1 was acceptable to those who advocated a more restrictive régime, no further problem arose, since there was nothing to prevent countries from giving refugees better treatment than that provided for in article 25.

Mr. HERMENT (Belgium) added that refugees could in no case be treated less favourable than aliens, since that was expressly forbidden by article 4 of the Convention.

The PRESIDENT ruled the discussion closed, and said that he would put to the vote paragraph 1 as drafted in French (the phrase in dispute therefore reading in English: "to transfer assets which he has brought into its territory.") If the Conference rejected that text, he would put the English text to the vote. The adopted text would be subject, if necessary, to re-drafting by the Style Committee.

Paragraph 1, as drafted in the French text, was adopted by 19 votes to 4, with 1 abstention .

Paragraph 2 of article 25 was adopted by 23 votes to none, with 1 abstention.

Article 25 as a whole was adopted unanimously.

(ii) Article 26 - Refugees not lawfully admitted (A/CONF.2/55, A/CONF.2/58, A/CONF.2/62, A/CONF.2/65)

The PRESIDENT drew attention to the amendments submitted by the Colombian, Austrian, French and Swedish delegations (A/CONF.2/55, A/CONF.2/58, A/CONF.2/62 and A/CONF.2/65 respectively).

Mr. FRITZER (Austria) said that the Austrian delegation approved the principle underlying paragraph 1 of article 26, but considered it necessary to provide for the case of a refugee against whom an order of expulsion had been made as a result of an offence which he had committed in the country of asylum. That was the purpose of his delegation's amendment (A/CONF.2/58).

Mr. GIRALDO-JARAMILLO (Colombia) observed that article 26 was intended to provide for an exceptional situation, which raised the fundamental question of whether the granting of territorial asylum was a duty incumbent upon States, or simply a right to be claimed by refugees. It was to meet that point that his delegation had submitted its amendment (A/CONF.2/55), to which it had given a positive, and not merely a negative form like that of the original text of the article.

He further expressed his support for the amendments proposed by the Austrian (A/CONF.2/58) and Swedish (A/CONF.2/65) delegations.

Mr. HERMENT (Belgium) noted that the Colombian amendment read "The Contracting States may grant territorial asylum to a refugee" He wondered whether the Colombian delegation intended that to be an obligation on Contracting States.

Mr. GIRALDO-JARAMILLO (Colombia) explained that, in his view, territorial asylum could not be regarded as a duty incumbent on States.

In reply to a question by the PRESIDENT, he stated that his amendment referred only to paragraph 1 of article 26.

Mr. CHANCE (Canada) observed that there appeared to be a certain amount of anxiety about the interpretation to be placed on the word "penalties" in paragraph 1 of article 26, an anxiety which centred round the question whether a State would by virtue of that article forfeit its right to expel refugees who had illegally entered its territory. Knowing the background of the previous discussions on the subject, he did not share that anxiety, and would not wish to suggest any modification to the text. In fact, he would be satisfied if it were made clear that the consensus of opinion was that the right to which he had referred would not be prejudiced by adoption of article 26; indeed, he would even regard silence on the part of the Conference on that point as endorsement of his view.

Mr. COLEMAR (France), introducing the French delegation's amendment to article 26 (A/CONF.2/62), wished first of all to make it clear that, in his opinion, the right of asylum was

implicit in the Convention, even if it was not explicitly proclaimed therein, for the very existence of refugees depended on it. If a State were to refuse admission to refugees on the pretext that they had entered its territory irregularly, they would be sent back to their countries of origin, and would no longer be refugees. The French delegation did not believe that article 26 was in any way intended to relieve States of the obligation incumbent upon them, without which the whole Convention would be pointless. On the other hand, while his delegation felt that it was right to exempt from any penalties imposed for illegal crossing of the frontier refugees coming directly from their countries of origin, it did not see any justification for granting them similar exemption in respect of their subsequent movements. The initial exemption was the direct corollary of the right of asylum, but once a refugee had found asylum, article 26 in its present form would allow him to move freely from one country to another without having to comply with frontier formalities. Actually, however, there was no major reason why a refugee should not comply with those formalities, since article 23 provided for the issue of documents to refugees to enable him to travel lawfully. It was to remedy that omission that the French amendment had been submitted.

Mr. De DRAGO (Italy) also felt that exemption from the consequences of irregular entry should only be considered in the case of the first receiving country. There was nothing to prevent a refugee's subsequent movements from being lawful. The Italian delegation accordingly supported the French amendment.

Mr. HERMENT (Belgium) stated that the Belgian Government could not interpret paragraph 1 of article 26 as restricting its right to send back a refugee who had entered Belgian territory illegally. The purpose of paragraph 1 was to exempt refugees from the application of the penalties impossible for the unlawful crossing of a frontier, provided they presented themselves of their own free will to the authorities and explained their case to them. The government concerned would nevertheless retain its right to expel an alien who had entered its territory illegally.

Mr. GIRALDO-JARAMILLO (Colombia) said that, in the light of the foregoing discussion, the Colombian delegation would not oppose paragraph 1 of article 26, especially as the right of asylum had always been upheld by the Latin American countries. Since it seemed to be the general feeling of all delegations that the granting of asylum remained a matter for the discretion of individual States, the Colombian delegation, which shared that view, would not press its amendment to article 26.

Mr. HOARE (United Kingdom) endorsed the Belgian representative's interpretation of paragraph 1. The right of asylum, in the view of the United Kingdom delegation, was only a right, belonging to the State, to grant or refuse asylum not a right belonging to the individual and entitling him to insist on its being extended to him. Article 26 therefore had nothing to do with the question of the right of asylum. The Belgian, Canadian and United Kingdom delegations interpreted the word "penalties" in paragraph 1 as referring to penalties impossible by law on a charge of illegal entry, and as being in no way concerned with the right of the State to grant or refuse asylum. He hoped that that view would be confirmed by the Conference; otherwise the United Kingdom Government might not be able to support article 26.

He supported the French amendment to paragraph 1.

Mr. COLEMAR (France) thanked the United Kingdom representative for his explanation. In order to illustrate his own point, he would give a concrete example - that of a refugee who, having found asylum in France, tried to make his way unlawfully into Belgium. It was obviously impossible for the Belgian Government to acquiesce in that illegal entry, since the life and liberty of the refugee would be in no way in danger at the time. The text of Article 26, as at present drafted, would nevertheless permit the refugee to claim immunity from penalties, and the French delegation had therefore submitted an appropriate amendment to that article.

The PRESIDENT, speaking as representative of Denmark, and referring to the French amendment to paragraph 1, said that the Conference should bear in mind the importance of the words "shows good cause" in the last line of that paragraph. A refugee in a particular country of asylum, for example, a Hungarian refugee living in Germany, might, without actually being persecuted, feel obliged to seek refuge in another country; if he then entered Denmark illegally, it was reasonable to expect that the Danish authorities would not inflict penalties on him for such illegal entry, provided he could show good cause for it. The Danish delegation therefore felt that reliance should be placed on the phrase "show good cause". Even if the French amendment were adopted, it would be necessary to replace the words "coming direct from his country of origin", which the French delegation proposed should be added to paragraph 1, by the phrase "coming direct from a territory where his life or freedom was threatened".

Mr. COLEMAR (France) accepted the suggestion made by the president in his capacity as Danish representative.

Mr. HERMENT (Belgium) pointed out that the expression "expulsion or residence order" used in the Austrian amendment (A/CONF.2/58) was incorrect; the words "expulsion order or prohibition of residence" were doubtless what was meant.

Mr. COLEMAR (France), for his part, preferred the wording "expulsion decision or refusal of residence". An order was, in fact, a decision given in a particular form; but the form might not be the same in all countries.

Mr. FRITZER (Austria) thanked the French and Belgian representatives for their suggestions, which he gladly accepted. He added that the word "déjà" should be inserted between the words "il existe" and the words "un arrêt" in the second line of the French text.

Mr. HERMENT (Belgium) observed that there was a very important difference between refusal of residence and prohibition of residence. If the concept of refusal of residence was adopted, the scope of paragraph 1 would thereby be restricted. For example, if a refugee applied for permission to settle in the territory of country A and his application was refused, the refugee would have been refused residence. If he then wished to go to country B, the refusal of residence would be against him, and the authorities of country B would be justified in refusing him the benefit of the provisions of Article 26.

It was decided that further discussion on article 26 should be deferred until the next meeting.

The meeting rose at 1 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Eleventh Meeting

By General Assembly | 22 November 1951

Present:

President: Mr. LARSEN

Members:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Colombia	GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO

Observers:

Iran	Mr. KAZEMI
------	------------

Representatives of specialized agencies and of other inter-governmental organizations:

International Refugee Organization	Mr. SCHNITZER
------------------------------------	---------------

Representatives of non-governmental organizations:

Category B and Register

Caritas Internationalis	Mr. BRAUN
-------------------------	-----------

Consultative Council of Jewish	Mr. MEYROWITZ
--------------------------------	---------------

Co-ordinating Board of Jewish Organizations	Mr. WARBURG
---	-------------

International Union of Catholic Women's Leagues	Miss. De ROMER
---	----------------

League of red Cross Societies	Mr. LEDERMANN
-------------------------------	---------------

Pax Romana	Mr. BUENSOD
------------	-------------

World Jewish Congress	Mr. RIEGNER
-----------------------	-------------

Secretariat:

Mr. Humphrey	Executive Secretary
--------------	---------------------

Miss Kitchen	Deputy Executive Secretary
--------------	----------------------------

1. PARTICIPATION OF THE HOLY SEE IN THE WORK OF THE CONFERENCE (resumed from the second meeting)

The PRESIDENT read out a cable received from the Holy See intimating that it was arranging for a plenipotentiary to attend the Conference.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (resumed from the tenth meeting):

(i) Article 19 - Labour legislation and social security (A/CONF.2/50, A/CONF.2/51) (continued)

The PRESIDENT requested the Israeli representative to inform the Conference of the results of his research into the history of paragraphs 3 and 4 of article 19.

Mr. ROBINSON (Israel) said that both paragraphs were supposed to cover the problem of the extra-territorial effect of acquired rights and rights in the course of acquisition in the field of social security. That problem might arise in two sets of circumstances. In the first case, a refugee might have accumulated the right to certain social security benefits in his

first country of asylum, and an agreement might exist between that country and a second country of asylum for the maintenance of such rights. In the absence of any specific provision in a multilateral convention for the protection of refugees to the effect that the refugee in question should enjoy such benefits, the problem of whether he should enjoy them was one for settlement between the particular Contracting States concerned. At the fourteenth meeting of the Ad hoc Committee, the Belgian representative had cited an agreement of that sort between France and Belgium, applying only to the nationals of those two countries, and a special protocol extending the benefits of that agreement to refugees who had resided in one country and acquired certain social security rights there, and subsequently moved to the other.

It would therefore seem that in respect of such cases, the drafting of paragraph 3 of article 19 was somewhat deficient. The adoption of either the United Kingdom or the Belgian amendment (A/CONF.2/50 and A/CONF.2/51 respectively) would remove one source of possible misunderstanding. There would, however, remain one further drafting defect. In fact, the decisive point was whether States had concluded agreements, and it appeared that the paragraph would conform more exactly to the United Kingdom representative's intention if it were amended to read:

“The benefits for the maintenance of acquired rights and rights in the process of acquisition accruing to nationals of the Contracting States under any international agreements which may at any time be in force between them shall be extended to refugees subject only to the same conditions which apply to their nationals.”

What would that mean? Taking the case of the social security agreement between France and Belgium, and assuming that there was no additional protocol extending the benefits of that agreement to refugees, and further assuming that both France and Belgium ratified that draft Convention at present before the Conference, refugees moving from France to Belgium and vice versa would enjoy the benefits accruing to nationals, even though there was no special agreement to that effect.

Consequently, benefits enjoyed by nationals would be extended to refugees whose countries of domicile or of habitual residence were parties to the Convention and to a bilateral agreement relating to the maintenance of acquired rights and rights in the process of acquisition for their nationals, provided such refugees were able to fulfil the requirements to which such benefits were subject so far as nationals were concerned.

It was obvious that nothing in paragraph 3 should be interpreted as discouraging States from settling the problem by way of the conclusion of special bilateral agreements. In cases where one or both parties to a bilateral agreement were not parties to the Convention, it was only through such special bilateral agreements that refugees could become entitled to social security benefits contractually accorded to nationals. As the modifications he had proposed with regard to paragraph 3 were of a purely drafting nature, there would appear to be no need to submit a formal amendment embodying them.

The second case in which the problem of the extra-territorial effect of such social security rights might arise was provided for in paragraph 4, the object of which was to protect the national of a particular country who, having accumulated certain social security rights in his home country and having moved to another country which had a social security benefits agreement with the former, then renounced the protection of his country of origin

and became a refugee. Under what circumstances the contractual right to the benefits accruing under the bilateral agreement would be forfeited was a matter that could only be determined by the parties to the agreement in the light of its letter and of its spirit. A State, granting asylum to a refugee of the nature just described, would, however, not be prevented from granting benefits of its own free will to a person towards whom it might have no contractual obligations.

The purpose of paragraph 4 was to provide for such a contingency, but, unlike paragraph 3, it took the form, not of a binding provision but of a recommendation. The adoption of the United Kingdom amendment to paragraph 4 (A/CONF.2/50) would enlarge the scope of the recommendation, and was therefore desirable.

Mr. HOARE (United Kingdom) withdrew the United Kingdom amendment to paragraph 3 (A/CONF.2/50) in favour of the Belgian amendment (A/CONF.2/51).

Mr. HERMENT (Belgium) thanked the United Kingdom representative for withdrawing his amendment in favour of the Belgian text. The difference between them was, in fact, only one of form. The intention of United Kingdom amendment was to enable refugees to benefit not only from existing social security measures, but also from any subsequent arrangements. That was precisely what the Belgian amendment sought to cover.

Turning to the statement made by the representative of Israel, he asked whether that representative thought that the agreements referred to should become automatically applicable to refugees as soon as the Convention had been ratified. His own feeling was that a certain amount of latitude should be allowed, for in the case of certain Contracting States administrative measures would have to be adopted before the provisions of the Convention could be applied. That was why, in its amendment, the Belgian delegation had used the words "the Contracting States shall extend to refugees" which left it to the Contracting States to decide exactly how article 19 was to be applied.

Mr. ROBINSON (Israel) believed that, in the English text at least, the use of the words "shall extend" made the Belgian amendment a binding provision, although he recognized there might be some discrepancy in that respect between that text and the French, which merely read "étendront." The question of the necessary administrative measures for extending to refugees, on a reciprocal basis, the benefits accorded under agreements concluded between Contracting States was a problem for solution by each individual State in accordance with the provisions of article 31 of the draft Convention. The intention of paragraph 3 of article 19 was, of course, to extend such benefits to refugees ipso facto, without any special provisions to that end.

Mr. HERMENT (Belgium) accepted the Israeli representative's interpretation.

MOSTAFA Bey (Egypt) stated that Egypt had recently introduced social security legislation, the benefits of which extended to all the inhabitants of the country, nationals, aliens and refugees alike, without any question of reciprocity or bilateral agreements. That legislation, he considered, was more liberal than the provisions of the draft Convention, and it would thus be readily understood that the Egyptian delegation would have no objection to a text which provided the widest possible benefits.

Mr. HOARE (United Kingdom) pointed out that paragraph 3 as drafted would place an obligation on a Contracting State to extend to refugees the benefits accorded to nationals

under agreements between it and a non-Contracting State. Under paragraph 4, amended as he had proposed, it would merely be recommended to do so.

The PRESIDENT put the Belgian amendment (A/CONF.2/51) to the vote.

The Belgian amendment to paragraph 3 of article 19 was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT, speaking as representative of Denmark, believed that all contingencies would be covered by paragraphs 3 and 4, even if the words which the United Kingdom delegation proposed should be added to paragraph 4 were, instead, substituted for the final phrase, which at present read "which may have been concluded by such Contracting States with the country of the individual's nationality or former nationality." The Danish delegation would therefore move an amendment to that effect.

Mr. HOARE (United Kingdom) appreciated the Danish representative's point, but felt that no harm would be done by adding the words proposed by the United Kingdom delegation to the original text of paragraph 4, if only to avoid drawing attention to the fact that the country of the individual refugee's nationality or former nationality need not be a Contracting State.

Mr. HERMENT (Belgium) felt that the effect of the Danish amendment would be to extend the scope of paragraph 4. So far, nationality had been taken as the deciding factor, but the Danish amendment would result in the benefits of any agreement concluded between a Contracting and a non-Contracting State being extended to all refugees. If, for example, an agreement were signed between the United Kingdom and Hungary - the latter country not being a signatory to the Convention - a Romanian refugee residing in the United Kingdom would then benefit from it. That was not, he thought, the United Kingdom representative's intention.

Mr. HOARE (United Kingdom) observed that the intention of the original text, as well as of the United Kingdom amendment thereto, was to provide for the maintenance of rights acquired in a particular country. Thus, if, under Hungarian social security arrangements, a Romanian had acquired certain rights, the intention was that the United Kingdom would give sympathetic consideration to the recognition of such rights, if that person became a refugee in the United Kingdom. As the provision took the form of a recommendation, he believed that the extension of its scope entailed by the United Kingdom amendment was justified.

Mr. HERMENT (Belgium) said that, as paragraph 4 was not binding, and would only take the form of a recommendation, his delegation would have no objection to it.

Mr. ROBINSON (Israel) thought that the Style Committee might consider the desirability of deleting the word "individual" before the word "refugees" in the second line of paragraph 4, particularly if there was any risk of the retention of that word leading to discrimination between one refugee and another.

The PRESIDENT put to the vote the Danish proposal that the phrase in paragraph 4 reading "which may have been concluded by such Contracting States with the country of the individual's nationality or former nationality" should be replaced by the words "which may at any time be in force between such Contracting States and non-Contracting States.

The Danish proposal was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT put to the vote paragraph 4, as amended.

Paragraph 4, as amended, was adopted by 21 votes to none, with 2 abstentions.

The PRESIDENT put to the vote article 19 as a whole and as amended.

Article 19, as a whole and as amended, was adopted by 21 votes to none, with 2 abstentions.

The PRESIDENT said that before opening the discussion on article 20, he would call on the representative of Pax Romana, who wished to make a statement on the Chapter of the draft Convention which the Conference had just disposed of.

Mr. BUENSOD (Pax Romana) drew the attention of the Conference to a possible omission which might have serious repercussions. Although the Conference had just examined, under the heading of "Welfare" (Chapter III of the draft convention, articles 15 to 19), a series of provisions dealing with such different matters as rationing and education, and had evolved solutions with the greatest possible sense of human realities, it had not yet begun consideration of the refugee's right to personal, spiritual, religious and cultural development. It was, of course, true that in a closely related field, that of education, the Conference had adopted an article, the object of which was to enable refugees to benefit by instruction given in the various receiving countries, to attend higher education establishments, and to take university degrees. He wondered, however, whether those provisions were sufficient to ensure the development of the refugee's personality. Paragraph 2 of the preamble to the draft convention expressed the desire to ensure to refugees the exercise of fundamental rights and freedoms. But the draft Convention contained no positive definition of the spiritual and religious freedom of the refugee. The negative principle of non-discrimination as expressed in article 3 could not be considered as constituting such a definition. It should be noted in that connexion that the International Refugee Organization (IRO) had, in carrying out its functions, fully recognized the importance of that moral and spiritual factor, and especially that it had asked various religious authorities to help to bring to the refugees the spiritual assistance they needed. The High Commissioner for Refugees, who would take over, at least in part, the heavy responsibilities of IRO, would undoubtedly have similar ideas on the subject. That was only natural, because, although the provisions designed to ensure that refugees received material assistance and to confer on them a definite legal status were of the first importance, the spiritual and religious factor was of special significance, having regard to the material and moral distress prevailing among the majority of refugees. It was for those reasons that Pax Romana, the views of which were, moreover, shared by other non-governmental organizations, thought it advisable to draw the attention of the Conference to that point, and to suggest that an appropriate article should be embodied in the Convention. That article might be worded as follows.

"The Contracting States shall grant refugees full freedom to continue to practise and manifest their religion in their territory, individually or jointly, in public and in private, through education, instruction, religious observance, worship and the carrying out of rites."

In conclusion, he thanked the conference for having given him an opportunity of expressing his views, and recalled the fact that the previous year he had brought the same

arguments to the notice of the Council Committee on Non-Governmental Organizations of the Economic and Social Council.

The PRESIDENT pointed out that the suggestion made by the representative of Pax Romana would have to be sponsored by a delegation before the Conference could take action upon it.

Mr. ROCHEFORT (France) thought that representatives might possibly have some difficulty in defining forthwith their views with regard to the suggestion just thrown out by the representative of Pax Romana. It should, nevertheless, be examined in principle, if necessary by a working party. The best course would therefore be to leave the matter in abeyance for the time being.

It was so agreed.

(ii) Article 20 - Administrative assistance (A/CONF.2/46, A/CONF.2/48, A/CONF.2/52)

Mr. FRITZER (Austria) said that the Austrian Federal Government would be unable to accept article 20 as drafted, since that article sought to impose on Contracting States the obligation either to establish national authorities for delivering documents to refugees, such documents to have the same validity as those delivered by the authorities of an alien's country of origin, or to recognize international authorities as competent to deliver such documents.

Presumably documents pertaining to a refugee's personal status would not be affected by article 20, since article 7 provided that the personal status of a refugee should be governed by the laws of the country of his domicile. Consequently, article 20 would be applicable to documents relating to material and legal rights. It followed, therefore, that the Austrian Federal Government, for instance, would, acting as the national authority, have to provide documents covering legal situations and circumstances unknown to Austrian law and custom. Such a situation might give rise to great juridical difficulties, and Contracting States would, by subscribing to article 20, assume considerable risks.

Accordingly, without wishing to reject article 20, the Austrian delegation felt that scope of the obligations defined in it should be limited, and had consequently submitted an amendment (A/CONF.2/46) the effect of which would be to make paragraphs 2 and 3 optional.

Mr. PETREN (Sweden) supported the Austrian amendment, which fully met the difficulties experienced by the Swedish government in the matter.

Baron van BOETZELAER (Netherlands) said that the Netherlands delegation had also submitted an amendment (A/CONF.2/48) to article 20 because it, too, had felt that the obligations prescribed therein were too far-reaching, and that national administrations might be faced with a number of requests for documents which would not perhaps be absolutely necessary. The Netherlands delegation had consequently re-drafted paragraph 2 in such a way as to provide for the delivery of such documents or certifications normally delivered to aliens by their national authorities as were required for the exercise of a right. As a result of discussions between himself and the Office of the High Commissioner for Refugees he had come to the conclusion that that amendment was too restrictive; he now appreciated that the final clause in paragraph 2 - "as would normally be delivered to other

aliens ...” - provided adequate safeguards. He would consequently withdraw his own amendment, and would oppose the Austrian amendment, which, he considered, was also too restrictive.

Mr. HERMENT (Belgium) stressed the importance of article 20, which was designed to meet one of the most constant and essential needs of refugees. The Belgian Government regretted that a task of that nature had not been entrusted exclusively to an international authority. Under his mandate, the High Commissioner could protect only groups of refugees, and that was where the tragedy lay in certain cases, where the refugee needed not only the protection which the relations established between the High Commissioner and national authorities afforded him, but individual protection as well. In many European countries refugees were not living in groups but in families, and would like to be able to get into direct touch with someone who was responsible for protecting them, not merely with foreign authorities. The Belgian delegation wished to make it clear that those remarks were not aimed at any particular State: it was fully aware of the good intentions of the authorities of the various countries. Nevertheless, the fact remained that when the authorities of the receiving country were called upon to consider a complaint or a protest from a refugee, they would always be both judge and party to the dispute.

If the terms of article 20 were considered, it would be noted that paragraph 1 only provided for a single case - that of the exercise of a right in the territory of a Contracting State. He did not consider that the obligation on contracting States to afford refugees the necessary administrative assistance was brought out with sufficient clarity in that paragraph. If a refugee resident in the territory of country A happened to marry, and so exercised a right in the territory of country B, the question would arise as to which authorities were responsible for giving him the administrative assistance which he required. In the opinion of the Belgian delegation, as expressed in its amendment to paragraph 1 (A/CONF.2/52), the responsibility should be placed squarely on the authorities of the country of residence, who were better able to come to the assistance of refugees.

Another case might well arise, namely, that of a refugee wishing to exercise a right in the territory of a non-Contracting State. The Belgian delegation was of the opinion that in such cases the country of residence should lend its good offices. The concept of territory should, for those reasons, be omitted from the provisions governing the exercise of a right by refugees.

The object of paragraph 2 of article 20 was to enable refugees to procure documents which they could not obtain from the countries which would normally provide them, and to confer on such documents the same validity as, if not at times greater validity than, similar documents which a national of the refugee's country of origin could obtain from his competent national authorities. That was a most important provision, and it was therefore right that it should be safeguarded to the greatest possible extent. His delegation therefore proposed that there should be some control, even if such control merely consisted in the authentication of the signature of those concerned. The Belgian delegation also proposed that the documents or certifications normally supplied to aliens should be issued to refugees either by the national authorities mentioned above, or through their intermediary. It might well be that, to exercise a certain right, a refugee would need a document issued, not by his national authorities but by the authorities of a foreign country. If, for example, a Romanian national born in Hungary wanted to obtain a copy of his birth certificate, he

would normally have to apply either to the Romanian representative accredited to his country of residence or to the Romanian Government direct. The documents he needed would therefore be issued through his national authorities. A refugee, on the other hand, had no possibility of applying to his national authorities, even where they merely acted as intermediaries.

Lastly, the Belgian delegation suggested that paragraph 3 should be replaced by some text more easily capable of dispelling any doubts arising out of such documents; that was why it had suggested that they should be regarded as authentic in the absence of proof to the contrary.

Mr. GIRALDO-JARAMILLO (Colombia) supported the Belgian delegation's attitude towards paragraph 1 of article 20; the wording proposed for that paragraph in the Belgian amendment was clearer and more precise.

In the case of paragraph 2, he supported the Austrian amendment.

Mr. HERMENT (Belgium) said that he would like to hear the High Commissioner's views on the subject. He himself could not agree that the administrative assistance which the Contracting States would be required to afford to refugees should be made optional. It was a question of vital importance for refugees, and if governments were permitted to grant or refuse them the necessary documents at their discretion, the rights which the Convention was intended to confer on refugees would be jeopardized.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for refugees) said that article 20 was of the greatest importance, since refugees had to be provided, in one way or another, with the documents they required. It did not matter whether such documents were delivered by a national or international authority. What mattered was that refugees should know exactly how they should go about getting them. No difficulties arose in countries of common law, where the affidavit system was applied, but he would very much regret it if the Conference adopted the Austrian amendment, which would so weaken article 20 as to deprive it of all significance. It would be preferable for the Austrian Federal Government to enter a reservation to the article rather than to press its amendment.

The Belgian amendment (A/CONF.2/52) was, in his view, in some respects even better than the original text, and he would have no objection to its adoption.

Mr. FRITZER (Austria) said that, in view of the arguments advanced by the High Commissioner, his delegation would withdraw its amendment, and instead enter a reservation, which it would formulate when it signed the Convention.

Mr. ROCHEFORT (France) asked for an explanation of the words "under their supervision" in the Belgian amendment to paragraph 2d (A/CONF.2/52).

In his opinion, they meant that if the papers and documents concerned were issued by a national authority there would be international supervision, whereas if they were issued by an international authority, there would be national supervision.

If that was indeed the meaning of the text, the French delegation would have no objection.

Mr. HERMENT (Belgium) said that the French representative's interpretation was correct. There was a precedent in the 1928 Agreement between the governments of France and

Belgium, by which an Office responsible for issuing identity papers to Russian refugees had been set up. Such papers were regarded as authentic by the national authorities if the signature of the Director of the Office was attested by the French or Belgian authorities.

The establishment of such national offices would be the best way of solving the problem.

Mr. HOARE (United Kingdom) said that he had taken no part in the discussion for the reason that common law applied in the United Kingdom, and that, as a consequence, the documents referred to in article 20 would not be required to enable refugees to exercise rights in that country. Affidavits would be sufficient. The United Kingdom delegation might have to enter a reservation on article 20 in order to make its position clear, especially since paragraph 2, as at present drafted, would make it mandatory on the United Kingdom authorities to supply the documents which would under Continental systems of law be issued by national authorities. Such an obligation would be unacceptable to the United Kingdom Government. But he wished to emphasize that he was in no way opposed to the general tenor of the article, which would in point of fact have no practical effect in the United Kingdom.

The PRESIDENT declared the discussion closed, and put the Belgian amendment (A/CONF.2/52) to the vote.

The Belgian amendment to article 20 was adopted by 17 votes to none, with 5 abstentions.

Article 20 was adopted, as amended by 19 votes to none, with 2 abstentions.

(iii) Article 21 - Freedom of Movement (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that the Yugoslav delegation had submitted an amendment (A/CONF.2/31) to article 21 in order to cover cases where the fact that refugees resided near the frontier of their country of origin might cause friction between two states. Contracting States should be empowered to prescribe zones in which residence would be forbidden to refugees.

Since, however, his delegation intended to submit a general proposal dealing with possible causes of friction between States, the point might be more suitably dealt with therein. He accordingly withdrew his amendment to article 21.

Mr. HERMENT (Belgium) felt, for the sake of style, it would be preferable to amend the first sentence of the French text of article 21 to read "Les Etats contractants accorderont aux réfugiés se trouvant régulièrement sur leurs territoires".

The PRESIDENT said that the Belgian representative's point would be dealt with in due course by the style Committee.

Mr. SHAW (Australia) said that the Australian Government had no objection to the principle enunciated in article 21, but noted that it would require interpretation in order to make it clear whether it would apply to, for instance, refugees entering Australia under the labour contract system practised there. In his view, article 21, like several others, should be covered by a special interpretative clause in the Convention.

Mr. CHANCE (Canada) said that the Canadian Government's position resembled that of the Australian Government. Persons who came to Canada under group-settlement schemes were frequently required to give a pledge that they would remain in a specific job for a certain period of time. He did not believe that such a requirement conflicted with the principle of freedom of movement, but the point must none the less be borne in mind.

The PRESIDENT declared the discussion closed.

Article 21 was adopted by 19 votes to none, with 2 abstentions.

(iv) Article 22 - Identity papers

Baron van BOETZELAER (Netherlands) drew attention to a point which the High Commissioner for Refugees had already mentioned in his opening speech, namely, the problems which might arise in connexion with the issue of identity papers.

There had already been a case where a refugee who had obtained a ration card in a receiving country, and had later been expelled, had been refused admission to another State, the authorities of which had considered that, by issuing him the ration card, the receiving country had granted him the right to reside there. The High Commissioner had made it clear that the duty imposed on States by article 22 in no way impaired their right to control the admission and sojourn of refugees.

His delegation would content itself with mentioning the point, provided the interpretation given by the High Commissioner was reported in the summary record of the meeting.

Mr. CHANCE (Canada) said that in Canada, where no aliens registration act was in force, identity papers, as the term was generally understood, were not delivered to aliens. The only document which was required was an immigrant's record of landing. Article 22 was entirely acceptable to the Canadian Government on the understanding that the latter would be free to continue to apply its own procedure.

Mr. HERMENT (Belgium) agreed with the Canadian representative's interpretation. Identity papers did not necessarily mean identity cards like those issued in European countries; they might simply consist of a document showing the identity of the refugee.

The PRESIDENT declared the discussion closed.

Article 22 was adopted by 19 votes to none, with 1 abstention.

The meeting rose at 1 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Fourteenth Meeting

By General Assembly | 22 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. COLEMAR
Greece	Mr. PHILON
The Holy See	Archbishop BERNARDINI Monsignor COMTE
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Luxembourg	Mr. STURM
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observers:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and of other intergovernmental organizations

International Labour Organisation	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. von SCHMIEDEN

Representatives of non-governmental organizations:

Category A

International Federation of Christian Trade Unions	Mr. EGGERMANN
--	---------------

Category B and Register

Caritas Internationalis	Abbé HAAS Mr. BRAUN Mr. METTERNICH
-------------------------	--

Catholic International Union for Social Service	Miss de ROMER
---	---------------

Consultative Council of Jewish Organizations	Mr. MEYROWITZ
--	---------------

Co-ordinating Board of Jewish Organizations	Mr. WARBURG
---	-------------

International Committee of the Red Cross	Mr. OLGIATI
--	-------------

International Council of Women	Mrs. GIROD
--------------------------------	------------

International Union of Catholic Women's Leagues	Miss de ROMER
---	---------------

World Jewish Congress	Mr. RIEGNER
-----------------------	-------------

Secretariat:

Mr. Humphrey	Executive Secretary
--------------	---------------------

Miss Kitchen	Deputy Executive Secretary
--------------	----------------------------

1. STATEMENT BY ARCHBISHOP BERNARDINI, REPRESENTATIVE OF THE HOLY SEE

The PRESIDENT welcomed Archbishop Bernardini, representative of the Holy See, and assured him that the Conference was looking forward to his contribution to its work. He felt sure that the friendly collaboration which had hitherto prevailed among the various delegations would be extended to the newly arrived representative.

Archbishop BERNARDINI (The Holy See) thanked the President for his welcome. The Holy See had long been interested in the fate of refugees, and was happy to see the problem of refugees and stateless persons, with which a number of international organizations had already concerned themselves, being taken up by the United Nations.

The Holy See was always ready to help in alleviating human suffering, and gladly placed its experience in welfare work at the disposal of the Conference.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (resumed from the thirteenth meeting):

(i) Article 26 - Refugees not lawfully admitted (A/CONF.2/58, A/CONF.2/62, A/CONF.2/65) (continued)

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) fully appreciated the motives that had prompted the French delegation to introduce its amendment (A/CONF.2/62) to article 26, and realized that that delegation had no intention of applying restrictive practices to refugees. On the contrary, France was one of the countries which had always shown great generosity towards those unfortunate persons. He thought, however, that the text of that article as modified by the French amendment might give rise to some difficulties.

There were two main categories of refugee. First, there were refugees who, after leaving one country of persecution, arrived in another country where they might possibly remain unmolested for a certain period, but would then again be in danger of persecution. If, as a result, they moved on again and reached a country of true asylum, it might be claimed that they had not come direct from their country of origin. For example, in 1944, he had himself left the Netherlands on account of persecution and had hidden in Belgium for five days. As he had run the risk of further persecution in that country, he had been helped by the resistance movement to cross into France. From France he had gone on into Spain, and thence to Gibraltar. Thus, before reaching Gibraltar, he had traversed several countries in each of which the threat of persecution had existed. He considered that it would be very unfortunate if a refugee in similar circumstances was penalized for not having proceeded direct to the country of asylum. In his opinion it would be an improvement if, instead of referring to the refugee's country of article 28 were followed in article 26.

Secondly, there were refugees who fled from a country of persecution direct to a country of asylum; they might not, however, be granted the right to settle there, even though the country in question was a contracting State. Thus a refugee might suffer if he arrived in a country which did not display a generous attitude. Such refugees might possibly be covered if the words "and shows good cause" were amended to read "or shows other good causes". The fact that a refugee had fled from a country of persecution in itself constituted good cause for his entry into or presence in the country of asylum.

Speaking at the invitation of the PRESIDENT, Abbé HAAS (Caritas Internationalis) said that the amendment which the Colombian delegation had submitted and subsequently withdrawn had for the first time at the present Conference explicitly raised the question of the right of asylum. It was precisely on that right, which presented a particularly delicate problem in the case of refugees who entered a country illegally, that his organization wished to be heard.

His organization wished first to say how pleased it was to think that the Conference was to produce a new diplomatic instrument which would contain the most humane statement possible of the terms on which States should accord one of the oldest rights of mankind,

namely, that of asylum, a right which Caritas Internationalis had already brought to the attention of the United Nations Commission on Human Rights.

Even before legal relationships were established, the taking-in of a refugee by a State able to grant him its protection set up a bond of mutual confidence between the person thus entrusting another country with the protection of his life and liberty and the State which was prepared to safeguard it by granting him asylum. That meant that on both the spiritual and the human plane the right of asylum assumed an amplitude which admitted of no other limitations than those best fitted to safeguard it.

It was not his intention, in expressing that general principle, to indulge in facile oratory. He was merely expressing, on behalf of Caritas Internationalis, the feelings of all Catholic voluntary relief organizations.

His organization was firmly convinced that every effort must be made to ensure that, from the moment they were deprived of their natural protection, refugees were accorded genuine and universal respect for the dignity inherent in all members of the human race and for their equal and inalienable rights. In the difficult task of taking in refugees, a balance could and must be found between prudence and charity, between firmness and generosity.

His organization appealed to the Conference to consider the exceptional position of the exceptional position of the refugee. In whatever country or continent he found himself, the refugee always remained someone who had suffered more than could ever be imagined from his being uprooted, someone who no longer had the support of his native land behind him and who, being often forced by those circumstances to take clandestine and illegal action, could never be as other aliens. The special rights granted to refugees by earlier Conventions and by the conscience of mankind were consequently not privileges in the legal meaning of the word; they were the natural outcome of the refugee's very situation.

Caritas Internationalis therefore hoped that concern for the material, economic, social and political interests of receiving countries would not lead Governments to enter reservations incompatible with the noblest form of hospitality.

Mr. COLEMAR (France) appreciated the difficulties that might arise in the application of article 26 if his amendment was adopted. France was not absolutely opposed to the illegal entry and residence of certain refugees, and the French delegation was quite prepared to consider changing the text of its amendment, for example by replacing the words "coming direct from his country of origin" by the words "having been unable to find even temporary asylum in a country other than the one in which his life or freedom would be threatened". Such a change would meet the points which were causing the High Commissioner concern.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that the French amendment emphasized the difficulties experienced by countries of asylum. Germany was one such country, and its Constitution recognized the principle of asylum. Germany therefore had a special burden upon it by its Constitution and by its geographical position. It would continue to do its utmost to alleviate the plight of refugees and to act as liberally as possible towards those of them for whom Germany was the first country of refuge. He would, however, appeal to the governments represented at the Conference to open their

frontiers to refugees as widely as possible, and thereby to help Germany to cope with her extremely difficult tasks in that respect.

Mr. HOARE (United Kingdom) stated that, while he appreciated the objective of the French amendment, he had been impressed by the arguments advanced by the High Commissioner for Refugees. He wondered whether the original text of article 26 did not allow countries such as France, which received refugees in great numbers, sufficient latitude. According to paragraph 1, States must refrain from imposing penalties on refugees who presented themselves without delay to the authorities and who showed good cause for their entry or presence. The fact that a refugee was fleeing from persecution was already a good cause. But, as the High Commissioner had pointed out, there might be cases where a refugee could show good cause even though he had not fled direct from a country where his life was endangered.

He therefore thought that it would be sufficient for Contracting States to accept paragraph 1 as originally drafted, since they themselves would be free to decide whether a refugee indeed had good cause for his entry or presence. The original wording of paragraph 1 would be more generous to the refugee, while preserving ample discretion for Contracting States.

Baron van BOETZELAER (Netherlands) feared that article 26 might be interpreted as debarring States from expelling refugees who had illegally entered its territory. But in view of the Canadian representative's statement at the preceding meeting, that he would interpret the silence of representatives as tacit approval of the Canadian Government's interpretation of article 26, he would remain silent.

He also had certain misgivings about the interpretation of the words "good cause". It seemed to him that article 26 excluded the possibility of a refugee being allowed to enter another country where a member of his family was, for example, sick. After pondering the various possibilities, he agreed with the United Kingdom representative that it would be difficult to define briefly what was meant by "good cause". The words "reconnues valables" in the French text of paragraph 1 correctly rendered the idea intended, as they implied that the State could use its discretion in judging individual cases, whereas the English text provided no such criterion.

Mr. COLEMAR (France) regretted that he must press his amendment. He agreed that it was often difficult to define the reasons which could be regarded as constituting good cause for the illegal entry into, or presence in, the territory of a State of a refugee. But it was precisely on account of that difficulty that it was necessary to make the wording of paragraph 1 more explicit. If the right of a refugee to seek asylum in a receiving country was recognized, it was only natural that certain obligations towards the authorities of that country should be laid upon him.

Mr. ZUTTER (Switzerland) thought that the question raised was an important one. It was desirable to know that reasons could be regarded by the authorities of a country as constituting good cause for the illegal entry or presence of a refugee in their territory. Switzerland would no doubt have been satisfied with the existing wording of article 26 if his country had not, as it happened, experienced difficulties in the matter. Swiss Federal legislation might not have entirely solved those difficulties, but it had alleviated them to an appreciable extent by laying down the nature and gravity of the proceedings which could

be instituted against refugees who entered or resided in Swiss territory clandestinely. That example might, perhaps, be followed by the Conference.

Mr. SHAW (Australia) felt that the habit of dividing nations into countries of settlement and countries of asylum was an unduly facile simplification. Australia fitted into both those categories because, although it had no land frontiers contiguous to other countries, it nevertheless had its share of illegal immigrants. During the war many thousands of such immigrants had fled from their countries of origin, which had then been under Japanese occupation, for example, Indonesia, the Pacific Islands, New Guinea, China and the Malay Peninsula, and had landed illegally on Australian territory, where they had been considered as refugees fleeing from a common enemy. They had been given the same rations and treatment as Australian nationals under conditions similar to the provisions of article 26. After the war, many of those refugees had been sent back to their countries of origin, but a considerable number still remained in Australia. He mentioned that situation simply to show that Australia was also confronted with the problem of illegal immigrants claiming refugee status.

Several economists of world-wide repute had asserted that the Australian immigration rate was too high. Australia was prepared to accept that risk, but wished to be quite clear its total commitments, particularly if article 26 was designed to impose further obligations upon States. He had welcomed the information given at the preceding meeting concerning the history and interpretation of article 26. The Canadian, Netherlands and Belgian representatives had explained that the article was not intended to interfere with the prerogative of a State to expel refugees if it so decided, but that it merely applied to the right of a State to grant asylum. Some representatives had contended that the words "good cause" should be given a wide interpretation, a contention which had gone unchallenged and which influenced the attitude of the Australian delegation. He was not yet clear in his own mind as to the categories of persons covered by article 26. He would therefore reserve his final position on the article until a decision had been reached on article 1, when it would be known to which categories of refugee article 26 was to apply.

Mr. HERMENT (Belgium) said that the whole question boiled down to whether the French Government considered that it would be free to impose penalties on refugees when the reasons advanced by the latter to justify their illegal presence in or entry into France were not recognized as constituting "good cause". If the answer was in the affirmative, it would not be necessary to incorporate the French amendment in article 26.

Mr. COLEMAR (France) said that as the wording of article 26 was not clear and explicit, it was necessary to make it so. To admit without any reservation that a refugee who had settled temporarily in a receiving country was free to enter another, would be to grant him a right of immigration which might be exercised for reasons of mere personal convenience. It was normal in such cases that he should apply for a visa to the authorities of the country in question. It was not true that article 26 did not refer to immigration, but only to asylum.

Mr. HERMENT (Belgium) agreed with the interpretation just given by the representative of France. The French Government wished refugees illegally entering the territory of a Contracting State to be exempt from penalties when they came from the territory of another State in which they had been unable to find asylum. He personally wondered

whether that reason alone would be considered as sufficient to constitute “good cause”. At all events, the cases of such refugees would be submitted to the Courts, which would decide whether extenuating circumstances should or should not be taken into account in any given case.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that he had listened with great interest to the discussion. He recalled the fact that in his previous statement he had not broached the main issue, namely, whether any amendment to article 26 was really necessary. As he interpreted it, article 26 covered the various points about which the French delegation felt some concern. But, as the French representative apparently found some difficulty on accepting the text, as it stood, he wished to say that, in his opinion, both the two categories of refugees to which he had previously referred would be protected if the French representative’s latest suggestion was adopted.

The PRESIDENT pointed out that, subject to whatever international conventions they might have signed, States were sovereign so far as their own legislation was concerned. Article 26 only referred to cases of unlawful entry, and provided for certain commitments in that connexion on the part of States. If his interpretation of the article was correct, delegations which had felt misgivings about the scope of the obligations prescribed in article 26 could rest assured that the interests of the countries they represented were safeguarded.

Mr. HOARE (United Kingdom) felt that it would be difficult to define the refugees in question more precisely than they were defined in the original text. If the latest suggestion made by the French representative and supported by the High Commissioner for Refugees was adopted, a refugee would have to establish not merely his refugee status, but also that he was unable to find asylum in any country other than the one in which he applied to settle. Thus the onus of proving a negative would be placed on the refugee himself; before he was allowed to settle in one country, he would have to prove that he was barred from settling in any other.

The PRESIDENT considered that the words “good cause” would oblige the refugee to show why he had failed to secure asylum in a country adjacent to his country of origin.

Mr. ZUTTER (Switzerland) shared the President’s point of view. In practice, it would be fairly simple to determine the reasons which had led up to a refugee’s illegal entry into or presence in the territory of a Contracting State. The French amendment would not make the implementation of paragraph 1 of article 26 any more difficult. Switzerland therefore supported that amendment in its latest form.

Mr. HERMENT (Belgium) said he would like some clarification of what was meant by “temporary asylum”. Would a Contracting State be able to impose penalties on a refugee who had stayed in another country for a week or a fortnight, and had then been obliged to seek asylum in the territory of the Contracting State in question?

Mr. COLEMAR (France) said that a question of fact and a question of principle arose. A State could refuse to grant asylum to a refugee, but the main point to be brought out was whether or not a country which a refugee had entered illegally would be free to impose penalties on him.

Mr. PHILON (Greece) thought that there could be no doubt that the case where a country prescribed temporary residence for a refugee and thus deprived him of his freedom of residence did constitute a case where no penalty could be imposed on him by another country into whose territory he had illegally entered or in which he was illegally present.

Taking up a remark made by the PRESIDENT, Mr. HERMENT (Belgium) suggested that the words "being unable to find" should be substituted for the words "having been unable to find" in the French representative's latest version of his amendment.

Mr. COLEMAR (France) did not think that there was any marked difference of meaning between the two phrases. In any case, the amendment suggested by the Belgian representative would not affect the purpose of the French amendment at all. He would not, however, oppose the Belgian suggestion.

Mr. HERMENT (Belgium) did not agree with the French representative. There was a difference between "being unable to find asylum" and "having been unable to find asylum". The second expression would exclude from the benefit of the provision any refugee who had managed to find a few days' asylum in any country through which he had passed.

After an exchange of views between Mr. HERMENT (Belgium), Mr. COLEMAR (France), Mr. PHILON (Greece) and Mr. ZUTTER (Switzerland), Mr. COLEMAR (France) accepted the Belgian representative's suggestion that in the French amendment in its modified form the words "having been unable to find" should be replaced by the words "being unable to find".

The PRESIDENT put the French amendment to paragraph 1 of article 26, as modified, to the vote. The text read as follows:

"The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who, being unable to find asylum even temporarily in a country other than one in which his life or freedom would be threatened, enters or is present in their territory without authorization, provided he presents himself without delay to the authorities and shows good cause for his illegal entry or presence."

He said that there were small textual differences between the French and English versions which the Style Committee would have to reconcile.

The French amendment to paragraph 1 of article 26, as modified, was adopted by 15 votes to none, with 8 abstentions.

The PRESIDENT then drew attention to the Austrian amendment to article 26 (A/CONF.2/58).

Mr. FRITZER (Austria) pointed out that the words "expulsion or residence order" in his amendment should be modified to read "order of expulsion or of refusal of residence".

Mr. WARREN (United States of America) felt that the word "already" should be inserted between the words "refusal of residence has" and "been issued." Otherwise the sentence would have little meaning.

The PRESIDENT agreed that the present English text was imperfect, but hoped that the English-speaking delegations had no doubts about its substantive meaning. If the amendment was adopted in principle, the Style Committee could revise the text later.

Mr. HOARE (United Kingdom) wondered whether there was any need for such an amendment, since the original text stated that the refugee must show good cause for his illegal entry or presence. A refugee who had been expelled from a country and who knew that an expulsion order had been issued and that he was subject to penalties, could not ordinarily show "good cause".

Mr. CHANCE (Canada) agreed with the United Kingdom representative. He felt that the existing text was adequate.

Mr. HERMENT (Belgium) pointed out that there were cases where an order of expulsion or of refusal of residence could not be held against a refugee, for example, when the order in question was twenty or twenty-five years old. He therefore considered that the Austrian delegation should not press its amendment.

Mr. FRITZER (Austria) said that cases such as that mentioned by the Belgian representative the penalties imposed on refugees would be correspondingly light. In any case, since article 26 said that penalties would not be imposed in certain cases, it seemed necessary to add that the exceptions provided for would not apply in the case of certain categories of refugees.

Mr. HERMENT (Belgium) acknowledged that the Austrian representative's remark was well-founded. It should be pointed out, however, that even a very light penalty imposed on a refugee would result in a new order of refusal of residence.

MOSTAFA Bey (Egypt) drew the Belgian representative's attention to the fact in the example he had mentioned the order would have expired under the statute of limitations, and that the provisions of the Austrian amendment would therefore not apply.

Mr. HERMENT (Belgium) said that so far as he knew, there was no statute of limitations in respect of expulsion.

The PRESIDENT put the Austrian amendment (A/CONF.2/58) to paragraph 1 to the vote.

The Austrian amendment was rejected by 9 votes to 2, with 10 abstentions.

The PRESIDENT announced that the Swedish delegation had introduced an amendment (A/CONF.2/65) to paragraph 2.

Mr. PETREN (Sweden) said that the reasons for the introduction of his amendment were obvious. Paragraph 2 of article 26 made a distinction between the periods before and after regularization of the refugee's status. However, it might so happen, even after the status of a refugee had been regularized, that reasons of national security would require the imposition of certain restrictions on his movements. Paragraph 2, as it stood at present, precluded such action.

The PRESIDENT did not fully appreciate the scope of the Swedish amendment. The first provision of paragraph 2 of the original text of Article 26 meant that Contracting States should not apply to the refugees referred to in paragraph 1 restrictions of movement other

than those which were necessary, a provision which was unaffected by the Swedish amendment. The second provision of paragraph 2 concerned the extent of the restrictions, and the original text entitled the State to apply those restrictions until the refugee" status had been regularised, or until he secured admission into another country.

He pointed out that paragraph 2 related exclusively to illegal immigrants. The question then arose as to how the State should deal with such illegal immigrants. According to paragraph 1, the Contracting State was not to punish them if they could show good cause for their entry. It might then be asked whether the State could keep an illegal immigrant in custody. In any case, the situation in which the refugee found himself would be temporary, it would end when the State, after examining the appropriate files, recognized him as a bona fide refugee free from restrictions or, alternatively, as an undesirable.

Mr. PETREN (Sweden) announced that, in the light of the President's explanations, which had clarified the meaning of paragraph 2, he would withdraw his amendment. However, he was convinced in his own mind that the present text of the paragraph lacked clarity. The Style Committee should therefore go over it.

Mr. WARREN (United States of America) suggested that the difficulty mentioned by the Swedish representative was met by the provisions of article 21.

Mr. PETREN (Sweden) pointed out that there was a category of refugee intermediate between those lawfully resident and those unlawfully resident in the territory of a State. That category of refugee could be tolerated by a State in its territory. There was a definite contradiction between the wording of articles 21 and 26 of the draft Convention, and the discrepancy should be brought to the notice of the Style Committee.

Mr. PHILON (Greece) said that due weight should be given to the Swedish amendment. Although it had been withdrawn, it formed a valuable contribution to the study of the problem. It also allayed certain fears which were causing concern to some States, and should make it easier for them to accede to the Convention. The Style Committee should take note of the suggestion contained in the amendment.

The PRESIDENT said that, by inserting the words "other than those which are necessary" in paragraph 2, the Ad hoc Committee had intended to cover considerations of security, special circumstances, such as a great and sudden influx of refugees, or any other reasons which might necessitate restriction of their movement.

Mr. HOARE (United Kingdom) agreed with the Greek representative that a useful purpose had been served by the submission of the Swedish amendment, in that it had revealed the possibility of misinterpretation of paragraph 2. The Swedish representative had understood something different to what had been intended by the Ad hoc Committee by the use of the words "until his status in the country is regularized". Surely, for the Ad hoc Committee that phrase had meant the acceptance by a country of a refugee for permanent settlement, and not the mere issue of documents prior to a final decision as to the duration of his stay. The Swedish representative had also rightly asked whether the provisions of article 26 were not inconsistent with those of article 21. The former introduced a time-limit, according to which the movement of refugees should not be restricted beyond the period

required for the regularization of their status, whereas article 21 conferred a general power to enforce restrictions on the movement of refugees.

Mr. PETREN (Sweden) endorsed the views of the United Kingdom representative. The difficulty lay in defining what was meant by the regularized status of a refugee.

Mr. WARREN (United States of America) suggested that the substitution of the words "is assimilated to that of a lawfully admitted refugee" for the words "in the country is regularized" would meet the Swedish representative's point.

The PRESIDENT pointed out that such a suggestion would probably cover the situation in the United States of America, where there were two categories of entrants, those legally admitted and those who had entered clandestinely. But it might not cover the situation in other countries where there were a number of intermediate stages; for example, certain countries allowed refugees to remain in their territory for a limited period.

Mr. WARREN (United States of America) said that the President was not altogether right. There were in the United States of America categories covering temporary visitors, or persons in transit, whose stay was subject to certain specified conditions.

The PRESIDENT put paragraph 2 of article 26 to the vote.

Paragraph 2 was adopted by 22 votes to none, with 2 abstentions, subject to textual amendments to be made by the Style Committee.

Article 26 as a whole and as amended was adopted by 20 votes to none, with 4 abstentions.

(ii) Article 27 - Expulsion of refugees lawfully admitted (A/CONF.2/44, A/CONF.2/57, A/CONF.2/60, A/CONF.2/63)

The PRESIDENT drew attention to the amendments to article 27 submitted by the Egyptian, Italian, United Kingdom and French delegations (A/CONF.2/44, A/CONF.2/57, A/CONF.2/60 and A/CONF.2/63 respectively).

Mr. CHANCE (Canada), referring to paragraph 1 of article 27, said that the Canadian Government found some difficulty with regard to the expression "public order", which was a term which had a more precise legal connotation in continental countries than in common-law countries. He was therefore anxious that its meaning should be very precisely defined. The Canadian laws on deportation were quite specific, but the decision to deport a person was in general within the discretion of the minister concerned, discretion which he, in his own experience, had always been exercised with understanding and compassion. There were, however, certain mandatory legal dispositions providing for deportation for certain specific offences, such as trafficking in drugs. It had been generally agreed in the Ad hoc Committee that specification of grounds for deportation must be left to the jurisdiction of the State concerned.

The PRESIDENT referred the Conference to the report of the second session of the Ad hoc Committee (E/1850), in paragraph 29 of which the general views expressed on the use of the term "public order" were recorded.

The definition of that term was a matter of considerable difficulty owing to the differences in the social system of the various countries. For example, during the period of prohibition in the United States of America even small-scale smuggling of alcohol might have been regarded as a violation of public order. No such view would be taken of similar activity in a country like Denmark, where it would simply amount to contravention of the customs regulations. He was doubtful whether a standard interpretation of the phrase could be devised.

Mr. CHANCE (Canada) said that a second difficulty also confronted the Canadian Government. The cost of public relief and medical assistance was borne by the provincial authorities, and it might be difficult for the Federal Government to enter into commitments on their behalf involving financial expenditure.

MOSTAFA Bey (Egypt), introducing his amendment (A/CONF.2/44) to article 27, explained that its object was to liberalized the procedure in respect of expulsion, and to provide refugees with the maximum guarantee against arbitrary expulsion.

Article 27 laid down the principle that a refugee lawfully in the territory of a Contracting State should not be expelled save on grounds of national security on public order, and in pursuance of a decision reached in accordance with due process of law.

The Egyptian delegation felt that the present text of paragraph 1 failed to provide refugees with adequate protection against abuse of the right of expulsion. The terms of that paragraph were, in fact, too general, and, moreover, were subjective in character. Precise terms must be used and well-defined criteria laid down. Paragraph 1 of the Egyptian amendment listed the grounds on which a refugee could be expelled. Paragraph 2 of the amendment specified that in every case the expulsion order would apply only to the refugee himself, and not to members of his family; to expel the latter as well would be an obvious injustice. Was concerned, that could only be taken in execution of a Court decision. The procedure proposed in the Egyptian amendment would accordingly provide the refugee with all necessary safeguards.

The EXECUTIVE SECRETARY stated that the term "public order" had been discussed on previous occasions and in other contexts, notably in connexion with the draft International Covenant on Human Rights. The Secretariat had submitted certain observations on the use of that phrase in the draft Covenant in a memorandum prepared for the Economic and Social Council (E/C.68). Extracts from paragraph 83 of that memorandum read:

"The Secretary-General considers that the use of this expression raises serious questions of substance and consequently feels obliged to draw the attention of the Council to the following legal considerations.

First, it should be observed that the English expression "public order" is not the equivalent - and is indeed substantially different from - the French expression "l'ordre publique" (or in Spanish, "orden público"). In civil law countries the concept of "l'ordre publique" is a fundamental legal notion used principally as a basis for negating or restricting private agreements, the exercise of police power, or the application of foreign law.

The common law counterpart of "l'ordre publique" is not "public order" but rather "public policy". It is this concept which is employed in common law countries to invalidate or limit private agreements of the application of law. In contrast to this concept of public policy, the

English expression “public order” is not a recognized legal concept. In its ordinary English sense it would presumably mean merely the absence of public disorder. This notion is obviously far removed from the concept of “l’ordre publique” or “public policy”.

Since the Covenant should undoubtedly contain equivalent concepts in English and French, the question arises as to whether the notion of “l’Ordre publique” or, in English “public policy” should be retained as an exception to the rights in Articles 13 - 16. In the Secretary-General’s opinion, this is a most important question since the concept of “l’ordre publique/public policy” is in most jurisdictions a broad and flexible principle, often characterized by legal commentators as vague and indefinite It is true that in regard to certain situations public policy or “l’ordre publique” has been given a technical and fairly well-defined meaning, but at the same time the concept is sufficiently wide and fluid to permit its application in a variety of new situations. Accordingly, it could hardly be doubted that by introducing it as an exception to fundamental human rights, it may well constitute a basis for far-reaching derogations from the rights granted.”

Mr. PHILON (Greece) said that, to judge from the report of the Ad hoc Committee, the phrase “grounds of national security or public order” was intended to cover the application of certain legitimate measures by the administration. The explanation provided by the Executive Secretary did not clarify the situation. To solve the difficulty, it would seem sufficient to add the word “legitimate” after the words “save on” in paragraph 1 of the existing text of article 27, without otherwise amending that paragraph.

Mr. PETREN (Sweden) agreed with the Greek representative. The difficulty, however, lay chiefly in the expression “refugee lawfully in their territory”. What criterion would in fact be applied to decide whether a refugee was indeed lawfully in a territory? Sweden distinguished between aliens to whom a right of establishment had been granted, and aliens possessing only a right of temporary residence. The question did not arise in respect of the former, but, in respect of the latter, the Swedish Government wished to be able to expel them if it so decided when the authorization granted to them expired. His Government certainly did not fail to examine every particular case, but it proposed to reserve its rights. Thus, if the term “refugee” in article 27 applied to the first category he had mentioned, his delegation had no objection to paragraph 1 of article 27, but if it applied without distinction to all refugees established in a territory, his country would have to enter reservations to article 27.

Msgr. COMTE (The Holy See) appreciated the motives which had inspired the Egyptian amendment. It seemed, however, that the original wording of article 27 covered every case. It was difficult for the Holy See to accept in particular sub-paragraph (c) of paragraph 1 of the Egyptian amendment which, if adopted, would have the result of making the lot of refugees more difficult. The Convention on Migration for Employment negotiated by the International Labour Organization would shortly be put into force; and article 8 of that Convention laid down that migrants for employment admitted into a country could not be returned to their territory of origin unless they so desired or were unable to follow their occupation by reason of illness. That provision seemed to be in opposition to sub-paragraph (c) of paragraph 1 of the Egyptian amendment. Conformity was necessary between the text of the Convention on Migration for Employment and that to the Convention relating to the Status of Refugees.

Mr. ROCHEFORT (France) thought that the statement of the representative of the Holy See called for little comment. He was personally convinced that the Egyptian representative had clearly not wished to place indigence on the same footing as criminality, and that it had merely escaped his notice that that would be the effect of sub-paragraph 1 (c) of his amendment. Poverty was not a vice, and indigence could not be considered a crime.

The French amendment (A/CONF.2/63) to article 27 was admittedly somewhat restrictive in character. French procedure in the matter of expulsion laid down in fact that when expulsion was contemplated in respect of an alien, he must be notified in advance. The person affected was given one month in which to prepare his defense and to appear before a commission made up of magistrates. There was one formal exception, however, to that procedure, namely, the case of aliens guilty of espionage. It was understandable that the case papers could not be communicated in such a case, and that the Minister concerned could decree expulsion without recourse to the procedure he (Mr. Rochefort) had indicated.

The PRESIDENT pointed out that articles 18 and 19 contained provisions relating to indigence.

Mr. FRITZER (Austria) stated that the term "public order" had a quite specific connotation in Austria, and would present no difficulties to the Austrian Federal Government.

Mr. SHAW (Australia) pointed out that, as the English and French texts of paragraph 1 of article 27 were not entirely consistent in respect of the term "public order", some amendment was clearly essential. Either the expression should be replaced by another, or the words "public policy" should be used in the English text. The latter course might be the better one.

MOSTAFA Bey (Egypt), in reply to the representative of the Holy See, recalled that in the matter of migrant workers a law recently promulgated by the Egyptian Government was applicable to all nationals, aliens and refugees. He was well aware that poverty was not a vice. Nevertheless, indigent persons were a charge on the State, which could not be regarded as a public relief agency. It was the right of the State to rid itself of non-productive elements in its alien population. That right, moreover, was sanctified by all treaties of establishment of foreign nationals. Nevertheless, to allay the fears expressed by the representatives of the Holy See and of France, the Egyptian delegation was prepared to withdraw sub-paragraph (c) of paragraph 1 of its amendment.

Mr. del DRAGO (Italy) introduced the Italian amendment (A/CONF.2/57). His delegation had no objection to paragraphs 1 and 3 of article 27, but it could not accept the second sentence of paragraph 2, and therefore proposed that it be deleted. It should, however, be added that in Italy refugees under order of expulsion could appeal against the order to the competent authority.

Baron von BOETZELAER (Netherlands) said that the term "ordre publique" was acceptable to the Netherlands government as its meaning was perfectly clear.

He hoped that the Conference would not adopt the Egyptian amendment (A/CONF.2/44) which introduced somewhat indefinite concepts such as "activities of a subversive nature",

“the internal or external security of the State” and “public morals”. He feared that the adoption of such an amendment would excessively restrict the freedom of refugees.

Mr. ROCHEFORT (France) said that the reference in the Egyptian amendment to activities prejudicial to public health might embarrass the French Government by creating difficulty for certain organizations, such as the Little Sisters of the Poor, which gave shelter to certain elements of the “hard core” or refugees. It was of no value to lay down a precise procedure if it only led to worse results than the application of a generous text.

Mr. CHANCE (Canada) stated that he would be prepared to accept the French and United Kingdom amendments to article 27 (A/CONF.2/63 and A/CONF.2/60) respectively. He wished also to take the opportunity of describing briefly the relevant appeals procedure in Canada. Persons who were suspected of having entered the country illegally could be summoned to present themselves before a board of inquiry of three members, set up on the instructions of the Minister concerned. The suspect could appear himself or be represented by counsel, and thus had the fullest opportunity of presenting his case. The findings of the board were then forwarded to the Federal Authorities in Ottawa, and if an order of deportation was found necessary it was issued under the authority of the Minister. No appeal could be made against his decision, for obvious reasons. He believed that the position was similar in the United Kingdom. The Canadian Government did not believe that the provisions of article 27, paragraph 2, would call for any alteration in that procedure. He was in favour of the French amendment, since it was obvious that it would not always be possible for refugees called upon to submit evidence about themselves to do so in person. There were a number of potential practical difficulties, which must be clearly recognized.

Mr. HOARE (United Kingdom) stated that the expression “public order” presented definite difficulties to common-law countries, where it did not possess the legal connotation it bore in continental jurisprudence. The difficulty had occurred in the past, and could be overcome if it was possible to devise an exact English equivalent. Unfortunately, the expression “public policy” was somewhat narrower in scope; like the expression *ordre publique*, it implied that certain laws or regulations might be contrary to public policy, but it did not cover, as did the latter expression, police measures or criminal legislation. On certain occasions in the past, the United Kingdom Government had accepted the words “public order” in international instruments, while making a reservation that they were deemed to include matters relating to crime and public morals. That interpretation had not so far been challenged. If any difficulty occurred as to the meaning of those words, it would presumably arise in connexion with some specific case and the court concerned would have the records of the proceedings leading up to the adoption of the Convention. It would therefore be in a position to ascertain the interpretation placed on those words.

Turning to the amendments submitted to article 27, he expressed his agreement with the objections raised by the representatives of France and the Holy See to the Egyptian amendment.

With regard to paragraph 2, he was faced with the same difficulty as that indicated by the Italian representative. The first sentence of paragraph 2 had been very carefully drafted in order to cover the different systems of expulsion, which might be broadly classified in two groups, judicial and administrative. In the United Kingdom, while it was possible for courts

dealing with aliens charged with criminal activities to recommend their deportation, the power of deportation lay with the Home Secretary, and grounds for issuing a deportation order were prescribed by Law.

The second sentence of paragraph 2 appeared to suggest some kind of procedure for appeal. A person served with a deportation order in the United Kingdom had wide facilities for presenting his case to the Home Office either personally or through a solicitor. Moreover, it was a matter on which public opinion was very vigilant and which often gave rise to interventions by Members of Parliament or to questions in the House of Commons. There was, however, no appeal tribunal, nor did the United Kingdom Government wish to be obliged to institute one. He presumed that the wording of the second sentence of paragraph 2 was not to be interpreted as entailing such a stipulation.

The purpose of the United Kingdom amendment (A/CONF.2/60) was to make it clear that in submitting evidence about themselves in connexion with an expulsion order, refugees could do so before persons specially designated by the competent authority. There would be obvious practical difficulties in making it obligatory in the United Kingdom, for example, for the Home Secretary to hear such evidence in person.

MOSTAFA Bey (Egypt) noted with regret that his amendment did not seem to command general support, despite the fact that it would extend to refugees treatment ensuring them the fullest safeguards. He would therefore withdraw it.

It was decided that further consideration of Article 27 should be deferred until the next meeting.

The meeting rose at 6 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Eighteenth Meeting

By General Assembly | 23 November 1951

Present:

President: Mr. LARSEN

Members:

Australia Mr. SHAW

Austria Mr. FRITZER

Belgium Mr. HERMENT

Brazil Mr. De OLIVEIRA

Canada Mr. CHANCE

Colombia Mr. GIRALDO JARAMILLO

Denmark Mr. HOAG

Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. Von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. KAHANY Mr. ROBINSON
Italy	Mr. THEODOLI
Luxembourg	Mr. STURM
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observer:	
Iran	Mr. KAZEMI
High Commissioner for Refugees	Mr. Van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Labour Organisation	Mr. WOLF

International Refugee Organization	Mr. STEPHENS Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category B and Register	
Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. RESS
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Council of Women	Mrs. GIROD
International League for the Rights of Man	Mrs. BAER
International Social Service	Miss FERRIERE
Standing Conference of Voluntary Agencies	Mr. REES
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss kitchen	Deputy Executive Secretary

1. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (continued):

(i) Article 23 and Schedule - Travel documents (A/CONF.2/31, A/CONF.2/59, A/CONF.2/64) (continued)

The PRESIDENT invited the Conference to continue its discussion of the schedule relating to travel documents annexed to the draft Convention (A/CONF.2/1, pages 21-23).

Paragraph 4

Paragraph 4 was adopted unanimously, without comment.

Paragraph 5

Mr. MAKIEDO (Yugoslavia) explained that his amendment to paragraph 5 (A/CONF.2/31, page 4) was in conformity with Yugoslav practice and with that of most other countries. As a general rule, travel documents were valid for a period of six months to two years.

Mr. HERMENT (Belgium) said that it was merely a matter of national practice. In Belgium, the period of validity of passports varied from three months to two years. It was in the interest of refugees that passports valid for three months should be obtainable, because of the lower cost entailed. His delegation therefore wished to submit a minor amendment to the Yugoslav amendment, namely, the replacement of the words "from six months to two years" by the words "from three months two years"

Mr. MAKIEDO (Yugoslavia) accepted the Belgian amendment. Mr. ZUTTER (Switzerland) wondered whether it was really necessary to reduce the minimum period of validity of the travel document. Was it not sufficient that, in exceptional cases, States would be free, under paragraph 13 of the schedule to limit the period during which a refugee could return to their territory to one of not less than three months, and could not the original wording of paragraph 5 be kept?

Mr. HERMENT (Belgium) thought that the Belgian amendment would best serve the interests of refugees. According to the text of paragraph 5 as it stood, a refugee who only wished to stay for two or three months outside the territory of the issuing country would still have to apply for a passport valid for one or two years which would cost him correspondingly more.

Mr. Von TRÜTZSCHLER (Federal Republic of Germany) pointed out that the Belgian amendment might also work to the disadvantage of refugees. For, if it were adopted, issuing authorities might supply a travel document which was valid for three months only, even though the applicant would have preferred one valid for a longer period. He also felt that travel documents issued under the Schedule should be of the same type as those issued under previous international agreements, if the latter documents were to remain valid.

The PRESIDENT remarked that the right of re-entry had two aspects: the relationship between the refugee and the country which he wished to re-enter; and the relationship between the refugee and the country which admitted him on the supposition that his travel document gave him the right of re-entry into the country from which he came. If a State could refuse to readmit the refugee, even when requested to do so by another Contracting State, Consuls and similar authorities of other States would certainly be very reluctant to grant transit visas.

The Yugoslav amendment, as further amended by the Belgian representative, was rejected by 15 votes to 4 with 6 abstentions.

Paragraph 5 was adopted unanimously.

Paragraphs 6, 7 and 8

Paragraphs 6, 7 and 8 were adopted unanimously, without comment. Paragraph 9

Mr. MAKIEDO (Yugoslavia), introducing his amendment (A/CONF.2/31, page 4), said that the general practice of all countries represented at the Conference was to issue transit

visas without delay. On the other hand, Governments could not assume an unconditional obligation in that sense. The Yugoslav Government would, of course, continue to follow its general practice of issuing transit visas expeditiously, as hitherto, and of refusing them only in exceptional cases. He withdrew the second sentence of his amendment.

Mr. MONTOYA (Venezuela) pointed out that paragraph 9 of the Schedule required Contracting States to issue transit visas to refugees who had obtained visas for a territory of final destination. It often happened, however, that, in spite of a visa of final destination having issued to a refugee, the State in which he was resident required him to produce an air or sea ticket to his country of final destination as evidence of his good faith. He wondered whether paragraph 9 to the effect that transit visas would be issued to bona fide refugees producing a valid ticket for their final destination.

Mr. KAHANY (Israel) wondered whether the Yugoslav amendment was really necessary, in view of the provisions of article 21 of the draft.

The PRESIDENT doubted whether the point was covered by article 21, since, according to that article, the refugee had already to be lawfully within the country of transit, whereas the Conference was at the moment considering the matter of his entry into a country of transit. MOSTAFA Bey (Egypt) said that the text of paragraph 9 as it stood raised a problem for the Egyptian delegation in respect of mass immigration. Where such immigration occurred, transit countries might experience difficulty in applying the provisions of the paragraph, which should therefore include certain limitations based on considerations of public security.

He therefore proposed that the words " subject to the exigencies of national security and public order" be added at the end of paragraph 9.

Mr. HOEG (Denmark) said that, when Danish Government issued a transit visa to an alien, it generally did so on condition that the visa for his country of final destination was valid for two months longer than the transit visa. He wondered whether such a condition would be permitted under the terms of paragraph 9.

Mr. MONTOYA (Venezuela) drew the attention of the Conference to the position of immigration countries like Venezuela. They could only issue transit visas to refugees who were able to produce firm evidence that they possessed the means of reaching their countries of destination.

Mr. GIRALDO-JARAMILLO (Colombia) appreciated the difficulties of the Egyptian and Venezuelan representatives, but felt that they were met by the Yugoslav amendment, for which he intended to vote.

Mr. MONTOYA (Venezuela) acknowledged the force the Colombian representative's remark, and said he too would support the Yugoslav amendment. The Yugoslav amendment (A/CONF.2/31, page 4), to paragraph 9, minus the second sentence, was adopted by 11 votes to 6, with 7 abstentions.

MOSTAFA Bey (Egypt) considered that the Yugoslav amendment did not fully meet his point. However, since it had been adopted, he would withdraw his own oral amendment.

Paragraph 9, as amended, was adopted by 22 votes to none with 3 abstentions.

Paragraphs 10 and 11

Paragraphs 10 and 11 were adopted unanimously, without comment.

Paragraph 12

Mr. MAKIEDO (Yugoslavia), introducing his amendment to paragraph 12 (A/CONF.2/31, page 4), considered it indispensable that any travel document withdrawn from a refugee should be returned to the country of issue. When a person changed his nationality, the general practice was for him to return his passport to the country that had issued it.

Mr. HERMENT (Belgium) considered that the Yugoslav amendment to paragraph 12 of the Schedule should be taken together with the Italian amendment (A/CONF.2/64) to paragraph 3 of the text of the specimen travel document annexed to the Schedule.

Mr. THEODOLI (Italy) agreed. It was important, however, that the obligation to return a withdrawn document should be stated in the document itself, so that the authorities concerned would know where they stood.

Mr. HERMENT (Belgium) thought that, in order to harmonize the two texts, the Yugoslav amendment should be modified, the words "to the authority which issued it" being substituted for the words "to the country of issue".

Mr. HOARE (United Kingdom) had no fundamental objections to the Italian amendment, but did not quite understand its purpose. It was understandable that a person who changed his nationality should return his passport to the country of issue. Travel documents of the type contemplated in paragraph 12, on the other hand, were no longer valid once they had been withdrawn, and he saw no point in returning them to the issuing authorities, who already had sufficient work to do.

Mr. THEODOLI (Italy) replied that experience had shown that refugees very frequently claimed that they had lost their documents in order to get possession of two documents. No country wished a document it had issued to be in circulation after its validity had expired. It was for that reason that he had proposed that travel documents which were withdrawn should be returned to the country of origin. It would also be as well to know whether refugees who had left the country of transit had new documents.

The PRESIDENT said that the Style Committee could deal with certain textual points in paragraph 12, including that raised by the Belgian representative in connexion with the Yugoslav amendment. The Yugoslav amendment was adopted by 3 votes to 1, with 20 abstentions.

Paragraph 12, as amended, was adopted unanimously.

Mr. ROCHEFORT (France), explaining his amendment to paragraph 13 (A/CONF.2/59), said that the regulation in force in France governing the issue of visas to refugees was that, in application of article 2 of the 1933 Convention and by virtue of a decree promulgated by the French Government, Nansen refugees, refugees from Germany and Austria and Spanish refugees under the mandate of the International Refugee Organization did not need a visa. As to other refugees, France was free to insist upon their having a visa, if it wished.

If the existing text of paragraph 13 of the Schedule was retained, the French Government would be obliged to enter reservations to that paragraph, or to deal with the matter under the procedure for the issue of travel documents; that might have the effect of placing those concerned in a less favourable position than they enjoyed at the present time. The final outcome would be that, instead of a visa being refused, a travel document would be refused.

Mr. GIRALDO-JARAMILLO (Colombia) said that, although Colombia's position was different from that of France, he entirely agreed with the observations of the French representative. He could not accept the original text of paragraph 13, and would therefore support the French amendment.

The PRESIDENT suggested that in that case there should be two types of travel document; one for countries which were prepared unconditionally to allow refugees to return, and one for countries which required a re-entry visa.

Mr. ROCHEFORT (France) did not understand how the President's remarks could be related to the French amendment, which did not affect the question of the entry and exit of holders of travel documents.

The PRESIDENT quoted the case of a person who had come to Denmark with a travel document issued under the London agreement of 1946. That person had applied to the Danish Consul in his country of origin for a Danish visa valid for three months, but when that period had expired it had been impossible to return him to the country from which he had come because the latter had pointed out that he did not have the requisite re-entry visa.

Mr. MONTROYA (Venezuela) agreed with the French representative. If the French amendment was not adopted, countries would refuse to issue a travel document to certain refugees, and the refugees would in consequence be unable to leave their country of residence. Venezuela could not accept the existing text of paragraph 13 of the Schedule, or the wording of the travel document, both of which conferred on refugees an unconditional right of return.

Mr. ROCHEFORT (France) said that if refugees were required to have a visa, that visa should imply permission to return. France, however, wished to be able to exercise supervision over the comings and goings of the refugees in its territory, whom it was sometimes unwise to trust blindly.

Mr. THEODOLI (Italy) agreed with the argument put forward by the Venezuelan representative.

Mr. HOARE (United Kingdom) said that if a travel document automatically bestowed upon its holder the right of return to the issuing country, the whole matter was perhaps a question of procedure. On the assumption that a return visa would normally be granted to the refugee before he left, the only difficulty that would arise would be if a refugee were to leave a country which required a return visa without actually obtaining one.

Mr. ROCHEFORT (France) considered the wording of sub-paragraph 1 of paragraph 13 to be perfectly clear.

The PRESIDENT, speaking as representative of Denmark, said that the point that was causing him concern was that a country might admit a refugee on the understanding that his travel document, which gave him the right of return, had been visaed in good faith by the country from which he had come. What was the position of the former country if the refugee had failed to comply with the regulations of the country that issued the document? It was essential to draw up a travel document which was consistent with existing regulations and the accepted international obligations of States. The document should clearly state the rights to which its holder was entitled.

So far Denmark was concerned, a travel document was implicitly understood to confer upon the holder the right of re-entry. He was not certain whether that condition held for countries which required entry and exit visas.

Mr. ROCHEFORT (France) did not believe that the arguments advanced by the President invalidated the French amendment. Paragraph 13 would raise no difficulties, inasmuch as its wording referred to the exit and re-entry of the holder of a travel document. The French amendment aimed solely at making possible supervision of the comings and goings of the numerous refugees who had entered French territory illegally.

Mr. HERMENT (Belgium) noted that the specimen travel document annexed to the Schedule made no mention of the need for a visa. Nevertheless, the terms in which the document was conceived implicitly covered authorization to return. Hence there could be no objection to accepting the French amendment.

Mr. MONTROYA (Venezuela) asked whether the terms in which the travel document was drawn up meant that overseas States would be able to send refugees back to a transit country in Europe. Would the State which had issued the travel document be able to refuse such refugees re-entry?

The PRESIDENT stated that any holder of a Danish travel document was entitled to re-enter Denmark, provided the document was still valid.

Mr. CHANCE (Canada) suggested that the points raised in the course of the discussion might be met by the insertion of the words "with/without a re-entry permit" after the words "The holder is authorized to return to" in paragraph 2 of the specimen travel document annexed to the Schedule.

Mr. NARREN (United states of America) thought that the objections raised by the French representative were based on the fact that under the provisions of paragraph 13, sub-paragraph 1, the French government would have to permit the holder of a document issued by it to re-enter France, even if he had had no visa, throughout the whole period of validity of that document, which might be as long as two years. If the French Government was anxious to stipulate that refugees should return within a three-month period, it might be possible to meet its desire by inserting the words "and of authorized return" after the words "during the period of validity of the document". Without such a provision the issuing country would be obliged to admit a refugee returning without a visa after the three-month period had elapsed. He feared, however, that the adoption of the French amendment proposing that the words "without a visa from the authorities of that country" be deleted from sub-paragraph 1 would raise doubts as to whether holders of travel documents could, in fact, return within the three-month period.

Mr. ROCHEFORT (France) said that, so far as France was concerned, it was not so much a question of controlling the re-entry of a refugee into French territory as of controlling his exit. Obviously, exit implied subsequent return. As things were at present, a travel document which had no return clause would be completely meaningless.

Mr. HERMENT (Belgium) asked the French representative whether a refugee who had obtained a passport bearing a visa entitling him to re-enter France within three months would also have to apply for a return visa on re-entry.

Mr. ROCHEFORT (France) said that the visa accorded to a refugee would obviously imply his right to return. That was explicitly stated in sub-paragraph I of paragraph 13. He was personally at a loss, therefore, to understand the nature of the difficulties which had arisen on that point.

The PRESIDENT said that sub-paragraph I of paragraph 13 had been discussed at great length in the Ad hoc Committee, and that two Danish amendments to it had been rejected. The final text presented by the United States representative had commanded unanimous approval. He was therefore somewhat surprised to find that the whole question was being re-opened at such length. He believed, however, that all the points raised, the validity of which he fully recognized, would be met by the adoption of the Canadian representative's amendment to paragraph 2 of the specimen travel document annexed to the Schedule. It would then be perfectly clear what the possession of a travel document entailed.

Mr. Von TRÜTZSCHLER (Federal Republic of Germany) assumed that a refugee holding a French travel document, who had left France without a visa, would be allowed to return, but might be charged with having contravened the regulations.

Mr. ROCHEFORT (France) said that the existing wording of the specimen travel document, as amended by the Canadian proposal, was acceptable. The wording suggested by the Canadian representative would provide a clear indication, in fact, that authorization to return might or might not be subject to the issue of a visa.

The PRESIDENT, speaking as representative of Denmark, stated that the French amendment would be quite acceptable to him provided that the Canadian representative's amendment to paragraph 2 of the specimen travel document was also adopted.

Mr. MONTROYA (Venezuela) stated that no foreigner could either enter or leave Venezuela without visa. The French and Canadian amendments were therefore both acceptable to the Venezuelan delegation.

Mr. GIRALDO-JARAMILLO (Colombia) failed to understand how States would be prevented from exercising supervision over the entry and exit of refugees. In his opinion, that right could not be interfered with, and any attempt to do so might make it difficult for certain governments to accede to the Convention.

Mr. HOARE (United Kingdom) thought that the Conference should consider further the implications of the French amendment. The basic principle underlying the provisions of paragraph 13 was that States issuing travel documents to refugees resident within their territory would bind themselves to allow such refugees re-entry during the period of validity of the document. He was anxious that that principle should not be tampered with.

The Colombian representative had raised an important point, but a clear distinction should be made between the right to exercise supervision and the right of a State to refuse admission. It must be recognized that governments might wish to exercise supervision over the movements of refugees. They could do so as a matter of course by making exit and entry visas obligatory. There was, however, the case of refugees who failed to comply with such formalities but succeeded in leaving the country without obtaining a return visa. Such persons would then have to apply, from the country in which they were situated, for a return visa, during which time the validity of their travel document might expire. What, in such cases, would be the position of the government of the country in which the refugees concerned were temporarily situated?

Mr. Van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) emphasized the great importance of travel documents both to refugees and to States. Even countries of resettlement were in favour of travel documents containing a clause which would enable refugees to return to the issuing country, and, indeed, the London Agreement of 1946 relating to the issue of a travel document to refugees contained such a clause. It would be most unfortunate if any change were made in that respect.

He would suggest that the French representative's anxiety that governments should be in a position to supervise the movements of certain refugees would be satisfied by the insertion in sub-paragraph 2 of paragraph 13, after the words "in exceptional cases", of some such wording as: "to subject the return of the refugees to the issue of a return visa"; sub-paragraph 1 could then be left unchanged.

Mr. ROCHEFORT (France) said that while he fully appreciated the High Commissioner's motives, his proposal failed to meet the points which were causing concern to French Government, and was more imitative in character, since it made the re-entry of the refugee dependant on a return visa. In point of fact, the travel document conferred the right both of exit and of re-entry. The French amendment related solely to a visa establishing the refugee's exit.

Mr. GIRALDO-JARAMILLO (Colombia) considered that the French amendment was preferable to the suggestion made by the High Commissioner. The visa formalities which existed in certain States were an additional guarantee of re-admission to that provided by the travel document.

Mr. MIRAS (Turkey) suggested that if the French amendment was adopted, it would be advisable to delete the second sentence of sub-paragraph 1, the text of which, incidentally, had been submitted in the Ad hoc Committee by the Turkish delegation.

Mr. MONTOYA (Venezuela) pointed out that refugees temporarily situated in a country which was not their country of residence might engage in activities which would necessitate the withdrawal of their travel documents. Were such persons to be assured of re-admittance by the issuing country?

The PRESIDENT said that two considerations were involved: the respective obligations of the issuing country and those of the country admitting the refugees for temporary sojourn; and the relations between the issuing country and the holder of the travel document. Issuing countries could impose any regulations they wished covering the exit and entry of refugees, but what he was concerned to ensure was that they should assume an

unconditional commitment to re-admit holders of their own travel documents. He did not think that such a principle was incompatible with a certain amount of supervision, such as was envisaged by the French representative, but care should be taken to ensure that countries admitting refugees for short periods were not penalized or placed in difficulties by the regulations of the States issuing the travel documents.

Mr. ROCHEFORT (France) agreed with the President's interpretation of the French amendment. Actually, the confusion which had arisen could be traced to the English text of paragraph 13, which gave the impression that the stipulation that no visa was necessary related only to return, whereas the French text clearly showed that it related to exit and return alike.

Mr. HOARE (United Kingdom) pointed out that sub-paragraph 1 of paragraph 13 as at present drafted assimilated refugees without a visa to foreigners who held a visa. However, if the French amendment was adopted, drafting changes might be necessary to make it clear that such refugees were not being assimilated to resident aliens who required a visa as a condition of admission.

The PRESIDENT suggested that the matter was mainly one of drafting, and that the difficulties might be more easily resolved by entrusting the redrafting of paragraph 13 to small working group. He accordingly invited the Canadian, French, United Kingdom, United States and Venezuelan representatives, together with the High Commissioner for Refugees to undertake that task.

Mr. ROCHEFORT (France) was not opposed to the President's suggestion. At the same time, it should be clearly understood that the working group would not only be responsible for questions of drafting, but would be empowered to examine the substance of the problem. Indeed, considering that the text of paragraph 13 was the same as that of article 15 of the London Agreement of 1946, which itself a substantial departure from the 1933 Convention, it was clear that the question at issue was more than a matter of drafting.

The President's suggestion that a working group should be set up to reconsider paragraph 13 was adopted.

Paragraphs 14, 15 and 16

Mr. MONTROYA (Venezuela) suggested that no decision should be taken on paragraph 14, since it made reference to the terms of paragraph 13, which had not yet been adopted in its final form.

Mr. HOARE (United Kingdom) pointed out that paragraph 14 was designed to safeguard all the provisions of existing laws and regulations subject only to the provisions of the preceding paragraph, and could therefore be adopted independently of, and before, the latter.

The PRESIDENT suggested that in the absence of any comment, paragraphs 14, 15 and 16 might be adopted on the understanding that any consequential changes necessitated by amendments to other parts of the Convention would be made in the course of the second reading.

Paragraphs 14, 15 and 16 of the Schedule were unanimously adopted on that understanding.

Annex to the Schedule - Specimen travel document.

The PRESIDENT drew the attention of representatives to the second Italian amendment in A/CONF.2/64, relating to the specimen travel document annexed to the Schedule; in substance that amendment had already been incorporated in the Schedule itself.

Mr. HOARE (United Kingdom) suggested that the Italian amendment was superfluous. Holders of old travel documents could not fail to be aware of the necessity of retaining them, and producing them to the authorities should they have taken up residence in another country, and applied for a new travel document, since unless the old document was given up they might have difficulty in obtaining a new one.

Mr. THEODOLI (Italy) said that occasions had been known when refugees had sold their old travel documents on acquiring new ones. The Italian Government attached great importance to the insertion of the instruction contained in the Italian amendment in the travel document itself, as it was essential to prevent refugees from holding two travel documents issued by two different countries. However, if drafting changes were felt to be necessary to his amendment, he would have no objection to its being submitted to the Style Committee for consideration.

Mr. HOARE (United Kingdom) expressed doubt whether the insertion in the travel document itself of a statement as to what the authorities had to do with the document would in fact prevent refugees from disposing of their travel documents illicitly, if they intended to do so. A provision as to what the authorities had to do was already incorporated in paragraph 12 of the Schedule.

Mr. ROCHEFORT (France) suggested that the Italian representative should join the working group just set up to reconsider paragraph 13.

The PRESIDENT formally invited the Italian representative to take part in the work of the working group.

He then put to the word the substance of the second Italian amendment in A/CONF.2/64, on the understanding that working group would be instructed to examine the specimen travel document annexed to the Schedule, as well as paragraph 13 of the Schedule. The Italian amendment was adopted on that understanding by 12 votes to none, with 13 abstentions.

(ii) Article 3 - Non-discrimination (A/CONF.2/72) (resumed from the sixth meeting)

The PRESIDENT invited the Conference to resume its consideration of article 3, and drew attention to the report (A/CONF.2/72) of the Committee set up to study that article.

Mr. CHANCE (Canada) expressed his appreciation of the work accomplished by the Committee, which had devoted much time and thought to a most contentious problem. For his part, he would be prepared to accept the sixth alternative text submitted to the Conference.

Mr. ROCHEFORT (France) stated that the French delegation was particularly anxious that the proposed new article should be examined in relation to article 1. He therefore suggested that a final decision on article 3 should be deferred until article 1 had been disposed of. It was so agreed.

2. QUESTION OF THE LANGUAGES IN WHICH THE DRAFT CONVENTION SHOULD BE DRAWN UP

The PRESIDENT drew the attention of the Conference to the question of the languages in which the Convention was to be drawn up. There were several possibilities. The Conference could consider itself as a body convened by the United Nations and follow the usual United Nations practice of drafting the final documents in the five official languages. Such a procedure would have the advantage of saving the Conference the trouble of entering into technical legal terminology, but it would also have the drawback of placing upon the Secretariat the burden of supplying texts in languages not used in the discussion.

The conference might alternatively regard itself as a diplomatic meeting of plenipotentiaries, and decide itself on which languages it wished to use for the final documents; it could, for instance, confine itself to English and French, or it could also include Spanish. The Conference should also consider whether the languages of delegations represented at it, other than the five official languages of the United Nations, should be used in the final documents, but, if a decision was taken in that sense the Secretariat would be unable to co-operate in the work of translation. He requested delegations to ponder the matter, which would have to be settled soon.

3. PROGRAMME OF WORK

After a brief discussion in which Mr. HOARE (United Kingdom), the PRESIDENT, Mr. PETREN (Sweden) and Mr. ROCHEFORT (France) took part, the PRESIDENT suggested that the conference should take up article 1 of the draft Convention at its next meeting. It was so agreed.

The meeting rose at 6 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Seventeenth Meeting

By General Assembly | 23 November 1951

Present:

President :	Mr. LARSEN
Members:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT

Canada	Mr. CHANCE
Colombia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. BOZOVIC
Observer:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and of other inter-governmental organizations:

International Labour Organization	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO

Representatives of non-governmental organizations :

Category B and Register

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Council of Women	Mrs. FIECHTER
International Federation of Friends of Young Women	Mrs. FIECHTER
International League for the Rights of Man	Mr. de MADAY
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. BUENSOD
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER

Secretariat :

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

CONSIDERATION OF THE DRAFT CONVENTION OF THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (continued)

Article 23 and Schedule - Travel documents (A/CONF.2/31, A/CONF.2/56, A/CONF.2/59, A/CONF.2/61, A/CONF.2/64, A/CONF.2/66, A/CONF.2/67) (resumed from the twelfth meeting)

The PRESIDENT requested the Conferences to resume its discussion of article 23 and the Schedule relating thereto (Annex to the draft Convention, A/CONF.2/1), touching on

the latter for the time being only in so far as was necessary for due consideration of the general principles laid down in article 23 itself.

Mr. BOZOVIC (Yugoslavia) explained that the Yugoslav delegation had submitted an amendment (A/CONF.2/31) to paragraph 1 of article 23 intended to cover cases where a State should not be under an obligation to issue a travel document to a refugee. As the Belgian amendment (A/CONF.2/61) took care of that point, he would withdraw the Yugoslav amendment in its favour.

Mr. HERMENT (Belgium) thanked the Yugoslav representative for his gesture. It seemed to him that the intention behind the amendment submitted jointly by the Australian and Canadian delegations (A/CONF.2/66) was identical with that of his own, and he therefore wondered whether the Australian and Canadian delegations would also be prepared to withdraw their proposal.

Mr. CHANCE (Canada) observed that the intention of the Australian and Canadian delegations in submitting their joint amendment had been to take care of the position of those countries that had no statutory regulations governing the issue of passports. He would agree to that amendment being withdrawn in favour of the Belgian amendment, although the again introduced the somewhat troublesome concept of public order.

Mr. THEODOLI (Italy) also withdraw the Italian amendment (A/CONF.2/56) to paragraph 23, in favour of the Belgian amendment. In doing so, however, he wished to draw attention to the fact, which he believed deserved further consideration, that the Italian amendment provided only for the withholding of a travel document, whereas the Belgian amendment would appear to permit Contracting States to refuse to issue such a document.

Mr. HERMENT (Belgium) explained that the limiting clause in the Belgian amendment did not mean that the issue of travel documents to refugees would be categorically refused. It was merely intended to allow for the temporary discontinuance of the issue of such documents. That action would no longer be necessary once the considerations of national security or public order which had led States to suspend the issue of travel documents had ceased to hold.

Mr. HOARE (United Kingdom) agreed that there would be circumstances in which it would be desirable to allow States a certain amount of latitude. The joint Australian/Canadian amendment, however, was preferable to the Belgian amendment, since it would afford fuller protection to refugees, inasmuch as it provided for the application to the issue of travel documents to refugees of the same criteria as were applied in the issue of passports.

Mr. HOEG (Denmark) endorsed the United Kingdom representative's remarks, and supported the joint amendment.

Mr. ARFF (Norway) said that the Norwegian delegation would support the joint amendment, since it would make it possible to bring the Norwegian regulations relating to the issue of travel documents into line with the provisions of the draft Convention. At the moment, the competent Norwegian authorities could withhold the issue of travel documents to Norwegian nationals for reasons of insolvency, failure to pay taxes and so on, and it was naturally desirable that the facilities afforded to nationals in the matter of travel documents should not be less favourable than those extended to refugees.

The Norwegian delegation could support the omission from paragraph 1 of the original text of the phrase "who is not in possession of such a document", for there would obviously be no need to issue a document if the refugee already had one; again, if the document he possessed was not valid, paragraph 6 of the Schedule would cover the position.

Mr. PETREN (Sweden) said that the Swedish delegation could support either the Belgian or the joint amendment, but preferred the former since it was more in line with existing Swedish legislation.

Mr. ROCHEFORT (France) supported the Swedish representative's statement. French legislation could not give effect to the limiting clause in the joint amendment, and, if the French delegation accepted that clause, it would simply be tying the hands of the French Government so far as the issue of travel documents was concerned. Moreover, it should not be forgotten that some countries were extremely wary of issuing entry visas even to the nationals of friendly countries, and it was therefore perfectly reasonable that France should take similar precautions when issuing travel documents to refugees who were recent arrivals and still comparatively little known. The Belgian amendment was, therefore, the only one which the French delegation could support.

Turning to the amendment submitted by his own delegation (A/CONF.2/59), he stated that its purpose was to secure the deletion of the words "without a visa from the authorities of that country", which appeared in paragraph 13 of the Schedule. In practice, the French Government granted the rights referred to in sub-paragraph 1 of paragraph 13 of the Schedule to aliens covered by the 1933 Convention, since they were persons who had long been settled in France and were well known to the French Government. On the other hand, it reserved the right to impose controls on the movement of other refugees, although it would have recourse to such controls only when it judged it absolutely necessary to do so.

Mr. HERMENT (Belgium) regretted that he was unable to satisfy the United Kingdom representative by withdrawing the Belgian amendment. The Belgian delegation was in fact convinced that its amendment was more in the interests of refugees than was the joint amendment. The Norwegian representative had mentioned the case of a government refusing to issue passports to persons who had not paid their taxes. Such a case was one of the "circumstances" in which a State withheld the issue of passports to its own nationals and, if the joint amendment was adopted, it would be possible to invoke a similar reason for denying the issue of travel documents to a refugee. In the same way, if the national of a State had not done his military service, his application for a passport was usually refused. Logically, therefore, such an application should also be refused if made by a refugee in the same position. Hence it was clear that the text of the joint amendment submitted by the delegations of Australia and Canada allowed of a very wide interpretation. The Belgian delegation therefore preferred its own text.

Mr. ROCHEFORT (France) urged that there should be no illusions as to the scope of article 23. Travel documents were valueless unless accompanied by an entry Visa for another country. The refugees to whom the French Government would feel obliged to refuse a travel document were precisely those to whom none of the countries represented at the Conference would grant an entry Visa. What counted, therefore, was not the travel document, but the Visa, and it was from that angle that the matter should be viewed.

Mr. SCHÜRCH (Switzerland) thought that the objections raised by the United Kingdom representative were fundamentally concerned with the idea of "public order" mentioned in the Belgian amendment. The Belgian proposal could therefore be made acceptable to all delegations by deleting the words "or public order".

Mr. HERMENT (Belgium) was sorry that he could not accept the Swiss suggestion. The Belgian intention had been to cover the case of a refugee who was being prosecuted for an offence under civil law. He would then be refused a passport, not for reasons of national security, but for reasons of public order.

Mr. ROCHEFORT (France) wholeheartedly supported the views of the Belgian representative.

Mr. SHAW (Australia) said that the aim of the joint Australian/Canadian amendment was to reduce exceptions to a minimum. In Australia, the withholding of a passport was a very exceptional measure, and the practice could never be regarded as capable of seriously affecting the position of refugees in the matter of issue of travel documents. The Australian delegation preferred the broader formula of the joint amendment, but agreed that the point was covered, although in a more restrictive manner, by the Belgian amendment.

Mr. ROCHEFORT (France) stated that, even if a refugee was considered undesirable in France for reasons of public order, the French Government would certainly not refuse him a travel document if he were certain of obtaining an entry visa into such a country as Australia or Canada.

Mr. HOARE (United Kingdom) appreciated the motives underlying the restrictive proposals submitted by the Australian, Canadian, Belgian and Yugoslav delegations, but was somewhat alarmed by the extent to which they implied a departure from the standing arrangements whereby refugees were provided with documents enabling them to travel. The widely supported London Agreement of 15 October 1946 contained no such limitation, and although conditions had since changed, and some modification of that Agreement was justified, the deviation from the existing arrangements should be made as slight as possible. Under the terms of the Belgian amendment there would be a risk of lowering the status of the refugee vis-à-vis national authorities. He could not understand why the French representative laid greater emphasis on the visa aspect of the question than on the issue of the travel document itself, for, as he (Mr. Hoare) saw it, if the refugee was not in possession of a travel document there could be little point in his seeking a visa for entry into another country. The foreign Consul concerned would ask him if he had a travel document. As his reply would necessarily be in the negative, the application would be refused without any further motive. The refugee would therefore find himself the victim of a vicious circle.

Mr. ROCHEFORT (France) stated that what the French delegation had endeavoured to make plain was that a travel document was a kind of open cheque which was of value only if it was accompanied by an entry visa and that it could only be accompanied by such a visa if it bestowed a right of return. The cases in which the French Government would be obliged to refuse to issue a travel document would be identical with those in which countries represented at the Conference would refuse to grant a visa.

Mr. HOEG (Denmark) observed that travel documents were used not only for immigration purposes, but also to allow a person to travel on business or on holiday. It might well be that, if in possession of a travel document, a refugee suspected of having committed a crime in a particular country would be able to obtain a visa from the Consul of another country without the Consul being aware of the facts of the case. It would consequently be undesirable to issue a travel document to each a person before the alleged offence had been fully investigated. Such cases were admittedly covered by the Belgian amendment, but the latter appeared to go much further than was necessary in actual practice.

Mr. ROCHEFORT (France) explained to the Danish representative that the fact that a French citizen professed extremist views did not preclude him from holding a passport. It might, however, be necessary in certain cases to treat refugees differently.

Mr. HOARE (United Kingdom) felt that the French representative's remarks illustrated the wide latitude that Contracting States would enjoy if the issue of travel documents was made subject to the requirements of national security or public order. He considered that States should not be enabled to for such action would be tantamount to discrimination on the grounds of political opinion.

Mr. ROCHEFORT (France) cited the recent case of an alien, a French citizen, who had been returned to a certain country, not because he had been considered in any way suspect, but because he had not been regarded as having adequate means of subsistence. The man in question had been in possession of a French passport and an entry visa into the country in question. That incident brought out the difference between insular countries and continental countries, which refugees could enter clandestinely, without having been subjected to preliminary screening. Refugees professing extremist political opinions would certainly not be able to obtain an entry visa into any of the countries represented at the present Conference. It was obvious, therefore, that if a travel document was issued to them by the French Government, it could only be of service to them if they were proceeding to countries other than those represented at the Conference, and it was precisely that situation which the French Government was anxious to be able to avoid.

Mr. HOARE (United Kingdom) had no knowledge of the particular case to which the French representative had referred, but imagined that the circumstances as the person in question had explained them to the responsible officer when applying for a visa had not been borne out by the facts as ascertained on his arrival.

He (Mr. Hoare) was concerned mainly with the question of principle. If the holding of extremist views was accepted as a valid ground for not issuing travel documents, certain States might take advantage of that facility in order to put obstacles in the way of legitimate travel on the part of a refugee, and that would be a marked deterioration of the status of refugee from the position obtaining under the London Agreement of 1946.

Mr. ROCHEFORT (France) pointed out that States could refuse an entry visa for many reasons besides the political views held by the applicant. The French delegation saw no reason, therefore, why the French Government should have to undertake to grant travel documents to refugees under an international instrument which would bind it to States that would in no circumstances assume the obligation to grant entry visas. That was a practical problem which had to be solved realistically. French Government, which, moreover, had

not signed the London Agreement, was obliged to deal with a series of problems of so complex a character that it could not accept the proposal put forward jointly by the Australian and Canadian delegations, which would deprive it of all freedom of action in the matter.

The PRESIDENT observed that for the past twenty years arrangements had existed for the issue of travel documents to refugees. He was sure that all States had delivered such documents, and also that, when the exceptional case had turned up the competent authorities had known what action to take. He would be reluctant to see the Conference give world public opinion the impression that it was seeking to deprive refugees of facilities that had been accorded by all previous agreements, and consequently wondered whether any amendment of paragraph 1 of article 23 was necessary.

Mr. HOARE (United Kingdom) wished to make it clear that the United Kingdom delegation fully appreciated the French representative's difficulties, and the need for doing something to meet his point. In order, however, to avoid any abuse of the formula finally adopted, he would suggest that the phrase "Subject to the requirements of national security or public order" in the Belgian amendment (A/CONF.2/61) should be replaced by the words "Except where imperative reasons of national security or public order otherwise require".

Mr. HERMENT (Belgium) accepted the United Kingdom representative's suggestion.

Mr. SHAW (Australia) and Mr. CHANCE (Canada) said that they agreed with the United Kingdom suggestion, and would accordingly withdraw their joint amendment (A/CONF.2/66) in favour of the Belgian amendment as thus modified.

Mr. ROCHEFORT (France) also accepted the United Kingdom amendment; he pointed out that he could not vote on paragraph 1 of Article 23, which referred to the Schedule, without knowing what was to happen to the amendment to paragraph 13 of the Schedule proposed by the French delegation. For that reason, he would abstain from voting.

After some further discussion on the drafting of paragraph 1, the PRESIDENT put to the vote paragraph 1 of Article 23, as amended by the revised Belgian amendment (A/CONF.2/61). The text read as follows:

"The Contracting States shall issue to refugees lawfully resident in their territory travel documents for the purpose of travel outside their territory except where imperative reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory and shall give sympathetic consideration to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence."

Paragraph 1 of Article 23 adopted in the above form by 22 votes to none, with abstentions.

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.2/31, page 2) to paragraph 2 Article 23.

Mr. BOZOVIC (Yugoslavia) said that before commenting on his amendment he would ask for some elucidation of the original text of paragraph 2. Did it imply that a State which was not a party to previous international agreements would be obliged to recognize travel

documents issued under those agreements? He would recall that the Yugoslav Government was not a party to any of them.

His delegation had submitted its amendment in the belief that once the present Convention had come into force, all travel documents should be delivered in accordance with it, and not under previous international agreements.

The PRESIDENT drew attention to paragraphs 1 and 2 of article 32, in which provision was made for the situation which would arise once the Convention had come into force. In the case of two Contracting States who were also parties to previous agreements, the latter would be replaced by the Convention. As between two States parties to the previous agreements, one of which was not party to the present Convention, the previous agreements would remain in force. Thus, the old travel documents would become null and void for parties to the Convention once their validity had expired.

The Yugoslav Government, which was not a party to the previous agreements, had no obligation vis-à-vis other States with regard to travel documents. If and when it signed and ratified the present Convention, it would assume the obligations laid down in article 23. That meant in effect that the Yugoslav Government would have to recognize the validity of travel documents issued by, say, the Danish Government under the previous international agreements.

Mr. HERMENT (Belgium) thought that the points raised by the Yugoslav representative might be met by inserting in paragraph 2 of article 23 the word "previously" after the words "travel documents". That would make it clear that a Contracting State would not continue to supply refugees with travel documents based on previous agreements. It should, nevertheless, be noted that it ought, in any case, to be possible for refugees to continue to use such travel documents, in order to avoid practical difficulties. A refugee might, for example, apply for a travel document in order to enter various States, only some of which were parties to the Convention. In such a case, the refugee would either have to have two different travel documents, or continue to use travel documents issued under agreements prior to present Convention.

The PRESIDENT agreed that it was essential to take into account the possibility that documents might have to continue to be issued under the previous agreements. Assuming that a refugee was domiciled in country X, and wished to travel to countries A, B and C, countries X and A alone being parties to the Convention, he would have to use the old travel documents in order to enter countries B and C.

MOSTAFA Bey (Egypt) considered that paragraph 2 of article 23 raised a series of legal problems, such as that of the relative value of previous treaties. Members of the Conference were, in fact, being asked to sign a blank cheque, and his delegation, for its part, could not vote for paragraph 2, as the Egyptian Government was unable to recognize travel documents issued under agreements to which it was not a party.

Mr. HOARE (United Kingdom) did not share the Egyptian representative's misgivings, and maintained that the documents issued under previous agreements were well-known and easily identifiable.

The meaning of paragraph 2 was surely perfectly clear. It stated that parties to the Convention undertook to recognize all travel documents issued under previous agreements by the parties to those agreements.

The PRESIDENT recalled that the Ad hoc Committee had included paragraph 2 with a view to avoiding the administrative work which a renewal of all existing travel documents, regardless of their period validity, would involve. Although the members of the Committee had not attached very great importance to the point, it would on the whole be more convenient not to be too rigid in administrative matters and to permit the use of old travel documents.

Mr. WARREN (United States of America) drew the attention of the Yugoslav representative to paragraph 5 of the Schedule annexed to the draft Convention, in which it was laid down that a travel document should have validity for a limited period of time. It was reasonable to assume that a State party to the Convention would issue a new travel document of the type prescribed in the Schedule once the validity of an old one had expired. Thus the Yugoslav representative's point would undoubtedly be met in practice.

Mr. ROCHEFORT (France) said that paragraph 2 of article 23 was indeed based on practical considerations, it had been inserted in order that refugees should not all be obliged to renew their passports. The renewal of all refugees' passports would entail a great many useless formalities; moreover, it could only be done gradually. Referring to the essential point raised by the Yugoslav representative, he would take as a concrete example, to illustrate the effect of the application of paragraph 2, the relations existing between a State X and Yugoslavia. Two cases might arise. If State X had not signed the Convention, Yugoslavia's only obligation towards that State would be under previous agreements to which Yugoslavia was a party. If State X had signed the Convention it would, when it issued travel documents under article 23, be continuing to do what it had already done under previous agreements. The result would therefore be the same in practice. In the one case, travel documents previously issued to refugees would be considered as valid until they expired, in order to avoid obliging the refugees concerned to renew them; in the other, refugees would receive new travel documents which would only differ from the old ones in the way in which they were set out and printed.

Mr. BOZOVIC (Yugoslavia) accepted the explanation provided by the French representative, and said that he was now prepared to withdraw his amendment and to vote for paragraph 2, provided the amendment proposed by the Belgian representatives was adopted.

The PRESIDENT drew attention to the fact that all refugees covered by previous international agreements would also be covered by the present Convention if article 1 was adopted. The new travel document would be to all intents and purposed the same as that used under the Nansen Conventions, the London Agreement of 1946, and other instruments, so that, if one only looked at the realities of the problem, there would seem to be no need to impose upon States the obligation to issue a new document. What mattered from the point of view of governments was that, at least for some time to come, certain States parties to the previous agreements would not be parties to the present Convention, and that it was always preferable for an individual to hold only one travel document, and not several; for, if he held several, that might enable him to slip through the hands of the

police. He was ready to admit that from the strictly juridical point of view it document in which reference was made to an international instrument to which the State of entry was not a party. But he believed that on the whole the advantages of paragraph 2 outweighed its slight legal disadvantages.

He ruled that the discussion on paragraph 2 was closed.

Paragraph 2 was adopted by 23 votes to 1

Mr. WOLF (International Labour Organisation) recalled that after the statement made by a representative of the International Labour Organisation at the twelfth meeting of the Conference, a text covering the situation of refugees who were bona fide seafarers had been suggested, in connection with the Conference's examination of article 23 (A/CONF.2/67). The suggestion had been submitted in pursuance of a decision taken by the Governing Body of the International Labour Office and its aim was to draw the Conference's attention to the problem with a view to the Conference possibly including the suggested text in article 23 or, alternatively, adopting, on the conclusion of its work, a recommendation to the effect that refugees who were bona fide seafarers might, as far as possible, be allowed to reckon periods spent as crew members on board a ship flying the flag of a Contracting State as residence in the territory of that State.

The PRESIDENT stated that the Conference could take no decision on the suggestion unless it was sponsored by a delegation. In his view, the issue it raised was wider than that dealt with in article 23, and should perhaps form the subject of special general article.

Speaking as representative of Denmark, he added that the Danish Government already applied such a provision.

Mr. ROCHEFORT (France) thought that the question raised by the representative of the International Labour Organisation was much too general to fit happily into article 23. In his opinion, the text suggested by the Organisation should be inserted in article 6, which dealt with continuity of residence, or drafted as a new article, to be inserted immediately after article 6.

Mr. WOLF (International Labour Organisation) said that that would be perfectly satisfactory.

The RESIDENT ruled that discussion of article 23 was closed.

Article 23 was adopted as a whole and as amended by 21 votes to none, with 3 abstentions.

The PRESIDENT asked representatives to turn to the Schedule, which dealt with the travel document referred to in article 23 (A/CONF.2/1, pages 21-23).

It would be best for the Schedule to be examined paragraph by paragraph.

Paragraph 1 was adopted without discussion by 23 votes to none, with 1 abstention.

Mr. HERMENT (Belgium) thought that the Italian amendment to the text of the travel document shown in the annex (A/CONF.2/64) should be reproduced in paragraph 2 of that annex, as the two provisions were related.

Mr. THEODOLI (Italy) agreed, The object of the Italian amendment was to reserve the right of Contracting States to authorize adults, in exceptional cases, to have children who were not their own, but who were accompanying them, entered on their passports. The age limit to be laid down in that connexion was 16 years in Italy; but the words "subject to the regulations obtaining in the country of issue" in paragraph 2 would leave Contracting States a certain amount of latitude in the matter.

Mr. MONTOYA (Venezuela) felt that it would be better to lay down a definite age limit. If the law of the issuing country fixed that limit at 16 years and the law of the receiving country at less than 16, the refugees concerned might be refused a visa.

Mr. HERMENT (Belgium) proposed that paragraph 2 be worded as follows:

"Subject to the regulations obtaining in the country of issue, the children of a refugee may be included in the document of an adult refugee provided they are under 16 years of age".

Mr. HOEG (Denmark) considered that it would be wise for the Conference to take a liberal attitude in the matter. The families of refugees were often scattered, and it might well be that a child would have to travel in the company of a grandparent or relative. As to age, the Danish authorities issued individual travel documents to children over 15.

Mr. SHAW (Australia) supported the Danish representative.

Mr. CHANCE (Canada) also felt that it would be unfair to draft the regulation too stringently. He would therefore suggest that paragraph 2 be amended to read as follows:

"Subject to the regulations obtaining in the country of issue, children may be included in the document of a parent or, exceptional circumstances, of another adult refugee."

Mr. THEODOLI (Italy) supported the Canadian amendment and added that it did not matter whether the point was included in paragraph 2 of the Schedule or in the travel document itself.

The Canadian amendment to paragraph 2 was adopted unanimously.

Paragraph 2 was adopted unanimously, as amended.

The PRESIDENT pointed out that paragraph 3 was subject to a consequential drafting change, since paragraph 3 of article 24, to which reference was made, had been deleted.

Paragraph 3 was unanimously adopted, subject to the drafting change mentioned by the President.

The PRESIDENT informed the Conference that he would at the present stage be glad to hear the views of members on the official and authentic texts of the Convention. Under article 40 of the draft Convention, the Chinese, English, French, Russian and Spanish official texts would be equally authentic. Such a provision raised certain questions. The texts in some of the official languages could not be authenticated, as there were no delegations from countries using those languages. Furthermore, the preparation of authentic texts in five languages would entail considerable expense for the United Nations, and might delay the signature of the instruments prepared.

The meeting rose at 1.10 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Sixteenth Meeting

By General Assembly | 23 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. BURBRIDGE
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece.	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
	Mr. THEODOLI
Luxembourg	Mr. STURM
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN

Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observers:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies of and other intergovernmental organizations:	
International Labour Organization	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
Inter-Parliamentary Union	Mr. ROBINET de CLERY
Category B and Register	
Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Council of Women	Mrs. GIROD
International Federation of Friends of Young Women	Mr. FIECHTER
International Union of Catholic Women's Leagues	Miss de ROMER
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

**CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES
(item 5(a) of the agenda) (A/CONF.2/1 and Corr.1 A/CONF.2/5) (continued)**

(i) Article 28 - Prohibition of Expulsion to a country where the life or freedom of a refugee is threatened (A/CONF.2/69, A/CONF.2/70)

The PRESIDENT drew attention to the Swedish amendment (A/CONF.2/70) and to the Joint French/United Kingdom amendment (A/CONF.2/69) to article 28. He suggested that the Conference should first consider the first paragraph of the Swedish amendment in conjunction with the original text of article 28, and then the second paragraph of the Swedish amendment and the joint amendment, both of which were concerned with formulating the exception to the general principle enunciated in article 28.

Mr. PETREN (Sweden) said that the first part of the first paragraph of article 28, as amended by the Swedish delegation, down to the words "or political opinion", was intimately linked with article 1 of the draft Convention. He therefore believed that it would be preferable to defer discussion on that part of article 28 until article 1 was taken up. The remainder of the first paragraph of article 28 as amended by his delegation was intended to cover cases where refugees were expelled to a country where their life would not be directly threatened, but where they would be threatened by further expulsion to a country where they would so be in danger.

Mr. ROCHEFORT (France) entertained certain misgivings as to the possible implications of the second of the two changes made to article 28 by the Swedish amendment, namely, the addition of the words "or where he would be exposed to the risk of being sent to a territory where his life". In the first places it called for a necessarily subjective decision by Contracting States. Secondly, and more important, if the countries adjoining a Contracting State were not parties to the Convention and decided; as might well prove to be the case, to refuse the right of residence in their territory to all refugees, that Contracting State might find itself in a very difficult situation, as the Swedish amendment would not then allow it to expel refugees at all.

The Swedish amendment called for careful study, and the French delegation was unable to accept it forthwith.

Mr. PETREN (Sweden) said that it would be most important to have such a provision as the one to which the French representative had taken exception, very large number of States ratified the Convention. He would, however, prepared to consider drafting changes to his proposal.

Mr. HOARE (United Kingdom) said that his attitude was very similar to that of the French representative. He recognized the force of this Swedish representative's arguments and the validity of his amendment, but felt that the latter was so widely conceived that it would present difficulties to Contracting States. The whole problem called for further study.

Msgr. COMTE (The Holy See) considered that article 28 was highly Important.

While the Swedish amendment was undoubtedly inspired by honourable motives, the use of the phrase "By way of exception" to introduce the second paragraph give rise to certain abuses. The expression was very 'vague, and might expose refugees to certain risks.

He preferred the amendment submitted jointly by the delegations of France and the United Kingdom, which afforded greater safeguards to the refugee.

It would appear, however, that the original text of article 28 was in itself sufficient to furnish those safeguards, as no exceptions were provided for. A State would always be in a position to protect itself against refugees who constituted a danger to national security or public order.

The PRESIDENT asked whether representatives wished to make any further comments on the general principle embodied in article 28.

Mr. HOARE (United Kingdom) suggested that as some representatives were unable to take a definite position on the second part of the first paragraph of the Swedish amendment, its further consideration might be deferred. The Conference might then take up the second paragraph of the Swedish amendment, and the joint amendment.

Mr. ZUTTER (Switzerland) said that the Swiss Federal Government saw no reason why article 28 should not be adopted as it stood; for the article was a necessary one. He thought, however, that its wording left room for various interpretations, particularly as to the meaning to be attached to the words "expel" and "return". In the Swiss Government's view, the term "expulsion" applied to a refugee who had already been admitted to the territory of a country. The term "refoulement", on the other hand, had a vaguer meaning; it could not, however, be applied to a refugee who had not yet entered the territory of a country. The word "return", used in the English text, gave that idea exactly. Yet article 28 implied the existence of two categories of refugee: refugees who were liable to be expelled, and those who were liable to be returned. In any case, the States represented at the Conference should take a definite position with regard to the meaning to be attached to the word "return". The Swiss Government considered that in the present instance the word applied solely to refugees who had already entered a country, but were not yet resident there. According to that interpretation, States were not compelled to allow large groups of persons claiming refugee status to cross its frontiers. He would be glad to know whether the States represented at the Conference accepted his interpretations of the two terms in question. If they did, Switzerland would be willing to accept article 28, which was one of the articles in respect of which States could not, under article 36 of the draft Convention, enter a reservation.

Mr. ROCHEFORT (France) agreed with the views expressed by the representative of Switzerland. It was only the idea of what was generally meant by "expulsion" that should be retained.

Referring to the amendment submitted jointly by the delegations of France and the United Kingdom (A/CONF.2/69), he observed that the text of the draft Convention admitted the principle that a State could refuse the right of asylum. It was therefore only just that countries which granted that right should be able to withdraw it in certain circumstances. If they could not do so, they would think twice before granting an unconditional right. He agreed that the right of asylum was sacred, but people should not be allowed to abuse it. The French and United Kingdom delegations had submitted their amendment in order to make it possible for States to punish activities carried on in the name of that right, but directed against national security or constituting a danger to the community. France and the United Kingdom, however, had no intention of opposing the right of asylum on grounds of indigence. Reasons such as the security of the country were the only ones that could be invoked against that right.

The right of asylum rested on moral and humanitarian considerations which were freely recognized by receiving countries, but it had certain essential limitations. A country could not contract an unconditional obligation towards persons over whom it was difficult to exercise any control, and into the ranks of whom undesirable elements might well infiltrate. The problem was a moral and psychological one, and in order to solve it, it would be necessary to take into account the possible reactions of public opinion.

Msgr. COMTE (The Holy See) stated that the remarks of the French representative had greatly interested him. The Holy see was fully aware that States were bound to protect themselves against possible abuses of the right of asylum, and the joint amendment submitted by the delegations of France and the United Kingdom might be given consideration on that account.

He also felt that the drafting of article 28 called for some comment. Besides the grounds already stated in article 28, on which the life or freedom of refugees might be threatened, the Swedish amendment sought to add the further ground of membership of a particular social group. Further grounds of the same kind can be found, but their enumeration might have dangerous consequences. In order to avoid such a contingency, he considered it would be preferable to amend article 28 to read: "where his freedom would be threatened on account of the reasons which had compelled him to seek refuge".

With regard to the joint amendment, it was admittedly very difficult to avoid exceptions to any rule. What was meant for example by the words "reasonable grounds"? He considered that the wording: "may not, however, be claimed by a refugee who constitutes a danger to the security of the country" would be preferable.

Mr. HOARE (United Kingdom) associated himself with the remarks made by the French representative, who had amply explained the grounds on which States might be justified in making exceptions to the general application of article 28. The authors of the joint amendment had sought to restrict its scope, so as not to prejudice the efficacy of the article as a whole. It must be left to States to decide whether the danger entailed to refugees by expulsion outweighed the menace to public security that would arise if they were permitted to stay. Without such a provision governments might find it difficult to accept article 28, to which, as had been pointed out, reservations could not be entered. It must be borne in mind that the climate of opinion had altered since article 28 had been drafted, and that each government had become more keenly aware of the current dangers to its national security. Among the great mass of refugees it was inevitable that some persons should be tempted to engage in activities on behalf of a foreign Power against the country of their asylum, and it would be unreasonable to expect the latter not to safeguard itself against such a contingency. To condemn such persons to lifelong imprisonment, even if that were a practicable course, would be no better solution.

The representative of the Holy See had raised certain objections to the "reasonable grounds". As he (Mr. Hoare) had suggested their insertion, it was incumbent on him to explain his reason for doing so, which was that it must be left to States to determine whether there were sufficient grounds for regarding any refugee as a danger to the security of the country.

Mr. CHANCE (Canada) associated himself with the remarks made by the French and United Kingdom representatives, and supported the joint amendment. He reminded the

Conference that the Ad Hoc Committee on Refugees and Stateless Persons had regarded article 28 as of fundamental importance to the Convention as a whole. In drafting it, members of that Committee had kept their eyes on the stars but their feet on the ground. Since that time, however, the international situation had deteriorated, and it must be recognized, albeit with reluctance, that at present many governments would find difficulty in accepting unconditionally the principle embodied in article 28.

Mr. PETREN (Sweden), referring to the objections to his amendment raised by the representative of the Holy See, re-stated his opinion that the first part of the first paragraph of the Swedish amendment would have to be discussed in connexion with article 1. That representative's suggested amendment would not cover the case of refugees expelled to a country which might in turn forcibly return them to their country of origin.

He would be grateful for enlightenment on the precise implication of article 28. For instance, would it cover the situations where a refugee found himself either in a country which, without directly threatening his safety, was disposed to accede to demands for extradition to the country of persecution or in a country which was not prepared to extradite refugees but tended to expel them for reasons of its own? If those two cases were in fact met by the provisions of article 28 as at present drafted, the second part of the first paragraph of the Swedish amendment was unnecessary.

The second paragraph of the Swedish amendment had been moved for more or less the same reasons as the joint amendment, and was intended to meet the case of refugees engaged in subversive activities threatening the security of their country of asylum, refugees who, after having been accepted as residents, were found to have been fugitives from justice in their own country, and refugees who failed to comply with the conditions of residence. Perhaps it might be possible to evolve a compromise text for the second paragraph of the basis of the two amendments before the Conference.

The PRESIDENT said he was not competent to provide the necessary clarification requested by the Swedish representative, but he would like to point out that the interpretation of the phrase "or where he would be exposed to the risk" in the Swedish amendment presented certain difficulties. A government expelling a refugee to the territory of another State could not foresee how that State would act. The Danish Government would consider that if such expulsion presented a threat of subsequent forcible return to the country of origin, the life and liberty of the refugee in question were endangered. But the relative importance of the various considerations involved was a matter which would have to be decided by the government concerned.

Mr. ROCHEFORT (France) pointed out that a State had not the right to return a refugee without a visa to any country other than his country of origin or his country of lawful residence. Admittedly, it did sometimes happen, that the practice was illegal.

The Swedish amendment did not state that it related to countries which did not grant the right of asylum. Such countries were not necessarily those in which persecution occurred. If the States in question were signatories to the Convention, the question would not arise, because refugees would not be returned to countries where they risked being persecuted.

Mr. HERMENT (Belgium) said that article 28 did not in fact make provision for either of the cases mentioned by the Swedish representative.

Referring to the joint amendment, he asked for an explanation of the words “lawfully convicted”, and wondered whether the word “lawfully” meant that the authority which had passed sentence on a refugee had to provide full legal guarantees. Or that the sentence must be final. If a refugee had been sentenced by a court of first instance, could he nevertheless claim the benefit of article 28?

Mr. HOEG (Denmark) said that the Danish Government was prepared to accept the original text of article 28, but, since some delegations seemed to wish to incorporate certain amendments in it, he would not vote against those amendments.

If a country of origin, which might perhaps be a great Power, demanded the return of a refugee, to refuse the demand might provoke a political crisis. He did not imagine that it was the intention of the joint amendment and the Swedish amendment to cover such a case by the use of the words “reasonable grounds for regarding as a danger to the security of the country in which he is residing” and “constitute a danger to national security or public order” respectively, but he wished to be assured that there was no possibility of the texts being interpreted in that manner.

Baron van BOETZELAER (Netherlands) supported the Swiss representative’s observations. He appreciated the importance of the basic principles underlying article 28 but, as a country bordering on others, the Netherlands was somewhat diffident about assuming unconditional obligations so far as mass influxes of refugees were concerned, unless international collaboration was sufficiently organized to deal with such a situation. He recalled that the Swiss representative had already referred to the matter of international collaboration in the general discussion at the third meeting.

Mr. THEODOLI (Italy) associated himself with the statements of the Swiss and Netherlands representatives.

He would like some clarification of the words “expel or return”. Under article 28, no Contracting State was to expel or return a refugee to a territory where his life or freedom would be in danger. On the other hand, he personally felt that a State could not commit itself not to expel or return large groups of refugees who presented themselves on its territory, and who might endanger public security. The Italian delegation would therefore reserve its position on the article, unless some satisfactory explanation was forthcoming.

Mr. PETREN (Sweden) also agreed with the Swiss, Netherlands and Italian representatives. Although some representatives had spoken in support of the Second additional phrase in the first paragraph of his amendment, the general sense of the Conference appeared to be against it. He would therefore withdraw it, stressing, however, that, as the President had also urged, the text of the article should be interpreted as covering at least some of situations envisaged in that part of the amendment.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) supported the observation of the Netherlands representative concerning countries subject to a large influx of refugees.

Mr. HERMENT (Belgium) drew attention to the fact that in article 28 the prohibition on returning refugees to the frontier could be construed as applying to individuals, but not to large groups. Such was the interpretation placed on it by the Belgian Government.

Mr. ROCHEFORT (France) pointed out that the joint amendment referred to the country in which the refugee was residing. The hypothesis of any large influx of refugees did not therefore enter into question.

The PRESIDENT asked the authors of the joint amendment to explain why they had included the words "in which he is residing". He recalled that article 28 was to apply to refugees who had entered the country of asylum both unlawfully (article 26) and lawfully (article 27).

It appeared from the text of the joint amendment that only the country in which the refugee resided would be empowered to expel him if necessary, and that countries through which he passed on his way to refuge would be debarred from doing so. He wondered whether the phrase "in which he is residing" was meant to be interpreted in its broadest sense, namely, "in which he finds himself".

Mr. HOARE (United Kingdom) replied that the President's interpretation was correct so far as the English text was concerned. It might very occasionally be necessary to return the refugee almost immediately to his country of origin. Generally, however, the amendment would affect people who had been resident in the country for a considerable time, and it was for that reason that the word "residing" had been used.

With regard to the Belgian representative's earlier remark, he agreed that the word "lawfully" could be deleted. It was, in fact, final conviction that was meant, that was to say, after any appeal had been heard or after the term of appeal had expired. There were certain discrepancies between the English and French texts: the French text referred to "crimes ou délits", whereas the word "crimes" was sufficient in the English text.

He considered that the Danish representative's point that refusal to return a refugee might provoke political disturbance did not fall within the scope of article 28. The matter of extradition treaties between countries of refuge and countries of persecution was outside the purview of the Convention. Most treaties of that kind specified that not only should the facts be established *prima facie* to the satisfaction of the country receiving the request for extradition, but also that the crime for which the criminal was to be returned should not be of a political nature; at least, such was the case so far as the extradition treaties signed by the United Kingdom were concerned. It was further provided in most such treaties that, if a person was so returned, he could not be sentenced or imprisoned for any other offence until he had been given the opportunity of leaving the country.

The PRESIDENT thought that the Ad hoc Committee, in drafting article 28, had, perhaps, established a standard which could not be accepted. That Committee, as could be seen from its report on its second session, had felt that the principle inherent in article 28 was fundamental, and that it could not consider any exceptions to the article.

He considered that the Provisional Agreement concerning the Status of Refugees coming from Germany, signed at Geneva on 4 July, 1936 (see "A Study of Statelessness", document E/1112 and Add.1, page 99), would be of interest to the Conference, as it showed how a previous conference had dealt with a similar situation. Article 4, paragraph 3, of that instrument read as follows:

"Even in this last-mentioned case the Governments undertake that refugees shall not be sent back across the frontier of the Reich unless they have been warned and have refused

to make the necessary arrangements to proceed to another country or to take advantage of the arrangements made for them with that object.”

Mr. ROCHEFORT (France) pointed out that that safeguard was provided in article 27 of the present draft Convention. In 1951, the problem presented itself otherwise than it had done in 1936.

The PRESIDENT could not agree with the French representative, as article 27 dealt only with refugees who had been lawfully admitted.

In reply to an observation by Mr. ROBINSON (Israel), Mr. HOARE (United Kingdom) recalled that he had agreed to the deletion of the word “lawfully” from the English text of the joint amendment. The word “convicted” could stand, because it implied final conviction, sometimes after appeal or after the term of appeal had expired. He had no objection to an addition to the text to show quite clearly that final conviction was meant, and would appreciate any drafting suggestions which other representatives might make. The words “or offences” should be deleted from the English text.

Mr. ROCHEFORT (France) and Mr. HERMENT (Belgium) asked the President to clarify the meaning of his reply to the French representative on the subject of the 1936 agreement.

The PRESIDENT explained that he had merely quoted from the Provisional Agreement concerning the Status of Refugees coming from Germany as an example of what a former conference had done on the subject.

Mr. ROCHEFORT (France), referring to the example, cited by the President, of refugees in transit, remarked that the best solution in that case would be to speed up their transit.

Mr. HERMENT (Belgium), reverting to the text of the joint amendment, said that it seemed to be agreed that the words “in which he finds himself” should be substituted for the words “in which he is residing”, and the word “finally” for the word “lawfully”. He thought it would be preferable to retain both the word “crimes” and the word “délits” in the French text.

Mr. HOARE (United Kingdom) remarked that the word “crimes” was sufficient by itself in the English text, although it might be necessary to retain the words “crimes ou délits” in the French version.

The PRESIDENT pointed out that the French and English texts were not intended merely for French-speaking countries respectively; they might later have to be translated into other languages, including Chinese, Russian and Spanish, as provided for in article 40 of the draft Convention. Other countries might interpret the words “crimes or offences” in different ways. Since the words had a general sense in all countries, each individual legal system would have to place its own interpretation on them.

Mr. ROCHEFORT (France) suggested that, in order to simplify matters, the phrase “convicted because of particularly serious acts” should be substituted for the phrase “convicted of particularly serious crimes or offences”.

Mr. HERMENT (Belgium) could not accept those words, which he thought were liable to be interpreted in an arbitrary manner.

Mr. Robinson (Israel) felt that the Conference should confine itself for the moment to the French and English texts alone.

In Denmark, to take an example, the Convention would have to be translated into Danish, and the Danish courts might experience some difficulties in interpreting the French and English texts of articles 28, since the former mentioned "crimes et délits" and the latter only "crimes". He therefore suggested that, once the first reading had been completed, the Style Committee should bring the two texts into concordance. It would be useful in that event for the Style Committee to submit a report which could be used as a basic interpretative document for the authorities who would have to apply the provisions of the Convention. The joint amendment was undoubtedly intended to be applied by a given country in the light of its national legislation, provided that a convicted refugee had been convicted for some serious act. He was somewhat puzzled by the French representative's suggestion that the concept should be reduced to the word "acts", because an act was not criminal unless legally designated as such.

Mr. ZUTTER (Switzerland) thought that if both the word "crimes" and the word "délits" were retained in the French text, but only the word "crimes" in the English text, interpretation would be needed. The French representative had proposed that the word "acts" should replace both the words "crimes" and "offences". The representatives of Israel and Belgium had pointed out that that amendment might give rise to difficulties. Nevertheless, it seemed preferable to adopt the French proposal in view of the difficulty of finding adequate translations for the words "crimes" and "délits". The lesser of two evils should be chosen. The word "acts" was doubtless not perfect, but if it were used the difficulties he had mentioned would be avoided.

Mr. ROCHEFORT (France) thought that the Israeli representative need not be puzzled by the French proposal. The accent was on the word "convicted", and people were always convicted of acts.

Baron van BOETZELAER (Netherlands) stated that the same difficulty had recently arisen in connexion with the revision of the Red Cross Convention. It had been resolved by the use of the word "offence" in English and of the word "infraction" in French.

Mr. ROBINSON (Israel) suggested that the joint amendment might be voted on at once, the point under discussion being referred to the Style Committee.

Mr. THEODOLI (Italy) proposed that the words "or having been declared by the Court a habitual offender" should be inserted in the joint amendment immediately after the words "crimes or offences", in order to provide for the case of habitual criminals.

Mr. HOARE (United Kingdom) hoped that the scope of the joint amendment would not be unduly widened. Although he appreciated the intention behind the Italian proposal, he wished to point out that to be classified by the courts as a hardened or habitual criminal, a person must have committed either serious crimes, or an accumulation of petty crimes. The first case would be covered by the joint amendment, and he was quite content to leave the second outside the scope of the provision.

Mr. PETREN (Sweden) announced that he would withdraw the second paragraph of his amendment (A/CONF.2/70), and propose that the words "in that country" be deleted from the joint amendment.

The PRESIDENT proposed that the reference in the Swedish amendment to membership of particular social groups should be left for consideration later, in connexion with the definition of the term “refugee” (article 1). The Swedish delegation, it appeared, reserved the right to revert to that point when article 1 was considered by the Conference.

It was so agreed.

The PRESIDENT put to the vote the Swedish proposal that the words “in that country” should be deleted from the joint French/United Kingdom amendment.

The Swedish proposal was adopted by 6 votes to 4, with 12 abstentions.

The joint French/United Kingdom amendment (A/CONF.2/69), as amended, was adopted by 19 votes to none, with 3 abstentions.

Replying to a question by Mr. ZUTTER (Switzerland), the PRESIDENT said that, as he understood it, the sponsors of the joint amendment had agreed to the substitution of the words “finds himself” for the words “is residing”, and of the word “finally” for the word “lawfully”. It had also been agreed that the Style Committee should try to find alternative terms, which would be acceptable to all legal systems, for the words “crimes or offences”.

Article 28, as amended, was adopted by 19 votes to none, with 3 abstentions.

(ii) Article 29 - Naturalization

Mr. THEODOLI (Italy) said that he wished to reserve the position of the Italian Government on article 29.

Mr. HOARE (United Kingdom) felt that article 29 should be considered as a recommendation rather than as a binding legal obligation, particularly in view of the use of the words “as far as possible” and “make every effort”.

Article 29 was adopted by 20 votes to none, with 1 abstention.

The meeting rose at 5 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Fifteenth Meeting

By General Assembly | 23 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA

Canada	Mr. CHANCE
Colombia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Mr. Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observers:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-	

governmental organizations:

International Labour Organization	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER

Representatives of non-governmental organizations:

Category B and Register

Caritas Internationalis	Mr. BRAUN
	Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International League for the Rights of Man	Mr. de MADAY
International Union of Catholic Women's Leagues	Miss de ROMER
Standing Conference of Voluntary Agencies	Mr. REES
Women's International League for Peace and Freedom	Mr. BAER
World Jewish Congress	Mr. RIEGNER
World Union for Progressive Judaism	Mr. MESSINGER

Secretariat:

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. FUTURE PROGRAMME OF WORK

The PRESIDENT proposed that when the Conference had completed its consideration of articles 27-29 inclusive it should revert to article 23 and the Schedule relating thereto. By that time the report of the body dealing with the question of non-discrimination would be ready, so that the Conference would be able to resume its consideration of article 3. That would be followed by a further examination of the articles left in abeyance, namely, articles 1, 2, 3b, 4, 5, 7 and 14, after which the Conference would go on to deal with chapters VI and VII before taking up the preamble.

It was so agreed.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (resumed from the fourteenth meeting)

Article 27 - Expulsion of refugees lawfully admitted (A/CONF.2/57, A/CONF.2/60, A/CONF.2/63, A/CONF.2/68) (continued)

Mr. BRAUN (Caritas Internationalis), speaking at the invitation of the PRESIDENT, said that since articles 27 and 28 (prohibition of expulsion to territories where the life or freedom of a refugee is threatened) of the draft Convention were of cardinal importance, he wished to draw the attention of the Conference to a number of points.

If the present draft Convention ultimately gave a precise definition of the right of asylum, the limits of that right might also be indicated, thereby making it clear how a refugee could forfeit enjoyment of it.

A refugee should only be liable to expulsion if he made himself unworthy of asylum, by becoming truly - and he would stress that word - dangerous either to the State which had received him, or to the community of which he formed part, whether that community was composed of refugees or not. It must be borne in mind that a refugee could not return to his country of origin, that the territory in which he found asylum implicitly undertook not to deliver him up, and, finally, that a refugee might sometimes be treated more severely than his case deserved, owing to his ignorance of the language and customs of the country of refuge, and owing also to the distrust with which he might be regarded. If an expulsion order was made against him, he would be unable to find any country that was prepared to grant him the necessary entry visa. He would thus have to choose between staying in the country from which he was being expelled and going underground, and returning to his own country and facing the certain death that awaited him there.

During the second world war, a party of Jewish refugees sailing in a "ghost ship" had scuttled it after it had been turned away from every port at which it had sought refuge. The document entitled "A Study of Statelessness" (E/1112) quoted, on page 21, the results of an inquiry undertaken by Professor Fatou. Reference was there made to the case of an Italian who, as a result of having to serve a sentence of 24 hours imprisonment, had been served with notice of expulsion from the country which had given him asylum, but had remained there clandestinely. He had subsequently been sentenced twenty-nine times to periods of imprisonment amounting in all to nine years and eight months. Presumably he could have returned to Italy had he not been a refugee. But, as a refugee, it had been impossible for him to do so.

Undoubtedly there were refugees who made themselves unworthy of asylum; those who became dangerous, truly dangerous, to the security of the State and of its citizens. Caritas Internationalis believed that such refugees might legitimately be deprived of the right of asylum.

Nevertheless, the proviso contained in article 27 relating to "national security" and especially that relating to "public order", seemed to his organization to be far too vague, and consequently harmful to the interests of refugees. Those provisos should be very clearly defined. Moreover, the Commission on Human Rights had on several occasions

noted that the term "public order" was vague and general, and - as indeed history testified - capable of serving as justification for glaring abuse.¹

In any case, the expulsion of a refugee condemned to a term of three months imprisonment on account of his indigence, or for any similar inadequate reason, seemed to be extremely dangerous, and contrary to the right of asylum, Expulsion on the grounds of indigence would also be contrary to article 18 of the present draft Convention, and to point XII of the "General Principles concerning the Protection of Migrants" drawn up by the Second Conference of Non-Governmental Organizations Interested in Migration. Reference might also be made to article 8, and to article 11 of annex 2, of the International Labour Convention entitled "Migration for Employment (Revised)", adopted in 1949 and due to come into force in 1952, having already been ratified by the United Kingdom and New Zealand. The same principle was reiterated in Chapter VI, and particularly in article 18, of the International Labour Conference Recommendation concerning Migrants for Employment (1949), as well as in article 25 of the Standard Agreement on Migrant Workers.

It would seem that if a refugee really and truly threatened the security of a country and of his fellow men there, his offence should, in principle, be punished either by the threat of expulsion or by an expulsion order pure and simple. But if the execution of the order meant that a refugee must be delivered up to his country of origin - which would be contrary to the provisions of article 28 of the draft Convention - the sentence might be commuted to imprisonment, transportation or internment, either for life or until such time as an opportunity presented itself for the refugee to leave the country of asylum without danger to his life.

That would oblige refugees to live in accordance with the laws of the country which had received them, and would be in keeping with the obligations devolving from the right of asylum. Excessive severity, however, would be tantamount to flouting a right which, it was sometimes forgotten, had at all times been considered sacred.

Such flouting would mean a lowering of civilized standards of behaviour.

It would seem desirable that refugees, whom it was so easy to slander, should be able, in cases of the kind under discussion, to enlist the assistance of the High Commissioner, not out of any distrust towards the government of the receiving county which had been obliged to pronounce sentence of expulsion, but in order that the final decision might, in the eyes of public opinion, be backed by a guarantee. Governments themselves, as well as all refugees, would derive benefit from the High Commissioner's intervention. In fact, on the occasion of a meeting held under the name of "Journées d'Etudes de Sainte Odile", at which a number of specialists on refugee problems from various countries had conferred, a resolution had been adopted in which it was stated that:

"[The meeting] considers it essential that clauses should be included in the Convention providing that the High Commissioner or another authority called upon to succeed him, should be empowered to intervene in the last resort in circumstances decisive to the life of a refugee, by establishing, for existence or non-existence of a threat to his life or freedom in a country to which he might be returned as well as the validity of the reasons for which a refugee refuses repatriation or recourse to the protection of his country of origin."

The PRESIDENT observed that the Italian, United Kingdom, French and Belgian amendments to article 27 (A/CONF.2/57, A/CONF.2/60, A/CONF.2/63 and A/CONF.2/68 respectively) all dealt with the question of providing guarantees to refugees against premature decisions, or against decisions which were not in accordance with national rules and regulations. He was under the impression that the principle enunciated in paragraph 1 met with the general approval of the Conference.

MOSTAFA Bey (Egypt) recalled the terms of the Egyptian amendment (A/CONF.2/44), which had been withdrawn at the preceding meeting as a result of the earlier discussion on article 27, and wondered whether there was any ground for retaining paragraph 2 of that article, which laid down that the expulsion of a refugee should only be in pursuance of a decision reached in accordance with due process of law. That signified expulsion in accordance with a judicial or administrative decision, and there was no question of special guarantees. Either guarantees in favour of refugees should be recognized, or the clause in question should be deleted.

Mr. CHANCE (Canada) recalled the anxiety he had earlier expressed concerning Canada's position in relation to paragraphs 1 and 2.

He had heard nothing in the course of the discussion which would suggest that Canadian law and Canadian practice in the matter of expulsion conflicted with paragraph 2, and in the absence of adverse comment he felt reassured on that score. In the case of paragraph 1, he believed that the phrase "public order" could be construed as covering any action or deportation procedure which the Canadian Government would be likely to take vis-à-vis refugees as defined in the Convention.

The majority of statutory clauses relating to deportation, both discretionary and mandatory, were covered by that phrase. In all frankness, however, he must state that Canadian law - and probably the laws of other countries too - provided in such discretionary clauses for deportation on the grounds that the person concerned had become a public charge or was an inmate of a mental asylum or of a public charitable institution. From his personal knowledge of Canada and Canadians, he doubted whether any of those discretionary powers would be exercised against a refugee unless the circumstances he had mentioned were aggravated by others. He would assure the Conference, however, that the exercise of those powers would be tempered with compassion, and would never be at variance with the spirit of the Convention or with the terms of article 28, which related to the prohibition of expulsion to territories where the life or freedom of a refugee was threatened.

It would be appreciated that considerable technical and political problems attached to the amendment of the Canadian laws in question, and in prevailing world conditions Ministers might be forgiven for hesitating to amend the immigration laws. If the Conference could not concede that Canadian law did not infringe the principle laid down in paragraph 1 of article 27, his delegation might be obliged at some stage to enter an appropriate reservation. In closing, he agreed that it was right to seek as close and precise definitions as possible, but submitted that in doing so it was necessary, in the interests of the success of the work in hand, not to overlook the value of mutual trust and goodwill.

Mr. ROCHEFORT (France) thanked the Canadian representative for his frankness. As to the French delegation, it felt obliged to enter a formal reservation to any interpretation of the term "public order" which would permit the expulsion of a refugee on grounds of

indigence. All the States represented at the Conference had at their disposal various procedures for expulsion, and in the circumstances the question was less one of the form taken by such procedures than of the reasons justifying their application. The French delegation could not admit that the indigence of a refugee could constitute one of those reasons, and, if the idea of indigence was to be interpreted as a factor detrimental to public order, would no longer consider it worth while to take part in the work of the Conference. In France, indeed, refugees and persons who were a charge on the State were frequently synonymous terms. Tens of thousands of people were in receipt of assistance of that kind, and, if the position were more widely known, the French Government would doubtless be subjected to less criticism, for, while it was impossible for it to grant naturalization to all the refugees in its territory, it at least deserved credit for enabling them to live. Moreover, the French delegation considered it useless for representatives to go no further than describing the conditions prevailing in their respective countries. If there was neither the desire nor the courage on the part of governments to embark upon the legislative changes required by the application of the Convention, it seemed pointless to draft it.

Mr. CHANCE (Canada) heartily endorsed the French view that expulsion on the grounds of indigency alone would be entirely out of keeping with the ideals and hopes entertained by the Conference. He had merely pointed out how difficult it would be to amend the relevant Canadian legislation, and could only repeat that he could conceive of no circumstances in which the Canadian authorities would expel a refugee on grounds of indigency alone.

The PRESIDENT drew attention to resolution 309 (XI) B, adopted by the Economic and Social Council on 13 July, 1950, in which the Council recommended to Member Governments that, pending consideration of the possibility of negotiating an international convention or model agreement, they should consider making available to indigent aliens the same measures of social assistance as those accorded to their own nationals, and refrain from removing them from their territories for the sole reason of indigency.

He also quoted the first two paragraphs of the resolution adopted by the Social Commission on 5 April, 1951, (E/CN.5/L.151) and recommending to the Economic and Social Council the adoption of the following text:

"The ECONOMIC AND SOCIAL COUNCIL draws the attention of all Governments to the report on Assistance to Indigent Aliens (E/CN.5/235) prepared by the Secretary-General at its request;

REAFFIRMS its recommendation that Governments do not expel, deport or otherwise remove from their territories aliens for the sole reason of their indigency or of becoming public charges.

Mr. HERMENT (Belgium) also thanked the Canadian representative for his frankness, but could not help expressing his full support for the views of the French representative. The Belgian delegation could not accept an interpretation of article 27 which would authorize the expulsion of refugees on the sole grounds of indigence. Such an interpretation would conflict not only with the status that it was intended to grant to refugees, but also with the provisions of article 18 of the draft Convention which provided that refugees should receive the same social assistance as aliens.

Mr. HOARE (United Kingdom) said that the United Kingdom had laws, passed in former days and in different circumstances, which empowered the Home Secretary to deport aliens if they became a public charge within a certain period after their arrival in the country. Little heed, however, was paid to such legislation nowadays.

The United Kingdom was fully aware of the resolutions quoted by the President, and implemented them. The United Kingdom delegation agreed with the observations of the French and Belgian representatives in the matter. The discussion had been useful in making it clear that the words "public order" could not be construed as including mere indigency.

Mr. CHANCE (Canada) felt that the United Kingdom representative had precisely summed up the situation, and that he could now report to the Canadian Government on the proper views of the Conference on the question of expulsion for reasons of indigency alone.

Mr. SHAW (Australia) thought that most of the points made in the course of the debate were covered by the discussion on public order which had taken place at the preceding meeting. Australian law prescribed certain circumstances in which a Minister could order the expulsion of an alien, for instance, when the alien became an inmate of a charitable institution or a mental asylum. Such grounds were not regarded as grounds of indigency, and the provisions in question were not mandatory. The Australian delegation had regarded the Australian position as covered by the term "public order", on the assumption that the definition of that term given by the United Kingdom representative at preceding meeting had been accepted.

As to the question of expulsion in accordance with due process of law, he observed that Australian administrative practice closely resembled that of the United Kingdom. Assuming, therefore, a process as described by the United Kingdom representative at the preceding meeting, the Australian delegation considered that the position of its government was duly covered by the term "process of law".

Mr. ROCHEFORT (France) said that, in the view of the French Government, the fact that a refugee was penniless should most certainly not constitute one of the reasons which, taken together with other considerations of a different kind, would justify the expulsion of a refugee; on the contrary, the French Government felt it was a fundamental reason for showing greater leniency.

The Australian representative's comments were extremely interesting, for they implied that there would be international protection for refugees not only in the countries of first reception, but also in immigration countries overseas where, if necessary, refugees could be shielded from unduly restrictive national legislation.

The PRESIDENT remarked that some countries were less formal in their legislative processes than others, and submitted that those countries that felt obliged to introduce appropriate domestic legislation as soon as they assumed international obligations should not regard as less bona fide signatories of the Convention those others which would apply its provisions case by case, while still maintaining on the statute book laws which might to some extent conflict with such international obligations.

Mr. ROCHEFORT (France) apologized if he had expressed himself too forcefully; but he nevertheless wished to emphasize that the French delegation had no intention of

concluding a one-sided bargain which, for the French Government, would mean the assumption of multilateral obligations with respect to countries the legislation of which would not grant refugees rights equivalent to those which the French government would undertake to guarantee them on signing the Convention. It was by no means a theoretical consideration, since France very frequently had to take in refugees who had been expelled from other countries simply because they were penniless, or possibly, stateless.

Mr. CHANCE (Canada) regretted that he had caused so much trouble. He hoped, however, that his position was now clearly understood and that in the outcome the Canadian Government would nevertheless be able to adhere to the Convention without entering any serious reservation on article 27.

The PRESIDENT believed that the Conference was now in a position to take a vote on paragraph 1.

Paragraph 1 of article 27 was adopted unanimously.

The PRESIDENT recalled that amendments had been submitted to paragraph 2 by the delegations of Belgium (A/CONF.2/68), France (A/CONF.2/63), Italy (A/CONF.2/57) and the United Kingdom (A/CONF.2/60).

Mr. HERMENT (Belgium) understood the motives that had prompted the French and Italian delegations to submit their amendments to paragraph 2 of article 27. There were cases in which the expulsion of a refugee could not be covered by that paragraph. He nevertheless felt that the terms of the French amendment and, to an even greater extent, the Italian, proposal that paragraph 2 should be deleted, went rather further than their authors had intended. He therefore wondered whether a reservation concerning national security would not meet the points that the French and Italian delegations had in mind; that was precisely what the Belgian amendment sought to do.

Mr. ROCHEFORT (France) accepted the Belgian amendment to paragraph 2, and withdrew his own.

Mr. THEODOLI (Italy) said that in Italy the law authorizing the Minister to execute an expulsion order made no provision for appeals. In order, therefore, to give refugees an opportunity either of lodging an appeal or of being represented before the competent authorities in accordance with the laws of the various countries, his delegation would accept the Belgian amendment, provided that the word "and" in the second line was replaced by the word "or". If provision was thus made for a choice between the two procedures, the Italian delegation would withdraw its amendment.

Mr. HERMENT (Belgium) accepted the Italian suggestion.

Mr. ROCHEFORT (France) observed that the suggestion made by the Italian representative would restrict the scope of the Belgian amendment. If a refugee appealed, it did not necessarily follow that he would be heard and legally represented. The notion of an appeal and that of representation were complementary. Moreover, if the refugee had the right to be represented, that would imply that he had already appealed. The French delegation wondered whether, in the light of those circumstances, the Italian representative could agree not to press his suggestion.

Mr. HOARE (United Kingdom) appreciated the pertinence of the Italian representative's remarks. The position of the United Kingdom was similar to that of Italy, since there was no specially constituted appeals tribunal. But the reference to the procedure of appeal, at least in the English version of the Belgian amendment, was not so specific as to make the text unacceptable to the United Kingdom Government. What mattered was that a refugee should have full opportunity of presenting his case to the proper authority. He feared that the use of the formula "either ... or" would introduce a dichotomy into the procedure, and hence weaken the text.

Mr. TEHODOLI (Italy) accepted the United Kingdom representative's explanation. He hoped, however, that it would be possible to find a French wording which would faithfully translate the interpretation he (the United Kingdom representative) had given.

Mr. ROCHEFORT (France) suggested that, in order to meet the points raised by the Italian representative, the end of the Belgian amendment might be re-worded to read as follows:

" to submit evidence to clear himself and to lodge an appeal (presenter un recours) and be represented before a competent authority."

Mr. STURM (Luxembourg) could support the French proposal, provided the words "for this purpose" were added after the words "and be represented".

Mr. THEODOLI (Italy) thanked the French representative for having found a wording which gave full satisfaction to the Italian delegation; he had no objection to the addition suggested by the representative of Luxembourg.

Mr. HOARE (United Kingdom) stated that the new text was acceptable to his delegation; but he was not sure about the correct rendering in English of the term: "presenter un recours". His impression was that it was in point of fact equivalent to the English word "appeal".

The French representative had given the reasons which had prompted his amendment, and the Belgian representative had tried to reconcile the several versions so as to achieve the widest possible application of paragraph 2. He (Mr. Hoare) would suggest that the Conference should go even further, and amend the Belgian text to read: "Except where national security does not permit". That formula would certainly be helpful to the refugee, and would surely cover the point which the French representative had had in mind with regard to cases where national security must be the overriding factor.

The PRESIDENT, speaking as representative of Denmark, was not wholly satisfied with the text of the Belgian amendment as further modified. How, for instance, would an appeal be possible if a decision had been taken by the King in Council? He assumed that the meaning of the text was that, in the event of a sentence of expulsion pronounced by the highest authority, the refugee would be given the chance of having his case re-examined. In countries where such a sentence would have been passed by local authority, the appeal would be addressed to a court of higher instance.

It might perhaps be advisable to set up a small group to endeavour to reconcile the different procedures applied by countries governed by the code Civil, by common law or by other juridical systems. All members had the same aim in view, and there was no

difference of opinion on the substance, but such a group might succeed in drafting a text which took into account the different legal procedures.

Mr. CHANCE (Canada) thought that the conference seemed practically to have reached agreement on the text, and did not consider it necessary to set up a working group.

Mr. HOARE (United Kingdom) repeated that the French text was perfectly acceptable to the United Kingdom delegation. Indeed, in the present case, the French term defined the English procedure better than did the English word "appeal".

Mr. ZUTTER (Switzerland) thought that delegations were very near to agreement. He did not think it necessary to set up a working group.

Baron van BOETZELAER (Netherlands) proposed that the word "imperative" be used to qualify the reference to national security. The text would therefore read in French: " sauf si des raisons impérieuses de sécurité; nationale"

The Netherlands proposal was accepted.

The PRESIDENT said that he would put the Belgian amendment, as further amended, to the vote in the French version, the Style Committee being entrusted with drafting an equivalent English text.

The United Kingdom amendment to paragraph 2 might either be added to the Belgian amendment, if the latter were adopted, or, alternatively, to the original text. He would, for the sake of logic and with the consent of the Conference, reverse the usual procedure and put the Belgian amendment to the vote before the United Kingdom amendment.

The Belgian amendment to paragraph 2 (A/CONF.2/68), as further amended, was adopted by 25 votes to none.

Replying to MOSTAFA Bey (Egypt), Mr. HOARE (United Kingdom) explained that his amendment to paragraph 2 related to procedures which were in the nature of an appeal. In cases where there was no formal tribunal, an appeal was addressed to the competent Minister. A Contracting State should not be obliged to allow a refugee to appear in person before a Minister. The latter should be able to delegate an official to hear the case. That was the point of the United Kingdom amendment.

He also added that, although in general the individual or individuals designated by the Minister would be officials, it might be that the Minister would appoint a qualified and impartial person who was not an official. It was in order to cover that possibility that the words "a person or persons specially designated" had been used.

The United Kingdom amendment to paragraph 2 (A/CONF.2/60) was adopted by 24 votes to none.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) assumed that it was understood that a refugee would not be expelled while his case sub judice.

Mr. HOARE (United Kingdom), Mr. HERMENT (Belgium) Baron van BOETZELAER (Netherlands) and Mr. SHAW (Australia) stated that such was the practice in their countries, and such the interpretation that they placed on paragraph 2.

The PRESIDENT asked whether the Conference wished to make a specific reference to that point in article 27 in order to make the interpretation perfectly clear to countries which had not participated in the discussions.

Mr. ROCHEFORT (France) considered that States which were not taking part in the work of the Conference would no doubt continue to act in the matter in the same way as they were acting at present. The work of the Conference hardly appeared, in fact, to interest them, and it was doubtful whether they would endeavour to apply the Convention. He felt, however, that confidence could be reposed in the States who were represented at the conference.

Paragraph 2 was adopted, as amended, by 24 votes to none.

The PRESIDENT said that, in the absence of any comment, he would put paragraph 3 to the vote.

Paragraph 3 was adopted by 23 votes to none, with 1 abstention.

Article 27 as a whole and as amended was adopted by 23 votes to none, with 1 abstention.

The meeting rose at 12.55 p.m.

[1](#) See document E/CN.4/528, pages 71-76

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-first Meeting

By General Assembly | 26 November 1951

Present:

President: Mr. LARSEN

Members:

Australia Mr. SHAW

Austria Mr. FRITZER

Belgium Mr. HERMENT

Brazil Mr. de OLIVEIRA

Canada Mr. CHANCE

Colombia Mr GIRALDO-JARAMILLO

Denmark Mr. HOEG

Egypt MOSTAFA Bey

Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Mr. LANCTOT
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Labour Organisation	Mr. WOLF
International Refugee Organization	Mr. STEPHENS, Mr. SCHNITZER
Council of Europe	Mr. Taliani de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN, Mr. METTERNICH
Commission of the Churches on International Affairs	Mr. REES

Consultative Council of Jewish Organizations	Mr. MEYROWITZ
	Mr. BRUNSCHWIG
Co-ordinating board of Jewish Organisations	Mr. WARBURG
Friends World Committee for Consultation	Mr. BELL
International Council of Women	Mrs. FIECHTER
International Federation of Friends of Young Women	Mrs. FIECHTER
Pax Romana	Mr. BUENSOD
Standing Conference of voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Kerno	Assistant Secretary-General in Charge of the Department of Legal Affairs
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (continued)

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2.17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74, A/CONF.2/75, A/CONF.2/76, A/CONF.2/77) (continued)

The PRESIDENT requested the Conference to resume its discussion of article 1 of the draft Convention.

Mr. del DRAGO (Italy) recalled the statement on article I made by his delegation at the nineteenth meeting, and confirmed its continuing support for the French proposal that the words " in Europe" should be reinstated in the definition of the term "refugee". All previous international instruments concluded on behalf of refugees had been couched and conceived in respect of those European countries, of which Italy was one, that had first been affected by the problem and made sacrifices to help relieve it. The proposed geographical restriction was essential, for the net result of trying to aid all might well be that help would be given to none.

The Italian Government had always maintained that responsibility for refugees was an international responsibility. None the less it had only last year undertaken responsibility for some 9,000 refugees under the Supplementary Agreement with the International Refugee Organization - quite apart from the hundred thousand or so clandestine refugees with which the Italian economy was burdened. The termination of the activities of the

International Refugee Organization (IRO) now implied a possible financial burden of unknown dimensions, which might become extremely onerous if a country in Italy's position had to assume obligations for refugees from all countries of the world.

While paying tribute to the French attitude and recognizing France's position in the refugee field, he nevertheless emphasized that account should also be taken of the Italian point of view, for Italy was, so to speak, a bridge over which many refugees had to pass, and a country in which not a few found it convenient to settle.

The Italian Constitution guaranteed the right of asylum to anyone who chose to claim it, irrespective of race or religion, and quite apart from all international obligations in the matter. If refugees in Italy did not enjoy all the rights provided for in the draft Convention, it was nevertheless true that some 100,000 refugees were living and prospering in that country. That being so, and since the difference between the two schools of thought in the Conference was theoretical rather than practical, the Italian delegation would support any proposals capable of reconciling the opposing views and hence leading to an early solution acceptable to all concerned.

Mr. MAKIEDO (Yugoslavia) said that in the opinion of the Yugoslav delegation the most important question was whether the benefits of the Convention should be limited to certain categories of refugees, or whether a step forward was to be taken in the field of the protection of refugees. A limitation by categories would leave without protection a number of persons who had been forced to leave their country of origin and seek asylum elsewhere; in this view, such an arrangement would not be in accordance with the principles either of the Charter of the United Nations or of the Universal Declaration of Human Rights. Limitation of the application of the Convention to persons who had become refugees as a result of events which had occurred prior to 1 January 1951 would have the effect of rendering the instrument static in character, and would take no account of persons who became refugees later, an early solution to whose problem would not be easy to find. In the view of the Yugoslav delegation there was no justification for any such restriction, for restriction implied discrimination.

It would be clear from what he had said that his delegation opposed the French proposal that the words "in Europe" should be re-introduced into the definition. On the contrary, he supported the Egyptian amendment (A/CONF.2/13), although it would be unnecessary if the Yugoslav amendment (A/CONF.2/16), which was broad and general in character, was adopted. He welcomed the spirit of co-operation that had prompted the Swiss proposal, but doubted whether it would prove generally acceptable, for its adoption would introduce an enormous disparity between the obligations of the various Contracting Parties, and would bewilder refugees, who would find that they were considered as refugees only in certain States. Although itself proposing a general definition including all present and future refugees, the Yugoslav delegation would like to make it clear that a definition which failed to make provision for justified exceptions would not be acceptable to the Yugoslav Government. The provisions of the Convention should not apply to a person who had committed any of the crimes specified in Article 14 (2) of the Universal Declaration of Human Rights, or in article 6 of the Charter of the International Military Tribunal. The text proposed by his delegation, he believed, would best serve the interests of refugees and the purposed of the Convention.

Mr. ROCHEFORT (France) thought that some of the statement made at the preceding meeting had been due to a mutual misunderstanding. The French delegation had gathered that the instructions it had received from the French Government had been challenged or strongly criticized. It was because he had interpreted the Belgian representative's statement in that sense that he had reacted somewhat sharply. If his interpretation had been faulty, he was prepared to withdraw his statement, and could assure the Belgian representative that his most earnest desire was to avoid any misunderstanding between France and Belgium, countries which, so far as refugees were concerned, had to face the same problems and which pursued the same ideal.

Mr. HERMENT (Belgium) said that he had re-read the text of the statement he had made at the preceding meeting, and also the whole of the text of the French representative's reply. He had sought in vain in his own statement for any hint of the charge of "egotism" which he was thought to have made against France. On the contrary, he had paid tribute to the proverbial generosity of that country. He had never suggested that the French representative was not speaking in the name of France. He failed to understand, therefore, how the misunderstanding could have arisen and how remarks which he had not made could have been attributed to him.

He now understood that the French representative was withdrawing the statements he (Mr. Rochefort) had made at the preceding meeting. He thanked him for doing so, and would report accordingly to his Government at once.

Speaking at the invitation of the PRESIDENT, Mr. MEYROWITZ (Consultative Council of Jewish Organizations) said that, in claiming the privilege which was recognized by the Charter, and which had so generously been granted, of a non-governmental organization to address the Conference, he would like to mention first that he was authorized to speak not only on behalf of his own Organization, but also on behalf of two other non-governmental organizations represented at the Conference, namely, the World Jewish Congress and the Co-ordinating Board of Jewish Organizations. Furthermore, in speaking to the amendment introduced by the delegation of the Federal Republic of Germany, which sought to delete from article 1, paragraph E, the reference to the Status of the International Military Tribunal, he must assure the Conference that he was not actuated by resentment. His sole concern was to draw the attention of the Conference to the vital importance of the decision it had to take. The importance of that decision went far beyond the scope of the Convention which the Conference had been convened to prepare. The substance of the decision which the amendment submitted by the delegation of the Federal Republic of Germany invited the Conference to take did not come within the field of contractual law, but was a matter of general international law. In view of that proposal and also perhaps in view of the fact that several of the representatives present came from countries not Members of the United Nations, it might not come amiss to describe the procedure by which the Charter of the International Military Tribunal had become - if it had not already been so at the time when it had been drafted - part of the body of general international law.

The London Agreement of 8 August 1945, a convention concluded by the Governments of France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, as well as the Charter of the International Military Tribunal annexed to that Agreement, and confirmed and ratified fourteen months later by the judgement of the

International Military Tribunal, had been the first concrete expression of a set of rules of international law which simply crystallized the convictions of world public opinion as to what was the law. Following the conclusion of the London Agreement, nineteen other States members of the United Nations had acceded to that instrument. A number of other governments, though not parties to the London Agreement, were parties to the Charter of the International Military Tribunal in the Far East, which had adopted the fundamental rules contained in the Charter of the Nürnberg Tribunal. In Germany, in December 1945, the Control Council had enacted Law No. 10 on the punishment of persons guilty of war crimes, crimes against peace and crimes against humanity. That law had reproduced almost word for word the fundamental rules laid down in the Charter of the International Military Tribunal.

The circumstances in which those rules of law had arisen made them ad hoc laws - special laws relating solely to the crimes committed by Germans or Japanese during the Second World War. Their restricted nature had been inevitable at the outset, and in no way detracted from their justice; though it might in time have become a redhibitory defect. From being personal, special and temporary, those newly-evolved rules of law had had to be transformed into impersonal, general and permanent rules. That rounding off of international law had taken place in two stages. On 11 December, 1946, the General Assembly of the United Nations had unanimously adopted a resolution (95 (I)) in which it had affirmed "the principles of international law recognized by the Charter of the Nürnberg Tribunal and the judgement of the Tribunal". At its Second session, the General Assembly had decided to entrust to the International Law Commission the "formulation of the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgement of the Tribunal". (General Assembly resolution 177 (II)).

In 1950, the International Law Commission had completed its task of formulating the Nürnberg Principles. Though a minority in that already illustrious body had considered that some of the principles laid down in the Charter and Judgement of the International Military Tribunal had not yet been international law at the time when the Charter had appeared, every single member had agreed that they had now become a part of existing international law. Indeed, in the Code of Offences against the Peace and Security of Mankind which it had just prepared at its third session, currently being held in Geneva, the International Law Commission had used word for word the provisions of article of the Charter of the International Military Tribunal, which the amendment (A/CONF.2/76) submitted by the Federal Republic of Germany now sought to delete.

Since the principles known under the accepted title of "The Nürnberg Principles" were part of general international law, the formal accession or non-accession of the German Federal Government would in no way affect either their existence or their purport - particularly in view of the fact that the German delegation accepted the substance of article 6.

It might be asked whether the reference to article 6 of the Charter of the International Military Tribunal involved discrimination. Undoubtedly it did - it discriminated against crime, against a type of crime without parallel in history. But the discrimination was directed against the crimes alone, and not against the nation by whose nationals those crimes had been committed. The reference was merely to article 6 of that Charter, which defined the acts constituting such crimes. It did not refer either to the persons or to the nationality of the criminals. That was why it had been possible to reproduce the article textually both in

the general, impersonal statement of the Nürnberg Principles, and in the text of the Code of Offences against the Peace and Security of Mankind drawn up by the International Law Commission. He was sure that the German delegation was ready to subscribe to both the substance and the form of that definition. Its only objection was to the way in which the definition was referred to in article 1, paragraph E, of the Draft Convention on the Status of Refugees. Possibly a drafting change was that was required. He would suggest one: "... that he has committed an act constituting a crime against peace, a war crime or a crime against humanity, as defined in article 6 of the Charter of the International Military Tribunal". In any event, it seemed essential to retain in that completely general, impersonal and permanent form the explicit reference to the Charter of the International Military Tribunal, from which the definition of those crimes had been taken. It was all the more necessary to retain the reference, because chronologically and logically its proper place was in article 1 of the draft Convention. The Conference would undoubtedly limit the definition of a refugee in time, and might also limit it in space, basing it on "events occurring in Europe before 1 January, 1951". Were not the crimes which had led to the drafting of the Charter of the International Military Tribunal the most important of those events?

Moreover, article 6 of the Charter of the International Military Tribunal was mentioned in the Statute of the Office of the High Commissioner for Refugees, in the definition of the High Commissioner's competence *ratione personae*, thus constituting a further example of the General Assembly's intention to stress the permanent nature of the Nürnberg Principles. The deletion of the reference at the present time would not, of course, affect the crystallization of the principles as a set of rules of general international law; but it would be taken as a mark of disapproval of those principles and as a denial of their validity. According to article 1 of the draft Convention, a large proportion of the refugees covered by the Convention had most definitely been victims of the crimes defined in article 6 of the Charter of the Tribunal. To delete the express reference to that article would be to risk creating the impression that the Conference had intended to pardon crimes which had not been forgotten by world public opinion, and which were so atrocious as to be unpardonable.

The purpose of the amendment was to replace the reference to article 6 of the London Charter by a reference to the Geneva Conventions of 1949 and to the Convention on Genocide. But the Geneva Conventions of 1949 applied only to war international or civil - and, in fact, only to future war. In the same way, the Convention on Genocide referred only to future acts. Moreover, neither the Geneva Conventions nor the Convention on Genocide possessed the solid foundation which the jurisprudence of the International Military Tribunal, and other tribunals which had applied the provisions of article 6 of the Nürnberg Charter, conferred on the "Nürnberg Principles". In spite of the immense progress they represented in humanitarian achievement, the Geneva Conventions had still expressly recognized only the responsibility of Contracting states not that of individuals. None of them, Not even the Convention relative to the Protection of Civilian Persons in Time of War, article 147 of which was referred to in the German amendment, covered crimes against humanity committed, except in the case of civil war, against civilian populations as such. A whole category of Nazi Criminals, including the worst of them, were thus excluded from the definition given in article 147. Some of those criminals were still at liberty. No doubt they were not to be found in the territory of any of the countries

represented at the Conference, and no doubt if they returned to Germany they would be prosecuted and punished under German law. But they could, nevertheless, while in the territory of another Contracting State, claim protection under the Convention at present being prepared by the Conference, provided they had not committed any war crimes against nationals of that State.

He apologized for having perhaps presumed too much on the hospitality of the Conference in making so long a statement, but it had been a matter of duty and of conscience.

Mr. ROCHEFORT (France) wished to ask the High Commissioner for Refugees four questions regarding the interpretation to be placed on the wording of the draft Convention. In the first place, did the High Commissioner consider that refugees to whom paragraph C of article 1 applied, would automatically receive the advantages conferred by the Convention, without the latter having been modified by the will of the Contracting States, when such refugees ceased to receive the assistance which was at present being given to them by certain organs and agencies of the United Nations?

Secondly, in view of the fact that the Convention did not govern entry, which was still dependent on the sovereign will of States, one might wonder to what extent the limiting date of 1 January 1951 would circumscribe the obligations of states, thus restricting the generous scope of the text.

He understood, incidentally, that, in the High Commissioner's opinion, the retention of the above limiting date would facilitate the accession of certain governments, and that it would, therefore, be more realistic, and in the interest of the refugees themselves, to retain it so as to make the Convention more generally acceptable. He wished to know if that was really the High Commissioner's opinion.

Finally, in view of the attitude taken by the Latin American countries, as revealed by the statements they had made at the Conference, did it not appear that those countries would have some difficulty in acceding to the Convention if, by signing it, they would contract towards refugees from adjoining countries for whom they had special legislation, the same obligations as those they were willing to accept in the case of European refugees?

The meeting was suspended at 10.30 a.m. and was resumed at 10.45 a.m.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that the interpretation he was about to place on paragraph C would be a personal one. It would be noted that, whereas in paragraph C of article 1 of the draft Convention reference was made to "persons who are at present receiving protection or assistance", the parallel clause in the Status of his Office referred to refugees "who continue to receive...". That difference in wording implied a difference in consequences. He supported the United Kingdom interpretation of paragraph C, and considered that, the Egyptian amendment apart, a specific act would be required to bring the persons referred to in paragraph C within the scope of the Convention when the protection and assistance at present being afforded by the organs and agencies of the United Nations ceased.

With regard to the date 1 January 1951, he recalled the Ad hoc Committee's decision to set aside the solution whereby all refugees, irrespective of the date of the events which caused them to become refugees would be covered by the Convention, on the grounds

that it would be difficult for governments to sign, as it were, a blank cheque by undertaking obligations in respect of refugees the future numbers of whom would be unknown. He, of course, fully agreed with the French representative that the Convention should cover persons who became refugees after 1 January 1951 as a result of events which had occurred before that date.

As to the French representative's third question, he confirmed what he had said in his opening statement, namely, that, while he would like to see the Convention drafted to cover as many refugees as possible, he nevertheless appreciated how difficult it would be for governments to provide what the Ad hoc Committee had described as a blank cheque, and he considered that the retention of the limiting date would facilitate the accession of certain governments.

On the question of the position of Latin American countries, he felt that he had not had sufficient time to go into all the agreements between Latin American countries, or into their constitutional arrangements relating to refugees. No doubt the representatives of Latin American countries present would be more qualified than he to reply to that question.

He would add that as the Statute of the Office of the High Commissioner for Refugees contained neither dateline nor geographical restriction, the categories of refugees dealt with sub-paragraph 6 of paragraph B of article 1 of the draft Convention would be covered by the Statute.

Mr. GIRALDO-JAMARILLO (Colombia) recalled that in Latin America the term "refugee" was applied only to European refugees. When the Government of Colombia had decided to send a plenipotentiary representative to the Conference, it had done so with the intention of contributing to the work being done by the United Nations on behalf of European refugees, and had certainly not imagined that the Conference would attempt to solve the problem of Latin American refugees which, in fact, was non-existent. The remarks of the French representative raised an important issue, as, in view of the numerous conventions which had been concluded between the Latin American countries, granting territorial asylum to political refugees, certain States from that region might find it difficult to accede to the Convention unless it was duly limited in terms of time and space. Article 1 was the cornerstone on which the entire edifice of the Convention rested. It should, therefore, be clear, precise and limited, so as to facilitate the practical application of the Convention. The Conference had decided to restrict that article in terms of time. Hence, it was logical to apply the same limitation in terms of space, and the Colombian delegation, being fully convinced of the necessity for that limitation, wished to re-affirm its support for the French amendment.

The PRESIDENT observed that some delegations favoured the broad definition, so that, a priori, they would presumably be able to accept the narrow definition. Those delegations which supported the narrow definition did so either because they believed that their governments could not commit themselves beyond that limit, or in the hope that a narrow definition would enable that greatest possible number of States to adhere to the convention. He would not like to see a government which preferred the broad definition refuse to accept the narrow definition, for he wished to see as many governments as possible signing the Convention. He therefore urged that an attempt should be made to find a compromise solution, preferably along the lines of the Swiss proposal. Moreover,

rather than see the matter put to the vote at that stage he would suggest that the delegations most concerned in the matter should meet together informally with a view to arriving at such a compromise solution capable of commanding universal support.

Mr. WARREN (United States of America) was not convinced that the stage had been reached when a drafting committee or informal meetings would be helpful, for support appeared to be equally divided between the narrow and the broad definitions.

It seemed to him unfortunate that those who supported the French amendment should have been placed in an invidious position, which he was sure they felt keenly. It was a question, not so much of a narrow or of a broad definition, or of generosity or of the lack thereof, but rather of the best means of dealing with the situation. Apart from that, he had noted certain inconsistencies in the arguments advanced by the representatives of the governments and of the non-governmental organizations that were opposed to the French proposal. The representatives of the non-governmental organizations had argued that millions of persons would be excluded from the benefits of the Convention if the French proposal was adopted, and that a large number still in countries signatories to the Convention would have only sub-refugee status. He found it difficult to reconcile such statements with the arguments of the governments representatives to the effect that, from a geographical point of view, the countries of Europe would not be affected by the adoption of the broad definition.

It must be recognized, however, that so far as the exclusion of the so-called millions was concerned, nothing was known of where they were or of their condition. It was true that there were still millions of refugees on German territory, but they were taken care of by paragraph D of article 1, as were also the hundreds of thousands of refugees in Turkey, and the millions in India and Pakistan. Similarly, paragraph C of article 1 took care of the hundreds of thousands of Arab refugees from Palestine. So far as he could see, the situation with regard to refugees in the Far East was still obscure, and very little was known of those from continental China in particular. On the whole, therefore, it would be unrealistic for the Conference to attempt to legislate for refugees in the Far East.

As to refugees, both present and future, arriving in central and western Europe from eastern European lands, he considered that, having regard to the terms of the draft Convention and the observations of the High Commission for Refugees, the non-governmental organizations need have no fear that such refugees would not be covered by the present text.

He would repeat that the Convention had been drafted primarily in order to make possible a satisfactory life for refugees in Europe, the wording of most of the articles having been adapted to European legislation and conditions. He recalled the emphasis placed by the Egyptian representative on the difference between Middle East refugees and European refugees, and submitted that the difficulty of applying to refugees in other parts of the world, where conditions were totally different, a Convention specifically drafted to meet European needs, could not be ignored. The Conference should conceive its objective as the preparation of an instrument to deal with the specific and immediate problem, and have faith that problems of a similar kind which might crop up in other parts of the world in the future would be adequately taken care of. Finally, he wondered whether the desire for universality could not more readily be given expression in the Statute of the High

Commissioner's Office, and whether, in reaching out for something that might be achieved by other by other means, there was not a risk of sacrificing the real benefits obtainable from a convention of more limited application.

The PRESIDENT considered that it would be useful if representatives were to give further thought to the issues over the week-end, the decision on article 1 being deferred until Monday, 16 July.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that the United States representative had placed the issue in its proper perspective, and that support for the two different definitions seemed to be fairly equally divided. He himself was very keenly aware of the universal character of his mandate, and was also anxious that the Convention, while covering the greatest possible number of refugees, should at the same time prove acceptable to a large number of States.

He believed that the compromise proposal made at the preceding meeting by the Swiss representative might provide a way out of the difficulty, and that existing differences might be reconciled if States which were unable to accept article 1 without the reinstatement of the words "in Europe" were permitted to enter a reservation in respect of that article. At the same time, governments which preferred the present text would, by accepting it, accept, at least in theory, a wider definition of the term "refugees". Such a compromise would benefit refugees, and would offer a reasonable arrangement for those countries which felt that they must make a reservation on the subject. Article 36 provided for such a procedure. Of course, the solution was not ideal, and he would prefer all governments to accept the text of article 1 as it stood. But it was desirable that those States which could only accept the definition if it contained the words "in Europe" should nevertheless be enabled to sign the Convention.

Baron van BOETZELAER (Netherlands) recalled that the Netherlands Government had not been represented in the Ad hoc Committee, but that at the fifth session of the General Assembly, the Netherlands delegation had had occasion to advocate, principally on humanitarian grounds, the widest possible applications of the Convention. Furthermore, he could not but appreciate the difficulties which might arise if a country had to deal with two groups of refugees, one of which was covered by the Convention and the other not.

He would also point out that the General Assembly's decision on the definition of the term "refugee" had been taken with the active support of other governments members of IRO, for instance, those of Belgium and the United Kingdom. It was consequently incorrect to claim that all the countries represented in IRO were in favour of the more restricted definition.

As to the future, while his Government's consistent attitude towards the problem impelled him to agree with the point of view expressed by the United Kingdom representative, he was in a conciliatory spirit, prepared to accept the compromise procedure suggested by the Swiss representative, and supported by the High Commissioner for Refugees. He would therefore vote for any amendment introduced to that effect.

Mr. PETREN (Sweden) said that the Swedish Government had been prepared to accept the original text of article 1. However, he fully appreciated the French Government's position, a position that was the more deserving of consideration in view of the fact that

France had played a leading role as a country of asylum, and had a noble tradition of work on behalf of refugees. Although he would have been prepared on those grounds to vote in favour of the French amendment, he welcomed the suggestion made by the Swiss representative and endorsed by the High Commissioner, which he would support.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his Government's position was similar to that of the Swedish Government. Although he accordingly had not objections to the definition set forth in paragraph A of article 1, he was convinced that for practical reasons it was essential to secure the French Government's accession to the Convention in the near future. He had also been greatly impressed by the able exposition of the United States representative. In the light of the foregoing considerations, he, too, would support the compromise solution put forward by the Swiss representative.

Mr. HOEG (Denmark) stated that the Danish Government's position was identical with that of the Governments of Sweden and the Federal Republic of Germany. Although, from a humanitarian point of view, the Danish Government would have preferred the original text of article 1, the adoption of the French amendment would not prevent it from signing the Convention.

Mr. SHAW (Australia) recalled the facts that the Australian Government, too, had not been represented in the Ad hoc Committee, and that, since it was chiefly interested in certain special aspects of the problem, it had not submitted any drastic amendments to the Convention.

The arguments put forward by the United States representative had convinced him that it would be wise to make the definition more explicit. He was therefore prepared to support the French amendment on the grounds that countries should not, to use a vernacular expression, be asked to buy a pig in a poke.

Mr. ARFF (Norway) said that the Norwegian Government's position was identical with that of the Governments of Denmark and Sweden. It had been prepared to accede to the Convention with article 1 and paragraph 1 of article 36 unchanged. Hence, the Norwegian Government would find it difficult to vote for the French amendment, and would consequently prefer the compromise solution suggested by Swiss representative. In the final analysis, of course, a convention amended to meet the French Government's point of view would be preferable to one which failed to command the accession of any appreciable number of Governments.

Mr. ROCHEFORT (France) explained that, owing to the French national holiday on 14 July, he had been unable to get in touch with the French government. While it might be disposed to give favourable consideration to the compromise solution proposed by the representative of Switzerland, he was unable at the present juncture to make any definite pronouncement on that proposal.

The PRESIDENT welcomed the Assistance Secretary-General in charge of the Department of Legal Affairs to the meeting, and called upon him to give the Conference some information about the question of reservations.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that the problem of reservations was somewhat complex. The Secretariat had run up against so many difficulties with the Convention on the Prevention and punishment of the

Crime of genocide that it had asked the Sixth Committee of the General Assembly for advice on the subject. The Sixth Committee had been unable to pronounce itself, and had requested both the International Court of Justice and the International Law Commission to give their opinion. Reports from those two bodies were not yet available.

In practice, however, difficulties generally arose out of failure to make provision for reservations in a convention. In the present case, article 36 covered the point. It was generally admitted that the negotiating parties could formulate an article on reservations in any way that they desired. The possibility of entering reservations could be excluded entirely, or could be made applicable to all the provisions of an instrument or to certain articles only. In article 36, the Conference had chosen the last mentioned method by excluding certain articles from reservation. That procedure was perfectly permissible. If article 36 was adopted as drafted, the situation would be perfectly clear.

He had gathered that certain delegations had asked whether permissible reservations should be entered at the time of signature, of ratification or of accession. So far as the last-named procedure was concerned, some misgivings had been expressed on the grounds that States entering reservations on accession would not know what further reservations might be made by other States in the future. According to general practice, and in the view of the International Law Commission, reservations could be entered when States took the appropriate measures to become contracting parties to an instrument. When the process was that of signature and ratification, a reservation made at the time of signature did not become valid unless and until it was re-affirmed at the time of ratification, whether expressly or by inference. In the case of States acceding to an instrument, reservations must be made at the time of accession, since that procedure involved only one démarche. He would submit that the argument that States would not know what future reservations might be made to the convention was irrelevant, because article 36 gave States, so to speak, a blanket authorization to make any reservations they wished, except in respect of certain specific articles.

The PRESIDENT drew attention to paragraph 1 of article 34, in which it was stated that the Convention should be open for signature for one year. That meant that even States signatories could enter reservations which would not be known by other States signatories.

He then announced that he would place on the agenda for the next meeting the second paragraph of article 40, in which reference was made to the official and authentic texts of the convention. It was essential that the question be settled without further delay, in order to enable the Secretariat to take the necessary steps to secure the services of the translators and technical staff required for the preparation of the instrument for signature.

The meeting rose at 11.55 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twentieth Meeting

By General Assembly | 26 November 1951

Present:

President:	Mr. LARSEN
Members:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
The Holy See	Archbishop BERNARDINI
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and of other inter governmental organizations

International Refugee Organization

Mr. SCHNITZER

Council of Europe

Mr. TALIANI de MARCHIO

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions

Miss SENDER

Category B and Register

Caritas Internationalis

Mr. BRAUN, Mr.
METTERNICH

Commission of the Churches on International Affairs

Mr. REES

Consultative Council of Jewish Organizations

Mr. MEYROWITZ

Co-ordinating Board of Jewish Organizations

Mr. WARBURG

Friends' World Committee for Consultation

Mr. BELL

International Association of Penal Law

Mr. HABICHT

International Council of Women

Mrs. FIECHTER

International Federation of Friends of Young Women

Mrs. FIECHTER

International League for the Rights of Man

Mrs. BAER

International Relief Committee for Intellectual Workers

Mrs. SILBERSCHEIN

International Union for Child Welfare

Mr. THÉLIN

Pax Romana

Mr. BUENSOD

Women's International League for Peace and Freedom

Mrs. BAER

Secretariat:

Mr. Humphrey

Executive Secretary

Miss Kitchen

Deputy Executive
Secretary

**CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES
(item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1)
(continued)**

Article 1 - Definition of the term “refugee” (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2/17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74, A/CONF.2/75, A/CONF.2/76) (continued)

The PRESIDENT invited the Conference to continue its consideration of article 1.

Mr. BELL (Friends' World Committee for Consultation), speaking at the invitation of the PRESIDENT, said that his Committee had already submitted a statement (A/CONF.2/NGO/7) in which it had asked the Conference to consider the elimination of the date line, namely, January 1951, from sub-paragraph (2) of paragraph A of article I of the draft Convention. In the light of the discussion at the preceding meeting, such a request would seem to be the apotheosis of unrealistic idealism. However, in the experience of his Committee there were considerable sections of public opinion which would wish governments, including their own, to take certain risks with the object of solving, both at present and in the future, the world-wide problem of refugees.

Some governments might regard such a view as unduly sentimental, and one which failed to take into account the possible consequences of such a liberal approach to the matter. There were, of course, uninformed elements of the public, but there was also a large body of people who could not be described as irresponsible, whose misgivings about the effectiveness of the Convention might be summarized in the form of the following questions.

Who was to interpret whether “events occurring before January 1951” had been responsible for turning a person into a refugee, thus rendering him eligible for protection under the Convention? What would be the person of a person subjected to persecution who was at the present moment leaving his country? Would such movement be the result of events occurring before January 1951 or not? If the answer was given in the negative, either at present or in the future, a new group of under-privileged and unprotected refugees would be created. The very persons who had had the moral fortitude to resist the idea of flight so far, might find themselves penalized because they had not left their country earlier. It had been suggested that if such a group were to come into being, States Members of the United Nations could take the necessary steps to deal with the problem as and when it arose. But surely it would be an ever-present one. Moreover, it was doubtful whether existing international instruments could be amended swiftly enough to meet pressing human needs. Was not the political and economic risk of the continuous appearance of such groups, until such time as provision could be made for them through the United Nations, as great as the political and economic risks of accepting the obligation to set about re-integrating them into society immediately and completing the task as quickly as possible? It was to be hoped that governments would endeavour to meet the needs of normal refugees, despite the certainty that there would be among them certain undesirable elements who might cause trouble.

In conclusion, he re-affirmed that many well informed people and organizations, including those which had first-hand experience of the problem, were in favour of governments taking a whole series of calculated risks. His Committee shared that view, believing as it did that such action would further rather than hinder the development of a stable world order.

Miss SENDER (International Confederation of Free Trade Unions), speaking at the invitation of the PRESIDENT, said that if the fight for freedom was to be encouraged and the flame of liberty to continue to burn undimmed in democratic countries, the Conference must not allow the citizens of totalitarian countries to feel that they were being abandoned and isolated. Steps should be taken to prevent such persons from sinking into resignation, apathy and submission. Citizens of the free world, moreover, had no right to appeal to those in subjection to react if they ignored the reprisals which might well be taken against individuals. She understood the hesitation of governments, particularly those which intended to discharge them in all sincerity, to assume commitments, but the danger must at all costs be avoided of creating the impression that the democracies could do nothing to help the victims of totalitarianism. For once that belief took root, the free countries of the world would lose the support of the enslaved peoples.

Certain representatives had argued that it was impossible to deal with the problem of refugees on a comprehensive basis. But surely the Universal Declaration of Human Rights and the draft First International Covenant on Human Rights were of far wider scope than the proposed convention? The United States representative had countered the arguments of the advocates of a liberal approach by maintaining that further steps could be taken to protect persons who fell outside the scope of the Convention as and when the need for doing so arose. But it must be recognized that it often took a very long time to introduce supplementary legislation, which was not infrequently passed too late to meet urgent needs. It would be both illogical and inhuman to restrict protection to the victims of past persecution. The time had come for governments to assume their responsibilities unreservedly with courage and determination.

Mr. HERMENT (Belgium) said that the Conference was faced with a question of crucial importance, namely, the scope of the draft Convention, concerning which there were two schools of thought: one held that the Convention was a general instrument which should be applicable to all refugees irrespective of their country of origin; the other maintained that it was of limited scope and should apply only to refugees from European countries. The French representative had expressed his disappointment at the absence from the Conference of representatives of certain countries, and had indicated that the French Government was not disposed to assume obligations towards countries which did not intend to reciprocate. Was it not, however, a matter of obligations assumed by States vis-à-vis refugees, rather than one of commitments and obligations between States?

The draft Convention made no mention of what was known as the right of asylum. It did not obligate States to admit all refugees, and in no way modified the existing principles governing immigration. It was only intended to assure to refugees minimum rights and guarantees, which in most cases moreover, the governments of the countries in which they lived already extended to them independently of any convention. The question whether the events which had obliged a person to become a refugee had occurred in Europe, Asia or Africa was irrelevant. The matter should be considered without regard to the past or to any national prejudice.

Similarly, it was of no importance to know how many refugees would benefit from the provisions of the Convention, since the latter did not lay upon Contracting States any obligation as to the number of refugees they should admit.

The French representative had caused him some anxiety by his statement that only if the words "in Europe" were re-instated in the definition would the French Government be able to consider signing the Convention. So, even if those words were reinstated, there would still, according to the French representative, be no certainty that France would sign the Convention. He (Mr. Herment) found it extremely hard to believe that the French Republic would decline to play its part in a humanitarian act of that nature.

The Conference had been convened to accomplish a noble purpose, and to extend the application of the Convention to all possible refugees would surely be in harmony with that purpose. It was regrettable that the Conference had on occasions adopted an attitude of self-defence vis-à-vis refugees. The text to be adopted should be consonant with the scale and importance of the task in hand, and that would hardly be achieved by the adoption of the French amendment to article I.

MOSTAFA Bey (Egypt) wished first to express his appreciation of the admirable work done by the Friends' World Committee for Consultation on behalf of the Arab refugees from Palestine. He must associate himself with the suggestions made by the representative of that organization.

It would seem necessary to elucidate two problems which, although they appeared to be independent of one another, were linked by a relation of cause and effect, since they were concerned with the scope of the Convention.

The French representative had rightly recalled that the Arab refugees from Palestine had been excluded from the mandate of the High Commissioner for Refugees as a result of the action taken by the delegations of the Arab States at the fifth session of the General Assembly. It was on advice from Egypt that that action had been initiated. No parallel could, however, be drawn between the problem of refugees in general and that of refugees from Palestine. The former was the result of national phenomena peculiar to each country, such as racial, political or religious persecution. It was not, therefore, legally speaking, a problem which concerned the United Nations, but the United Nations had nevertheless taken an interest in it for humanitarian reasons. The problem of the Arab refugees from Palestine, on the other hand, had actually arisen out of action taken by the United Nations, the various agencies and organs of which had been giving them protection and assistance since 1948. It was for that reason that the delegations to the General Assembly of the Arab States had requested and secured the temporary exclusion of the Palestine refugees from the mandate of the High Commissioner. It was only right and proper that, as soon as the Palestine problem had been settled and the refugees no longer enjoyed United Nations assistance and protection, they should be entitled to the benefits of the Convention on the Status of Refugees, and it was for that reason that the Egyptian delegation had submitted its amendment (A/CONF.2/13) to article 1 of the draft Convention.

Speaking on the definition of the term "refugee", the French representative had stated that France could not sign a blank cheque and assume unlimited and indefinite commitments in respect of all refugees. But the Conference's task was not to broaden the obligations undertaken by the various countries, but to confer legal status on refugees already within the territories of Contracting States. If the principle of international solidarity was to be respected, the scope of the Convention must be extended to include all refugees

irrespective of their origin. The Conference had received its terms of reference from the General Assembly, which had delimited the scope of its activity in resolution 429 (v); it was now too late to restrict that scope.

Mr. ROCHEFORT (France) protested against any interpretation capable of casting doubt upon his instructions from the French Government. France's attitude, which, incidentally, was similar to that of the United States of America, did not seem so morally embarrassing as the Belgian representative believed. Whether France acceded to the Convention or not, the French authorities had no intention of closing France's frontiers to refugees. France would continue to pursue the generous and sympathetic policy she had always adopted towards refugees.

He failed to understand completely the importance that was being attached to the date of 1 January 1951, since, according to the interpretation which certain countries had placed on the draft Convention, there was nothing in its text capable of affecting the admission of refugees to the territories of Contracting States. Those who became refugees as a result of events occurring after 1 January 1951 would be just as much within the competence of the Office of the High Commissioner for Refugees, since the latter's mandate contained no limitation as to date. It would be his duty to ensure that the largest possible number of refugees not protected by previous Conventions benefited from the Convention at present under consideration by the Conference.

He would point out that the problem to which the Belgian representative had referred arose not only out of the French amendment, but also out of the position taken by the delegations of the United Kingdom and Egypt. It was interesting to consult the 1933 Convention relating to the International Status of Refugees on that point. It might be supposed that the fact that only a small number of countries had become parties to that Convention had been due to the text being too limitative so far as the definition of the term "refugees" and the rights granted to them were concerned. But the definition in the 1933 Convention was not a general one, since it covered only Russian, Armenian and assimilated refugees, and it might therefore have been supposed that it would not have been the subject of reservations. However, one government which had signed, but not ratified, the Convention had entered reservations in respect of the definition and of the date, which, in spite of the fact that it was not mentioned in the text of the Convention, could be considered to form an element in certain reservations. The United Kingdom had ratified the Convention subject to certain reservations. Belgium had signed the Convention subject to reservations in respect of article 14. On the other hand, France had been blamed for interpreting the idea of public order too widely. But that idea had been considered too restricted by the United Kingdom Government, since it had made reservations in respect of article 3 (of the 1933 Convention).

What France wanted was the adoption, signature and ratification, with the minimum of reservations, of the Convention before the Conference. It was pointless to adopt an apparently generous text, if such generosity was vitiated by reservations and a limited number of accessions.

Certain countries wanted a broader definition of the term "refugee". But had not a blow already been struck against that principle by the exception which had been made in favour of the Arab refugees from Palestine and also by the Latin American countries, which were

already granting the right of asylum very liberally, and which would be all the more ready to sign a Convention concerning European refugees if they were not obliged to enter into new commitments in respect of their neighbours?

The Convention on the Status of Refugees must not be allowed to join the earlier conventions in the purple shroud for dead letters. The text of the Convention should be realistic, and founded on the positions of the countries in which the refugee problem was a real one.

No country was more eager than France that a convention protecting the rights of refugees should be drawn up, and that it should provide them with effective and real protection. He had therefore been astonished to hear France accused of egoism.

An exchange took place at this point between Mr. ROCHEFORT (France) and Mr. HERMENT (Belgium). They agreed, with the PRESIDENT's consent, that it should not be reported in the summary record of the meeting.

Mr. AL PACHACHI (Iraq) wished to associate himself unreservedly with the Egyptian representative's observations. He also congratulated the Belgian representative on his eloquent statement.

He had been given to understand that the Convention was to apply to all refugees without distinction, and he had therefore been both surprised and embarrassed to hear certain delegations assert that it should apply only to European refugees. He understood the position of the French representative, which was based on the understandable desire to avoid signing a blank cheque on behalf of the French Government, and which was at the same time intended as a reproof to countries, some of them outside Europe, which had not thought it worth while to attend the Conference. Although some absent countries might be indifferent to the refugee problem, Iraq was extremely interested in it, and was desirous of seeing a Convention emerge from its deliberations which would apply to all refugees.

He suggested that the French representative might content himself with entering a reservation to article I in the sense of his amendment.

The PRESIDENT expressed the hope that all representatives would agree that the Chair had endeavoured to see that the discussions proceeded amicably, and was convinced that all would continue to support him in that endeavour. Everyone present was well aware of the traditions and benevolence of other countries in the matter of refugees, and he was convinced that no one wished to cast doubts on the humanitarian intentions of any country represented at the Conference.

Speaking as the representative of Denmark, he could say that the country that had just been named enjoyed a very high reputation in Denmark in connexion with the problem that the Conference had been convened to solve.

He therefore hoped that all present would avoid any unfriendly reference to other countries, so that when he took leave of the present Conference the happy memories he cherished of the work of the Ad hoc Committee would be unimpaired.

Mr. FRITZER (Austria) said that, although certain clauses in the Convention might be unacceptable, or barely acceptable, to large States, its wording was on the whole quite acceptable to smaller countries like Austria.

He was not in complete sympathy with the French amendment, because it would impair the position of refugees. But he would probably vote for it, as he was convinced that France would accede to the Convention, and also because he would like to ensure that the Convention was signed by the greatest possible number of States.

The representatives who had spoken on article I at the preceding meeting had made basic observations on the entire Convention. He recalled that he had announced at the second meeting that the Austrian Federal Government intended to sign the Convention. Nothing that had occurred in the discussions since then had caused the Austrian Government to change its position.

He was in general agreement with the definition of the term "refugee" as set forth in article I, with the exception of sub-paragraph (3) of paragraph B which provided that the terms of the Convention should cease to apply to any person falling under the terms of paragraph A if he had acquired a new nationality and enjoyed the protection of the country of his new nationality. That provision was logical and understandable, inasmuch as the Convention aimed at granting refugees rights as similar as possible to those enjoyed by nationals. But he was opposed to it, because it would deprive naturalized refugees of rights which they had enjoyed before naturalization.

According to article 6 of the draft Covenant, a refugee who had been forcibly displaced during the second world war would enjoy certain important advantages, because the period of enforced sojourn in the territory of a Contracting State was to be considered as lawful residence within that territory and, if he had been forcibly displaced from the territory of a Contracting State and had subsequently returned there, his period of residence before and after displacement was to be regarded as one uninterrupted period. It was possible that a country suffering from a housing shortage might lay down a condition that all applicants for houses must have resided for at least five years in its territory. Under sub-paragraph B (3) in its original form, a naturalized refugee would thus lose part of his qualifying period of residence. Again, on naturalization a refugee would be deprived of the documents referred to in article 20. Generally speaking, naturalized refugees would be debarred from benefiting from the international measures of assistance provided for by the Convention.

He therefore requested the Conference, and particularly the High Commissioner for Refugees, to support his amendment (A/CONF.2/17), which corresponded to the heartfelt desire of tens of thousands of refugees who felt that, if the original wording of sub-paragraph B (3) of article I was retained, they would lose many advantages they had formerly enjoyed.

Mr. SCHÜRCH (Switzerland) pointed out that Switzerland, not being a Member of the United Nations, had not taken part in the discussions on the definition of the term "refugee" in the Ad hoc Committee and the General Assembly. He would therefore like to explain the attitude of the Swiss Federal Government on the question.

The Swiss Federal Government regarded as refugees all aliens whose lives were in danger for political reasons, and who, to escape that danger, were compelled to seek refuge in Switzerland. Switzerland had also shown concern for the other categories of refugees. His country had joined the International Refugee Organization (IRO) and had subscribed to the definition of "refugee" as set forth in IRO's Mandate. Furthermore, Switzerland had repeatedly expressed its concern about the fate of the refugees not covered by IRO's Mandate, and had assisted them on numerous occasions. For example, the Federal chambers had decided to place considerable sums at the disposal of refugee relief agencies operating in Austria and Germany. The broad sense in which Switzerland had conceived the definition of the term "refugee" made it impossible for it to support at the present juncture an amendment which sought to narrow that definition. Nevertheless, Switzerland fully appreciated the considerations which were causing concern to France, whose liberal attitude towards refugees was well known. The Swiss view was that it might be possible to meet the views of France and those other countries which took a similar line, without actually amending the text of article I, by allowing Contracting States to enter reservations in respect of that article. Despite the hesitancy with which certain delegations might view that proposal, it would be less disadvantageous to adopt such a procedure than to discourage countries from signing and ratifying the Convention, or subsequently acceding to it, by retaining the present text of sub-paragraph A (2) of article 1. Switzerland, for its part, was not called upon to enter any reservations on the lines referred to, and his proposal was solely inspired by a desire to affect conciliation.

The PRESIDENT felt that the Swiss representative's suggestion showed the way to a solution of the very difficult problem under discussion. Although it would be premature to press the matter to an immediate decision, it would be profitable to give the Swiss suggestion every consideration.

According to paragraph I of article 36 of the draft Convention, Contracting States might, at the time of signature, ratification or accession, enter reservations to articles of the Convention other than articles 1, 3, 11 (1), 28 and Chapters VI and VII; but that text was not sacrosanct and, indeed, had not even been discussed or voted on yet. As a method of solving the present difficulty, that article might be amended to enable signatories to consider entering an appropriate reservation instead of pressing for the insertion of the words "in Europe" in sub-paragraph A (2) of article I.

The difficulty was that a refugee living in a given country which applied the broad definition of sub-paragraph A (2) might be refused admittance to another country, which had adopted the narrower definition, on the grounds that his refugee status had been created by events occurring outside Europe.

He himself was not very much concerned about the fact that certain States were absent from the Conference. Some of them might have refrained from attending because they did not intend to sign any instrument of the type contemplated; others might be absent because they felt that all aspects of the problem would be fully presented there - in other words, they might be awaiting the outcome. It should also be remembered that certain earlier Conventions on refugees had been acceded to years after they had been completed; some of them had even been acceded to by States not represented at the drafting conference. To quote an example, the Danish Government might have decided to save money by not sending a delegation, with the intention of accepting what the

Norwegian or Swedish delegations agreed to. The same might be true of certain Latin American countries, the position of which might be very similar to that of Brazil and Venezuela. The Conference should not restrict its attention to what was universally acceptable at the moment, and he requested delegations to seek a compromise solution in that spirit.

He added that there was nothing to prevent a State from granting greater benefits to a refugee than those provided for in the Convention; nor would any State be debarred from aiding refugees who were technically outside the scope of the Convention.

Mr. CHANCE (Canada) said that he, too, was extremely anxious that a compromise should be achieved along the lines suggested by the Swiss representative. Throughout the discussions in the Ad hoc Committee and elsewhere, the Canadian delegation had taken the broad view. He would therefore be sorry if the Conference resulted in the drafting of an instrument which limited the scope of the draft Convention as it had presented to the Conference.

There appeared to be an impression in some quarters that none of the countries of the New World had any intention of signing the Convention. He recalled that he had in all frankness explained the difficulties which the Canadian Government saw in the text of the draft Convention as it stood in document A/CONF.2/1. Since the Conference had opened there had been many changes, and the Canadian Government was prepared to reconsider its position with regard to accession in the light of the instrument which finally emerged. In that respect he wondered whether the position of his delegation was much different from that of, perhaps, a number of others.

MOSTAFA Bey (Egypt) said that the Egyptian delegation had no objection in principle to the compromise solution suggested by the Swiss representative. He was nevertheless extremely sceptical about the legal value of the instrument, because, although allowance was made in the practice of international law for reservations to be entered at the time of signing treaties and agreements, the possibility of making such reservations at the time of accession to them was generally ignored. If States were allowed to make reservations when they accede to the Convention, perhaps years after it had been drafted, the other Contracting Parties would be committed to accepting in advance reservations of which they knew nothing. He wondered whether a legal expert in the Secretariat could clarify the situation.

The PRESIDENT said that the Secretariat would provide the clarification requested in due course.

He drew the attention of the Egyptian representative to two earlier international instruments relating to refugees. According to article 22 of the Convention relating to the International Status of Refugees, signed at Geneva on 28 October 1933:

“Any Contracting Party may declare, at the time of signature, ratification or accession, that in accepting the present Convention, it is not assuming any obligation.....”.

Again, in article 25 of the Convention concerning the Status of Refugees coming from Germany, signed at Geneva on 10 February 1938, it was specified that:

“The High Contracting Parties shall, at the time of signature, ratification, accession or declaration under paragraph 2 of Article 24, indicate whether their signature, ratification, accession or declaration applies to the whole of the provisions...”.

It was therefore the duty and privilege of those who drafted and adopted the Convention to make provision for whatever reservations they deemed advisable. He hoped that the Conference would not be unduly influenced by what other meetings had done; the Conference was complete master of its own actions. It might, for example, be useful to state in the Convention that Contracting States would be entitled, at the time of signature, ratification or accession, to include a reservation to the effect that, so far as they were concerned, article 1, sub-paragraph A (2), referred only to events occurring in Europe.

The meeting rose at 6 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-second Meeting

By General Assembly | 26 November 1951

Present:

President: Mr. LARSEN

Members:

Australia Mr. SHAW

Austria Mr. FRITZER

Belgium Mr. HERMENT

Brazil Mr. de OLIVEIRA

Canada Mr. CHANCE

Colombia Mr. GIRALDO-
JARAMILLO

Denmark Mr. HOEG

Federal Republic of Germany Mr. von TRÜTZSCHLER

France Mr. ROCHEFORT

Greece Mr. PAPAYANNIS

Iraq Mr. AL PACHACHI

Israel Mr. ROBINSON

Italy Mr. del DRAGO

Monaco Mr. SOLAMITO

Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observer:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugees Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches en International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Union of Catholic Women's Leagues	Miss de ROMER
Standing Conference of Voluntry Agencies	Mr. REES

World Jewish Congress

Mr. RIEGNER

Secretariat:

Mm. Humphrey

Executive Secretary

Miss Kitchen

Deputy Executive
Secretary

**CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES
(item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1)
(continued)**

(i) Article 40 - Notifications by the Secretary-General

Baron van BOETZELAER (Netherlands) pointed out that article 40 provided that the authentic texts of the Convention should be drawn up in five languages, namely, the five official languages of the United Nations. That was the traditional practice of organs drafting instruments under the auspices of the United Nations, but in the present instance there would be certain practical difficulties in following it, and the Conference, as an assembly of plenipotentiaries, was at liberty to depart from the usual procedure.

In that connexion, he drew attention to the comparable clause in the Geneva Convention of 12 August, 1949, for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. That clause read:

“Article 55

“The present Convention is established in English and French. Both texts are equally authentic.

“The Swiss Federal Council shall arrange for official translation of the Convention to be made in the Russian and Spanish language”.

He felt that the Conference should consider drafting the Convention relating to the Status of Refugees in English and French, both texts being equally authentic, and that the Secretariat should arrange for its translation into Chinese, Russian and Spanish. He was prepared to introduce a formal amendment to article 40 to that effect if necessary.

The PRESIDENT suggested that the conference should discuss the substance of the Netherlands amendment without waiting for the written text to be circulated.

Mr. ANKER (Norway) wondered whether the Secretariat could supply any information on the point. Had the Spanish, Russian and Chinese texts of the draft Convention already been prepared?

The EXECUTIVE SECRETARY replied that the Secretariat had been working on the translation of the text on the basis of the original draft and of the amendments already adopted. The Secretariat could prepare the final text in the various languages only after the Style Committee had decided on its actual wording.

The Netherlands amendment to article 40 was adopted by 19 votes to none, with 4 abstentions.

The PRESIDENT expressed thanks, on behalf of the Conference, to the Spanish-speaking representatives for their self-abnegation and for the generous way in which they were facilitating the work of the Conference.

He suggested that consideration of the remainder of article 40 should be deferred.

It was so agreed.

(ii) Article 1 - Definition of the term “refugees” (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2/17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74, A/CONF.2/75, A/CONF.2/76, A/CONF.2/77, A/CONF.2/78) (resumed from the twenty-first meeting)

Mr. MIRAS (Turkey) said that the definition appearing in Article 1 of the present text of the draft Convention was not the one that Turkey would have liked to see there. The Turkish point of view had already been explained on various occasions, in particular at the fifth session of the General Assembly. Turkey would, however, accept the present definition, which was a compromise reached with much difficulty.

Turkey was anxious to sign the Convention. The big effort she was making at the moment to receive hundreds of thousands of refugees, of Turkish origin, from Bulgaria, driven from their centuries-old homes, had not lessened her solicitude for other categories of refugees.

His delegation wished the Convention to be signed by as many States as possible and would not be opposed to suggestions leading to that goal. But the Turkish Government would have to study carefully any change in the present compromise text which substantially altered the structure of the Convention.

Mr. ROBINSON (Israel) said that, since paragraphs A and C of article 1 were closely related, he would deal with them together.

Of the three factors governing the definition of the term “refugee”, practically no attention had been paid to the substantive requirements for qualification as a refugee. On the other hand, sufficient attention had been given to the temporal and geographical factors. But, whereas there appeared to be general agreement regarding the limitation of the definition in time, it was otherwise with the geographical criterion.

At three meetings the geographical issue had been discussed exhaustively. The “Europeans” had confronted the “universalists” in an exciting and enlightening debate, which had, however, in his opinion, been largely academic. The experience of history suggested that it would make little difference whether or not the words “in Europe” were included in sub-paragraph (2). He considered that the word “events” had originally been included in that sub-paragraph in an attempt to designate, in a somewhat camouflaged manner, the new categories of post-war refugees that had emerged as a result of the political changes which had supervened in parts of central and eastern Europe. He recalled the fact that those refugees had been termed “neo-refugees” in one of the first drafts of the Convention in order to distinguish them from the traditional categories of internationally protected refugees referred to in sub-paragraph (1) of paragraph A.

The implications of committing the words “in Europe” depended on how the facts were interpreted and evaluated. The text of sub-paragraph (2) obviously did not refer to refugees from natural disasters, for it was difficult to imagine that fires, floods, earthquakes or volcanic eruptions, for instance, differentiated between their victims on the grounds of race, religion or political opinion. Nor did that text cover all man-made events. There was no provision, for example, for refugees fleeing from hostilities unless they were otherwise covered by article 1 of the Convention.

The “universalists” had failed to specify from what parts of the world, other than Europe, candidates for the status of refugee might come. The United States representative, who had made an otherwise exhaustive survey of the position of refugees throughout the world, had overlooked one country, Israel, which in the last eighteen years, first as the Jewish National Home and subsequently as the State of Israel, had absorbed more than three-quarters of a million refugees from central Europe and the Near East. It was easy to imagine what a burden that mass of people would have been for the international community had not Israel undertaken responsibility for their rehabilitation and resettlement.

The dramatic saga of operations “Magic Carpet” and “Cyprus”, which in a short time had brought some 200,000 refugees to Israel from Yemen, Libya and Iraq, had caught the imagination of the world. But those refugees had never required international assistance or protection. Moreover, under the Israeli repatriation law, every Jew automatically became a citizen of Israel from the moment of his arrival on Israeli Territory.

In only one area of the world outside Europe, namely, China, had there been a change of regime giving rise before 1 January 1951 to a movement of refugees. For reasons which must be well known to the Chiang Kai Shek regime the present representatives of China in the United Nations did not consider that to be a problem worthy of examination, as was eloquently demonstrated by the absence from the present Conference of a Chinese delegation.

The case of Chinese refugees now fleeing from the People’s Republic of China was unique in history. They had a Government of their own, still recognized by many States, with a seat in the United Nations, and able to provide refuge in Formosa to those who sought asylum there.

Not everyone who considered himself a refugee, or who was so considered by others, even by United Nations organs, was a refugee under the terms of the Convention. To qualify as a refugee a person must satisfy the following requirements: first, his place of residence must be outside the country of his nationality or of his habitual residence; secondly, he must be in that place of residence because of a well-founded fear of persecution for reasons specified in article 1 of the draft Convention; and thirdly, he must be unable or unwilling to avail himself of the protection of his country of nationality or, having no nationality, he must be unwilling to return to the country of his habitual residence.

He submitted that Chinese refugees could not be considered as satisfying the last of those requirements, except in the eyes of those countries which had recognized the new regime, the great majority of which were Asiatic. It was therefore obvious that the difference between the “universalist” and “European” positions was insignificant, since it referred to

small numbers of Chinese in a very few States. Thus, for the purposes of the Convention, there were practically no refugees in the world other than those coming from Europe. The Israeli delegation was therefore not perturbed by the suggestion that the words “in Europe” should be reinstated in the definition.

He felt that paragraph C was one of the most confusing sections of article 1. It was an innovation introduced by the General Assembly; neither the Ad hoc Committee nor the Economic and Social Council was responsible for it. In an attempt to disguise practical situations under a veil of abstract notions an unhappy formula had been devised. As the United States representative had observed, if the formula were left unchanged it would automatically exclude from the scope of article 1 all the refugees within the purview of the High Commissioner for Refugees. The reason for that anomalous situation was a fear of calling things by their right names. There were only two categories of refugees catered for by the United Nations as an international organization under resolutions of the General Assembly: the Arab refugees from Palestine under various resolutions, the most recent of which were resolution 393 (V) of 2 December, 1950, and resolution 394 (V) of 14 December 1950; and the Korean refugees under resolution 410 (v) of 1 December, 1950.

The fundamental question, therefore, was whether the Palestinian or Korean refugees could satisfy the requirements of sub-paragraph (2) of paragraph A. In view of the analysis which he had just made it was hardly necessary to answer the question. That did not imply that he was opposed to the Arab refugees being protected by the High Commissioner if the States concerned so desired, but that was quite a different matter from the one under consideration.

Three courses were open to the Conference: it could simply accept the French amendment (A/CONF.2/75) and reinstate the words “in Europe” in article 1; it could adopt the French amendment and, at the same time, lay more stress than hitherto on paragraph F of article 1; or it could lay the Convention open to reservations in respect of the origin of refugees. With regard to the last course, he points out that the Swiss proposal put forward at the twentieth meeting, while ingenious, had legal and moral disadvantages. The legal disadvantage was that it would result in an instrument with different applications *ratione origins* for different Contracting States. The moral disadvantage was that any reservation, particularly one of a restrictive nature, would involve moral implications for the State making it.

He thought that the words “Since 1 August 1914”, which did not appear in the Statute of the High Commissioner for Refugees, should be deleted from the first sentence of sub-paragraph (1) of paragraph A of article 1. It was possible, of course, that the French text was not open to the same interpretation as the English.

Mr. HERMENT (Belgium) submitted, in reply to the Israeli representative's contention that there was no reason to make a distinction between the “universalist” and the “European” conceptions of the Convention, that the Convention was intended to cover, not only existing refugees, but also those of the past and the future. The Belgian delegation accordingly opposed the French amendment to article 1 (A/CONF.2/75).

As to the deletion of the date 1 August 1914, from sub-paragraph (1) of paragraph A, as proposed in the Belgium amendment (A/CONF.2/78), he requested that it should be discussed later. Only the French amendment should be discussed at the present stage.

Mr. ROBINSON (Israel) remarked that there was little difference of opinion between the Belgian representative and himself, except that the former apparently failed to appreciate that only recorded and known events which had occurred before 1 January, 1951, would have effect under article 1 as it stood. In that connexion, he wished to point out that events that had occurred before that date might still result in movement of refugees in years to come.

Mr. ROCHEFORT (France) said that when, before the second world war, France had had to admit into her territory several hundred thousand Spanish refugees, she would not have been able to grant the benefit of existing conventions to that category of refugees had she been tied by an international instrument. She had done her best in an exceptional situation; and only later had it become possible for her to extend to those refugees the benefits of the 1933 Convention. It might perhaps be possible to derive a normal method of procedure from that example. It seemed more natural for governments to extend their commitments subsequently rather than to set out by assuming excessively wide commitments.

The formulation of reservations restricting the Convention's scope seemed less appropriate than making reservations the effect of which would be to widen it.

The discussions at the present Conference permitted several facts to be established. The first was that practically all delegations were in agreement in recognizing that the Convention should apply at least to European refugees. The second was that the terms of the definition of refugees in article 1 and of the Convention itself as a whole in fact referred to European refugees; the rights and duties mentioned in the draft Convention fitted in much more closely with the social, economic and legal systems of European countries than with those of countries outside Europe, particularly those of Asia. Finally, it could be said that, while all the States represented at the Conference agreed that they should commit themselves at least in respect of European refugees, a certain number of governments were equally ready to commit themselves in respect of refugees from countries outside Europe. The widening of commitments in respect of the latter category of refugees might create certain obstacles, not only for France, but also for the countries of Latin America, which had already settled the position of refugees in their territory by bilateral agreements. However, the differences between the various conceptions of the Convention which had come to light should lead to the formulation of reservations widening its scope, not to that of reservations restricting its scope. No one, indeed, would lose thereby. It was unquestionable that since 1914 the problem of refugees had above all been a European problem, and it was equally unquestionable that, as a result of the last two world wars, Europe should be considered as the centre of gravity of the problem. At the instance of men like Nansen, Europe had made great and noble efforts to settle the problem of refugees in a humanitarian way. Of all the problems affecting refugees, that of European refugees was the most fitted to be raised and dealt with internationally. It was also unquestionable that the introduction of the words "in Europe" into the definition of the term "refugee" in the draft Convention would give to European refugees a status which all countries could accept - one which they could later extend to refugees from countries outside Europe. In granting such a status to European refugees, the Convention would set an example to the world. If certain country were ready to go further, there was nothing to prevent them from entering reservations in the direction of greater liberalism. What must at

all costs be avoided was that the countries most burdened by the refugee problem should be obliged to enter reservations restricting the Convention's general scope.

The French viewpoint should, indeed, be thoroughly discussed; France considered that the need to enter reservations restricting the Convention's scope would necessarily prejudice the attitude it would take towards the Convention.

The PRESIDENT suggested that, since a number of delegations had been having informal conversations on the subject at issue, the Conference might adjourn for a short period in order to give them an opportunity of re-considering their positions.

It was so agreed.

The meeting was suspended at 11.05 a.m. and was resumed at 11.20 a.m.

Baron van BOETZELAER (Netherlands) stated that he was authorized by his Belgian, Danish, Norwegian, Swedish and Swiss colleagues to express their general feeling of regret that the French representative was unable to support a compromise text which they had prepared. The French delegation felt obliged to enter a reservation in respect of subparagraph (2) of paragraph A of article 1 along the lines indicated in its amendment (A/CONF.2/75).

His colleagues and he felt that they must uphold the decision of the General Assembly, which, after having considered all aspects of the matter, and after having examined a similar amendment introduced by the French delegation in the General Assembly, had felt that the scope of the Convention should be broad. If, in order to win the support of certain countries, the General Assembly's decision was disregarded, many delegations would find the Convention difficult, if not impossible, to accept.

The Belgian, Danish, Netherlands, Norwegian and Swedish delegations could not vote in favour of the French amendment, but were ready to support the compromise proposal made by the Swiss representative at the twentieth meeting concerning the principle of restrictive reservations; they saw little point in the formulation of reservations which would extend the Convention's scope. He had been prepared to introduce an amendment similar in purport to the Swiss proposal but, in view of the prevailing circumstances, he would refrain from doing so.

The PRESIDENT, observing that the scope of article 1 had been discussed at very great length, suggested that when the Conference came to vote on the amendments before it, the Yugoslav amendment (A/CONF.2/16) should be put to the vote first, as it proposed the substitution of an extremely broad definition and was furthest removed from the Original text (A/CONF.2/1). The remaining amendments might be dealt with in the following order; the French amendment (A/CONF.2/75); the Swedish amendment (A/CONF.2/9); the United Kingdom amendment (A/CONF..2/27); the Austrian amendment (A/CONF.2/17); the Netherlands amendment (A/CONF.2/73); the second Netherlands amendment (A/CONF..2/77); the Egyptian amendment (A/CONF.2/13) the amendment submitted by the delegation of the Federal Republic of Germany (A/CONF.2/76) and, finally the second United Kingdom amendment (A/CONF.2/74).

He understood that an amendment had also been introduced by the Belgian delegation, although it was not yet available in English. It would shortly be circulated as document A/CONF/2/78.

Mr. ROCHEFORT (France) thought that a vote should first be taken on the Egyptian amendment (A/CONF.2/13). Although that amendment merely modified paragraph C of article 1, it nevertheless affected the question of the origin of refugees, which was dealt with in paragraph A.

The PRESIDENT was perfectly willing to consider alternative suggestions for the order of voting. The order he had proposed was based on that of the provisions of article 1. The Egyptian amendment could be put to the vote earlier, but certain delegations might find it difficult to take a final position on it before a decision had been reached on sub-paragraph (1) of paragraph A.

Furthermore, some representatives felt that the general discussion had so far been concentrated on paragraph A of article 1, whereas paragraph C had been examined only cursorily in connexion with paragraph A. He would personally be reluctant to put the Egypt amendment to the vote forthwith, in view of the fact that its author was absent from the present meetings.

Mr. AL PACHACHI (Iraq) announced that he would be prepared, in the absence of the Egyptian representative, to defend his amendment.

Mr. HOARE (United Kingdom) agreed with the president that in voting on the amendments the order of the provisions of article 1 should be followed. For example, if the French amendment, which proposed the insertion of the words "in Europe" after the words "As a result of events occurring", were adopted, the Egyptian amendment would become superfluous.

He believed, however, that the general discussion had not yet been exhausted. He hoped that the Conference would not proceed to vote at the risk of excluding proposals which had not yet been submitted in final form, such as that made by the Swiss representative at the twentieth meeting.

Mr. ROCHEFORT (France) supported the United Kingdom representative. The attitude of the French delegation was the result of the surprise it had felt on learning of the President's apparent intention of closing the discussion on article 1. Before the order of voting on the various amendments was settled, the discussion of the general principle should be completed.

The French Government's attitude, as defined in the French amendment (A/CONF.2/75), entailed the possibility of reservations being entered to article 1 which would extend the scope of the Convention as a whole.

The PRESIDENT assured the United Kingdom representative that he was not pressing the Conference to begin voting prematurely; he had simply wished to indicate in advance the order in which the various amendments would be voted on. He agreed that certain general considerations had still to be thrashed out.

Mr. ROBINSON (Israel) asked whether the Swedish representative could agree to consideration of the second of his amendments, which dealt with what was sometimes known as the “non-personal convenience” clause, being deferred until sub-paragraph (5) of paragraph B, which dealt with the same subject, was taken up.

Mr. PETREN (Sweden) said that he could.

Mr. ANKER (Norway) shared the views expressed by the Netherlands representative on the French amendment (A/CONF.2/75). It would be remembered that the original text of article 1 had been adopted by 41 votes to 5, with 10 abstentions, by the General Assembly at its fifth session, which would seem to indicate that most governments were in favour of making the Convention as broadly applicable as possible, so as to ensure that it covered refugees from all parts of the world. He had listened with interest and respect to the arguments advanced by the French representative, and was well aware how much France had done to assist refugees. None the less, he was constrained to question the validity of the argument that, apart from the victims of events in Palestine and Korea, the problem of refugees was a European one. It could hardly have been forgotten that before the Second World War there had been not a few Greek and Armenian refugees from Asia Minor. He himself had visited many camps and settlements for such persons in Syria and the Lebanon, both of which had at that time been under French Mandate.

As the Netherlands representative had said, it would be more logical to extend the provisions of article 1 to all refugees, regardless of their country of origin, and to enable governments to enter reservations restricting their application of the Convention to persons coming from specific areas. That would be preferable to restricting the application of the Convention in the way proposed by the French representative, although he realised that even if the latter course were adopted it would always be open to any government to extend the scope of the Convention to refugees not covered by its provisions, even without making a specific reservation to that effect. The Conference should attempt to reconcile the views of the majority in the General Assembly - as expressed in the original text - with the wishes of the French government by amending article 36 so as to enable States to make restrictive reservations in respect of article 1.

Mr. ROCHEFORT (France) thought that - as the Israeli representative's statement had implied - the definition of the term “refugee” as at present incorporated in article 1 was based on the assumption of a divided world. If, however, it was considered that a single text should cover both refugees from Western Europe seeking asylum in the countries beyond the “Iron Curtain” and refugees from the latter countries seeking asylum in Western Europe, he wondered what the moral implications of such a text would be. The problem of refugees could not be treated in the abstract, but, on the contrary, must be considered in the light of historical facts. In laying down the definition of the term “refugees”, account had hitherto always been taken of the fact that the refugees principally involved had originated from a certain part of the world; thus, such a definition was based on historical facts. Any attempt to impart a universal character to the text would be tantamount to making it an “Open Sesame”.

The definition of the term “refugee” in the Constitution of the International Refugee Organization had given rise to certain difficulties, since it related solely to refugees who had acquired the status of refugee as a result of acts of war. That text had had to be

adapted to include a new category of refugees. If the text were now to be applied to refugees coming from all parts of the world, violence would be done to those very historical considerations which underlay and inspired the Convention.

Mr. HERMENT (Belgium) pointed out that it was not a matter of the protection given to refugees by the United Nations, but of the protection given by Contracting State to refugees in their territory. If the countries which the French representative clearly had in mind signed the Convention, it would matter little, in practice, whether or not they accorded to any refugees from western European countries who might seek asylum on their territories the benefits of the provisions of the Convention.

Mr. WARREN (United States of America) said that, as the discussion seemed to have taken a critical turn, he felt bound, albeit with reluctance, to intervene in order to reply to those who had argued that to attempt to make any change in the original text of article 1 would be contrary to the intentions of the General Assembly. The Conference was free to accept, to alter or to reject the text of article 1, as could be seen from the terms of General Assembly resolution 429 (V), paragraph 2 of which read as follows:

“Recommends to governments participating in the Conference to take into consideration the draft Convention submitted by the Economic and Social Council and, in particular, the text of the definition of the term ‘refugee’ as set forth in the annex hereto;”

There was nothing surprising in the fact that, when the question of the definition alone had been under consideration by the General Assembly by some sixty States, a very liberal approach should have been adopted, which had naturally resulted in the widest possible definition. It was, however, one thing to frame a definition in the desire to assist all refugees irrespective of their country of origin, and quite another to adjust that definition to the remaining provisions of the Convention, which the General Assembly had not considered in the light of its own definition. Had it done so, many delegations would without doubt have had second thoughts about article 1. If, when considering the articles other than article 1, the Conference had been aware that the Convention was to apply to all refugees without distinction, it would undoubtedly have proceeded differently. As it was, the provisions so far agreed upon had been adapted specifically for application to refugees from European countries.

Mr. HERMENT (Belgium), referring to the comments of the Norwegian representative, asked the French representative whether he considered that the insertion in sub-paragraph (2) of paragraph A of the words “in Europe” would mean that Armenian refugees would lose the status at present conferred on them by existing Conventions.

Mr. ROCHEFORT (France) replied that the refugees in question were completely covered by sub-paragraph (1) of paragraph A.

Mr. HERMENT (Belgium) admitted that that was true so far as concerned the refugees in respect of whom a decision had already been taken, but what would happen to the refugees in respect of whom no decision had yet been taken?

That problem might arise in the case of refugees who had not yet claimed the benefit of previous convention. The insertion in sub-paragraph (2) of paragraph A of the words “in Europe” would deprive that category of refugees of the benefit of the draft Convention at present being considered by the Conference.

Mr. ROCHEFORT (France) thought that the High Commissioner for refugees might perhaps give his opinion concerning the situation of the refugees to whom the Belgian representative had referred; incidentally, that state of affairs had persisted for some thirty years, so that the point raised by the Belgian representative seemed to be entirely academic.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees), replying to the French representative, said that an Armenian presenting himself now, for the first time, as a refugee would not be covered by the provisions of sub-paragraph (1) of paragraph A of article 1.

The PRESIDENT suggested that there were four courses open to the Conference: the adoption of the French amendment without any provision for States to make reservations in respect of article 1; the adoption of a narrow definition, by restricting the scope of article 1 to refugees from European countries, and of a clause enabling governments to make a reservation extending the applicability of the Convention to other refugees; the adoption of a broad definition giving governments the right to make a restrictive reservation, declaring that they would apply the Convention to refugees from European countries only; and the retention of the original text allowing for no reservations. He feared that the last course was unlikely to find favour with the Conference.

He suggested that, as the Yugoslav amendment (A/CONF.2/16) embodied a very broad definition which, if adopted, would eliminate the French amendment, it might be put to the vote immediately.

The Yugoslav amendment was rejected by 17 votes to 1, with 5 abstentions.

Mr. ROCHEFORT (France) wished to explain his vote. He had voted against the Yugoslav amendment because it seemed to be the result of theoretical and universalist reasoning, to represent an attempt to legislate in the abstract while ignoring historical facts.

The PRESIDENT suggested that the Conference should next vote on the French amendment (A/CONF.2/75).

Mr. PETREN (Sweden) said that the French amendment involved most delicate and vital considerations; he would accordingly suggest that further discussion on to be deferred until the following meeting so as to give time to representatives for reflection and informal consultation.

Mr. ROCHEFORT (France) supported the Swedish representative's proposal. The French delegation did not wish to take advantage of the absence of certain delegations which, of present, would have voted against the French amendment.

He would, however, emphasize the importance of the problem. Certain delegations wished to place in a position which implied moral censure countries such as, not only France, but also the United States of America, the Federal Republic of Germany, Italy, Austria and Australia, in whose territories there were a large number of refugees. To support their argument, they had cited the position of the countries which had voted in favour of a text on the General Assembly, but which had not bothered to take the trouble to send representatives to the present conference, thereby revealing their complete indifference to the refugee problem. By wishing to place the states favouring the "European" concept in a

morally reprehensible position, the countries for which the Netherlands representative had acted as spokesman were not showing much regard for the latter's position.

The French delegation could not yet say definitely whether the French Government would not consider that fact as preventing it from acceding to the convention. It should not be forgotten that France had acquired some considerable experience of previous conventions. That was why it would be wise to make it possible for France to become a party to the present convention.

Mr. HOARE (United Kingdom) supported the Swedish representative's suggestion. He agreed with the French representative that it would be most undesirable to press the matter to a vote. The United Kingdom Government was in those governments for which it would present difficulties. If unanimous agreement was to be reached, perhaps the best course to follow would be that suggested by the Swiss representative. He could not agree that, by entering a restrictive reservation, governments would call down upon themselves any moral obloquy. The possibility of such a reservation would in itself constitute recognition of what were believed to be practical difficulties. Reservations on article 1 would reflect on the goodwill of any State no more than would reservations on any of the other articles of the Convention.

If, however, the regrettable necessity should arise of having to put to the vote the various alternatives before the Conference, he would wish to express his desire that any proposal, however, informal, should be discussed on its merits, without undue importance being attached to the form in which it had been presented.

The PRESIDENT expressed his sympathy for the motives which had prompted the United Kingdom representative's remarks. It was perfectly true that no member of the Conference had any desire whatsoever to misinterpret or to censure the attitude taken by any country. All were inspired by the desire to achieve results, and he, as President, was anxious to do everything which might facilitate unanimous agreement. The range of opinion seemed to have been narrowed to such an extent that it should now be possible to secure agreement without prejudice to the view of any delegation.

He suggested that the most logical procedure would be to consider the various courses open to the Conference in the order in which he had enumerated them.

Mr. ROCHEFORT (France) said that a country might have its reasons for not wishing to commit itself to making restrictive reservations, but it could easily make reservations widening the Convention's scope, and thus prove itself generous, at the time of signature.

The PRESIDENT said that, although he was not an expert in the drafting of international instruments, he would wish to suggest that one solution might be to embody the alternatives in the text of article 1 itself, enabling governments to opt for whichever clause was most acceptable to them.

The Swedish representative's proposal that further consideration of the French amendment be deferred until the next meeting was unanimously adopted.

The meeting rose at 12.45 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Nineteenth Meeting

By General Assembly | 26 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. DHANCE
Colombia	Mr. GIRALDO- JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE

United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. BOZOVIC
Observer:	
Iran	Mr. KARAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugee Organization Council of Europe	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss. SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Association of Penal Law	Mr. HABICHT Mr. POSNER
International Council of Women	Mrs. FIECHTER
International Federation of Friends of Young Women	Mrs. FIECHTER
International League for the Rights of Man	Mrs. BAER
International Union of Catholic Women's Leagues	Miss. de ROMER
Pax Romana	Mr. BUENSOD

Standing Conference of Voluntary Agencies	Mr. REES
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mm. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

CONSIDERATION OF THE DRAET CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed from the eighteenth meeting):

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2/17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74, A/CONF.2/75 and A/CONF.2/76).

The PRESIDENT recalled the fact that at the beginning of the Conference he had proposed that consideration of article 1 should be deferred for some little time. He had done so not only because of the difficulties inherent in that article, but particularly because he had wished to give representatives an opportunity of getting to know each other and of creating that atmosphere of confidence and collaboration which had, he was glad to note, marked the Conference's discussions, before embarking on that vital article. He had often had occasion to use the word "unanimous" in announcing decisions, and hoped that he would have further opportunities of doing so. He would, therefore, urge representatives to bring all their goodwill to the difficult task of considering the substance of article 1, in order that unanimous agreement might be reached.

Before opening the discussion, he would call upon the representative of the Standing Conference of Voluntary Agencies working for Refugees, known more briefly as the Standing Conference of Voluntary Agencies, to make a statement.

Mr. REES (Standing Conference of Voluntary Agencies) said that he would preface his observations by reminding representatives that the Standing Conference, of which he (Mr. Rees) was Chairman, comprised twenty-three international and nine national organizations which had been working on behalf of refugees for at least five years under formal agreements concluded with the International Refugee Organization (IRO). Those agencies had offered an equal measure of assistance to the United Nations High Commissioner for Refugees. They had wished their voice to be heard at the present Conference because their work had been carried out in camps, among human beings, in the midst of human suffering and misery. The Conference was about to adopt a legal definition of the term "refugee". But in the course of the work it had so far completed it had by inference so defined that term that truth and justice demanded that the general impression thus created should be rectified. The voluntary agencies were aware that their role was to serve, and that of the Conference to legislate. But, while admitting that special cases existed, they could not but feel that the Conference had emphasised the

exceptional to the detriment of the normal. It had, in fact, to use a popular expression, thrown the baby out with the bath water. Its decisions had at times given the impression that it was a conference for the protection of helpless sovereign states against the wicked refugee. The draft Convention had at times been in danger of appearing to the refugee like the menu at an expensive restaurant, with every course crossed out except, perhaps, the soup, and a footnote to the effect that even the soup might not be served in certain circumstances.

Even those who had constantly attended the Conference's discussions might easily have gathered the impression that the average refugee was a black marketeer in currency, a bankrupt, a dangerous criminal, an enemy agent, a menace to the labour market and a person unfit for higher education.

Such persons certainly existed, as they did in every cross-section of society, but those who worked with refugees felt impelled to remind the Conference that refugees were men and women with like passions and the same qualities as any others, and that experience both in Europe and, especially, in the countries of resettlement had shown that the vast majority of them were a potential asset to any community.

The Conference had legislated for the worst type of refugee living in the most liberal country. He would urge representatives also to take into account the average refugee living in the most reactionary country.

It was the refugees themselves who would most earnestly study the Convention, and he would appeal to the Conference to ensure, at long last, that its deliberations sounded a note of generosity and liberalism, not one of fear and niggardliness. If representatives were satisfied that they had already provided sufficient safeguards and limitations, surely they could afford to be generous in defining those unfortunate persons who would benefit from the rights accorded in the Convention.

Mr. CHANCE (Canada) paid tribute to the eloquent statement of the representative of the Standing Conference of Voluntary Agencies.

He, for his part, did not wish to complicate the problems underlying article 1, and was, moreover, in the happy position of being able to accept almost any text which proved generally acceptable. He was personally in favour of the widest possible definition, and only regretted that it had been impossible to reach agreement upon it.

He had no amendment to propose and no argument to press, but he would like to put one consideration to the Conference. In so doing he would ask that his argument be taken at its face value, and that there should be no suspicion that any ulterior motives lay behind it.

In his opening remarks he had referred to the fact that refugees arriving in Canada were immediately granted the status of landed immigrants, with the result that they became permanent residents in Canada, enjoying most civic rights and assuming the usual civic obligations. The history of the migration movement into Canada showed that his country aimed at assimilating and absorbing immigrants.

Newcomers were prepared for Canadian citizenship in five years, which was the shortest possible statutory period. The fact that they were always spoken of as new Canadians revealed his country's attitude and objective. That attitude and that objective were not

determined by altruism, but by the conviction that that was the best policy for both parties to the bargain.

Nothing could be worse for refugees, whether they were already in Canada or whether they were waiting to enter, than to have a sense of being apart from the rest of the community. Psychological and economic integration was essential.

Of course, although the vast majority of refugees came to stay, some naturally yearned for home and hoped against hope that they might eventually be able to return there. Such persons were regarded with the greatest respect and consideration, and there was nothing in Canadian laws and regulations to prevent them from leaving the country if they wished. But in general, the Canadian Government would prefer that refugees who entered Canada with the intention of settling there permanently should not regard themselves as refugees within the terms of the Convention. No rights prescribed in the Convention would be denied to them in Canada.

Indeed, that was a point on which he could not lay too much emphasis.

Whether his Government acceded to the Convention or not, the Canadian authorities would give special consideration to refugees because of their special circumstances.

He was aware that particular attitude of mind was difficult to incorporate in the text of a legal document, and, indeed, feared that if paragraph D of article 1 were amended in that sense the Convention as a whole would be weakened.

He did not wish to cause such weakening, and had therefore refrained from submitting an amendment. The purpose of the Convention was to protect refugees, not States.

He would sum up by saying that in the Canadian Government's view it was in their own interests for refugees to try and put the past behind them, and welcome their new life in Canada and their status as new Canadians.

Mr. ROCHEFORT (France) interpreted the eloquent statement by the representative of the Standing Conference of Voluntary Agencies as referring in spirit to all restrictions which were not in the interests of refugees, regardless of whether they manifested themselves in the attitude of the receiving countries or in that of the countries of immigration. He would like to explain once again that the desire shown by certain delegations, including the French delegation, to give governments the opportunity of separating the wheat from the chaff whenever necessary sprang from a sincere wish to protect the interests of refugees so far as possible. If refugee status was to be granted to criminals, immigration countries could not fail to question its value. Furthermore, it was the duty of governments responsible for hundreds of thousands of refugees who had settled in their territories to see that the activities of undesirable elements did not cause a wave of xenophobia prejudicial to the mass of refugees as a whole.

Referring to the remarks of the Canadian representative, he pointed out that Canada had been one of the countries which, in 1949, had urged the French delegation to restrict the scope of the text it had proposed for the Statute of the High Commissioner's Office. He understood why the Canadian Government should wish its refugees to forget what they had undergone in the past and enter unreservedly into the life of their new country. He could not, however, share its views on the matter, for he felt that one of the most sacred

rights of the individual was to be allowed to preserve his attachment to his native country; France was, in fact, sheltering within her territory a large number of Spanish refugees who, as the Constitution of IRO actually stated, were no more than temporarily resident in France.

He then introduced his amendment to sub-paragraph (2) of paragraph A of article 1 (A/CONF.2/75). Its object was to reinstate the words "in Europe", which had appeared in the initial draft adopted by the Economic and Social Council. He took the opportunity of mentioning that his amendment was submitted on formal instructions from the French Government.

Reviewing the background to the problem, he recalled that since 1949, when the status of refugees had first been dealt with on an international level, many positions had been adopted and many theories advanced. According to one of them, the definition to be embodied in the Statute of the high Commissioner's Office should be as narrow as possible, while that appearing in the Convention on the Status of Refugees should be as broad as possible. That position was not held by any delegation represented at the present Conference; those who held it were not represented, a fact which explained what they had had in mind. They had wanted to limit the mandate of the Office of the High Commissioner so that it would not apply to refugees within their territory, whereas, if they were not intending to sign the Convention, the definition used in that instrument could be as broad as possible without any inconvenience to them. The French Government, which was responsible for hundreds of thousands of refugees, had not been able to share that view.

Originally, there had been two opposite points of view; the first had been that of the French delegation, which had formed the subject of a draft submitted to the Ad hoc Committee on Statelessness and Related Problems. That draft would have ensured that the Convention became an important instrument for the international protection of refugees as well as a fine expression of international solidarity. It had been conceived in the most generous spirit and had prohibited any discrimination between refugees and non-refugees; it had proclaimed the need for States to take the necessary action, both on the national and on the international plane, to enable refugees to enjoy human rights and fundamental freedoms; it had expressed a desire to see the Convention applied on an ever-widening scale; and it had stated the need for countries to bring their legislation into harmony with the Convention, and the need for a large number of accessions to ensure the Convention's practical implementation. The text, which had listed the duties incumbent upon refugees, had further contained a clause under which Contracting States undertook both to give sympathetic consideration to refugees' applications for admission and to recognize the international nature of the responsibilities which that entailed for certain countries. Two-thirds of the Ad hoc Committee had opposed that draft, and its various sections had been rejected by a large majority.

The other argument, which the United Kingdom Government seemed to have favoured from the outset, was to be found in the comments which the United Kingdom Government had submitted on the report by the Ad hoc Committee on Statelessness and Related Problems. The United Kingdom Government had stated that it had no intention of modifying the fundamental principles applied within its territory, or of creating a class of aliens enjoying special privileges. It had further stated that, although it saw no need for

preparing a convention, it would be favourably disposed to acceding to one if it was actually drawn up. The French delegation had had to abandon its position, first, because the Ad hoc Committee had shown no sympathy for any of the generous principles embodied in its draft, and secondly, because it had wanted to preserve within the dual framework of the Convention and the High Commissioner's Office the international solidarity of IRO's Member States which had made that Organization a success. It had therefore felt that any text which failed to command the widest measure of support on those two points would be of no practical value. Hence, while still trying to arrive at as liberal and generous a text as possible, the French delegation had tried to find a compromise solution, which it thought it had indeed discovered in the General Assembly resolution of 1949 (319 (IV)) and in the text to which the Economic and Social Council had given final form in 1950 (Council resolution 319 (XI)). Except for a few changes, that text was to be found in the draft Convention. The essential change was the deletion of the words "in Europe" from article 1. The French delegation thought it was important to point out that those words had appeared in the first draft prepared by the Ad hoc Committee and also in the second draft prepared by the Economic and Social Council. Only at the very last minute had they been deleted, against the wishes of one of the countries of the New World which had taken the greatest and most constructive interest in the work of IRO. The French delegation had agreed to their deletion, considering that the amount of opposition which its attitude had provoked bore witness to the lively interest taken by the various countries in the Convention.

At that time, of course, it had been possible to regard the matter with a certain scepticism, as the countries concerned had only shown interest in the definition, and not in the actual articles of the Convention, which constituted the actual commitments which States would have to undertake. How could one have imagined that certain countries in Asia and elsewhere would be in favour of a definition by which States which undertook to grant to refugees the rights concerned would be obliged to do so without knowing who were to be the beneficiaries, and when neither the results of the Rockefeller Foundation's enquiry nor the total number of refugees concerned were yet known? The fact that 41 delegations had voted for the draft of the Convention on the one hand, and the number of invitations sent out by the Secretary-General on the other, had raised hopes that for the first time the world was showing a lively interest in the refugee problem. The composition of the present Conference had frustrated those hopes. Where were all those 41 countries? It was certainly right to be optimistic and to hope for a large number of accessions. But in the light of certain statements made by delegations to the Conference, it had to be admitted that the attempt to establish a general international system of protection covering all refugees had failed. Countries that were not represented at the Conference had accused the French delegation of a lack of generosity. It was always easy to be generous with words. But, as the United Kingdom representative had rightly remarked, the text of the Convention was not a treaty under which the Contracting States assumed certain obligations in exchange for certain advantages; it was rather a form of solemn declaration made in order to benefit a third party. That was profoundly true, and it would be fruitless, even with the existing link with the High Commissioner's Office in article 30, to attempt to find some means of securing advantages later, which the General Assembly certainly did not intend should be given either in the shape of funds or in that of assistance. The French Government considered that it was out of the question for it to accede to a Convention

which included obligations towards the representative of the United Nations, unless countries represented in that Organization which were not taking part in the work of the Conference undertook similar obligations. Moreover, the present text constituted a blank cheque.

He emphasized that there was no point in saying that the Convention governed neither the right of asylum nor the conditions of entry. That was an extremely doubtful point; it might be clear so far as island countries were concerned, but it appeared in quite another light to countries on the continent of Europe. The question, then, was whether the latter countries could undertake, towards countries which would not be bound in a similar manner, international obligations - in the moral sense they had already done so - regarding the right of asylum. In that connexion, the situation of island countries could not be compared with that of the continental countries, which were in direct physical contact with the source from which the refugees came. So far as France was concerned, the idea of the right of asylum was bound up with that of the type of refugee concerned. From a practical standpoint, therefore, the definition laid an obligation on countries that were responsible for hundreds of thousands of refugees. The definition was a dynamic one which covered, not only all the refugees who existed at present, but also all those who would come after them. It also covered every part of the world. No other convention had ever gone so far in that field.

Moreover, neither the total number of refugees, nor their distribution by nationality of origin, was yet known. The absence of the words "in Europe" therefore raised a whole series of problems. The French Government could not undertake to accede to the Convention until those problems had been solved. Furthermore, as the representative of Egypt had pointed out, the effect of paragraph C of article 1, for example, would be merely to postpone the inclusion of the Palestinian refugees. The French delegation was more than sympathetic towards the Arab refugees in Palestine (France was, incidentally, one of the countries which were helping in the efforts made on their behalf), and would view with favour any convention which directly concerned them; but it nevertheless considered that the problems in their case were completely different from those of the refugees in Europe, and could not see how Contracting States could bind themselves by a text under the terms of which their obligations would be extended to include a new, large group of refugees, not as the result of a decision freely arrived at, but through the operation of United Nations policy - or, in other words, by the withdrawal of the assistance which various United Nations bodies were at present giving to the Arab refugees in Palestine. The problem of those refugees was one of such importance and such urgency that before a text was drawn up on the matter, it would have to be studied in a way in which it had never been studied before.

It might be thought, if the problem was viewed from a theoretical standpoint, that provisions covering all refugees in general could be embodied in a single text. Such a view would, however, be unrealistic, since conditions varied in different countries. To adopt such a method would be to confuse questions which had nothing in common. The problem arose, for example, of the way in which the obligations laid on Contracting States by the Convention would in practice meet the real needs and the situation of the Arab refugees in Palestine. What countries would in fact consider extending the benefits of the Convention to Arab refugees in Palestine? The immigration countries? Their laws did not provide for

the immigration of refugees from countries outside Europe. The European countries? They already had to bear a very heavy load of refugees. Even the European countries which were interested in obtaining international assistance in that field, knew that even if the Convention granted it to them, their case would not be considered by the United Nations in the face of problems of current world importance such as, for example, the reconstruction of Korea or the relief of famine in India. The truth was that progress in the international field was necessarily slow. One region in the world was ripe for the treatment of the refugee problem on an international scale. That region was Europe. One problem was ready to form the subject of an international convention, namely, the problem of the European refugees. All refugee problems could not be dealt with in the same convention, for to do so would be to risk jeopardising what could certainly be done for the sake of something which could not perhaps be achieved. France, for her part, was responsible for too great a number of refugees to seek to extend her generosity to parts of the world which took no interest in the solution of such problems. There was no reason why the High Commissioner for Refugees should not, if necessary, take the initiative of drawing up conventions to meet the needs of different groups of refugees in accordance with their various requirements. France would take a leading place among the States that wanted to collaborate in such work. Later, when once the various conventions existed, it would perhaps be possible to combine them in a single convention.

Finally, it was on the formal instructions of the French Government that his delegation had submitted its amendment, and it was his duty to make a reservation with regard to the possibility of his Government's acceding to the Convention if the text of the French amendment was not incorporated in it. He also wished to stress the fact that it appeared preferable to draw up a text which would allow governments like that of France to sign a Convention covering 300,000 refugees, than to adopt a wording, the universality of which would make it unacceptable or useless.

Mr. PETREN (Sweden) said that before commenting on his delegation's amendment (A/CONF.2/9) he would make some general comments on the Swedish Government's attitude.

Sweden was a country of asylum, situated near territories whence refugees fled. It had pursued a liberal policy, and would like to continue to do so, but the fact must be taken into account that its capacity for absorbing large numbers was limited and that, particularly in the present serious state of world affairs, considerations of national security must play a certain part. He associated himself with the views expressed by the French representative.

Turning to the draft Convention, he would recall that the Swedish Government had had no share in the preparatory work, and was consequently not quite so well versed as others in the background to the question. In its view it was in any case essential that the text should be as clear as possible, since in its interpretation of any convention the International Court of Justice could only take into account its actual text, not what had been said during the preparatory work without finding expression in the text.

The full significance of article 1 emerged when it was viewed in relation to articles 27 and 28.

According to the President's interpretation, article 27, which dealt with the expulsion of refugees lawfully in a country, meant in practice that a refugee was only lawfully resident

so long as no had a residence permit. Once that document had expired and not been renewed, the refugee was no longer lawfully resident in the territory that had issued it. But article 28 which dealt with expulsion to the country of actual persecution, was conceived in absolute terms, and allowed no discrimination between a lawfully or unlawfully resident refugee. If article 1 were made to cover categories of refugees other than those fleeing from actual persecution, a State would thus be enabled, under article 27, to take certain safeguards by granting temporary permits. Consequently, he submitted that a widening of article 1 would work to the detriment of the Convention as a whole.

Turning to the Swedish amendment (A/CONF.2/9), he pointed out that the first part suggested the inclusion in sub-paragraph 2 of paragraph A of a reference to persons who might be persecuted owing to their membership of a particular social group. Such cases existed, and it would be as well to mention them explicitly.

The second part of the amendment was intended to get round the difficulties inherent in the phrase: "for reasons other than personal convenience". That phrase referred, it had been pointed out, to such considerations as the memory of past sufferings, and was understandable enough, but he would submit that it would be very difficult to translate it into terms of domestic legislation. It attempted to exclude the possibility of a refugee's availing himself of asylum for the sake of financial gain, but nevertheless an individual's real motives might not always be easy to gauge. The Swedish Government would be unable to accept a text which was not sufficiently limited and precise.

The opening words of sub-paragraph (2): "As a result of events occurring before 1 January 1951", also gave rise to some misgivings. It was impossible to estimate the number of persons who had fled or who would flee as a result of those events. There were hundreds and thousands of people in the totalitarian countries who probably wished to flee as a result of those events, but had not yet been able to do so. It would be inadvisable to open the door of entry so wide that States might be obliged to treat as refugees persons who were, in fact, able to return to their countries of origin.

Finally, he considered that the statement made by the French representative provided much food for thought, and he would prefer to state his position on it at a later stage in the debate.

Mr. del DRAGO (Italy) recalled that the Italian delegation had had occasion to express its satisfaction that the definition of the term "refugee" approved by the General Assembly in December 1950 (resolution 429 (V)) approximated closely to the views which had been expressed on many occasions by the Italian Government, which had stressed the need for a convention covering the greatest possible number of refugees. While the definition in article 1 was satisfactory in that it covered longer periods of contemporary history, its geographical scope had caused some uneasiness. The Economic and Social Council had limited the definition to European refugees. The Italian delegation, which had not been able to attend the meetings of the Council except as observers, had consequently been unable to oppose the definition of the term "refugee" being extended to cover refugees throughout the world. It took the present opportunity to stress the fact that for Italy, a country where the refugee problem was particularly serious because of its surplus population and high incidence of unemployment, the possibility that the Convention might be applicable to all refugees throughout the world could not but give rise to the gravest

misgivings. The deletion of the words "in Europe" enlarged the problem to enormous proportions which were neither foreseeable nor measurable. If the Convention covered Europeans who wanted to settle in overseas countries with a western civilization, the rights and duties of the refugee and of the receiving country could be defined. But if the western countries - the only ones which would assume a specific obligation by signing the Convention - were obliged to admit the victims of national movements such as those which had recently occurred in India and the Middle East, they would be faced with very serious problems, and would be quite unable to meet the commitment which the application of the Convention in its present form would entail. At the same time, they would have no knowledge whatsoever of the intentions of the High Commissioner for Refugees, who himself did not yet know the conclusions that would be reached in the Rockefeller Foundation's report. A precise definition might be commensurate with precise obligations; but a definition as wide as the one at present included in article 1 could only be commensurate with very general commitments, and intentions, however good and humanitarian they might be, had to remain within the bounds of practical possibilities. The Italian Government would find it extremely difficult to accede to the Convention if the original text of article 1 were not reinstated, so as to restrict the application of the Convention to European refugees alone. The Italian delegation would therefore support the French amendment. It was also in favour of the Swedish amendment.

MOSTAFA Bey (Egypt) thanked the French representative for the sentiments he had expressed about the Arab refugees from Palestine. He would like to assure the French delegation that he fully understood its apprehensions; it should be noted, however, that the present situation of those refugees was a temporary one, and that the relevant resolutions of the General Assembly provided that they should return to their homes. If the Egyptian delegation had brought up the question of those refugees, it had done so because the present Conference was an offshoot of the United Nations, and the United Nations was responsible for their tragic fate. It was therefore the duty of members of the Conference to find a solution to the problem of those refugees. By its resolution of 11 December, 1948, the General Assembly had ordered the return to their homes of the Arab refugees who had expressed the desire to return. That resolution had had no practical result, and the situation had gone from bad to worse. Yet the only true solution of the problem was to ensure the return of the Arab refugees to their homes.

Introducing his amendment (A/CONF.2/13), he said that the aim of his delegation at the present juncture was to grant to all refugees the status for which the Convention provided. To withhold the benefits of the Convention from certain categories of refugee would be to create a class of human beings who would enjoy no protection at all. In that connexion, it should be noted that article 6 of Chapter II of the Statute of the High Commissioner's Office for Refugees contained a comprehensive definition covering all categories of refugees. The limiting clause contained in paragraph C of article 1 of the Convention at present covered Arab refugees from Palestine. From the Egyptian Government's point of view it was clear that so long as United Nations institutions and organs cared for such refugees their protection would be a matter for the United Nations alone. However, when that aid came to an end the question would arise of how their continued protection was to be ensured. It would only be natural to extend the benefits of the Convention to them; hence the introduction of the Egyptian amendment.

Mr. Al PACHACHI (Iraq) also thanked the French representative for his generous and understanding attitude towards the problem of the Arab refugees from Palestine. He would point out that paragraph C of article 1 had been inserted in the definition at the express request of the Arab countries which had not wished to impose on Contracting States the burden of the Arab refugees from Palestine so long as the United Nations was caring for them. When the assistance at present being given by the United Nations came to an end, and the Convention accordingly became applicable to those refugees, it would not by any means follow that they would emigrate to France or other western European countries, if only for purely material reasons. The few persons who would be able to afford such a journey would definitely not become a burden on the governments of the receiving countries, because their journey would not in itself be possible unless they possessed sufficient means to support themselves.

Mr. HOARE (United Kingdom) said that the French representative's expose reflected the divided opinion which prevailed on the refugee problem. He (Mr. Rochefort) was not alone in feeling disappointment with article 1, although others were perhaps disappointed for different reasons.

The United Kingdom Government had always advocated the widest possible definition, not from such egoistical considerations as that the United Kingdom was an island, and therefore better able to control the movement of refugees, nor for want of appreciation of the assistance given by other countries, but on the grounds that the status of refugee should be granted to any person fleeing from persecution. The purpose of the Convention was to give refugees certain minimum guarantees, and since it was being drawn up under the auspices of the United Nations those guarantees ought not to be limited to refugees from a particular area. The Convention was primarily, indeed almost entirely, concerned with minimum rights and guarantees applicable to refugees once they had been admitted to the territory of a Contracting State. As had been pointed out at the present Conference, the Convention did not deal with the admission of refugees into countries of asylum or with the circumstances in which a State might refuse asylum. Indeed, the only article which had any bearing on that aspect of the matter was the article (28) prohibiting the expulsion of a refugee to a country where his life or freedom would be in danger. That was merely a recognition of the humanitarian practice followed by all countries of asylum, and the Conference had already amended that article so as to provide adequate safeguards for national security and public order. He would therefore urge the Conference, when it considered the French amendment (A/CONF.2/75), to keep in mind the fundamental purpose of the Convention. It was of course true that while the Convention related to events occurring before 1 January 1951, the movement of refugees caused by those events might persist in the future. The French representative had stated that he was willing to accept that conception in relation to events occurring in Europe. What would be the consequences of extending it to events outside Europe? Events had, for instance, occurred on the Continent of America, causing a movement of refugees. That movement might continue; but he could not believe either that it had been in the past, or that it would become in the future, a serious burden on European countries. Even if an eastward movement were to take place, the European countries would be able to control it. They would, in fact, in relation to any such movement, become countries of immigration in the same way as countries on the Continent of America were at present countries of immigration for European refugees, and would enjoy the same means of controls.

Turning to the category of refugees who were excluded from the present Convention under paragraph C, for example, the Palestinian Arabs, in his view the effect of the paragraph as drafted was to make the exclusion permanent. That was, indeed, why the Egyptian representative had submitted his amendment (A/CONF.2/13), since he wanted to provide for the possible future inclusion of that group within the Convention. He (Mr. Hoare) was supported in his view by the quite different reference to that category in the Statute of the High Commission (E/1831).

The Iraqi representative's argument was also pertinent, and he (Mr. Hoare) fully agreed that the risk that European States might be faced with a vast influx of Arab refugees was too small to be worth taking into account. If such an influx did occur, either from the Arab states, or from the Latin American countries, or from the Far East, the matter would be one for each European country to deal with individually. There was very little likelihood that future movements of refugees caused by events occurring before 1 January 1951 would be felt in Europe. As the French representative had rightly pointed out, such movements would more probably be felt in such countries as Australia or the Non-Self-Governing Territories under British Administration.

Even if such an influx into Europe did occur, was it conceivable that European countries which had hitherto given refugees certain minimum rights would, even in the absence of a Convention, give the new arrivals less? They would, by adhering to the Convention, merely be undertaking to give to refugees from outside Europe who were admitted to their territory the rights which they would undoubtedly give them in any event.

The result of reinstating the words "in Europe" must, moreover, also be considered from the point of view of the overseas countries. It would be premature to suppose that overseas countries would not accede to the Convention. Whether they did or not, it was surely not desirable to put countries in Latin America, for instance, who might wish to accede to the Convention, and who had within their borders refugees both from Europe and from American countries, in the position of being able to accede only in respect of European refugees, and not in respect of the others. It was of the utmost importance that a convention negotiated under the auspices of the United Nations and with the participation of many non-European States should provide minimum guarantees for all refugees, wherever they came from.

MOSTAFA Bey (Egypt) supported the views expressed by the United Kingdom representative. The provisions of paragraph C would cease to be applicable the moment the aid at present being given by the United Nations to Arab refugees ceased; the latter would then be eligible for the benefits of the Convention.

The Egyptian delegation had submitted its amendment in order to avoid any misunderstanding as to the interpretation to be placed on paragraph C. Had the Egyptian Government thought that the present Conference would deal with the fate of European refugees alone, it would not have sent a delegation.

Moreover, General Assembly resolution 429 (V), which instructed the Secretary-General to convene the Conference, had also stipulated that the Conference should be a general one; no one, therefore, had the right at the present juncture to limit the Conference's field of activity to the problems of European refugees alone. He would ask the President to be so good as to confirm his interpretation.

Mr. HOARE (United Kingdom) wished to make it quite clear that he understood paragraph C to exclude persons who were defined as those who at the time when the Convention came into force were receiving protection or assistance from United Nations organs or agencies, and that the cessation of the operations of such organs or agencies would not bring such persons within the scope of the Convention.

The PRESIDENT, replying to the Egyptian representative, said that it was not for him (the Chairman) to give a ruling as to whether or not it was right for the Conference to restrict the scope of the Convention. The Conference had, however, the power to restrict, if it so wished, by a majority vote, the application of the Convention to a specific group or groups of refugees.

Mr. ROCHEFORT (France) wished to point out that the question of whether the Arab refugees were covered by the Convention was a controversial one: according to the United Kingdom representative, those refugees were permanently excluded from the benefits of the Convention, whereas the Egyptian representative thought that the true interpretation was exactly the opposite. At the present stage he (Mr. Rochefort) would do no more than take note of the divergent views and point out that several methods of giving satisfaction to all Contracting States had been contemplated. One of those methods was that Contracting States should be free to extend the benefits of the Convention, at their discretion, to new categories of refugees. That method had been rejected, and another procedure had been adopted; that procedure was obviously more ambiguous, since two delegations which were keenly interested in the problem, and which had both followed it very closely, were unable to give an authoritative interpretation of paragraph C of article 1.

Mr. WARREN (United States of America) said, referring to the French proposal (A/CONF.2/75) that the words "in Europe" should be reinstated in the definition of the term "refugee", and to the Egyptian amendment to paragraph C (A/CONF.2/13), said that on the first issue the attitude of the United States Government was well known; the United States delegation continued to support the French thesis and the French amendment. He had listened with great interest to the United Kingdom representative's lucid explanation of the reasons why he supported the more universal definition of the term "refugee". That was the first time he had heard such an approach made; unfortunately, the United States delegation could not share it. The United States approach was much more limited.

Prior to the outbreak of the second world war, a series of conventions dealing with the situation of refugees, primarily in Europe, had been in force. The war had then produced a large number of refugees with whom the United Nations had undertaken to deal. IRO had been set up, the membership of which had been open to all Governments, both Members and non-Members of the United Nations alike, and the fact that only 18 governments had chosen to join IRO indicated the degree of active interest in the world in the refugee problem. When IRO, which had finally succeeded in re-settling some one million European refugees, ceased to function, there would still be an important task to be carried out in Europe, part of which had been entrusted to the United Nations High Commissioner for Refugees. It was still, however, necessary to provide those refugees who remained in Europe with legal status, because the protection provided under reciprocal treaty arrangements did not cover refugees who had become detached from their country of origin. It was in order to meet that need that the United States Government had decided to participate in the drafting of the Convention on the Status of Refugees. It would be agreed

that, if the work of the Conference was to have any real and practical effect, it was necessary when drafting contractual obligations to be as specific and precise as possible, and, so far as refugees were concerned, to know exactly what refugees were intended to be covered. That had not been the view taken when the matter had been discussed in the General Assembly. Some 60 Governments were represented in that body, and it was, therefore, perhaps, natural for it to develop the concept, advanced by the United Kingdom representative, of a universal charter for all refugees to be applied by all the governments of the world. That concept had found expression in the broad provisions of article 1 of the draft Convention, as set out in document A/CONF.2/1, and the still wider provisions of the Statute of the High Commissioner's Office.

The United States delegation urged that one constructive step should be taken at a time, and felt that a convention drafted to meet European requirements was the first step. In his view, the development of an unrestricted charter for refugees would involve a certain amount of duplication of effort between the preparation of the draft International Covenant on Human Rights and the drafting of the present Convention, and would represent a very much larger undertaking, in which the United States Government would be only too willing to participate if and when it was clearly understood that such was the objective. An immediate attempt to achieve such an objective, however, might entail the loss of the advantages that would accrue from the conclusion of a convention of a more limited application.

He could not share the view that, because of certain geographical factors, there was no need to feel particular concern about the wording of article 1, and that a contract could be signed without hesitation, on the assumption that an obligation which it entailed would not require to be implemented. Everyone knew that governments always sought to know precisely what commitments they were entering into.

Again, the United States of America had participated in the drafting of the Convention in the hope that some real service would be rendered to those countries that depended on reciprocal treaty arrangements. An honest effort had been made in the United States of America to apply the provisions of the draft Convention, but both constitutionally and in practice considerable difficulties and unforeseen factors had emerged, which, if the attempt were pursued, it would take Congress and the United States Supreme Court years to resolve. The United States delegation had refrained from introducing amendments to various clauses of the draft Convention with the object of making them more suitable for application in the Western hemisphere, because it had felt that the amendments that would have been necessary for that purpose would have made the clauses less adaptable to the needs of Europe. He mentioned that fact in view of the United Kingdom representative's contention that it would be easy to find a common denominator that would suit all refugees, known or unknown, present or future, in any part of the world.

With regard to the United Kingdom representative's comment that the insertion of the words "in Europe" would preclude Latin American countries from providing protection for other than European refugees, he would stress that the current practice in Latin American countries was such that the inclusion of those words could not possibly have a serious adverse effect on the status of refugees in that part of the world.

Turning to paragraph C, he recalled that the draft before the Conference was the one that had been adopted after the Arab States represented in the Third Committee of the General Assembly had made three attempts to devise a suitable text. He agreed with the United Kingdom representative's interpretation of that paragraph, and also with the French representative's observation that adoption of the Egyptian amendment (A/CONF.2/13) would present Contracting States with an undefined problem, and so reduce the number of States in Europe that would find it possible to sign the Convention.

In closing, he would draw attention to the fact that, although the wording of paragraph C might conform to that of the Statute of the High Commissioner's Office, it made no sense in terms of the draft Covenant, for the latter was not the statute of an organ or agency of the United Nations. If the paragraph was retained as it stood, its effect would be to exclude all refugees who came within the competence of the United Nations; it therefore required re-drafting to remove that anomaly.

Mr. HOARE (United Kingdom) observed that he did not think that the universal charter referred to by the United States representative would have any different content from the present instrument. What was in question was simply how widely the latter was to be applied.

The United Kingdom Government had already made a concession by accepting the dateline of 1 January 1951 in the definition of the term "refugee", recognizing that the Convention had to be made acceptable to a larger number of States than those sharing the United Kingdom view. Now a further limitation was being proposed, one of a territorial nature.

He emphasized the fact that the United Kingdom delegation did not favour a solution by which obligations which they could not fulfil would be imposed on the States which signed the Convention; he had merely tried to show that the fears of some countries that they would be overwhelmed by an influx of refugees unless the words "in Europe" were reinstated were not well-founded.

Again, he did not contest the fact that the Latin American States accorded the kind of rights for which the Covenant provided. He had only drawn attention to the implication that such States, who might well wish to adhere to the Convention, would, if the words "in Europe" were included, be obliged to apply the Convention only to European refugees who had become refugees as a result of events occurring before 1 January 1951, and to leave out of consideration other refugees in their territories from other parts of the world.

Mr. WARREN (United States of America) said that all he had wished to point out was that, if he understood the position aright, the United Kingdom representative would accept the broader definition on the assumption that the full commitment entered into would not have to be honoured. In his view, it would be wrong to proceed on such an assumption in connexion with an instrument such as the one at present under consideration. He fully supported the point made by the French representative that nothing was known of the numbers and needs of refugees in the Far East. When that problem had been fully evaluated and the measures required to cope with it had been assessed, it would probably be found that such measures would have to be very different from those laid down in the draft Convention. If a refugee problem arose in the western Hemisphere, the same

consideration would apply. In his view, the refugee problem in general would only respond to regional solution through the medium of regional conventions.

Mr. GIRALDO-JARAMILLO (Colombia) supported the views expressed by the United States representative. In Latin America, the term "refugee" was only used to describe refugees from Europe; if there were isolated cases of persons who were exiled from Latin American countries for political or other reasons, those cases were exceptional, and the problem they raised could simply not be compared to that caused by the countries of Latin America included provisions which enabled them to solve the problem.

Mr. MONTOYA (Venezuela) supported the Colombian representative.

Mr. HERMENT (Belgium) said that the Conference was faced with a problem of vital importance, on which the success or failure of its work depended. It therefore seemed to him necessary to give the question the thorough examination it deserved, and to reflect adequately on the statements made at the present meeting before taking a decision. He would therefore make a formal proposal that the afternoon meeting should not open until 4 p.m.

Mr. ROCHEFORT (France) suggested that representatives might use the extra time thus made available to them to study the text of the 1933 Convention.

The object of that Convention was fairly limited, namely, to protect Russian and Armenian refugees and assimilated persons. However, in article 1 thereof, which defined the refugees to which the Convention was applicable, it was expressly laid down that the definition was subject to possible modification by the Contracting States. However, in the case of the draft Convention before the Conference there appeared to be a tendency to avoid reservations of that kind. But, when signing the 1933 Convention, the Government of Egypt had specified that it reserved the right to expand or limit the definition given in the Convention as it wished. Thus it appeared that the doubts echoed by certain delegations at the present Conference had already been expressed before.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his delegation, on formal instructions from the Federal Government of Germany, had submitted the amendment contained in document A/CONF.2/76. The intention of that amendment was not to touch upon the substance of article 1, but merely to provide a text for paragraph E in which the reference to the London Charter of the International Military Tribunal would be replaced by more appropriate references. That Charter had been approved in 1944 by a limited number of States which had taken part in the last war, and a considerable number of States attending the present Conference had not signed it or taken position on it. Reference to that document therefore appeared inappropriate in the draft Convention. His delegation had sought to resolve the difficulty by referring, so far as war crimes and crimes against humanity were concerned, to the appropriate provisions of the Geneva Conventions, which had been carefully drawn up and unanimously approved by practically the whole community of nations. He believed that all States represented at the Conference had approved their principles; and they had already come into force and been ratified by some 12 States. By associating the Geneva Conventions with the work of the Conference the humanitarian aims which should govern the Convention would be stressed. He made particular reference to the crime of genocide. His delegation's amendment also included a complete list of the crimes against peace enumerated in the London Agreement. The

Federal Government of Germany fully agreed that all war criminals should be excluded from the benefits of the Convention, but it could not subscribe to an express reference to the Charter of the International Military Tribunal. His delegation was willing to discuss the matter, if necessary in a small committee, with a view to arriving at an appropriate solution of the difficulty, and would be grateful for assistance in overcoming an obstacle which would prevent the Federal Government of Germany from subscribing to the Convention, as it sincerely wished to do.

Speaking at the invitation of the PRESIDENT, Mr. HABICHT (International Association of Penal Law) said he had noted with some concern the further attempt to restrict the number of persons who would benefit from the Convention, and that the United Kingdom representative was virtually the only speaker who had opposed the inclusion of the words "in Europe" in the definition of the term "refugee".

The International Association of Penal Law had hoped that the Conference would endeavour to elaborate a world-wide convention that would become a Magna Carta for the persecuted. He would respectfully draw the attention of representatives to the disadvantage at which the further restriction contemplated would place thousands, and, in the future, perhaps even hundreds of thousands, of persons. A convention with the scope of a Magna Carta and containing minimum conditions for the readjustment of refugees would be in the interests not only of the refugees themselves, but of all the countries of asylum. He would therefore urge careful consideration of that important aspect of the problem.

Mr. ROCHEFORT (France) said he would like to know more about the hundreds of thousands of refugees to whom the representative of the International Association of Penal Law had referred; would he also be so kind, as an expert on international law, to give his interpretation of paragraph C of article 1?

Mr. HABICHT (International Association of Penal Law) replied that the territorial limitation proposed by the French representative would have the effect of excluding all non-European refugees, and that existing refugees in the Middle East alone numbered over 100,000. It was impossible to forecast political developments, but a piecemeal treatment of the refugee problem by limitation as to time and region would be certain to exclude in the future millions of people.

He placed the same interpretation upon paragraph C as the United Kingdom representative had done. The phrase "at present" implied that the Convention should not apply to those persons receiving at a specific time protection or assistance from organs or agencies of the United Nations; it did not imply that when such protection ceased the refugees concerned would come under the protection of the Convention.

Mr. ROCHEFORT (France) thanked the representative of the International Association of Penal Law for his explanations. He observed that the clause which, according to the interpretation which had just been placed on it, excluded the Arab refugees from Palestine from the benefits of the Convention, had been inserted at the express request of the Arab States themselves.

Mr. WARREN (United States of America) remarked upon the tendency of those who advocated the broader definition to argue that millions of refugees would be excluded from

the Convention if the words “in Europe” were inserted in the definition. In the circumstances, they were in fact asking governments whether they were prepared to enter into obligations in respect of such large numbers of unidentified persons, and it seemed to him wrong for a body such as the Conference to seek to legislate on that basis.

He was confident that the United Nations would continue in being and that it would prove capable of dealing with any new situation as and when it arose. He felt sure that the Convention would not be the last international instrument relating to the protection of refugees, and urged that governments should be content to take one practical and specific step at a time.

The Belgian representative’s proposal that the discussion should not be resumed until 4 p.m. was unanimously adopted.

The meeting rose at 1.5 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-third Meeting

By General Assembly | 26 November 1951

Present:

President:	Mr. LARSEN
Members;	
Australia	Mr SHAW
Austria	Mr. FRITZER
Belgium	Mr HERMENT
Brazil	Mr de OLIVEIRA
Canada	Mr CHANCE
Colombia	Mr GIRALDO- JARAMILLO
Denmark	Mr HOEG
Federal Republic of Germany	Mr von TRÜTZSCHLER
France	Mr ROCHEFORT
Greece	Mr PHILON
The Holy See	Monsignor COMTE
Iraq	Mr AI PACHACHI
Israel	Mr ROBINSON

Italy	Mr del DRAGO
	Mr. THEODOLI
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr ANKER
	Mr ARFF
Sweden	Mr PETREN
Switzerland (and Liechtenstein)	Mr SCHÜRCH
Turkey	Mr MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr HOARE
United States of America	Mr NARREN
Venezuela	Mr MONTOYA
Yugoslavia	Mr MAKIEDO
Observer:	
Iran	Mr KAZEMI
High Commissioner for Refugees	Mr van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugee Organisation	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	
Caritas	Mr. BRAUN
	Mr. METTERNICH

Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organisations	Mr. WARBURG
Friends world Committee for Consultation	Mr. BELL
International Council of Women	Dr. GIROD
International Social Service	Miss FERRIERE
League of Red Cross Societies	Mr. LEDERMANN
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1 (continued)

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2/17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74, A/CONF.2/75, A/CONF.2/76, A/CONF.2/77, A/CONF.2/78, A/CONF.2/79, A/CONF.2/80, A/CONF.2/81) (continued)

The PRESIDENT invited representatives to resume their consideration of article 1 of the draft Convention, dealing with the definition of the term "refugee".

Msgr. COMTE (The Holy See) emphasized the vital importance of the definition of the term "refugee". He pointed out that considerable divergences had appeared in the Conference on that subject; to reconcile the different views that had been expressed and so reach unanimous agreement, he proposed that the following words be added to subparagraph A 2 of article 1: "in Europe, or in Europe and other continents, as specified in a statement to be made by each High Contracting party at the time of signature, accession or ratification." (A/CONF.2/80). Such a formula would satisfy both the French delegation and those other delegations which disagreed with its views. He hoped that his amendment would be taken into consideration, and that it would make it possible to achieve the unanimity which all delegations earnestly desired.

Mr. ROCHEFORT (France) thought the proposal of the representative of the Holy See an excellent solution; it had the merit of reconciling the universalist principles upheld by the Vatican with a proper sense of the responsibilities involved. As it also obviated the necessity for making a specific reservation to article 1, it should satisfy all delegations.

Mr. PHILON (Greece) and Mr. SCHÜRCH (Switzerland) supported the proposal of the representative of the Holy See.

Baron van BOETZELAER (Netherlands) also supported the proposal, on the understanding that the Conference was engaged for the time being only on the first reading of the Convention. If adoption of the proposal entailed consequential amendments to other articles of the Convention, they could be made at the second reading.

Mr. PETREN (Sweden) supported the Netherlands representative's statement and the reservation he had made.

Mr. HOARE (United Kingdom) said that he had throughout stood for what had been described as the universalist point of view, but even more for a unanimous solution. He consequently welcomed the proposal made by the representative of the Holy See and the French representative's acceptance thereof.

In accepting the proposal he must make the same reservation as the Netherlands representative, since it was more than likely that its formulation would have to be further considered and that it would necessitate consequential drafting changes elsewhere in the Convention.

Mr. HERMENT (Belgium) was very happy to agree to the proposal made by the representative of the Holy See. He expressed the strong hope that the Conference would not again be divided by such differences as had become apparent in that connexion.

The PRESIDENT said that the Conference had reached the stage at which it could take a decision on sub-paragraphs (1) and (2) of paragraph A of article 1. He would recall that those paragraphs were the subject of amendments submitted by the Belgian and the Yugoslav delegations (A/CONF.2/78 and A/CONF.2/79 respectively)

He would suggest that sub-paragraph (1), with the Belgian amendment thereto be put to the vote first, the Conference then taking a decision of principle on sub-paragraph (2).

He ruled the discussion on sub-paragraph (1) closed and asked the Conference to vote on the Belgian proposal (A/CONF.2/78) that the words: "Since 1 August 1914" be deleted.

The Belgian amendment (A/CONF.2/78) to sub-paragraph (1) of paragraph A of article 1 was adopted unanimously.

Mr. MAKIEDO (Yugoslavia) said that the second sentence of sub-paragraph (1) provided that all persons considered eligible by the International Refugee Organization (IRO) should be considered as such under the Convention, as well as the other persons referred to in sub-paragraph (2). He agreed that the eligibility decisions taken by IRO should not militate against the granting of refugee status to other persons, but was opposed to the acceptance en bloc of that Organization's decisions as to eligibility, since it had operated under special conditions and had granted the status of refugees to persons who could not, at the present time, be considered as such. Paragraph 2 of section A of Part 1 of Annex I to the Constitution of IRO read as follows:

"the term 'refugee' also applies to a person, who is outside of his country of nationality of former habitual residence, and who, as a result of events subsequent to the outbreak of the second world war, is unable or unwilling to avail himself of the protection of the government of his country of nationality or former nationality."

He was unable to accept the criterion of unwillingness, since a person might be unwilling to return to his country of origin for reasons of personal convenience. Governments had frequently disagreed with IRO about certain cases, and misunderstandings had arisen. It was for those reasons that his delegation had submitted its amendment (A/CONF.2/79) to the effect that the words "or withdrawn from persons who do not fulfil them" should be added at the end of the second sentence of sub-paragraph (1).

Mr. ROCHEFORT (France) pointed out that the sentence to which the Yugoslav amendment related should be understood in its original sense. It arose from a resolution adopted by the General Council of IRO with a view to preventing a decision adopted by that Organization as to the eligibility of a refugee being cited by a government against a person who might, but for that decision, be regarded as a refugee within the meaning of the draft Convention at present before the Conference. The points raised by the Yugoslav representative were answered in paragraph B of article 1, which applied, in fact, to all persons - even those declared eligible by IRO. The adoption of the Yugoslav amendment would have the effect of weakening the IRO definition, and the French delegation would therefore be unable to vote for it.

Mr. HERMENT (Belgium) suggested that the meaning of the sentence in question would be clearer if, instead of eligibility, it spoke of decisions as to ineligibility taken by IRO. It was difficult to see how decisions as to eligibility could prevent the status of refugee being accorded to certain persons.

Mr. ROCHEFORT (France) pointed out that the wording suggested by the Belgian representative was precisely what he (Mr. Rochefort) himself had originally proposed. The general Council of IRO had, however, explained that it would hardly be correct to speak of "decisions as to ineligibility", since there had never been any, the only decisions taken being those as to eligibility. The French delegation appreciated the Belgian representative's point, but was obliged to remark that it would be extremely difficult to find an expression that would exactly convey just what he had in mind. The term "refusal of eligibility" might, perhaps, do.

Mr. HERMENT (Belgium) agreed with that suggestion.

The PRESIDENT thought that the Belgian representative's point was a matter of drafting, which should not be raised at the present stage.

He ruled the discussion on the Yugoslav amendment closed.

The Yugoslav amendment (A/CONF.2/79) to sub-paragraph (1) or paragraph A was rejected by 10 votes to 2, with 9 abstentions.

The PRESIDENT stated that in view of the amendment introduced by the representative of the Holy See to sub-paragraph (2) and the French representative's acceptance thereof, he considered the French amendment (A/CONF.2/75) as having been withdrawn, and would put the former to the vote.

The amendment (A/CONF.2/80) to sub-paragraph (2) of paragraph A submitted by the representative of the Holy See was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT recalled that at the nineteenth meeting he had expressed the hope that the Conference would be able to reach unanimity on the difficult issues raised by article 1. He could not refrain from recording his pleasure at the unanimity with which the felicitous amendment submitted by the representative of the Holy See had been adopted.

He drew attention to the Swedish amendment (A/CONF.2/9), which proposed the insertion of the words "membership of a particular social group" after the words "for reasons of race, religion, and nationality" in the second and third lines of sub-paragraph (2).

The Swedish amendment was adopted by 14 votes to none, with 8 abstentions.

The PRESIDENT invited the Conference to consider the United Kingdom amendment (A/CONF.2/27) to sub-paragraph (2) of paragraph A.

Mr. HOARE (United Kingdom) said that the United Kingdom amendment was intended to remove a discrepancy from the text of sub-paragraph (2) which, as it stood, provided for two different types of condition which would enable a refugee to claim the benefits of the Convention. The first clause, which ran from the opening words down to the words "the protection of that country;" stipulated for refugees possessing a nationality the double condition of events occurring before 1 January 1951 and departure from their country of origin because of well-founded fear of being persecuted, whereas the second clause, which opened with the words "or who" and covered persons without nationality, imposed no corresponding stipulations in respect of such persons. The grammatical sequence was, so to speak, interrupted by the placing of a semi-colon between the two clauses, and although he, for his own part, having taken his stand on the wider point of view, did not object, he believed that, since the present wording represented a compromise solution, the text should truly reflect it. The purpose of his amendment was consequently to link stateless persons to those who were governed by the twin conditions of a date and a well-founded fear of persecution as the motives for their departure.

Mr. ROCHEFORT (France) had no fundamental objection to the United Kingdom amendment. He felt obliged to point out, however, that he had not studied the problem sufficiently, and was at the moment unable to form a clear picture of the practical consequences of adopting the amendment. The problem was of vital importance, since the measures involved could either give or withhold access to receiving countries on the part of refugees. The text which the United Kingdom amendment proposed to modify had been studied, in the case of the French delegation, by specialists. Speaking personally, he was unable to express an opinion for the time being, and therefore suggested that the amendment be referred to a working party for study.

Mr. ROBINSON (Israel) conceded that the United Kingdom representative's argument was valid, and that the text of sub-paragraph (2) as at present drafted stipulated two different kinds of prerequisite for refugees who possessed a nationality and for those who were stateless. The question was, however, much wider in scope than the United Kingdom representative had suggested. The process by which an individual became a stateless person consisted of three stages. First, he must leave his country; secondly, he must remain abroad; and thirdly, he must refuse to return to his country of origin. Consequently, if the text only covered persons who left their country for fear of persecution, it would exclude persons who for instance, went abroad on a diplomatic mission or to study and, while still abroad, were overtaken by a revolution which made it impossible for them to

return. In order to be able to claim the status of refugee, would it be enough for persons in that category to declare that they did not wish to return to their country of origin? Should all three stages in the process of becoming stateless be mentioned, or would the last and cardinal stage - the refusal to return - suffice?

The French representative had said that the issues raised by the United Kingdom amendment were very important. He (Mr. Robinson) believed that the Conference was not yet ready to vote on the matter, and that a working party should be set up to consider it.

Mr. HOARE (United Kingdom) thanked the Israeli representative for his lucid statement which illustrated his (Mr. Hoare's) contention that, according to the text of sub-paragraph (2), different conditions were required of persons possessing a nationality and of stateless persons respectively. At the same time, his (Mr. Robinson's) suggestion that there existed another category of persons who, having left their country for private reasons, subsequently found it impossible to return, was tantamount to modifying the principle on which sub-paragraph (2) was based. That was a question which the Conference must decide in plenary meeting. His (Mr. Hoare's) sole concern was to make sure that the same criteria were applied to persons having nationality and to stateless persons. It might be best for a working party to consider that particular point.

Mr. PETREN (Sweden) concurred with the Israeli representative's interpretation.

The PRESIDENT assumed that the United Kingdom representative had, for the time being, withdrawn his amendment (A/CONF.2/27), while reserving his right to re-introduce it at a later stage.

He ruled the discussion closed.

Paragraph A of article 1, as amended and as a whole, was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT invited representatives to turn to paragraph B or article 1, and drew attention to the Austrian amendment (A/CONF.2/27) to sub-paragraph (3).

Mr. van HEUVEN GOEDHART (United Nation High Commissioner for Refugees) said that the Austrian representative had asked him to speak on the Austrian amendment, the purpose of which was to ensure that refugees coming under the Convention continued to enjoy the benefits thereof, particularly in respect of international welfare measures, after naturalization.

While expressing his appreciation of the keen interest taken by the Austrian representative in the work of the Conference, he did not doubt that the latter would understand that he (the High Commissioner) found some difficulty in meeting his wishes.

The Austrian amendment would not affect the Statute of the High Commissioner's Office, since it contained the identical exclusion clause embodied in sub-paragraph (3). If the amendment, which attenuated that exclusion clause, was adopted, the outcome would be that a group of refugees, or rather former refugees, would come within the scope of the Convention, but would be outside the Statute of the High Commissioner's Office. There would thus exist the three following groups of refugees: those covered both by the Convention and the Statute; those not covered by the Convention but within the High

Commissioner's Mandate under the terms of paragraph 6 B (A/AC.36/1); and finally, those who in terms of the Austrian amendment would remain under the Convention but outside the Statute. In point of fact, the definition of the Statute would in that respect be narrower than the definition of the Convention, although the general provision of paragraph 6 B was in other respects wider. He wished to draw the attention of the Conference to those facts, particularly since the Statute was not under discussion, and the Austrian amendment raised an issue which the Conference must settle on its own merits.

He would like to add some further comments. Both in theory and in practice, naturalization had always been considered as bringing refugee status to an end. Naturalization did not even have to be formal, since both under the Convention and under the Statute of his office there existed a *de facto* statelessness and a *de facto* citizenship. Recognition of the latter was made in paragraph D of article 1 of the draft Convention which read as follows:

"The present Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country." (cf. Paragraph 7(b) of Chapter II of the Statute, A/AC.36/1, page 10).

Clearly, and in his view rightly, the authors of both texts had considered that refugee status, being abnormal, should not be granted for a day longer than was absolutely necessary, and should come to an end (or, possibly, should never even come into existence) if, in accordance with the terms of the Convention or the Statute, a person had the status of *de facto* citizenship, that was to say, if he really had the rights and obligations of a citizen of a given country. It was therefore not entirely correct to argue that the Convention and the Statute covered the period between the time when a person became a refugee and the moment when he was naturalized as a citizen of a given country. In order to accord completely with the facts, the Austrian amendment should be amplified by the words: "unless before his naturalization he has acquired *de facto* citizen status".

He would take the following example. If a Volksdeutsche refugee living in Austria - and therefore covered by the Statute of the High Commissioner's Office - were to cross the Austrian-German frontier, he would by that act put himself at once beyond the mandate of the High Commissioner's Office, because in Germany Volksdeutsche were "considered to have the rights and obligations which are attached to the possession of German nationality". Thus such a refugee would become a *de facto* German, and would no longer be a refugee in the sense in which that term was used in the Statute and in the Convention.

The Concept of "refugee" was closely bound up with the presupposition that a refugee was a person who had no nationality in the practical sense of the word. He might theoretically have the nationality of his country of origin, and hence not come within the "stateless" category, but whatever his background, the prospects before him were that he would only be a refugee so long as he did not acquire a new nationality either in practice (paragraph D of article 1 of the Convention and paragraph 7(b) of Chapter II of the Statute) or formally through naturalization.

That "classic", if one might so call it, concept of a refugee was what the Austrian amendment sought to change. By the adoption of that amendment a third category would be added to the two categories with which representatives had hitherto been concerned,

namely, that of the naturalized refugee who, being the national of a certain country, would have more rights than a refugee could possess, but who would at the same time, by virtue of the fact that he was still considered as a refugee, have more rights than a national of that country could possess.

Indeed, under the Austrian amendment, still further complications would arise. Since it would have no retroactive effect, it would not cover refugees who had been naturalized prior to the entry into force of the Convention.

Thus it would be necessary to distinguish between four different categories of persons: nationals to whom the Convention did not apply; refugees naturalized prior to the coming into force of the Convention and therefore outside its scope; refugees naturalized after the coming into force of the Convention and therefore falling within its scope; and refugees not yet naturalized and therefore covered by the Convention. The Austrian delegation was undoubtedly aware of the fact that that third category of refugees, which its amendment was intended to cover, would not be able effectively to enjoy all the rights bestowed by the Convention. Wherever the Convention provided for treatment for refugees equal to that accorded to aliens in general or to aliens enjoying most-favoured treatment, the third category of naturalized refugees would certainly prefer to enjoy the treatment to which they would be entitled as nationals of the country in question. He presumed that the Austrian amendment had been introduced only for the sake of preserving certain special rights to former refugees. The Conference might consider that the amendment as at present drafted was too wide, since it amounted to the deletion of the exclusion clause in sub-paragraph (3) of paragraph B of article 1, and the substitution for it of a clause providing that the Convention would remain applicable to a refugee after acquisition of new nationality, the refugee accordingly being entitled to enjoy all the rights which he had previously enjoyed under the Convention.

It was for the Conference to decide whether it wished to establish a third category of refugees. A provision on the lines of the Austrian amendment would have the effect of intensifying the desire of persons in that group to acquire a nationality, since they would not thereby lose the benefits of the Convention. It would at the same time have the disadvantage of creating a special class within a national community, that of nationals who in certain respects would also be refugees. The Conference might further wish to consider whether there might not be some risk of conflict between domestic legislation and conventional rights in the case of persons who would be entitled to appeal to both. Finally, the Conference might consider whether such a provision might not make it more difficult for certain governments to adhere to the Convention.

Turning to the second question raised in the Austrian amendment, namely, that refugees falling in the third category should be entitled to the international welfare measures provided for refugees, he would first like to make clear that he was speaking on the matter only because the Austrian representative had requested him to do so. The Statute of his Office forbade him as High Commissioner to appeal to governments for fund or to make a general appeal without the prior approval of the General Assembly (A/AC.36/1, page 12). It seemed clear to him that the definition of a refugee given in article 1 of the Convention was a special one, in that it was a definition for the purposes of the Convention. In his view, therefore, it was not prejudicial to any other definition applied to refugees receiving international assistance and not covered by the present Convention. Thus, for instance,

the United Nations Korean Reconstruction Agency rendered assistance to Korean refugees who were nationals of Korea. He assumed that representatives would agree that any definition of refugees must depend on the purpose for which it was drawn up and was sure that if a definition was at any time to be adopted for the purpose of rendering international assistance to refugees, the definition of the present Convention would not be prejudicial thereto, the criterion obviously being the need of the refugees in question to receive international assistance.

Mr. FRITZER (Austria) thanked the High Commissioner for his statement, especially with regard to the question of international welfare measures. The Austrian delegation regarded the High Commissioner's statement as being an authoritative interpretation of the situation, but felt that it would not be effectively defending the cause of the Austrian Volksdeutsche if it withdrew its amendment (A/CONF.2/17). He believed that States would have no difficulty in taking a positive attitude towards it, since no State would wish its nationals to be placed in a worse position than refugees.

The Austrian Federal Government would be prepared to accept the decision of the Conference as an interpretation of the point.

Mr. von THUTZSCHLER (Federal Republic of Germany) also thanked the High Commissioner, noting with satisfaction the latter's view that the definition contained in the Convention was not prejudicial to any other definition which might be adopted for the purpose of international welfare measures for refugees. On that assumption, the Government of the Federal Republic of Germany was prepared to accept paragraph D of article 1.

Turning to the example, cited by the High Commissioner, of a Volksdeutsche entering Germany and acquiring de facto rights of citizenship, he would like to point out that the issue depended on the German authorities who were competent to determine the legality of a person's admission to Germany and the rights to be granted to or withheld from him. Actually, his Government had granted de facto citizenship to some nine million German refugees.

He would abstain from voting on the Austrian amendment.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) drew attention to the fact that he had quoted verbatim from paragraph D of article 1 of the Convention and paragraph 7(b) of the Statute of his Office, which implied that once a person had been legally admitted into a country, he might enjoy de facto citizenship. As to the other aspect of the problem, he had not given an authoritative interpretation, but had merely expressed his personal conviction that if international welfare measures were initiated at any time, another definition of the term "refugee" would be required.

The Austrian amendment (A/CONF.2/17) to sub-paragraph (3) of paragraph 8 was rejected by 10 votes to 1, with 13 abstentions.

The PRESIDENT requested the Conference to turn to the Netherlands; amendment to sub-paragraph B (3) of article 1 (A/CONF.2/73)

Baron van BOETZELAER (Netherlands), introducing his delegation's amendment, explained that it had been prompted by certain doubts as to whether the cases envisaged in sub-paragraph 3 properly represented all the contingencies that were liable to occur.

Nationality might be acquired either voluntarily or automatically.

If nationality was acquired voluntarily, the person involved might nevertheless not enjoy the protection of the country whose nationality he had acquired. It was for that reason preferable to define more clearly the first part of the Netherlands amendment by the addition of the following words: "he enjoys the protection of the country whose nationality he has acquired". In cases where the person involved did not enjoy the protection of the country in question, he would have to continue to be regarded as a refugee.

As to the case of a person who acquired a nationality automatically, it might happen that he would not wish to avail himself of the protection afforded by the country of his new nationality. As a result, it would be necessary to restrict application of that provision to cases where the interested party claimed the protection of the country whose nationality he acquired; in other cases, he would again have to continue to be regarded as a refugee.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) supported the Netherlands amendment.

Mr. HERMENT (Belgium) said that he would have been prepared to support the amendment without the additional reservations just made by the Netherlands representative. He believed that the criterion on which the Netherlands amendment was based was that of the declaration of intention by the refugee. It now appeared, however, that it was considered that there might be refugees who would desire simultaneously to acquire a new nationality and to retain the privileges conferred on them by their status as refugees. Such was, indeed, the significance of the clause which the Netherlands representative had just added to the first part of his amendment. Acquisition of a nationality was an act of volition, and therefore a refugee would have been in a position to find out in advance the consequences entailed by the acquisition of his new status.

For those reasons he considered that it was essential to retain the criterion of the declaration of intention by the refugee.

Baron van BOETZELAER (Netherlands) explained that it was not the purpose of his amendment to allow a refugee who had acquired a new nationality to refuse to avail himself of the protection of the country of which he had become a national. Nevertheless, cases could be envisaged in which he would be unable to do so.

He therefore proposed to replace the clause which he had added to the first part of his amendment (sub-paragraph 3(3)) by the words: "and cannot claim the protection of the country whose nationality he has acquired".

Mr. PETREN (Sweden) asked what the position would be in the case of a refugee who acquired a nationality by marriage. Marriage was a voluntary act, but its effects might not be so.

Mr. HERMENT (Belgium) replied that under most legislative systems, in such cases the wife might or might not, at choice, acquire the nationality of the spouse.

Mr. PETREN (Sweden) said that that was the general case. But it was easy to imagine a stateless refugee contracting a marriage in a country where the law automatically prescribed acquisition of the nationality of the spouse.

Mr. ROCHEFORT (France) felt certain doubts about the automatic acquisition of a new nationality. Although examples existed of international or national authorities having taken a decision by which a group of persons acquired a new nationality, such cases were comparatively rare. Automatic acquisition of a new nationality might indeed constitute a form of persecution compelling the person against whom it was directed to seek refuge in another country. In that case the problem did not arise in the terms of the Netherlands amendment, for the person involved could invoke persecution or a conscientious objection. Furthermore the hypothesis of automatic acquisition of a new nationality could not be accepted by the countries signatory to the Convention. In the case of France, in particular, the problem of nationality was one for the free choice of the individual; in his opinion, therefore, an individual could not be compelled to acquire a new nationality. Sub-paragraph B (3), which the Netherlands amendment proposed to modify, had been the subject of protracted study, and the France delegation would be placed in a difficult position if certain details liable to have unforeseeable practical consequences were called in question.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) referred to recent changes in the legislation of eastern European states, and to the possibility that every person born in one of those States after a certain date would be regarded as a citizen of that State. He believed that the aim of the Netherlands delegation would best be achieved by the substitution of the words " avails himself of " for the word " enjoys " in the original text of sub-paragraph B (3). That would enable a national of such a State living abroad to claim the status of refugee in preference to availing himself of the protection of the country of his nationality.

Mr. ROCHEFORT (France) pointed out that the hypothesis of the automatic acquisition of a new nationality, as expressed in the Netherlands amendment, referred to the receiving country, whereas the hypothesis mentioned by the representative of the Federal Republic of Germany referred to the practice of certain countries which were not receiving countries. The Netherlands amendment could not apply to the receiving countries, where no system existed for the compulsory acquisition of nationality.

Mr. HERMENT (Belgium) thought it desirable to provide for the case of a refugee in a receiving country who, either by an act of the authorities in his country of origin, or by an act of a Power exercising authority over the territory of his country of origin, found himself saddled with a nationality that he did not wish to possess. Cases were known where deprivation of nationality had been pronounced *ex officio*. It seemed right, therefore, to consider also the case of the automatic acquisition of nationality.

Mr. ROCHEFORT (France) remarked that the object of the Convention was to provide for what would happen in receiving countries, not in countries of origin. Decisions taken in the country of origin could have no bearing on the case of a refugee living in a receiving country.

Mr. HOARE (United Kingdom) observed that sub-paragraph (1) (2) and (3) of paragraph B were concerned with three quite different types of case, and it was clear, if those different

types of case were considered, that sub-paragraph (3) was not concerned with the imposition of nationality by an outside authority, but related to the acquisition by a refugee of a new nationality other than that of the country of persecution. Sub-paragraph 3 was designed to meet the case where a refugee in a particular country of refuge paid a brief visit to another country and took advantage of the facilities available there to acquire the nationality of that country. When such a person returned to the country of refuge, the latter would be faced with the situation of his having acquired a new nationality. In his view, therefore, it would be better to say “enjoys the protection of the country of his new nationality”, for that would leave the State concerned to decide whether the refugee in fact enjoyed such protection, and how the phrase should be interpreted. If the words “avails himself of” were substituted for the word “enjoys”, as had been proposed by the representative of the Federal Republic of Germany, it would be impossible to take a decision in the matter until the person in question took some specific action, for instance, until he applied for and was given a passport. He (Mr. Hoare) considered that sub-paragraph (3) of paragraph B as it stood amply covered the type of case with which it was concerned, and that any refinement of the text might take the matter beyond the point that had originally been intended.

Baron van BOETZELAER (Netherlands) explained that the question which the Netherlands delegation had thought it useful to raise in connexion with sub-paragraph (3) of paragraph B arose out of the fact that the Netherlands government had not been acquainted with the discussions which had resulted in the wording of that sub-paragraph as it appeared in document A/CONF.2/1. He had listened with much interest to the United Kingdom representative's explanations, as a result of which sub-paragraph (3) now seemed reasonably clear to him. His delegation would therefore withdraw its amendment.

The PRESIDENT invited the Conference to consider the Israeli amendment (A/CONF.2/81) to sub-paragraph (5) of paragraph B of article 1. The second Swedish amendment in document A/CONF.2/9 also related to that sub-paragraph.

Mr. ROBINSON (Israel) said that, although his amendment had so far been circulated only in English, and a further amendment (A/CONF.2/82) submitted by his delegation to sub-paragraph B (6), closely connected with the Swedish amendment and to the first Israeli amendment, had not yet been circulated, he would endeavour to explain the purport of his delegation's amendment and its attitude towards the Swedish amendment.

It was clear from the wording of sub-paragraph (2) of paragraph A of article 1, as it now stood, that the cessation of persecution was not regarded as automatically terminating the status of refugee, but that a refugee could invoke other grounds for retaining that status. That idea was expressed in the words “for reasons other than personal convenience”. The Swedish delegation had objected to that phrase on legislative and practical grounds. The Israeli delegation sympathized with the Swedish view that it was a negative and vague formula, and could well understand how it might give rise to difficulties in some countries the constitutional structure of which was such that domestic legislation had to be passed before an international convention could be ratified. He also sympathized with the Swedish Government's difficulty in the practical sphere, which derived from the fact that sub-paragraph A (2) appeared to oblige governments to accept the possibility of receiving an unknown number of persons who might become refugees after 1 January 1951 as a result of events occurring before that date. The Israeli amendments to sub-paragraph (5) and (6)

of paragraph B were intended to solve both the legislative and factual objections raised by the Swedish representative. Instead of the vague formula "for reasons other than personal convenience", his delegation suggested the use of the post-persecution clause introduced by IRO, which spoke of refugees who were able to invoke compelling family reasons or reasons arising out of previous persecutions for refusing to avail themselves of the protection of the country of nationality. That would apply equally to stateless persons, with the consequential difference that "habitual residence" would be substituted for "country of nationality". In the matter of the practical difficulty arising out of the uncertainty of the obligations to be assumed by Governments, the Israeli delegation's suggestion was that refugees falling under sub-paragraph (1) of paragraph A of article 1, where to all intents and purposes the obligations were known, should alone be referred to.

As to procedure, he suggested that his amendments should be considered as amendments to the Swedish proposal, and that they be taken together and voted on first.

Mr. PETREN (Sweden) thanked the Israeli representative for proposing a compromise solution. He had already had the opportunity of explaining the reasons for which the Swedish delegation had submitted its amendment. His delegation was prepared provisionally to accept the Israeli amendment, making it clear, however, that its final position must depend on the attitude that the Swedish Government adopted in the matter.

Mr. ROCHEFORT (France) observed that the French delegation was not alone in experiencing some difficulty both in interpreting the exact scope of the Israeli amendment and in estimating the practical consequences to which that amendment might give rise. It was impossible for him personally to give a decision at that juncture; he could only transmit the text of the amendment to the French Government and await instructions.

The PRESIDENT proposed, and Mr. ROBINSON (Israel) and Mr. PETREN (Sweden) agreed, that the discussion on sub-paragraph (5) of paragraph B should be deferred until the Israeli amendment was available in both English and French.

It was so agreed.

The PRESIDENT drew attention to the Netherlands amendment (A/CONF.2/77) which proposed the addition of a new sub-paragraph in paragraph B of article 1.

Baron van BOETZELAER (Netherlands) said that the Netherlands proposal might appear somewhat revolutionary. Nevertheless, the Netherlands Government wished to sound the Conference on its substance. His Government was of course ready to accord preferential treatment to refugees as provided for in the draft Convention, but it wondered whether such a regime should persist indefinitely. He pointed to circumstances in which it would be necessary, in the view of his delegation, to promote assimilation and to take steps to avoid leaving refugees in the position of enjoying indefinitely treatment which went beyond that accorded to aliens generally, and which conferred rights that were almost equivalent to those enjoyed by nationals without imposing the full corresponding obligations incumbent upon nationals. The first part of his amendment was concerned with the question of promoting assimilation. It also appeared reasonable that refugees who could not become naturalized because of misbehaviour should not indefinitely enjoy the status of refugee and that, if such a person was still not naturalized after the passage of a certain period of

time, no distinction should be made between him and an ordinary alien. That was the purport of the second part of the amendment.

Mr. ROCHEFORT (France) said that in the French delegation's view, the questions of nationality and naturalization depended on the free choice of the refugee concerned. It was therefore impossible for him to agree to as much pressure being brought to bear upon as that proposed in the Netherlands amendment.

In France, certain refugees clung tenaciously to the hope of returning to their own country, and the French government did not feel that it had the right to deprive them of that hope.

In that respect, he recalled the case of the Spanish refugees, whom he had already mentioned, and who under the terms of the Constitution of IRO were resident in France only temporarily, waiting until a change of circumstances in Spain permitted them to return home.

Moreover, the Netherlands amendment would have rather regrettable practical consequences. Thus, for example, in France naturalization was not granted to persons who were cohabiting but not legally married.

He would also emphasize the extremely vague nature of the expression "his misbehaviour". He recalled that at an earlier meeting certain delegations had opposed the French desire to make certain provisions dependent upon the maintenance of public order. He appealed to those delegations not to accept a much more restrictive formula than the one they had previously resisted so strongly. If the Netherlands amendment was adopted, the French delegation would be obliged to enter a reservation which would raise anew the question of reservations to article 1 of the Convention.

Mr. HERMENT (Belgium) entirely shared the French representative's point of view. For example, it would be impossible to require refugees who had been living in Belgium for five or ten years to seek naturalization on pain of forfeiture of the benefits of the Convention. Some of those refugees still had hopes, which, although they might be vain hopes, were none the less understandable, of returning to their homeland; one could not snatch those hopes from them. It should be noted that only one generation was affected; for the children of refugees would either be nationals of the country of reception, or they would be called upon to choose the status they preferred. If therefore seemed preferable to leave it to the refugees to settle the question of nationality themselves.

Mr. HOARE (United Kingdom), too, was unable to support the Netherlands amendment for the reasons given by the French and Belgian representatives. It was common knowledge that certain refugees entertained the hope of returning to their country of origin, and it would be unfair to put the abandonment of such a hope to the test within a period of ten years. He also deprecated the bringing of any pressure to bear on refugees to adopt the nationality of the country of refuge. Not only was there the risk that governments might abuse the facility for refusing naturalization offered by the use of such a term as "misbehaviour", but there would also be a difficulty so far as the refugee himself was concerned, for it would mean that, if a refugee with a conviction against him applied for and was refused naturalization on that ground, he would lose his refugee status.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) observed that the question raised by the Netherlands amendment had been amply

discussed on previous occasions. An internal draft for a convention on the status of refugees, prepared by IRO in 1949, had contained a paragraph dealing with that specific point, but the provision had never been adopted, even though it had been worded much more precisely than the amendment now before the Conference. It had spoken of a period of residence which would qualify the refugee for naturalization; it had provided that the authorities might invite him to submit an application for naturalization; and, finally, it had afforded him an opportunity of producing valid reasons for refusing to adopt the nationality of the receiving country. He cited the case of Count Sforza of Italy who, he contended, could not reasonably have been required to apply for naturalization in the country of asylum within a period of ten years. He therefore urged the Netherlands delegation to consider most seriously the advisability of proceeding with its amendments.

Mr. HOEG (Denmark) said the Danish delegation could not support the Netherlands amendment for the reasons given by previous speakers. While many refugees might be eager to acquire a new nationality, some might have valid reasons for not applying for naturalization. He also agreed with the French representative as to the danger of using such a word as "misbehaviour".

Mr. CHANCE (Canada) said the Canadian delegation could not support the Netherlands amendment. Although he had previously stated that in the Canadian Government's view an immigrant should not continue to regard himself, or to be regarded by others, as a refugee, he did not wish that to be understood as implying that he favoured the insertion in the Convention of an article that would force citizenship on a refugee.

Mr. ROCHEFORT (France) said that the IRO draft to which the High Commissioner had alluded had been a draft prepared by the administration of IRO which had been in no way binding on the Governments Members of the General Council of IRO, who could not have accepted a provision of that kind.

Mr. PETREN (Sweden) appreciated the underlying intention of the Netherlands amendment but, after having heard the arguments advanced by other representatives, endorsed their point of view.

Mr. del DRAGO (Italy) recalled the Italian delegation's general statement on article 29 of the Convention, in the course of which it had stated that the Italian Government could not consider the question of the naturalization for reasons that were well known. He was thus unable to support the Netherlands amendment.

Baron van BOETZELAER (Netherlands) believed that he now had a clear idea of the views of the Conference on the basic idea underlying his delegation's amendment. The period of ten consecutive years of habitual residence suggested therein was not in any way final, and a long period could have been prescribed. Again, a more precise term could have been found to replace the word "misbehaviour". Since, however, the amendment did not commend itself to the Conference, he would withdraw it.

The PRESIDENT suggested that the vote on paragraph B should be deferred until the Israeli amendments to sub-paragraphs (5) and (6) were available. As the Egyptian representative was absent, it would also be advisable to defer discussion on paragraph C until he was present, since the Conference had before it the Egyptian amendment in document A/CONF.2/13.

It was so agreed.

The PRESIDENT requested the Conference to take up paragraph D, to which there was a Belgian amendment (A/CONF.2/78) which affected the French text only. That amendment could probably be left to the Style Committee, whose conclusions the Conference would have an opportunity of considering at the second reading.

Mr. HERMENT (Belgium), introducing the Belgian amendment to paragraph D (A/CONF.2/78), pointed out that in law the French terms “élire domicile” and “établir sa résidence” had completely different meanings. It was perfectly possible to elect to be domiciled in one country and to reside in another. That was why the Belgian delegation was proposing the substitution for the words “élire domicile” in the French text (corresponding to the words “has taken residence” in the English text) of the term “a établi sa résidence” which was more in accordance with the purpose of Paragraph D.

Baron van BOETZELAER (Netherlands) asked for clarification concerning the phrase “rights and obligations which are attached to the possession of the nationality of that country”. The Netherlands delegation assumed that those did not denote political rights and obligations, such as the right to vote, the right to occupy certain public positions or the obligation to do military service, but only economic and social rights.

Mr. WARREN (United States of America) recalled the fact that paragraph D had been adopted by the General Assembly as the result of the deletion of the words “in Europe” from sub-paragraph A (2) of article 1. The intention was to take care of de facto citizenship. It had been thought that a grant of citizenship might take place in certain circumstances, and that, while that status was being legally confirmed, the refugees in question should to all intents and purposes have the rights and obligations of nationals.

The PRESIDENT believed that in those circumstances the appropriate term would be “habitual residence” and not “residence”.

Mr. ROCHEFORT (France) remarked that, so far as the Belgian amendment was concerned, the correct term would be “a établi sa résidence régulière”. He pointed out that the text of paragraph D had been considered and drafted with great care. It was therefore necessary to avoid making amendments at the present stage which might call in question the consequence which would ensue in practice from the application of paragraph D. The French delegation would keep strictly to the interpretation which had prevailed during the discussion at Lake Success.

The PRESIDENT considered that it was for the Conference itself to decide whether the criterion should be residence or habitual residence.

Mr. CHANCE (Canada) thought that, if the concept of habitual residence were to be retained in the English text, it would be necessary to revise it to read “in which he has taken up permanent residence”.

Mr. HOARE (United Kingdom) believed that for the purposes of paragraph D the idea of taking up residence was equivalent to taking up permanent stay. In the sense in which it had been used in other parts of the Convention, the phrase “habitual residence” implied much less than permanent residence. The point was undoubtedly one for consideration by the Style Committee in so far as the question of concordance between the French and

English texts was concerned, but in his opinion the words “taken residence” were sufficient for the purposes of the article.

The PRESIDENT enquired whether it was generally agreed that the question was one for the Style Committee.

Mr. HERMENT (Belgium) said he would agree to the procedure suggested by the President. The distinction, to which he had drawn attention, between the legal meaning of the terms “election d’un domicile” and “établissement d’une résidence” must be preserved.

Mr. ROCHEFORT (France) thought that the delegation of the Federal Republic of Germany should be represented on any working party set up to study the text of paragraph D, since the purpose of that text was to deal with a situation which existed in Germany, and the text itself had been drafted at Lake Success in the presence of observers from the German Federal Republic.

The PRESIDENT pointed out that the Style Committee had not yet been constituted. If the German representative was not appointed a member, the Committee could co-opt his services.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that he would be at the disposal of the Style Committee for any assistance that he might be able to render.

It was agreed to refer the question raised by the Belgian amendment (A/CONF.2/78) to the Style Committee.

The PRESIDENT put to the vote paragraph D, as it stood.

Paragraph D of article 1 was adopted by 19 votes to none, with 2 abstentions.

The meeting rose at 6 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-seventh Meeting

By General Assembly | 27 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. De OLIVEIRA
Canada	Mr. CHANCE

Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. Von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. Del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
High Commissioner for Refugees	Mr. Van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Labour Organisation	Mr. WOLF
International Refugees Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	

International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	Mr. BRAUN
Caritas Internationalis	Mr. NETTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Committee of the Red Cross	Mr. OLGATI
International Council of Women	Mr. GIROD
International Social Service	Miss FERRIERE
International Union of Catholic Women's Leagues	Miss de ROMER
League of Red Cross Societies	Mr. LEDERMANN
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
World Union for Progressive Judaism	Rabbi MESSINGER
World Young Women's Christian Association	Miss ARNOLD
Secretariat:	
Mr. Kernö	Assistant Secretary-General in charge of the Department of Legal Affairs
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. COMPOSITION OF THE STYLE COMMITTEE

Mr. SCHÜRCH (Switzerland) said that when members of the Style Committee had been appointed at the preceding meeting, he had assumed that the President would take the Chair at the Committee's meetings. On subsequent perusal of the Conference's rules of procedure, however, he had ascertained that they did not make any provision in that connection. He therefore wished formally to propose that the President should preside over the Style Committee. Mr. SHAW (Australia) and Mr. HERMENT (Belgium) supported the Swiss representative's proposal. The Swiss proposal was adopted unanimously.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed from the twenty sixth meeting)

(i) Article 34 - Signature, ratification and accession (A/CONF..2/88) (continued)

The PRESIDENT drew attention to the text of the suggestion of the Legal Department of the Secretariat mentioned by the Executive Secretary at the preceding meeting, which had since been circulated as document A/CONF.2/88. One point that had still to be settled was whether invitations to sign addressed to States non-Members of the United Nations should be issued by the Economic and Social Council or by the General Assembly.

Mr. WARREN (United States of America) said that he was prepared to sponsor the Legal Department's text. Mr. MAKIEDO (Yugoslavia) stated that the United States (formerly Secretariat) text would be acceptable to him, provided the words "General Assembly" were substituted for the words "Economic and Social Council" in paragraph 2. He did not consider it appropriate that the right of invitation should be given to the Economic and social Council.

Mr. HERMENT (Belgium) asked whether any difference of procedure was involved.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) stated that it was open to the Conference to decide whether invitations should be extended by the Economic and Social Council or by the General Assembly. In the case of the Convention on Genocide, for example, non-Member States had been invited to sign by the General Assembly. As the question of refugees was one of particular interest to the Economic and Social Council, it might perhaps be appropriate for that organ to issue the invitations. Furthermore, that would avoid delay, since the Council held two sessions a year, whereas the General Assembly normally met only once. On the other hand, the Yugoslav representative's argument certainly had weight, and of there was any doubt whether a given political entity was in fact a State, the General Assembly would be better qualified to decide that point. There would be very little practical difference, whichever of the two alternatives was adopted.

Mr. ROCHEFORT (France) proposed that the Convention should be open for signature at United Nations Headquarters up to 31 December, 1952. He asked what States the Secretariat had invited to the present Conference.

The EXECUTIVE SECRETARY stated that the Secretary-General had issued invitations to participate in the Conference to the following non-Member States: Albania, Austria, Bulgaria, Cambodia, Ceylon, the Federal Republic of Germany, Finland, the Hashemite Kingdom of the Jordan, Hungary, Ireland, Italy, Japan, Laos, Liechtenstein, Monaco, Nepal, Portugal, the Republic of Korea, Romania, Switzerland, and Viet-Nam.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that that list probably covered all States which were likely to receive invitations to sign the Convention.

Mr. MIRAS (Turkey) proposed that the final date for signature at the European Office of the United Nations at Geneva should be 31 July 1951, and that paragraph 1 should be amended accordingly.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs), referring to the French representative's proposal concerning the last date for signature, pointed out that although there was no substantive objection to it, it might entail delay in ratification.

The PRESIDENT put the Turkish representative's proposal to the vote.

The Turkish proposal was adopted by 24 votes to none.

The PRESIDENT put to the vote the French representative's proposal that the words "31 December" be inserted after the words "1951 to" in the last line of paragraph 1.

The French proposal was adopted by 19 votes to none, with 5 abstentions.

The PRESIDENT observed that the remaining blanks in paragraph 1 would be filled at the second reading.

Paragraph 1 was adopted as amended by 23 votes to none.

The PRESIDENT put to the vote the Yugoslav proposal that the words "General Assembly" should be substituted for the words "Economic and Social Council" in paragraph 2.

The Yugoslav proposal was adopted by 18 votes to none, with 6 abstentions.

Paragraph 2 was adopted as amended by 24 votes to none.

The PRESIDENT announced that as no amendments had been submitted to paragraph 3, he would not put it to the vote separately.

The United States text (A/CONF.2/88), to replace the existing text of article 34, was adopted as amended by 24 votes to none.

Mr. HERMENT (Belgium), referring to paragraph 3 of article 34, asked whether the Convention should not be open for accession from the last date selected in paragraph 1 for opening for signature at United Nations Headquarters, and not the first date as stated in the parenthesis.

The EXECUTIVE SECRETARY recalled that he had drawn attention at the preceding meeting to the fact that it might be preferable for the Convention to be opened for accession at once, rather than after the expiration of the period for which it would be open for signature.

The PRESIDENT observed that some States might need the insertion of a federal State Clause in the Convention. He would remind the Conference that that question had been deferred by the Ad hoc Committee at its first session. If such a clause proved necessary, it should follow article 35, but so far no representative had submitted a proposal in that sense.

(ii) Article 35 - Colonial clause (A/CONF.2/31)

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.2/31) to article 35.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) drew attention to an inconsistency between articles 35 and 37. According to the former,

the Convention would enter into force in the territories concerned as from the thirtieth day after the notification to the Secretary-General that its application had been extended to any territories for whose international relations the State in question was responsible, whereas according to article 37 the Convention would come into force on the ninetieth day following the day of deposit of the second instrument of ratification or accession. Thus it was possible for the Convention to enter into force in Non-Self-Governing Territories sixty days earlier than in metropolitan Territories. He doubted whether that result had been intended.

Mr. ROCHEFORT (France) stated that the Conference should first take a decision on the substance of article 35. The question of bringing it into line with article 37 might then be considered.

He was unable to accept the Yugoslav amendment which, if adopted, would preclude the French Government from being able to sign the Convention, for the reasons developed at great length by the French representative in the Social Committee of the Economic and Social Council on 27 July, 1950.¹

Mr. HOARE (United Kingdom) did not wish to re-open the controversy concerning the colonial clause. The United Kingdom Government was in much the same position as the French Government and must insist on the inclusion of the clause for constitutional reasons. All its dependent territories were advancing towards a greater degree of self-government, and it was a principle of United Kingdom administration that, whatever the degree of advancement of any territory, it would not be committed to accession to any international instrument without prior consultation to ascertain whether it was ready to accept the obligations entailed and prepared to make any domestic legislative changes required. A colonial clause was not a means of excluding Non-Self-Governing Territories from the application of any international agreement, but the only constitutional method of extending its application to them. If article 35 were deleted, the United Kingdom Government would be forced to consult the governments of all such territories, in order to make sure that they could accede to the Convention, before it could sign the Convention itself. That procedure might take a very long time. If speedy accession by the United Kingdom Government was desired, article 35 must be maintained.

Mr. HERMENT (Belgium) said that, for constitutional reasons, the Belgian delegation could not support the Yugoslav amendment. If that amendment were adopted, his delegation would request that it be granted the right to enter a reservation to article 35.

Mr. MAKIEDO (Yugoslavia) stated that the Yugoslav Government was in principle opposed to the inclusion of colonial clauses in international instruments. The question should be studied in the light of the obligations undertaken by States which assumed responsibility for the administration of territories whose peoples had not yet attained a full measure of self-government under the provisions of Article 73 of the Charter of the United Nations. According to paragraph C of that Article the States in question undertook.

“to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement”.

It would be contrary both to the spirit and to the letter of the Charter to authorize metropolitan powers to exclude such territories from the application of the present Convention. He did not believe that the arguments based on constitutional considerations for the inclusion of colonial clauses were valid. Either dependent territories enjoyed self-government and were free to accede to international agreements, or self-government was illusory. With those considerations in mind he had submitted an amendment which proposed that the existing text of article 35 should be replaced by a text drafted on the lines of the article recommended for inclusion in the draft International Covenant on Human Rights by the General Assembly in its resolution 422(v).

Mr. ROCHEFORT (France) emphasized that in the prevailing circumstances it was not a question of advantages which certain governments might consider withholding from the populations of Non-Self-Governing Territories, but of obligations to be imposed upon the governing authorities of such populations.

Mr. Von TRÜTZSCHLER (Federal Republic of Germany) said that he would abstain from voting on article 35, as he believed the matter should be decided by the States directly concerned.

The PRESIDENT put to the vote the Yugoslav amendment (A/CONF.2/31, page 3) to article 35.

The Yugoslav amendment was rejected by 14 votes to 1, with 8 abstentions.

Mr. ROCHEFORT (France) was prepared to agree that a decision should be taken on article 35, on the understanding that the title "Colonial Clause" would not appear in the final text. If a title was retained in the final text, the French delegation would formally propose the words: "Territorial Application Clause", the same words to be used in all passages of the Convention in which article 35 was mentioned.

The PRESIDENT reminded the French representative that there seemed to be general agreement that the articles of the Convention should not have titles, but that titles should be retained in the case of the chapters. The question had already come up in connexion with article 17 (Public education). Perhaps the matter could be left to the Style Committee which was fully cognizant of the views expressed by the Conference.

It was so agreed.

The PRESIDENT put article 35 to the vote.

Article 35 was adopted by 18 votes to 1, with 5 abstentions.

(iii) Article 36 - Reservations (A/CONF.2/31)

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.2/31) to article 36.

Mr. MAKIEDO (Yugoslavia) said that in putting forward his amendment he had been prompted by the desire to ensure that the greatest possible assistance was accorded to refugees, and hence to increase the number of articles. On which governments would be debarred from making reservations. He realized, however, from the trend of the discussions on the Conference that governments would be forced to enter a great many

reservations, and he did not wish his amendment to discourage them from acceding to the Convention. He would accordingly withdraw it.

Mr. ROCHEFORT (France) recalled that during the discussion on article 30 (Co-operation of the national authorities with the United Nations) the French delegation had proposed that that article should appear among those on which governments had the right to make reservations. That proposal affected article 36, which stipulated that Chapter VI (Executory and Transitory Provisions), in which article 30 appeared, could not be subject to reservations. The French delegation accordingly submitted a formal amendment enabling governments to make a reservation to article 30.

He had no special preference regarding the form of that amendment: it could be provided that Chapter VI should not be subject to reservation, except for article 36. The French delegation must, however, press the substance of the amendment.

He also drew attention to the impossibility of deciding the problem of reservations in respect of the article following article 35, as they had not yet been considered by the Conference.

The PRESIDENT pointed out that it would be possible at the second reading to make further provision in article 36 for reservations. For the time being it would seem that the Conference was content with the reservations mentioned therein, possibly with the addition of the right of Governments to enter reservations on article 30, as proposed by the French representative.

Mr. HERMENT (Belgium) remarked that the French amendment, if adopted, would in effect leave States free not to co-operate with the United Nations High Commissioner for Refugees.

The Belgian Government keenly desired the High Commissioner's collaboration in the execution of the Convention. In its opinion there was, in the present instance, no question of an international organization interfering in the exercise by Contracting States of their prerogatives, but only of a guarantee afforded to the refugees covered by the Convention. Although the need for such a guarantee might not often be felt, it was none the less true, as the Belgian delegation had already pointed out, that the authorities of the country of reception would be at the same time both judge and party in every appeal submitted by a refugee and in every request concerning the exercise of a right by a refugee. Article 30 gave refugees moral satisfaction in that it amounted to the setting up of the "refugees government" to which they had long aspired.

The Belgian Government had desired and had agreed to the setting up of the High Commissioner's Office; it welcomed the opportunity of co-operating with that Office in the work being done for refugees, and it felt certain that the cooperation of the Office would be both very useful and very well received by the refugees themselves and by the majority of Contracting States as well.

Mr. MAHER (Egypt) did not see how it was possible for the Conference to discuss article 36 without first having taken a decision on paragraph C of article 1, which was still outstanding.

The PRESIDENT stated that the Conference had decided to follow a procedure by which certain questions had been deferred. It was, of course, true enough that every article in a convention was related to all the others, but representatives would be completely free to raise any outstanding points of substance at the second reading.

Mr. del DRAGO (Italy) said that the Italian delegation had already had an opportunity of expressing its views on article 30. Since Italy was not a member of the United Nations and the Italian Government had not taken part either in the election of the High Commissioner or in the preparation of the Statute of his Office, it could not consider itself as in any way bound by the substance of article 30. That did not mean that it declined to collaborate with or was inspired by unfriendly feelings towards the High Commissioner. It was simply an indication that before assuming any obligations towards the Office of the High Commissioner, the Italian Government desired to negotiate an agreement with the latter, such agreement to be approved by the Italian Parliament.

The Italian position was perfectly clear. His Government believed, however, that other governments of States Members of the United Nations, although desirous of signing the Convention, might not feel able to do so if no reservations to article 30 were allowed. The Convention itself would thus be dangerously weakened owing to lack of signatures. He consequently took the view that reservations should be permitted to article 30, and that article 36 should be amended in that sense.

Mention had been made of the possibility of modifying the Statute of the High Commissioner's Office. Since the Italian Government would probably not take part in any work that might be undertaken to that end, it was the more reluctant to bind itself in advance by unreservedly accepting article 30. It went without saying that that argument applied equal force to any organization that might succeed the Office of the High Commissioner.

Finally, he would recall the reservations which he had made earlier on article 12, 13 and 14 (Chapter III - Practice of professions), as well as on article 29 dealing with naturalization.

Mr. ROCHEFORT (France), while glad to learn that the Belgian Government was anxious to accept the provisions of article 30 without reservation, observed that the Belgian Government's point of view was not necessarily that held by the Contracting States generally. Agreement to allow reservations to be made to article 30 would not prevent the Belgian Government from acting as it wished, while it would permit other governments, among them the French Government, which were unable to adopt the same attitude, to act in accordance with their possibilities and wishes.

He wished to make it clear that the French Government's position was one of principle which did not signify its refusal to co-operate; that was not the question. The co-operation referred to in article 30 did not necessarily form part and parcel of the application of the Convention. To cite a case in point, the 1933 Convention, which made no provision for co-operation of that kind, had nevertheless been applied and had rendered very great services to large numbers of refugees. Furthermore, the High Commissioner's Office and the Convention were two entirely separate matters; the fact of their coming together was an historical event, but not an absolute necessity.

Although certain countries were prepared to apply article 30 without reservations, others might not desire to go so far; they might wish, in particular, to have the undertakings to be entered into by them in the matter of co-operation with the High Commissioner's Office embodied within the framework of General Assembly resolutions, more especially the resolution making the appointment of a representative of the High Commissioner's Office in the territory of a Contracting State subject to the conclusion of an agreement between the Office and the Government of that State. Italy's position was not unique. Certain countries were represented at the Conference without being members of the United Nations. Other countries likewise not Members of the United Nations or participating in the work of the Conference, might have some difficulty in signing the Convention in view of the fact that they had taken no part either in the establishment of the High Commissioner's Office or in the drafting of its Statute; they might, for example, object to intervention by the High Commissioner's Office unless it was subject to some working procedure specified in an agreement between the Office and the Government concerned.

The French Government had initiated the first proposals for the establishment of the High Commissioner's Office. It considered that the arrangement thus arrived at was intrinsically useful, and that it would be useful in practice if it could be adjusted to the facts of the situation. It was for that reason that, in its opinion, article 30 should be kept flexible. The prohibition of reservations to that article might make it quite impossible for certain States to accede to the Convention. Should it prove that all the 41 delegations which had voted in the General Assembly for the Statute of the High Commissioner's Office were prepared to enter without reservation into the undertakings set forth in article 30, the French delegation would find it quite in order that in the event of a dispute between the Office and the government of a Contracting State, the Office should be able, by virtue of the States' contractual undertakings, to bring the matter before the General Assembly. The number of delegations attending the present Conference which had voted for the Statute of the High Commissioner's Office was, however, fairly small, and the number of States which would be prepared to adhere to the Convention was still unknown.

In those circumstances, it hardly seemed possible to set up as judge, possessing compulsory powers of jurisdiction, for questions affecting the interests of some of the Contracting States, an assembly in which those States would form only a small minority, and which would consist of a majority of States which had undertaken no commitments and which could have no comprehension of the problems facing one or another of the Contracting States. The majority would tend to treat such problems in a liberal spirit that would be all the more facile in that they had not contracted any engagement having practical effect. Accordingly, while the French delegation had nothing in principle against co-operating with the High Commissioner's Office, it maintained that the possibility of making reservations to article 30 reflected a practical need, which, incidentally, was shared by many other countries. How could a State commit itself vis-à-vis a body which was at present a completely unknown quantity, and which, while it might prove admirable in the event, might also turn out to have been set up by a majority of States devoid of any knowledge of the problem, and which might impose unacceptable arrangements on the other Contracting States?

Mr. FRITZER (Austria) said that though the Austrian Federal Government was prepared to accept article 36 as drafted, he did not see why there should be any difficulty in allowing

reservations on article 30; he regarded the French representative's arguments as entirely apposite. Maintaining his view, already expressed, that it was essential that the Convention should be signed by the French Government, he said he was ready to support the French amendment.

Mr. HERMENT (Belgium) assured the French representative that he had had no intention of implying that governments should not be free to express the desire to refuse to co-operate with the Office of the High Commissioner.

Mr. ROCHEFORT (France) pointed out that he had not said that France would refuse to co-operate with the High Commissioner. Nor was that question one for the Conference to discuss.

Mr. MONTROYA (Venezuela), recalling the statement he had made at the preceding meeting, said that the Venezuelan delegation was prepared to agree that provision should be made in article 36 for reservations to be entered on article 30, or at least, not to consider the matter as definitely settled. Governments should be allowed to exercise their judgement in making reservations to article 30 in its present form.

The PRESIDENT ruled the discussion closed and asked representatives to vote on the French amendment which, in substance, meant that article 30 also would be open to reservations. If that amendment was adopted, the appropriate drafting changes to article 36 would be made by the Style Committee and the Conference could re-examine the problem at the second reading.

The French amendment was adopted by 10 votes to none, with 14 abstentions.

Article 36, as a whole and as amended, was adopted by 23 votes to none with 1 abstention.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) wished to suggest two minor drafting changes in article 36. He had not done so earlier, in order not to obstruct the course of the discussion. The reference made in paragraph 1 to "Contracting States" might need to be modified, since the traditional notion that Contracting States were the negotiating States had now been modified to mean States bound by a convention or treaty. He would therefore suggest that the formula "any State" be used in the first line of paragraph 1.

Secondly, the last sentence in paragraph 2 read: "The Secretary-General shall bring such communication to the attention of the other Contracting States". The question of notifications by the Secretary-General was dealt with in article 40. It would seem to him more logical to remove the last sentence from paragraph 2, and to amend sub-paragraph (c) of article 40 by the inclusion of the words "or withdrawals thereof" after the words "Of reservations made".

Mr. HERMENT (Belgium) thought that mention should be made in article 40 of the notifications to be sent in compliance with article 35 regarding any dependent territories which became parties to the Convention.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) agreed.

The Conference decided to refer the suggestions of the Belgian representative and of the Assistant Secretary-General to the Style Committee.

(iv) Article 37 - Entry into force (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that his proposal to substitute the word "tenth" for the word "second" in the first paragraph of article 37 was prompted by the consideration that two instruments of ratification or accession were not enough to require the enforcement of the Convention.

Mr. HERMENT (Belgium) proposed that the Convention should come into force after the deposit of six instruments of ratification.

Mr. PETREN (Sweden) favoured the Yugoslav amendment. Mr. ROBINSON (Israel) said that experience showed that to make entry into force dependent upon only two ratifications in fact transformed a multilateral instrument into a bilateral one. He must once more refer to the example of the Convention on the Prevention and Punishment of the Crime of Genocide, the enforcement of which had at first been made dependent on twenty ratifications. When it had become clear that the Convention would remain unratified for a long time the drafters of multilateral treaties had panicked and, going from one extreme to the other, had reduced the required number of ratifications to two. That procedure was wrong from all points of view. It was true that the United Nations was based on the principle of the sovereign equality of States, but States could not merely be counted; their importance also must be weighed. If two small States who had no refugee problem were to sign and ratify the Convention and thus bring it into force, other States would undoubtedly become dilatory in signing or acceding to it.

The choice between the suggested alternatives of ten and six was certainly difficult, but he must emphasize that the requirement of only two instruments was unrealistic, and that its effects would be harmful.

Mr. MAKIEDO (Yugoslavia) accepted the Belgian representative's amendment.

Mr. STURM (Luxembourg) supported the proposal that the required number of instruments of ratification should be six. Mr. PETREN (Sweden) still favoured the original Yugoslav proposal that ten ratifications should be required.

Mr. HERMENT (Belgium) said that to make the entry into force of the Convention dependent upon the deposit of too large a number of ratifications would involve the risk of bringing about considerable delay in its application.

Baron van BOETZELAER (Netherlands) said that it was necessary to distinguish between different types of conventions. In the present case, the main aim of the instrument was not to impose obligations on States, but to create a legal regime for refugees. Even if only one country ratified the Convention, something positive would have been achieved. He was consequently in favour of the original text of article 37. If it were thought necessary to add to the number of ratifications required, the increase should be as small as possible, and he would, as an alternative, not oppose the Belgian and Yugoslav point of view that the required number of ratifications should be six.

Mr. FRITZER (France) preferred the original stipulation, namely 2.

Mr. ROCHEFORT (France) pointed out that if two delegations, for example, those of the Holy See and Monaco, acceded to the Convention and their accession was not followed by the deposit of the ratifications of other States, the territorial application of the Convention would be very limited. In his delegation's opinion, the Israeli representative had emphasized an essential aspect of the question, namely, the necessity of weighing the comparative importance of the signatures. For his own personal use he (Mr. Rochefort) had drawn up a comparative table setting out the number of refugees residing in the various States. That table, which he placed at the disposal of members of the Conference, revealed the fact that there existed a profound difference between the formal majorities which became apparent at the time of voting, and the majorities of persons concerned, that was, the majorities of refugees. The French delegation therefore supported the Swedish delegation, which had taken up the amendment initially submitted by Yugoslavia, namely, that ten instruments of ratification should be required to bring the Convention into force.

Mr. PETREN (Sweden) agreed with the French representative. The negotiation and application of a convention presupposed solidarity among States. Some States had a great many refugees, others had few. It would be unfair to allow obligations to be assumed only by a small number of States. The manner in which the Israeli representative had argued the case would seem to suggest that the way out of the difficulty might be through reservations, a State making its ratification dependent on other ratifications. If, however, the Conference preferred to deal with numbers, he would certainly advocate the highest suggested.

Mr. HERMENT (Belgium) pointed out that in practice refugees might remain without their charter for some time if the entry into force of the Convention were made dependent on the deposit of ten instruments of ratification. The Belgian delegation was well aware of the necessity for a large number of accessions; it must, however, draw attention to the fact that, by specifying too high a number, the entry into force of the Convention would be delayed, which, in his delegation's opinion, would mean that members of the Conference would have failed in their task.

Mr. HOARE (United Kingdom) entirely agreed with the Israeli representative's arguments, and concerned with the Netherlands representative that the present Convention was concerned mainly with refugees, and did not impose obligations as between States. It was very important that ratification should not be delayed, and he would therefore support the proposal that six instruments should lead to entry into force. The figure was reasonable, and not so high as to cause lengthy delays.

Mr. ROCHEFORT (France) pointed out that the entry into force of the Convention might be delayed by stipulating too small a number of instruments. For example, a country which had to undertake sole responsibility for a number of refugees equivalent to the number living in ten other countries would have some difficulty in signing a convention ratified by only a few States. It had been argued that the present was not a case of a convention which would place obligations on contracting States. It should, however, be pointed out that the Convention did involve definite commitments, and that certain States would hesitate to become parties to it until a sufficient number of countries were prepared to grant refugees corresponding advantages in their territory. He quoted various figures showing the number of refugees living in the territory of certain States. There were

approximately 1,000 in one country, 4,000 in another and 17,000 in a third. While he did not wish to minimize the magnitude of the ratio which those figures bore to the total population of the countries concerned, it should be fully recognized that in other States the problem was of infinitely greater significance, and that by making the entry into force of the Convention dependent on only six instruments of ratification, the Conference might deprive it of all practical value.

Mr. PETREN (Sweden) considered that the French representative's observations accurately described the position of every government, each of which would be willing to sign provided that there would be other signatures or accessions. If no reference was made in article 37 to the number of instruments of ratification required, States would undoubtedly delay, or refrain from, signing the Convention. Baron van BOETZELAER (Netherlands) said that even if the Convention was applied by only a few countries, the London Agreement of 15 October, 1946, would still remain valid so far as travel documents were concerned.

Mr. ROCHEFORT (France) reminded the Netherlands representative that the French Government had not been able to sign the 1946 Agreements definitely.

Mr. AL PACHACHI (Iraq) expressed concern at the trend of the discussion. The text of article 37 had presumably been drafted by lawyers, who had presumably known why they had provided for the deposit of two instruments of ratification or accession. The important point was that the Convention should enter into force.

Mr. ROCHEFORT (France) considered that the question of the minimum number of ratifications was more important than the Iraqi representative seemed to believe. If the Convention was ratified by only a very small number of States, it would have no practical effect. That failure would be particularly marked in view of the vast international machinery that had been set in motion to produce it; in that connexion he recalled the numerous meeting of the Economic and Social Council, of the Ad hoc Committee at its two sessions, and of the General Assembly. But, as everyone know, out of the 80 States which had been invited to take part in the present Conference, only 24 had sent delegation. If the initial figure of 80, which represented the Secretary-General's hopes and desires, was finally reduced to 2, the goal would be a very long way short of having been attained. Moreover, by requiring a larger number of ratifications, States would be under an obligation to take prompt action. As to the argument that refugees were in dire need of a charter, he would remind the Conference that in countries like France, for example, refugees were by no means pariahs. They had the benefit of earlier Conventions, or of administrative measures introduced voluntarily by the French Government on their behalf. The problem, therefore, was not stated as accurately as it needed to be, when stress was laid on the urgent need for conferring on refugees the status provided by the Convention.

Mr. HERMENT (Belgium) shared the French representative's opinion about the position of refugees in certain countries of Europe. Nevertheless, the Convention offered the opportunity of giving them an even more favourable status, and there was no reason for not doing so forthwith. The 1933 Agreement had rendered immense services to tens of thousands of refugees, although it had been ratified by only three States.

Mr. Van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) recalled the fact four years had passed before eight ratifications had been deposited to the

Convention of 1933. It might theoretically be the case that out of six ratifying States, four or five would not be concerned with the refugee problem on a large scale. But he himself believed that only States really interested in and concerned with the Convention would sign and ratify it, so that if ten ratifications were required, it might take five years at least before the Convention could come into force. The proposed number of six instruments seemed to him to be safe, since there undoubtedly existed six States for which the refugee problem was a very real one. Refugees would benefit by a speedy entry into force of the Convention.

Mr. HOEG (Denmark) drew attention to the fact that the Convention of 1933 had come into force after the accession of two States, Members of the League of Nations. There had been no signatures, but the Convention had become effective after the accession of Bulgaria followed by Norway. The Danish delegation was accordingly not opposed to the text of article 37 as drafted.

Mr. ROCHEFORT (France), replying to the High Commissioner for Refugees, said that the previous Convention had not made provision for any body such as the High Commissioner's Office. The idea of the Office had originated with the General Assembly, which had envisaged it as the means of making the Convention a dynamic and living reality. That it would not fail to do. Moreover, was it not pessimistic to envisage a period of five years, particularly when one remembered the "universalist" views which had prevailed at the present Conference? The High Commissioner had, furthermore, an additional means of prompting States to adhere to the Convention, namely, by pointing out that their hesitation was paralysing its implementation.

Replying to a question by Mr. HERMENT (Belgium), who pointed out that it would be a matter of considerable difficulty to obtain six ratifications in a relatively short time, he said that that argument was, in his opinion, invalid, since the problem had been treated - as the Belgian delegation itself had desired - on the universal scale; in theory, there were 80 States which the Convention was likely to concern, and in practice there were at least ten States, represented at the Conference, which were quite prepared to sign and ratify if as soon as possible.

Mr. HERMENT (Belgium) thought that, in that respect, the precedent of the 1938 Convention, which had aimed at the protection of persons suffering persecution at that time, did not justify any very solid hopes. It had secured no more than three ratifications.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) considered that the present argument was purely theoretical. It would appear from the discussion that certain States might not wish to bind themselves before others had done so. He failed to see why that reluctance should prevent those who were willing to take the risk from signing and ratifying the Convention.

Baron van BOETZELAER (Netherlands) pointed out that the Geneva Conventions for the Protection of Victims of War of 1949, which imposed far heavier obligations on the States signatories than the present Convention, were to come into force after the deposit of two instruments of ratification.

Mr. ROCHEFORT (France) drew the attention of the Conference to the fact that the High Commissioner for Refugees envisaged the establishment of an Advisory Council for

Refugees, to be composed of countries which had ratified the Convention. There was a danger that the effectiveness of the Council would be impaired if a minimum of only six ratifications were prescribed. That was afresh argument, which might induce States to overcome their hesitation and ratify the Convention without undue delay.

The PRESIDENT, speaking as representative of Denmark, said that he had been given full powers to sign the Convention, it being assumed by his government that it would come into force on the deposit of two instruments. Certain Governments were eager to give force to the provisions of the Convention; the way should not be made too difficult for them.

Mr. PETREN (Sweden), in reply to the representative of the Federal Republic of Germany, said that it was certainly in the general interest to have a charter for refugees, but that charter must be applied by a number of States. If several small States ratified the Convention, an important State with a big refugee problem would be bound to the initial signatories.

It would be easier for an important State to sign knowing that other States in a similar position would do so too. It was essential that there should be a certain generalization of obligations. If only one State assumed them, it would be placed in a difficult position, since all refugees would flock to that country.

Mr. HERMENT (BELGIUM) observed that the Convention did not only constitute a binding agreement between States. It would be truer to say that it was an undertaking of obligations by States towards refugees. The only obligation which it laid on States vis-à-vis one another was that of recognizing travel documents issued in accordance with the Convention, which would be no greater than the obligations imposed by existing agreements.

Mr. ROCHEFORT (France) asked what was the point of article 33, which provided for the settlement of disputes between Contracting States, if it was considered that the Convention did not refer to mutual obligations undertaken by States.

The PRESIDENT ruled the discussion closed.

The Swedish proposal to substitute the word "tenth" for the word "second" in the second line of the first paragraph of article 37 was rejected by 12 votes to 6, with 5 abstentions. The amended Yugoslav proposal to substitute the word "sixth" for the word "second" in both paragraphs of article 37 was adopted by 17 votes to 3, with 3 abstentions.

Mr. ROCHEFORT (France), explaining his vote, said that he had voted in favour of six ratifications in order that the number decided upon should not be two. That should not be taken to mean that the French Government agreed to the figure six, which it considered unrealistic.

Article 37, as a whole and as amended, was adopted by 21 votes to none, with 1 abstention.

Mr. ROCHEFORT (France) pointed out that the French delegation had not taken part in the vote on article 37 as a whole. He would like that fact to be noted in the summary record of the meeting.

(v) Article 38 - Denunciation (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that, as his delegation's amendment to article 35 had been rejected, he would withdraw his amendment to article 38 (A/CONF.2/31, page 4). He would, however, request that a separate vote be taken on each of the paragraphs of that article.

The PRESIDENT put article 38 to the vote paragraph by paragraph.

Paragraph 1 was adopted unanimously.

Paragraph 1 was adopted unanimously.

Paragraph 3 was adopted by 21 votes to 1, with 1 abstention.

Article 38, as a whole, was adopted by 22 votes to none, with 1 abstention.

(vi) Article 39 - Revision (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that similar considerations applied to article 39 as to article 34 (signature, ratification and accession). The Yugoslav Government's view was that the revision of the Convention was a matter for the highest and most broadly representative body of the United Nations; hence the amendment proposed by his delegation (A/CONF.2/31, page 3).

Replying to Mr. HOARE (United Kingdom), Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that in previous instruments of a similar nature the custom had been for revision to be left to the General Assembly. That would not, however, prevent the Conference from entrusting the task to the Economic and Social Council if, on account of political considerations or for reasons of expediency, it wished to do so.

Mr. ROBINSON (Israel) supported the Yugoslav amendment. He considered that, the mention of the Economic and Social Council having been replaced by that of the General Assembly in article 34, it would be logical for the Conference to do likewise in article 39.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) thought the Conference might also wish to consider the desirability of leaving the initiative in the matter of revision to Signatory States rather than to Contracting States. There was something to be said for both courses. It might be argued that revision was such a serious matter that only Contracting States should have the power to request it; on the other hand, it might be maintained that a Signatory State should be empowered to request revision in the hope that the revision would enable it to ratify the Convention.

Mr. ROBINSON (Israel) submitted if Signatory States that had not ratified the Convention were enabled to request its revision, such an arrangement might put a premium on non-ratification, and might induce such States to abuse their right to request revision. Revision of such a Convention was a serious matter, and he could not but think that those who had been responsible for drafting article 39 had purposely confined the privilege of requesting revision to Contracting States.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that he personally would prefer that the text should remain as it was.

Mr. HOARE (United Kingdom) agreed with the Israeli representative that revision of a convention was a serious matter. No State would propose revision in the General Assembly unless it was sure of a considerable body of support, and he believed that if a Signatory State had a valid revision to propose, it would find among the Contracting States one which would put forward its proposals for it.

The PRESIDENT put to the vote the first paragraph of article 39.

The first paragraph of article 39 was adopted unanimously.

The PRESIDENT put to the vote the Yugoslav proposal (A/CONF.31, page 3) that the words "The Economic and Social Council" in the second paragraph of article 39 should be replaced by the words "The General Assembly".

The Yugoslav amendment was adopted by 19 votes to none, with 4 abstentions.

The PRESIDENT put to the vote second paragraph of article 39, as amended.

The second paragraph of article 39, as amended, was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT put to the vote article 39, as amended. Article 39, as amended, was adopted unanimously.

(vii) Article 40 - Notifications by the Secretary-General

The PRESIDENT recalled that the Conference had already taken a decision on the paragraph beginning "In faith whereof", and that it had also left the Style Committee to make certain alterations to the text of sub-paragraph (c) of the first paragraph.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) recalled the Belgian representative's remark with regard to the insertion in article 40 of a reference to the notifications which the Secretary-General would have to make under article 35 (colonial clause).

The PRESIDENT believed that that was a matter which could also be left to the Style Committee. He put the first paragraph of article 40 to the vote.

The first paragraph was adopted unanimously.

The PRESIDENT put article 40 as a whole to the vote.

Article 40, as a whole, was adopted unanimously.

(viii) Article 5 - Exemption from exceptional measures (A/CONF.2/37, A/CONF.2/83) (resumed from the seventh meeting)

The PRESIDENT called attention to the Swedish and United Kingdom amendments to article 5 (A/CONF.2/37 and A/CONF.2/83 respectively).

Mr. PETREN (Sweden), introducing his amendment to article 5 (A/CONF.2/37), recalled that the Conference had already adopted an article 5 (A) (the previous paragraph 2 of article 5 of the draft Convention). Article 5 (A) stipulated that, in time of war or other grave and exceptional circumstances, Contracting States could provisionally take measures essential to their national security in the case of any person, pending a determination that

the particular person was a refugee and that such measures were still necessary in his case in the interests of national security. If article 5, which provided that exceptional measures taken against the nationals of a given State should not apply to a refugee who was a national of that State solely on account of such nationality, was compared with article 5 (A), the wording of which he had just quoted, it seemed as if in the last resort Contracting States would have to decide whether or not such exceptional measures were still required in the interests of their national security. That was an essential aspect of the problem, and the Swedish delegation therefore felt that the matter should be mentioned at the beginning of article 5, if its interpretation of the text was correct.

However, the Swedish delegation felt some doubts whether that way of settling the problem would be the best. One could easily imagine cases in which it would appear fully justified to maintain the confiscation of the property of a refugee even if that property, in his hands, did not constitute a menace to national security. A person might for instance have fled from Nazi Germany at a very late stage of the Second World War after having been a militant Nazi up till then.

Should States decide to take certain measures against the nationals of another State, it would have to be left to their administrations to decide whether refugees from the country in question could be exempted from them. Under Swedish legislation, for example, the decision in such matters would rest with the Government. Consequently, the Swedish delegation wished to add a further idea to the general principle stated in article 5, that such measures should not apply to a refugee solely on account of his nationality. That further idea was designed to meet the case of legislative systems similar to that of Sweden; it provided that the states concerned would be empowered to determine whether a refugee was subject to such measures or whether he could be exempted from them. That was the meaning of the Swedish amendment. It might be argued that the word "appropriate" was rather vague. The Swedish delegation had admittedly experienced some difficulty in finding a form of words which accurately expressed the ideas it had in mind, but it ventured to point out that the existing text of article 5 was equally vague.

Mr. HOARE (United Kingdom) believed that Swedish amendment covered more or less the same point as the United Kingdom amendment (A/CONF.2/83). He appreciated the Swedish position, and agreed that the new article 5 (A) would not solve the problem since the measures to which it referred must be determined solely by considerations of national security. Peace treaties had been signed between the Allied Powers and Bulgaria, Hungary and Romania; they required the Allied Powers to place a charge on the property of nationals of those States, though they also made provision whereby a refugee from one of the latter countries who had become a refugee in time of war, could secure the return of property that had been sequestered by the State of asylum. The effect of article 5 would be to oblige the United Kingdom, for example, to return such property also in the case of persons who had become refugees as a result of events occurring before 1 January 1951, and who had property in the United Kingdom which had been sequestered. Such persons might have been sympathisers with the wartime enemy regime, and might have been compelled to flee their country because of a change of regime that had supervened since the war. It was for such cases that his delegation felt that the Convention should allow an exception to be made, while always guaranteeing to genuine refugees no less favourable treatment than that provided by the peace treaties.

The matter was one which concerned a number of States, and for that reason the United Kingdom delegation had made the point in the form of an amendment, although it recognized that it could also be dealt with by way of a reservation. The purpose of the second sentence of the amendment was similar, namely, to give the State more latitude in respect of property belonging to German and Japanese nationals. The United Kingdom amendment might meet the needs of the Swedish delegation, although he recognized the possibility that it was not drafted in sufficiently wide terms to cover the Swedish position. So far as his own delegation was concerned; the point had to be covered either by amendment or by reservation.

Mr. ROBINSON (Israel) observed that the United Kingdom amendment was of a highly technical nature, and requested the Secretary to make available to the Conference at its next meeting a copy of each of the three peace treaties to which the United Kingdom representative had referred. At the same time, he believed that the purpose of the United Kingdom delegation would be better served if the United Kingdom and any other government in the same position were to make a more detailed and precise reservation on the point, which he considered it would scarcely be appropriate to deal with in an article in the Convention.

Mr. HOARE (United Kingdom) said that if that were the general consensus of opinion, he would not press his amendment, on the understanding, of course, that the United Kingdom would enter a reservation on the same lines.

Mr. PETREN (Sweden) observed that the ideas underlying his amendment were similar to those just expressed by the United Kingdom representative. The addition suggested by the Swedish delegation was extremely simple, and its sole aim was to meet a further eventuality which might arise under the legislation of certain countries.

Mr. Van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) pointed to a substantial discrepancy between the French and English texts of the Swedish amendment. According to the French text, it would appear that the State should be the judge as to whether or not appropriate exemptions should be made, whereas according to the English text it seemed that appropriate exemptions would have to be made whether or not the State considered that they should be. He would also urge the Swedish representative to consider covering his point by a reservation rather than by amending article 5.

Mr. PETREN (Sweden) said that the authentic version of his amendment was the French one.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) enquired whether the intention was that there should be two courses open to the State, the first to apply the measures in question, and the second to grant exemptions from them. Exemptions would have to be made in any case, and, if it were left to the State to decide the point, that would be tantamount to an extension of the freedom already allowed to the State in the earlier part of the article.

Mr. HERMENT (Belgium) assumed from the Swedish amendment that Contracting States would be entirely free either to exempt refugees from certain measures taken against aliens from the same country, or to exempt them entirely from such measures.

Mr. PETREN (Sweden) said that that was exactly what was implied by his amendment. The matter would be settled by the State concerned.

Mr. HERMENT (Belgium) observed that in that case the Swedish amendment would considerably reduce the rights accorded to refugees by the Convention.

Mr. PETREN (Sweden) remarked that the present text of article 5 was just as imitative as his own amendment, since States would be at liberty to advance a variety of reasons, other than that of nationality, why refugees should be subjected to the measures in question. His amendment, on the other hand, allowed for exemptions to be granted by the States concerned. He emphasized, once again, that it was a matter of general interest which seemed to satisfy completely the desiderata of certain delegations whose legislation on the subject contained provisions similar to those in force in Sweden. His delegation would therefore prefer to see its amendment inserted in the Convention than to be obliged to enter a formal reservation on article 5.

After some further discussion, Mr. PETREN (Sweden) suggested that the Swedish and United Kingdom delegations should consult together with a view to drafting a revised text of the Swedish amendment for submission to the Conference at the next meeting.

It was so agreed.

The meeting rose at 6 p.m.

[1](#) See document E/AC.7/SR.153, page 4-6.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-fifth Meeting

By General Assembly | 27 November 1951

Present;

President; Mr. LARSEN

Members;

Australia Mr. SHAW

Austria Mr. FRITZER

Belgium Mr. HERMENT

Canada Mr. CHANCE

Denmark Mr. HOEG

Egypt Mr. MAHER

Federal Republic of Germany Mr. von TRÜTZSCHLER

France	Mr. ROCHEFORT
Greece	Mr. PHILON
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PERSSON
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO
	Mr. BOZOVIC
Observer:	
Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugee Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss. SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN

	Mr. METTERNICH
Catholic International Union for Social Service	Miss. de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
International Union of Catholic Women's Leagues	Miss. de ROMER
League of Red Cross Societies	Mr. LEDERMANN
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss. Kitchen	Deputy Executive Secretary

1. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (continued)

(i) Article 7 - Personal Status (A/CONF.2/31, A/CONF.2/36) (resumed from the seventh meeting)

The PRESIDENT suggested that, as the French text of the amendment to article 3(B) submitted jointly by the Israeli and United Kingdom delegations was not yet ready, the Conference should resume its consideration of article 7, on personal status, paragraph 1 of which had already been adopted.

It was so agreed.

The PRESIDENT drew attention to the Yugoslav and United Kingdom amendments to paragraph 2 of article 7 (A/CONF.2/31 and A/CONF.2/36 respectively).

Mr. HOARE (United Kingdom) recalled the statement he had made in introducing his delegation's amendment.¹ He emphasized that that amendment was in two parts; it proposed, first, that the words "that State" should be substituted for the phrase in the original text reading "the country of his domicile or, if he has no domicile by the law of the country of his residence"; and secondly, that the proviso "provided that the right is one which would have been recognized by the law of that State had he not become a refugee" should be added. As those two parts dealt with different considerations, it would be desirable to take them separately.

Mr. MAHER (Egypt) doubted whether it would be possible to solve the question of rights attaching to marriage previously acquired by a refugee, when private international law had not yet succeeded in solving the problem of the personal relationship between husband and wife.

Mr. ROCHEFORT (France) asked for clarification concerning the position of a divorced refugee who had obtained his divorce in a country the national legislation of which recognized divorce, but was resident in a country, like Italy, where divorce was not recognized. In that case, he submitted, the right to divorce acquired by the refugee would not be recognized by the receiving country.

Mr. HOARE (United Kingdom) did not feel particularly qualified to reply to the French representative's question. As he saw it, that question was related to the first part of paragraph 2 of article 7, that was to say, to the requirement that the rights under consideration should be respected by a Contracting State. Some thought would have to be given to the exact meaning of that requirement so as to determine what its scope should be. The second part of paragraph 2 was merely a requirement that certain formalities should be complied with, and in his delegation's opinion they should be the formalities obtaining in the State where the rights were to be exercised.

Mr. ROCHEFORT (France) said that the United Kingdom representative's interpretation of the text tallied with his own. He wished, however, to point out that the refugee in the case he had cited might have some difficulty in obtaining, say, a certificate of divorce - a document which he might well need - if divorce was not recognized by the legislation of the country in which he resided.

Mr. HOARE (United Kingdom) believed that if a particular country did not recognize divorce, it could not possibly issue a certificate authenticating such a status. That point seemed to lead direct to the second element in his amendment, namely, the proviso that the right was one which would have been recognized by the law of the particular State had the person in question become a refugee.

Mr. HERMENT (Belgium) remarked that in principle States which forbade divorce did so only to their own nationals. It was solely for reasons of public order that a State might decide not to recognize divorces between foreigners or not to authorize them to divorce in its territory. As the United Kingdom representative had pointed out, the question of a divorce granted by the authorities of a country other than that of residence was a matter of the jurisprudence of the States concerned. The purpose of the United Kingdom amendment was to place refugees on the same footing as aliens in respect of right dependent on personal status.

Moreover, in the case cited by the French representative the courts of the receiving country would have to decide whether they would have recognized a divorce granted in the same circumstances to two aliens who were not refugees.

Mr. ROCHEFORT (France) accepted the Belgian representative's interpretation. The purpose of his question had been to establish whether the text proposed by the United Kingdom delegation was at variance with such an interpretation.

Mr. BOZOVIC (Yugoslavia) recalled his delegation's explanation² of the idea underlying the amendment (A/CONF.2/31) it had submitted to paragraph 2 of article 7. In view of the objections that had been raised to it, and particularly in the light of the Belgian representative's remarks at the seventh meeting, he would withdraw the amendment. At the same time, he considered that a satisfactory solution could have been found and that the observations of the Belgian representative were not entirely satisfactory, since the

Yugoslav proposal had referred only to duties existing prior to the date on which the person had become a refugee.

Mr. ROCHEFORT (France) appreciated the considerations which had prompted the introduction of the Yugoslav amendment, and he would suggest that, to meet them, the following clause should be added to paragraph 2:

“The refugee shall be required to respect obligations he has contracted by reason of his personal status in so far as he is not prevented from doing so by reason of his being a refugee”.

To give an illustration of the practical consequences of such a clause, he cited the case of a refugee with an obligation to maintain a relative. If both the relative and the refugee found asylum in the same country of reception, it would be normal for the refugee found asylum in the same country of reception, it would be normal for the refugee to comply with his obligations. But if the beneficiary remained in the country of origin, it might be difficult for the refugee, by reason of his being a refugee, to comply with his obligations.

Mr. HERMENT (Belgium) felt much sympathy for the reasons behind the position taken by the French and Yugoslav delegations. He must, however, point out that it might be very difficult to apply such a clause in practice, since it was a question of a personal obligation, which would have to be enforced, if necessary, by a court order.

Mr. ROCHEFORT (France) thought that a court trying a case similar to that which he had described would be able to decide on the basis of the text he had proposed, whether or not the refugee was in a position to comply with his obligations.

Mr. HERMENT (Belgium) doubted whether the judicial authority trying such a case would give a decision based on the Convention. In his opinion, the decision would be taken on the basis of factors external to the Convention. Moreover, if it were a question of an obligation originating in a decision given in a country other than the receiving country, it could not be made the subject of summary measures of execution unless it was covered by a demand for enforcement from the courts of the former country. The question would then arise of the existence or otherwise of a convention between the two countries relating to the enforcement of judgements given in the other country.

Mr. ROCHEFORT (France) said that the case he had been considering was one in which the refugee and the person to whom he was under an obligation were both resident in the receiving country. In that case, powers of enforcement would not be essential. Moreover, the courts could not be unaware of the terms of article 7 of the Convention. In France, for example, international law took precedence over national law, and article 7 would therefore become part and parcel of the refugees' charter.

Mr. HOARE (United Kingdom) said that while he sympathized with the aim of the Yugoslav delegation he was unable to support its amendment. He endorsed the Belgian representative's view that, if it was merely a question of a moral obligation on the part of a refugee to support relatives in another country, the refugee could not be compelled by the authorities of the country of his residence to fulfil such an obligation, Convention or no Convention. Again, enforcement in one country of judgement pronounced in another depended on the law of the former or on treaties relating to such matters. The United Nations had under consideration a draft multilateral convention covering just such cases

as those which the Yugoslav representative had in mind, and it would therefore be premature for the Yugoslav representative had in mind, and it would therefore be premature for the Conference to attempt to deal with the subject. Obligations devolving upon refugees in respect of relatives, when both resided in the same country of asylum, could be left to the law of the land. Finally, since article 7 was of a highly legal and technical character it would merely be confusing the issue to seek to introduce an affirmation of the moral obligation of refugees to support those dependent upon them in other countries.

Mr. ROCHEFORT (France) said that the wording he had suggested was intended solely to meet the wishes of the Yugoslav delegation. He would not press the proposal, which in any case was not a formal one, but he would emphasize that it had been conceived in a liberal spirit, since it would have allowed a refugee to free himself from obligations deriving from his personal status whenever his status as a refugee prevented him from complying with them.

Mr. HERMENT (Belgium) thought that it would be regrettable to introduce such an exemption clause into the Convention. Moreover, there seemed to him to be no case for introducing a clause relating to civil rights into an article dealing with the personal status of refugees.

Mr. ROCHEFORT (France) repeated that he was not pressing his proposal. It would nevertheless have been equitable to provide for the case of a refugee's being unable to meet the obligations incumbent on him, owing to the fact of his being a refugee.

Mr. ROBINSON (Israel) said that if paragraph 2 was left as it was and there was no provision in favour of refugees, a judge would take action in accordance with the law of the land as it applied to aliens. The concern of the Yugoslav delegation seemed to him to be somewhat unjustified, for there need be no fear of an abuse of the status of refugee. The absence of any specific provision such as that proposed by the Yugoslav delegation would not mean that the refugee would be exonerated from fulfilling his obligations, since he would continue to be subject to the law of the country of refuge as it applied to nationals, aliens and refugees. As the French representative had pointed out, a question of public law in the shape of the transfer of funds from one country to another was also involved. It would be best, therefore, to confine the scope of article 7 to the personal status of a refugee.

Mr. BOZOVIC (Yugoslavia) stated that the Yugoslav Government was well aware of the obligations that would devolve upon governments as a result of the adoption of his delegation's amendment; it was only because no provision of that nature had been made that the proposal had been introduced. So far as the Yugoslav delegation was concerned, the problem was a humanitarian one, but in view of the apparent difficulties to which the amendment gave rise, he would, as he had already indicated, withdraw it, although he still considered that a way could have been found of getting round those difficulties.

The PRESIDENT declared the discussion closed, and put to the vote the first element of the United Kingdom amendment, namely, that the words "the country of his domicile or, if he has no domicile, by the law of the country of his residence" should be replaced by the words "that State" in paragraph 2 of article 7.

The first element in the United Kingdom amendment was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT put to the vote the second element in the United Kingdom amendment, namely, that the words “provided that the right is one which would have been recognized by the law of that State had he not become a refugee” should be added to paragraph 2.

The second element in the United Kingdom amendment was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT put to the vote paragraph 2 as amended.

Paragraph 2 of article 7, as amended, was adopted by 18 votes to none, with 2 abstentions.

The PRESIDENT put to the vote article 7, as a whole and as amended.

Article 7, as a whole and as amended, was adopted by 20 votes to none, with 1 abstention.

Mr. del DRAGO (Italy) said that the Italian delegation had voted in favour of article 7, subject to any reservation it might have to enter after consultation with the Italian Government.

(ii) Article 14 - Liberal professions (resumed from the ninth meeting)

the PRESIDENT recalled that the vote on article 14 had been deferred pending further consideration of certain drafting changes in the phrase “In their colonies, protectorates or in Trust Territories under their administration”, in paragraph 2 of article 14.

Mr. ROCHEFORT (France) did not intend to submit a formal amendment on that point. It seemed to him, however, that the formula used on several occasions in similar cases was:

“Territories for the international relations of which it is responsible”.

The PRESIDENT submitted that since the substance of paragraph 2 of article 14 had already been adopted, the drafting changes in question could be left to the Style Committee.

It was so agreed.

(iii) Article 30 - Co-operation of the national authorities with the United Nations (A/CONF.2/31, A/CONF.2/71)

The PRESIDENT requested the Conference to turn to article 30, which dealt with the co-operation of national authorities with the United Nations, and drew attention to the amendments thereto proposed by the Australian and Yugoslav delegations (A/CONF.2/71 and A/CONF.2/31 respectively).

Mr. MAKIEDO (Yugoslavia), introducing his amendment, stated that his Government, although not a member of the international Refugee Organization (IRO), had closely co-operated with that organization, that it had favoured the establishment of the Office of the High Commissioner for Refugees, and that it intended to co-operate wholeheartedly with Commissioner. The Yugoslav Government questioned, however, the desirability of

imposing on Contracting States the obligation of co-operating with some unknown agency of the United Nations that might be established in the future. Only after something was known of such an organization would it be possible to take a decision of that sort. Moreover, it was somewhat premature at the present stage to consider what would be the position on termination of the High Commissioner's activities.

Mr. SHAW (Australia) believed that the Australian amendment was self-explanatory. Many governments shared the Australian Government's concern about the growing burden of supplying documentation requested by a large number of international organizations. While he was sure that the High Commissioner would not make any unnecessary demands, some formal limitation should, he thought, be imposed; hence his suggestion that the word "necessary" should be inserted before the word "data" in the fourth line of paragraph 2.

Mr. HERMENT (Belgium) drew the Conference's attention to a divergence between the French and English versions of paragraph 2 of article 30, where the French text made use of the words "tout autre institution .qui lui succédera"; the last three words did not appear in the English text. The result was that the two versions meant two different things. By the English text, Contracting States were being asked to provide the information in question to any appropriate agency, even those already in existence, whereas the French text referred only to a single organization, the High Commissioner's office or any body which might succeed it.

The PRESIDENT believed that the presence in the French version of the words "qui lui succédera" might have been due to an oversight in translation from the English. The original English text submitted by the Secretary-General had contained such a phrase, but it had been dropped by the Ad hoc Committee at its first session.

Mr. ROBINSON (Israel) wondered whether the Yugoslav delegation fully appreciated the implications of its amendment to article 30. The Convention would remain in force so long as two Contracting States adhered to it and it was unlikely that a new convention on the status of refugees would be entered into within the next ten years. The Office of the High Commissioner had been set up for a period of three years, and if it was to be replaced by some other organ of the United Nations, a new conference of plenipotentiaries would have to be convened for the purpose if the Yugoslav amendment was adopted.

As to the Australian amendment, the question arose as to who would decide what information was "necessary". If it was to be the High Commissioner, the inclusion of the word "necessary" would be of no assistance to governments. On the other hand, the insertion of that word might even give rise to controversy.

Limitations on the information that could be requested were provided under (a), (b) and (c) in paragraph 2, and if the information requested by the High Commissioner did not fall under any one of those heads, governments would be in a position to regard it as unnecessary.

Mr. ROCHEFORT (France) appreciated the concern which had inspired the Yugoslav amendment, but did not think the amendment essential. Article 30 as it stood had been drafted so as to take into account the temporary character of the High Commissioner's Office. If a Contracting State was dissatisfied with the body eventually set up to succeed

the High Commissioner's Office, it might be led to denounce the Convention. The French delegation wished to draw attention to the fact that article 30 represented an innovation by comparison with the provisions of earlier conventions, and in particular those of the 1933 Convention, which had operated without any representative of an international organization to supervise its implementation; yet it could hardly be maintained that it had not given good results for that reason. His delegation had not submitted an amendment to article 30, but it considered that the article should be dealt with in connexion with the article on reservations (article 36). The French Government considered that article 30 was one of those to which it might be obliged to enter a reservation.

Mr. del DRAGO (Italy) said that although Italy was not a member of the United Nations, the Italian Government supported article 30 in principle, subject to the conclusion of a direct agreement between it and the High Commissioner for Refugees.

Mr. SHAW (Australia) believed that his delegation's point could alternatively be met by the deletion of the word "any" from the fourth line of paragraph 2, that was to say, by reversion to the text drawn up by the Ad hoc Committee at its second session. The retention of the word "any", even in terms of the three heads under which information could be requested, might prove an embarrassment for Contracting States.

The Australian delegation would also be interested to learn how supervision of the application of the provisions of the Convention, referred to in paragraph 1, would be carried out. Was it the intention that refugees should appeal to the High Commissioner against alleged contraventions of the Convention and that he should hear such appeals?

Mr. MAKIEDO (Yugoslavia) said that, in light of the comments made on the Yugoslav amendment (A/CONF.2/31), he would withdraw it.

Mr. HERMENT (Belgium) did not think it necessary to submit a formal amendment in connexion with the drafting point to which he had drawn attention; he asked whether the English-speaking representatives would be prepared to agree that the words "qui lui succédera" occurring in the French text of paragraph 2 article 30 should be reinstated in the English text.

Mr. ROCHEFORT (France) preferred the expression "qui lui succéderait", which he thought would be safer.

Mr. HERMENT (Belgium) agreed.

The PRESIDENT enquired whether the insertion of the words "which may succeed it" commanded general approval among the English-speaking delegations.

Mr. HOARE (United Kingdom) said that at first sight he had no objection, but felt handicapped through not knowing why the phrase had been consistently omitted from the English text.

The PRESIDENT explained that article 22 of the draft of the Convention prepared by the Secretary-General had laid down that Contracting States should facilitate the High Commissioner's work, and that the succeeding article had made provision for liaison between national authorities and the High Commissioner. In the Ad hoc Committee the Danish delegation had suggested that, as the Convention would probably outlive the

Office of the High Commissioner, reference should be made to United Nations institutions generally, the Office of the High Commissioner being quoted as an example. That proposal had been adopted by the Ad hoc Committee and the idea had been embodied in the text now before the Conference. The discussions had been based on the English text only, and it would appear that the phrase “qui lui succédera” should not have been retained in the French version. There was, of course, no reason why the Conference should not vote on the substance of that point.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) submitted that if the phrase in question was reinstated in paragraph 2, it should also be included in paragraph 1.

Mr. HERMENT (Belgium) pointed out that paragraph 1 referred to an organization charged by the United Nations with the international protection of refugees. The Belgian delegation accepted that paragraph; on the other hand it could not agree to the vague expression “toute institution” which was used in the French text of paragraph 2.

Mr. HOARE (United Kingdom) suggested that the words “or other appropriate agency”, the link between the two paragraphs thus being made perfectly clear.

Mr. MAHER (Egypt) asked whether the reinstatement of the words “which may succeed it” would imply that Contracting States might withhold their co-operation from existing organizations.

The PRESIDENT said that it was impossible for him to make any statement on the action which might be taken by Contracting States. He was, as President, unable to give an interpretation on that point.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) believed that there would be a discrepancy between paragraph 1 and 2 if the latter was amended as proposed by the United Kingdom representative and a reference made to an agency which might succeed the Office of the High Commissioner. As the text stood at present there was at least the theoretical possibility that another United Nations agency, apart from the Office of the High Commissioner, would benefit from the co-operation of Contracting States. If the United Kingdom amendment was adopted it would mean that so long as the office existed, it would be the only agency with which Contracting States would be obliged to co-operate.

The PRESIDENT said that the Conference must decide between three possibilities: first, co-operation with the Office of the United Nations High Commissioner for Refugees; secondly, co-operation with the agency which might succeed it; and thirdly, co-operation with other agencies which might under the terms of different agreements or arrangements be empowered to supervise the implementation of the present Convention.

Mr. AL PACHACHI (Iraq) thought that paragraph 1 was perfectly clear. In his opinion, the term “other appropriate agency” in paragraph 2 related to agencies of the kind mentioned in paragraph 1. He therefore thought it would be wise first, to take a decision on paragraph 1, and then to substitute for the words he had quoted from paragraph 2 the words “or an agency of the kind mentioned above”.

Mr. ROCHEFORT (France) asked for clarification of the relation between paragraph 1 of article 30 and paragraph C of article 1. Those two clauses contradicted one another, since paragraph C excluded from the benefits of the Convention persons receiving from other

organs or agencies of the United Nations protection or assistance, whereas paragraph 1 of article 30, constituted an appeal to Contracting States to co-operate with those very agencies.

The PRESIDENT thought that it would be difficult for the time being to link the provisions of article 30 with paragraph C of article 1, since decision had yet been taken on the latter.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) again urged that the reference in paragraph 1 to another agency should be qualified by the phrase "which might succeed it". Everybody knew what the High Commissioner's Office was; but no one could foresee the nature of future agencies and the scope of their responsibilities.

Mr. MAHER (Egypt) presumed that, if adopted, that amendment would be tantamount to negating co-operation between Contracting States and existing or future agencies established by the United Nations, except in the case of the High Commissioner's Office.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that in his view such an interpretation of his amendment was incorrect.

Mr. ROCHEFORT (France) pointed out that States represented at the Conference, like States not represented there, would have every right to refuse the co-operation called for in paragraph 1, especially since there was a question of co-operating with agencies not yet in existence. Moreover, paragraph 1 was in effect only a recommendation.

Mr. HERMENT (Belgium) thought that the question was whether it should be made obligatory for States to comply with requests received not only from the Office of the High Commissioner, but from other appropriate agencies as well.

The Belgian Government recognized that there was one body competent to request the information referred to in paragraph 2, namely, the Office of the High Commissioner for Refugees. The French text conveyed that point of view, whereas the English text might give rise to a different interpretation.

Mr. ROCHEFORT (France) considered that paragraph 1 carried with it an obligation on the part of Contracting States to co-operate with, for example, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNWRAPRNE) who, by paragraph C of article 1, were excluded from the benefits of the Convention. The French delegation, whose Government was a member of that Agency, could not understand why, under article 30, Contracting States should be required to undertake to co-operate with agencies responsible for refugees to whom the Convention would not apply. The obligations to be assumed by States on that subject should be clearly defined.

Mr. HOARE (United Kingdom) recalled that paragraph C of article 1, unless amended by the Conference, would exclude the Arab refugees from Palestine from the definition of "refugee". Consequently, the agency entrusted with the protection of that group would not be covered by article 30.

He believed that the simplest solution would be to reinstate in the English text the words "which may succeed it".

The PRESIDENT, speaking as representative of Denmark, said that in practice an agency concerned with the welfare of the Palestine refugees would be most unlikely to solicit the

collaboration of the Danish Government. Should such a situation arise, however, he could not imagine that the Danish Government would withhold its collaboration, if only for reasons of international etiquette.

Mr. MAHER (Egypt) asked if that indeed the general sense of the meeting.

The PRESIDENT replied that he was unable to impose any interpretation on the meeting, and would only reiterate that three different possibilities existed. The point at issue was whether the Conference should impose the obligation on governments to co-operate with any agency charged with the international protection of refugees other than the High Commissioner's Office.

Mr. ROCHEFORT (France) submitted that, although the Conference had not actually embarked on a discussion on paragraph C of article 1, it was hardly possible for it to remain unaware of its existence. The solution suggested by the President as representative of Denmark was, he thought, admirable. However, although the Danish Government might be prepared to enter into undertakings in respect of agency X without knowing what manner of body X would be, the French Government's concern for clarity and its desire not to confuse two distinct problems prevented it from taking the same attitude. The French delegation regretted that some of the questions raised during the discussions by various delegations, especially that put by the Australian delegation, had remained unanswered. It also regretted that some of the Latin American countries to whom that problem was of some concern were not present at the meeting at the meeting.

While it was wise to avoid creating confusion between separate problems, he nevertheless felt that there were cases in which an article could hardly be examined absolutely independently of the preceding and succeeding articles; article 30 was followed at some little distance by the article providing for possible reservations. So far as the French delegation was concerned, it was unable to come to a decision on article 30 without first knowing whether it would be possible for it to enter reservations on that article by virtue of article 36. It had been somewhat surprised at the statements made by various delegations which, while accepting the amendment suggested by the representative of the Holy See to sub-paragraph A (2) of article 1, had reserved the right to reconsider their decision should the subsequent articles of the Convention necessitate, in their view, certain changes to article 1. The French delegation would like to know whether, in the opinion of the delegations which took that position - which, indeed, it was somewhat at a loss to understand - the possibility of making a reservation in respect of article 30 was compatible with their expressed agreement to the text suggested by the representative of the Holy See.

Mr. WARREN (United States of America) said that, whatever governments might do about co-operation with other agencies, it must be made perfectly clear that the supervision of the present Convention must devolve upon the United Nations High Commissioner's Office or the agency which succeeded it. If the Conference accepted the principle of co-operation with other agencies, doubts would inevitably arise as to the number of agencies entitled to supervise the present Convention. He believed that the French text sought to entrust the duty of supervision only to the High Commissioner's Office or its successor, and consequently supported the proposal that the French text of article 30 be adopted. Thus any doubt about the rôle of future agencies would be removed.

Mr. MAHER (Egypt) said that he had had in mind, not a number of agencies, but some specialized or smaller agency working under the general direction of the main agency charged with the international protection of refugees.

Mr. HERMENT (Belgium) thought that the debate should be closed. To that end, he formally moved his earlier suggestion that the English text of paragraph 2 of article 30 be brought into line with the French text, particularly in the case of the words “qui lui succéderait”.

Mr. MAHER (Egypt) pointed out that UNWRAPRNE had been set up by a General Assembly resolution. In making his point about co-operation, he had had in mind not only that agency, but others which might be created in future to protect other groups of refugees.

Mr. HERMENT (Belgium) invited the Egyptian representative's attention to the fact that article 30 related only to the refugees covered by the Convention. It would in no way prohibit Contracting States from co-operating with United Nations agencies responsible for other refugees.

Mr. MAHER (Egypt) would be prepared to agree with the Belgian representative, provided explicit reference was made in the text to the fact that other agencies were not excluded from its scope. In article 30 as now drafted the term “co-operate” did not imply direct action, and the Egyptian Government was unable to accept an implicit negation of co-operation.

Mr. ROCHEFORT (France) pointed out that there was a certain difference between an instrument inviting States Members of the United Nations to co-operate with an agency, and the actual exercise of such co-operation. In his opinion, that co-operation could only be effected through special charters or agreements signed between the States concerned and the agency in question. The idea of co-operation, moreover, called for clarification. Thus, 31 Member States had voted for the Constitution of IRO, whereas only 18 States, of which several were not Members of the United Nations, had actually co-operated in that organization's work. The French delegation did not think that governments could be led by a roundabout device to assume commitments wider than those they were prepared to accept.

The PRESIDENT said that every international arrangement, whatever its form, created a community, namely, that of the participating States. The present Convention was designed for a certain community of Contracting States. The Egyptian representative had in mind another community of States, which also operated under the aegis of the United Nations. It went without saying that certain States might belong to both communities. The Convention did not and could not prohibit the members of one community from co-operating with organizations entrusted with the application of arrangements set up by another. Any provision to that effect would be absurd. Article 30 was properly silent on the point, leaving existing and future arrangements and agreements between States to the discretion of the latter.

Mr. MAHER (Egypt) assumed that he was interpreting the Belgian amendment rightly in thinking that its adoption would be tantamount to the exclusion from the scope of article 30 of any agency which might be set up in the future, other than the successor to the High

Commissioner's Office. If that were indeed so, the article would endanger such agencies as the United Nations might create in the future, as well as the position of the refugees themselves.

Indeed, if the amendment were adopted, any future amendment of paragraph C of article 1 would have no effect. He therefore failed to see how the matter could be put to the vote at the present stage.

Mr. HOEG (Denmark) proposed that the Australian amendment to paragraph 2 (A/CONF.2/71) be further amended by deleting the words "any necessary" from the proposed phrase "with any necessary data". The text of paragraph 2 would then read: "[the Contracting States undertake to provide them in the appropriate form] with data,"

Mr. SHAW (Australia) agreed to the Danish proposal, which he had in fact suggested himself, although less formally, earlier in the meeting. Indeed, the discussion which had just taken place revealed the importance of adopting that amendment, since the text would then clearly specify the limitations on the obligations which Contracting States would be required to assume.

Mr. HERMENT (Belgium) drew the Egyptian representative's attention to two possible cases: either paragraph C of article 1 would be retained, and the refugees whom it was intended to cover would be deprived of the benefit of the Convention, in which case the agency dealing with them would not have to ask for the information mentioned in article 30; or, alternatively, paragraph C would be dropped, in which case the refugees to whom it referred could properly form the subject of a request for information of that kind.

Mr. ROCHEFORT (France) observed that the question he had asked earlier during the meeting had not yet been answered. The solution to the difficulty, so far as the French delegation was concerned, would be to adjourn the present discussion, thus permitting the Conference to examine article 30 at the same time as article 36, on reservations. In the circumstances, therefore, and in view of the fact that it had not received the information for which it had asked, his delegation would not take part in the vote on Article 30.

The PRESIDENT said that, before putting to the vote the Belgian amendment concerning the insertion in paragraph 1 of the words "qui lui succéderait", he would remind representatives that the position with regard to article 30 was the same as with all other articles in the Convention. The Conference was still engaged on a first reading of the text.

In English, the Belgian amendment would read:

" , the Office of the United Nations High Commissioner or any agency of the United Nations which may succeed it"

The Belgian amendment was adopted by 17 votes to 2, with 3 abstentions.

The PRESIDENT said that he would interpret the vote on the Belgian amendment to paragraph 1 as covering that to paragraph 2 also. The Style Committee would in due course check the concordance of the two texts.

He invited representatives to vote on the Australian amendment to paragraph 2, as further amended by the Danish representative, and consisting therefore of the deletion of the word "any" from before the word "data" in the fourth line.

The amendment was adopted by 18 votes to none, with 2 abstentions.

Article 30, as a whole and as amended, was adopted by 18 votes to 2, with 2 abstentions.

(iv) Article 31 - Measures of Implementation of the Convention (A/CONF.2/85)

Mr. HOARE (United Kingdom) said that the United Kingdom amendment (A/CONF.2/85) proposed the deletion of article 31 on the grounds that it constituted an innovation in international treaties. Such a provision already figured in one instrument which had not been generally adopted, and also in a draft instrument, where the propriety of its inclusion had been keenly disputed. It was an accepted principle in international law that once a convention had been ratified it immediately came into force in the territory of the Contracting State concerned. Advantage was taken of the interval which elapsed between signature and ratification to make any adjustments necessary in domestic legislation. The same applied to accession. In the present case, however, it was provided that the Contracting State should, within a reasonable time and in accordance with its constitution, adopt legislative or other measures, it being therefore presupposed that ratification would take place before the appropriate domestic legislative measures had been introduced. It was further pre-supposed that such measures would be taken at the discretion of the State within a reasonable time. Such latitude constituted a departure from existing practice. Moreover, he considered the article to be superfluous, since the Convention laid down provisions which in the case of most countries, were already covered by domestic law. If any legal adjustments had to be made, they should not be left for an undetermined interval after ratification of the Convention. The article should therefore be deleted, since it would not only create a bad precedent, but would also have harmful effects in practice.

Mr. HERMENT (Belgium) completely shared the views expressed by the United Kingdom representative.

Mr. ROBINSON (Israel) said that the United Kingdom representative had started out from the assumption that there existed only one method of implementing international conventions, namely, the method used by such countries as the United Kingdom and Israel. In point of fact, that was not so. There were two other types of method, namely: the automatic type used, for instance under the United States Constitution, and the type where ratification or accession preceded the taking of appropriate domestic legislative measures.

He need only cite the case of the recently concluded Convention on the Prevention and Punishment of the Crime of Genocide in which, under article V, the Contracting States undertook to enact appropriate legislation. Although that Convention had been ratified by some 25 or 26 States, both Members and Non-Members of the United Nations, only two had so far enacted the necessary legislation. Thus it remained a dead letter, since the penalties for the crime of genocide must be prescribed by national law.

He agreed that in the case of those countries which applied the procedure followed by the United Kingdom, as well as in the case of those which used the process of automatic application, article 31 was unnecessary. But for other countries - and there were many of

them in South America and some in Europe - the inclusion of the article was essential, the more so inasmuch as the Convention sought to legislate for the whole world.

He knew from his own experience in the United Nations that informal requests to States to bring the Convention on the Crime of Genocide into force had been met by the answer that the appropriate legislative steps had to be taken. It was true that the expression "within a reasonable time" was somewhat vague, but if its legal effectiveness was small, it at least carried certain psychological weight.

By virtue of article 31, governments would be able to appeal to parliaments to enact the necessary legislation.

Nor was he able to agree with the United Kingdom representative's point that the provisions of the Convention already existed in all national legislations.

The Swiss representative had raised a point pertinent to that issue in connexion with article 7, on personal status. Would that article become applicable automatically by ratification? Or would it be necessary to enact special legislation? That question must be answered by each country in accordance with its own Constitution. But article 7 was not the only one which raised that issue. He believed that it would be very risky to ignore in the Convention the practice applied by the third group of States, which legislated after ratification.

The drafting of article 31 was not satisfactory, and he would consequently suggest the insertion of the words "if and when necessary" after the word "adopt" in the second line. In that way, the first two types of country would be covered, and the article would be made mandatory for the third type.

Mr. HOARE (United Kingdom) was unable to agree with the Israeli representative. He accepted the definition of the two first types of procedure, but considered that it would be going too far to accept the third kind of procedure as recognized constitutional practice.

If allowance was made for such a practice, no Contracting State would know just what the position was with regard to the enforcement of a multilateral treaty. States would be in a position of inequality vis-à-vis one another. How was it possible that one State should be able to defer the application of a Convention which it had already ratified, while other States were bound forthwith by its terms? He conceded the difficulties of the Federal State, but those would be covered by the appropriate Federal State clause. The Convention must come into force on ratification.

The Israeli representative's comments on the Convention on the Prevention and Punishment of the Crime of Genocide bore out his (Mr. Hoare's) contention, since it appeared that despite ratification the Convention was still not in force in the territory of many ratifying countries. It was fortunate that its application was not a matter of immediate necessity.

There was no doubt that the correct doctrine was that once the Convention had been ratified, the rights prescribed therein must be granted.

Mr. ROBINSON (Israel) agreed with the United Kingdom representative's criticisms of the third class of country, but maintained that it was impossible to eliminate that category by

deleting article 31. Without it there would be no hold over such countries. How could one best render service to the Convention: by retaining a provision which would be used as a whip, or by ignoring the existence of half the countries in the world? It would be in the best interests of the convention and of refugees to retain article 31.

Mr. HERMENT (Belgium) considered that the Israeli representative's very interesting statement dealt with a purely theoretical situation. So far as he knew there existed no case where a government had ratified a convention without putting it into effect.

If the Israeli proposal was adopted together with article 31, it would be impossible to know definitely whether the Convention was being effectively applied by the signatories, since the latter would always be able to invoke the excuse of the "reasonable delay" required to bring their domestic legislation into harmony with the provisions of the Convention. The practice so far followed might, of course, cause some delay, but the Belgian delegation for one preferred to face that possibility but to be certain that ratification would be followed by effective implementation.

Mr. SCHÜRCH (Switzerland) recalled that he had raised a similar question with regard to article 7. He had asked whether, on accession, national legislation would have to be modified to give effect to the provisions of that article. Such an eventuality would involve the Swiss Federal Government in certain difficulties, since Swiss legislation provided, in the event of the country's accession to an international instrument, for the incorporation of that instrument in its national legislation. For these reasons, article 31 would raise certain problems and the Swiss delegation therefore supported the United Kingdom proposal that the article be deleted.

Mr. HOARE (United Kingdom) wished to reply to the Israeli representative's question by putting another. What had been the practice in the past before an article such as article 31 had been thought of and such a concession made? The plea for a weapon had been effectively answered by the Belgian representative. It would seem to him (Mr. Hoare) that the proposed weapon would be less effective than that of ratification. It would be possible to ask States why they had not enforced a convention which they had ratified. That would be a better method than exhortation under an escape clause.

Mr. ROBINSON (Israel) said that the era of multilateral treaties dated from 1907, and that the majority of such treaties had been negotiated after the first world war. The practice in the past had been for countries to take action through the usual diplomatic channels, and for admonitory correspondence to be exchanged between governments parties to a treaty. Surely it was preferable to include one article in a convention than to foresee the exchange of innumerable diplomatic notes?

As to the point raised by the Belgian representative, the term "ratification" had a clear and generally accepted meaning. There was no implication that ratification must follow the adoption of appropriate domestic legislation. If allowance was to be made for that conception, paragraph 2 of article 34 would have to be amended accordingly, since, as at present drafted, it read "[This Convention] shall be ratified". If it could be assumed that the Belgian and United Kingdom conception that ratification must follow domestic legislative adjustment was reflected in article 34, the difficulty would be solved, and he would have no further objection to raise.

Baron van BOETZELAER (Netherlands) stated that States which ratified a convention were obliged to apply it. If they could not do so because their national legislation was not adapted to the needs of the convention, then they were in default. The adoption of article 31 would mean that defaulting States would be allowed to invoke the excuse of a reasonable delay in order to avoid applying the convention in their territories. The Netherlands delegation therefore considered that it would be of greater service to substitute for article 31 a clause which would make it obligatory for Contracting States to notify the Secretariat of the texts of the laws and regulations which they had adopted with a view to implementing the convention. With such a clause there would be some check on the position.

It was agreed that further discussion on article 31 should be deferred until the next meeting.

2. MEETING OF THE WORKING PARTY ON PARAGRAPH E OF ARTICLE 1

Mr. ROCHEFORT (France), replying to a question by the PRESIDENT, said that he had not received the instructions for which he had asked the French Government concerning paragraph E. He would therefore be unable to make a constructive contribution to the discussions of the Working Party which were to follow the present meeting. The French delegation, however, had no objection to the Working Party's meeting.

The meeting rose at 6.15 p.m.

[1](#) See summary record of the seventh meeting (A/CONF.2/SR.7).

[2](#) loc. cit.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-fourth Meeting

By General Assembly | 27 November 1951

Present:

President: Mr. LARSEN

Members:

Australia Mr. SHAW

Mr. BURBAGE

Austria Mr. FRITZER

Belgium Mr. HERMENT

Brazil Mr. de OLIVEIRA

Canada Mr. CHANCE

Colombia	Mr. GIRALDO-JAMARILLO
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Monaco	Mr. SALAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PERSSON
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
	Mr. BOZOVIC
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	

Category A

International Confederation of Free Trade Unions	Miss SENDER
--	-------------

Category B and Register

Caritas Internationalis	Mr. BRAUN
	Mr. METTERNICH

Commission of the Churches on International Affairs	Mr. REES
---	----------

Consultative Council of Jewish Organizations	Mr. MEYROWITZ
--	---------------

Co-ordinating Board of Jewish Organizations	Mr. WARBURG
---	-------------

International Council of Women	Dr. GIROD
--------------------------------	-----------

Pax Romana	Mr. BUENSOD
------------	-------------

Standing Conference of Voluntary Agencies	Mr. REES
---	----------

World Jewish Congress	Mr. RLEGNER
-----------------------	-------------

World's Young Women's Christian Association	Miss ARNOLD
---	-------------

Secretariat:

Mr. Humphrey	Executive Secretary
--------------	---------------------

Miss Kitchen	Deputy Executive Secretary
--------------	----------------------------

1. STATEMENT BY THE PRESIDENT ON THE KANSAS CITY DISASTER

The PRESIDENT said that he wished to express the profound sympathy of the Conference with the victims of the disaster which had just occurred in Kansas City, as a result of which many thousands of people had made homeless.

Mr. WARREN (United States of America) said that he deeply appreciated the President's expression of sympathy which he would convey to the United States government.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed from the twenty third meeting)

(i) Article 1 - definition of the term "refugee" (A/CONF.2/4, A/CONF.2/64, A/CONF.2/74, A/CONF.2/76, A/CONF.2/78, A/CONF.2/79) (continued)

The PRESIDENT announced that the leader of the Egyptian delegation would be absent from Geneva for a few days. It would be most undesirable for the Conference to discuss his amendment (A/CONF.2/13) to paragraph C of article 1 in his absence, and he (the President) therefore suggested that its consideration might be deferred.

It was so agreed.

The PRESIDENT opened the discussion on paragraph E of article 1, and drew attention to the United Kingdom amendment (A/CONF.2/74) and to the amendment (A/CONF.2/76) submitted by the representative of the Federal Republic of Germany.

Mr. HOARE (United Kingdom), introducing his amendment, pointed out that under sub-paragraph (b) of paragraph E the provisions of the Convention could not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations. It seemed to the United Kingdom Government quite arbitrary and unjustifiable to place such persons beyond the scope of the Convention. The problem had already been considered in connexion with article 28 (prohibition of expulsion to territories where the life or freedom of a refugee is threatened), and it had been precisely to cover such cases that the French and United Kingdom delegations had submitted an amendment (A/CONF.2/69) to that article, which had been adopted, giving a State the right to expel a refugee whom it had admitted, if it had reasonable grounds for regarding him as a danger to national security or if he had been convicted in that country of particularly serious crimes or offences. In the presence of such a provision it seemed to him that it was unnecessary to exclude from the benefits of the convention persons who came within the terms of at any rate the first clause of Article 14 (2) of the Universal Declaration of Human Rights. He had therefore introduced an amendment (A/CONF.2/74) providing for two alternative courses: either the total deletion of sub-paragraph (b) of paragraph E or at least the substitution of words derived from the second part of Article 14 (2) of the Universal Declaration of Human Rights. He preferred the former alternative and would ask that it be voted on first, as it was difficult to define what acts were contrary to the purposes and principles of the United Nations, though he presumed that what was meant was such acts as war crimes, genocide and the subversion or overthrow of democratic régimes.

Mr. ROCHEFORT (France) said that the question was one of long standing. The text of paragraph E of article 1 of the draft Convention had been originally proposed by the French delegation. It had been opposed by the United Kingdom in the Economic and Social Council, in the Third Committee of the General Assembly, and in the General Assembly itself. On each of those occasions, the French standpoint had been upheld and that of the United Kingdom rejected.

It was impossible for France to agree to drop the limiting clause in the case of common-law criminals. The joint amendment to article 28 submitted by the French and United Kingdom delegations (A/CONF.2/69) and adopted by the Conference met the point, it was true, with regard to that particular article; but it was essential to make provision for differentiating between refugees, in order to eliminate common-law criminals, in the article defining the term "refugee" as well. There were so many bona fide refugees that it was important not to allow any confusion between them and ordinary common-law criminals.

He had already explained the difficulties experienced by his country in that connexion, which were far greater than those which could possibly arise in countries whose geographical position permitted them to refuse entry visas to refugees who were common-law criminals. The deletion or retention of the provisions of paragraph E would be a prime factor in determining France's attitude towards the Convention as a whole. He would add

that his observations applied, *mutatis mutandis*, to persons falling under the other provisions of article 14 (2) of the Universal Declaration of Human Rights.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his delegation had given the most careful consideration to the preoccupations and arguments of the representative of the Consultative Council of Jewish Organizations¹¹, but had come to the conclusion that they were in no way justified by the terms of the Federal Republic's amendment (A/CONF.2/76).

It had been maintained that the adoption of that amendment would in some way threaten the development of the principles of international law with regard to the responsibility of the individual for war crimes and crimes against humanity. The Federal government of Germany was most anxious that those principles should be firmly established and their universal application secured, but it doubted whether any decision taken by the Conference would be effective in making them so.

The real purpose of paragraph E of article 1 was to exclude from the scope of the Convention persons regarded as criminals, on the grounds that they should not be placed on an equal footing with bona fide refugees. He believed that there was general agreement as to the kinds of person who should be thus excluded; the only difficulty was to express it in a positive form. In considering that point the legal experts of the Federal Government of Germany had decided that the matter would be sufficiently covered by the terms of sub-paragraph (b) of paragraph E, by which anyone who had committed non-political crimes or acts contrary to the purposes and principles of the United Nations would be excluded from the benefits of the Convention. The crimes enumerated in Article 6 of the Charter of the International Military Tribunal (the London Charter) were certainly to a very large extent punishable under the normal criminal law of most civilized States. If some were not covered in that way, they would come within the scope of article 14 (2) of the Universal Declaration of Human rights as acts contrary to the purposes and principles of the United Nations. His government's legal experts therefore regarded the whole of sub-paragraph (a) of paragraph E as superfluous, and it was only in order to avoid misunderstanding that his amendment made specific mention of war crimes, crimes against humanity and crimes against peace.

The Government of the Federal Republic of Germany had not participated in the preliminary work on the draft Convention, but he assumed that paragraph E had been based on similar provisions in the Constitution of the International Refugee Organization (IRO). It was quite natural that that instrument should refer to the London Charter, as the majority of refugees falling within IRO's mandate had become refugees owing to events connected with the second world war. The purpose of the Convention, however, was to extend legal protection to other refugees whose plight was not the immediate consequence of the war and of the crimes mentioned in the London Charter. It should be noted also that article 6, section (c), of the London Charter expressly dealt with crimes against humanity committed "before or during the war", thus excluding such crimes committed at a later date. It would therefore seem logical that the Convention should not include a reference to an instrument of incontestably limited scope.

That view should not be interpreted to mean that the Government of the Federal Republic of Germany did not accept the definitions contained in the London Charter. It had been

said that the purpose of mentioning the London Charter was to indicate the types of crime, commission of which would preclude persons from invoking the protection of the Convention. The representative of the Consultative Council of Jewish Organizations had suggested a wording which would make that point even clearer. His own purpose in mentioning the Geneva Conventions was similar. The fact that the Geneva Conventions as such were applicable only to future international and civil wars, and did not expressly mention the responsibility of individuals, was therefore of no importance, since paragraph E of the draft Convention was not intended to confirm the provisions of the Geneva Conventions or the Convention on Genocide as such, but simply to indicate the various types of crimes envisaged, by references to definitions contained in the relevant articles of those Conventions.

He had already explained that he would not insist on the exact wording of his amendment. Any solution would be acceptable to his Government which did not contain an express reference to the Charter of the International Military Tribunal. His Government hoped that the Conference would not write into the Convention considerations which were quite outside its scope.

Apologizing for having spoken at such length, he explained that he had done so to try and overcome a serious obstacle and to reaffirm the wholehearted agreement of the Government of the Federal Republic of Germany that war criminals, wherever they might have succeeded in escaping to, must be excluded from the protection of the Convention.

Mr. HOARE (United Kingdom) said that if his first alternative, namely, the total deletion of sub-paragraph (b), did not find favour with the majority of representatives he would not press it. What he was concerned about was that persons who committed minor crimes in their country of refuge should not be excluded from the benefits accorded to refugees under the Convention. He would assure the French representative that he was fully aware of the realities of the situation, and that he was being guided by what he must regard as the most reasonable considerations. Mr. Rochefort was mistaken if he supposed that refugees had never committed crimes in the United Kingdom, or that the United Kingdom Government had not occasionally admitted refugees who were criminals. The question at issue was one of principle. The Conference was engaged on framing a charter of minimum rights to be guaranteed to refugee, such as property rights, social security benefits, the right to work, rights relating to personal status, the right of access to courts and so on. In all civilized countries even a criminal possessed such rights, and a man who had been committed to prison for a crime, though he had temporarily to forego his social security benefits, still retained the right of access to the courts, as was explicit, for example, in the right of appeal.

He was most anxious that refugees who had committed such crimes as petty thefts in their camp should not thereby be placed once and for all beyond the reach of the Convention. It had been argued that as a matter of civilized treatment that would not occur; if so, he could see no objection to giving the principle legal recognition in the Convention. Otherwise States would be given a loophole of which they could take advantage to divest themselves of responsibility for any refugee who happened to be convicted of any crime on their territory.

He found it difficult to understand the French representative's attitude, since article 28 in its amended form already provided adequate protection to State against having to Labour undesirable elements. In the so-called common criminal was to forego the right of being considered a refugee for the purposes of the Convention, the joint French-United Kingdom amendment to article 28 became entirely superfluous.

Mr. HERMENT (Belgium) observed that the discussion had so far turned mainly of refugees who had committed crimes in the receiving countries; however, paragraph E related also to refugees who had committed crimes in foreign countries, or even in their country of origin. As things stood at present, a bona fide refugee prosecuted by his country of origin could be expelled by the receiving country and handed over to the authorities of the country of origin by virtue of the provisions of article 28. The United Kingdom amendment sought to preclude that possibility. It might so happen, nevertheless, that the receiving country had concluded an extradition treaty with the country of origin the clauses of which might conflict with the provisions of the Convention. As a result, a situation would be created in which an international convention would be in conflict with a bilateral treaty. Thus it was possible that, under international law, a refugee convicted of, or charged with, a common-law crime would have necessarily to be handed over to the authorities of his country of origin. Inclusion of the provision in question in the Convention was therefore imperative.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that in addition to the point made by the Belgian representative there was another matter which required consideration. It would be observed that in the Statute of the Office of the High Commissioner for Refugees (A/CONF.2/4), Chapter II, paragraph 7 (b), three categories of refugees were excluded from the competence of the Office, two being the same as those specified in paragraph E of the draft Convention, the third being those who had committed a crime covered by the provisions of extradition treaties. Perhaps the two provisions should be brought into line.

Mr. ROCHEFORT (France) thought that the observations which the Belgian representative had just made threw a clear light on the situation. The fact should be stressed that the present provision had at first been the subject of a unanimously accepted compromise, which the United Kingdom, however, had afterwards turned down. Article 14 of the Universal Declaration of Human Rights dealt with the right of asylum. The United Nations had had no hesitation in refusing that right to common-law criminals. In the case of the Convention, article 1 provided a similar means of sorting out bona fide refugees. It was necessary to retain that article as it stood, for it was not always possible to screen the influx of refugees properly at the frontier. The present text of paragraph E was satisfactory. Its retention would not prevent France from granting asylum to individual common-law criminals; but if those persons had no right to asylum under the Universal Declaration, they had even less right to enjoy the benefits provided under the Convention. France would not be able to apply the proposed definition, unless it contained the limiting clause in question.

Mr. HOARE (United Kingdom) recognised the validity of the Belgian representative's argument concerning extradition. The matter was delicate. For example, a request for extradition might be made by a country from whose persecution the person in question had fled. In submitting the joint amendment to article 28, he had assumed that the

provisions for expulsion contained in that article in no way affected the procedure for extradition which, at least so far as the United Kingdom was concerned, was entirely different. He had presumed that extradition would still be covered by the provisions of bilateral agreements. The point could be met by amending paragraph E so as to exclude from the application of the Convention persons liable to extradition. It would, however, in his opinion be preferable to pursue the alternative course of amending article 28, if necessary, so as to make it clear that its provisions in no way affected existing agreements under bilateral extradition treaties.

Mr. ROBINSON (Israel) pointed out that it was not fortuitous that the clause relating to extradition which appeared in the Statute of the High Commissioner's Office had been omitted from the draft Convention. The latter could not affect existing bilateral agreements between two non-contracting States, but the question arose as to which instrument would have precedence in the case where a persecuting government ratified the draft Convention. He did not believe that paragraph E should be amended by the inclusion of a clause relating to extradition; on signing the Convention, States could always enter a reservation saying that it did not affect their rights and contractual duties under previously concluded bilateral agreements relating to extradition.

Mr. HERMENT (Belgium) supported the views of the United Kingdom representative. A clause referring to extradition treaties ought to be included in the Convention, but it would have to be made clear that such treaties must be observed and that they should remain outside the framework of framework of article 28.

Mr. ROCHEFORT (France) did not know how the High Commissioner for Refugees intended to interpret his Statute in respect of common-law criminals, but if Contracting states were obliged to grant the status of refugee to common-law criminals, the position might be reached where such persons would be considered as refugees under the Convention while not being regarded as such under the High Commissioner's Mandate.

Mr. HOARE (United Kingdom) agreed that there were certain disadvantages in allowing divergences between the definition of refugees contained in the Statute of the High Commissioner's Office and that contained in the Convention. Nevertheless, facts had to be faced. Perhaps it might later be found possible to modify the Statute.

Mr. ROCHEFORT (France) observed that the divergence between the two standpoints arose from the fact that certain delegations wished their governments to be able to return and expel refugees who were common-law criminals, whereas the French government wanted to be able, under certain conditions, to receive them, without, however, being compelled to apply to such individuals the benefits accorded by the Convention. For France, the definition was the criterion for the right of asylum, and that was why she attached fundamental importance to it.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) pointed out that the Israeli representative had admitted that a question might arise as to whether a signatory State was bound by the provisions of the Convention or by its obligations towards another State under an extradition agreement. Perhaps some explicit decision on that point should be reached and included in the draft Convention.

Mr. ROBINSON (Israel) said that the matter involved intricate legal considerations; there might be some danger in making reference to bilateral agreements specifically dealing with extradition to the exclusion of other bilateral agreements which might also be affected by the provisions of the Convention. The question should, perhaps, be left to the Style Committee.

Mr. HERMENT (Belgium) remarked that it was not a question of quoting extradition treaties in the draft Convention. It would suffice to state that the provision in question did not apply to cases of extradition.

The PRESIDENT, speaking as representative of Denmark, said that if explicit mention were made in the Convention of bilateral agreements concerning extradition, a clause would also have to be inserted to cover those States which, under their domestic legal system, practised extradition without having concluded actual extradition treaties. Both methods should be taken into account.

Baron van BOETZELAER (Netherlands) said that the point raised by the President in his capacity as representative of Denmark would, as had been suggested by the representative of Belgium, be met by a general reference to extradition, without mention of treaties or agreements.

The PRESIDENT, speaking as representative of Denmark, observed that States which recurred a request for the extradition of a refugee who had committed a crime of no great consequence from the very government that was likely to persecute him, would be faced with a very difficult decision. On the other hand, States could not be expected to grant asylum to persons committing capital crimes merely because they happened to be exposed at the same time to relatively minor dangers on account of some unimportant political activity. A proper balance must be struck between all the considerations involved.

Mr. HOARE (United Kingdom) was anxious that the question of extradition - which, admittedly, would have to be settled - should be kept separate from the United Kingdom amendment. His particular preoccupation was that persons who committed crimes in their country of refuge should not be excluded from the application of the Convention.

Mr. ROCHEFORT (France) thought that neither the provisions of article 28 nor the clauses in existing extradition treaties covered all the problems involved.

France granted asylum to a certain number of Polish nationals convicted of serious crimes, to whom the Polish Consulate had refused a passport. But that was not sufficient reason for granting those persons refugee status. Some delegations were prepared to admit the right of Contracting States to expel or extradite refugee living in their territory, but refused to admit their right not to grant refugee status to common-law criminals. It was difficult, of course, to compare the position of insular countries in respect of the refugee problem with that of continental countries. For her part, France relied essentially on the barrier formed by paragraph E, which was a *conditio sine qua non* of her accession to the Convention. Moreover, it should not be forgotten that the text of that section had already been adopted by the Economic and Social Council and by the General Assembly. France's reason for taking such a firm stand on the subject lay in the fact that she had to administer the right of asylum under much more difficult conditions than did countries which were in a position to screen immigrants carefully at their frontiers.

Mr. ROBINSON (Israel) stated that the representative of the Federal Republic of Germany had contended that his amendment (A/CONF.2/76) was not one of substance, but largely one of form. However, it seemed to have been inspired by a fear of calling things by their right names; it replaced reference to the Charter of the International Military Tribunal by references to other sources, namely, the Geneva Convention of 12 August 1949, relative to the Protection of Civilian Persons in Time of War, three other Geneva Conventions of the same date, and the Convention on Genocide of 9 December 1948, together with a definition of crimes against peace reproduced from Article 6 of the London Charter without indication as to its source.

Approaching the matter from a purely legal angle, two questions arose: whether, in fact, there was any substantive difference between paragraph E of article 1 and the amendment submitted by the representative of the Federal Republic of Germany, and, if there was no substantive difference, what would be the legal effect of omitting reference to the London Charter.

Taking the first problem, it would be seen that so far as crimes against peace were concerned, the wording of the amendment was identical with that of the London Charter. As to war crimes in the narrow sense of the word, there were minor divergences between the provisions of Article 147 of the Geneva convention and Article 6, section (b) of the London Charter, although the wording of the Charter had undoubtedly influenced that of the Convention.

With regard to crimes against humanity, as defined in Article III of the Convention on Genocide and the Geneva Convention of 1949 on the one hand and the London Charter on the other, there were significant differences. Article 147 of the Geneva Convention was exhaustive; on the other hand, Article 6, section (c) of the London Charter referred to "other inhumane acts", the interpretation of that phrase being left to the courts. Other differences were that the Geneva Convention did not mention persecution on political, racial or religious grounds, and related to acts committed in "time of War" - as defined in Articles 2 and 3 - whereas Article 6, section (c) of the London Charter covered crimes committed "before or during the war". Finally, the Geneva Convention dealt only with crimes committed by the enemy in occupied territory, whereas the London Charter dealt with crimes committed against any population, including that of the Contracting State concerned.

Even if paragraph E of article 1 of the draft Convention reproduced in toto Article 6 of the London Charter there would still be grave difficulties, since the competence of the present Conference was restricted to establishing a legal status for refugees. It was not called upon to legislate in questions of international criminal law, or to define international crimes and embody them in provisions which would exclude certain categories of persons from the scope of the Convention. However, there was nothing to prevent the Conference from inserting references to existing instruments which formulated principles of international law, and it was, perhaps, that consideration that had prompted the delegation of the Federal Republic of Germany to mention the Geneva Convention and the Convention on Genocide, instead of reproducing the wording of Article 6, sections (b) and (c), of the London Charter. In its amendment, however, that delegation gave no indication of the source of its definition of crimes against peace.

There was no more authoritative or more widely recognized source of international criminal law than the London Charter, and it would be most dangerous to delete all mention of it. Furthermore, it would be impossible to apply and interpret the provisions of paragraph E of article 1 without reference to that instrument. Related material such as that assembled during the preparatory work of the International Military Tribunal and the records of the Nürnberg and other trials would assist in determining what were criminal acts of States, the criminal responsibility of government officials, the treatment of such pleas as those of “superior orders”, “duress”, “necessity”, “overriding national interest” or “national emergency”. The proposed deletion of reference to Article 6 of the London Charter would render paragraph E a dead letter. He did not believe that the present state of world affairs justified such a step.

Respect for the decisions of the majority in the United Nations had been put forward as an argument in defiance of paragraph A of article 1 of the draft Convention, but that argument surely applied with far greater force to paragraph E. The “Nürnberg Principles” had twice been re-affirmed in the General Assembly, and not a single defection had occurred since. He therefore considered that, apart from incontestable legal considerations, it was the duty of the Conference, as a body convened by the General Assembly, to reject the amendment presented by the representative of the Federal Republic of Germany.

Mr. ROCHEFORT (France) suggested that the amendment submitted by the delegation of the Federal Republic of Germany should be referred to a working group.

Mr. PRESIDENT felt that the French representative’s suggestion was extremely useful, and that it represented the only possible solution for the time being.

Mr. HOARE (United Kingdom) had no objections to the French suggestion. The whole of paragraph E might well be taken up by the working group, which should also take into account the points he and other representatives had made, in connexion with the United Kingdom amendment, on the matter of extradition.

Mr. del DRAGO (Italy) supported the French representative’s suggestion.

Mr. CHANCE (Canada) also favoured the French representative’s suggestion to his mind, one matter of great concern to all delegations was the possibility that refugees, or persons presumed to be such, might present themselves in a given country and endeavour to subvert the State. The working group might also consider including a suitable reference to Article 30 of the Universal Declaration of Human Rights.

The PRESIDENT suggested that the working group should be set up immediately, and proposed that it should be made up of the representatives of France, the Federal Republic of Germany, Israel and the United Kingdom. The High Commissioner for Refugees should also be invited to participate in the working group’s discussions on sub-paragraph (b) of paragraph E. which would bear upon the definition used in the Statute of his Office.

The President’s suggestion was unanimously adopted.

The PRESIDENT then drew attention to the amendments to paragraph F of article 1 submitted by the Belgian and Yugoslav delegations (A/CONF.2/78 and A/CONF.2/79 respectively).

Mr. ROBINSON (Israel) remarked that, whereas paragraphs B, C, D and E were all restrictive in character, paragraph F was the opposite. The Yugoslav representative was possibly justified in feeling that, unless paragraph F was made subject to the provisions of paragraph E, new categories of refugees created in the future might be regarded as free from all restrictions. On the other hand, there was some danger in including the words proposed in the Yugoslav amendment because they might be interpreted as meaning "subject to the provisions of paragraph E exclusively." He requested the Yugoslav representative to reconsider his proposal in that light. In his opinion, the logical place for paragraph F was immediately after paragraph A. There would then be no risk of the Yugoslav amendment to paragraph E being misunderstood.

Mr. ROCHEFORT (France) said that if the Israeli representative's suggestion was acceptable to the Yugoslav representative, all would be well. The Yugoslav amendment, however, assuaged anxieties that France itself shared. If one followed the development of the text of the draft Convention, it would be observed that paragraph F was no more than a survival, and no longer had any meaning, now that the definition in article 1 had been broadened. Of what other categories of persons, indeed, could there now be any question? It seemed that provision had already been made for all the categories of refugees to whom the status of international refugee could be extended, other than those mandatorily and - regrettably - excluded under paragraph O. It was certain that the United Nations did not intend to apply the provisions of the Convention to national refugees, such as those in Germany, India and Pakistan. Yet paragraph F of article 1 seemed to imply that certain categories of international refugees had been left out of the Convention which was not the case.

At all events, the Belgian amendment to paragraph F provided a more satisfactory formula than the existing text. It introduced an element of tact vis-à-vis Contracting States, as it laid down that if a Contracting State decided to apply the term "refugee" to other categories of persons, it should so inform the Secretary-General of the United Nations, who would then invite the other Contracting States to inform him whether they accepted such an extension of the term.

Mr. ROBINSON (Israel) pointed out that there was a discrepancy in time between the definition of the term "refugee" in the Statute of the Office of the Commissioner for Refugees and the one in the draft Convention before the Conference. In the latter, reference was made to events prior to 1 January 1951; there was no such reference in the Statute of the High Commissioner's Office. In order to provide the High Commissioner with an additional legal basis for his activities, the General Assembly had felt that an extending clause, namely paragraph F, should be included in the Convention on the Status of Refugees.

Mr. ROCHEFORT (France) did not think that those were the reasons which had led to the inclusion of paragraph F. France had no great objection to that text, provided, however, that it was not considered as authorizing the General Assembly to place under the jurisdiction of the High Commissioner for Refugees the refugees he (Mr. Rochefort) had mentioned earlier.

If events subsequent to 1 January 1951 were to be considered, they could only be events which would turn the world upside down once again, and in that case it was probable that a fresh conference of plenipotentiaries would have to be convened.

Mr. HERMENT (Belgium) wished the possibility of an extension in time to be retained. That was the object of his amendment to paragraph F of article 1.

Mr. MAKIEDO (Yugoslavia) said that he attached great importance to the restrictive provisions of paragraph E. He supported the observations of the French representative, but was unable to accept the United Kingdom amendment (A/CONF.2/74), which would extend the benefits of the Convention to refugees guilty of common crimes and, if the first United Kingdom alternative were accepted, to persons guilty of acts contrary to the principles of the United Nations.

For reasons similar to those given by the Israeli representative, he could not accept the amendment to paragraph E submitted by the place occupied by paragraph F in the original draft, it was delegation of the Federal Republic of Germany. In view of the necessary to specify that all possible extensions of the term "refugee" should be subject to the exclusive reservations provided for in paragraph E, as was proposed in the Yugoslav amendment. That would preclude any subsequent misunderstandings. However, even if paragraph F was placed immediately after paragraph A, the Yugoslav amendment would, in his opinion, still be necessary.

Mr. CHANCE (Canada) drew attention to a technical difficulty, namely, that the purport of paragraph E was not yet known.

The PRESIDENT supported a suggestion by Mr. MAKIEDO (Yugoslavia) that that point should be left in abeyance for the time being, and suggested that, since the Conference had discussed article 1 so far as was possible for the time being, it should resume its consideration of article 2.

It was so agreed.

(ii) Article 2 - General obligations (resumed from the fourth meeting)

Mr. ROCHEFORT (France) said that the French delegation, having carried its objections over to article 28, (prohibition of expulsion), withdrew its amendment (A/CONF.2/18) to article 2.

The PRESIDENT put article 2 to the vote.

Article 2 was adopted by 24 votes to none, with 1 abstention.

(iii) Article 3 - Non-discrimination (A/CONF.2/28, A/CONF.2/72) (resumed from the eighteenth meeting)

The PRESIDENT drew attention to the report of the Committee set up to study article 3 (A/CONF.2/72), and especially to the six choices with which the Committee had been faced (section 5).

Mr. ROCHEFORT (France) supported the text in section 5 (6) of the Committee's report. It would be desirable, however, to clarify that text by some such addition as "and, in respect of country of origin, without prejudice to the provisions of article 1". Without such

clarification, the new article and article 1 would contradict one another, as it might be argued that the fact that certain countries would apply the Convention only to European refugees would in itself constitute discrimination.

Mr. HOARE (United Kingdom) appreciated the French representative's point, but felt that it was covered by the Committee's draft in section 5(6), because Contracting States would be obliged to apply the provisions of the Convention to persons defined in article 1 without discrimination as to country of origin, race and so on. Article 1 now provided States with a choice between two alternatives for the geographical scope of the Convention, and the non-discriminatory clause would therefore apply only to refugees in the sense of the alternative which any given Contracting State selected.

Mr. ROCHEFORT (France) thought that his suggested amendment was essential. Replying to the PRESIDENT, he said that he could submit a written text later.

Mr. ROBINSON (Israel), speaking to a point of order, suggested that, provided the French representative had no objection, the Conference should proceed to vote on the substance of article 3, subject to subsequent textual emendations.

The PRESIDENT ascertained that the French representative was agreeable to that procedure. He then drew the Conference's attention to section 5(6) of the Committee's report.

Mr. HERMENT (Belgium) requested that the vote should be taken solely on the text as submitted, to the exclusion of any amendments which might be made to it by the Style Committee, and which might easily turn out to be more than mere changes of form.

Mr. ROCHEFORT (France) said that in those circumstances he would abstain from voting on the new draft of article 3.

Mr. HERMENT (Belgium) indicated that he would reserve his delegation's entire attitude towards a text which was to be subject to modification by the Style Committee.

The PRESIDENT pointed out that all the votes taken so far related to the first reading of the text; representatives would be free to revise their positions in the light of the texts prepared by the Style Committee. He then put to the vote the new article 3 as set forth in section 5(6) of the Committee's report. New article 3, thus amended, was adopted by 21 votes to none, with 3 abstentions.

Mr. MAKIEDO (Yugoslavia) explained that he had abstained because his amendment, which aimed at preventing every type of discrimination, had not been adopted; he was unable to vote for a text which, while forbidding discrimination on account of race and country of origin, left the way open to other forms of discrimination.

Mr. MAHER (Egypt) remarked that his position was similar to that of the Yugoslav representative. His delegation, too, had submitted an amendment to article 3 (A/CONF.2/28) which had not been taken into consideration.

(iv) Article 3 B (resumed from the sixth meeting)

The PRESIDENT recalled that the Conference had decided to defer consideration of article 3 B pending the preparation of a text by the United Kingdom and Israeli

representatives. Unfortunately, the Secretariat had not yet been able to get the text translated and distributed. He therefore suggested that the Conference should in the meantime pass on to article 4.

It was so agreed.

(v) Article 4 - Exemption from reciprocity (A/CONF.2/32) (resumed from the sixth meeting)

Baron van BOETZELAER (Netherlands) recalled that he had originally supported the joint French/Belgian amendment to article 4 (A/CONF.2/32); however, he had since discovered certain points regarding which he wished for some clarification.

According to the first paragraph of the French/Belgian amendment, certain refugees would continue to enjoy the reciprocity which they had previously enjoyed; that included the legislative reciprocity mentioned in the second paragraph, as well as diplomatic and de facto reciprocity. On the other hand, new refugees would, according to the same amendment, enjoy exemption from legislative reciprocity only after a period of three years' residence in the receiving country. He appreciated the reasons for which certain States felt obliged to limit the rights of new refugees in that way, but pointed out that there were other States which visualized the possibility of extending the idea of reciprocity even to non-statutory refugees. He therefore requested the authors of the joint amendment to delete the word "legislative"; countries which regarded the retention of that word "legislative"; countries which regarded the retention of that word as indispensable could make appropriate reservations.

A second point was that paragraph 3 of article 4 was not covered by the French/Belgian amendment, an omission which the co-sponsors had not fully clarified.

Finally, he asked the Belgian representative whether he did not agree that it would be useful to add an extra paragraph relating to the reciprocal regional agreements existing between certain groups of countries, such as Benelux and the Scandinavian countries.

Mr. HERMENT (Belgium) did not think that a clause relating to regional agreements could be included in the Convention. Contracting States which wished to do so would always be able to enter a reservation on that point at the time of signing the Convention.

As to paragraph 3 of article 4, the fate of which was causing concern to the Netherlands representative, the Belgian delegation did not wish to see it deleted. In fact, the French/Belgian amendment related only to paragraph 2 of article 4. It was emphatically not designed to exclude de facto reciprocity.

As to diplomatic reciprocity, he had received precise instructions from his Government to press for its exclusion. If the French/Belgian amendment were rejected, he reserved the right to introduce a new proposal on that issue.

Baron van BOETZELAER (Netherlands) said that he would not press for the inclusion of the extra paragraph relating to regional agreements, but thought that the word "legislative" should definitely be deleted from the joint amendment.

Mr. ROCHEFORT (France) asked the Secretariat to state how many countries observed exemption from legislative reciprocity under the terms of the 1933 Convention. It was

certain that their number was very small, for the case of exemption was rare. The present discussion was therefore purely theoretical. In any event, it would be better to avert the possibility of reservations being entered on the point.

Mr. WARREN (United States of America) pointed out that, if the word “legislative” were deleted, the text of the joint amendment would be much the same as the original text of article 4.

Mr. HERMENT (Belgium) said that in his opinion the modification proposed by the Netherlands representative to the French/Belgian amendment would not involve a change of substance, but only one of form, and one that would not improve the text at that.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) observed that the original text used the words “for a certain period”, whereas the joint amendment referred to “a period of three years”.

The PRESIDENT replied that the words defining the period of time could be voted on separately.

The EXECUTIVE SECRETARY pointed out that, in the 1933 Convention, reservations to article 14, which related to exemption from reciprocity, had been entered by Belgium, Czechoslovakia, Denmark, Norway and the United Kingdom; none had been entered by Bulgaria, France and Italy.

Mr. HOARE (United Kingdom) explained that the United Kingdom reservation had been made simply because the article in question had had no application in the United Kingdom.

Mr. ROCHEFORT (France) thought it would be difficult to vote on the joint amendment before knowing exactly what kinds of exemption from reciprocity were involved.

The PRESIDENT put to the vote the Netherlands proposal that the word “legislative” be deleted from the joint French/Belgian amendment (A/CONF.2/32).

The Netherlands proposal was rejected by 5 votes to 3, with 15 abstentions.

The PRESIDENT suggested that the Conference should vote on the qualifying words “after a period of three years’ residence”.

Mr. HERMENT (Belgium) asked why the text of the joint amendment could not be put to the vote in the form in which it appeared in document A/CONF.2/32. The question of the period of residence could then be voted on separately.

The PRESIDENT felt that certain representatives might be willing to support the amendment if the reference to the period of three years’ residence were deleted.

Mr. ROCHEFORT (France) thought that at the present stage of the discussion it could not be said that the question of length of residence had been examined. In his opinion, the question of the three years’ period could not be separated from the rest of the French/Belgian amendment.

The joint French/Belgian amendment (A/CONF.2/32) was adopted by 9 votes to 5, with 11 abstentions.

Article 4, as amended, was adopted by 20 votes to none, with 4 abstentions.

**(vi) Article 5 - Exemption from exceptional measures (A/CONF.2/37, A/CONF.2/83)
(resumed from the seventh meeting)**

The PRESIDENT recalled that the discussion of article 5 had been deferred at the request of the United Kingdom representative, who had wished to introduce an amendment. The text of the latter was now to be found in document A/CONF.2/83; the Swedish delegation had also submitted an amendment to article 5 (A/CONF.2/37).

Mr. PERSSON (Sweden) requested the Conference to defer consideration of the Swedish amendment until the next day, in view of the absence of the leader of the Swedish delegation.

Mr. HOARE (United Kingdom) supported the Swedish representative's suggestion, particularly as the Conference had not had sufficient time to study his own amendment (A/CONF.2/83).

The Swedish representative's suggestion was adopted.

The meeting rose at 12.45 p.m.

[1](#) See summary record of the twenty-first meeting (A/CONF.2/SR.21).

**Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons:
Summary Record of the Twenty-sixth Meeting**

By General Assembly | 27 November 1951

President:	Mr. LARSEN
Members:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRÜTZSCHLER

France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO, Mr. THEODOLI
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PERSSON
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Labour Organization	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register Caritas Internationalis	Mr. BRAUN, Mr. METTERNICH

Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-International Union of Catholic Women's Leagues	Mr. WARBURG
Standing Conference of Voluntary Agencies	Miss de ROMER
World Jewish Congress	Mr. REES
World Union for Progressive Judaism	Mr. RIEGNER
Secretariat:	Mr. MESSINGER
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. PROGRAMME OF WORK AND APPOINTMENT OF THE STYLE COMMITTEE (A/CONF.2/L.2)

The PRESIDENT said that, if the Conference failed to complete its agenda by Saturday, 21 July, it could arrange to meet to meet on Monday, 23 July, and, possibly, on Sunday, 22 July. Since other meetings were due to take place in the Palais des Nations the following week, the simultaneous interpretation staff would be otherwise occupied, but consecutive interpretation could be provided on Monday.

He then read out a proposed time-table of meetings.

Mr. ROCHEFORT (France) pointed out that, even if the Conference kept to the programme of work proposed by the President, as he was sure it would agree to do, that did not necessarily mean that it would end its work within the time allowed. In any event there was nothing to prevent it from holding a second session.

The PRESIDENT drew the attention of the Conference to the note (A/CONF.2/L.2) drawn up by the Secretariat which showed the action taken by the Conference up to 17 July, 1951, in respect of each article of the draft Convention.

The officers of the Conference, who, under rule 2 of the rules of procedure, were required to examine the credentials of representatives and submit a report thereon, had presented their report in document A/CONF.2/87. The document had been circulated for the information of delegations, and, since changes in the position of certain representatives would probably occur in the near future, he suggested that the Conference should not take a decision on the report until a later meeting.

It was so agreed.

The PRESIDENT pointed out that the style Committee had still to be appointed, and he suggested that it should comprise the representatives of Belgium, France, Israel, the United Kingdom and the United States of America.

Mr. ROCHEFORT (France) said that, as States Non-Members of the United Nations had been invited to take part in the Conference's work, one of them should be represented on the Style Committee. He proposed Italy for that purpose, in view of the difficult refugee problem with which that country was faced.

Mr. ROBINSON (Israel) thanked the President for suggesting that he should serve as a member of the Style Committee, but was obliged to decline the honour for personal reasons.

The PRESIDENT expressed his regret that the Israeli representative, who had been a member of the Ad Hoc Committee and of various working groups throughout the entire United Nations history of the refugee question, was unable to accept appointment.

Mr. del DRAGO (Italy) thanked the French representative for nominating him for membership of the Style Committee. In accepting nomination, he assured the Conference that the Italian delegation would collaborate wholeheartedly in the work of the Committee.

The PRESIDENT suggested that the High Commissioner for Refugees should also be represented on the Style Committee, the other members therefore being the representatives of Belgium, France, Italy, the United Kingdom and the United States of America.

It was so agreed.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.1, A/CONF.2/5 and Corr.1) (resumed from the twenty-fifth meeting):

Mr. MONTOYA (Venezuela), speaking to a point of order, announced that the Brazilian, Colombia and Venezuelan delegations, which by coincidence had all been absent the previous day when article 30 had been discussed, although it had not originally been on the agenda for the day, had authorized him to state that they would reserve their positions on that article until it was reconsidered during the second reading.

(i) Article 31 - Measures of implementation of the Convention (A/CONF.2/85, A/CONF.2/86) (continued)

The PRESIDENT pointed out that amendments to article 31 had been submitted by the United Kingdom and Netherlands delegations (A/CONF.2/85 and A/CONF.2/86 respectively).

He suggested that, since the United Kingdom amendment was a proposal to delete article 31, representatives who were in favour of it could show their support by voting against the article. He would not, therefore, put that amendment to the vote separately.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) wondered whether it was possible to bring the Netherlands amendment to article 31 into line with the text of article 30 adopted at the preceding meeting.

Mr. HERMENT (Belgium) asked the Netherlands representative whether, as article 30 as adopted provided that Contracting States should undertake to provide the Office of the High Commissioner for Refugees, or other appropriate agency of the United Nations, with

information concerning the implementation of the Convention, that provision would not be sufficient to achieve the intentions of the Netherlands amendment.

Baron van BOETZELAER (Netherlands) admitted that there was a certain amount of overlapping between his amendment and article 30 as adopted, but thought that it would nevertheless be useful to retain his amendment as a separate article. His amendment was in conformity with the other articles of the draft Convention. Sub-paragraph 2 (b) of article 30 might be consequentially revised at the second reading; if it was then retained as it stood, he would reconsider the matter.

The PRESIDENT asked whether the Netherlands representative was withdrawing his amendment.

Baron van BOETZELAER (Netherlands) said that he was not.

The PRESIDENT thought that the obligation which the Netherlands amendment sought to impose on Contracting States should be supplemented by an obligation on the Secretary-General to communicate to Contracting States information on developments connected with the Convention occurring in other Contracting States. He therefore submitted that the ideas underlying the Netherlands amendment might logically be considered in connexion with article 40 (Notifications by the Secretary-General).

Baron van BOETZELAER (Netherlands) had no objection to the President's suggestion. His amendment was similar to an article in the Red Cross Convention, which provided that signatories should communicate certain laws and regulations to the Government of the Swiss Confederation.

With regard to the comment of the Belgian representative, he remarked that article 30 specified that Contracting States should provide appropriate agencies of the United Nations with any data, statistics and information requested concerning the implementation of the Convention, whereas the Netherlands amendment provided that Contracting States should communicate the entire texts of the relevant laws and regulations.

He had originally introduced his amendment on the assumption that the United Kingdom proposal would be adopted, that the original text of article 31 would thereby be deleted, and that his amendment would then take its place. His amendment should therefore be considered as a new article.

The PRESIDENT put to the vote the original text of article 31 (A/CONF.2/1, page 17).

Article 31 was rejected by 17 votes to 3, with 4 abstentions.

The Netherlands proposal (A/CONF.2/86) for a new article relating to measures of implementation was adopted by 7 votes to 3, with 13 abstentions.

(ii) Article 32 - Relation to previous Conventions (A/CONF.2/53)

Mr. HERMENT (Belgium) said that his amendment (A/CONF.2/53) to paragraph 2 of article 32 was purely textual. The existing wording of paragraph 2 seemed to imply that there could only be two States parties to a previous instrument. His amendment corrected that drafting error.

Mr. HOARE (United Kingdom) felt that, since the Belgian amendment did not affect the English text and merely aimed at improving the wording of the French text, it might be referred to the Style Committee.

The PRESIDENT added that the English text was also somewhat defective from the point of view of style. He asked the Belgian representative whether he would withdraw his amendment on the understanding that the text of article 32 would be referred to the Style Committee.

Mr. HERMENT (Belgium) withdrew his amendment on that understanding.

Article 32, subject to textual modification by the Style Committee, was adopted unanimously.

(iii) Article 3 (B) (A/CONF.2/41, A/CONF.2/42, A/CONF.2/84) (resumed from the twenty-fourth meeting)

The PRESIDENT said that two amendments (A/CONF.2/41, A/CONF.2/42) to article 3 (B) had been submitted by the Australian delegation. However, in actual fact, those amendments were proposals for two new articles. A note on article 3 (B) had also been submitted by the Israeli and United Kingdom representatives jointly (A/CONF.2/84); they suggested that paragraph (b) of article 3 (B) should be deleted as meaningless, and that paragraph (a) should be redrafted in the way they indicated. He proposed to treat their suggestion as an amendment to article 3 (B).

Mr. SHAW (Australia) doubted whether the redraft of article 3 (B) suggested by the Israeli and United Kingdom representatives would solve the difficulties of the Australian delegation. The Australian Government would find it difficult to determine which groups of refugees were in the same circumstances as groups of other aliens as a result of the migration agreements which it had concluded with the International Refugee Organization (IRO) and with other countries.

By way of general observation, he wished to state that the more he had studied the question the more he had been impressed by the fact that Australian practice, so far as refugees were concerned, was fully in keeping with, and at times even more liberal than, the terms of the draft Convention.

Australia, which was in much the same position as Canada, aimed at assimilating refugees, but, since the proportion of aliens who could claim refugee status was of the order of 3% of all aliens entering the country, he was obliged to consider the text very carefully.

The proposal submitted by his delegation in document A/CONF.2/41 related to a possible interpretation of the Australia labour-contract system, which was an integral part of the country's immigration scheme. There was no reason to believe from any statement made in the Conference that any representative felt that the Australian labour-contract system was contrary to the spirit or letter of the draft Convention. Certain representatives, as well as the High Commissioner for Refugees, had submitted that his misgivings were unfounded, and that the Australian position was amply covered by the draft Convention. He had taken note of those observations. Nevertheless, he felt that even the redraft of article 3 (B) now before the Conference did not fully meet the position so far as Australia

was concerned. He had certain doubts about the position of aliens who entered Australia for a particular purpose but who might later conceivably claim refugee status, a point which was connected with the interpretation of the words "lawfully living in the territory".

It was to cover those possible difficulties, which he was apparently alone in feeling existed, that he had submitted his amendments. He was prepared, however, to agree instead to make some form of interpretative reservation, as had been suggested by the High Commissioner. On that understanding, he would support the redraft of article 3 (B) suggested by the Israeli and United Kingdom representatives, and withdraw his own amendments (A/CONF.2/41, A/CONF.2/42).

The PRESIDENT put to the vote the suggestion made jointly by the Israeli and United Kingdom representatives that paragraph (b) of article 3 (B) be deleted.

The suggestion was adopted by 22 votes to none, with 2 abstentions.

The new wording for paragraph (a) of article 3 (B) suggested in the Israeli/United Kingdom joint note was adopted by 23 votes to none, with 1 abstention, subject to any textual amendments that might be made by the Style Committee.

(iv) Article 5 - Exemption from exceptional measures (resumed from the twenty-fourth meeting)

Mr. HOARE (United Kingdom) recalled that the Conference had decided the previous day to defer consideration of paragraph 1 of article 5 until the return of the leader of the Swedish delegation.

The PRESIDENT said that he would interpret the United Kingdom representative's observation as a motion that consideration of article 5 be deferred until the afternoon meeting.

The United Kingdom motion was adopted.

(v) Article 33 - Settlement of disputes

The EXECUTIVE SECRETARY said that the Legal Department of the United Nations Secretariat had submitted a memorandum on chapter VI ("Final Clauses" - articles 33 to 40 inclusive) of the draft Convention. That memorandum had not been distributed, but he would like to draw the attention of the Conference to several points raised in it with a view to bringing the convention into line with usual conventional practice.

In the first place, the Legal Department had suggested that, in the interest of greater precision, the words "two or more" should be included after the words "shall arise between" in the first line of article 33.

Baron van BOETZELAER (Netherlands) sponsored the suggestion made by the Legal Department.

Mr. HOARE (United Kingdom) felt that the original text was satisfactory, but had no objections to the suggestion if the Legal Department considered the inclusions advisable.

Mr. ROBINSON (Israel) thought that the wording of article 33 was somewhat heavy; it should be abbreviated and made more lucid.

The PRESIDENT remarked that the Style Committee would be extremely grateful for any textual suggestions which the Israeli representative might care to make.

Mr. ROBINSON (Israel) said he would do his best to help.

Article 33 was adopted by 24 votes to none, with 1 abstention, subject to any textual amendments that might be made by the Style Committee.

(vi) Article 34 - Signature, ratification and accession (A/CONF.2/31, A/CONF.2/88)

Mr. MAKIEDO (Yugoslavia) explained that the aim of his amendment to article 34 (A/CONF.2/31, page 3) was to give the power to invite States Non-Members of the United Nations to accede to the Convention to the General Assembly, which was a more representative body than was the Economic and Social Council. His feeling was that the original text of article 34 had been drafted on the assumption that only states Members of the United Nations would be invited to accede. In fact, however, the Secretary-General had been instructed by the General Assembly to invite all States.

The PRESIDENT pointed out that the Holy See had been invited to participate in its work by the Conference itself, and that it would be impossible to adopt a Convention which would empower any other body to decide whether the Holy See should be invited to sign the Convention.

Archbishop BERNARDINI (The Holy See) pointed out that the invitation which the Holy See had received from the Secretariat indicated that it had been invited not only to take part in the work of the Conference, but also to sign the Convention. The Holy See had, indeed, accepted the Secretariat's invitation on that second condition.

Mr. ROBINSON (Israel) agreed that article 34 had originally been drafted on the assumption that the Convention should be adopted by the General Assembly. In view of the changed circumstances, the present text was therefore unsuitable. There would be little meaning in the invitation to attend the Conference which had been extended to eighty States if, after signing the Convention, some of those States had to wait until they received invitations from the Economic and Social Council before they could sign the Convention.

There was, however, one exception. There was a resolution of the general Assembly (39 (1)) placing restrictions on the accession of Spain to international instruments drafted under United Nations auspices. He therefore suggested that the words "to which an invitation has been addressed by the Economic and Social Council" be replaced by some such words as "subject to the exceptions specified in relevant resolutions of the General Assembly".

The EXECUTIVE SECRETARY confirmed that, when article 34 had been drafted, it had been contemplated that the convention would be signed at a regular annual session of the general Assembly.

There were two other questions which the Conference should consider: the place of signature and the matter of accessions. The Convention would be adopted in Geneva, but it was contemplated that it would be held open for signatures for a certain period. It would be desirable for the text to specify where the instrument would be available for signing. In the Torquay Protocol drawn up by the Contracting Parties to the General Agreement on

tariffs and trade provision had been made for signing on 21 April, 1951, in Torquay and subsequently at United Nations Headquarters from 7 May until 21 October, 1951. There might be some difficulty in following that precedent in the case of the present Convention. If the Conference completed its work by Saturday evening, 21 July, it would take the Secretariat two or three days to arrange for the text to be printed prior to signing. The question arose whether representatives, including those who did not intend to sign, were prepared to remain in Geneva for that length of time. On the other hand, if the document was ready for signing on Wednesday, 25 July, some delegations might not be fully authorized to sign it until later. It might be useful to state that the convention would be available for signature in Geneva for a short period and then later at United Nations Headquarters.

The Legal Department's memorandum, to which he had referred in connexion with article 33, stated the following concerning the device of accession.

"Paragraph 3 [of article 34] follows a certain tradition in using accession as a device available to States only after the Convention is no longer open for signature, and in this respect has as a precedent the Genocide convention, for example. There is very little gain by this distinction, however, under present procedures, and it sometimes happens that it better meets the preference or convenience of some States to accede directly without an intervening signature. In such case, it merely delays the entry into force of the Convention, at least as to States not already signatories thereto, to permit accession only after it is no longer open for signature, in the present instance only after one year.

"Under the most efficient procedures as currently developed it normally seems preferable for a final article of this type to give states at all times the choice of either ratifying a prior signature or of acceding forthwith. The difference between signature followed by ratification on the one hand, and accession on the other, is now a purely formal one in the absence of some intent (not apparent here) to delay the time when a specific class of States might become parties."

With regard to the accession of States not represented at the Conference, he recalled that the Secretary-General had been instructed by the General Assembly to invite all States to attend the Conference; however, it had not been easy to define what exactly constituted a "State". The Secretary-General had followed the criterion of inviting entities recognized as States either by the United Nations and/or by its specialized agencies. It was possible that other political entities whose status might later be clarified, or which might subsequently come into existence as States, might want to accede and it had been suggested that some appropriate method for their doing so might be mentioned in the Convention itself.

He then read out a text for article 34, suggested by the Legal Department of the Secretariat (A/CONF.2/88), which was intended to meet the various difficulties he had outlined with regard to that article. There remained, however, the question of what procedure was to be adopted the following week for signing.

Further discussion of article 34 was deferred until the next meeting.

The meeting rose at 1.5 p.m

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirtieth Meeting

By General Assembly | 28 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO- JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS

United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations	
International Refugee Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN
	Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
	Mr. BRUNSCHWIG
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Council of Women	Dr. GIROD
International League for the Rights of Man	Mr. de MADAY
International Relief Committee for Intellectual Workers	Miss SILBENSTEIN
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. BUENSOD
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	

Mr. Humphrey

Executive Secretary

Miss Kitchen

Deputy Executive
Secretary

1. REPORT ON CREDENTIALS (A/CONF.2/87) (resumed from the twenty-eighth meeting)

The PRESIDENT announced that the Netherlands representative had received from the Netherlands Government full powers to sign the Convention. The Netherlands should therefore be added to the list of States in the Report on Credentials (A/CONF.2/87, paragraph 4), the representatives of which had full authority to sign the final instrument on behalf of their respective governments.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed from the twenty-ninth meeting)

(i) Article 1 - Definition of the term "refugee" (A/CONF.2/78, A/CONF.2/79) (continued)

The PRESIDENT drew attention to the amendments to paragraph F submitted by the Belgian and Yugoslav delegations (A/CONF.2/78 and A/CONF.2/79 respectively).

Mr. HERMENT (Belgium) explained that paragraph F of article I contemplated the extension of the term "refugee" to other categories of persons but failed to indicate with sufficient precision the procedure that States should follow in making such extension. The procedure suggested in his amendment left Contracting States entirely free, and would obviate the necessity of summoning a conference to decide on the application of the term "refugee" to other categories of persons.

Mr. MAKIEDO (Yugoslavia) suggested that, if paragraph F were included as a special section before paragraph B, there would be no need for the Yugoslav amendment. Otherwise, it should be maintained in order to avoid any possible misunderstanding.

Mr. HOARE (United Kingdom) appreciated the intention of the Belgian amendment, and at first sight had no objection to it. He presumed that the meaning of the words "accept that extension" was that Contracting States should inform the Secretary-General whether they were prepared to make extensions to other categories of refugees similar to those communicated to them from other signatories. If that were so, the English text might require some drafting changes.

Mr. HERMENT (Belgium) agreed with the United Kingdom representative's interpretation of the Belgian amendment. The issue was that of the acceptance by a Contracting State of the extension of the term "refugee" decided upon by another State. To avoid misinterpretation, the words "insofar as concerns them" might be added after the words "accept that extension" in his amendment.

Mr. HOARE (United Kingdom) pointed out that there was a certain difficulty in the case of the English text, but, since the intention was clear, the Style Committee should be able to harmonize the two versions.

Mr. FRITZER (Austria) understood that the purpose of the notification mentioned in the Belgian amendment was not to invite other States to grant similar extensions, but to request their assent to the extension granted by the State making the notification.

Mr. HERMENT (Belgium) replied that the Austrian representative's interpretation was not correct, since other States would not be entitled to veto the unilateral extension granted by the notifying State.

The Belgian amendment (A/CONF.2/78) to paragraph F was unanimously adopted.

The PRESIDENT said that, if it was agreed to insert paragraph F as a special provision before paragraph B, there would be no need to vote on the Yugoslav amendment.

Mr. HOARE (United Kingdom) was not convinced that the proposed transfer of paragraph F would bring about the effect desired by the Yugoslav representative, namely, to make paragraph E applicable to any subsequent extension of the definition of the term "refugee" effected under paragraph F.

Mr. ROBINSON (Israel) felt that there was no logical sequence in the structure of article 1, which could in any case be reduced to four sections. He suggested that the Yugoslav representative should re-introduce his amendment at the second reading.

Mr. MAKIEDO (Yugoslavia) agreed to the Israeli representative's suggestion.

The PRESIDENT concurred.

Article 1, as a whole and as amended, was adopted by 22 votes to none, with 1 abstention.

(ii) New article 6 (a) proposed by the French delegation (A/CONF.2/89)

Mr. ROCHEFORT (France) said that his text (A/CONF.2/89) had originally been suggested by the representative of the International Labour Organisation, and dealt with the special position of refugees serving in ships flying the flag of a Contracting State. That category of refugee enjoyed no permission to stay anywhere except on board the ship they were in. The number of such refugees was undoubtedly fairly small, but their position was nevertheless of special interest. It was, indeed, precarious, since they could not even go ashore in ports of call. They were, in fact, permanently afloat. The question could hardly be settled by a contractual undertaking, for the countries concerned were willing to grant such refugees the status of seafarers, but were unwilling to grant them the status of refugees in their territory. For that reason, and in the absence of contractual obligations, it would be desirable to introduce into the Convention a recommendation in favour of refugees who were bona fide seafarers. It would be logical to insert such a recommendation after article 6, which dealt with continuity of residence, for the problem raised by the case of refugee seamen was somewhat similar.

Mr. HERMENT (Belgium) asked the French representative exactly what he meant by the words (a bona fide seafarer). Did they mean that the refugee had to be a sailor by profession?

Mr. ROCHEFORT (France) was unable to explain that point. The wording had been suggested and adopted by the International Labour Organisation.

He proposed that a vote should be taken on the substance of the proposal and that the Style Committee should be left to find a suitable form of words.

Mr. ARFF (Norway) said that the Norwegian Government had for some time been paying considerable attention to the question of refugee seafarers. Norway had been one of the first seafaring nations to accept refugee seafarers from International Refugee Organization (IRO) camps in Germany and Italy, and to allow them to join Norwegian crews. They had been issued with travel documents in accordance with the London Agreement of 15 October 1946, and their families had been granted entry permits to Norway.

Such refugees were employed as crew members in Norwegian ships throughout the world, and their number was difficult to assess. As the representative of the International Labour Organisation had remarked at the twelfth meeting, their number was small, so far as could be estimated by the International Labour Office and IRO; however, he personally did not believe that it was as small as had been suggested. It often happened that such refugee seafarers were obliged to land in Scandinavian ports; they were then unable to proceed further, because of their refugee status, until another suitable ship arrived. It was difficult to form an opinion as to the number of such seafarers at present employed on Norwegian ships, and the whole matter was being studied by the Norwegian Government.

Many Norwegian merchant ships went to sea for long periods, and called at Norwegian ports only infrequently. It was therefore difficult to establish whether the refugee seafarers were technically refugees, as they themselves claimed, because there was no method of verifying their statements; neither the International Labour Office nor IRO could apparently decide whether they were bona fide refugees. He therefore wondered whether it would be advisable for one country alone to confer benefits upon such alleged refugees unless the same benefits were also granted by other seafaring nations, because seamen tended to sign on in ships of the nation which gave them the best social security terms.

It should also be noted that the shipping trade was very sensitive to fluctuations in world conditions, and was thus particularly susceptible to unemployment. In that respect, a small nation like Norway, although it possessed the third largest merchant navy in the world, was particularly vulnerable, since it carried a large volume of foreign cargoes. It therefore found the burden of supporting a large number of foreign seamen in its ships onerous. But, as the leader of his delegation had already remarked, the Norwegian Government was giving the matter every consideration, and would adopt generous measures in respect of refugee seamen who had worked with the merchant navy for a long time, and who were domiciled in Norway; it nevertheless reserved its right to decide each individual case after appropriate investigation.

There were, moreover, numbers of bona fide refugee seamen in Norwegian ships who had become stateless because of prolonged absence from their countries of origin. That class would also have to be taken into account.

Although the subject was not yet ripe for decision, he would not vote against the French proposal, but would urge that the matter should be carefully studied by the International Labour Office or IRO in close collaboration with the Office of the High Commissioner for Refugees.

He considered that the French delegation's text was somewhat wide in scope, particularly in respect of the words "to reckon any period spent as a crew member on board a ship flying the flag of a Contracting State as residence in the territory of that State", the effect of which would be to bestow upon such seafarers all the benefits that the Convention accorded to refugees.

He added that when refugee seamen were employed in a Norwegian merchant ship, sole authority for selecting or refusing them lay with the master of the vessel; the Norwegian government authorities had no powers in the matter.

Mr. HOARE (United Kingdom) agreed with the Norwegian representative's exposition of some of the difficulties arising from the problem.

The resolution adopted by the Joint Maritime Commission of the International Labour Organisation suggested that Governments should facilitate the acquisition of a country of residence and of a travel document by bona fide seafarers who were refugees, "more especially by enabling them to reckon any period spent on board ship as residence in the territory of the country whose flag the ship flies". He subscribed to the first part of the resolution, but felt that the phrase he had quoted raised considerable difficulty, because many such seafarers, though they might be bona fide refugees, might transfer to ships of other flags, thus interrupting the period which would qualify as residence.

The United Kingdom had ships plying throughout the world, and a ship working the China Coast, for example, might pick up refugees who never set foot on British soil. To reckon their service aboard as a qualifying period of residence would therefore be unjustifiable. It would be advisable to word the recommendation in terms more appropriate to the actual situation and more acceptable to States.

States should be as liberal as possible in facilitating the settlement of bona fide refugee seamen in their territories. Such seamen would be given shore leave, and might want to marry and settle down, and States should give them every chance to establish a home on their soil. In such circumstances, the seamen should be looked upon as residents and supplied with travel documents.

Since, in dealing with the question, the Conference could go no further than make a recommendation, it would be better not to include the French proposal in the Convention itself, but rather to append it thereto as a recommendation. The Netherlands representative had already suggested that some articles might more suitably be dealt with in that way. Moreover, the representative of the International Labour Organisation had not raised any objection to such procedure in the specific case under discussion.

Mr. ROCHEFORT (France) was prepared to agree to any procedure which would enable the recommendation to be included in the draft Convention in one form or another. The question of exactly where it was included was of slight importance, provided that the object in view was achieved.

Miss SENDER (International Confederation of Free trade Unions), speaking at the invitation of the PRESIDENT, pointed out that a record was kept of the working time spent aboard ship by seamen. Seafaring nations might therefore be recommended to reckon such periods aboard ship as contributing towards the refugee's qualifying period of residence on their territory.

Mr. HOARE (United Kingdom) replied that there were difficulties in accepting such residence automatically, but if the recommendation was drafted in the sense he had suggested States would certainly take into account the time spent by refugee seafarers aboard ship.

If a seaman was accepted as a resident and applied for naturalization, his period of service aboard British ships would count. The same did not apply in the case of a seaman who had spent a long time in British ships but who had never set foot on British soil.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) felt that the proposed new article 6 (a) was extremely important, and should be included in the Convention for the benefit of refugee seamen, many of whom were in a tragic plight. He was gratified that the French representative had taken the initiative in that matter, and that the Norwegian representative, who represented a country with generous traditions in the field, would refrain from voting against the proposal, although it raised certain difficulties for him.

Certain delegations had pointed out the difficulties inherent in the text, and, since the French representative had stated that he did not insist on the existing wording, it was therefore to be hoped that the delegations interested in the matter would collaborate and devise a suitable formula.

Mr. HERMENT (Belgium) thought that in drafting the recommendation, the important thing was to fix the time from which the duration of the refugee's stay in the territory of a contracting State would be reckoned.

The PRESIDENT felt that there was general agreement with the purport of the French proposal, and suggested that it should be put to the vote subject to textual emendation by the Style Committee.

The French proposal (A/CONF.2/89) relating to a new paragraph 6 (a), was adopted by 22 votes to none, with 2 abstentions, subject to textual emendation by the Style Committee.

(iii) New article 17 (a) proposed by the delegation of Luxembourg (A/CONF.2/94)

Mr. STURM (Luxembourg) introduced his proposal for a new article (A/CONF.2/94), which was based on the statement made at the eleventh meeting by the representative of Pax Romana. The proposal envisaged the insertion into the draft Convention of a new article guaranteeing to refugees the freedom to practise their religion. Hitherto, as the representative of Pax Romana had emphasized, attention had been focused on ensuring the material welfare of refugees and nothing had been done to guarantee them the exercise of their spiritual rights, which were just as important as their material rights. Refugees, who were often in a very distressed state, must be allowed to benefit from the moral support which their religion was able to give them, not merely in their own interest, but also in that of the receiving country. Nevertheless, some slight limitation should be placed on those rights: freedom of worship should be subject to the requirements of the laws and regulations in force in the different receiving countries.

He hoped that the democratic countries attending the Conference would accept his proposal.

Msgr. COMTE (The Holy See) reminded representatives that the Conference was drafting a convention the purpose of which was to guarantee refugees a substantial measure of protection and the exercise of inalienable rights. It would be dangerous to make it too restrictive in scope. It was inevitable that differences should arise among the many delegations to the Conference in studying the distressing problem of refugees. But it did not seem that the proposal of the delegation of Luxembourg need occasion any divergence of opinion. The Conference's work would be incomplete if it failed to provide in the Convention for the right of refugees freely to practice their religion. That right was, indeed, as essential as the right to sustenance and shelter. Everyone knew what comfort the practice of religion could bring to the suffering. Moreover, it must not be forgotten that the Geneva Conventions of 1949 concluded under the auspices of the International Committee of the Red Cross recognized the right to freedom of worship. The new article proposed by the Luxembourg delegation should therefore find a place in the draft Convention. It seemed, however, that it would be better placed in article 3 (non-discrimination), of which it might form the second paragraph. Article 3 would then comprise a negative and a positive element. That was, however, a matter of secondary importance, and the Holy See would raise no objection if the proposed new text were inserted after article 17. The essential thing was that the text should impose a contractual obligation on States.

Mr. MONTROYA (Venezuela) warmly supported the new proposal. Full freedom in the practice of religion was an inalienable human right, and was amply safeguarded in the Venezuelan Constitution.

He submitted that a provision of such great spiritual significance would be out of place in a chapter dealing with rationing, housing, public relief and other physical aspects of human welfare. He was therefore pleased that the representative of the Holy See had suggested that it should be inserted after article 3. Alternatively, it could be placed in article 7, dealing with the personal status of refugees.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) considered that the proposal of the delegation of Luxembourg filled a noticeable gap in the Convention, and gave it his wholehearted support.

Mr. HERMENT (Belgium) strongly supported the Luxembourgeois proposal. He considered, however, that it would most appropriately be placed among the general principles enunciated in the Convention. It might, for example, form the subject of a new article 4.

Mr. PETREN (Sweden) also supported the Luxembourgeois proposal, but suggested that the final word, "convictions", in the French text should be replaced by the word "confessions". Primary education was compulsory in Sweden, and parents who could not afford to send their children to a private school were obliged to send them to a State school, where religious instruction was given according to the Lutheran faith. If a refugee belonged to a church other than the Lutheran church, he had full freedom to withdraw his children from the classes in religious instruction, but that only applied to parents of a specific religious persuasion; refugees who were atheists, for example, could not refuse to allow their children to take religious instruction in the State schools.

Mr. STURM (Luxembourg) agreed to the suggestions made by the representatives of the Holy See, Venezuela and Belgium, and said he would have no objection to his proposal forming the subject of a new article 4.

Mr. ROCHEFORT (France) gladly supported the Luxembourgish proposal. The difficulty, however, lay in the precise form to be given to such a declaration of principle. In certain States the question was linked with the provisions of the Constitution. That was not so in the case of France, and the inclusion of the proposal in the draft Convention would cause France no trouble whatever. The problem also had a bearing on the question of the national church. Finally, for a State to give an assurance that children should be taught the religion professed by their parents would be tantamount to a grant of a State subsidy to free schools; the French delegation was not at present in a position to accept such a provision. Thus, although gladly accepting the principle of the proposal, when it came to the application of the principle stated therein, France would be faced with the problem of what phraseology should be used.

Msgr. COMTE (The Holy See) said that the reason why the expression "leurs convictions" had been used in the French text instead of the words "leur confession", was that the former words were used in the Universal Declaration of Human Rights. The Holy See had no objection, however, to the use of the words "leur confession", as suggested by the Swedish representative.

In reply to the French representative, he said that the points of special concern to France had not escaped his notice. He did not think, however, that France's fears were well-founded. There was, in fact, a difference between external acts of worship and public worship. Public worship was not necessarily performed by external acts; while it did not exclude external acts of worship, it did not necessarily imply them, but it was possible to bring the two together. The Holy See hoped that France, which practised freedom of worship on so frank and generous a scale, would not object to that principle being stated in the Convention. He would like to reassure the French representative concerning the financial consequences which the ensuring of religious education to children might entail for Contracting States. It would in fact be incumbent on families to ensure their children's religious education out of their own resources, without seeking Government aid for the purpose.

MOSTAFA Bey (Egypt) congratulated the Luxembourgish representative on his happy proposal. In Egypt, freedom of worship was guaranteed by the Constitution, but it was nevertheless limited by the requirements of national law. The Luxembourgish representative had himself recognized that necessity; in the circumstances, would he not agree to add to his proposal a clause expressing the principle of such limitation?

Baron van BOETZELAER (Netherlands) was in full agreement with the Luxembourgish proposal, but, as the Egyptian representative had pointed out, it should be understood that the right in question was subject to the requirements of national legislation. The proposed new article would undoubtedly be governed by the general obligations dealt with in article 2 of the draft Convention, but, to forestall any possible misunderstanding, he suggested that some such phrase as "subject to the laws and regulations and measures adopted to maintain public order" should be inserted after the words "to practise their religion".

Mr. HERMENT (Belgium) thought that the phrase suggested by the Netherlands representative might prove restrictive. Laws might be promulgated or regulations applied which would nullify the provisions of the proposed new article. He would prefer the formula "subject to the requirements of public order".

Msgr. COMTE (The Holy See) also thought the Belgian suggestion preferable to that of the Netherlands representative. It covered the points which were causing the French representative concern.

Baron von BOETZELAER (Netherlands) agreed to the Belgian representative's suggestion.

Mr. FRITZER (Austria) supported the Luxembourgish proposal, but agreed with the French representative that it would be going rather far to stipulate that Contracting States should grant refugees freedom "to ensure that their children were taught the religion they profess". He agreed that that phrase implied that the State would be committed to providing at its own expense facilities for teaching the religion of the refugees. He therefore suggested that those words should be replaced by some such phrase as "to allow the religion of their children to conform to their own".

Mr. GIRALDO-JARAMILLO (Colombia) was in general agreement with the observations so far made on the new proposal. He preferred the Belgian amendment, which was shorter and more suitable, to that originally proposed by the Netherlands representative. He added that complete freedom in the practice of religion was provided for in the Constitutions of the Latin American Republics. He would, however, like to add to the Belgian representative's formula the words "et de bonnes moeurs" ("and of public morality").

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) felt that the Austrian representative might be labouring under a misunderstanding. The new article would not impose upon Contracting States the obligation to ensure that the children of refugees were taught the religion of their parents. States would merely be required to grant refugees freedom to practice their religion and freedom to ensure that their children were taught the religion they professed.

Mr. HERMENT (Belgium) shared the High Commissioner's view. So far as Contracting States were concerned, it was not a question of their ensuring the religious education of the children of refugees, but merely one of permitting the parents to ensure it.

Mr. FRITZER (Austria) accepted the Belgian representative's interpretation.

Mr. HOARE (United Kingdom) was in full sympathy with the aim of the Luxembourgish proposal, but felt that there would be great difficulty in finding a satisfactory legal formula for such a provision. The text would have to be couched in such terms as would make allowance for the constitutional procedures providing for religious liberty in each country. It would be difficult to find a suitable English rendering of the Belgian amendment, as further amended by the Colombian representative. The Luxembourgish representative had put forward a text laying down a principle, rather than a contractual obligation to be imposed on Contracting States, and it should be drafted to the satisfaction of all the countries concerned. With regard to the High Commissioner's interpretation, he had some doubt whether the text was not open to a wider construction.

He suggested that the Conference might vote on the substance of the proposal, on the understanding that the Style Committee should redraft it to meet the requirements of Contracting States.

Msgr. COMTE (The Holy See) said that he had listened with much interest to the United Kingdom representative's remarks. He nevertheless thought that the text proposed by the Luxembourgish representative was acceptable from the legal point of view. If it was the word "ensure" that was raising difficulties, that word could be replaced by some such phrase as "to teach their children or to have them taught the religion they profess", to make the text less imperative.

Mr. ROCHEFORT (France) thought it would be undesirable to introduce into the text the words "et de bonnes moeurs" ("and of public morality"), proposed by the Colombian representative, for clearly the practice of religion went hand in hand with morality. The proposed addition would imply a somewhat liberal definition of religion. In any case, France could only accept the Luxembourgish amendment if it did not impose upon it the obligation to authorize refugees to set up certain chapels of national allegiance. The addition of the words "subject to the requirements of public order" proposed by the Belgian representative would not be enough to obviate that danger, which was grave.

Mr. REES (Commission of the Churches on International Affairs), speaking at the invitation of the PRESIDENT, said that the discussion had shown that there was no need for him as representative of the Commission of the Churches on International Affairs to press for the inclusion of an article such as that proposed by the representative of Luxembourg. Countries granting asylum to refugees in the past had been noted for the assistance they had given in religious matters. The inclusion of such an article in the Convention would have the effect of strengthening the moral leadership of refugees who were showing steadfast loyalty to their faith.

It was to be hoped that the text of the provision as finally drafted would make it clear that freedom of religious instruction was permissive on parents and not mandatory on governments.

Mr. CHANCE (Canada) thought that there was no need for him to affirm the Canadian Government's support of the principle of religious freedom, but shared the anxiety of certain other representatives as to the way in which the principle should be given legal recognition in the Convention. Perhaps the best solution would be to adopt the United Kingdom representative's proposal that its precise drafting should be entrusted to the Style committee. He would put forward for consideration by that Committee the suggestion that the provision might be drafted negatively in such terms that Contracting States would undertake not to restrict in any respect the freedom of refugees within their territories to practise their religion both in public and in private, and to ensure that their children were taught the religion they professed. Such a formula might dispose of some of the objections raised. He shared the United Kingdom representative's doubts concerning the inclusion of the words "l'ordre public et les bonnes moeurs". It was well known that certain sects often committed in the name of their religion acts contrary to "l'ordre public et les bonnes moeurs".

The PRESIDENT reminded representatives that other provisions in the Convention aimed at assimilating refugees to other persons. He suggested that the present provision might

be so drafted that States would undertake to extend the same treatment in respect of religion and religious education to refugees as to their own nationals.

Msgr. COMTE (The Holy See) thought it unnecessary to include the words "subject to the requirements of public order". Article 2 of the draft Convention already laid down that a refugee had the particular duty of conforming with measures taken for the maintenance of public order in the country of refuge; that provision was of a general nature, applicable to all the succeeding articles.

Mr. ROCHEFORT (France) thought that the President's suggestion deserved consideration. It might be more advantageous to refugees to be ensured the same treatment as nationals of the country of residence. It was unlikely that a State would grant a refugee more favourable treatment in that respect than it ensured to its own nationals.

Mr. van BOETZELAER (Netherlands) suggested, for the consideration of the Style Committee, that the new article might begin with the words:

"The fullest latitude shall be left to refugees in the territory of Contracting States to practise in complete liberty and to ensure that their children"

Mr. GIRALDO-JARAMILLO (Colombia) considered that the President's suggestion was preferable to the Netherlands proposal.

Mr. ROCHEFORT (France) proposed that the principle of the new article should be put to the vote. Then, when the Conference came to the second reading of the draft Convention, it would have before it the definitive text of the amendment by the Style Committee.

The PRESIDENT suggested that the substance of the Luxembourgish proposal might be considered as adopted, the Style Committee being charged with the drafting of the new clause, taking into account for that purpose all the technical and legal considerations raised during the discussion. The new text could then be studied again at the second reading.

The President's suggestion was adopted unanimously.

(iv) Question of the inclusion of a Federal State clause (A.CONF.2/21, A/CONF.2/90, A/CONF.2/97, E/1721)

The PRESIDENT invited the Conference to turn to the consideration of the Israeli proposal (A/CONF.2/90) for the inclusion of a Federal State clause in the draft Convention, and to the United Kingdom proposal (A/CONF.2/97) that a new paragraph c) be added to that text. The report of the Human Rights Commission on federal and colonial clauses (E/1721) gave a very full account of discussions on the subject in various organs of the United Nations, together with the texts so far adopted for inclusion in international instruments.

Mr. ROBINSON (Israel) said that, although he was the representative of a unitary state, he had, following similar action taken by the Israeli delegation at the first session of the Ad Hoc Committee, introduced a proposal for the inclusion of a Federal State clause, without which Federal States might find difficulty in signing the Convention, since the implementation of its provisions might to some extent fall within the jurisdiction of the provincial governments. The whole problem had been considered in the General

Assembly, the Economic and Social Council and the Commission on Human Rights, and, indeed, the General Assembly in its resolution 421 (V) 6 had requested the Commission to study a Federal State clause for inclusion in the draft International Covenant on Human Rights. It was clear from the discussions on the subject that there might be compelling constitutional reasons for the inclusion in international instruments of a Federal State clause. For example, there was the famous case of the Attorney-General of Canada v. the Attorney-General of Ontario, which turned on the question of whether the Canadian Federal Government had authority, by ratifying a Convention of the International Labour Organisation concerning working hours, to compel the Provincial Government to implement it, the subject matter of the Convention being the responsibility of the latter Government. The new Constitution of the International Labour Organisation included a Federal State clause (article 19).

As the draft Convention on the Status of Refugees involved to some degree interference in the domestic jurisdiction of States, the peculiar constitutional problems of Federal States must be taken into consideration. It would be quite wrong to give any weight to one argument which had sometimes been put forward, namely, that such States pressed for the insertion of such a clause so as to have an excuse to delay the enactment of necessary legislation. International personality belonged to the Federal State as such, and it was therefore appropriate that the federal government should decide whether action entailed in discharging the provisions of any international instrument involved the participation of its constituent provincial governments. It was with that consideration in mind that he had drafted his proposed new article.

Mr. ROCHEFORT (France) was in favour of any wording which would give the text the necessary flexibility. It was, however, indispensable that unitary contracting States should be told as soon as possible what matters were reserved in Federal States for federal legislative action, and what for legislative action by the constituent States, provinces or cantons. Unitary states were faced with the danger of being left in a state of uncertainty as to the scope of their reciprocal obligations. To take the case of the Federal Republic of Germany as an example: on the assumption that the Federal State clause would allow the Government of the Federal Republic of Germany to treat nine-tenths of the Convention as being outside its competence but within the competence of the Länder, the Federal Republic of Germany, by signing the Convention, would only commit itself to compliance with one-tenth of the obligations laid down in the Convention, whereas unitary contracting States would commit themselves to compliance with the whole series. Thus refugees would enjoy only incomplete rights in some countries. That was a point of great importance, since it would influence the international movement of refugees, who would tend to direct their steps towards the States affording the most liberal treatment.

Mr. HOARE (United Kingdom) fully recognized the difficulties experienced by Federal States in signing multilateral conventions, and was quite prepared to accept the inclusion of a Federal State clause. Speaking subject to correction, he believed that the draft Convention would be the first international instrument of the kind to contain such a clause. One had been proposed for inclusion in the draft International Covenant on Human Rights, but no final decision had yet been taken as to its insertion or on its precise wording.

There were two forms in which a Federal State clause could be drafted, one being very similar to that followed by the Israeli proposal. The other, which was slightly different but, in his opinion, preferable, would run somewhat as follows:

“With respect to any article of this Convention, the implementation of which is, under the constitution of the Federation, in whole or in part within federal jurisdiction, the obligations of the federal government shall to this extent be the same as those of Parties which are not federal States.”

The difference between the two forms might be considered slight, but it was, perhaps, of some importance. The question whether certain action fell within the jurisdiction of the federal government, or within that of the provincial governments was a constitutional one, and sometimes had to be decided by the courts. He did not believe it would be desirable to provide that federal authorities should have discretion to determine what appropriately belonged to their own legislature and what to provincial legislatures. The second possible formulation of the Federal State clause seemed to be more consistent both with constitutional law and with constitutional practice. He accordingly proposed the substitution of the words “the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction” for the words “which the Federal Government regards as appropriate under its constitutional system, in whole or in part, for federal legislative action” in paragraph a) of the Israeli proposal.

With regard to the point raised by the French representative, he agreed that the effect of the Federal State clause must not be to penalize unitary States. It was essential that they should be fully cognizant of the extent to which the international instrument concerned was in full force in a Federal State. That could be achieved either by making it obligatory on the latter to report to the Secretary-General, or by making it possible for States to address their enquiries concerning the application of any particular provision or provisions of the Convention in any other State through the Secretary-General. The second might be the less onerous alternative, and one which would ensure the most accurate information possible, since the situation might change in federal States. A direct enquiry would therefore elicit information on the exact position at any one time. That was the object of his amendment (A/CONF.2/97) to the Israeli proposal.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that the French representative had raised a very pertinent point. It was clearly imperative that unitary Contracting States should know the extent to which the Convention was being applied in Federal States. The memorandum prepared by the Legal Department of the United Nations Secretariat (A/CONF.2/21) summarized, on page 17, the arguments advanced by the Netherlands representative at the fifth session of the General Assembly in connexion with the proposal to include a Federal State clause in the draft International Covenant on Human Rights, when he had suggested that Federal States should report annually to the Secretary-General of the United Nations on the progress made by their constituent units with regard to implementation. Perhaps a similar course might be followed in the case of the present Convention. Such reports would then be transmitted to other Contracting States by the Secretary-General.

Mr. FRITZER (Austria) stated that it would be difficult for the Austrian Federal Government to agree to the Israeli proposal, since the text would entail amendment of the Austrian

Constitution, which would be extremely difficult to achieve, as it required the consent of all four Occupying Powers. At present, the Länder had to apply the provisions of international instruments ratified by the Central Government, which had full jurisdiction in international affairs. The terms of paragraph b) of the Israeli proposal would therefore conflict with the existing constitutional relations between the central and provincial governments.

Mr. ROBINSON (Israel) said that the United Kingdom representative was perfectly correct in thinking that no Federal State clause had as yet been included in any international instrument drawn up under the auspices of the United Nations, and that no final decision had been taken as to its inclusion in the draft International Covenant on Human Rights.

He (Mr. Robinson) believed that the point raised by the French representative was largely a matter of drafting, and he would be prepared to accept an amendment to his proposal in order to meet it. But he would point out that it was extremely difficult to define with any great precision the extent of the division of powers between federal and provincial governments. It was a field in which recourse often had to be had to the interpretation of the courts.

The amendment moved orally by the United Kingdom representative was based on the wording proposed by the Indian delegation in the Commission on Human Rights, and at the present stage he would hesitate to accept it.

He wondered whether the objection raised by the Austrian representative to the Israeli proposal might not have been provoked by a misunderstanding. There was no intention of requiring governments to make constitutional changes as a result of the introduction of a Federal State clause. The purpose of paragraph b) of the Israeli proposal was merely to cover those cases where the Federal Government concerned had no power to constrain provincial governments to enact legislation involved in applying an international instrument.

Mr. CHANCE (Canada) said that the whole question of a Federal State clause was a most delicate one, which required very careful handling. The Canadian Government's legal experts had decided that its inclusion in the draft Convention was necessary if Canada was to be able to accede to that instrument. He very much hoped that the United Kingdom representative would not press his oral amendment. A text such as that proposed by the Israeli representative would not be the Canadian Government's first choice, but nevertheless could be accepted. He had no objection to the kind of procedure outlined in the United Kingdom amendment in document A/CONF.2/97, which proposed the addition of a new paragraph c) to the Israeli text.

Mr. ROCHEFORT (France) wondered whether, through the operation of the Federal State clause, it would not be possible for a Federal State to paralyse the application of the provisions of article 36 and thus to make reservations on articles to which no reservations were permissible. If that was so, there would be two categories of Contracting States: States which were unable to make reservations to certain articles, and States which were able to make, in respect of every article, reservations which their Constitutions allowed them to make. Similarly, a Federal State would be able to sign the Convention, and then argue that it could not apply some of the articles because of its national legislation. Nevertheless, that State's signature would count towards the minimum number required to bring the Convention into force.

Mr. FRITZER (Austria) explained, in reply to the Israeli representative, that his objection was unfortunately not connected with the object of the Israeli proposal, but arose from the form in which it had been drafted. Paragraph b) as it stood would conflict with the provisions of the Austrian Constitution. He hoped that in the course of the discussion it would be possible to find a satisfactory formula.

Mr. HERMENT (Belgium) doubted whether all Federal States represented at the Conference wanted the Federal State clause to be inserted. Would it not be possible for Federal States to defer ratifying the Convention until they could ratify it on the same conditions as unitary States? Otherwise unitary States would, when they ratified it, have insufficient information about the commitments that would be undertaken by Federal States.

Mr. Miras (Turkey), Vice-President of the Conference, took the Chair.

Mr. LARSEN (Denmark) said that the French representative had quite rightly raised the problem of the relation between the Federal State clause and article 36. He himself wished to raise another problem namely, that of the possibility that provincial governments might apply the provisions of an international instrument for a limited period of time, and one which did not coincide with the period of application practised by the Federal government. He believed that if an international instrument was to be ratified by a Federal State, that State must ratify on the same conditions as a unitary State. Obligations should be binding, apart from reservations made at the time of accession.

Mr. LARSEN, President of the Conference, resumed the Chair.

Mr. SHAW (Australia) believed that the Israeli text should be prefaced by some such introductory words as "In the case of a Federal or non-unitary state the following provisions should apply".

In supporting the inclusion of a Federal State clause, he did so simply because of the federal character of the Australian Constitution. He was not at the present stage casting any doubts on the powers of the Commonwealth government to implement the Convention should it ratify. With a federal constitution, however, one could not foresee the possibility of legal decisions regarding the extent of the legislative powers of the federal and state units. It was simply to provide for the possible contingency of a judicial decision concerning the powers of the Commonwealth to implement, that Australia was supporting the inclusion of a Federal State clause in the present Convention. He regarded such a clause as desirable, but not as an essential prerequisite to the consideration of the Convention by Australia.

A Federal State clause had been inserted in a number of Conventions drawn up by the International Labour Organisation, and he had been surprised that so many substantive issues should have been raised in the course of the presented certain difficulties. Constitutional issues in Federal States often called for settlement by the courts, and it was difficult to foretell what problems might arise in future in respect of the delimitation of functions between federal and provincial governments. He doubted whether the situation would be met by the United Kingdom representative's amendment. Perhaps the Conference might consider the wording proposed by the United States delegation for a Federal State clause for inclusion in the Convention on the Suppression of the Traffic in

Persons and of the Exploitation of the Prostitution of Others, which was to be found in the report of the Commission on Human Rights on federal and colonial clauses (E/1721). In order to meet the French representative's misgivings as to the possibility of inequality of obligations between federal and unitary States, section 7 of article 19 of the Constitution of the International Labour Organisation might be taken as a model.

Mr. ROBINSON (Israel) suggested that the Austrian representative's difficulties might perhaps be overcome by drafting changes, which could be entrusted to the Style Committee.

Turning to the French representative's point concerning reservations, he said that there was no possibility whatever of the draft Convention giving rise to two systems of reservations, since all countries were free to enter reservations on every substantive article which embodied specific obligations laid upon States. Both Federal and unitary States would be able to take advantage of that right.

He did not believe that provision need be made to meet the point, though it was a valid one, mentioned by the President speaking as representative of Denmark. It would be most unusual for provincial governments to apply an international instrument for a different period from that adopted by the central government.

He could not agree with the Australian representative that the Federal State clause contained in the Constitution of the International Labour Organisation or in the Conventions adopted by that agency should be taken as a model. Such conventions embodied recommendations of a quite different nature from the obligations which would be imposed on States by the draft Convention. In including a Federal State clause the Conference would be breaking new ground, and it should take the risks inherent in all pioneering work. At a later stage, legal perfectionists would have an opportunity of framing better texts for inclusion in other instruments.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that the Israeli proposal would present no difficulties for the German Federal Government, which had full powers in international affairs. In fact, its position was very similar to that of the Austrian federal Government, and he failed to understand the Austrian representative's objections. He would draw his attention to the words "which the Federal Government regards as appropriate" in paragraph (a) of the Israeli text, which should meet the point raised by the Austrian representative.

Mr. SCHÜRCH (Switzerland) said that Switzerland was in the same position as the Federal Republic of Germany. It had no need of the Federal State clause, but was nevertheless inclined to support those other Federal States which were seeking its inclusion in the Convention.

Baron van BOETZELAER (Netherlands) said that he would support the United Kingdom representative's oral amendment to the Israeli proposal, as it would get round the difficulty caused by the fact that the determination of the delimitation of powers as between federal and provincial governments was not within the discretion of the former.

Mr. WARREN (United States of America), making it clear that he was not competent to comment on the legal aspects of the proposal before the Conference, said that the United States Government was in favour of the inclusion of a Federal State clause, which would

in its judgement facilitate the adherence of more States to the Convention. He believed that the text proposed by the United States delegation in the case of the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, contained in document E/1721, very closely resembled that proposed by the United Kingdom representative, and thought that it should be carefully considered.

Mr. HOARE (United Kingdom) said that, although the Canadian representative had appealed to him to withdraw his amendment, he must point out that it had found favour both with the Netherlands and with the United States representatives. He would be interested to learn precisely which text the Canadian Government would wish to see adopted.

His own objection to the Israeli proposal was not only that it left the decision as to what action fell within the jurisdiction of the federal governments and what within the jurisdiction of provincial governments to the decision of the central government, but also that it opened up the possibility of a conflict between the provisions of the Convention and the internal legislation of States, in the event of a decision by the federal government as to the delimitation of jurisdiction being reversed by the courts. That possibility would be particularly dangerous in cases where the delimitation of powers between central and provincial governments was hotly contested. The text quoted on page 6 of the report of the Human Rights Commission on federal and colonial clauses (E/1721) would avoid that danger, and would leave the decision on delimitation of powers to the proper constitutional processes.

Mr. CHANCE (Canada) said that the Canadian delegation would be able to accept the Israeli proposal as amended by the United Kingdom delegation. However, as that text did not appear to meet with complete approval, he suggested the following:

“In the case of a Federal or non-unitary State the following provisions shall apply:

- (a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority the obligations of the federal government shall to this extent be the same as those parties which are not Federal States;
- (b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states, provinces or cantons, the Federal Government shall bring such articles with favourable recommendation to the notice of appropriate authorities of states, provinces or cantons at the earliest possible moment;
- (c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.”

Mr. SHAW (Australia) considered that the choice of the final text should be left so far as possible to those federal States for which the inclusion of the Federal State clause was essential. He could subscribe either to the text contained in the report of the Commission on Human Rights (E/1721) or to that just submitted by the Canadian representative.

Perhaps the difficulties connected with the Federal State clause had been exaggerated. It should be remembered that the purpose of the Convention was not so much to prescribe mutual obligations between States as to accord certain rights to refugees. Hence, the goal to be aimed for was to ensure that as many States as possible were able to implement its provisions.

In conclusion, he stated that the United Kingdom amendment (A/CONF.2/97) proposing the addition of a new paragraph c) to the Israeli proposal was acceptable to him.

Mr. ROCHEFORT (France) observed that, according to the interpretation given by the Israeli representative, the Federal State clause could not impede the operation of the article (article 36) concerning reservations. If that were so, it should be made quite clear in the Federal State clause itself. Otherwise, the point, which had its importance, would be left in some doubt.

Mr. CHANCE (Canada) said that he was not a lawyer; he therefore had neither the knowledge nor the authority to go into some of the detailed difficulties raised by representatives. He would, however, state in reply to the French representative that he did not believe that the inclusion of a Federal State clause would in any way jeopardise the effect of article 36, or that Federal States would take advantage of the Federal State clause to formulate special reservations.

Mr. HOARE (United Kingdom) said that the text just submitted by the Canadian representative was very close in substance to his own amendment, and was acceptable to the United Kingdom delegation.

Mr. ROCHEFORT (France) said that he had never assumed that the Canadian Government would try to take refuge behind the Federal State clause in order to enter reservations which the unitary Contracting States would be unable to make. In certain cases, however, it might happen that the Constitution of a State would in practice prove a hindrance to the application of one of the articles to which that State could enter no reservation. Would the signature of such a State still be valid, despite the fact that it would imply a reservation to articles to which no reservation was permissible? That would constitute a problem of fact and of law of which other Contracting States might long remain ignorant.

Mr. CHANCE (Canada) said that the French representative had mentioned a possibility which he personally had not contemplated. Surely, the application of the Convention would be a question of goodwill, and all Contracting States would undoubtedly try to carry out its provisions in the spirit in which they had signed it. In the final analysis no contract - and least of all one, such as the present, which was contemplated as an act of humanitarian importance - would be of any value without the element of trust and goodwill between the parties.

The PRESIDENT, speaking as representative of Denmark, reaffirmed his concern that the provincial governments of a Federal state might make special reservations to certain articles of the Convention independent of those made by the federal government. For example, the Nazi movement had started in one German province. It was conceivable that had the draft Convention been in force at that time the government of that particular province might have entered a reservation on article 3, enabling it to pass discriminatory

legislation. That was the kind of contingency which, he believed, ought to be taken into account. The question probably savoured of the academic at the present moment, but it was necessary to legislate for possible eventualities.

Mr. CHANCE (Canada) thought that the question just raised went beyond the scope of the present discussion. He felt that it could only serve to complicate further an already complicated matter, and appealed to the Danish delegation not to pursue the point.

The PRESIDENT, speaking as a representative of Denmark, said that it was far from his intention to introduce irrelevant difficulties, but he must maintain that the application of a convention by provincial governments must be consistent with the action taken by the federal government of the same State. Otherwise, the provincial governments might seize the opportunity to evade some of their obligations.

Mr. CHANCE (Canada) said that he did not feel qualified to enter into a discussion on an issue so delicate as the relations between the central government and constituent governments in a Federal State.

Mr. ROCHEFORT (France) felt that the question of reciprocal obligation was of greater importance than the Australian representative seemed to think. If unitary States wished to have complete information on the Federal State clause, it was because the question was a serious one. Inequalities of obligations would result in inequalities in status for refugees, and hence in a draft of refugees from certain countries to others. Would the States which had an interest in the Federal State clause have any objection to the introduction into that clause, at an appropriate point, of the words, "without prejudice to the application of the provisions of article 36"?

At the suggestion of the PRESIDENT, it was agreed to defer further consideration of the Federal State clause until the next meeting.

The meeting rose at 1 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-ninth Meeting

By General Assembly | 28 November 1951

Present:

President:

Mr. LARSEN

Members:

Australia

Mr. FRITZER

Austria

Mr. FRITZER

Belgium

Mr. HERMENT

Canada

Mr. CHANCE

Denmark

Mr. HOEG

Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Monaco	Mr. SALAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO Mr. BOZOVIC
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other intergovernmental organizations:	
International Refugee Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	

Caritas Internationalis	Mr. BRAUN
Catholic International Union for Social Service	Miss de ROMER
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Council of Women	Dr. GIROD
International Federation of Friends of Young Women	Mrs. FIECHTER
International Union of Catholic Women's Leagues	Miss de ROMER
World Jewish Congress	Mr. RIEGNER
World Young Women's Christian Associations	Miss ARNOLD
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

CONSIDERATION OF THE DRAFT CONVENTION ON REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (continued)

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13, A/CONF.2/74, A/CONF.2/81, A/CONF.2/82, A/CONF.2/82/Rev.1, A/CONF.2/92) (continued)

The PRESIDENT requested the Conference to continue its consideration of article 1, on the definition of the term "refugee".

Mr. ROCHEFORT (France) announced that the Israeli and French delegations had examined the text of the Israeli amendment to sub-paragraph B(5) (A/CONF.2/81) adopted at the preceding meeting by 7 votes to 3, with 14 abstentions. They had agreed that there was a difference in meaning between the English and French texts, the words "compelling reasons" being used in the English text, and the words "raisons déterminantes /decisive reasons/" in the French text. The Israeli representative had accordingly agreed to amend his text by deleting the words "compelling /determinantes/family reasons or" from the last sentence, and inserting the words "compelling /impérieuses/" before the words "reasons arising out of previous persecutions".

The PRESIDENT put the Israeli amendment to the vote again, further modified in the sense explained by the French representative.

The Israeli amendment to sub-paragraph (5) of paragraph B, as thus revised, was adopted by 17 votes to none, with 5 abstentions.

The PRESIDENT requested the Conference to take up the Israeli amendment (A/CONF.2/82 and A/CONF.2/82/Rev.1) to sub-paragraph (6) of paragraph B.

Mr. ROBINSON (Israel) pointed out that the Israeli amendment to sub-paragraph B(6) would require to be revised in the same way as that to sub-paragraph B(5) just adopted.

The PRESIDENT drew attention to the fact that the word "unable" in the third line of the amendment (A/CONF.2/82/Rev.1) should read "able".

He then put the Israeli amendment to the vote, as modified.

The Israeli amendment to sub-paragraph (6) of paragraph B of article 1 was adopted, as modified, by 17 votes to none, with 4 abstentions.

The PRESIDENT put to the vote paragraph B of article 1 as amended.

Paragraph B of article 1, as amended, was adopted unanimously.

Mr. PETREN (Sweden) assumed that the adoption of paragraph B automatically entailed the adoption of the Swedish amendment to sub-paragraph (2) of paragraph A (A/CONF.2/9).

The PRESIDENT was under the impression that the Swedish representative had withdrawn his amendment.

Mr. PETREN (Sweden) believed that there must have been some misunderstanding. He had not withdrawn his amendment; in fact, the Israeli amendments to sub-paragraph (5) and (6) of paragraph B had been regarded as sub-amendments to the Swedish amendment (A/CONF.2/9), which proposed the deletion from sub-paragraph (2) of paragraph A of the words "or for reasons other than personal convenience".

Perhaps he had failed to make himself absolutely clear when the matter had last been under discussion.

Mr. ROBINSON (Israel) said that his understanding of the position tallied with that of the Swedish representative.

The PRESIDENT said that if there was no objection, he would put the Swedish amendment to the vote.

The Swedish amendment (A/CONF.2/9) to sub-paragraph (2) of paragraph A of article 1 was adopted unanimously.

The PRESIDENT invited the Conference to resume its discussion on paragraph C of article 1, to which an amendment (A/CONF.2/13) had been submitted by the Egyptian delegation.

MOSTAFA Bey (Egypt) appreciated the courtesy that the Chair had shown him by deferring the discussion on paragraph C until his return. He recalled his previous statements on the subject, and felt that it was necessary for him to emphasize only one or two major considerations. In the view of the Egyptian delegation, the Convention should represent a definite step forward in the protection of refugees, and should therefore apply to all categories of refugee. That idea lay at the heart of the amendment submitted by his delegation, which felt strongly that any other solution of the refugee problem would be so much wasted effort. Any limitation of the Convention in time or in space could only weaken it, by denying protection to a large number of refugees. The Conference was expected,

according to its terms of reference, to provide for all categories of refugees, and it was on that understanding alone that the Egyptian Government was represented there. The object of the Egyptian amendment was to make sure that Arab refugees from Palestine who were still refugees when the organs or agencies of the United Nations at present providing them with protection or assistance ceased to function, would automatically come within the scope of the Convention. He believed that the adoption of the Egyptian amendment would help many States which would otherwise be reluctant to do so to adhere to the Convention.

Mr. ROCHEFORT (France) drew attention to the fact that the adoption of the Egyptian amendment could not be allowed to conflict with the specification by each of the Contracting States for which article 1 now provided as a result of the adoption by the Conference of the amendment (A/CONF.2/80) introduced by the representative of the Holy See.

Mr. HOARE (United Kingdom) agreed with the French representative. If the Egyptian amendment was adopted, it would be subject in its operation to the decision taken by the Conference on sub-paragraph (2) of paragraph A, and would take effect only for those States which had adopted the wider geographical alternative in the definition of the term "refugee". He would vote for the Egyptian amendment, because it seemed desirable to meet the wishes of those who had been responsible for inserting the clause in question, now that they were seeking to broaden its scope.

Mr. ROCHEFORT (France) wished to explain why he had thought it necessary to press the point, and why he had expressed the hope that article 1 would make provision for a specification of the kind which it now permitted. At Lake Success, the French delegation had had conversations with the delegation of an Arab State; that delegation had on that occasion expressed its wish to subscribe to a convention designed to apply to European refugees living in its territory if such a Convention were concluded, but had emphasized that it would find it difficult to undertake similar commitments in respect of the Arab refugees it had taken in. The point of view, the acceptance of which the French delegation had tried to secure in that connexion, had often not been grasped. The considerations he had submitted in respect of certain Latin American countries, and which had recently been confirmed by the Colombian representative himself, also held good for certain Arab countries. In practice, the Convention would not merely be devoid of any advantages for the countries which signed it - it would actually entail certain expenditure for them. The Arab countries which were at present bearing the enormous cost of the assistance they were providing for Arab refugees from Palestine earnestly wished to cope with the demands made by that problem. However, it appeared that the scope of the Convention would not be wide enough to cover that case, and the French delegation would therefore have liked to see the problem most carefully gone into with the United Nations agencies responsible for providing assistance to the Arab refugees from Palestine. Within those agencies, political responsibilities were more clearly defined than they were at the present Conference. The French delegation would also have been gratified had the Arab delegations been able to see their way to taking into account the difficulties to which it had drawn attention, and which might discourage, rather than encourage, certain Arab countries to accede to the Convention. The Egyptian representative was, perhaps, expressing an agreed point of view common to all the Arab countries with Palestine

refugees in their territory. But it might well be that his proposal would later cease to correspond to future developments in the matter.

A text that was too rigid might cause difficulties that a flexible text would make it possible to avoid. Although it might be right for the Statute of the Office of the High Commissioner for Refugees to cover other refugees, it would be inappropriate to include them in the scope of the present Convention. At the proper time, the High Commissioner could easily arrange for a protocol to be added to the convention or, if necessary, for the conclusion of a separate convention, which would then be perfectly suited to the requirements of the situation of the Arab refugees from Palestine.

Under existing conditions, it might well happen that the Arab refugees would eventually come under the provisions of the present Convention, but that those provisions would not then answer to the requirements of their situation.

Mr. Al PACHACHI (Iraq) wholeheartedly supported the Egyptian amendment and the remarks of the Egyptian representative, and confirmed that the amendment represented an agreed proposal on the part of all the Arab States.

He was also grateful to the United Kingdom representative for supporting the amendment. He could not see that the apprehensions of the French representative were justified, in view of the amendments to sub-paragraph (2) of paragraph A of article 1 and to article 30 (Co-operation of the national authorities with the United Nations) already adopted by the Conference, the second of them at the instance of the French delegation itself. It was obvious that, if the Egyptian amendment was rejected, the refugees it was designed to protect might eventually find themselves deprived of any status whatsoever.

Mr. ROCHEFORT (France) pointed out that the intentions of the Arab delegations would equally well be realized if the Arab countries assumed commitments now in respect of the categories of refugees they desired to help at present (by making appropriate statements as provided for in article 1), and later in respect of Palestine refugees.

MOSTAFA Bey (Egypt) had two comments to make in reply to the French representative's observation. In the first place, he must recall that he had informed the Conference that after the first world war Egypt had taken in some thirty thousand refugees, who had now been integrated into the life of the country, most of them having already become naturalized. He submitted therefore that, in the light of its geographical position, Egypt had made a substantial contribution to the solution of the general refugee problem. In the second place, he maintained that if the problem of the Arab refugees was not solved through the efforts of international organizations, other means of dealing with it would have to be devised.

The PRESIDENT ruled the discussion closed, and put the Egyptian amendment (A/CONF.2/13) to paragraph C of article 1 to the vote.

The Egyptian amendment (A/CONF.2/13) was adopted by 14 votes to 2, with 5 abstentions.

The PRESIDENT put to the vote paragraph C of article 1, as amended.

Paragraph C of article 1, as amended, was adopted by 18 voted to none, with 5 abstentions.

The PRESIDENT drew attention to the Report of the Working Group appointed to study paragraph E of article 1 (A/CONF.2/92), and, in particular, to paragraphs 3 and 4 thereof.

Mr. ROCHEFORT (France) pointed out that the French delegation had not taken part in the work of the Working Group, and asked that that fact be mentioned in its report.

The PRESIDENT intimated that the French representative's declaration would be reported in the summary record of the meeting.

Mr. CHANCE (Canada) proposed that the Conference adopt the United Kingdom proposal in paragraph 3 of the report of the Working Group, namely, that the phrase

“(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes.”

should be substituted for the phrase

“(a) he has committed a crime specified in Article 6 of the London Charter of the International Military Tribunal.”

In the original text of paragraph E.

The United kingdom proposal was adopted by 20 votes to 1, with 2 abstentions.

Mr. ROBINSON (Israel) explained that the Israeli delegation had been unable to vote for the United Kingdom text. While removing some of the legal objections formulated by the Israeli Government against the amendment submitted by the Federal Republic of Germany (A/CONF.2/76), the new text was less remarkable for what it revealed than for what it concealed. It omitted all reference to the London Charter, the legal basis for numerous sentences passed by competent tribunals. The Israeli delegation felt that such an omission might have far-reaching political and moral implications; those potential implications were responsible for its attitude.

Under Hitler, Germany had waged two wars, one for world hegemony, the other for the destruction of the Jewish people, in other words, for the death of every Jewish man, woman and child in the world. Germany's bid for world domination had failed, but the war against the Jewish people had all but succeeded; six million victims, two-thirds of European Jewry, which for a thousand years had been the reservoir of Jewish genius, had been killed.

With the end of the Grand Coalition and the partition of the world into two opposing blocs, one part of Germany had been gradually drawn into one camp, and the other into the opposite camp. That might in part account for the rapidity with which the process of “forgive and forget” was taking place in Germany. The decision just taken by the Conference represented the last step in that process.

But what of the second world war? Six years ago, Hans Frank, the former Governor-General of Poland, and one of the major war criminals, when on trial before the International Military Tribunal, had exclaimed: “Thousands of years will pass and the world

will not forget the crime committed by the Germans against the Jewish people.” The world appeared already to have forgotten, and, so it seemed, had Germany. The Germans had made no amends whatsoever to the Jewish people. While, therefore, the two blocs might consider that the Germans had individually atoned for their guilt, the Jewish people and the State of Israel could not share that view.

He requested that his statement should be reproduced verbatim in the summary record of the meeting.

The PRESIDENT asked the Conference to take up clause (b) in paragraph E, and the two United Kingdom alternative amendments thereto in document A/CONF.2/74.

Mr. HOARE (United Kingdom) would have no objection to a discussion on his delegation's amendments. However, the matter had been referred to the Working Group as a result of the Israeli suggestion that, instead of bringing the second clause of paragraph E into line with the first, the reverse procedure should be followed; there was also the important question of extradition which called for further consideration. It might therefore be preferable to refer the whole question to a working group in order to avoid fruitless debate in plenary meeting.

The PRESIDENT observed that the French delegation had been unable to attend the meetings of the Working Group, and that the Working Group had achieved no results on clause (b). In the circumstances, he would be reluctant to pass the question back to a working group without giving that group more substantive guidance.

Mr. HOARE (United Kingdom) felt that in that case he must again explain the United Kingdom delegation's reasons for submitting the alternative amendments in document A/CONF.2/74. Clause (b) of paragraph E referred to the provisions of Article 14(2) of the Universal Declaration of Human Rights. That Declaration dealt only with principles and ideals, and as such was not an instrument to which reference could satisfactorily be made in a legal text. Article 14(2) laid down that the right of asylum could not be invoked in cases involving prosecutions genuinely arising out of non-political crimes. A reference to that paragraph, therefore, would mean that if there were serious reasons for considering that a person fell within that category, that person would not be covered by the Convention. But what was meant by considering that a person fell within a category of prosecutions? A person who was prosecuted and convicted would certainly seem to fall within that category. As it stood, therefore, clause (b) would include refugees who had committed a crime, no matter how trivial, in the country of refuge, provided it was not a political crime, and would thus automatically exclude them from the benefits of the Convention. It must be obvious to all that such a proposition was untenable.

Paragraph 2 of Article 14 of the Universal Declaration of Human Rights went on to say that the right of asylum could not be invoked in the case of prosecutions genuinely arising from acts contrary to the purposes and principles of the United Nations. Thus, the text of clause (b) of paragraph E would automatically exclude from the benefits of the Convention refugees who had been prosecuted for such acts. He had doubts as to the exact meaning of the words “acts contrary to the purposes and principles of the United Nations”, and felt that the adoption of such a text might make it possible for governments to exclude refugees who should not be so treated. Moreover, the adoption of the amendment to clause (a) of paragraph E was another reason for considering that clause (b) could be

deleted, since the terms adopted for clause (a) were sufficiently wide for all practical purposes. He would therefore keep both the alternative amendments in A/CONF.2/74 before the Commission; both of them would exclude the common criminal from the application of paragraph E.

Baron van BOETZELAER (Netherlands) supported the United Kingdom representative's arguments. Reference to the Universal Declaration of Human Rights was inappropriate, and had given rise to some misunderstanding in the earlier discussions on the point. It had been rightly argued that it would be illogical to exclude common criminals from the benefits of the Convention.

Paragraph 2 of Article 14 of the Universal Declaration of Human Rights excluded common criminals only in so far as the right of asylum was concerned. In his view, that notion should be retained in the Convention. Common criminals should not enjoy the right of asylum; but that consideration had already been taken care of in article 28 of the draft Convention, as amended (Prohibition of expulsion etc.). In the circumstances, the Netherlands delegation would support the United Kingdom alternative amendments to clause (b) of paragraph E.

Mr. ROCHEFORT (France) agreed that Article 14 of the Universal Declaration of Human Rights related only to the right of asylum. But the right of asylum was infinitely more important than the granting of the status of refugee, since it was the *conditio sine qua non* of the possession of that status. How, indeed, would it be possible to accord the status of refugee to a person to whom the right of asylum had been refused, and who was accordingly unable to enter any receiving country? Faced with a text which did not grant the right of asylum on the one hand and envisaged the possibility of expulsion on the other (such were, in effect, the provisions of article 28), the French delegation wondered what advantage that proposal could confer on refugees.

There was a certain category of persons to whom the French Government, for its part, would be prepared to grant asylum on purely to accord refugee status to such persons, and it could not be constrained to do more in that direction. The United Kingdom proposal postulated a policy far more Draconian than the one that the present text of the Convention would entail.

That proposal would leave only one course open to the French Government:

to refuse asylum to the person involved, or, if he was already in French territory, to expel him. In the opinion of the French delegation, paragraph E constituted a vital provision, which, happily, would affect only a small number of refugees. True, the provision might have certain drawbacks which it was unfortunately not possible to remedy, since, in the present state of affairs, there was no international court of justice competent to try war criminals or violations of common law already dealt with by national legislation. Countries had certain sovereign rights, such as that of acceding to the extradition of certain persons, which went much farther than the refusal to grant a person refugee status. At Lake Success, the Belgian delegation had expressed misgivings, which the French delegation was now echoing, about the possible deletion of those provisions. It would be a very serious matter if the receiving country was not to be permitted to carry out screening operations to weed out persons who had made an unauthorized entry into French territory,

for example persons to whom the French Government might consider granting asylum without conferring the status of refugee on them.

Mr. HERMENT (Belgium) to some extent shared the view expressed by the French representative. There were certainly objections to granting the status of refugee to a person who was not worthy of it. In any event, article 28 provided a possible solution to that problem. None the less, the Belgian delegation did not consider that the status of refugee could be denied to a person simply because he had been convicted of a common law offence in his country of origin. In any case, the countries of origin concerned, and their methods of dispensing justice, were well enough known. For those reasons, the Belgian delegation supported the United Kingdom proposal that clause (b) be deleted, although on condition that a reservation relating to extradition was added to article 28: there were cases in which it was impossible, on purely legal grounds, to refuse extradition.

Baron van BOETZELAER (Netherlands) said that the French representative had failed to convince him of the necessity for denying the benefits of the Convention to a refugee who had committed a minor crime. That the Convention should not apply to those who had committed serious crimes was reasonable enough, but that eventuality was taken care of in article 28. He would also support the Belgian suggestion that a reservation on the subject of extradition be added to article 28.

Mr. HOARE (United Kingdom) appreciated the Belgian representative's support for the principle of the United Kingdom amendment. As he (Mr. Hoare) saw it, the real difficulty was somewhat as follows.

Article 14 of the Universal Declaration of Human Rights was concerned with the right of asylum, and its second paragraph constituted a proviso to the general provision of the first paragraph. That second paragraph seemed to him to be intended to apply to persons who were fugitives from prosecution in another country for non-political crimes, and the effect would seem to be that the provisions of article 14 would not override specific extradition obligations.

He could not imagine that those who had drafted it had intended that Article 14(2) should apply to a person who, having been granted asylum, subsequently committed a crime in the country of refuge. Article 14 was not concerned with common criminals who were in the territory of the receiving country concerned. The difficulty that had arisen in the conference over clause (b) appeared to be due to the looseness of the language used in Article 14, and to the fact that it had been introduced into the definition in the draft Convention of the term "refugee", and understood as applying to common criminals in the country of refuge. That was the category of refugee that the United Kingdom delegation wished to see excluded from the effect of paragraph E, so as not to deprive them of the benefit of the Convention. If his delegation's understanding was correct, there remained the question of the person who was sought, by a Contracting State or by a State of persecution, on legitimate prima facie grounds, for trial for a non-political crime. He did not oppose the solution to that problem proposed by the Belgian representative. Nevertheless, the Convention mentioned neither the right of asylum nor the principle of extradition. In that connexion, the action of States was governed by treaties relating specifically to extradition, and it would therefore be for States to take appropriate action in any given case in the light of their obligations under such treaties. Article 28 spoke only of the

expulsion or return of a refugee, and he would prefer that no mention of extradition be made anywhere in the Convention, for, as he had said, that was a matter that should be left to be dealt with under existing extradition arrangements between the various countries.

Mr. ROCHEFORT (France) said that, if it had been the aim of the discussion to place as many difficulties as possible in the way of certain Governments acceding to the Convention, he would be the first to express his appreciation of the manner, courteous, it was true, in which it was being conducted. However, that was certainly not its aim.

Mr. HOARE (United Kingdom), speaking to a point of order, strongly denied that the United Kingdom delegation had, either now or at any time during the Conference, taken a position which would make it difficult for States to accede to the Convention. On the contrary, he had done his best on more than one occasion to meet the views of other representatives, so as to promote maximum adherence to the Convention.

Baron van BOETZELAER (Netherlands) said that he had wished to make a statement similar to that just made by the United Kingdom representative.

Mr. HERMENT (Belgium) supported the protest made by the United Kingdom representative. He had often voted against his own convictions, and almost against his instructions from the Belgian Government, in order to make the Convention acceptable to as large a number of Governments as possible.

Mr. ROCHEFORT (France) stressed that he himself had only one aim:

to make the text of the Convention acceptable. He failed to understand how the French position could be strongly opposed when it had been accepted by the Economic and Social Council and by the General Assembly. During the discussions in a conciliation party, in which the United Kingdom representative had taken part, the latter had agreed with the French position. He had gone back on that agreement in the Third Committee, but that body had none the less retained the compromise formula drafted by the conciliation party. The French delegation could not see why its statements should be taken so tragically. What would be truly tragic, would be if it was made impossible for the French Government, which was responsible for some hundreds of thousands of refugees, to sign the Convention. It was precisely in the interests of those refugees that the French delegation had put forth all its efforts.

Mr. BOZOVIC (Yugoslavia) recalled that he had already stated at an earlier meeting that the United Kingdom amendment was unacceptable to the Yugoslav delegation. Indeed, if it was adopted, he would be obliged to reserve the Yugoslav Government's position, and there would be a good chance that the latter would be unable to sign the Convention. The reason for his attitude was to persons who had committed a crime in common law.

Mr. PETREN (Sweden) said that, starting from Article 14 of the Universal declaration of Human Rights, he reached the same conclusions as the United Kingdom representative. That article was clearly related to the issue of extradition and, although the Swedish delegation considered that it was of the greatest importance that the French Government should be in a position to sign the Convention, it could not but concede the validity of the United Kingdom representative's arguments.

Mr. BOZOVIC (Yugoslavia) said that the point at issue was whether criminals should be granted refugee status, not the problem of extradition.

Mr. SCHÜRCH (Switzerland) wondered whether it would not be preferable, instead of referring in paragraph E to article 14 of the Universal Declaration of Human Rights, to refer simply to serious crimes as a reason for exclusion of a refugee from the benefits of the Convention. Inclusion of a formula referring to the purposes and principles of the United Nations did not appear to be necessary, since paragraph A of article 1 covered the same ground.

Mr. BOZOVIC (Yugoslavia) proposed that paragraph E should be amended as follows: the words "in common law" to be inserted after the word "crime" in the third line, and a third sub-paragraph, "(c)", comprising the second United Kingdom amendment in document A/CONF.2/74, to be added at the end.

Mr. ROCHEFORT (France) supported the Yugoslav amendment. States which, like France, placed the most liberal interpretation on the right of asylum, needed a provision of that sort to enable them to screen the refugees entering their territories; otherwise the right of asylum itself might be jeopardized.

Such a provision, of course, might not seem important to countries which considered that the Convention was not intended to govern problems of admission.

France, for its part, was not of that opinion and no one could deny it the right to regard the Convention as applicable to such problems too.

It was precisely that situation that made it necessary for his country to protect itself by taking certain precautions. If, for example, in the near future, France found itself called upon to cope with an influx of refugees, victims of a counter-revolution in a totalitarian State, it would have to be free to decide once and for all, according to the circumstances of the case and extradition and, although the Swedish delegation considered that it was of the greatest importance that the French Government should be in a position to sign the Convention, it could not but concede the validity of the United Kingdom representative's arguments.

Mr. BOZOVIC (Yugoslavia) side that the point at issue was whether criminals should be granted refugee status, not the problem of extradition.

Mr. SCHÜRCH (Switzerland) wondered whether it would not be preferable, instead of referring in paragraph E to article 14 of the Universal Declaration of Human Rights, to refer simply to serious crimes as a reason for exclusion of a refugee from the benefits of the Convention. Inclusion of a formula referring to the purposes and principles of the United Nations did not appear to be necessary, since paragraph A of article 1 covered the same ground.

Mr. BOZOVIC (Yugoslavia) proposed that paragraph E should be amended as follows: the words "in common law" to be inserted after the word "crime" in the third line, and a third sub-paragraph, "(c)", comprising the second United Kingdom amendment in document A/CONF.2/74, to be added at the end.

Mr. ROCHEFORT (France) supported the Yugoslav amendment. States which, like France, placed the most liberal interpretation on the right of asylum, needed a provision of that sort to enable them to screen the refugees entering their territories; otherwise the right of asylum itself might be jeopardized.

Such a provision, of course, might not seem important to countries which considered that the Convention was not intended to govern problems of admission.

France, for its part, was not of that opinion and no one could deny it the right to regard the Convention as applicable to such problems too.

It was precisely that situation that made it necessary for his country to protect itself by taking certain precautions. If, for example, in the near future, France found itself called upon to cope with an influx of refugees, victims of a counter-revolution in a totalitarian State, it would have to be free to decide once and for all, according to the circumstances of the case and in the light of such considerations as it deemed appropriate, whether it would accord those persons the right of asylum and the status of refugees, or whether it would simply allow them to remain in French territory without according them that status.

France had a vital need of such a provision.

Mr. del DRAGO (Italy) supported the French representative's remarks.

Mr. PETREN (Sweden) said that two cases were involved: that of persons who, at the time of their entry into the receiving country, had already been guilty of a crime; and that of persons who committed a crime after such entry. He would like to know whether the anxiety felt by the French representative related to the first or to the second of those categories.

Mr. HERMENT (Belgium) said that he had been about to put the same question to the Yugoslav representative.

Mr. ROCHEFORT (France) said that his concern related to crimes committed before entry into the territory of the receiving country.

Mr. BOZOVIC (Yugoslavia) shared the misgiving of the French representative. He stressed the importance of such a provision for Yugoslavia, in view of her past experiences in that field.

Mr. ROCHEFORT (France) pointed out that a crime was not the same thing as a misdemeanour, and that the term "crime", in the sense in which it was used in the Universal Declaration of Human Rights, meant serious crimes.

Mr. PETREN (Sweden) considered that the word "crime" had acquired a certain significance in international law.

The provisions of article 28 would make it possible to qualify the crimes referred to, and it would be desirable to maintain its prohibition in paragraph E.

Mr. HOARE (United Kingdom) had no objection to a provision relating to crimes committed before entry into the country of refuge, but had been under the impression that that was not the proposal hitherto under discussion.

Mr. SCHÜRCH (Switzerland) said that one could conceive of a case in which a refugee could commit a serious crime in the territory of a receiving country without the receiving country considering expelling him for it. In those circumstances, he did not see why such a person should be treated differently from one who had been guilty of a crime in his country of origin.

Mr. ROCHEFORT (France) said that in the example cited by the Swiss representative, the refugee would already have been allowed to reside in the territory of the receiving country, in that of France, for example. That permission conferred certain rights on him, and, although he would not be a French national, he would none the less to some extent form part of the French community. Such was the French delegation's view, always subject, however, to the reservation of the possibility of expulsion provided for in the Convention.

To understand the French point of view, it was necessary to imagine oneself in France's situation - that of a country surrounded by States from which refugees might pour in, some of whom might commit crimes. The definition of the term "refugee" should therefore contain a clause designed to protect his country, to enable it to exercise the right of asylum it had always so liberally granted, without thereby having to grant to the persons enjoying that right the status of refugee. Unless such provision was made, entry would be permitted to refugees whose actions might bring discredit on that status.

He did not understand how the right to refuse the status of refugee could be disputed in the case of a country which was so generous in granting the right of asylum - a right infinitely more precious than that conferred by recognition of refugee status. According to certain delegations, the Convention did not govern conditions of admission. For the French delegation, however, the purpose of the text was to govern the manner in which refugees would be admitted to a country of asylum. And it was for that very reason that the French Government considered it essential that the text of the Convention should include a provision, the application of which would provide a serene to protect its most vital interests.

Mr. BOZOVIC (Yugoslavia) recalled that he had included the second alternative United Kingdom amendment to clause (b) of paragraph E (A/CONF.2/74) in his own amendment to that paragraph.

Mr. ROCHEFORT (France) proposed the insertion in the Yugoslav amendment of the word "serious" before the word "crime".

Mr. BOZOVIC (Yugoslavia) accepted the French proposal.

Mr. ROCHEFORT (France) drew attention to the fact that if the Yugoslav amendment were rejected, the Convention would become applicable to persons in respect of whom there were good grounds for suspecting that they had committed serious common law crimes or had been guilty of acts contrary to the purposes and principles of the United Nations. It would be rather paradoxical if persons guilty of such acts thus enabled to claim the protection of the United Nations.

Mr. BOZOVIC (Yugoslavia) warmly supported the views expressed by the French representative.

The PRESIDENT said that in view of the delicacy of the issue at stake, he believed that it would be best for the delegations concerned to try and arrive at an agreed text. He therefore suggested that the meeting be suspended in order to give them the opportunity of doing so.

It was so agreed.

The meeting was suspended at 5.10 p.m. and was resumed at 5/25 p.m.

Mr. BOZOVIC (Yugoslavia) announced that he had evolved a text for the second part of paragraph E which seemed to be generally acceptable. It read as follows:

“b) he has committed a serious crime under common law outside the country of reception;
or

c) he has committed an act contrary to the purposes and principles of the United Nations.”

Mr. HOARE (United Kingdom), while he did not regard the revised Yugoslav amendment as entirely free from objection, felt that it at least removed his (Mr. Hoare's) main objection to the text of paragraph E as originally drafted, which would have made it too easy for States to withdraw the status of refugee from many persons who had been granted asylum from persecution.

The PRESIDENT asked what were the implications of the phrase: “en dehors du pays d'accueil”. Did it refer to the time before a refugee first entered the country of asylum, or did it also cover the time during which a refugee was travelling in other countries?

Mr. ROCHEFORT (France) explained that the case in question was that of a person who did not yet enjoy refugee status in any country, but who was seeking to acquire it.

If such a person already enjoyed refugee status in a neighbouring country, he had his residence there, and the second receiving country would be quite entitled to refuse him entry into its territory, since he was the responsibility of the country in which he had hitherto had his residence. If he entered another receiving country illegally, the latter could always return him on the grounds that his entry had been illegal, and therefore inadmissible, since he had his normal residence in the other receiving country.

Baron van BOETZELAER (Netherlands) proposed that the words “not yet having refugee status” be inserted at the beginning of clause (b) of the revised Yugoslav amendment.

In reply to a question from Mr. BOZOVIC (Yugoslavia), he explained that the intention of his proposal was to ensure that if a refugee, after being admitted to a country of asylum, committed a crime there and subsequently took refuge in another country, his crime would not be counted against him in the second country, that was, that it would not deprive him of his refugee status there.

Mr. BOZOVIC (Yugoslavia) could not accept the Netherlands proposal which, he feared, might lead to lengthy discussions on the application of criminal laws.

Mr. HOARE (United Kingdom) withdrew the United Kingdom amendments to paragraph E (A/CONF.2/74).

The PRESIDENT said that it would seem that the situation could be illustrated by the following example: a refugee resident in Denmark might go abroad on a Danish travel document, commit a crime, and return to Denmark. The State in whose territory the crime had been committed might not wish to ask for his extradition for fear lest, after having served his term of imprisonment, the refugee would have to remain in its territory. In that case, the offender would be tried and sentenced in Denmark. On regaining his freedom, would he find himself deprived of the status of refugee? If so, what would be his position, since there was little likelihood that any other country would accept him?

Baron van BOETZELAER (Netherlands) said that a case such as that described by the President would in his view be covered if the Netherlands proposal was adopted.

Mr. ROCHEFORT (France) pointed out that in the example cited by the President, the person concerned would retain his refugee status so far as the high Commissioner for Refugees was concerned, and would therefore enjoy some degree of international protection. Moreover, as a general rule, the police forces of the various countries attempted to trace criminals, who were sometimes brought back for trial to the countries in which their crimes had been committed.

He observed that, whenever reference was made to a person already enjoying refugee status, the matter ceased to be a question of definition and became one of the application of the Convention; certain provisions, especially those of article 28, then came into force.

The French delegation was proceeding on the assumption that the person affected by the provisions of paragraph E would not yet enjoy refugee status.

The PRESIDENT drew attention to the fact that paragraph E opened with the words: "The provisions of the present Convention shall not apply to any person...."

Mr. ROCHEFORT (France) said that that was precisely his point. The word used was "person", not "refugee".

The PRESIDENT agreed, but doubted whether those who would have to apply the Convention would be aware of so fine a distinction.

Mr. ROCHEFORT (France) pointed out that the same difficulty arose in connexion with clause (a) of paragraph E.

The PRESIDENT conceded the force of the French representative's argument, and recalled that no such exception had been provided for in earlier instruments, which had to some extent relied on bona fide implementation.

When a person with a criminal record sought asylum as a refugee, it was for the country of refuge to strike a balance between the offences committed by that person and the extent to which his fear of persecution was well founded.

He would simply ask representatives to keep in mind the hypothetical case of some minor official of an outlawed political party who had a criminal record.

He was convinced that all countries, both in Europe and overseas, had, even under the earlier Conventions, always dealt with such cases fairly.

Mr. ROCHEFORT (France) thought that the difference between the present Convention and earlier ones, to which the President had drawn attention, was partly due to the fact that the scope of the latter had been confined to limited groups of refugees, and that, moreover, Contracting States had been free to enter reservations even in respect of the definition of such refugees.

The present Convention was a general text designed to apply to future refugees as well. It was also expressly provided that no reservations should be entered in respect of the definition of the term "refugee" in article 1.

What was more, no one in former times had envisaged the difficulties at present created by the existence of certain totalitarian regimes, which presented countries with fresh problems every day.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) drew attention to the difference in that respect between the Statute of his Office and the Convention. The former explicitly excluded from protection a person "in respect of whom there are serious reasons for considering that he has committed a crime covered by the provisions of treaties of extradition..." (A/CONF.36/1, page 11). Thus a person affected by the terms of the amendment at present under discussion would not come within the mandate of his Office.

Mr. ROCHEFORT (France) thought that, in cases of the kind mentioned by the High Commissioner, the United Nations should not prevent extradition procedure from being applied.

Mr. HERMENT (Belgium) preferred the words "serious crimes", as used in the Yugoslav amendment, to mention of crimes "covered by the provisions of treaties of extradition" in the Statute of the High Commissioner's Office.

Some crimes in respect of which the offender could be extradited were punishable by only three months' imprisonment, and were obviously not serious.

He had no objection to the Netherlands amendment, since it in any event referred to offences under common law committed outside the receiving country.

As the French representative had pointed out, the essential point was to give States the power to refuse refugee status to persons who had committed serious crimes before their admission to a receiving country.

Mr. HOARE (United Kingdom) thought that the question was one of defining a point in time. The Yugoslav amendment referred to crimes committed before the entry of a refugee into the receiving country; but the crime might be discovered only after such entry. He would therefore suggest that the best formula would be: "... in whose case at any time before he has been given permission to reside in the territory of the Contracting State there are serious reasons for considering that he has committed a grave [serious] crime outside that territory." Thus paragraph E would cover any crime committed by a refugee abroad, and its provisions would cease to apply once the refugee had been assimilated into the country of asylum.

Mr. ROCHEFORT (France) had no objection to the wording suggested by the United Kingdom representative, although he did not understand the exact significance of the reference to Contracting States.

He wondered what the position of a refugee would be if he had committed a crime in the territory of a non-Contracting State.

Mr. HOARE (United Kingdom) explained that the reference to "Contracting States" was merely intended to express clearly the geographical notion of the territory in which the refugee resided.

Mr. HERMENT (Belgium) proposed the following version for clause (b) in the revised Yugoslav amendment: "that he has committed a serious crime under common law outside the receiving country before being admitted to it as a refugee".

Mr. HOARE (United Kingdom) considered that the phrase: "before being admitted to it as a refugee" would give rise to certain difficulties. Some countries were not in a position to select refugees before entry, and it might be discovered only afterwards that refugee status should be withheld from a person. It was in view of that aspect of the problem that he had suggested the formula "at any time before he has been given permission to reside".

Mr. BOZOVIC (Yugoslavia) was prepared to accept the Belgian amendment, which he preferred to the United Kingdom proposal.

Mr. ROCHEFORT (France) also accepted the Belgian proposal, provided there was no intention of deleting clause (c) from the revised Yugoslav amendment.

Baron van BOETZELAER (Netherlands) observed that the Conference had to consider two cases: first, the question of crimes committed before the guilty person had acquired the status of refugee; secondly, that of crimes committed outside the receiving country.

He thought that a decision might be taken on each of those points in turn; the task of finding a wording which accurately interpreted the intentions of the Conference could then be left to the Style Committee.

Mr. ROCHEFORT (France) proposed that a vote be taken on the Netherlands proposal.

Mr. CHANCE (Canada) said that, having followed the discussion with great attention, he had been under the impression that the issue turned on the temporal element, namely, whether a person had committed a crime outside the territory of the receiving country before he had applied for the status of refugee.

Mr. BOZOVIC (Yugoslavia) agreed. He explained that his amendment embraced two concepts: that of crimes committed outside the receiving country; and that of crimes committed by persons who had not at the time acquired the status of refugee.

The PRESIDENT put to the vote clause (b) of the revised Yugoslav amendment as re-cast by the Belgian representative.

Clause (b) in the Yugoslav amendment was adopted in that form by 22 votes none, with 2 abstentions.

The remainder of the revised Yugoslav amendment, namely, the proposal that the words: “(c) he has committed an act contrary to the purposes and principles of the United Nations” be added to paragraph E, was adopted by 22 votes to none, with 2 abstentions. Paragraph E of article 1 was adopted as a whole and as amended by 23 votes to 1.

Mr. PHILON (Greece) asked the President’s permission to record the fact that he not taken part in the vote on the Egyptian amendment to article 1 because he had at that moment been absent from the meeting room. He wished to state that the Greek delegation supported that amendment.

The meeting rose at 6.15 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Twenty-eighth Meeting

By General Assembly | 28 November 1951

Present:

President:	Mr. LARSEN
Members:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO- JARAMILLO
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON

Italy	Mr. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. BICHERT
Netherlands	Baron van BODTZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. BOZOVIC
Venezuela	Mr. MONTOYA
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions,	Miss SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ Mr. BRUNSCHWIG
Co-ordinating Board of Jewish Organizations	Mr. WARBURG

Friends' World Committee for Consultation	Mr. BELL
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. BUENSOD
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. CONSIDERATION OF THE REPORT ON CREDENTIALS (A/CONF.2/87)

The PRESIDENT announced that credentials, fully authorizing the representatives of Colombia and Israel to participate in the Conference and to sign the instruments eventually drafted, had now been received. Paragraph 4, in Section B of the report should therefore be amended by changing the figure "11" to the figure "13", and by inserting the names "COLUMBIA" and "ISRAEL" in the list of countries. In paragraph 5, the name "ISRAEL" should be deleted, as should also the second sub-paragraph.

Baron van BOETZELAER (Netherlands) stated that on 17 July he had received a cable from the Netherlands Government informing him that his credentials had been signed and despatched, although he had not yet received them.

Mr. PAPAYANNIS (Greece) said that the delay in the arrival of his credentials was probably due to technical causes, since the Greek public services, including the Post Office, had recently been on strike.

The PRESIDENT remarked that, according to rule 3 of the rules of procedure, the Conference had to take a decision on the report on credentials.

The report on credentials (A/CONF.2/87), as amended, was adopted unanimously.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed from the twenty-seventh meeting)

(i) Article 5 - Exemption from exceptional measures (A/CONF.2/37, A/CONF.2/L.1) (continued)

The PRESIDENT, inviting the Conference to continue its consideration of article 5, on exemption from exceptional measures, said that he hoped that it would be possible to conclude the first reading of the draft Convention in two meetings.

Mr. PETREN (Sweden) pointed out that paragraph 1 of article 5 in the original draft of the convention (A/CONF.2/1, page 1) dealt with exceptional measures which might be taken against the person, property or interests of nationals of a foreign State, whereas article

5(a) (A/CONF.2/L.1, page 1), already adopted by the Conference, spoke only of measures against a particular person. Was that difference of terminology intentional?

He believed that it was somewhat illogical to restrict the provision of article 5(a) to measures which might have to be taken in the interests of national security.

Other circumstances could conceivably arise which would demand similar action by governments.

He was faced with two problems in connexion with paragraph 1 of article 5, the first being that mentioned by the United Kingdom representative at the previous meeting in connexion with the retroactive effect of that article. The Swedish Government shared that representative's view that it would not be convenient that that point should be disposed of by amending the draft Convention itself at the present late stage, but that it could be dealt with by appropriate reservations. His (Mr. Petren's) second preoccupation was that paragraph 1, as at present drafted, debarred governments from taking even provisional measures against refugees solely on account of their nationality. Such a clause might well conflict with the existing domestic legislation of certain States, and he considered that it should impose a lesser degree of restriction on the freedom of action of States. It was with that consideration in mind that he had introduced his amendment (A/CONF.2/37).

If that amendment was not acceptable as it stood, he would be perfectly willing, provided its substance was adopted, for its drafting to be entrusted to the Style Committee.

Mr. ARFF (Norway) said that, according to Norwegian law, all ex-enemy property had to be sequestered; however, the law was not very strictly applied.

For example, such property had been restored to German nationals after the second world war in cases where the owners had not actively worked against Norwegian interests.

Although there was no contradiction between the provision embodied in paragraph 1 of article 5 and Norwegian practice, it would none the less be desirable to bring it into line with the letter of the law. That could be achieved by adopting the Swedish amendment, which he would accordingly support. The Norwegian Government would then only have to make a reservation concerning the retroactive effect of paragraph 1.

Mr. HOEG (Denmark) said that the Swedish amendment was acceptable to the Danish delegation.

Baron van BOETZELAER (Netherlands) said that, as he had already stated, the Netherlands Government would have to make a reservation on article 9 (artistic rights and industrial property) to the effect that the provisions of that article would not affect legislation concerning enemy property. His delegation would have to make a similar reservation to article 5, for reasons similar to those adduced by the United Kingdom representative in the statement he had made at the previous meeting when introducing his amendment to that article.

Mr. HOARE (United Kingdom) reminded representatives that it had been decided to make a separate article of the former paragraph 2 of article 5 because there might otherwise have been a conflict between other articles, such as articles 3 and 21, and article 5. The saving clause in the original paragraph 2 applied only to article 5, and not to those other

articles; moreover, it was not clear that action which might have to be taken in an emergency overriding the provisions of those other articles would always come within the wording of paragraph 1 of article 5 (measures taken against "the person, property or interests" of a refugee).

It had therefore been decided that there should be a blanket provision whereby, in strictly defined circumstances of emergency, derogation from any of the provision of the Convention would be permitted in the interests of national security. Thus, article 5 was now only one of the articles covered by the provisions of article 5(a). He therefore could not agree with the Swedish representative's suggestion that article 5(a) was too limited. He believed the scope of that article to be extremely wide in allowing derogations from all the provisions of the Convention on grounds of national security. He would be most reluctant to extend the scope of that article to cases other than those connected with national security. The kind of action which he envisaged States might take under the provisions of article 5(a) would be, for example, the wholesale immediate internment of refugees in time of war, followed by a screening process, after which many could be released; that had occurred in the United Kingdom at the outbreak of the second world war.

The Swedish amendment would dangerously weaken paragraph 1 of article 5. He recognized that in some respects the provisions of that paragraph could not be fully applied, particularly in the case of enemy property, but, so far as the United Kingdom Government was concerned, that difficulty could not be fully applied, particularly in the case of enemy property, but, so far as the United Kingdom Government was concerned, that difficulty could be met by allowing for reservations to be made to the paragraph in question. He would hesitate to extend the scope of paragraph 1 to make it embrace a special class of case which could be quite well covered by reservations.

Mr. PETREN (Sweden) said that the United Kingdom representative's remarks had clearly demonstrated that there was no very close connexion between paragraph 1 of article 5 and article 5(a). He would not, therefore, move an amendment to the latter. Nevertheless, in connexion with paragraph 1 of article 5, he must point out that certain measures, which had nothing to do with the interests of national security, involving the property of refugees, might have to be taken. Paragraph 1 as at present drafted did not enable States to take even provisional measures either against persons or their property. It was impossible to foresee what circumstances might arise in the future which would necessitate the introduction of such measures, and he believed that States must be left free in that respect. He must therefore press his amendment.

Mr. ROCHEFORT (France) said that the Conference was faced with a text, the formulation of any reservations to which would lead to an avalanche. Governments would not agree to sign the Convention without entering reservations to article 5 as thus amended, since the friends of today might well be the enemies of tomorrow.

A text was needed for article 5 which would not call for any reservations at all on the part of States.

Mr. PETREN (Sweden) quoted a hypothetical example in support of his argument.

Two German nationals might possess property in Sweden. No difficulty would arise in the case of the first, who had taken up residence in Sweden as a refugee prior to the outbreak of hostilities. The second, on the other hand, might have reached Sweden after the end of the war and claimed the status of refugee. Should his property be restored to him if he could satisfactorily prove that he had never been a member of the Nazi party, and had, in fact, worked against it? That question would clearly have to be determined by the Swedish Government. Either legislation could be passed exempting certain categories of aliens from the application of the enemy property act, or some arrangement could be made to enable such persons to claim the return of their property provided they could substantiate their right to restoration. Those two possible alternatives must both be allowed for, or administrative difficulties would arise.

Mr. HERMENT (Belgium) appreciated the motives which had prompted the submission of the Swedish amendment. It was, however, to be feared that its adoption would result in a regime of arbitrary decisions, since countries of residence would be at liberty either not to apply to a refugee the exceptional measures which they might be obliged to take against the person, property or interests of other nationals of his country of origin, or to grant certain exemptions in the case of such refugees. Refugees would therefore have no absolute right to exemption from the application of those measures, and decisions as to the cases in which exemption was appropriate would be left to Governments.

As to the methods of implementing the provisions of the Convention, it should be noted that those provisions would in due course be approved by national parliaments, and would in consequence have the force of law. There was thus no need to contemplate the introduction of any special provisions in domestic legislation.

Mr. PETREN (Sweden) stated that, so far as the constitutional position of Sweden was concerned, the Convention could not be ratified by the Swedish Parliament without the prior introduction of a bill bringing domestic legislation into line, where necessary, with the provisions of the Convention. Therefore, certain difficulties might arise unless paragraph 1 of article 5 was amended in the sense he had proposed.

Mr. HOARE (United Kingdom) agreed that the example quoted by the Swedish representative was entirely relevant, but pointed out such cases could be covered by reservations. They related to action arising out of a war, but not actually taken during a time of war or emergency, and were therefore in no sense governed by considerations of national security. He failed, however, to understand the administrative difficulties which appeared to be troubling the Swedish representative. Surely each State would have to determine by normal administrative processes whether a person was a refugee and was covered by the provisions of paragraph 1 of article 5?

He was at present unable to conceive of any cases - apart from those connected with enemy property - which would arise in connexion with paragraph 1 in time of peace, and which did not involve considerations of national security. It was difficult to envisage a situation in which action would have to be taken in peacetime against a whole class of aliens of their property merely on grounds of nationality.

Mr. PETREN (Sweden) reaffirmed his view that it was impossible to legislate for future possible contingencies and that it was, therefore, important that paragraph 1 of article 5

should be made as flexible as possible in order not to restrict unduly the freedom of States.

Mr. ROCHEFORT (France) said that allowance should be made for the fact that in certain cases it would be impossible for a government to pursue a liberal policy towards refugees who were nationals of a State which did not recognize the principle of reciprocity. It was for that reason that reservations made by one State to the provision in question would inevitably provoke a spate of reservations by other States.

Mr. HERMENT (Belgium) observed that the Swedish amendment was intended to provide for possible future events. The paragraph in question, however, related to events occurring before 1 January 1951. Consequently, the fears of the Swedish delegation had no basis in fact.

Mr. ROCHEFORT (France) agreed with the Belgian representative on that point. It should not, however, be forgotten that there was also the question of the interpretation of the term "events". Did not the words "events occurring before 1 January 1951" imply all the consequences of such events, consequences which could not be foreseen?

Mr. HERMENT (Belgium) drew attention to a discrepancy between the English and French texts of the Swedish amendment. The French text, unlike the English text, implied a certain latitude or choice.

Mr. PETREN (Sweden) stated that the French version of his amendment was the authentic text, and that the English text should accordingly be brought into harmony with it.

The PRESIDENT put to the vote the French text of the Swedish amendment (A/CONF.2/37), it being understood that the English text would be revised by the Style Committee.

The Swedish amendment to paragraph 1 of article 5 was adopted by 9 votes to 3, with 13 abstentions.

Paragraph 1 of article 5, as amended, was adopted by 23 votes to none, with 2 abstentions.

(ii) Article 1 - Definition of the term "refugee": Paragraph B (A/CONF.2/9, A/CONF.2/81, A/CONF.2/82, A/CONF.2/82/Rev.1) (resumed from the twenty-third meeting)

The PRESIDENT drew attention to the Swedish and Israeli amendments to article 1, on the definition of the term "refugee", contained in documents A/CONF.2/9, A/CONF.2/81, A/CONF.2/82 and A/CONF.2/82/Rev.1.

Mr. PETREN (Sweden) said that, although his instructions from the Swedish Government on the matter were very precise, he might be able to accept the Israeli amendment without prejudice to his Government's final decision. He suggested that the word "compelling" should be inserted before the words "reasons arising out of" in the Israeli amendments to sub-paragraph B(5) and (6) (A/CONF.2/81, A/CONF.2/82/Rev.1).

Mr. ROBINSON (Israel) accepted the Swedish suggestion.

Mr. ROCHEFORT (France) said that the French delegation had already made known its interpretation of the words "reasons other than personal convenience" in sub-paragraph (2) of paragraph A of article 1. The purpose of those words which had been inserted at the instance of the Israeli delegation, was to avert the possibility that Israeli refugees of German or Austrian origin living in other countries might be deprived of their refugee status as a result of the restoration of a democratic regime in their country of origin. If that interpretation was incorrect, he would be grateful if the Israeli representative would put him right.

In any event, the French delegation had already made it clear both in the Third Committee of the General Assembly and in the Economic and Social Council, that that was the restrictive interpretation placed by France on the words in question, France would adhere to that view, but was anxious to avoid the possibility that the texts in question might be interpreted in such a way as to give rise to an extension, in favour of other groups of refugees, of a very liberal clause which it regarded as applying only to a category of refugees who were the victims of exceptional circumstances.

What exactly did the Israeli representative mean by the words "compelling family reasons" used in his amendments? Could the family attachment which a refugee might have contracted in his country of residence be regarded as compelling reasons?

And was separation from his family to be regarded for that purpose as a compelling family reason?

Mr. ROBINSON (Israel) said that the history of the phrase under consideration had been accurately related by the French representative, but the latter's apprehensions were unfounded. The Israeli amendments were intended to exclude precisely such cases as those of the Polish refugees in France, to whom the French representative had alluded. It was for that reason that the amendments referred to sub-paragraph A(1) of article 1; the case of the Polish refugees in France was covered by sub-paragraph (2). The words "compelling family reasons" were meant to cover, for example, the case of an aged woman refugee in France who had no members of her family still living in the land where she had formerly suffered persecution, and to which she would therefore have no desire to return. His text had in fact been drafted to meet the difficulties in which the Swedish and Israeli delegations found themselves.

Mr. ROCHEFORT (France) said that in that case the words "for reasons other than personal convenience" should be deleted from sub-paragraph A(2) of article 1.

He was not convinced that compelling family reasons provided sufficient justification.

Also, he must point out that, if an immigrant was deprived of his refugee status, that would not compel him to return to his country of origin.

Mr. ROBINSON (Israel) agreed that to withdraw the status of refugee need not have serious consequences for the refugee in question, because he would still be protected by the national laws of his country of refuge, but pointed out that the Israeli amendment was intended to allow the refugee to retain his international status. The number of such cases was very small, and it would be unfair to deprive such a small class of refugees of their international status.

Mr. ROCHEFORT (France) observed that there was also the question of assistance to refugees. To take the case of the aged belonging to the "hard core" of refugees, it could hardly be agreed that the government of a country which had returned to democratic ways should fail to take over the burden of that category of refugees, when they again became its nationals. It was a matter of national right feeling. There was no reason, for example, why France should continue to shoulder the burden of certain refugees, when that burden naturally devolved upon the government of the country of which they were nationals. The question that arose in that case was one of respect for nationality laws.

Mr. ROBINSON (Israel) pointed out that the French representative was persisting in the assumption that the Israeli amendments also related to subparagraph (2) of paragraph A of article 1. But the amendments were not intended to apply to such cases, but rather to cases such as that of the aged refugee which he had already cited by way of example.

The two German Republics had adopted legislation to restore to former nationals the nationality of which they had been deprived by certain legislation, particularly the bill passed in 1942. The general attitude of the French legislature was that such nationality laws could not be imposed on, for example, the remnants of Germany Jewry in refuge. The French representative had, indeed, himself voiced the same idea on a different occasion when he had agreed that the choice of nationality was a sovereign right of the individual.

The French representative had asked why France should continue to bear the burden of refugees who chose to remain stateless, but in actual fact there were very few of them, and in his (Mr. Robinson's) opinion there was little point in a country which gave shelter to 350,000 refugees making a case out of a handful of exceptions.

Mr. ROCHEFORT (France) said that the Israeli representative's argument applied to refugees from Austria and Germany. Most refugees belonging to the hard core came within the purview of sub-paragraph (1) of paragraph A. But France was still affording shelter to some ten to twelve thousand refugees without any means of existence, thrown up by successive waves of emigration. She was quite prepared to continue to assist such refugees so long as such assistance was necessary. But if their country of origin reverted to a democratic regime, the obligation to assist them should not fall perforce upon the French Government.

The Israeli amendments, as drafted, excluded from the benefit of the Convention only refugees coming within the scope of sub-paragraph (2) of paragraph A. France, however, was chiefly concerned with the refugees defined in sub-paragraph (1).

Mr. ROBINSON (Israel) wondered who the French representative had not entered a reservation to article 18 (public relief) the previous day. He (Mr. Robinson) had supported the French representative's proposal that reservations to article 30 should be permitted, and had voted - although only after serious hesitation - for it because he felt that everything should be done to encourage France to accede to the Convention. Since article 30 (co-operation of the national authorities with the United Nations) which was much more crucial than article 19 (labour legislation and social security), and article 18 could be made the subject of reservations, it might be the best solution for the French representative to recommend to the French Government that it adopt paragraph B of article 1 as amended by the Israeli proposal, on the understanding that it could make a reservation with regard

to the application of article 19 if the number of refugees affected by the Israeli amendment proved too large.

A second possibility would be to request the Style Committee, of which France was a member, to limit the application of the Israeli amendment and of the whole of sub-paragraphs (5) and (6) of paragraph B to the refugees covered by the Arrangements and Convention of 1926, 1928, 1933, 1938 and 1939. He was prepared to make that great concession in order to meet the French representative's difficulties, but hoped that the latter would choose the first solution.

Mr. ROCHEFORT (France) thought that the Israeli representative's first suggestion would work to the disadvantage of refugees. It would be an inhuman act to withdraw from them the right to assistance unless they were assured of receiving it from their country of origin.

With regard to the (Israeli representative's second suggestion, it should be pointed out that the refugees defined in the Constitution of the International Refugee Organization (IRO) were often covered by other international arrangements.

Mr. ROBINSON (Israel) observed that, although the French representative had at first said that France did not wish to continue assisting the refugees in question, the old French tradition had none the less come to the front and impelled him to remark that they would nevertheless be assisted. He therefore wondered why the French delegation found it dangerous or difficult to accept the Israeli amendments.

The Constitution of IRO covered many articles of the Convention, and its definition of the term "refugee" was better than the definitions contained in the instruments enumerated in sub-paragraph (1) of paragraph A of article 1. That might provide a solution to the difficulties experienced by the French delegation in respect of the Israeli amendments. Those difficulties were hard to understand, because the French representative had been extremely co-operative in the Drafting Committee of the Third Committee at the General Assembly, and had helped to draft the existing text.

The Israeli amendments were based on the assumption that the reference to "personal convenience" in paragraph A would disappear. At great sacrifice, that reference had been dropped from paragraph A, and reduced in paragraph B to a few categories of refugee.

Mr. ROCHEFORT (France) did not think that there was any contradiction between the two positions described by the Israeli representative. France had merely said that she did not wish to be under an obligation to continue to provide assistance to refugees who could seek the protection of their country of origin.

In the case, for example, of the Spanish refugees, the latter were bound, under the terms of the Constitution of IRO, to return to Spain when a democratic regime had been restored in that country. Should the choice of the assistance they wanted be left to those refugees? If the Israeli representative considered that the existing draft did not pretext the refugees with whom he was concerned, it was open to him to propose another, but not one that applied to all categories of refugees.

Mr. ROBINSON (Israel) asked whether the French representative could agree to the Conference's adopting the substance of the two Israeli amendments, on the understanding that the Style Committee would word the final text in such a way as to

remove that representative's apprehensions regarding the possible extension of their field of application.

The PRESIDENT suggested that the Israeli amendments should be voted on as they stood. If the Style Committee could devise a better solution, it should be authorized to do so, even though that was somewhat outside its province.

There would also be no objection to any delegation submitting further amendments at the second reading of the draft Convention.

Mr. PETREN (Sweden) said that the French representative's main objection to the original text seemed to be that it was very broad in scope and would allow of all kinds of interpretation. He (Mr. Petren) would like to point out that the Israeli amendments did not cover any point not in the original text of the Convention.

Mr. HOARE (United Kingdom) added that he read the Israeli proposal in the same way as the Swedish representative, but considered that it was more restrictive than the original text, because it translated the words "grounds other than those of personal convenience" into two specific reasons. There was no great objection to using the more specific wording of the Israeli amendments, especially since, as the Swedish representative had indicated, it was desirable to establish criteria which national legislatures would not find it difficult to interpret.

The second restriction in the Israeli proposal lay in the reference to subparagraph (1) of paragraph A, which limited the refugees affected to a smaller number of categories than were covered by the original text. He regretted that limitation, although he appreciated the motives that had prompted the Israeli amendment and the Swedish representative's attitude. He would therefore be obliged to abstain from voting, because he did not wish to put States which experienced certain difficulties on the subject in a position where they would be obliged to accept a text which did not meet those difficulties, and to which they could not make reservations.

Mr. ROCHEFORT (France) was not certain whether the text of the Israeli amendments was more restrictive than the existing text of the draft Convention.

It applied not to new refugees, but to the whole mass of old refugees, in respect of whom the problem of assistance arose in a particularly acute form.

As to compelling family reasons, every sort and kind of such reason could be found. Could not the fact of no longer having a family also be a compelling reason? The phrase opened the door to every sort of interpretation.

Mr. PETREN (Sweden) suggested that, as in the case of other articles, the way might be left open for reservations in respect of reasons other than those of personal convenience.

Mr. ROCHEFORT (France) did not think that the position was appreciably changed by reverting from sub-paragraph (2) to sub-paragraph (1) of paragraph A.

The majority of the refugees falling within the scope of sub-paragraph (1) would be able to claim the benefit of the provisions of sub-paragraph (2). Sub-paragraph 1 had been retained solely in order to save the old refugees from having their position re-examined

and seeing their status as refugees called in question. The anxieties felt by the Israeli representative for that category of refugees were, therefore, groundless.

Mr. HERMENT (Belgium) proposed that the debate be closed and a vote taken.

It was so agreed.

The Israeli amendment (A/CONF.2/81) to sub-paragraph (5) of paragraph 13 of article 1 was adopted by 7 votes to 3, with 14 abstentions.

The PRESIDENT said that he intended to adjourn the meeting until 3 p.m.

Mr. ROBINSON (Israel) thought that, since sub-paragraph (5) and (6) of paragraph B were virtually identical, although the former related to refugees with a nationality and the latter to refugees with no nationality, they might be voted on forthwith.

Mr. ROCHEFORT (French) considered the question was too important not to merit thorough discussion. It would not be proper to precipitate the vote on the various parts of article 1.

The PRESIDENT replied that he was not pressing the Conference to take a decision. He did not object to an exhaustive discussion on article 1, but had certain duties as President in seeing that the Conference kept to the time-table.

The Conference should either adjourn or, if it could do so without prolonged discussion, proceed to vote, as the Israeli representative had suggested.

It was decided to adjourn.

The meeting rose at 1.10 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirty-first Meeting

By General Assembly | 29 November 1951

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO-

	JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA BEY
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
	Mr. KAHANY
Italy	Mr. del DRAGO
	Mr. THEODOLI
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
	Mr. BOZOVIC
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and of other inter-governmental organizations:

International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free Trade Unions	Miss SENDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN
	Mr. METTERNICH
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Committee of the Red Cross	Jewish Congress Mr. OLGATI
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (continued)

(i) Report of the Working Group appointed to study paragraph 13 of the Schedule to the convention relating to the Status of Refugees and the Annex thereto (Specimen Travel Document) (A/CONF.2/95)

The PRESIDENT invited representatives to consider the report of the Working Group on paragraph 13 of the Schedule and on the Specimen Travel Document annexed to that Schedule (A/CONF.2/95).

The Working Group had proposed an alternative text for sub-paragraph 1 of paragraph 13 of the Schedule, and a text to be inserted at the end of paragraph 3 of the Specimen Travel Document. All the members of the Working Group had accepted those two amendments, except the Venezuelan representative, who had reserved his Government's position on the first. The proposed addition to paragraph 3 of the Specimen Travel Document represented a compromise solution, the Italian representative, who had

originally proposed the addition, having agreed to make the provision optional instead of mandatory.

In the absence of comment, he put the first of the two proposed amendments to the vote.

The amendment (A/CONF.2/95, paragraph 3) to sub-paragraph 1 of paragraph 13 of the Schedule was adopted by 18 votes to none.

Paragraph 13 of the Schedule was adopted as amended by 18 votes to none.

The Schedule annexed to the draft Convention (A/CONF.2/1, pages 21-23) was adopted as a whole and as amended by 18 votes to none.

Mr. HOARE (United Kingdom) said that, if it were appropriate, he would like to raise a question concerning the Schedule and article 32 (Relation to previous Conventions) of the draft Convention. Reference was made in article 32 to the London Agreement of 15 October 1946, under which travel documents were issued to persons who had been placed under the protection of, inter alia, the Inter-governmental Committee on Refugees and any inter-governmental agency called upon to succeed it. The successor organization was in fact the International Refugee Organization (IRO). Since IRO's work was due to come to an end shortly certain categories of refugees might have difficulties in future about travel documents.

In those circumstances, he wondered whether the Conference would be prepared to include a recommendation in the Final Act to the effect that governments signatories to the London Agreement of 1946 should continue to issue and recognize travel documents under that instrument until the present Convention came into force. Such a recommendation would be in the interest of refugees, and would also be helpful to administrations, which might otherwise be in some doubt as to the legal position of certain categories of refugees.

If the Conference was prepared to consider his suggestion, he would in due course submit an appropriate text.

Mr. HERMENT (Belgium) wholeheartedly supported the United Kingdom suggestion. He desired, however, confirmation of one point; to his mind, it was a question of a recommendation to States which were not parties to the London Agreement of 1946. States parties to that agreement would in fact remain bound by its provisions.

The PRESIDENT ruled that the subject should be considered when the Conference came to examine the Final Act.

Mr. MONTROYA (Venezuela) said that since the adoption of the Working Group's report on paragraph 13 of the Schedule and the Specimen Travel Document, the delegations of the three Latin American countries represented at the Conference had met and examined the amendments proposed in that report. He was now in a position to state that he was completely satisfied with those amendments and accordingly withdrew his reservation mentioned in paragraph 4 of the report.

Mr. SCHÜRCH (Switzerland) wished to raise two points of detail in connexion with the Specimen Travel Document. He noted that it was proposed to refer to the draft Convention on the cover of the booklet as well as on the first page. That point might perhaps be left to

Contracting States. Further, would the letter be able to make any changes to the proposed text? In the case of countries, such as his own, where an official document had to be printed in three languages, certain adjustments might be necessary.

The PRESIDENT assumed that the Swiss representative would be satisfied if his observations were reported in the summary record of the meeting, it being stated therein that no representative had objected to them.

Mr. SCHÜRCH (Switzerland) agreed.

The text (A/CONF.2/95, page 2) proposed by the Working Group for insertion at the end of paragraph 3 of the Specimen Travel Document was adopted by 22 votes to none.

The Specimen travel document annexed to the Schedule to the Draft Convention (A/CONF.2/1, pages 24-27) was adopted, as amended, by 22 votes to none.

(ii) New Article proposed by the Yugoslav Delegation (A/CONF.2/96)

Mr. MAKIEDO (Yugoslavia) said that throughout the Conference the Yugoslav delegation had endeavoured to do everything in its power to further the adoption of a convention which would help solve the refugee problem. But, in its view, the best possible convention would not be able to do so unless all possible causes of international friction arising from that problem were eliminated. The Yugoslav proposal (A/CONF.2/96) took into account the difficulties of the present international situation and the urgent necessity for preserving peace. That proposal was to some extent influenced by Yugoslavia's experiences in the recent past and at the present time when, on the one hand, a handful of refugees was being allowed to indulge in activities hostile to their country of origin, while, on the other, Yugoslav nationals were being prevented from returning home. As a result, a special and artificial category of refugees had been created. The Yugoslav delegation was convinced all States earnestly desired to reduce the number of refugees, and would accordingly consider favourably a proposal which sought to provide machinery whereby any policies tending to prevent repatriation might be checked. Nor should the numbers of refugees be unnecessarily swollen by the incitation of the nationals of one country to seek refuge in another. Measures should be taken against such activities.

The carrying-on by refugees of activities hostile to their country of origin inevitably created friction between neighbouring States. It was not the purpose of the proposed new article to forbid all political refugee organizations, but only such as did in fact carry on activities hostile to the refugees' country of origin.

Finally, the Yugoslav Government believed that the preservation of peace was hardly likely to be assisted by the formation of special military units made up of refugees. It therefore proposed that such units be forbidden, since their existence might act as a provocation and, in an atmosphere of strained international relations, lead to conflict. He hoped that his proposal would be sympathetically considered and supported by the Conference.

Mr. FRITZER (Austria) appreciated the intentions of the proposed new article, particularly the principle enunciated in the first sentence. As to the remainder of the text, he must point out that it might give rise to constitutional difficulties in respect of existing guarantees of the freedom of opinion, of the press and of association.

Therefore, before it could vote on it, the Austrian delegation would have carefully to consider the constitutional implications of the proposed new article.

Mr. ROCHEFORT (France) did not doubt the excellence of the intentions which had prompted the introduction of the Yugoslav proposal (A/CONF.2/96). He regretted, however, that he was not in a position to accept it. Analysis of its various points showed, in fact, that its inclusion in the draft Convention might entail dangerous consequences. Thus, for example, the proposal laid down that Contracting States should forbid all activity aimed at "inciting the nationals of other countries to seek refuge". It might be asked whether a broadcast which included perfectly objective and truthful news, which demonstrated to refugees that they would find in a certain State more humane and more respectable living conditions than they enjoyed in their own, might not be considered as forming an incitement "to seek refuge", even if the purpose of the broadcast was purely informative. Again, States were called upon not to prevent voluntary repatriation. The French delegation could not agree to such a recommendation, not because it did not approve of its principle, but precisely because if it voted in its favour that would imply that France undertook to abandon practices which it had in fact never indulged in. At Lake Success the French delegation had been accused much too sharply - and how wrongly - of putting obstacles in the way of the repatriation of refugees to be able to accept such a text. Needless to say, the French Government would continue in the future, as it had done in the past, to allow refugees complete freedom in that respect, while still hoping that certain States would grant the same privilege to French nationals in their territory, whose repatriation was unfortunately at present being prevented.

The Yugoslav amendment also forbade all activity designed "to exploit the difficult position of refugees". To adopt such a provision would be tantamount to admitting that such an activity might have existed; such a hypothesis was unacceptable to France.

Mr. HOARE (United Kingdom) said that the United Kingdom's position was identical with that of France, and that his delegation would be obliged to oppose the Yugoslav proposal for the reasons which the French representative had given reasons which were applicable to a great many countries.

There would be real danger in adopting what was in effect a provision prohibiting certain practices which were supposed to exist or to be likely to come into existence in the future. For to do so would amount to yielding before certain forms of propaganda aimed at the western European countries; it was impossible to countenance the inclusion of such a provision in the present Convention.

Mr. MAKIEDO (Yugoslavia) wished to remind the French representative that, as the President had said at the preceding meeting with regard to the Federal State clause, the Conference was legislating for the future. For instance, the inclusion in the draft Convention of article 3, on non-discrimination, did not suggest that discrimination was in point of fact at present being practised. The Yugoslav Government knew from its own experience that the practices referred to in the text of the proposed new article (A/CONF.2/96) existed. If no such article was included in the Convention, he feared that the Yugoslav Government might find it difficult to accede to it.

Mr. THEODOLI (Italy) considered that not only did the criminal codes of most countries cover the point raised in the Yugoslav proposal, but that it was already fully met by article

2 of the draft Convention, which referred to the duties of a refugee towards the country in which he found himself. If the Conference wished to re-affirm the principle laid down in the first sentence of the proposed new article, the appropriate place to do so was surely in the preamble.

Mr. ROCHEFORT (France) recalled that at Lake Success the Yugoslav delegation had succeeded in convincing everyone that refusal to repatriate certain refugees was not a measure of which Yugoslavia could be supposed capable, but that, on the contrary, certain States had forcibly detained Yugoslav citizens in their territories.

The French delegation fully appreciated the anxieties of the Yugoslav Government, and associated itself entirely with the position of the Yugoslav delegation. It wished, however, to point out that the text of the Convention as a whole was to be viewed in the light of decisions taken by the United Nations, particularly in connexion with the Statute of the Office of the High Commissioner for Refugees. That Statute indicated - in a preambular paragraph which the French Government had proposed should be inserted - that the solution of the problem of refugees lay in the voluntary repatriation of the persons concerned, or, if necessary, their assimilation within national communities. To relieve the anxieties of the Yugoslav delegation, the French delegation thought that the first sentence of the Yugoslav proposal might be inserted in the preamble to the draft Convention, together with a provision calling attention to the passage in the Statute of the High Commissioner's Office to which he had referred.

Such a formula would satisfy the Yugoslav delegation, and would meet the desire of the French people for the repatriation of French nationals at present detained against their will in certain countries.

Mr. THEODOLI (Italy) said that if the French representative made a formal proposal to the effect that the first sentence of the Yugoslav proposal be included in the preamble to the draft Convention, he would be prepared to support it.

Mr. MAKIEDO (Yugoslavia) expressed his thanks to the French representative for his remarks, and asked whether he had any specific proposal to make.

If the Yugoslav proposal was put to the vote, he would ask that each sentence should be voted on separately.

Mr. ROCHEFORT (France) emphasized forcibly how difficult it would be for the Conference to take a decision on the Yugoslav proposal. By voting against it, delegations would seem to be voting against the principles laid down in it, whereas there was in fact no opposition at all to those principles, and the Conference was unanimously agreed that it was essentially a question of good faith.

The French delegation therefore requested the Yugoslav delegation to ponder the difficulties that its proposal presented, and to take action to avert the risk of an unfavourable interpretation being placed on the action of those delegations which would be obliged to vote against it.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) proposed that the vote on the proposed new article be deferred until the Conference took up the Preamble to the draft Convention.

Mr. MAKIEDO (Yugoslavia) agreed to that proposal.

The proposal of the representative of the Federal Republic of Germany was adopted.

(iii) Question of the inclusion of a Federal State Clause (A/CONF.2/90, A/CONF.2/97, A/CONF.2/98) (resumed from the thirtieth meeting)

Mr. CHANCE (Canada) expressed his gratitude to the Israeli representative for his support in the matter of the Federal State clause. The Canadian Government's position was dictated by constitutional consideration. He would have been able to accept the Israeli proposal (A/CONF.2/90) but he had submitted an alternative text (A/CONF.2/98), because it seemed to meet certain objections that had been raised. He repeated his previous statement that a Federal State clause acceptable to the Canadian Government was essential if that Government was to adhere to the Convention.

With regard to the question of reservations, he had stated at the preceding meeting that at first glance he saw no great objection to the French suggestion that the Federal State clause be qualified by a statement that it should be subject to the provisions of article 36. He feared, however, that such a qualification might weaken the Convention, and might be open to misinterpretation.

There was, unfortunately, nothing else for it but to take the facts as they were, and to rely on the good will of the Federal States in carrying out the provisions of the Convention. He would, however, not oppose the inclusion of a qualifying clause such as that suggested by the French representative if the Conference considered it necessary.

Mr. ROCHEFORT (France) said that the French delegation was casting no doubts at all on the good faith of Federal States. It had been at some pains to emphasize that what was involved was a question, not of good faith, but of reciprocal obligations, which could have repercussions such as the movement of refugees from one country to another. That was the real problem. The French delegation could not envisage a position in which Federal States would be free to enter whatever reservations they pleased in respect of articles to which unitary States were debarred from entering any reservation at all. Otherwise, what would be the practical scope of a convention, the essential articles of which, such as the one containing the definition of the term "refugee" or the one about which the Israeli representative had spoken at the preceding meeting and which related to fundamental rights belonging to all human beings, were made the subject of far-reaching reservations? The French delegation would therefore like to see the inclusion of a safety clause of a legal nature providing for equality between Federal and unitary States in that respect.

MOSTAFA Bey (Egypt) was under no illusions as to the difficulties which the Federal State clause presented.

He had already expressed his misgivings about the usefulness of a reservations clause, pointing out that such a clause would, in the final analysis, lead to inequalities between the obligations assumed by various Contracting States. To assume unreservedly obligations which other Contracting States undertook only subject to certain reservations would, in the opinion of the Egyptian delegation, be tantamount to signing a blank cheque. The reservations clause would in effect enable certain States to make subsequently reservations capable of affecting the nature of the contractual relationship, or even the implementation of the Convention itself.

The explanations which the Assistant Secretary-General in charge of the Department of Legal Affairs had kindly given at a previous meeting had not convinced the Egyptian delegation. Those explanations might be more accurately described as comments, for the question raised by the Egyptian delegation about the legal treatment of reservations and the possibility of making such reservations at the time of accession remained unanswered.

The Federal State clause created a much more delicate situation. In fact, members of the Conference were being asked to depart from the traditional procedure hitherto followed in the conclusion of multilateral treaties, and to adopt a new one which might amount to interference in the domestic affairs of each Contracting State.

In that connexion, it should be remembered that the Contracting Parties, or to be accurate, the Heads of the States concerned, were listed at the beginning of every treaty; for it was the Heads of States who were bound by the treaty, since the conduct of foreign was usually in their hands. The division of responsibilities for home and for foreign affairs was necessary for legal reasons.

The moment the body responsible for foreign affairs ratified an international treaty, the State was considered duly bound by the provisions of that treaty.

The domestic procedure by which the treaty was handled within each Contracting State was of little importance. Indeed, to go into that would be to exceed the bounds of international relations; it was simply incumbent on each Contracting Party to take the domestic measures required to give effect to properly concluded treaties. It went without saying that if any State ran up against domestic difficulties in the implementation of its international commitments, its international responsibility would be involved.

That was the traditional procedure for concluding treaties, but the Conference was being asked to depart from that procedure without any sound reason being advanced for its doing so. It had been argued that the Conventions negotiated by the International Labour Organisation constituted a precedent. But the methods by which those Conventions were concluded formed an exception in international law, since they were not signed by the representatives who attended the International Labour Conference, since representation there was tripartite, consisting of governmental, employers' and workers' representatives. The draft conventions were signed by the President of the Conference and by the Director-General of the International Labour Office, and then transmitted to States for ratification. Thus it was wrong to quote the International Labour Conventions as an example, since they constituted an exception, and did not therefore provide a valid analogy.

In the Egyptian delegation's opinion, the best solution would be for the Conference to keep to the traditional procedure, the only one which was sound and in accordance with a rational legal approach, and one which had hitherto never been seriously criticized.

Mr. HERMENT (Belgium) shared, to some extent, the Egyptian representative's concern. In his view, however, it was less a matter of determining the respective advantages that would accrue to federal and unitary States than of establishing the immediate and future scope of the adherence of each Government. That was the unknown quantity which might give rise to certain misgivings, and the Belgian delegation for its part considered that the

Conference should proceed in a manner likely to clarify the issue and to result in some certainty about the scope of the instruments of ratification deposited.

Mr. FRITZER (Austria) said that he must reiterate that under the Austrian Constitution a Federal State clause was unnecessary. Neither the Israeli proposal (A/CONF.2/90) nor the United Kingdom amendment thereto (A/CONF.2/97) were acceptable to the Austrian Federal Government as they stood, and he would therefore propose that the following phrase be inserted in sub-paragraph (b) in each case:

“This paragraph shall not apply in a Federal State where the constituent states are, under its constitutional system, obliged to take such legislative action.”

The PRESIDENT appreciated the Austrian delegation's difficulties. It was not opposed to a Federal State clause, which it did not need itself, but was afraid that a provision expressly referring to provincial authorities could be interpreted as a renvoi to those authorities even in cases where that was not necessary. The same argument might well be voiced by the Governments of the Federal Republic of Germany and of Switzerland. A formula to cover the point was undoubtedly needed.

From the political point of view, only two other possibilities were open: either the Contracting States wished the Federal States to join their community, even though the latter might be unable immediately to obligate themselves to ensure that the Convention would be fully implemented by the provincial authorities, or, alternatively, the Federal States would have to sign only after the necessary internal legislative adjustments had been made in their respective countries.

Mr. ROCHEFORT (France) felt that those delegations which had urged that at least six instruments of ratification should be required to bring the Convention into force had envisaged the application of a fully effective Convention, not the ratification of a text stripped of its substance. Even the deposit of six instruments of ratification would hardly be enough to enable the Convention to be properly applied, if the signatories included one or more States which had adopted the Federal State clause and were not, whether de facto or de jure, able to ensure that the essential provisions of the Convention were applied throughout their territory. Thus, in Europe, for example, a State might play an essential part in the application of the Convention in other territories, on the clear understanding that the Convention would not be implemented in its own territory.

If the Federal State clause were inserted in the Convention, unitary States which were as exposed as France was would have to consider the situation most carefully before they decided to ratify. He emphasized that the question at issue was not that of the application of the Convention within the territory of each State. Most European countries, in fact, already accorded most of the rights stipulated in the Convention. But a situation particularly favourable to refugees would be created in countries which applied the Convention within their territory as the result of an international obligation, and such a situation was likely to attract a host of refugees to that country.

Mr. HOARE (United Kingdom) considered that the Canadian representative's text was preferable to that of the Israeli proposal, because it kept to the facts of the case and did not attempt to interpret the practice of Governments. He would however wish to consider

more closely the implication of the words “legislative jurisdiction” used in both paragraphs of the Canadian amendment.

Turning to the general issue of whether a Federal State clause should or should not be included in the Convention, he would submit that its inclusion would be tantamount to recognition of the fact that by their constitutional structure certain States delegated certain powers to the federal authority and other powers to the provincial authority. If it was desired that Federal States should acceded to the Convention, the Conference must include a Federal State clause in recognition of the fact that the constitutional position could not be changed. Indeed, that consideration must govern the whole issue.

In his view, the point made regarding reservations was not valid. It was impossible for the Federal States to pledge themselves to the implementation of certain parts of the Convention by the provincial legislatures, since the final decision must rest with the latter. Therefore, conditions stipulating that ratification by the federal authority should be followed by implementation by provincial legislatures could not be imposed.

The articles of the Convention to which reservation were not permitted were few. A federal authority would be fully bound by the definition article as well as by the article on non-discrimination (article 1 and 3), whereas the provincial authorities would not necessarily be so bound. In that connexion, however, he would draw attention to the fact that in the United States of America, for example, the verdicts of State courts on cases of discrimination had occasionally been overruled by the federal courts. The federal authority would also have powers in respect of the article on access to courts (article 11). As to article 28, which was of crucial importance, the question of expulsion was within the responsibility of the federal authority. Thus, there would be very few cases where a provincial authority would be able to take action overriding that of the federal authority.

Summing up, he would submit that it was desirable that Federal States should adhere to the Convention, which should, therefore, include a Federal State clause, drafted along the lines of the Canadian amendment, the Conference relying for the rest on the goodwill of those States.

Mr. KAHANY (Israel) said that the Israeli proposal had been submitted in a spirit of helpfulness, and that he would be only too glad to withdraw it in favour of the Canadian representative’s suggestion if agreement could be thereby reached.

Mr. CHANCE (Canada) thanked the Israeli representative, and said that in the circumstances which had arisen he would submit his text as a formal amendment.

Mr. ROCHEFORT (France) was not entirely convinced by the explanation which the United Kingdom representative had given. One difficulty remained, namely, that signature by unitary States would be subject to certain minimum conditions, in that they would not be permitted to enter reservations to certain article. It clearly followed that the same reservations should be forbidden to all States signing the Convention, if certain of them were not to be granted what would amount to preferential treatment. It had already been pointed out that the Convention could not be applied in practice in the countries of immigration; therefore, in spite on the great advantages which the universal application of the Convention would bring, the importance of ratification by countries for which the problem did not exist, and on whose territory the Convention would not be applied, must

not be exaggerated. The French delegation had made an effort to avoid having to vote against the Federal State clause by suggesting that it should be made subject to the conditions stipulated in article 36. As that suggestion had not been taken up, the French delegation would be unable to vote for the Canadian proposal.

Baron van BOETZELAER (Netherlands) commended the clarity and precision of the United Kingdom representative's explanation. In his opinion it was inconceivable that a Federal State should ratify the Convention without the intention of applying its main provisions. For his part, he was convinced that the Federal States would apply the Convention in good faith.

Mr. ROCHEFORT (France), replying to the representative of the Netherlands, again pointed out that the question he had raised was not one of good faith; it was simply a matter of all signatories to the Convention starting off on an equal footing.

The PRESIDENT ruled that the discussion was closed, and said that he would first put to the vote the Austrian amendment to the Canadian proposal.

Mr. FRITZER (Austria) asked the Conference to vote for his amendment, for, if it was not adopted, the Austrian Federal Government would have some difficulty in acceding to the Convention.

Mr. HOARE (United Kingdom) suggested that a vote be taken on the principle of the Austrian amendment, the exact drafting thereof being left to the Style Committee.

It was so agreed.

The Austrian amendment to the Canadian proposal (A/CONF.2/98) was adopted in principle by 13 votes to none, with 9 abstentions.

The Canadian proposal for the text of the Federal State clause, as amended in principle, was adopted by 12 votes to 2, with 7 abstention.

Mr. BOZOVIC (Yugoslavia), explaining his vote, said that the Yugoslav delegation had frequently stated its position on the question of the Federal State clause. It was unable to vote in favour of the Canadian proposal, because the latter was not in the interest of refugees, and because it would create two different kinds of obligation as among Contracting States. Furthermore, there would be no means of knowing when the provisions of the Convention would actually be applied in the territory of Federal States. His statement was in no way intended to imply any doubt as to the good faith of those States.

2. CONSIDERATION OF THE DRAFT PROTOCOL RELATING TO THE STATUS OF STATELESS PERSONS (item 5(b) of the agenda) (A/CONF.2/1, A/CONF.2/91 and A/CONF.2/93)

The PRESIDENT requested the Conference to turn to the question of the draft Protocol relating to the Status of Stateless Persons. It had before it an Austrian amendment in document A/CONF.2/91, and the draft final clauses which the Secretariat had prepared (A/CONF.2/93).

Mr. FRITZER (Austria) said that the Austrian Federal Government was prepared to support the draft Protocol relating to the Status of Stateless Persons.

However, the third paragraph laid down that certain clauses of the Convention relating to the Status of Refugees should also be applied to stateless persons. He understood that provision to imply that the system of reservations applicable in the case of the Convention would also hold good for the draft Protocol. He could not, however, agree that article 27 of the Convention should be applied to stateless persons, for he could see no reason why the sovereignty of a State should be restricted to the extent of its not being able to expel a stateless person except on grounds of national security or public order. The question of a stateless person who was expelled but was not admitted to a neighbouring country was another matter; the fact remained that there were no good grounds for a State's renouncing its right to expel a stateless person.

Mr. ROBINSON (Israel) submitted that the real difference between a refugee and a stateless person was that whereas the former might have some sort of travel document, and a particular country might claim his allegiance, the stateless person would have neither a travel document nor a country of allegiance.

Under paragraph 2 of article 28 a refugee could be returned to his own country, but a stateless person could only be expelled, to find his way into another country where he was equally not wanted. To that extent the case of the stateless person was much more serious than that of the refugee, and justified a greater measure of protection from expulsion.

Mr. HERMENT (Belgium) recalled that the draft Protocol had emerged from the first session of the Ad hoc Committee on Statelessness and Related Problems, which had taken place in January and February 1950. It had been the Committee's task to consider means whereby statelessness might be abolished, and to study the desirability of requesting the International Law Commission to prepare a study and make appropriate recommendations. As the Committee had not had sufficient time at its disposal to go into the matter thoroughly, it had merely recommended the Economic and Social Council to call on States Members of the United Nations to review their domestic legislation on the subject with a view to abolishing statelessness. The Committee had also, however, prepared a draft Protocol.

At its second session, as the Ad hoc Committee on Refugees and Stateless Persons, held in Geneva in July and August, 1950, the Committee had been unable, again owing to lack of time, to make a thorough study of the Protocol.

The Belgian delegation wished to make it clear that while the Belgian Government was prepared to grant the maximum possible rights and benefits to refugees, its attitude was somewhat different in the case of stateless persons.

There was a fundamental difference between the two categories of persons.

Refugees deserved special benefits, but stateless persons as a class, although there were deserving cases among them, could not be said to merit privileged treatment. By way of illustration, he would take the case of a national of a State who had been deprived of his nationality as a result of having committed treason. That person would become stateless, and the question would then arise whether he should be accorded treatment more

favourable than that enjoyed by aliens in general. The same question would arise in the case of a person who lost his nationality as a result of refusing to do his military service. Those examples would suffice to demonstrate the exaggerated effects which the adoption of the Protocol might produce. The Belgian Government took the view that stateless persons should enjoy the same rights as aliens, but should not necessarily be entitled to the special benefits that accompanied refugee status. He felt that by granting stateless persons the travel document issued to refugees, which was acquiring increased standing and prestige, the value of that document, and thus the interests of refugees themselves, would be jeopardized.

Mr. HOEG (Denmark) said that the Danish Government's position was similar to that of the Belgian Government. The question of a protocol relating to the status of stateless persons had not been gone into very deeply by the Ad hoc Committee, and the Danish delegation had opposed the draft Protocol that had then been drawn up for the reasons similar to those given by the Belgian representative. Consequently, it would now be obliged to reserve its position on the text as it stood.

Mr. PETREN (Sweden) said that the Swedish Government was in the same position. It had not yet studied the whole question sufficiently closely to enable him to take a position. The Belgian representative's observations had given the Conference much food for thought. He would add a further note of warning by pointing out that the draft Protocol contained no dateline for the definition of stateless persons.

Mr. ANKER (Norway) said that the Norwegian delegation was in the same position as the other Scandinavian delegations.

Mr. THEODOLI (Italy) stated that Italian law made due provision for stateless persons and sought to limit the causes of statelessness. In those circumstances, the statement in the second paragraph of the draft Protocol that there were many stateless persons not covered by the Convention relating to the status of refugees who did not enjoy any national protection, was not true in the case of Italy.

It would also be necessary for him to enter a reservation on the draft Protocol to ensure that where the treatment accorded to stateless persons already living in Italy was equivalent to that accorded to Italian nationals, it should not be made any less favourable by adoption of the Protocol.

Mr. HERMENT (Belgium) said that, to resolve the difficulties to which the Protocol apparently gave rise, the Belgian delegation would be prepared to introduce an amendment providing that stateless persons should enjoy the treatment given to aliens generally.

Baron van BOETZELAER (Netherlands) stated that the Netherlands Government accorded stateless persons treatment similar to that provided for in the Protocol. But his delegation would have liked to have had a term set to the period of application of that system in order to expedite the assimilation of stateless persons within the national community. It had taken up a similar attitude on a previous occasion, but would not revert to that position in view of the objections which had been raised to the Protocol at the present meeting.

The Netherlands delegation was prepared to vote for the present text of the draft Protocol, but it seemed that no decision could be taken on the matter for the time being; the best solution would therefore be to adopt a recommendation referring the question to the appropriate United Nations organs for further study.

He accordingly proposed the following text:

“The Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons,

“Having examined the draft Protocol relating to the Status of Stateless Persons,

“Considering that this question requires further study,

“Decides not to take a decision at the present Conference; and

“Refers the draft Protocol for further study to the appropriate organs of the United Nations.”

Mr. PETREN (Sweden) supported the Netherlands proposal. The treatment given to stateless persons in Sweden was extremely favourable, but the Swedish delegation agreed that the problem could not be settled for the time being.

Mr. ROCHEFORT (France) supported the Netherlands proposal. He pointed out that, by virtue of the Protocol taken in conjunction with article 30 of the draft Convention, a category of persons not included by the General Assembly within the mandate of the Office of the High Commissioner for Refugees would be brought inside it.

All the rights provided for in the Protocol were already granted to stateless persons in France. But, in the opinion of the French delegation, the problem of stateless persons was distinct from that of refugees, the former being more of a political and the latter more of a legal nature. At the outset, the “Study on Statelessness” prepared by the Secretariat had advocated that the refugee concept should be replaced by the concept of statelessness. The French delegation had been among those who had been opposed to that procedure, and had stressed the vast differences separating the two problems. The present position of the French delegation in no way meant that the French Government was not most anxious that stateless persons should enjoy a certain status. But that status would have to be the subject of serious study, which the appropriate bodies had so far not undertaken.

Mr. HOARE (United Kingdom) observed that the comments of the Belgian and other representatives revealed that there would be real difficulty in seeking to apply en bloc to stateless persons the articles of the draft Convention referred to in the draft Protocol. He agreed that one of the chief objections lay in the fact that the agreed definition of the term “refugee” could be interpreted as circumscribed both in time and space.

The Netherlands proposal was a possible solution, though it amounted to a confession of failure. In the circumstances, he wondered whether the Belgian suggestion might not command general acceptance. The Belgian representative presumably intended that those clauses of the Convention where the treatment to be given to refugees was either the treatment accorded to nationals or most-favoured-nation treatment, should be applied under the Protocol only to the extent of providing stateless persons with the treatment accorded to aliens generally.

He thought that such an arrangement would appeal to most members of the Conference, particularly as it seemed clear that in the large majority of the countries represented at the Conference stateless persons were being accorded at least the treatment afforded to aliens generally.

Mr. ROCHEFORT (France) requested the High Commissioner for Refugees to clarify a point of interpretation: he wished to know whether, if the Protocol was signed, the High Commissioner would, in his own opinion, be empowered to protect stateless persons by virtue of article 30 of the draft Convention, despite the fact that those persons were not covered by the Statute of the High Commissioner's Office as adopted by the General Assembly.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) pointed out that article 30 was not included in the articles listed in the Protocol.

The reply to the question put by the French representative was therefore in the negative.

Mr. ROCHEFORT (France) accepted that interpretation, but did not regard it as final. The Convention and Protocol could be regarded as constituting a whole, and, wherever article 30 mentioned the Convention, any protocols annexed thereto would be considered as included by implication. There were therefore grounds for believing that, by virtue of article 30, the High Commissioner might find himself responsible for implementing the Protocol.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) pointed out that article 30 referred solely to the Convention. There was therefore no justification for establishing a connexion between the Protocol and the Convention, which was not provided for by article 30.

Mr. ROCHEFORT (France) accepted that interpretation, and asked that it be noted in the summary record of the meeting.

The PRESIDENT stated that the Netherlands proposal, being furthest removed from the original text of the draft Protocol, would be voted on first.

If adopted, it would be included in the Final Act of the Conference, subject to any drafting changes that might be made by the Style Committee.

The draft resolution submitted by the Netherlands representative was adopted by 13 votes to 2, with 8 abstentions.

3. SUPPLEMENTARY REPORT ON CREDENTIALS

The PRESIDENT reported on behalf of the Credentials Committee that the Government of Greece had submitted credentials authorizing its representative to participate in the Conference.

4. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5 (a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed)

(iv) Preamble (A/CONF.2/96 and A/CONF.2/99)

The PRESIDENT suggested that, as the working hours of the Style Committee would allow the Israeli representative to participate in its work, he should be invited to sit on that Committee.

It was so agreed.

The PRESIDENT invited the Conference to consider the preamble to the draft Convention, since the United Kingdom amendment thereto (A/CONF.2/99) was now before the Conference in both English and French.

Mr. HOARE (United Kingdom), introducing his delegation's amendment, said that, although the preamble was of but slight legal significance and was merely introductory, it was nevertheless important that it should be fairly closely related to the origins of the work with which the Conference had been entrusted, and with the general purposes of the Convention. With that in mind, the United Kingdom delegation had submitted the amendment contained in document A/CONF.2/99, hoping thereby to render the preamble more harmonious and self-consistent.

He would first draw attention to the fact that paragraph 7 of the original text was omitted from the amendment. It seemed to him that, while it was right that the Conference should express such a sentiment as that contained in that paragraph, it would be more proper to include it by way of a recommendation at the end of the Convention, since it went beyond the limits of a general statement on the text of the Convention. The first paragraph of the amendment reproduced paragraph 1 of the original text, with the substitution of the words "have reaffirmed" for the word "establish". That modification would bring the paragraph more into line with the actual facts. The difference between the second paragraph of his amendment and paragraph 2 of the original draft was that he referred to the United Nations' repeated expressions of concern for the need for the international protection of refugees, instead of to its attempts to assure them the widest possible exercise of fundamental rights and freedoms. It was difficult to say to what extent the Convention made provision for the widest exercise of such rights and freedoms. The essential point, and the main concern of the Conference, was the need for the protection of refugees. Paragraph 3 of the original text had been omitted as being self-evident and unnecessary. Paragraph 4 had been replaced by the fourth paragraph of the amendment, and paragraph 5 had been re-drafted in more general terms as the third paragraph of the amendment.

The last paragraph of the amendment was roughly the same as paragraph 6 of the original preamble. The United Kingdom delegation was not necessarily wedded to the text it had submitted, but merely put it forward as a suggestion for consideration by the Conference.

Mr. ROCHEFORT (France) recognized that the United Kingdom amendment was an improvement on the original Preamble in certain respects, particularly with regard to the amendment to paragraph 1 and the deletion of paragraph 7. He did not attach more than secondary importance to paragraphs 3 and 4, though he felt that the reference to the protection accorded by previous conventions relating to refugees should be retained. He was, none the less, still doubtful about the new United Kingdom wording for paragraphs 2, 5 and 6. In the case of paragraph 2, he preferred the original text, which referred to the widest possible exercise of fundamental rights and freedoms, since that was precisely what the Conference had tried to achieve. Some provisions had been placed in the

Preamble which he would have preferred to see in the body of the Convention itself, particularly those stating the need for international co-operation (paragraphs 5 and 6).

Paragraph 5 of the original text, which alluded to the exceptional position of certain countries, was, he felt, indispensable for continental countries liable to be faced with a large-scale influx of refugees. It had been argued that the Convention did not govern the question of admission, but continental countries had no choice in that matter. When faced with a flood of refugees upon their frontiers, they could not help but grant them right of asylum, and possibly refugee status. In the case in point, the normal application of the Convention might be completely invalidated. If, for example, as had already happened, a State was suddenly called upon to take in half a million refugees, certain provisions of the Convention, particularly those relating to housing and the right to work, could not be applied without presenting the country concerned with problems which, temporarily at least, would prove insoluble. In such a case there would have to be international collaboration, and it was therefore not demanding too much of countries of immigration to ask for the implicit appeal contained in paragraph 5 to be retained. He felt, as the United Kingdom amendment stated, that the problems arising in such circumstances should be solved by co-operation between the High Commissioner for Refugees and the States concerned.

Nevertheless, there were cases where the protection of refugees became a problem of assistance, and if there was no international co-operation it could not be solved. The United Kingdom representative had intimated that he had no very rooted objections to the original text of the Preamble, and the French delegation therefore wondered whether he would agree to paragraphs 5 and 6 being retained, subject to improvement in their drafting. It was its particular wish that the world "international co-operation" should remain in the Preamble.

Mr. THEODOLI (Italy) pointed out that refugees were granted the right of asylum by the Italian Constitution. The Italian delegation, however, had always felt that the refugee problem was an international, and not a national, responsibility, and therefore associated itself with what the French representative had just said, particularly in the case of paragraph 5, which the United Kingdom amendment sought to whittle down. As to paragraph 6, which dealt with the High Commissioner's part in the application of the Convention, the Italian delegation was prepared to accept the United Kingdom version on the understanding that the co-operation with the High Commissioner's Office would be covered by an agreement between that Office and the Italian Government.

MOSTAFA Bey (Egypt) observed that some States were giving protection and assistance to a large number of refugees, even though they were not bound to do so by any contractual undertaking. His delegation therefore felt that it was essential to retain in the Preamble the idea of international co-operation contained in the original text, and fully supported what the French representative had said on the subject.

Mr. ROBINSON (Israel) submitted that while the Preamble to the Charter of the United Nations stated that the peoples of the United Nations were determined to reaffirm faith in the fundamental human rights, those rights were mentioned at seven other points in the Charter, that was to say, that the Charter itself went beyond mere reaffirmation of the principle. Again, he wondered how the term "reaffirmed" could apply to the Universal

Declaration of Human Rights, which were statement of ideals so be achieved and not of something that already existed.

With regard to the second paragraph of the United Kingdom amendment, he pointed out that there were recent resolutions of the General Assembly on the subject of refugees than resolution 319 (IV) A, and it would seem reasonable to refer to them as well. He had understood from the United Kingdom representative's statement that it was his intention to include the substance of paragraph 5 of the original text in the third paragraph of the United Kingdom amendment. The Style Committee could therefore be left to include the reference to international solidarity in the most appropriate way.

Mr. SCHÜRCH (Switzerland) said that in the light of the general statement made by the head of his delegation at the third meeting, he warmly supported the French representative's remarks concerning paragraph 5 of the original text.

Apart from that consideration the Swiss delegation would agree to any to any drafting modifications that were likely to improve the wording of the Preamble.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that, as the representative of a country of asylum, he strongly supported the statements of the French and Italian representatives on paragraphs 5 and 6 of the original text of the Preamble.

Mr. PETREN (Sweden) said that he appreciated the force of much of the United Kingdom amendment. At the same time, he endorsed the French representative's views on paragraph 5 of the original text.

Baron van BOETZELAER (Netherlands) also approved the statement of the French representative on paragraph 5 of the original text. He would propose, however, that, in order to avoid all risk of misinterpretation, the words "right of asylum" should be replaced by the words "right to seek and to enjoy asylum in other countries", which was the wording used in paragraph 1 of Article 14 of the Universal Declaration of Human Rights.

The PRESIDENT believed that the difference between the text of paragraph 5 and that of paragraph 1 of Article 14 of the Universal Declaration of Human Rights lay in the fact that in the latter it was a question of the right of the individual to seek and to enjoy asylum, whereas in the former the right of the State to grant asylum was meant.

Baron van BOETZELAER (Netherlands) thought that the point he had made might be referred to the Style Committee.

Mr. CHANCE (Canada) felt that the Conference was too large a body to handle questions of drafting expeditiously in plenary meeting, and that as the differences suggested were slight they could be left to the Style Committee.

Mr. HOARE (United Kingdom) said that in view of the strong support for paragraph 5 of the original text, he would not oppose its retention. The point made by the Netherlands representative was not unimportant; it might, perhaps, be met by the substitution of the word "grant" for the words "exercise of the right" in the first line of paragraph 5.

As to the Israeli representative's comments, he contended that the principle that "human beings shall enjoy fundamental rights and freedoms without discrimination" was a principle that had been accepted long before the Charter of the United Nations had been drafted,

and that consequently the Charter had reaffirmed that principle. Again, the Universal Declaration of Human Rights was not a statement of new principles, but a statement in fuller detail of existing principles. To meet the Israeli representative's view, however, he would agree to the use of the word "affirmed" instead of the word "reaffirmed" in the first paragraph of the United Kingdom amendment. He would also have no objection to references in the second paragraph to more recent resolutions of the General Assembly, provided that they were appropriate and absolutely necessary. Lastly, he hoped that the French representative would understand that paragraph 5 of the original draft had not been omitted from the United Kingdom amendment by way of dissent from the statement of fact which it contained, which everyone fully recognized. The fact was that he (Mr. Hoare) had doubted the value of introducing in a few words the idea that some other form of international action was necessary. If the notion of international solidarity was retained, it would, he felt, be interpreted merely as referring to international solidarity achieved through the signing and ratification of the present Convention. However, if the Conference considered it desirable to retain those words, the United Kingdom delegation would not object.

Mr. ROCHEFORT (France) thanked the United Kingdom representative for his readiness to allow paragraph 5 to stand. He explained that what the French delegation wanted was the recognition of a de facto situation, rather than a statement of a specific obligation. There were, in fact, countries which might be confronted with a situation in that connexion so serious as to exceed the scope of the protection of refugees and come within the field of international assistance.

Furthermore, with regard to the final paragraph of the United Kingdom amendment, the French delegation would prefer it to be specified that co-operation with the High Commissioner might not meet the requirements of all situations. The following phrase might be inserted to cover that point: "and upon a large measure of international co-operation". He felt certain that the Style Committee would be able to find a formula taking the different viewpoints into account and capable of satisfying all delegations.

After some further discussion, the PRESIDENT suggested that the whole question of the drafting of the Preamble should be referred to the Style Committee.

It was so agreed.

The PRESIDENT drew attention to the Yugoslav proposal for a new article (A/CONF.2/96), which, he recalled, it had earlier been decided should be considered in connexion with the Preamble.

Mr. MAKIEDO (Yugoslavia) thought that the members of the Conference would have no difficulty in voting for his proposals as its provisions were largely taken from the Constitution of the International Refugee Organization (IRO).

Mr. ROCHEFORT (France) appreciated the motives underlying the Yugoslav proposal; he wished, nevertheless, to point out that the provisions in question had been inserted in the Constitution of IRO for historical reasons, the need for which might no longer be felt at the present time. He requested the Yugoslav representative not to press his proposal. It might, however, be possible to keep the first sentence, and add a reference to the first article of the Statute of the High Commissioner's Office, in which it was stated that the refugee

problem must eventually be settled by the voluntary repatriation of the persons concerned or by their assimilation within national communities.

Mr. HOARE (United Kingdom) observed that there was a vast difference between domestic rules for the conduct of an international organization, and the formulation of a text imposing an obligation on States to prohibit certain activities. If there was any thought of introducing such a clause into the Preamble, most of the wording proposed by the Yugoslav delegation would have to be abandoned, and the same would apply if the idea was to make an article out of it. He would urge the Yugoslav delegation not to press its proposal for, if it did, many members who sympathized with the reasons underlying its submission would find themselves embarrassed.

The PRESIDENT submitted that the instrument that was being drafted was a convention on the status of refugees and that the Conference had been called upon to draw up provisions which would provide refugees with a legal status.

He did not think that the Yugoslav delegation would wish the Conference to vote on a text which, whether adopted or rejected, might be open to an interpretation for which none of those present would care to take responsibility.

Mr. MAKIEDO (Yugoslavia) said that he looked to the Chair to suggest the best means of handling the question. Would it not be possible for a small drafting committee to redraft his proposal with a view to its insertion in the Preamble?

The PRESIDENT thought that the Style Committee might consider the Yugoslav proposal and report back. That solution would enable the Yugoslav delegation to raise the question again at the second reading, if necessary. The Style Committee should invite the Yugoslav delegation to be present when its proposal was under consideration.

Mr. ROCHEFORT (France) considered that in order to facilitate the work of the Style Committee the Conference might take a decision at once on two matters of principle: first, the inclusion in the preamble of a text based in substance on the first sentence of the Yugoslav amendment; and secondly, the inclusion in the preamble of the passage from the Statute of the Office of the High Commissioner for Refugees which he had mentioned earlier.

The PRESIDENT said that he would have no objection to putting to the vote the points mentioned by the French representative. In all the circumstances, however, he believed that the procedure he had suggested would be preferable.

The procedure suggested by the President was agreed.

(v) Statement by the Italian representative on Article 37 of the Draft Convention

The PRESIDENT called upon the Italian representative to make a statement which he had wished to make at the second reading, which, however, he would unfortunately be unable to attend.

Mr. del DRAGO (Italy) said that the statement he wished to make related to article 37 of the draft Convention. The Italian delegation had favoured the coming into force of the Convention after ten instruments of ratification had been deposited, and in the absence of a better solution had accepted and voted for the figure of six instruments of ratification. His

delegation was still of the opinion that those six governments should be governments who had a major interest in the refugee problem. Some delegations had urged that the Convention should come into force at the earliest possible date, and the fear had been expressed that the need for too many instruments of ratification might unduly delay that process. He was sure, however, that of all the governments represented at the Conference there must be at least six that were ready to sign and ratify the Convention forthwith. The Italian Government was keenly interested in the Convention, but considered that it would be wise not to be too precipitate.

The emphasis on urgency was not a compliment to Italy, where the law and administrative arrangements made very full provision for the reception and protection of refugees. He mentioned two welfare centres for refugees in Italy and the amenities provided there, and submitted that, under existing arrangements and even before the Convention came into force or was signed, the lot of refugees in Italy would not be so pitiable, although, of course, it was never at the best of times a particularly enviable one.

(vi) Draft recommendation submitted by the United Kingdom delegation for inclusion in the Final Act of the Conference (A/CONF.2/100)

The PRESIDENT said that the last item before the Conference in the first reading of the draft Convention was the United Kingdom draft for a recommendation (A/CONF.2/100) for inclusion in the Final Act of the Conference. That proposal related to travel documents issued to refugees under the London Agreement of 15 October 1946, and had already been put forward orally by the United Kingdom representative at the beginning of the present meeting. Did the Conference wish to consider the proposal at the present moment?

Mr. HERMENT (Belgium) observed that that proposal had not been included in the agenda. It might give rise to other suggestions, and it would therefore be preferable not to take it up at the present stage.

The Conference agreed to revert to the United Kingdom proposal when it had before it a draft of the Final Act.

The meeting rose at 6.10 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirty-fourth Meeting

By General Assembly | 30 November 1951

Present:

President: Mr. LARSEN

Members:

Australia

Mr. SHAW

Austria

Mr. FRITZER

Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO- JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von THUTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Israel	Mr. ROBINSON
Italy	Mr. ARCHIDIACONO
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Leichtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO Mr. BOZOVIC.
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Refugee Organization	Mr. SCHNITZER

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER
--	-------------

Category B and Register

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
-------------------------	-----------------------------

Catholic International Union for Social Service	Miss de ROMER
---	---------------

Commission of the Churches on International Affairs	Mr. REES
---	----------

Co-ordinating Board of Jewish Organizations	Mr. WARBURG
---	-------------

Friends' World Committee for Consultation	Mr. BELL
---	----------

International Committee of the Red Cross	Mr. OGLIATI
--	-------------

International League for the Rights of Man	Mr. de MADAY
--	--------------

International Union of Catholic Women's Leagues	Miss de ROMER
---	---------------

Pax Romana	Mr. BUENSOD
------------	-------------

Standing Conference of Voluntary Agencies	Mr. REES
---	----------

World Jewish Congress	Mr. RIEGNER
-----------------------	-------------

Secretariat:

Mr. Humphrey	Executive Secretary
--------------	---------------------

Miss Kitchen	Deputy Executive Secretary
--------------	-------------------------------

1. DRAFT RECOMMENDATIONS SUBMITTED BY THE DELEGATION OF THE HOLY SEE FOR INCLUSION IN THE FINAL ACT OF THE CONFERENCE (A/CONF.2/103)

The PRESIDENT invited the Conference to consider the draft recommendations (A/CONF.2/103) submitted by the delegation of the Holy See for inclusion in the Final Act of the Conference.

Msgr. COMTE (The Holy See) said that, in the light of the frequently expressed desire that the Convention should afford as ample protection as possible to refugees, the delegation of the Holy See had submitted the draft recommendations contained in document A/CONF.2/103 with the object of filling certain gaps in the present text of the Convention.

The recommendations were arranged in three groups, the first of which dealt with the maintenance of the unity of the refugee's family, the extension of the rights granted to the refugee to cover all members of his family, and the protection of refugee minors, and in particular of unaccompanied children and girls. Those recommendations were naturally

not of a contractual nature, but merely took the form of directives to Contracting and other States with a view to ensuring that the maximum possible assistance was extended to refugees. Assistance to refugees automatically implied help for their families, but, although that proposition was an obvious one, it would be wise to include explicit reference to the families. The Israeli representative had pointed out to him that the records of the discussions in the Ad hoc Committee revealed that, in the view of that Committee, the children of refugees, even if born after 3 September 1939, should also enjoy the status of refugee provided they were without a nationality, and, moreover, that members of the immediate family of a refugee should in general be considered as refugees if the head of the family was a refugee within the terms of the definition in the Convention. The Ad hoc Committee had in fact considered that, even in cases where the head of the family was not a refugee, such persons should be regarded as refugees if the conditions set forth in paragraph A of article I applied to them. None the less, the delegation of the Holy See believed that there could be no harm in emphasizing the need for measures for the protection of the refugee's family.

Turning to the second group of recommendations, he remarked that the part that non-governmental organizations had played and would continue to play, particularly in cases of emergency involving a large number of refugees, was fully recognized. At the same time, governmental machinery was notoriously slow in getting under way, and it had therefore seemed to his delegation that the more specially qualified non-governmental organizations could do extremely valuable work on behalf of refugees at the time of their arrival in a country of refuge. It would be noted that provisions for the intervention of non-governmental bodies had been made in the Geneva Conventions 1949, negotiated under the auspices of the International Committee of the Red Cross, not in the form of a recommendation, but as articles in the body of the Conventions themselves.

As to the third group of recommendations, he observed that the right of asylum was one of the oldest of human rights. In recommending that governments should grant that right with the utmost liberality, the delegation of the Holy See was thinking more particularly of the unaccompanied refugee labouring under all sorts of handicaps. It was true that the Institute of International Law had defined the right of asylum, but the action it had taken in the matter had not extended to the practical application of the principle, which the proposed recommendation was designed to ensure.

Adoption of his delegation's proposals would, he believed, provide more effective protection for refugees, and enable the appropriate non-governmental organizations to contribute to that protection.

The PRESIDENT informed the Conference that the comments of the Ad hoc Committee to which the representative of the Holy See had referred were to be found on page 40 of document E/1618.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) supported the recommendations submitted by the representative of the Holy See. He felt it appropriate that the Conference should emphasize the principle of the unity of the refugee's family, a principle of particular importance in a country like Germany where, by force of political circumstance, many German families had been split asunder. The German Federal Government was making every effort to facilitate the reunion of such families.

Much had been seen in the Federal Republic of Germany of the extremely useful work done by the non-governmental organizations, particularly in the immediate post-war years, and it would provide some recognition of the endeavours of the International Committee of the Red Cross, the international church organizations and other agencies of the same kind if the Conference adopted the second group of recommendations.

As to the third group of recommendations, he believed that Germany was one of those countries on which had fallen the onerous obligation of receiving large numbers of new refugees. The principle of the right of asylum was enshrined in its Constitution. Acceptance of that group of recommendations would rightly proclaim the desire for international solidarity in the discharge of responsibilities relating to the protection of political refugees.

Mr. WARREN (United States of America) said that the United States delegation wholeheartedly supported the first two groups of recommendations. He did not think it necessary to stress the United States Government's difficulties, which were well-known, in accepting the recommendations in the third group, and as he could not hold out hope that it would assume further financial commitments after the termination of the International Refugee Organization (IRO), as was suggested in the last paragraph of section III of the recommendations, the United States delegation would be obliged to abstain from voting on that section.

Mr. ROBINSON (Israel) proposed that, in order to reconcile item 2) of the first group of recommendations with the comments of the Ad hoc Committee, it should be reworded to read:

"making sure that all the members of the refugee's family are accorded rights granted to the refugee".

Mr. HERMENT (Belgium) believed that the recommendations submitted by the representative of the Holy See would command general support. He felt it would be desirable, however, to insert the word "still" after the word "refugees" in the first line of section III, in order to bring out the fact that the situation in question already existed, and was a continuing one.

Msgr. COMTE (The Holy See) accepted both the Israeli and the Belgian amendments.

Mr. HOARE (United Kingdom) shared the view that the recommendations submitted by the delegation of the Holy See were both useful and desirable. The United Kingdom delegation, however, found itself in the same difficulty as the United States delegation with regard to the third group of recommendations. While recognizing the validity of the expression therein of the ideal principle that the financial burden and heavy responsibilities of countries of first refuge should be equally shared by all governments, he felt that it was essential that the Conference should bear in mind the difficulties which, under present conditions, governments experienced in committing themselves to such an undertaking as that contemplated in the last paragraph. It would, indeed, be undesirable to make such a recommendation if governments were not in a position to implement it.

He doubted whether the wording proposed by the Israeli suggestion for paragraph 2 of the first group of recommendations would actually achieve the desired objective, Drafted in such terms, the paragraph might well implicitly undermine the more categorical view of the

Ad hoc Committee that governments were under an obligation to take such action in respect of the refugee's family. In his opinion, it would be regrettable if governments were to take the action therein proposed only when they considered that circumstances enabled them to do so. The paragraph deserved further consideration. In fact, he wondered whether it would not be best to delete it.

Mr. ARCHIDIACONO (Italy) wholeheartedly supported the recommendations of the delegation of the Holy See. They represented a reaffirmation of all the views expressed by the Italian delegation throughout the Conference.

Msgr. COMTE (The Holy See) said that, in an attempt to give general satisfaction, he would suggest that the first group of recommendations should be revised to read:

“THE CONFERENCE

“CONSIDERING that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and

“NOTING with satisfaction that, according to the official comments of the Ad hoc Committee (E/1618, page 40), the rights granted to the refugee are extended to the members of his family,

“RECOMMENDS governments to take the necessary measures for the protection of the refugee's family, especially with a view to:

(1) ensuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country;

(2) providing special protection for refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.”

The PRESIDENT requested the Conference to confine its attention for the time being to section I of the recommendations.

At the suggestion of Mr. HERMENT (Belgium), it was agreed to insert in the text proposed by the representative of the Holy See the full name of the Ad hoc Committee.

Mr. HOARE (United Kingdom) accepted the revised text proposed by the representative of the Holy See for section I of the recommendations. At the same time, in order to make it quite clear that the intention was not to recommend that special laws and regulations should be enacted for the protection of refugees who were minors, but rather that they should be given the full protection afforded by existing legislation, he considered that the last paragraph should begin “the protection of refugees who are minors....” (“assurer la protection des réfugiés mineurs.....”).

Msgr. COMTE (The Holy See) accepted the United Kingdom representative's amendment.

The PRESIDENT put to the vote the text of section I of the recommendations, as amended.

Section I, as amended, was adopted unanimously.

The PRESIDENT put to the vote the text of section II of the recommendations.

Section II was adopted unanimously.

Mr. WARREN (United States of America) said that he was reluctant to oppose, or even to abstain from voting on, the general principle contained in the third group of recommendations, but, as he had said, the United States delegation would be unable to support the text in its present form. He wondered whether the representative of the Holy See would agree to considering its revision somewhat along the lines of paragraph 4 of the Preamble to the draft Convention, and thus make it possible for the Conference as a whole to accept it. If so, the matter might be left over for further consideration at the next meeting.

Msgr. COMTE (The Holy See) having signified his acceptance of the United States suggestion,

it was agreed that further consideration of section III of the recommendations should be deferred until the next meeting.

2. SECOND READING OF THE DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/102 and Add.1 and 2 thereto, A/CONF.2/104, A/CONF.2/105, A/CONF.2/106) (resumed from the thirty-third meeting):

(i) Article 1 - Definition of the term "Refugee" (continued):

The PRESIDENT requested the Conference to resume its second reading of the draft Convention relating to the status of refugees, continuing the discussion on article 1. The relevant documents were A/CONF.2/102/Add.2 and A/CONF.2/105. If the new text (A/CONF.2/105) to replace paragraph B (formerly paragraph F) of article 1 was adopted, it would be necessary to delete the words "in Europe or in Europe and other continents, as specified in a statement to be made by each High Contracting Party at the time of signature, accession or ratification" from subparagraph (2) of paragraph A of article 1. A decision on substance having been taken at the preceding meeting, the Conference had now to decide only the form of new paragraph B.

Baron van BOETZELAER (Netherlands) approved the text (A/CONF.2/105) proposed by the Drafting Group appointed the previous day, but submitted that if former paragraph F, which dealt with the extension of the scope of the Convention to new categories of refugees arising as a result of events occurring after 1 January, 1951, were deleted from article 1, a new clause would have to be inserted to take care of such an extension of the scope of the Convention.

Mr. REES (Standing Conference of Voluntary Agencies), speaking at the invitation of the PRESIDENT, said that he had been requested by a number of non-governmental organizations to make the point just taken by the Netherlands representative. Everyone welcomed the new paragraph B as it stood, and recognized that former paragraph F had become a dead letter, largely as a result of the looseness of its drafting. It would be realized, however, that former paragraph F was the only ray of hope for those persons who might become refugees as a result of events occurring after 1 January 1951. Since it had frequently been said that a new convention relating to the status of refugees was unlikely to be negotiated within the next ten years, and since it would be unduly optimistic

to assume that no events likely to create new groups of refugees would occur within that period, he urged that the Netherlands proposal should be given the most serious consideration.

Mr. HOARE (United Kingdom) submitted that the Conference was at that moment dealing with the drafting of a text to give effect to a decision taken at the preceding meeting, and that the point raised by the Netherlands representative was entirely different and should accordingly be dealt with separately. The United Kingdom delegation was averse to the introduction of such a provision in the Convention. The text before the Conference (A/CONF.2/105) represented a compromise both as to time and as to space which his delegation had come to accept, after having initially favoured a definition unlimited both in time and in space, and after having later agreed, in a spirit of compromise, to accept a restriction of the definition of the term "refugee" to those persons who became refugees as a result of events occurring before 1 January 1951. The argument he had advanced in support of his delegation's position, namely, that it was undesirable to afford States the facility of deciding unilaterally to extend the limitation in space as and when they pleased, applied with equal force to a like facility in respect of the extension in time. There were, of course, no technical difficulties in the way of deleting the reference to a date from the text, but that would be to re-open a controversy which had been settled by the compromise that had been reached. On the other hand, serious technical difficulties would arise if Contracting States were allowed unilaterally to adapt the Convention so as to extend its scope to persons who became refugees as a result of events occurring after 1 January 1951. The whole definition would have to be reviewed, and consideration would have to be given to the extent to which paragraph E of article 1 and other sections of the definition which were of a limitative character would apply, and to the question of the restriction which such provisions might involve on the sovereign rights of States.

Baron van BOETZELAER (Netherlands) requested that the point he had raised should be left aside for the time being. He would endeavour to find a formula capable of commanding general approval.

The PRESIDENT declared the discussion on document A/CONF.2/105 closed. He then put to the vote the text of new paragraph B of article 1 contained in that document. The adoption of that text would involve the consequential amendment to sub-paragraph (2) of paragraph A of article 1 to which he had already drawn attention.

The text of new paragraph B of article 1 (A/CONF.2/105) was adopted by 16 votes to none, with 1 abstention.

The PRESIDENT believed that the Conference was now ready to proceed to vote on the other parts of article 1.

Mr. HOARE (United Kingdom) drew attention to the anomaly, which was really a drafting point, in sub-paragraph (2) of paragraph A resulting from the omission of a reference to events occurring before 1 January 1951 from the last phrase of the paragraph, which dealt with the person who had no nationality and was outside the country of his former habitual residence. He could not imagine that those who had drafted the compromise text in question had intended to make any difference between persons having a nationality and stateless persons. He therefore proposed that the words "as a result of such events"

should be inserted after the word “residence” in the penultimate line of sub-paragraph (2) of paragraph A.

Mr. HERMENT (Belgium) agreed that it could not have been the intention of the drafters to make such a discrimination, and supported the United Kingdom proposal. The PRESIDENT put the United Kingdom proposal to the vote.

The United Kingdom proposal was adopted by 17 votes to none, with 3 abstentions.

The PRESIDENT put paragraph A of article 1, as amended, to the vote.

Paragraph A of article 1, as amended, was adopted by 16 votes to none, with 3 abstentions.

Mr. ROBINSON (Israel) suggested that for the sake of consistency the word “former” should be inserted before the word “habitual” in the last line of sub-paragraph (6) in paragraph C (formerly paragraph B).

The PRESIDENT said that if there was no objection, he would consider the Israeli suggestion as adopted. He then put paragraph C to the vote.

Paragraph C of article 1 was adopted unanimously.

The PRESIDENT put paragraph D (formerly paragraph C) to the vote.

Paragraph D was adopted by 16 votes to none, with 3 abstentions.

The PRESIDENT put paragraph E (formerly paragraph D) to the vote.

Paragraph E was adopted unanimously.

The PRESIDENT put paragraph F (formerly paragraph E) to the vote.

Article 1, as a whole and as amended, was adopted by 19 votes to none, with 2 abstentions.

Mr. ROCHEFORT (France), explaining why he had taken no part in the voting, said that article 1 formed a whole and, since no reservations were permitted to it, must be considered as a whole. One defective provision inevitably affected the entire text. The French delegation was still unable to understand either from the point of view of form or from that of substance the reasons which had dictated the insertion of the words: “in Europe or elsewhere”.

Mr. ROBINSON (Israel) said that he would be failing in his duty if he failed to call attention, even at the present late stage, to a number of drafting defects in article 1. He would confine himself to three observations.

In the first place, there was no justification for retaining separately the three disqualification or exclusion clauses contained in paragraphs D, E and F, all of which began with the same words: “This Convention shall not apply...”. There was no particular obstacle to combining those three sections in a single disqualification or exclusion clause covering the three categories of refugees who would otherwise qualify under paragraph A, namely: those who were plus quam refugees (paragraph E); those who were minus quam

refugees (paragraph F); and those who were, either temporarily or permanently, “assisted” refugees (paragraph D).

Secondly, the various paragraphs of article 1 did not follow each other in any logical sequence. The exclusion sections merely qualified the definition sections, which laid down when and under what conditions a person became a refugee. Their place therefore was immediately after paragraphs A and B. The section dealing with cessations should follow those dealing with exclusions, instead of preceding it. The order should therefore have been: paragraph A, paragraph B, paragraphs D, E and F and finally paragraph C.

Thirdly, the heading of article 1 was narrow and misleading. Paragraph A was the only one that defined the meaning of the notion “refugee”; the other paragraphs dealt with three distinct questions (declaration on the geographical scope of the Convention, exclusions and cessation) which could by no stretch of the imagination be considered as constituting definitions. In his opinion, the proper heading for article 1 should have been: “The scope of application of the present Convention *ratione personae*”.

Mr. HOARE (United Kingdom) hoped that he would not be ruled out of order if he said that he shared the misgivings of the Israeli representative concerning the form and structure of article 1. The shortness of the time available, as well as the reluctance of several delegations to change a text which had been adopted by the General Assembly, had alone prevented him from supporting the Israeli representative’s position more positively.

The PRESIDENT hoped that the Israeli representative would appreciate that the statement of the United Kingdom representative defined the position of many other delegations also.

Recalling that articles 2, 3 and 4 had been adopted at the preceding meeting, he invited representatives to turn to article 5.

(ii) Articles 5 to 19 inclusive

Article 5 (formerly article 3(a))

The PRESIDENT suggested that article 5 might appropriately be entitled: “Acquired Rights”.

Mr. HERMENT (Belgium) expressed doubt as to the stability of that title, since the convention contained other articles which dealt specifically with acquired rights.

Mr. MONTOYA (Venezuela) proposed the title: “Droits accordés indépendamment”.

The PRESIDENT thought that a better formula might be: “Rights granted apart from this Convention”.

Mr. MIRAS (Turkey) and Mr. GIRALDO-JARAMILLO (Colombia) suggested: “Other Rights”, while Mr. CHANCE (Canada) proposed: “Existing Rights”.

Mr. HERMENT (Belgium) supported the President’s second suggestion.

Mr. ANKER (Norway) considered that a reference in the title to either acquired or existing rights would not entirely cover the conception of “rights and benefits” contained in the text

of the article. The difficulty which had arisen in the present case provided further support for the suggestion he had already made that all headings and titles should be suppressed.

Mr. ROBINSON (Israel) thought that there was an easy way out of the difficulty. Titles only really mattered when they formed an integral part of a convention, that was, when they had been voted on and were therefore subject to interpretation in the future. The present Conference could not possibly undertake the task of devising titles of that type, and must needs leave the task to a future meeting. On the other hand, it would not be advisable to omit titles altogether, since they served a useful purpose, particularly in the collation of the various drafts of the Convention. He believed that the proper course would be to add an explanation of the nature of the titles and headings in, for instance, paragraph 17 of the Final Act of the Conference (A/CONF.2/L.4). He would therefore suggest that a second sentence be added to that paragraph, reading as follows: "The titles of chapters and articles are included for practical purposes, and do not constitute an element of interpretation".

The PRESIDENT suggested that the Conference might decide on any titles that were needed, deferring for the time being the decision on the question of principle raised by the Israeli representative.

Mr. ROBINSON (Israel) expressed his agreement with the procedure suggested by the President.

It was so agreed.

Mr. HOARE (United Kingdom) said that in the light of the President's procedural proposal he was prepared to support his second suggestion that article 5 be entitled: "Rights granted apart from this Convention."

The PRESIDENT said that in the absence of objections he would rule that the Conference accepted that title.

Article 5 (formerly article 3(a)) was adopted unanimously.

Article 6 (formerly article 3(b))

The PRESIDENT drew attention to the United Kingdom amendment to article 6 (formerly article 3(b)) contained in document A/CONF.2/104.

Mr. HOARE (United Kingdom) said that the United Kingdom amendment would have exactly the same effect as the text of article 6. The changes, however, would make the article more satisfactory from the legal point of view. The parenthesis in the second and third lines should be replaced by the words: "as to length and conditions of sojourn or residence", since in point of fact those were the requirements which it was the main purpose of the article to specify. The wider formula, which read: "... any requirements (including requirements as to length and conditions of sojourn or residence)", might cause difficulties of interpretation from the point of view of the refugee.

Further, the United Kingdom amendment proposed the deletion of the last clause of article 6 reading: "with the exception of requirements which by their nature a refugee is incapable of fulfilling." That clause had been included for the sake of refugees who had been assimilated to nationals, but on further consideration it would seem that that issue was

disposed of in the articles in which reference was specifically made to assimilation. The clause was, moreover, unnecessary, since the term: "in the same circumstances" did not occur in the articles which dealt with assimilation to nationals.

He must apologise for introducing an amendment at so late a stage, but the Israeli representative, who had joined him in sponsoring the original text, agreed that in the present instance the afterthoughts were better thoughts.

As to the title, he could only suggest the term: "Interpretation". It was not entirely apt, since the interpretation was confined to one expression only. Indeed, he believed that it would be more appropriate for article 6 to be placed at the beginning of Chapter II or Chapter III, since it was there that articles which made use of the phrase: "in the same circumstances" appeared.

Mr. HERMENT (Belgium) had some hesitation in accepting the United Kingdom amendment, which might have the effect of restricting unduly the implications of the term "in the same circumstances". To give an example, it might be that a refugee would wish to procure a document allowing him to exercise a profession or to ply a trade. The element of sojourn or residence would count, of course, but other considerations might also come into play, such as the kind of trade or profession the refugee wished to engage in.

Mr. HOARE (United Kingdom) said that the Belgian representative's argument most aptly illustrated the point of the United Kingdom amendment. He would emphasize that the term "in the same circumstances" was defined in its implications, not in its meaning. The all-important aspect was that refugees should fulfil the requirement as to sojourn or residence, since for the rest they would be granted the same treatment as aliens generally.

But since the Belgian representative had certain doubts, and since the amendment had been submitted at the eleventh hour, he would suggest that further consideration of it be deferred in order to give representatives a chance of acquainting themselves better with it.

The PRESIDENT ruled that further consideration of article 6, together with the United Kingdom amendment thereto (A/CONF.2/104), should be deferred, on the understanding that when it was taken up again the work of the Conference would not be delayed by protracted discussion.

Article 7 (formerly article 4) - Exemption from reciprocity.

The PRESIDENT ruled that consideration of article 7 (formerly article 4) be deferred pending the submission of an amendment by the delegations of Israel and Netherlands jointly.

Article 8 (formerly article 5)

The PRESIDENT recalled that in its original form the article had been entitled: "Exemption from Exceptional Measures".

Mr. HOARE (United Kingdom) said that the English text of the article was unsatisfactory, and that the Style Committee had also expressed doubts about the French text. He would therefore propose the insertion of the words: "if they do so" in the penultimate line so that the last clause would read: "on account of such nationality, or, if they do so, shall, in

appropriate cases, grant exemptions in favour of such refugees". That amendment had at least the merit of correcting the bad ellipsis in the text.

Mr. CHANCE (Canada) agreed with the United Kingdom representative that the text needed improvement, but did not consider that the amendment he had proposed resolved the apparent contradiction in it. He had already had occasion to criticize the article on grounds of substance and form. It was guilty of the unhappy fault of, so to speak, taking away with one hand what it gave with the other. In its original form, and before an attempt had been made to take into account the circumstances and laws of a certain country, the article had consisted of a simple and straightforward statement. He could not but advocate, even at the present late stage, that the final clause be dropped. If a State had legislative difficulties, it could enter appropriate reservations to that article.

Mr. HERMENT (Belgium) agreed wholeheartedly with the Canadian representative.

Mr. HOARE (United Kingdom) also agreed with the Canadian representative on the point of substance, and emphasized that his own amendment was purely grammatical in intention. It would certainly be preferable to retain the text in its original form and allow for the possibility of reservations, rather than to make the final clause alone operative. That, in point of fact, would be the undesirable effect of the text as at present drafted.

Mr. PETREN (Sweden) hesitated to re-open a debate on the substance of the article, but recalled that it was of considerable importance to a number of countries. Although prepared in principle to accept the United Kingdom amendment, he believed that syntactically the text would be improved by the use of the formula "either/or" - in French "soit/soit".

Mr. FRITZER (Austria) supported the Swedish representative's suggestion.

The PRESIDENT said that the problem turned on the question whether the application of certain measures should be ensured by means of automatic legislation or by means of exemptions. In either case the obligations of the State would be the same.

Mr. HERMENT (Belgium) pointed out that the President's interpretation did not hold for the French text, which read: "accorderont dans des cas appropriés".

The PRESIDENT, replying to Mr. PETREN (Sweden), said that he had not intended to re-open the substantive discussion.

Mr. WARREN (United States of America) agreed that the insertion of the words proposed by the United Kingdom representative was necessary, but felt that the text, whether thus amended or not, gave rise to doubts as to the meaning of the word "shall" in almost every article of the convention. Should that tense be interpreted as being mandatory or permissive?

He fully agreed with the Canadian representative's observations on the general issues raised by the article.

Mr. ROCHEFORT (France) agreed that it was difficult to discuss questions of substance at the second reading of the Convention, after a decision had already been taken on the text. But he would submit that the last clause of article 8 was very far from suggesting measures of an illiberal nature. It laid upon States the obligation to grant certain

exemptions at times when they were unable to observe the general principle enunciated in the article. If that principle was not acceptable to States, they would enter a general reservation on the article. He would interpret the words “ou accorderont” as imposing an obligation to grant exemptions.

He would recall that nationality was a live issue in the first or the second country of residence, but that it ceased to be so once a refugee had gone to an overseas country of resettlement.

Mr. ANKER (Norway) supported the arguments of the French and Swedish representatives. He also thought that the difficulty could be circumvented by making the alternative perfectly clear and using the “either/or” formula.

Mr. WARREN (United States of America) suggested that the text might be amended to read: “The Contracting States shall not as a general rule apply such measures on account of such nationality, and, if they do apply such measures shall, in appropriate cases,.....”

Mr. PETREN (Sweden) considered that the amendment proposed by the United States representative modified the text considerably. It would mean that all States would have to have both legislation excluding the application of the general principle, and a regime of exemptions. He would be unable to agree to such an amendment.

Mr. ROCHEFORT (France) felt that the discussion was somewhat superfluous, since in point of fact there existed no true alternative in the article, the second proviso being subordinate to the first, in which the principle was enunciated. He could not but reiterate that in his view the French text meant that if States could not apply the principle, they must grant exemptions (“accorderont”). That interpretation surely met the Swedish representative’s point.

Mr. MONTOYA (Venezuela) suggested that the text might be amended to read, after the words “such nationality,” - “or, if they apply them, will undertake” (“ou, s’ils les appliquent, s’engageront”).

The PRESIDENT suggested the following emendation of the second clause of the article: “The Contracting States shall in the administration of such measures avoid applying them to a refugee who is formally a national of the said State...”.

Mr. ROCHEFORT (France) wished to emphasize that from the point of view of refugees, the most important clause of the article was the final one. There was no doubt that the general principle would not be observed by countries in cases of national emergency, such as war, but even in those circumstances, the conception of possible exemptions remained by virtue of the final clause. That was why it was valuable.

Mr. PETREN (Sweden) was unable to accept the President’s suggestion, since it would weaken the general premise on which the article rested, and would not improve the alternative. He would be prepared to accept either the United Kingdom amendment, or that proposed by the Venezuelan representative; he would also be content with the “either/or” formula. He did not see that there was any point in submitting amendments which affected the substance of the text.

Mr. HOARE (United Kingdom) said that, in so far as form was concerned, the insertion of the word "either" after the words "The Contracting States" in the second line of the article would alleviate the difficulties.

The PRESIDENT assumed that the Conference would have no objection to hearing a very brief statement from the representative of the Friends' World Committee for Consultation.

It was so agreed.

Mr. BELL (Friends' World Committee for Consultation) said that he was authorized by a number of non-governmental organizations attending the Conference to state that the retention of the final clause in article 8 would, in their view, be a retrograde step. The wording of the original article 5 was to be preferred. The alternative which had now been added seemed in their view, to vitiate a principle which had once been laid down and accepted. The non-governmental organizations concerned accordingly hoped that article 8 would not be weakened by the inclusion of the final clause.

Mr. CHANCE (Canada) considered that none of the amendments proposed got over the main difficulty to which he had drawn attention when he had said that what the article gave with one hand it took away with the other. Yet he believed that the meeting was on the brink of agreement. There was no objection to the general principle that no exceptional measures should be applied to a refugee solely on account of his nationality. In order, however, to take into account the legislative difficulties experienced by certain States, he would suggest that the text be amended as follows: a full stop should be inserted after the words "such nationality", and the final clause amended to read: "Contracting States which under their legislative systems are prevented from applying the general principle expressed in this article shall, in appropriate cases, grant exceptions in favour of such refugees."

Mr. PETREN (Sweden) believed that the Canadian amendment might be acceptable, but asked to have more time to consider it in both languages. It might perhaps be possible for a small drafting committee to draft the amendment in its final form at the close of the meeting.

Mr. ROCHEFORT (France) was also prepared to accept the Canadian amendment, but feared that it was hardly expedient to set up drafting committees, in view of the shortage of time.

He must protest against the erroneous interpretation placed by certain non-governmental organizations on the French, and also on the Swedish, position with regard to the final clause in dispute. Contrary to what might appear from a superficial interpretation, that clause was a liberal provision. Obviously, no government would be willing to amend its national legislation in a field in which national security might conceivably be at stake. The final clause had the advantage of obliging governments which were unable to apply the general principle at least to be prepared to grant exceptions and exemptions. In general, he would request the non-governmental organizations to consider each particular clause in its context before criticizing the positions taken up by delegations. In the present instance they would have done better to concentrate their attention on the question of reservations. The article under discussion was in fact one of those to which reservations could be made; if it were not, it would clearly prove an insuperable obstacle to certain

governments' acceding to the Convention. As the article was subject to reservations, it was clearly in the best interests of refugees that it should be cast in a form which would be acceptable to governments, thus inducing them to accept at least certain commitments, should they not be in a position to subscribe to the general principle. Otherwise, they would be obliged to enter reservations which would probably exclude even those minimum commitments. Liberalism which was blind to the facts of reality could only beat the air.

The PRESIDENT ruled the discussion closed, and that further consideration of article 8 should be deferred until the interested delegations had had an opportunity of examining and re-drafting the Canadian amendment.

Article 9 (formerly article 5(a))

The PRESIDENT stated that article 9 had originally been entitled "Provisional measures".

There being no comments, he ruled the discussion closed.

Article 9 was adopted by 21 votes to none.

Article 10 (formerly article 6) - Continuity of residence

Article 10 was adopted by 21 votes to none.

Article 11 (formerly article 6(a))

Mr. HOARE (United Kingdom) suggested that article 11 might be entitled "Refugee Seamen".

It was so agreed.

Article 11 was adopted by 21 votes to none.

Article 12 (formerly article 7) - Personal status

Article 12 was adopted by 19 votes to none, with 2 abstentions

Mr. ARCHIDIACONO (Italy) said that he had abstained from voting on article 12 in accordance with the statement made by the Italian representative at the twenty fifth meeting (see document A/CONF.2/SR.25, page 9) to the effect that the Italian delegation reserved its position on that article.

Article 13 (formerly article 8) - Movable and immovable property.

Article 13 was adopted by 21 votes to none.

Article 14 (formerly article 9) - Artistic rights and industrial property

Article 14 was adopted by 21 votes to none.

Article 15 (formerly article 10) - Right of association

Article 15 was adopted by 20 votes to none, with 1 abstention.

Article 16 (formerly article 11) - Access to Courts

Article 16 was adopted by 21 votes to none.

Article 17 (formerly article 12) - Wage-earning employment

Article 17 was adopted by 19 votes to none, with 4 abstentions

Mr. ARCHIDIACONO (Italy) said that the Italian Government's reservation to article 12 (formerly article 7) also applied to article 17 and to articles 18 and 19 (formerly articles 13 and 14 respectively).

Mr. BOZOVIC (Yugoslavia) said that he had abstained from voting on article 17 because of the restrictive measures referred to in paragraph 2.

Article 18 (formerly article 13) - Self-employment

Article 18 was adopted by 20 votes to none, with 1 abstention.

Article 19 (formerly article 14) - Liberal professions

Mr. HOARE (United Kingdom) drew attention to the footnote on page 10 of document A/CONF.2/102, which indicated that the Style Committee had not adopted a text for paragraph 2 of article 19. The text in that Committee's report was that adopted by the Conference.

Mr. ROCHEFORT (France) said that the only thing the Style Committee had failed to adopt was the word "colonies". He would propose the substitution for that word on the following phrase: "the territories for whose international relations they are responsible."

Replying to the PRESIDENT, he pointed out that the use of the formula "non-metropolitan territories" was impossible, since there were non-metropolitan territories, for instance, Algeria, which were not subject to the distinction. The formula he had suggested was the usual one.

It went without saying that the recommendation contained in paragraph 2 would have to be interpreted in a reasonable spirit, as the territories to which reference was made included desert areas where the settlement of refugees was impossible.

The PRESIDENT wished, before putting the French amendment to the vote, to draw attention to the fact that a slightly different formula for those territories was used in the French text of article 40 (formerly article 35).

Mr. HOARE (United Kingdom) said that he had no objection in principle to the French representative's amendment. It raised a difficulty however. It should be noted in relations to article 40, that a State could sign on its own behalf and on behalf of other territories. But the formula "territories for the international relations of which they are responsible" clearly included metropolitan territory. In the case of the United Kingdom it would also mean adjacent territories, like the Channel Islands where the settlement of refugees must of necessity be governed by the same conditions as those obtaining in the United Kingdom itself. He would therefore prefer that the reference to territories should be qualified by the insertion of the words "other than the metropolitan territory".

Mr. ROCHEFORT (France) had no objection, especially in view of the fact that paragraph 2 was only a recommendation.

The PRESIDENT said that he would put to the vote the French amendment, as further amended by the United Kingdom representative, and therefore reading as follows:

“in territories, other than the metropolitan territory, for whose international relations they are responsible”.

The French amendment was adopted in the above form by 19 votes to none, with 2 abstentions.

Mr. BOZOVIC (Yugoslavia) asked that a separate vote be taken on each paragraph of article 19.

Paragraph 1 was adopted by 21 votes to none, with 1 abstention.

Paragraph 2 was adopted as amended by 19 votes to 1, with 2 abstentions.

Article 19 as a whole and as amended was adopted by 20 votes to none, with 2 abstentions.

The PRESIDENT wished to express the thanks of the Conference to the Canadian representative, who was unfortunately obliged to leave Geneva before the end of the Conference. As a former Chairman of the Ad hoc Committee, the Canadian representative had made a valuable contribution to the work of the Conference, and had earned the gratitude of all his colleagues.

The meeting rose at 1.15 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirty-third Meeting

By General Assembly | 30 November 1951

Present:

President: Mr. LARSEN

Members:

Australia Mr. BURBAGE

Austria Mr. FRITZER

Belgium Mr. HERMENT

Brazil Mr. De OLIVEIRA

Canada Mr. CHANCE

Denmark Mr. HOEG

Egypt MOSTAFA Bey

Federal Republic of Germany Mr. Von TRÜTZSCHLER

France	Mr. ROCHEFORT
Greece	Mr. PAPAZANNIS
	Mr. PHILON
The Holy See	Monsignor COMTE
Israel	Mr. ROBINSON Mr. KAHANY
Italy	Mr. ARCHIDIACONO
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
	Mr. BOZOVIC
High Commissioner for Refugees	Mr. van HEOVEN GOEDHART
Representatives of specialized and of other inter-governmental organizations:	
International Labour Organisation	Mr. WOLF
International Refugee Organisation	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
International Confederation of Free	
Trade Unions	Miss SENDER
Category B and Register	

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Commissioner of the Churches on International Affaires	Mr. REES
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friend's World Committee for Consultation	Mr. BELL
International Committee of the Red Cross	Mr. OLGATI
International Federation of Friends of Young Women	Mrs. van WERVEKE
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

SECOND READING OF THE DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/102 and Add.1 and 2 thereto) (continued):

(i) Schedule and specimen travel document (A/CONF.2/L.1/Add.12) (continued):

The PRESIDENT said that if there were no further comments on paragraph 13 of the Schedule, which had already been thoroughly discussed at the preceding meeting, he would put it to the vote.

Paragraph 13 was adopted unanimously.

Mr. MONTOYA (Venezuela) moved the deletion of paragraph 14, which had become unnecessary in view of the new wording adopting for paragraph 13.

Mr. HOARE (United Kingdom) agreed that paragraph 14 covered some of the same ground as paragraph 13, but considered that it was wider in scope, and should therefore be retained. For example, "laws and regulations" were of far broader application than "formalities." Furthermore, paragraph 14, unlike paragraph 13, dealt not only with the admission and departure but also with the transit of refugees.

Paragraph 14 was adopted by 19 votes to none, with 1 abstention.

The PRESIDENT reminded representatives that a final decision on paragraph 9 of the Schedule had been deferred pending the adoption of paragraphs 13 and 14.

Mr. HOEG (Denmark) said that it was for formal reasons only that he had taken up a suggestion made by the High Commissioner for Refugees, and move the deletion of the second sentence of paragraph 9. As that proposal had commanded little support he would withdraw it.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) expressed his regret at the withdrawal of the Danish proposal. He believed that the provision embodied in the second sentence of paragraph 9 was covered by paragraph 14, and that that sentence should therefore be deleted.

Mr. ROCHEFORT (France) said the question was largely a matter of drafting, and arose from the fact that paragraph 9 preceded paragraph 14. It was understandable that States should be reluctant to accept an unconditional obligation to issue transit visas, which would be the result of deleting the second sentence of paragraph 9. That sentence should either be retained or, if it was deleted, the first and remaining sentence should be amended by adding the words "subject to the provisions of article 14", after the words "final destination".

The PRESIDENT pointed out that the French text of paragraph 9 was correct in so far as it placed the second sentence in a separate paragraph in conformity with the decision taken by the Conference at the first reading of the draft Convention.

Paragraph 9 was adopted unanimously.

Paragraphs 15 and 16 were adopted unanimously without comment.

In answer to a question put by Mr. MONTOYA (Venezuela), the PRESIDENT said that although paragraph 11 had been adopted by 18 votes to none with 3 abstentions at the preceding meeting, he had stated that discussion on it could be re-opened if any representative could suggest a better wording for it.

The DEPUTY EXECUTIVE SECRETARY then read out the text of paragraph 11 as amended and adopted at the preceding meeting.

Mr. MONTOYA (Venezuela) was unable to accept the word "obligation" in the amended text of paragraph 11. States like own could not admit that it was mandatory on them to issue a new travel document to refugees when a similar obligation did not exist in respect of their own nationals. He considered that the provision should be so worded as to indicate that it was the responsibility of the State in which the refugee had taken up residence to issue such a document; that would be sufficient to obviate the possibility of refugees obtaining several travel documents from different States.

Mr. HOARE (United Kingdom) said that he would be prepared to meet the Venezuelan representative's point by modifying the amendment adopted at the previous meeting to read "the responsibility for the issue of a new document, under the terms and conditions of article 23, shall be that of the competent authorities" He must insist on the retention of the words "under the terms and conditions of article 23". There would then be no possibility of a conflict between the provisions of paragraph 11 of the Schedule, and those of article 23 of the Convention.

Mr. MONTOYA (Venezuela) pointed out that the word "désormais" after the word "incombera" had been retained in the French text. He believed that it might be deleted as redundant.

Mr. HERMENT (Belgium) disagreed with the Venezuelan representative. The retention of the word “désormais” was necessary to indicate that there would be a transfer of responsibility under the terms of paragraph 11.

The PRESIDENT suggested that the word “désormais” should be retained in the French text, no equivalent being necessary in the English text.

It was so agreed.

The PRESIDENT put to the vote paragraph 11 as amended by the substitution of the words “the responsibility for issue of a new document, under the terms and conditions of article 23, shall be that of” for the words “the obligation to issue a new document under the terms and conditions of article 23 shall be that of”.

Paragraph 11, as thus amended, was adopted unanimously.

The PRESIDENT put to the vote the Schedule as a whole.

The Schedule as a whole was adopted unanimously.

The PRESIDENT put to the vote the annex to the Schedule, containing the specimen travel document.

The specimen travel document was adopted unanimously.

The PRESIDENT drew attention to the report of the Style Committee (A/CONF.2/102 and Add.1 and 2 thereto) which contained the text of the draft Convention as drawn up by the Style Committee for the second reading. As the French text of the Preamble and article 1 (A/CONF.2/102 Add.2) had not yet been distributed, he would suggest that the Conference first take up one by one the articles contained in document A/CONF.2/102.

It was so agreed.

(ii) Article 2 - General Obligations

Article 2 was adopted unanimously.

(iii) Article 3 - Non-Discrimination

Speaking at the invitation of the PRESIDENT, Miss SENDER (International Confederation of Free Trade Unions) wondered why sex was not mentioned among the other grounds on which discrimination was prohibited in article 3.

Article 3 was adopted by 21 votes to none, with 1 abstention.

(iv) Article 4 (former article 17 (a)) - Religion

Msgr. COMTE (The Holy See) pointed out that the text of article 4 as drafted by the Style Committee was slightly different from that of the Luxemburgois proposal (A/CONF.2/94) on which it was based. The text before the Conference seemed to him slightly restrictive inasmuch as it committed Contracting States to accord to refugees the same treatment as was accorded to their nationals. There was thus a danger that in countries where religious liberty was circumscribed, refugees would suffer. He would therefore propose the insertion of the words “at least” after the words “same treatment”, in order to guarantee refugees a minimum of religious liberty in such countries.

Mr. ROCHEFORT (France) said that the amendment proposed by the representative of the Holy See reflected a view which he (Mr. ROCHEFORT) had put forward in the Style Committee, but which had been rejected on the grounds that Contracting States could not undertake to accord to refugees treatment more favourable than that they accorded to their own nationals. It had also been argued that countries which did not grant religious liberty in general were unlikely to make any special exception in favour of refugees. For his own part, he would be perfectly prepared to accept the amendment as one embodying a moral principle - perhaps somewhat in the nature of an abstract recommendation, but one which was nevertheless entirely consonant with the Universal Declaration of Human Rights.

Mr. HOARE (United Kingdom) stated that the meaning of the expression "the same treatment at least as is accorded" would not be very clear in English. He would suggest that the amendment should be re-cast to read "at least as favourable", the word "same" which occurred before the word "treatment", being deleted. He wondered, however, whether such wording might not, perhaps, be open to interpretation as an innuendo to the effect that the treatment of nationals in respect of religious freedom was not as liberal as it might be.

Msgr. COMTE (The Holy See), accepting the United Kingdom suggestion, said that he had in no way intended to imply criticism of the existing degree of religious freedom, nor was he pressing for preferential treatment of refugees. His sole concern was that they should be given equal treatment with nationals. It was known that, precisely on account of their position as refugees, they were frequently handicapped in the practice of their religion.

It was with that consideration in mind that he put forward his amendment.

Mr. PETREN (Sweden) said that difficulties might arise if States were obliged to accord the same treatment to refugees as to their own nationals in respect of freedom to practice religion and the provision of religious education. He could best illustrate his point by referring to the position in his own country, where there was an Established church - the Lutheran Church - supported by the State. The State also provided religious teaching in schools. Quite clearly, if there was a large influx of, for example, Roman Catholic refugees, Sweden could not be expected to give them the same treatment as members of the Lutheran Church. He presumed that under the provisions of article 4 such refugees would receive the same treatment as Swedish Roman Catholics. The problem, of course, would only arise if large numbers of refugees of the same faith were involved.

Mr. HOARE (United Kingdom) suggested that article 4 merely provided a general guarantee that refugees should enjoy the same freedom to practice their religion and in the choice of religious education for their children as did nationals of the country concerned. Material facilities and economic assistance fell entirely outside the scope of the article, and he did not consider, therefore, that the particular difficulty mentioned by the Swedish representative was relevant.

Mr. PETREN (Sweden) said that he quite agreed with the United Kingdom representative's interpretation of article 4. Nevertheless, he must point out that the recognition of religious freedom as an abstract principle might be of little value if divorced from the practical means of ensuring it.

Msgr. COMTE (Holy See) also endorsed the United Kingdom representative's interpretation of article 4.

The PRESIDENT put to the vote the proposal of the representative of the Holy See that the words "treatment at least as favourable" for the words "the same treatment" in article 4.

The proposal of the representative of the Holy See was adopted by 20 votes to none, with 1 abstention.

Article 4, as amended, was adopted unanimously.

The PRESIDENT suggested that, as the French text of the preamble and of article 1 had now been distributed (A/CONF.2/102/Add.2), they might be taken up next, after which the Conference could proceed to article 5.

It was so agreed.

(v) Preamble

The PRESIDENT drew attention to a few minor misprints in the Preamble which required correction. In paragraph 3, the word "advise" should be replaced by the word "revise", and the words "new instructions" by the words "a new agreement".

In the last line of paragraph 6, the word "Commissioner" should be substituted for the word "Commission". In the third line of paragraph 3 of the French text the words "qu'ils" should be substituted for the word "qui".

Mr. WARREN (United States of America), Chairman of the Style Committee, requested that paragraphs 1, 2, 3 and 4 be put to the vote together, as they had been drafted together on the basis of the decisions taken by the Conference. On the other hand, the text of paragraph 5 was now to the conference. It had been devised in an attempt to take into account the Yugoslav proposal (A/CONF.2/96), and should therefore be considered separately.

It was so agreed.

Paragraphs 1, 2, 3 and 4 of the preamble were adopted unanimously.

Mr. CHANCE (Canada) suggested that, as a matter of English style, the word "will" should be substituted for the word "shall" in the second line of paragraph 5, no change being necessary in the French text.

It was so agreed.

Mr. BOZOVIC (Yugoslavia) stated that, although paragraph 5 only partly covered the substance of the Yugoslav, and was therefore not fully satisfactory to the Yugoslav Government, his delegation would be prepared to accept it

Paragraph 5 was adopted unanimously.

Paragraph 6 was adopted unanimously.

The Preamble as a whole was adopted unanimously.

(vi) Article 1 - Definition of the term “Refugees”

The PRESIDENT said that, for practical reasons, it had been impossible for the representative of the Federal Republic of Germany to participate, as it had been agreed that he should, in the drafting of section E (formerly section D) by the Style Committee,

Mr. ROBINSON (Israel) pointed out that the convention consisted of a general part and of a particular part. There was, unfortunately, neither logical sequence nor consistency in the general part. He wondered, for example, whether article 11, relating to refugee seafarers, should have been included in the general part, or whether it would not have been more appropriately inserted in Chapter III, which dealt with the practice of professions.

Article 6 (formerly article 3 (b)) was the only interpretative article in the Convention, a fact which reflected creditably on the clarity achieved by the drafters. In the opinion, however, article 6 should be placed either at the end of the convention, or after the first article to include the words “in the same circumstances”, or as a special article in chapter II. It was illogical to leave it between article 5 and article 7.

He also suggested that article 2, which dealt with general obligations, should follow article 3, on non-discrimination.

A more orderly sequence would be to start with article 3, which gave general indications regarding how the provisions of the Conventions should be applied, and then to follow it articles 5, 10, 7, 8 and 9. That would present the whole of the general part in its logical order.

Although the point he was raising was of a purely drafting nature, it would be unfortunate if, after two years of work, the Convention should be presented in a form likely to call forth criticism.

Mr. ROCHEFORT (France) had no objection to the Style Committee meeting again. Nor had he any objection in principle to the order suggested by the Israeli representative, although he disagreed with certain details thereof. That representative had asserted, for instance, that article 11 was of a general nature, whereas he (Mr. Rochefort) considered it to be of particular application. It would therefore be necessary to consider each article individually in the light of the Israeli representative's suggestions, and he felt that, since it was important to dispose of the more essential items first and in view of the fact that certain delegations had to leave Geneva shortly, the Conference should first complete its second reading and then, if sufficient time remained, consider putting the final touches to the text.

The PRESIDENT presumed that the Israeli representative's suggestions were the expression of a wish that the Convention should be presented in a more satisfactory order rather than a formal proposal.

Mr. MONTROYA (Venezuela) asked whether the titles of certain articles had been omitted deliberately.

The PRESIDENT replied that the Style Committee had not discussed the titles, and had hoped that the Conference, or at least some delegations, would put forward suggestions

for the titles which were lacking, if it was the consensus of opinion that they should be included in general.

Mr. ARFF (Norway) suggested that, if the Conference experienced difficulty in finding titles for the various articles, the best solution would be to delete them all. There was a danger that articles with set titles would be interpreted in a restrictive sense.

Mr. ROCHEFORT (France) recalled that the matter had been discussed in the Style Committee, where it had been felt that, in certain cases, the absence of titles might prove troublesome. He stressed that, in any event, a title could in no way affect the substance of the article to which it was attached. On the other hand, titles would simplify the work of those responsible for applying the Convention.

The PRESIDENT suggested that the existing titles should be retained, and that, when discussing articles without titles, representatives should call on their ingenuity and propose suitable headings. Then, as one of its final decisions, the Conference could agree either to retain the provisional titles or to delete them all.

Mr. PETREN (Sweden) considered that, if it were decided to retain the titles, delegations should be given an opportunity of considering them.

The PRESIDENT replied that delegations were, of course, free to discuss the titles, but he hoped that they would exercise that freedom sparingly.

Mr. ROCHEFORT (France) said that there was one important point still to be settled in connection with article 1, on the definition of the term "refugee". Under the amendment to article 1 introduced by the representative of the Holy See (A/CONF.2/80) and adopted by the Conference at the twenty-third meeting, each High Contracting Party was free to choose between committing itself in respect of Europe, or Europe and other continents. What was meant by that choice of alternatives? Did the second alternative mean that States would be able to commit themselves in respect of refugees both from Europe and from other specified countries, or did it mean that they would have to commit themselves in respect of refugees from the whole world?

When the compromise text had been submitted, the French delegation, which had not taken part in its drafting, had accepted it on its literal interpretation; in French, "d'autres continents" did not mean the other countries, or all the other continents. The French delegation had therefore thought that the text submitted would enable government to enter into commitments which were commensurate with their resources and to extend them later should they be in a position to do so. By way of example, he cited the hypothetical case of a State, which had in its territory refugees of various origins. Such a State might wish to bind itself in respect of some, but might experience difficulty in binding itself in respect of others, if, for example, the latter were so numerous that application of the Convention in their case would create problems with which the State in question was not at that moment able to deal. Why should such a State not be permitted to restrict its commitments and subsequently to extend them as far as it wished when it was in a position to do so?

It was, of course, true that that interpretation of the compromise text had not been accepted by the Style Committee. That did not alter the fact that with the present wording of that text it was the only possible interpretation; moreover, in the view of the French

delegation it was the only reasonable one, and the only one which met the case and did not run counter to the facts.

Msgr. COMET (Holy See) explained that he had introduced his amendment in a spirit of compromise, with a view to offering two alternatives. He was not sure whether the French text made the position clear, but the objective of the amendment was to enable Contracting Parties to assume obligations in respect of Europe alone or in respect of Europe and the rest of the world. His amendment had also been prompted by the hope that the Convention would be retained as a unit, and not replaced by a series of bilateral or multilateral instruments. He felt that the fears expressed by the French representative were disposed of by the article relating to international co-operation and collaboration with the Office of the High Commissioner for Refugees (article 35, formerly article 30).

Mr. ROCHEFORT (France) was convinced that the representative of the Holy See had drafted his amendment with the care and wisdom typical of the Vatican, and that he was better qualified than anyone else to explain the intention of his proposal. For his part, he (Mr. Rochefort) was obliged to abide by what had been said, not by what had been meant. Moreover, he did not see the connexion between the question under consideration and former article 30. Finally, he was surprised that the representative of the Holy See should not have allowed for a certain flexibility in his amendment to enable States, if they so desired, gradually to extend the application of the definition, to the advantage of refugees generally.

Mr. HERMENT (Belgium) remarked that if the interpretation placed on his proposal by the representative of the Holy See was accepted, the French text would have to be suitably amended.

Mr. HOARE (United Kingdom) observed that he had understood the amendment when it had first been presented in the sense just explained by the representative of the Holy See. Indeed, he found it difficult to conceive of any other interpretation, because the present text had finally been evolved as a compromise in order to meet the difficulties experienced by the French delegation. It was however, possible that the French text was not clear.

As a protagonist of the universalistic theory, he considered that a refugee was a refugee wherever he was, and that the Convention should provide that Contracting States should grant him minimum rights and benefits.

On the other hand, certain States, although subscribing to the view that a refugee was a refugee wherever he was, nevertheless felt that they could be assuming unduly onerous commitments in undertaking to grant those rights and benefits to all refugees irrespective of their country of origin. He felt that that attitude was unjustified, but agreed that it was a matter for each State to decide. The amendment introduced by the representative of the Holy See provided a compromise, by putting both views on the same footing.

It might be possible to go further and to give those States which, at the moment, wished to limit their obligations the possibility of extending their commitments at a future date, but to do that would be to encroach upon the basic conception of the universalistic, and to undo the compromise.

In his view, the method of determining the scope of the Convention on the basis of continents was altogether artificial. In Australia, for example, no events occurring before 1

January 1951 had produced any movements of refugees. If the idea of selection was to be retained at all, it should not stop at continents but should be carried down to countries. At an earlier meeting, the French representative had spoken, by way of example, of a State prepared to accept Chinese but not Indian refugees. Such a State, which refused to accept the global interpretation of the definition, would certainly not be helped if it could only extend its commitments to cover, for instance, the continent of Asia, with its vast area and numerous countries, including both China and India.

Each Contracting State would thus be better advised, if that method of determining the scope of the convention was retained, to specify from which countries outside Europe it was prepared to accept refugees. But that would be a very unhappy solution, which, as the representative of the Holy See had pointed out, would result in splitting up the Convention into a vast complexity of bilateral and multilateral agreements, some of which would overlap, thus debasing the whole concept of the protection of refugees. There could be no justification for providing for a series of fractional arrangements under the cloak of a general convention.

Mr. WARREN (United States of America) stated that the Conference had displayed a passion for precision in the case of all the articles of the Convention except article 1. It was far from clear who the refugees from "other continents" outside Europe were supposed to be. When he had voted for the amendment introduced by the representative of the Holy See, he had done so on the understanding that there were two alternatives: refugees from Europe, and refugees without qualification as to area of origin. He had supported that amendment, considering it to be the best feasible solution to the problem.

Earlier in the present meeting he had for the first time felt that the wording was subject to a different interpretation. It was fortunate that the attention of the Conference had been drawn to the ambiguity in interpretation, because, if another interpretation was possible, it would certainly create difficulties for governments and for the officials who would be responsible for applying the Convention.

Certain States, as a result of their particular circumstances, were convinced that the restriction of the definition to Europe alone would best suit their purposes. The French representative had now suggested that States in that position might eventually find it possible to extend the definition, and he welcomed that suggestion.

The idea that on ratifying the Convention Contracting States would undertake to extend its scope if they so wished was, however, already covered by paragraph F as adopted at the thirtieth meeting; that paragraph had survived two sessions of the Ad Hoc Committee, one session of the General Assembly, and the first reading of the draft Convention in the Conference. As Chairman of the Style Committee, he would like to explain that when the text had been considered in that Committee, it had been realized that paragraph F had no meaning for accepting the broader definition in paragraph A, because for them no other categories of refugees remained to be included. After much discussion, it had been decided not to propose the deletion of paragraph F, but to submit another text, paragraph B in document A/CONF.2/102/Add.2, which expressed the same principle. He suggested that the Conference should focus its attention on paragraph B and either accept or reject it. He personally would support it, because it made it possible for States, which adopted the limited approach, to provide for extensions in the future. The United Kingdom

representative had suggested that such a provision would create disorder and confusion in the form of multitudinous individual agreements, but, in adopting paragraph F at the Thirtieth meeting, the Conference had already accepted such possible implications.

In the light of the discussion, he felt that sub-paragraph (2) of paragraph A should be amended to show that although only two alternatives were possible in respect of territorial application, the French representative's interpretation, which allowed for subsequent extension of the Convention's scope, was also accepted. It would also be necessary for Contracting States to clarify their positions along the lines suggested by the United Kingdom representative in his proposal for a new article X (A/CONF.2/AC.1/R.60).

Mr. ROCHEFORT (France) remarked that the objection had been raised that his interpretation of sub-paragraph (2) of paragraph A would result in a complicated system of bilateral and multilateral arrangements. But that danger was even greater in the case of new paragraph B. as a result of which even more complicated situations might arise.

He was not concerned with opposing the universalist view, because he did not feel that it was a question of views, but one of facts. France's experience enabled her to discern flaws which other delegations had perhaps not perceived. When France had admitted into her territory hundreds of thousands of Spanish refugees, she had received no assistance, even from universalist countries. When, by a unilateral act, she had decided to extend the benefits of the 1933 Convention to those refugees, no difficulty had resulted for the other countries. In the majority of cases, indeed, refugee problems were regional, and it was futile to try to solve each and every general problem by a single text. What did universalism mean if it did not include an obligation on countries which had no refugees to come to the help of those which had? Universalism ought to mean that every country undertook to accept refugees in its territory, irrespective of colour, origin, age or state of health. But that was a quite impracticable goal.

Mr. ANKER (Norway) recalled the fact that he had already made known the view of the Norwegian government that the convention should apply to all refugees. His delegation had, however, accepted the compromise solution proposed by the representative of the Holy See in the hope that it would bridge the gulf between advocates of the so-called universalist thesis and their opponents. He associated himself with the interpretation placed by the representative of the Holy See on his amendment, and with the remarks made by the United Kingdom representative

He believed that many difficulties would arise if the obligations assumed by States were differentiated on the basis of the continent or country of origin of the refugees concerned. Any definition based on wide geographical areas was bound to lack precision. The only practical method would be to distinguish between Europe and the rest of the world, and that he had believed to be the intention of the representative of the Holy See.

Mr. ROCHEFORT (France) drew the attention of those representatives who were in favour of the universalist solution, to paragraph (a) of section 8, in Chapter II, of the Status of the Office of the High Commissioner for Refugees, under which the High Commissioner was called upon to provide for the protection of refugees falling under the competence of his Office by promoting the conclusion and ratification of international conventions, not, it would be noted, merely by a single convention. He must again make it clear that he could not endorse a general thesis which had no basis in reality, and that, if an interpretation of

the compromise text so remote from reality and from the interests of refugees were to be accepted, he would have no alternative but to abstain from taking further part in the discussions on that question, as well as from the vote.

Msgr. COMTE (The Holy See) expressed regret that his amendment should have given rise to fresh discussion. Though not ideal, it presented two alternatives, which, he had hoped, would offer an acceptable solution.

Mr. CHANCE (Canada) recalled the fact that very protracted discussions had taken place in the conference and, he understood, in the Style Committee on the matter under consideration. They had, indeed, been conducted with immense ingenuity and ability; the problem, however, was whether the issue was a genuine one. The United States representative had contended that it was events in Europe which had, for the most part, been responsible for the creation of large numbers of refugees. The French representative, on the other hand, had emphasized time and time again the danger of extending the application of the convention to all refugees throughout the world. The discussion seemed on occasion to have degenerated into abstract polemics, utterly divorced from the practical considerations at stake. Surely representatives must be aware that every single provision in the convention which might have placed any government in any kind of difficulty had been so hedged about with qualifications as to have lost much of its practical significance.

The end which the Conference was concerned to achieve was agreement on the minimum standards of decent treatment to refugees. If governments were prepared to enter into commitments for European refugees, surely they should be prepared to do the same for refugees from other continents.

The PRESIDENT observed that in effect there were three alternative texts before the Conference: (1) "As a result of events occurring before 1 January 1951 in Europe"; (2) "AS a result of events occurring before 1 January 1951 in Europe or elsewhere"; or (3) - to meet some of the difficulties raised - a text reading somewhat as follow: "As a result of events occurring before 1 January 1951 in Europe, or in one or more countries outside Europe, to be specified".

Mr. HERMENT (Belgium) pointed out that before a decision could be taken on the third alternative it would have to be presented as a formal amendment.

Msgr. COMTE (The Holy See) agreed to accept the phrase "in Europe or elsewhere".

Mr. HOARE (United Kingdom) opposed that phrase, on the ground that it was ambiguous. He repeated his view that, no matter how the point was worded, it would ultimately have to be embodied in a separate article - an opinion already reflected in his proposal for a new article X (A/CONF.2/AC.1/R.6). Nevertheless, without prejudice to any decision the Conference might take, he suggested, in the interests of clarity, that they substitute the phrase "or occurring before 1 January 1951 in Europe or elsewhere" for the phrase "or in Europe and other continents".

Mr. CHANCE (Canada) agreed that the words "or elsewhere" were stylistically unacceptable. He felt, however, that the essential thing was to decide how many different interpretations could be placed on the phrase; only then would it be possible to cast it in its final form.

Mr. MONTOYA (Venezuela), supporting the Canadian representative, emphasized that article 1 was the most important article in the Convention, and that, in view of the protracted debates to which it had already given rise, it was essential that agreement should be reached on it as soon as possible.

After some further discussion, the PRESIDENT suggested that provision should be made in the Convention for Contracting States to choose between the following alternatives only:

(a) Persons who had become refugees as a result of events occurring before 1 January 1951 in Europe alone;

(b) Persons who had become refugees as a result of events occurring before 1 January 1951 in Europe or anywhere else in the world.

The President's suggestion was adopted by 13 votes to none, with 8 abstentions.

The PRESIDENT then suggested that a small drafting group be set up to cast that decision in a suitable form.

The Conference agreed that a drafting group should be set up, made up of the representatives of Belgium, Canada the Holy See and the United Kingdom.

The meeting rose at 7.5 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirty-second Meeting

By General Assembly | 30 November 1951

Present:

President:	Mr. LARSEN
Members;	
Australia	Mr. BURBAGE
Austria	Mr. FRITZER
	Mr. FILZ
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Colombia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey

Federal Republic Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Monaco	Mr. BICHERT
Netherlands	Baron van BOETZELAER, Mr. LOHMAN
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MARKIEDO
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations:	
International Labour Organisation	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
Inter-Parliamentary Union	Mr. ROBINET de CLERY
Category B and Register	
Caritas Internationalis	Mr. BRAUN, Mr. METTERNICH
Commission of the Churches on International Affairs	Mr. REES
Co-ordinating Board of Jewish Organizations	Mr. WARBURG

Friends' World Committee for Consultation.	Mr. BELL
International League for the Rights of Man	Mr. de MADAY
League of Red Cross Societies	Mr. LEDERMANN
Pax Romana	Mr. BUENSOD
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. CONSIDERATION OF DRAFT RECOMMENDATIONS FOR INCLUSION IN THE FINAL ACT OF THE CONFERENCE (A/CONF.2/100, A/CONF.2/101)

The PRESIDENT wished, before opening the discussion on the draft recommendations for inclusion in the Final Act of the Conference, to draw attention to the draft Final Act (A/CONF.2 /L.4), which had as yet been distributed in English only. The Conference was not called upon formally to adopt the draft Final Act, which would be signed by the President and Vice-Presidents and would include those decisions of the Conference which did not figure in the Convention itself.

He would next call upon representatives to take a final decision on the two draft recommendations submitted by the United Kingdom and Belgian delegations (A/CONF.2/100 and A/CONF.2/101 respectively).

Msgr. COMTE (The Holy See) said that he had wished on behalf of the Holy See, to submit a recommendation for inclusion in the Final Act, but since he had not known that consideration of such recommendations would be on the agenda of the present meeting, he had not yet been able to prepare the text.

The PRESIDENT said that he would accept a recommendation emanating from the Holy See for consideration by the Conference at a later meeting.

Mr. HERMENT (Belgium) said he had received no instructions from the Belgian Government on the draft recommendation (A/CONF.2/101) submitted by his delegation, concerning the grant of authority by the General Assembly to the High Commissioner for Refugees to seek advisory opinions from the International Court of Justice, and would consequently provisionally withdraw it.

Mr. HOARE (United Kingdom) recalled that he had already explained, at the thirty-first meeting (see document A/CONF.2/SR.31, pages 4-5), the reasons which had prompted his delegation to submit its draft recommendation.

He would only add to that statement that the draft recommendation also urged governments to extend the issue of travel documents (under the Inter-Governmental Agreement signed in London on 15 October, 1946) to refugees as defined in article 1 of the Convention until the Convention itself came into force. That would be desirable both from the point of view of the refugees themselves and in order to avert legal difficulties, since the new instrument would extend the range of persons who might legitimately claim the status of refugee.

The United Kingdom draft recommendation (A/CONF.2/100) was adopted by 22 votes to none.

2. SECOND READING OF THE DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES (item 5 (a) of the agenda): Schedule and specimen travel document (A/CONF.2/L.1/Add.12)

The PRESIDENT, opening the second reading of the Schedule and specimen travel document, adopted on first reading at the thirty-first meeting (A/CONF.2/L.1/Add.12), explained that the Style Committee had adopted that text unchanged.

Mr. ROCHEFORT (France), speaking to a point of order, said that the style Committee had worked until 3.30 a.m. that morning and, although representatives were entitled to make any efforts they wished, the Secretariat had every right to rest and to consideration. The staff which had serviced the Style Committee had made a heroic, indeed an almost superhuman, effort, and he hoped that the responsible senior officials would see their way to granting them several days' rest before they were called upon to service another conference.

The PRESIDENT expressed his gratitude to the French representative for giving him the opportunity of conveying that request to the representative of the Secretary-General. He was sure that in so doing he had the unanimous support of all representatives.

Turning to the text of the Schedule and specimen travel document, he drew attention to the second sentence on page 6 of document A/CONF.2/L.1/Add.12, which read: "The old travel document shall be withdrawn by the party issuing the new document and returned to the authority which issued it." It had been intended that that provision should be optional. He would suggest that the Conference might leave it to himself and the Secretariat to arrange some indication, perhaps by means of a footnote, to the effect that the provision in question was optional, not mandatory.

Mr. WARREN (United States of America) drew attention to the text of paragraph 12 of the Schedule, which required the authority issuing a document to withdraw the old one and return it to the country of issue. If the provision in the travel document was made optional, it would no longer tally with paragraph 12.

The PRESIDENT suggested that an appropriate addition might be made to paragraph 12, to the effect that the authority concerned was requested to return the old document to the country of issue if that procedure was provided for in the travel document itself.

Mr. HERMENT (Belgium) recalled that at the preceding meeting the Conference had adopted the recommendation of the Working Group appointed to examine paragraph 13 of

the Schedule and the specimen travel document, to the effect that such a provision should be inserted in the specimen travel document as an optional provision.

Mr. HOARE (United Kingdom) agreed with the Belgian representative, and recalled that in the Working Group several representatives had declined to support the suggestion that an old travel document should be returned automatically to the authorities of the issuing country. Such a stipulation would entail a considerable amount of routine work for Ministries of the Interior and Ministries of Foreign Affairs. Taking those difficulties into account, the Italian representative had agreed to the solution that an old document should be returned only if the issuing representative with regard to paragraph 12 was valid, and the Conference must choose between a compulsory and an optional procedure.

The PRESIDENT suggested that the difficulty might be solved by adding to paragraph 12 of the Schedule the following phrase: "if so requested in the travel document; otherwise it should cancel the old document."

He suggested that representatives should ponder that suggestion; in the meantime, the Conference could examine the Schedule paragraph by paragraph.

Paragraphs 1 to 8 inclusive of the Schedule were adopted, without comment, by 22 votes to none.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) recalled that the second sentence of paragraph 9, reading: "The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.", had been added as a result of the discussion at the first reading. The interpretation, therefore, was that any laws applied to aliens in respect of the issue of transit visas would also be applicable to refugees. It seemed to him that the second sentence of paragraph 9 should be deleted.

Mr. HOEG (Denmark) formally moved the amendment suggested by the High Commissioner for Refugees.

Mr. de OLIVEIRA (Brazil) proposed that no amendment be made to paragraph 9 before the Conference had finished its examination of paragraphs 13 and 14, the provisions of which might make the deletion of the second sentence of paragraph 9 undesirable.

Mr. ROCHEFORT (France) pointed out that the second sentence in paragraph 9 was a natural corollary to the first. It was impossible to envisage the unconditional granting of transit visas, but that was what paragraph 9 could mean, in its present contest, if the second sentence was deleted.

Mr. MONTROYA (Venezuela) suggested that it was not the second sentence of paragraph 9, but paragraph 14 that was superfluous. It merely reiterated and amplified the content of paragraph 13, especially sub-paragraph 2 thereof. As to the issue of substance, he agreed with the French representative, and recalled that he (Mr. Montoya) had, in the course of the first reading, drawn attention to the serious difficulties which would arise if a refugee applied for a transit visa to a certain country, and then instead of proceeding to the country of final destination, remained in the territory for which he had been granted a transit visa only.

The PRESIDENT said that in order to take account of the views of the Venezuelan representative, he would rule that consideration of paragraph 9 be deferred until the Conference had finished its examination of paragraph 9 14.

Paragraphs 10 and 11 were adopted, without comment, by 23 votes to none.

Mr. HOARE (United Kingdom) said that the suggestion which the President had made earlier concerning the amendment of paragraph 12 was acceptable to him, but that he would prefer the following wording: “[The authority shall withdraw the old document and] shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall cancel the document.”

He formally proposed that paragraph 12 be amended in that way.

Mr. ROCHEFORT (France) emphasized the fact that the important principle was that the old document should be withdrawn and cancelled. Its return to the country of issue should be optional. What mattered was that old documents should not be misused, and that there should not be great numbers of them a bout.

Mr. HERMENT (Belgium) asked whether the obligation to withdraw the old document was not essential.

Mr. HOARE (United Kingdom) replied that his amendment affected only the final clause of paragraph 12. The first clause explicitly stipulated that old documents should be withdrawn.

Replying to the PRESIDENT, he said that he thought the English text was clear, as a document could not be cancelled unless it was withdrawn; however, he would not object if the second part of his amendment was modified to read: “; otherwise, it shall withdraw and cancel the document.”

The United Kingdom amendment to paragraph 12 was adopted by 18 votes to 2, with 1 abstention, in the form finally suggested by United Kingdom representative.

Mr. FRITZER (Austria) assumed that it had not been intended to impose upon States the obligation to cancel old documents that had been returned. He considered, therefore, that the text of paragraph 12 as just modified by the adoption of the United Kingdom amendment would be clearer if the words “or cancel” were inserted after the word “withdraw” in the first clause, the last clause reading “otherwise it shall withdraw and cancel the document” being deleted.

The PRESIDENT pointed out that the United Kingdom amendment had already been voted on. He considered that the minor technical point raised by the Austrian representative could well be left to the discretion of administrations. The main issue, namely, the withdrawal of the old documents, had been satisfactorily disposed of.

Mr. FRITZER (Austria) said that he would not press his point.

Paragraph 12 was adopted unanimously, as amended.

Mr. ROCHEFORT (France) said that, although paragraph 11 had been adopted, he felt it necessary, on reviewing its terms, to point out that it did not appear to be altogether consistent with the provisions of article 23 of the draft Convention. The latter imposed on

Contracting States an obligation to issue a travel document to a refugee lawfully resident in their territory, but did not restrict the issue of such a document to the State in which the refugee was resident. Paragraph 11 of the Schedule, on the other hand, laid down that when a refugee had lawfully taken up residence in the territory of another Contracting State, the power to issue a new document would be in the competent authority of that territory; it therefore implied that in those particular circumstances no competent authority in any other territory could issue the document. If the Conference agreed to re-open the question, he would propose that paragraph 12 of the Schedule be re-drafted to read:

“When a refugee has lawfully taken up residence in the territory of another Contracting State, the obligation to issue a new document will thereafter devolve upon the competent authority of that territory, to which the refugee shall be entitled to apply.”

The PRESIDENT said that in the present instance he would allow the discussion to be re-opened. That should not, however, be regarded as creating a precedent.

Mr. MONTROYA (Venezuela) could not accept the French representative's suggestion. In the Working Group's discussions on paragraph 13, he (Mr. Montoya) had expressed reservations on behalf of the Brazilian, Colombian and Venezuelan delegations in respect of cases where refugees returned to a particular country without a visa, and had agreed to the wording of paragraph 13 subject to the conditions set forth in article 23. That point would not be met if it was made obligatory in all cases for the State in which a refugee took up residence to issue a new document. He had no objection to re-opening the discussion on paragraph 11, but considered that it was satisfactory as it stood. If a Contracting State refused to issue a new document to a refugee who had taken up residence in its territory, that person would not be able to leave the country concerned. He would therefore accept the suggestion that when a particular country received a refugee on a one-way ticket, that country should issue a document to enable the refugee to travel. Certain safeguards, however, were necessary, and that was the purpose of the special provisions laid down in article 23.

Mr. ROCHEFORT (France) observed that he had raised the point precisely because of its importance. It was clear from the conclusions drawn by the Venezuelan representative that the adoption of paragraph 11 as it stood would leave a considerable lacuna in the obligations of Contracting States towards refugees, and might well create a new class of refugees entirely deprived of the right to a travel document. The amendment of paragraph 11 in the way he had indicated would remove that anomaly, for in that case the paragraph would become an extension of the provisions of article 23.

Mr. HOARE (United Kingdom) was sure that no one wished to put difficulties in the way of the Venezuelan delegation. The latter, however, might, perhaps, be labouring under a misapprehension. The purpose of paragraph 11 was to prevent the issue of several travel documents to one and the same refugee by different authorities in different countries, and to make quite clear on which authority the duty to issue the new document devolved. He agreed with the French representative as to the mandatory nature of the provision in article 23, namely, that Contracting States should, on request, issue a travel document to a refugee lawfully resident in their territory. That provision was nevertheless hedged round by certain qualifications, and he believed that the intention was that what was laid down in paragraph 11 of the Schedule should also be subject to the qualifications laid down in

paragraph 11 of the Schedule should also be subject to the qualifications laid down in article 23 of the draft Convention; it would be unfortunate if the wording of paragraph 11 were to weaken the provisions of article 23. Perhaps the Venezuelan representative's doubts in the matter might be met if paragraph 11 was revised to read:

"When a refugee has lawfully taken up residence in territory of another Contracting State, the obligation to issue a new document, under the terms and conditions of article 23, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply."

Such a text would make clear the extent of the obligation, and on which State the duty to issue a new document devolved.

Mr. ROCHEFORT (France) agreed to the United Kingdom representative's suggestion.

Mr. MONTOYA (Venezuela) wondered whether it would not be possible to re-open the discussion on article 23 itself.

Mr. ROCHEFORT (France) felt that there must be some misunderstanding. Surely the Venezuelan representative would not wish to see a situation arise in which the obligation to issue a travel document devolved upon a country in which the refugee was not a resident, while the country in which he was a resident was under no such obligation. But such would be the case if his point of view were carried to its logical conclusion. He thought that the United Kingdom amendment fully covered the position and should relieve the mind of the Venezuelan representative, since its effect would be to make paragraph 11 of the Schedule an extension of the provisions and conditions contained in article 23 of the draft Convention.

Mr. MONTOYA (Venezuela) was not satisfied that, where it was a question of an obligation towards a refugee, the original text was not preferable. If, for example, a European refugee came to Venezuela, the Venezuelan Government would be responsible for the issue of a travel document to that person; none the less, it might wish to refuse to issue such a document, and it should be in a position to do so if it so desired.

The PRESIDENT put to the vote paragraph 11 as amended by the United Kingdom delegation, it being understood that the matter could be re-opened if some other delegation or delegations found a more satisfactory wording.

Paragraph 11, thus amended, was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT, turning to paragraph 13, pointed out that, in order to avoid all misunderstanding, the word "paragraph" in the first line of sub-paragraph 2 should be amended to read "sub-paragraph".

Mr. MONTOYA (Venezuela) recalled the fact that the Venezuelan delegation's acceptance of paragraph 13 would be subject to the Conference's final decision on the wording of article 23 of the draft Convention.

Mr. HERMENT (Belgium) could not understand why there should be so much substantive discussion on paragraphs 11, 12 and 13 of the Schedule. After all, the Schedule dealt with matters of procedure, and the question of principle was covered by article 23 of the draft Convention.

Mr. MONTOYA (Venezuela) could not accept the Belgian point of view.

That the Schedule comprised a set of regulations was true, but, in his delegation's view, those regulations could not be regarded in the same light as regulations enacted at national level following the adoption of a bill, and paragraph 13 in particular must be taken together with article 23.

The PRESIDENT wondered whether the Venezuelan representative could not cover his position by abstaining from the vote on paragraph 13.

Mr. MONTOYA (Venezuela) speaking to a point of order, moved the adjournment of the debate.

The Venezuelan motion was carried unanimously.

The meeting rose at 1.10 p.m.

Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Thirty-fifth Meeting

By General Assembly | 03 December 1951

Present:

President:	Mr LARSEN
Member:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. McILWRAITH
Colombia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. MIDDELMANN
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Monsignor COMTE
Iraq	Mr. Al PACHACHI

Israel	Mr. ROBINSON
Italy	Mr. ARCHIDIACONO
Monaco	Mr. BICHERT
Netherlands	Mr. Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHÜRCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO
Observer:	
Iran	Mr. BOZOVIC
High Commissioner for Refugees	Mr. Van HEUVEN GOEDHART
Representatives of specialized agencies and of other inter-governmental organizations	
International Refugee Organization	Mr. SCHNITZER
Representatives of non-governmental organizations:	
Category A	
Inter-parliamentary Union	Mr. ROBINET de CLERY
International Confederation of Free Trade Unions	Miss SINDER
Category B and Register	
Caritas Internationalis	Mr. BRAUN, Mr. METTERNICH
Commission of the Churches on International Affairs	Mr. REES
Co-ordinating Board of Jewish Organizations	Mr. WARBURG

International Union of Catholic Women's leagues	Miss de ROMER
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
World Union for Progressive Judaism	Mr. MESSINGER
Secretariat	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. SECOND READING OF THE DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES (ITEM 5(a) of the agenda) (A/CONF.2/102 and Add.1 and 2 thereto) (continued)

(i) Article 8 (formerly article 5) (resumed from the thirty-fourth meeting)

The PRESIDENT asked whether the Conference was prepared to vote, without further discussion, on the text of Article 8 as amended by the Canadian proposal at the preceding meeting.

Mr. PEREN (Sweden) said that he personally could accept the revised text of article 8, but thought that delegations would wish to have it before them in the form of a document before a vote was taken.

The PRESIDENT appealed to the Swedish representative not to press his request. The question involved was a purely technical one, and to wait for the amended text to be formally distributed would hold up the printing of the whole Convention.

The DEPUTY EXECUTIVE SECRETARY read out the amended text of article 8, as follows:

“With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislative systems, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees”.

Mr. ROCHEFORT (France) asked whether it was indeed the intention of the Conference to use the term “régimes législatifs” rather than the term “legislations”. The first term would imply an inability due to a country's national system of legislation, whereas the second would mean that the national laws precluded the application of the measures in question.

Mr. PETREN (Sweden) replied that in the light of the French representative's comments the correct term would be “legislations”. The English text should be modified accordingly.

It was so agreed.

The PRESIDENT declared the discussion closed, and asked the Conference to vote on the amended text of article 8, with the substitution of the word "legislation" for the word "legislative systems."

Article 8, as a whole and as amended, was adopted by 19 votes to none.

(ii) Articles 20 to 46 inclusive

Article 20 (formerly article 15) - Rationing

Article 20 was adopted by 19 votes to none.

Article 21 (formerly article 16) - Housing

Article 21 was adopted by 19 votes to none.

Article 22 (formerly article 17) - Public Education

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) wished to raise two points with regard to paragraph 2 of article 22. Originally, that paragraph had provided for most-favoured-nation treatment. As at present drafted, it provided for "treatment no less favourable than that accorded to aliens generally". The Convention already provided for three different types of treatment, namely, national treatment, most-favoured-nation treatment, and treatment as favourable as possible and in any event no less favourable than that accorded to aliens generally in the same circumstances. In article 22, the Conference was introducing a fourth type of treatment by omitting the words "as favourable as possible", thus further detracting from the treatment to be accorded under paragraph 2. He therefore hoped that the Conference would agree to restore the same provision as was made in articles 13,18,19 and 21 by adding the words "as favourable as possible and, in any event" between the words "treatment" and "no less favourable" in paragraph 2 of article 22.

The second point he wished to raise concerned the recognition of school certificates, diplomas and degrees, which was of special importance to refugees, and which was dealt with in principle in article 19 (Liberal Professions).

It would be to the advantage of refugees if the Conference could agree to add after the words "access to studies" in paragraph 2 of article 22 some such words as "the recognition of foreign school certificates, diplomas and degrees".

The PRESIDENT drew the attention of the Conference to rule 25 of its rules of procedure, according to which a suggestion made by the High Commissioner for Refugees could not be voted upon, unless formally sponsored by a delegation.

Mr. MIDDELMANN (Federal Republic of Germany) recalled that his delegation had proposed a similar arrangement in the case of article 17 (wage-earning employment); it was therefore prepared to sponsor the amendments to article 22 proposed by the High Commissioner.

Mr. ROCHEFORT (France) asked what the High Commissioner meant by the expression "recognition of diplomas". He could not agree to its being interpreted in the sense that a refugee would be free to make the same use of a diploma in his country of refuge as in the country in which it had originally been awarded to him.

Mr. HERMENT (Belgium) suggested that the formula should be amended to make it clear that the recognition of school certificates, diplomas and degrees would be for purposes of access to higher education only.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) wished to point out that, if that amendment was adopted, it would simply mean that the treatment of refugees with regard to recognition of diplomas and so on would be as favourable as possible, and not worse than that of aliens generally.

The PRESIDENT then read out the first amendment suggested by the High Commissioner and sponsored by the delegation of the Federal Republic of Germany, which called for the insertion in paragraph 2 of the words "as favourable as possible and, in any event" after the words "accord to refugees treatment", and the consequential replacement of the next word, "no", by the word "not".

The first amendment was adopted by 22 votes to none.

Mr. ROCHEFORT (France) had no objections in principle to the second amendment taken up by the delegation of the Federal Republic of Germany, which, in effect, added nothing to the intention of the French text as originally drafted.

Mr. MONTROYA (Venezuela) had some misgivings about the second amendment. The question was whether the phrase "recognition of diplomas" was to be interpreted as meaning that refugees holding diplomas would have the right to practice in the country of refuge the professions covered by such diplomas.

Mr. HERMENT (Belgium) pointed out that if the second amendment was adopted, it would, once again, merely mean that refugees would enjoy the same rights as those granted to aliens generally. Furthermore, such recognition would extend to a matriculation (baccalauréat) or any other academic certificate giving access to higher education.

Mr. MONTROYA (Venezuela) pointed out that the most important aspect of foreign diplomas was their source, that was, the authority that had issued them. He agreed that there could be no question of discrimination against refugees in that connexion, but must reserve his position with regard to the origin of foreign degrees and diplomas.

The second amendment to paragraph 2 of article 22 suggested by the High Commissioner for Refugees and sponsored by the delegation of the Federal Republic of Germany was adopted by 19 votes to none, with 3 abstentions.

Paragraph 2 of article 22, as amended was adopted by 21 votes to none.

Mr. HOARE (United Kingdom) wished, before the vote was taken on article 22 as a whole, the place on record his understanding of the meaning of paragraph 1 of article 22. Indeed, he hoped that the Conference might decide to make that statement on its own. Paragraph 1 was couched in very general terms, and the only limitation upon it was the title ("Public Education"). Moreover, the decision still to be taken on the status of the headings might well deprive them of any legal value. He therefore wished to make clear that in his opinion the words "accord to refugees the same treatment as is accorded to nationals with respect to elementary education" referred to those matters of treatment in respect of elementary education over which the Contracting State concerned had direct control, whether financial

or other. For there were many other forms of elementary education, public and private, in different States, and it would be impossible for any State to accept the general obligation in respect of refugees in those fields of elementary education over which it had no control.

The PRESIDENT suggested that the question raised by the United Kingdom representative might be left over until the suggestion made at the preceding meeting by the Israeli representative concerning the legal status of the titles came to be considered. It might well be that, alone among all the titles and chapter headings, that of article 22 might give rise to interpretative difficulties.

It was so agreed.

Article 22, as amended and as a whole, was adopted by 22 votes to none.

Article 23 (formerly article 18) - Public Relief

Article 23 adopted by 22 votes to none, with 1 abstention.

Mr. ARCHIDIACONO (Italy) recalled the reservation made by the Italian delegation when article 23 had been discussed at the tenth meeting as article 18. He must now state that, when it signed the Convention, the Italian Government, as the Government of a country of first refuge, would be obliged to enter a reservation to article 23. The terms of that reservation might, however, to some extent be modified in the light of the vote, yet to be taken, on the third group of recommendations (A/CONF.2/103) proposed by the representative of the Holy See for inclusion in the Final Act of the Conference.

Article 24 (formerly article 19) - Labour legislation and social security

Article 24 was adopted by 22 votes to none, with 1 abstention.

Article 25 (formerly article 20) - Administrative assistance

Mr. HOARE (United Kingdom) wished to make it clear that the Government of the United Kingdom, where the system envisaged in paragraph 2 of article 25 did not exist, would not interpret that paragraph as mandatory in the sense that it would require the United Kingdom Government to invent and introduce a system for supplying documents of the type which would be supplied by other countries. The United Kingdom Government would, however, render every assistance to refugees by continuing to apply its own system - which was based on the personal affidavit - and to other countries by seeing that documents of that type were duly legalised if required by refugees for transmission to countries.

Article 25 was adopted by 22 votes to none.

Article 26 (formerly article 21) - Freedom of movement.

Article 26 was adopted by 23 votes to none.

Article 27 (formerly article 22) - Identity papers

Mr. ROCHEFORT (France), taking up a suggestion made by Mr. HERMENT (Belgium). Asked whether the present wording of article 27 did not exclude travel documents issued by countries which, though non-Contracting States, nevertheless wished to accept refugees outside the framework of the Convention. He wondered whether the last part of

the article, reading "issued pursuant to article 28", had not become superfluous in view of paragraph 2 of article 28.

Mr. HERMENT (Belgium) suggested that the words in question should be deleted.

Mr. ROCHEFORT (France) supported the Belgian proposal.

It was decided by 21 votes to none, with 2 abstentions that the words "issued pursuant to article 28" should be deleted from article 27.

Article 27, as amended, was adopted by 22 votes to none, with 1 abstention.

Article 28 (formerly article 23) - Travel documents

Article 28 was adopted by 22 votes to none, with 1 abstention.

Article 29 (formerly article 24) - Fiscal charges

Article 29 was adopted by 23 votes to none.

Article 30 (formerly article 25) - Transfer of Assets

Mr. HOARE (United Kingdom) and Mr. HERMENT (Belgium) drew attention to errors of transcription and grammar respectively in the English and French texts.

The PRESIDENT suggested that the Secretariat should be left to make the necessary editorial changes.

It was so agreed.

Article 30 was adopted by 23 votes to none.

Article 31 (formerly article 26) - Refugees unlawfully in the country of refuge

Miss SENDER (International Confederation of Free Trade Unions), speaking at the invitation of the PRESIDENT, felt that the intention of article 31 was confused, and that it would be impossible for a refugee to provide proof positive of the necessity for his leaving his country of origin. She suggested that the provisions should be re-drafted in a more positive form.

Mr. Van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) also felt unhappy about paragraph 1 of article 31, especially the words "being unable to find asylum, even temporarily in a country other than one in which his life or freedom would be threatened". Although aware that that provision had been inserted in order to limit exemption from penalties to refugees who came to the receiving country from the country of persecution direct, or through another in which, for one reason, or another, they were unable to stay, he did not feel that the words he had quoted met that requirement. They would place on the refugee the very unfair onus of proving that he was unable to find even temporary asylum anywhere outside the country or countries in which his life or freedom would be threatened. As there were some eighty States in the world, the difficulty of such a task required no emphasis. His personal view was that the words "show good cause for his illegal entry or presence" covered the point, but since the general feeling of the Conference seemed to be that some specific provision was necessary, he suggested that paragraph 1 be amended to read:

“1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who enters or is present in their territory without authorization, provided he presents himself without delay to the authorities and shows good cause for believing that his illegal entry or presence is due to the fact that his life or freedom would otherwise be threatened.”

He thought that version would entirely meet the point of those who feared that without some such qualification the provision in question would be extended to refugees who wished to change their country of asylum for purely personal reasons.

Mr. ROCHEFORT (France) wished to guard against the possibility of the text legalizing the clandestine entry of refugees into a reception country. If it were not carefully worded, it would enable persons temporarily resident in a foreign country to avail themselves of their position to justify their entry, without the government concerned being able, by detaining them for a few days, to obtain information on them. The French Government's aim in the question under discussion was that their authorities should be able to detain for a few days completely unknown persons unattached to any territory. What France wished to avoid was having to accept any refugee from a neighbouring country who voluntarily decided to move into France, perhaps on the pretext that the neighbouring country concerned would no longer give him permission to reside there. France would certainly continue to be generous, but it did not intend to be compelled to be so by a text.

He regretted that he could not see his way at that late stage of the Conference's work to accept an amendment, about the intention of which he was by no means clear, on a subject that had been debated at great length for nearly three weeks, unless the amendment was circulated in writing and he had an opportunity of consulting the French Government about it

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) felt that nothing in the present text of article 31 or in the new version he had just proposed would prevent a government detaining a person who entered the country illegally, pending a decision whether that person was to be regarded as a bona fide refugee. It would merely prevent his being punished for such illegal entry if the decision went in his favour. The only difference between his amendment and the text adopted by the Style Committee was that the former sought to relieve the refugee of the onus of proving that he was unable to enter any other country where he would not be persecuted. The refugee would still have to show good cause to justify his illegal entry or presence.

Mr. ROCHEFORT (France) said that if the High Commissioner for Refugees could place an interpretation on article 31 which would commit his Office, he (Mr. Rochefort) might be able to support it. That interpretation should make it plain that the object of the article as amended by the High Commissioner was not intended to regularize clandestine entries, and that failure on the part of a refugee to secure a residence permit in a State bordering on France should not constitute grounds for claiming exemption from penalties which the French authorities might wish to impose on such refugee for illegally entering French territory.

Mr. HOARE (United Kingdom) said he would sponsor the High Commissioner's amendment. Apart from certain technical difficulties experienced by other representatives, he was sure the proposed new text would afford at least as much protection as that

adopted by the Style Committee and at the same time remove the difficulty that all present recognized, namely, that of making the refugee establish a negative. He subscribed to the High Commissioner's interpretation of the existing text and his own amendment, and thought that all would agree that the reference in paragraph 1 to penalties did not rule out any provisional detention that might be necessary to investigate the circumstances in which a refugee had entered a country, but simply precluded the taking of legal proceedings against him.

Mr. ROCHEFORT (France) could not agree with the United Kingdom representative's interpretation, since the text as it stood contained no provision enabling refugees to be detained for a few days on arrival to make it possible for enquiries to be made. Even countries that granted asylum on generous scale would be unable to continue to do so unless they could obtain a minimum of information concerning the persons whom they were sheltering.

The PRESIDENT thought that the questions were involved. As to the first, he felt every State was fully entitled to investigate the case of each refugee who clandestinely crossed its frontier, and to ascertain whether he met the necessary entry requirements. But there was also the second question of the imposition of punishment on refugees for clandestinely crossing the frontier, and there he thought there had been no objection to the High Commissioner's interpretation, namely, that the refugee's illegal entry or presence must be proved to be due to the fact that his life of freedom would otherwise have been threatened. He (the President) considered that the French point of view should be acceptable to the other delegations, and that there need be no difference of opinion on that question.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) fully endorsed the French representative's views. Each State was, of course, entitled to make the investigations necessary to safeguard its security.

The only issue was that of the imposition of penalties on refugees who had entered a country illegally, and in that case he felt that no penalty was justified if the refugee could prove that his entry was due to the fact that his life or freedom would otherwise have been jeopardy.

At the request of Mr. MONTROYA (Venezuela), the DEPUTY EXECUTIVE SECRETARY read out the French version of the text as amended by the High Commissioner's suggestion, namely:

“Les Etats contractants n'appliqueront pas de sanctions pénales aux réfugiés qui rentrent ou se trouvent sur leur territoire sans autorisation pour des raisons reconnues valables de croire que leur entrée en présence irrégulière découle de fait que leur vie ou leur liberté serait par ailleurs menacée”

Mr. ROCHEFORT (France) recalled that when he had submitted his amendment to the original article 26 (A/CONF.2/62), he had had in mind the exemption of refugees coming direct from their country of origin, and that, of course, applied to the case of events occurring before 1 January 1951. As he understood the present text, a person who was the victim of events occurring in a neighbouring country after that date would not come within the terms of the Convention if he crossed the border into France, whereas those

who had already been authorized to take refuge in the neighbouring country as a result of events occurring before 1 January 1951 would be able to claim benefit of the present provision. Thus there might easily be an influx of refugees who had been authorized to stay in the neighbouring country, but who, because their lives were threatened as a result of events occurring in that country after 1 January 1951, would be entitled to avail themselves of the clause to move into France. Thus the ceiling on commitments provided by the date of 1 January 1951 would be largely nullified.

The PRESIDENT thought that the French representative's difficulty might be due to a matter of drafting. The French text of article 31 seemed to him to imply that any and every refugee should be exempt from penalties. The English text, on the contrary, reproduced the intended meaning, namely, that the refugee's illegal entry or presence must be due to the fact that his life would otherwise be threatened, that was, that it would be threatened unless he crossed the border, in order to exempt him from penalties. To take a specific case: the English text would not exempt from penalties a refugee who had fled from a country of persecution to Switzerland and who subsequently entered France clandestinely, since it was hardly likely that he would be able to prove that his life or freedom was endangered by his remaining in Switzerland. The French text, however, did not convey that meaning, and he would suggest that in order to bring it into harmony with the English text it should be amended to read:

“Les Etats contractants n'appliqueront pas de sanctions pénales aux réfugiés qui entrent ou se trouvent sur leur territoire sans autorisations sous la réserve qu'ils se présentent sans délai aux autorités et leur exposent des raisons reconnues valables de croire que leur entrée en présence irrégulière peut être attribuée au fait que leur vie ou leur liberté serait autrement menacée.”

Mr. PETREN (Sweden) thought it would be necessary to specify that the dangers threatening the refugee in such a case would be those resulting from persecution on account of his race, religion and so forth, since otherwise a refugee who had committed a theft might maintain that his freedom was in danger. He would not, however, press that point if the Conference considered it superfluous.

Mr. ROCHEFORT (France) recognized that the President's suggestion would perhaps lessen his difficulty, but there remained the question of the dateline. The fact that was causing him concern was that there were large numbers of refugees living in countries bordering on France. If they crossed the French frontier without their lives being in danger, the French government would be entitled to impose penalties and to send them back to the frontier. Take, however, the case of a new development in respect of which France was not bound by the Convention, and which led to a mass movement of thousands of such refugees into France. What would then be France's position with regard to penalties? He did not mean to say that the French authorities would attempt to imprison all such persons; it would, indeed, be a practical impossibility to do so. But there was an important point of principle involved; in such a case illegal entry could not be legalized.

Mr. HERMENT (Belgium) asked whether article 9 (provisional measures) would not become operative in the case mentioned by the French representative.

Mr. HOARE (United Kingdom) appreciated the French representative's difficulty, and suggested that it might be met by further amending the English text to read:

“ The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who, coming directly from the country of his nationality or of former habitual residence “ (those being the words used in paragraph A of article 1) “ presents himself without delay to the authorities and shows good cause for his illegal entry or presence “.

Mr. ROCHEFORT (France) pointed out that the United Kingdom amendment was almost word for word that which had been proposed by the French delegation at the fourteenth meeting (A/CONF.2/62), which, however, used the phrase “arrivant directement de leur pays d’origine”. An intermediate formula had been suggested, namely “arriving directly from a territory where their life or liberty was threatened”. He suggested that some such wording, which would be in accordance with article 1, might be acceptable. It would not suffer from the drawback to which he had previously referred in connexion with the time at which the events occurred. It followed that in the case of events occurring after 1 January, 1951, the whole question would have to be taken up again, but that would be a matter for another conference.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) asked whether the United Kingdom representative’s suggestion meant that only a refugee who came direct from his country of nationality or of habitual residence would be covered by the terms of the article, and that refugee, who, coming from a country of persecution, entered a country after transit through a second country in which he had succeeded in hiding or which had refused him refuge, would be excluded.

Mr. HOARE (United Kingdom) explained that he had intentionally made his suggestion restrictive. He would have liked to propose one of wider application but, since the French representative was unwilling to agree that refugees entering from intermediate countries should be included, he had limited the scope of his text accordingly. He would, however, be pleased to broaden it if that was possible.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that his original suggestion had not been intended to broaden or to narrow the article in question, but only to relieve the refugee from the burden of proof, which he would be quite unable to furnish, that no country in the world was prepared to accept him. In that respect, he felt that there was no difference in substance between his text and the one now before the meeting. Neither version, as he saw it, covered the point just made by the French representative.

Mr. ROCHEFORT (France) said that the High Commissioner’s explanation put the whole problem squarely before the meeting. Did the simple fact that a refugee, having left a country in which he had been persecuted, failed to obtain asylum in another, impose upon a third country the obligation of receiving him without having the right to impose penalties? Each country had to accept its frontier responsibilities, but the fact that an intermediate country refused to face its own could not deprive a third country of the right to take precautions against illegal entry. He suggested that, in paragraph 1 of article 31, the existing text, which read “being unable to find asylum even temporarily in a country other than one in which his life or freedom would be threatened” should be amended to read

“coming directly from a territory in which his life or freedom would be threatened within the meaning of article 1, paragraph A, of this Convention”.

Mr. HOARE (United Kingdom) felt that the time factor was already covered by the definition of the term “refugee” in article 1. Article 31 could not therefore relate to any refugee fleeing from a country as a result of events occurring after 1 January 1951. The word “refugee” as used in the Convention was a technical term.

Mr. ROCHEFORT (France) did not altogether agree, since a refugee might be a refugee under the terms of the Statute of the High Commissioner’s Office. The definition given in article 1 did not cover conditions of admission, but only the rights to be accorded to refugees.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) agreed with the United Kingdom representative that, since the definition of the term “refugee” had already been formally adopted, the word must be interpreted in the sense of that definition wherever it appeared in the Convention.

He preferred the existing text to the wording just proposed by the French representative, because the latter would exclude the categories of refugees to which he (the High Commissioner) had previously referred. In any case, a refugee who had illegally entered a country would have to show good cause, so that governments would retain considerable latitude in deciding whether or not to apply to him the provision under discussion.

Mr. ROCHEFORT (France) thought that his reference to the question of the dateline had not been fully grasped. A refugee who was living in a neighbouring country on account of events occurring before 1 January, 1951 was entitled to the benefit of the provisions of the Convention on that account. But suppose he later found it necessary to cross the border to a third country as a result of events occurring after 1 January, 1951. Would he not, under the High Commissioner’s text, be able to claim the same rights in the second country to which he had fled on account of the events occurring in the first country of refuge? For that reason he preferred the wording of his (Mr. Rochefort’s) original amendment, “directly from their country of origin”.

The PRESIDENT preferred the words “arrivent directement du territoire où leur vie ou leur liberté serait menacée” to the words “pays d’origine”. The latter were unsatisfactory because, to give an example, a Polish refugee living in Czechoslovakia, whose life or liberty was threatened in that country and who proceeded to another, country, could not be considered as having come direct from his country of origin.

It might also happen, as the Swedish representative had indicated, that a refugee, as defined in article 1, escaped to a second country where his life or liberty was again in danger, but not for any of the reasons specified in article 1, and that for those irrelevant reasons he fled to a third country. The French representative was, presumably, concerned with the possibility of such cases coming within the terms of article 31.

If no agreement could be reached on the text, he would put the High Commissioner’s amendment, which had been sponsored by the United Kingdom delegation, to the vote first, followed by the amendment introduced by the French representative.

Mr. ROCHEFORT (France) repeated that he could not agree to the United Kingdom representative's amendment. He suggested that to meet that representative's difficulty the French amendment might be further amended by replacing the words "country of origin" by the words "country in which he is persecuted".

Mr. HOARE (United Kingdom) said that he would withdraw his amendment if the French representative found it unacceptable, although he considered that it amply covered that representative's difficulties; it was more flexible, inasmuch as it left to the Government of the country in question the decision whether the refugee had no alternative to entering the country other than endangering his life and liberty by remaining in the first country. The United Kingdom amendment made it possible to follow the general principle of the article, and at the same time allowed for a certain amount of flexibility in the case of refugees coming through intermediate countries, while still not obliging any State to accept the latter category when there was insufficient cause for their having chosen to enter its territory clandestinely.

He could not vote for the French amendment, because the Conference had already accepted the definition of the term "refugee" given in article 1. There might, too, be cases where a refugee left a country after narrowly escaping persecution but without having actually been persecuted. Such a case would not be covered by the new French amendment.

Mr. ROCHEFORT (France) said that if the criterion of persecution was inadequate, all the other criteria could be added to it. France was a country of first and second reception, and as a country of first reception, had always met its obligations. As a country of second reception, however, it could not bind itself to accept refugees from all the other European countries of first reception. There had to be some limit such as that of events occurring before 1 January 1951.

The PRESIDENT said that the United Kingdom amendment having been withdrawn, the Conference had before it only French amendment.

After some further discussion on questions of drafting,

The revised French version of paragraph 1 was adopted by 19 votes to none, with 4 abstentions. As adopted it read:

"The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or liberty was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

There being no discussion on paragraph 2, article 31, as a whole and as amended, was adopted by 20 votes to none, with 2 abstentions.

Article 32 (formerly article 27) - Expulsion of refugees lawfully admitted

Mr. PETREN (Sweden) drew attention to a discrepancy between the English and French titles of article 32, the former using the words "lawfully admitted" and the latter the words "résidant régulièrement au pays d'accueil". In that connexion, he drew attention to

paragraph 5 of the report of the Style Committee (A/CONF.2/102), and said that he was prepared to accept either the phrase “se trouvant régulièrement” or the phrase “résidant régulièrement”. But he felt that it would be wiser to delete the title, since it raised difficulties of interpretation.

Mr. HERMENT (Belgium) thought that the Swedish representative's point could be met by giving article 32 the title “Expulsion of the Refugee”, or simply “Expulsion”. Another possibility would be to place articles 32 and 33 under the single title “Expulsion and Return”,

Mr. PETREN (Sweden) still felt some anxiety about the advisability of retaining the title, and pressed for its deletion.

The PRESIDENT suggested that the title should be abbreviated to “Expulsion”.

Mr. FRITZER (Austria) remarked that article 33 also referred to expulsion.

The President's suggestion was adopted.

On the proposal of Mr. HOARE (United Kingdom), it was agreed that the phrase “such a refugee” should be used in both paragraphs 2 and 3 in the English text.

Article 32, as amended, was adopted by 21 votes to none, with 1 abstention.

Article 33 (formerly article 28) - Prohibition of Expulsion or return to territories where the life or freedom of a refugee is threatened.

Mr. PETREN (Sweden) pointed out that the words “membership of a particular social group” should be inserted before the words “or political opinion” in paragraph 2 to bring it into conformity with sub-paragraph (2) or paragraph A of article 1.

Mr. ROCHEFORT (France) saw no objection to the insertion of those words, but requested that the summary record of the meeting should state that article 33 was without prejudice to the right of extradition.

Baron van BOETZELAER (Netherlands) recalled that at the first reading the Swiss representative had expressed the opinion that the word “expulsion” related to a refugee already admitted into a country, whereas the word “return” (“refoulement”) related to a refugee already within the territory but not yet resident there. According to that interpretation, article 28 would not have involved any obligations in the possible case of mass migrations across frontiers or of attempted mass migrations.

He wished to revert to that point, because the Netherlands Government attached very great importance to the scope of the provision now contained in article 33. The Netherlands could not accept any legal obligations in respect of large groups of refugees seeking access to its territory.

At the first reading the representatives of Belgium, the Federal Republic of Germany, Italy, the Netherlands and Sweden had supported the Swiss interpretation. From conversations he had since had with other representatives, he had gathered that the general consensus of opinion was in favour of the Swiss interpretation.

In order to dispel any possible ambiguity and to reassure his Government, he wished to have it placed on record that the Conference was in agreement with the interpretation that the possibility of mass migrations across frontiers or of attempted mass migrations was not covered by article 33.

There being no objection, the PRESIDENT ruled that the interpretation given by the Netherlands representative should be placed on record.

Mr. HOARE (United Kingdom) remarked that the Style Committee had considered that the word "return" was the nearest equivalent English to the French term "refoulement". He assumed that the word "return" as used in the English text had no wider meaning.

The PRESIDENT suggested that in accordance with the practice followed in previous Convention, the French word "refoulement" ("refouler" in verbal uses) should be included in brackets and between inverted commas after the English word "return" wherever the latter occurred in the text.

He further suggested that the French text of paragraph 1 should refer to refugees in the singular.

The Swedish suggestion that the words "membership of a particular social group" be inserted in paragraph 1 after the word "nationality" was adopted unanimously.

The two suggestions made by the President were adopted unanimously.

Mr. CHANCE (Canada) pointed out that the word "particular" in the last line of paragraph 2 should read "particularly".

Mr. HOARE (United Kingdom) said that the word "trial" in paragraph 2 should read "final".

It was so agreed.

Mr. HOARE (United Kingdom) observed that paragraph 2 spoke of refugees "convicted by a final judgement of a particularly serious crime." In the original version that clause had been limited to the country of residence. The existing text was the result of a Swedish amendment. He suggested that it might be more consistent to revert to the original wording, and say "convicted by a final judgement in that country", since under what was now paragraph F of article 1 a person who had committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee was excluded from the categories of refugees; he should therefore be considered as also being outside the scope of article 33.

Mr. PETREN (Sweden) explained that his amendment had been intended to cover cases such as, for example, that of a Polish refugee who had been allowed to enter Sweden and who, in passing through Denmark, had committed a crime in that country.

Mr. HERMENT (Belgium) proposed that in order to meet the Swedish representative's point the words "in a Contracting State" should be inserted after the words "having been convicted by a final judgement".

Mr. PETREN (Sweden) pointed out that the Conference did not yet know who the Contracting Parties would be.

Mr. HERMENT (Belgium) felt that it should not be made possible for conviction in the refugee's country of origin to tell against him.

Mr. ROCHEFORT (France) wondered whether the United Kingdom representative's reference to article 1 really justified his amendment. Article 1 actually related to the examination to be undergone at the frontier by persons desirous of entering the territory of a Contracting State, whereas article 33 was concerned with provisions applicable at a later stage. The co-existence of those two possibilities was perfectly feasible.

Mr. HOARE (United Kingdom) said that he understood paragraph F of article 1 to refer, not to the place where the person had been convicted, but rather to the place where he had committed the crime in question. If he committed a serious non-political crime outside the country of refuge before being admitted to it, he was disqualified from the grant of refugee status in the sense both of article 1 and of article 33.

Mr. PETREN (Sweden) explained once more that he was visualizing the case of a Polish refugee admitted to Sweden and committing a crime in Denmark in transit before entering Sweden.

Mr. ROBINSON (Israel) asked whether the insertion of the words "committed outside his country of origin" after the words "particularly serious crime" would satisfy the Swedish representative.

Mr. ROCHEFORT (France) feared that there was a distinct and somewhat uncomfortable inconsistency between the provisions of paragraph 1 of article 33 and those of article 1.

Mr. PETREN (Sweden) said that so far as he personally was concerned, the text was acceptable as it stood.

Mr. HERMENT (Belgium) pointed out that under that text the fact that a refugee had been convicted of a crime committed in his country of origin would make it possible for the refugee to be returned to that country.

Mr. PETREN (Sweden) maintained that States must be free to expel convicted criminals and send them back to their country of origin.

Mr. ROCHEFORT (France) agreed with the Swedish representative. Once the possibility had been recognized by article 1 that the status of refugee could be denied to a person who had committed a crime in his country of origin, there could be no objection to allowing the expulsion of a refugee if it transpired after his admission to the country of asylum that he had committed a crime in his country of origin. Moreover, the possibility of a refugee committing a crime in a country other than his country of origin or his country of asylum could not be ignored. No matter where a crime was committed, it reflected upon the personality of the guilty individual, and the perpetrator was always a criminal. What was required was that a distinction should be made between real criminals and genuine refugees.

The PRESIDENT pointed out that paragraph 2 afforded a safeguard for States, by means of which they could rid themselves of common criminals or persons who had been convicted of particularly serious crimes in other countries.

Mr. HOARE (United Kingdom) stated that in the light of the views expressed he would withdraw his amendment, the only purpose of which had been to clarify the meaning of the text.

The point of principle mentioned by the Belgian representative had already been abandoned by the decision of the Conference on the terms of sub-paragraph (b) of paragraph F of article 1.

The PRESIDENT pointed out that, apart from minor drafting changes which had already been mentioned, the only other change in article 33 would be the deletion of the words "or return to territories where the life or freedom of a refugee is threatened" from the title.

Mr. HERMENT (Belgium) asked that the two paragraphs of article 33 be put to the vote separately.

Paragraph 1 was adopted by 21 votes to none, with 2 abstentions.

Paragraph 2 was adopted by 20 votes to none, with 3 abstentions.

Article 33 as a whole and as amended was adopted by 20 votes to none, with 3 abstentions.

Article 34 (formerly article 29) - Naturalization

Mr. ARCHIDIACONO (Italy) announced that on signing the Convention the Italian Government intended to enter a reservation on article 34.

Article 34 was adopted by 23 votes to none, with 1 abstention.

Article 35 (formerly article 30) - Co-operation of the National Authorities with the United Nations

Baron van BOETZELAER (Netherlands) pointed out that the English and French texts of article 35 were not entirely concordant. He suggested that the discrepancy could be eliminated by the insertion in the English text of the word "other" after the words "High commissioner for Refugees, or any" in paragraph 1, and the substitution of the words "any other agency" for the words "other appropriate agency" in paragraph 2.

It was so agreed.

Mr. MONTROYA (Venezuela) stated that the Venezuelan Government would have to enter a reservation in respect of the final phrase of paragraph 1, beginning with the words "and shall in particular facilitate".

The PRESIDENT put to the vote article 35, as amended in the English text only.

Article 35 was adopted as amended by 17 votes to none, with 7 abstentions.

Article 36 (formerly article 31) - Information on national legislation

Article 36 was adopted by 23 votes to none, with 1 abstention.

Article 37 (formerly article 32) - Relation to previous Conventions

Article 37 was adopted by 24 votes to none.

Article 38 (formerly article 33) - Settlement of disputes

Article 38 was adopted by 23 votes to none, which 1 abstention.

Article 39 (formerly article 34) - Signature, Ratification or Accession

The PRESIDENT stated that in order to meet a suggestion made informally by the representative of the Holy See, the closing date for signature at the European Office of the United Nations had been changed to 31 August 1951..17 September 1951 had been chosen in preference to 15 September 1951 as the date for the re-opening for signature at United Nations Headquarters, as 15 September was a Saturday. The opening date for signature at the European Office would be inserted as soon as it was possible to tell when the printed instrument would be ready.

Mr. HERMENT (Belgium) proposed that the word “cela” in the second line of paragraph 1 of the French text of article 29 should be replaced by the words “cette date”, no amendment being necessary in the English text.

It was so agreed.

The PRESIDENT put to vote article 39, as amended in the French text only

Article 39, as amended was adopted by 24 votes to none.

Article 40 (formerly article 35) - Territorial application clause

Mr. ROCHEFORT (France) pointed out that the word “acquis” in the last line of paragraph 3 of the French text should be replaced by word “requis”, no amendment being necessary in the English text.

It was so agreed.

The PRESIDENT observed that the following drafting changes would also require to be made in the French text of article 40 as given in document A/CONF.2/102/Add.1: the substitution of the words “pour ledit” for the word “dudit” in the last line of paragraph 1; and the substitution of the word “pour” for the word “par” in the last line of paragraph 2.

It was so agreed.

Article 40 was adopted as amended by 23 votes to 1.

Article 41 (new article) - Federal clause

The PRESIDENT stated that the sentence opening with the words “This paragraph shall not apply”, which followed sub-paragraph (b), should be deleted. Its inclusion was due to a clerical error. The brackets round the title should also be deleted.

Mr. HOARE (United Kingdom) said that the Style Committee had attempted to meet the difficulty raised at the first reading by the Austrian representative in connexion with the federal clause by inserting in the first paragraph the words “under whose constitutional system ratification or accession does not bind the constituent States, Provinces or Cantons in matters within their legislative competence”. He (Mr. Hoare) had subsequently reflected on the matter, and had come to the conclusion that it would be preferable to delete those words and to insert in sub-paragraph (b), after the words “Provinces or

Cantons”, the words “which are not under the Constitution of the Federation bound to take legislative action”.

Mr. ROCHEFORT (France) made the following statement on behalf of the French Government for inclusion in the summary record: the French Government interpreted article 41 as meaning that the federal clause could not in practice enable reservations to be entered in respect of articles to which reservations were not permitted. As the text of article 41 was not explicit on that point, the French Government was unable to approve it, and he would abstain from voting on it.

Mr. FRITZER (Austria) stated that the United Kingdom amendment was acceptable to him.

Mr. ROBINSON (Israel) welcomed the United Kingdom amendment, but suggested that it might cause certain difficulties, as the division of powers between the federal and provincial governments might not be laid down in federal constitutions themselves. He would therefore suggest that the amendment might read “which are not under the constitutional system bound to take legislative action.”

Mr. HOARE (United Kingdom) would have thought that the words “the constitution of the Federation” were sufficiently broad and flexible. However, he would be prepared to replace them by the words “the constitutional system of the Federation”.

The PRESIDENT put to the vote the United Kingdom amendment for the deletion of the words “under whose constitutional system ... within their legislative competence” in the first paragraph of article 41 and the insertion in sub-paragraph (b) after the words “provinces or cantons” of the words “which are not, under the constitutional system of the federation, bound to take legislative action”.

The United Kingdom amendment was adopted by 19 votes to none, with 5 abstentions.

Article 41, as amended, was adopted by 19 votes to 1, with 4 abstentions.

Article 42 (formerly article 36) - Reservations

Article 42 was adopted by 24 votes to none.

Article 43 (formerly article 37) - Entry into force

Mr. ROCHEFORT (France) recalled the objections he had raised to article 43 at the first reading. The number of instruments of ratification or accession stipulated was inadequate, and the article was consequently of no practical value. The rejection of the figure of ten made it all the more difficult to understand why the figure of six had been adopted, seeing that more than ten States represented at the Conference were prepared to ratify the Convention forthwith. He would consequently vote against article 43.

Article 43 was adopted by 20 votes to 2, with 2 abstentions.

Article 44 (formerly article 38) - Denunciation

Mr. BOZOVIC (Yugoslavia) asked that paragraph 3 should be put to the vote separately.

Paragraphs 1 and 2 of article 44 were adopted by 24 votes to none.

The PRESIDENT drew attention to a clerical error in paragraph 3 of the French text. The word “contractant” should be deleted from the first line.

Mr. ROCHEFORT (France) did not agree. The reference actually was to Contracting States.

The PRESIDENT pointed out that if the word “Contracting” was to qualify the word “State” in paragraph 3, States might be reluctant to ratify the Convention for fear that their freedom to alter its territorial application was not assured.

The President’s suggestion was adopted.

Paragraph 3 was adopted by 22 votes to 1.

Article 44 as a whole and as amended in the French text was adopted by 22 votes to none, with 1 abstention.

Article 45 (formerly 39) - Revision

Mr. ROCHEFORT (France) was not quite clear as to the precise significance of paragraph 2 of article 45. Would revision not be possible without the approval of the General Assembly, even if the Contracting States were agreed that the Convention should be revised?

He suggested that the following text should be substituted for paragraph 2:

“The General Assembly shall make recommendations on the matter”.

Mr. HOARE (United Kingdom) said that in his opinion the whole question was one of procedure. If one or more signatory States wanted a revision of the Convention, the General Assembly would have to make the necessary arrangements. It was unlikely that States would be able to reach unanimous agreement on revision without some preliminary discussion, and a conference would most probably be necessary.

Mr. ROCHEFORT (France) though reluctant to provoke a long discussion on the question, pointed out that the text of the Covenant had not been, and would not be, approved by the General Assembly. Even the text of article 1 adopted by the General Assembly had only had the value of a pointer. A text which would make it possible for the wishes of Contracting States to be set at naught for the benefit of Non-Contracting States should not be included in the Convention. Moreover, the suggested formula was very vague. He cited as a precedent Article 16 of the Constitution of the International Refugee Organization (IRO), relating to the amendment of the Constitution by the General Council of IRO, for which no recommendation by the General Assembly was required.

The PRESIDENT pointed out that the effect of paragraph 2 was simply to lay an obligation on the General Assembly to take certain steps. It would in no way prevent Contracting States from taking action independently of the United Nations.

Mr. ROBINSON (Israel) said that the point raised by the French representative was a serious one. He (Mr. Robinson) was somewhat concerned at the interpretation placed by the President on paragraph 2. Surely it was not for a conference of plenipotentiaries to lay any binding on the General Assembly? Perhaps the concern of the French representative might be allayed if paragraph 2 were deleted, and paragraph 1 modified in such a way as

to make clear that its provisions in no way prejudiced the right of Contracting States to revise the Convention by common accord.

Mr. ROCHEFORT (France) considered that it was all the more necessary to modify the existing text since the procedure envisaged therein would involve long delay before Contracting States could proceed to a revision of the Convention; thus their will could be paralyzed by the General Assembly. Such a contingency could not be accepted. Contracting States should be able, if they so wished, to assemble urgently with the object of revising the Convention, without having to wait for cumbersome and complicated machinery to be set in motion.

Mr. HOARE (United Kingdom) repeated that if the Convention was ratified by a large number of States any substantial revision would have to be done through a general conference, which would have to be convoked either by the Economic and Social Council or by the General Assembly. The machinery would have to be set in motion in one way or another, and that could not be done by the Secretary-General on his own responsibility.

Mr. ARCHIDIACONO (Italy) supported the French representative's argument

Mr. HERMENT (Belgium) proposed that paragraph 2 should be replaced by a text on the following lines:

"The Secretary-General shall notify other Contracting States of this request and, if two-thirds of these States agree to revise the Convention, the Secretary-General shall take the necessary steps to convene a conference for the purpose."

The PRESIDENT asked whether it was appropriate for the Conference to impose obligations on the Secretary-General.

Mr. ROCHEFORT (France) pointed out that any Contracting State was in practice free to impose obligations on the Secretary-General of the United Nations, for example, that of notifying other States of its accession to the Convention.

The PRESIDENT pointed out that the Secretary-General could not on his own initiative convene a conference since such action would have financial implications, and was accordingly a matter that required the approval of the General Assembly.

Mr. ROCHEFORT (France) thought that it might be useful to refer to the clause in the Statute of the Office of the High Commissioner for Refugees concerning possible amendments to the provisions thereof relating to refugees.

The EXECUTIVE SECRETARY pointed out that if a conference were to be held under the auspices of the United Nations to carry out a revision of the Convention, it would not be possible to convene it without the authority of the General assembly, owing to the expenditure involved.

Mr. ROCHEFORT (France) said that the problem was whether the General Assembly should be in a position to hold up the revision of the Convention, or whether it should be possible for revision to be carried out at the request of one or more contracting States. If the General Assembly, on some pretext or other, held up revision, the contracting States would denounce the convention and draw up a new international instrument. At all events the text as it stood implied that it might never be possible to revise the present

Convention. Furthermore, a mere recommendation by the General Assembly would not dispose of the financial issue mentioned by the Executive Secretary.

The PRESIDENT agreed with the French representative that the General Assembly should not be put in a position where it could paralyse any action which Contracting States might wish to take with a view to revising the convention. He did not believe, however, that such a possibility would arise under the terms of paragraph 2 of article 45, as at present drafted.

So far as the financial implications were concerned, it was obvious that, if the General Assembly decided that a diplomatic conference should be convened to revise to Convention, it would have to make the necessary budgetary arrangements.

Mr. ROCHEFORT (France) replied that the General Assembly might make any recommendation it thought fit, but the question to be settled was whether the Contracting States would be entitled to meet for the purpose of revising the Convention in the absence of any recommendations to that effect by the General Assembly.

The PRESIDENT gave it as his considered opinion that Contracting States would, if necessary, be entitled to take action independently of the United Nations, themselves making financial provision for holding a conference.

He asked whether the French representative would be satisfied by the inclusion of that interpretation as to the meaning of article 45 in the records of the Conference, it being made perfectly clear that Contracting States had the sovereign right to conclude new conventions or to revise the existing Convention, and that that right could in no way be circumscribed by the provisions of paragraph 2 of article 45.

Mr. ROCHEFORT (France) said the interpretation placed by the President on paragraph 2 of article 45 was acceptable to him, but pointed out that it conflicted with what the United Kingdom representative had said earlier.

Mr. HOARE (United Kingdom) explained that he had not expressed any opinion as to the right of Contracting States to revise the Convention. All that he had suggested was that it was inconceivable that they would be able to reach unanimous and immediate agreement on such a revision without holding preliminary discussions. He was concerned with the practical aspect of the matter, and felt that some of the difficulties raised by the French representative were somewhat theoretical.

The PRESIDENT suggested that article 45 might be adopted without change in the light of the interpretation he had given, which the French representative had accepted.

It was agreed.

Mr. HERMENT (Belgium) withdrew his amendment to article 45.

Article 45 was adopted by 22 votes to none, with 1 abstention.

Article 46 (formerly article 40) - Notifications by the Secretary-General of the United Nations

The PRESIDENT point out that in view of the decision taken on paragraph B of article 1, article 46 would require some modification.

Mr. HOARE (United Kingdom) suggested that a new sub-paragraph (a) should be inserted to read: "Of declarations and notifications in accordance with section B of article 1". The remaining sub-paragraphs would have to be re-lettered accordingly.

He would also suggest that, in the interest of consistency, the word "received" in the original sub-paragraph (a) should be deleted, and that the word "and" should be substituted for the word "or" in the original sub-paragraph (b).

It was so agreed.

Article 46 as amended was adopted by 23 votes to none

The PRESIDENT put to the vote the concluding words of the draft convention, from: "In faith whereof the undersigned" down to "non-member States referred to in article 39."

The concluding words were adopted by 23 votes to none.

(iii) Article 6 and 7 (A/CONF.2/104, A/CONF.2/106) (resumed from the thirty-fourth meeting)

Article 6 (formerly article 3 (b))

Mr. HERMENT (Belgium) said that, although he had earlier raised objections to the text of the United Kingdom amendment (A/CONF.2/104), he was prepared to accept it, provided the words "in particular" were inserted after the word "implies".

Mr. HOARE (United Kingdom) felt that the adoption of the Belgian suggestion would invalidate the purpose of his amendment.

Mr. ROBINSON (Israel) agreed with the United Kingdom representative.

Mr. HERMENT (Belgium) asked whether, in that case, the United Kingdom representative's idea was to exclude all requirements other than those relating to length and conditions of sojourn.

Mr. HOARE (United Kingdom) said that it was not suggested that all consideration other than length and conditions of sojourn should be excluded. He felt that the words "in the same circumstances" were self-explanatory, but it was necessary to make it quite clear that they included conditions of sojourn and residence. For the rest, it would be undesirable to particularize, since that might result in the vigorous application of all possible requirements applicable to foreigners in the country of asylum. It was his opinion that some latitude might be allowed to governments to decide within the general conception that refugees were not to have more privileged treatment than aliens generally as to the conditions which must be fulfilled by refugees within their territory.

Mr. HERMENT (Belgium) thought the United Kingdom representative's explanations far from clear; he appeared to be afraid of the words "in particular". The Belgian Delegation, however, could only accept the United Kingdom amendment provided those words were added.

Mr. ROCHEFORT (France) found it difficult to embark at the eleventh hour on the re-examination of a text which had already been debated at length, and which was the result of a hard-won compromise amendments should have been introduced earlier, so as to

enable delegations to consult their governments. He could not judge offhand whether the text of the United Kingdom amendment was sufficiently cautious to enable him to accept it. He would therefore prefer that the original wording be retained.

Mr. HOARE (United Kingdom) said that while he felt that United Kingdom amendment to article 6 improved the text, he would withdraw it, as it was apparently not acceptable to all representatives.

The PRESIDENT suggested that article 6 be given the heading "The Term in the same circumstances"

It was so agreed.

Article 6 was adopted by 22 votes to none, with 1 abstention.

Article 7 (formerly article 4) - Exemption from reciprocity

The PRESIDENT drew attention to the Israeli-Netherlands joint amendment to article 7 (A/CONF.2/106). If adopted, it would become paragraph 4 of article 7.

Baron van BOETZELAER (Netherlands) pointed out that in the French text of the joint amendment, the words "certains droits", in the second line, should be amended to read "certains des droits" and the words "les réfugiés" in the fifth line amended to read "des réfugiés".

The joint Israeli/Netherlands amendment (A/CONF.2/106) to article 7, as amended in the French text, was adopted by 23 votes to none.

Baron van BOETZELAER (Netherlands) suggested that, in the former paragraph 4 of article 7, the words "articles 13,18,19 and 21" should be amended to read "articles 13,18,19 21 and 22".

The Netherlands suggestion was adopted by 21 votes to none, with 2 abstentions.

Article 7, as amended, was adopted by 23 votes to none.

(iv) Headings

Mr. PAPAYANNIS (Greece) asked whether the Conference should not also consider the article and chapter headings.

The PRESIDENT did not feel there could be any question of the interpretation to be placed on the headings, except in the case of article 22, "Public education".

Mr. MONTOYA (Venezuela) considered that the headings could in no way be considered an integral part of the text. In order to make clear that they were included for reference purposes only, they should be placed in the margin.

Mr. HOARE (United Kingdom) said that that was the practice invariably followed in British legal texts, where the headings were known as "side notes".

The PRESIDENT maintained that that could not be done in the case of article 22 without materially affecting the meaning of that article.

Mr. ROCHEFORT (France) did not see what difficulty there could be in keeping the headings, as they had no legal value. Their retention in the body of the Convention would make the text easier to handle and to consult.

The PRESIDENT said that the Conference must decide whether the headings were to be deleted, in which case article 22 would have to be amended, or whether they were to be retained, in which case a further decision would have to be taken on the legal interpretation, if any, which was to be placed upon them.

Mr. ROCHEFORT (France) was in favour of keeping the headings, and suggested that the Conference vote on the principle of deleting them.

It was so agreed.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) suggested that if the headings were retained, the words "or Return" should be inserted after "Prohibition of Expulsion", in the heading of article 33.

Mr. ROCHEFORT (France) could not quite see the point of the High Commissioner's suggestion. Either the title had a bearing on the substance of the article, in which case it was the text of the article itself that should be amended; or if had no bearing on the substance, in which case there seemed to be no need to amend the title.

The Proposal that the headings of articles be deleted was rejected by 17 votes to 2, with 4 abstentions.

Mr. HOARE (United Kingdom) asked whether a specific statement should be included in the Final Act of the Conference, to the effect that the headings had no interpretative value, or whether they should be left to speak for themselves.

Mr. ROCHEFORT (France) thought that there could be no doubt on that point. It could not possibly be admitted that the texts of the articles were affected by the headings, now that the articles themselves had been adopted.

Mr. MONTOYA (Venezuela) repeated that in his view the headings were there for reference purposes only.

Baron van BOETZELAER (Netherlands) agreed. He added that he would sponsor the amendment to the heading of article 33 suggested by the High Commissioner for Refugees.

Mr. ROCHEFORT (France) had no objection to the amendment of the heading of article 33, since it had been agreed that the headings were for reference purposes only. However, in the interests of time, he hoped that not too many changes in the headings would be suggested.

Mr. HOARE (United Kingdom) pointed out that, in accordance with the decision taken earlier by the Conference, the word ("refoulement") would have to be inserted after the word "return" in the English version of the heading to article 33.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) agreed.

The amendment to the title of the article 33 suggested by the High Commissioner for Refugees and sponsored by the Netherlands delegations was adopted by 23 votes to none.

The PRESIDENT suggested that the Conference was now in a position to take a decision on a suggestion by the Israeli representative, namely, that the following sentence be inserted in the Final Act:

“The titles of the chapters and of the articles of the Convention are included for practical purposes and do not constitute an element of interpretation”.

The Israeli representative's suggestion was adopted by 17 votes to 3, with 3 abstentions.

Mr. HOARE (United Kingdom) explained that he had voted against the Israeli suggestion because he felt that the titles should be allowed to speak for themselves.

Mr. FRITZER (Austria) said that, if as he understood it, no interpretative value could be placed on the headings, the Austrian delegation would be unable to accept article 22, and, unless that article were amended, would be obliged to enter a reservation when signing the Convention.

Baron van BOETZELAER (Netherlands) propose that the words “As regards public education” should be inserted at the beginning of paragraph 1 of article 22.

Mr. FRITZER (Austria) considered that those words should also be inserted in paragraph 2.

Mr. HOARE (United Kingdom) objected that that would be quite inadmissible, since those words had a different legal connotation in different countries and would result, in some countries, in imposing much greater commitments on the Contracting States than had originally been intended.

Mr. SHAW (Australia) suggested that the words ‘elementary education’ in paragraph 1 be amended to read “elementary public education”, and that the word ‘education’ in the third line of paragraph 2 be replaced by the words “public education”.

The PRESIDENT doubted whether those amendments would cover all cases, particularly in those State where elementary education was in the main only partly subsidized from public funds.

Mr. ROCHEFORT (France) pointed out that it was impossible for States to contract obligations in respect of “l'enseignement libre” (private education), which would no longer be “libre” if it were tied by States obligations. There could be no doubt what “public education” meant. An attempt was now being made, after article 22 had been formally adopted, to give it a wider interpretation, which had never been the intention of the delegations interested in the problem.

Mr. FRITZER (Austria) suggested that a third paragraph be added to article 22, reading as follows: ‘The provisions of this article shall refer to public education only’.

The PRESIDENT repeated that the report of the Ad hoc Committee on its first session (as the Ad hoc Committee on Statelessness and Related Problems) made it clear that the present article 22 was intended to cover education subsidized in whole or in part from

public funds; education subsidized in part only would not be covered by the additional paragraph just suggested by the Austrian representative.

Mr. FRITZER (Austria) said that in view of the President's interpretation, the Austrian delegation would have to enter a reservation in respect of article 22.

Mr. HOARE (United Kingdom) observed that the heading of Chapter III was "Practice of Professions", whereas the heading of article 17 read "Wage-earning Employment". He felt that those two expressions were not entirely in harmony, and agreed with the representative of the United States of America that the term "Gainful Employment" would be a more satisfactory heading for chapter III.

It was so agreed.

2. DRAFT RECOMMENDATIONS SUBMITTED BY THE DELEGATION OF THE HOLY SEE FOR INCLUSION IN THE FINAL ACT OF THE CONFERENCE (A/CONF.2/103) (resumed from the thirty-fourth meeting)

The PRESIDENT, referring to section III of the draft recommendations submitted by the representative of the Holy See (A/CONF.2/103), said that he understood that, at the suggestion of the Belgian representative, it had been agreed to insert the word "still" before "leave" in line 1.

Msgr COMTE (The Holy See) announced that since the previous meeting the United States representative had suggested a new formula, which he (Msgr. Comte) was willing to accept, since it embodied the two points in which the Holy See was chiefly interested, namely, recognition of the right of asylum and a declaration of the need for international solidarity. He therefore suggested that the following text be substituted for section III of document A/CONF.2/103:

"THE CONFERENCE

CONSIDERING that many refugees still leave their country of origin for reasons of persecution and are entitled to special protection on account of their position,

RECOMMENDS that Governments continue to receive refugees in their territories and that they act in concert in a true spirit of international co-operation in order that these refugees may find asylum and the possibility of resettlement."

Mr. ROCHEFORT (France) doubted whether it was correct to speak of "many" refugees leaving their country of origin for political reasons; the right term would be "a certain number of" refugees. He also wondered whether it was correct to speak (in the first paragraph) of "refugees" leaving their country of origin; it would be more appropriate to use the word "persons", since, at the time of leaving their country of origin, they would not yet be refugees.

Msgr. COMTE (The Holy-See) agreed that the word "persons" should be substituted for the word "refugees" in the first line of this revised recommendation.

The revised draft recommendation submitted by the representative of the Holy See was adopted, as amended, by 23 vote none.

3. DRAFT RECOMMENDATIONS SUBMITTED BY THE UNITED KINGDOM DELEGATION FOR INCLUSION IN THE FINAL ACT OF THE CONFERENCE (A/CONF.2/107)

Mr. HOARE (United Kingdom) explained that had submitted the draft recommendation contained in document A/CONF/2/107 in order to cover the contents of former paragraph F of article 1. He had taken the wording from paragraph 7 of the Preamble to the original text of the draft Convention, a paragraph which, he understood, had first been drafted by the French delegation.

Mr. ROCHEFORT (France) thanked the United Kingdom representative for doing him the honour of re-introducing a text of which he (Mr. Rochefort) had been the original author. He had, however, several comments to make on the matter. In the preamble, where the text in question had originally been placed, the hope expressed therein had related to the situation lying outside the terms of the definition, which had then contained the words "in Europe". Thus, the appeal had at that time been addressed either to non-Contracting States or to States which were not interested in the problem of European refugees, but in whose territory categories of refugees other than those covered by the terms of the definition were living.

In the present case, the position was quite different. The text of the United Kingdom draft recommendation was to be included in the Final Act, and was addressed not only to non-Contracting States, but also to certain Contracting states, namely, those which had been unable to accept the words "in Europe or elsewhere". The French delegation could not accept a text which implied censure of governments which might consider it impossible to extend their obligations to refugees other than these from European. Such censure was implicit in the text of the United Kingdom recommendation which, again implicitly, made a distinction between two categories of States: the modest and the ambitious, the "Europeanists" and the universalists, the egoists and the generous. If the United Kingdom representative set much store by the adoption of the text he at present suggested, he (Mr. Rochefort) would propose the following amendment thereto:

"Expresses the hope that all States, bearing in mind the burdens weighing upon Contracting States which have been unable, on account of the liberality of their reception policy and of their geographical position, to undertake wider commitments, will be willing to admit into their territory the greatest possible number of refugees not covered by the Convention".

Mr. HOARE (United Kingdom) assured the French representative that he had not submitted his draft recommendation with the intention of censuring any government whatsoever. He had merely felt that a general recommendation was called for to cover those classes of refugees who were altogether outside the scope of paragraph A of article 1: that was the sole reason for which he had introduced a reference to article 1 in the text.

Mr. ROCHEFORT (France) thanked the United Kingdom representative for his interpretation of his draft recommendation, but feared that it did not entirely correspond to the actual meaning of the recommendation. In any case, the French delegation could not accept the text as it stood.

Mr. HOARE (United Kingdom) said that he was prepared to replace the words “and who would not be covered by the terms of paragraph A of article 1” by the words “and would not be covered by the terms of the present Convention”.

Mr. ROCHEFORT (France) agreed that some such amendment would meet his point.

The PRESIDENT suggested that it be left to himself and the Executive Secretary to give the United Kingdom draft recommendation its final form.

It was so agreed.

The United Kingdom draft recommendation (A/CONF.2/107) for inclusion in the Final Act of the Conference was adopted by 23 votes to none.

The PRESIDENT then put to the vote the Convention relating to the Status of Refugees as a whole and as amended at the second reading.

The Convention on the Status of Refugees, as amended at the second reading, was adopted by 24 votes to none, there being no abstentions.

The PRESIDENT announced that the Convention would be opened for signature at 12 noon on Saturday 28 July, 1951.

In answer to a query by Mr. PETREN (Sweden), he said that there would be no opportunity for representatives to make statements at the signing ceremony. Only written reservations could be submitted.

Mr. PETREN (Sweden) said that in that case he wished to state that, while it would give him great pleasure to sign the Convention, certain of the articles which were not subject to reservations were not drafted in the way the Swedish Government could have desired. The differences were not, however, so great as to make ratification by Sweden seem impossible. As regards the other articles, Sweden would probably make certain reservations, but not until the time of ratification.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) stated that the Government of the Federal Republic of Germany was willing both to sign and to ratify the Convention, and he wished to emphasize that it was for technical reasons only that he would be unable to sign in company with other representatives.

Mr. MAKIEDO (Yugoslavia) said that the Yugoslav Government would have preferred a Convention more liberal in scope than the one adopted. In view of the many changes made to the text, he had been obliged to ask for fresh instructions from his Government, but he hoped to receive them in time for the signing ceremony.

4. CLOSURE OF THE CONFERENCE

Mr. WARREN (United States of America) said that the work of the Conference now appeared to be over. He knew that he would be speaking on behalf of all the representatives in expressing his warm appreciation of the leadership, generosity and patience which the President had displayed in the course of the protracted discussions, qualities which had greatly contributed to the satisfactory results achieved. The memory of the conference would, he felt sure, inspire all those present in their future work on the refugee problem.

The PRESIDENT warmly thanked the representative of the United States of America for his kind words. In the course of its deliberations, the Conference had attempted to transcend national interests and to create a model system on which the treatment of refugees could be based. While the Convention just adopted did not fulfil all the desires either of governments or of those responsible for the care of refugees, it did establish a satisfactory legal status, which would be of material assistance in promoting international collaboration in the refugee field. He hoped that those States which were obliged to make reservations would nevertheless regard the terms of the Convention as an ideal, and consider amending their own legislation to meet the standards it set.

For all the assistance he had received during the past few weeks, his sincere thanks were due to the Assistant Secretary-General in charge of the Department of Legal Affairs of the United Nations Secretariat, who had assisted the Conference at a number of meetings, and to the Executive Secretary of the Conference, whose experience gained at both sessions of the Ad hoc Committee had proved invaluable. He also wished to express his appreciation of the admirable work of the Deputy Executive Secretary, whose efforts and enthusiasm had ensured the smooth working of the machinery of the Conference. He also wished to thank those whom he could not mention by name - interpreters, précis-writers, those responsible for the production of documents, and all other United Nations officials and employees who had helped to contribute to the satisfactory results achieved by the Conference.

The present Conference was the first international conference at which he had had the honour of taking the Chair. In the normal course of events the President would have been the Canadian representative, Mr. Chance, who had been Chairman of the Ad hoc Committee. Mr. Chance had, however, been unable to accept the Presidency, and he (the President) wished to thank him for proposing that he should succeed to the office. He wished, furthermore, to thank him all members of the Conference not only for their fairness and courtesy, but for the friendship and support which he had received, not only from the representatives of governments but also from the High Commissioner for Refugees and his assistants, and the representatives of the specialized agencies and the non-governmental organizations. To all concerned he was deeply grateful.

He then declared the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons closed, except for the signing ceremony.

The meeting rose at 8.15 p.m.

