

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
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International Confederation of Free Trade Unions	Miss SINDER
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Category B and Register

Caritas Internationalis	Mr. BRAUN, Mr. METTERNICH
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Commission of the Churches on International Affairs	Mr. REES
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Co-ordinating Board of Jewish Organizations	Mr. WARBURG
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International Union of Catholic Women's leagues	Miss de ROMER
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Standing Conference of Voluntary Agencies	Mr. REES
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World Jewish Congress	Mr. RIEGNER
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World Union for Progressive Judaism	Mr. MESSINGER
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Secretariat

Mr. Humphrey	Executive Secretary
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Miss Kitchen	Deputy Executive Secretary
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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. MONTOYA (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. MONTOYA (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 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 Contacting 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 nought 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 where 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.