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CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE THIRD MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 3 July 1951, at 10.30 a.m.

CONTENTS:

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Columbia	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. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETRÉN
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:

Cuba	Mr. DUSSAG-FISHER
Iran	Mr. KAFAI

High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and other inter-governmental organizations:

International Refugee Organization	Mr. STEPHENS
Council of Europe	Mr. von SCHMIEDEN

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
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	Mr. LEDERMANN
International Council of Women	Mrs. GIROD
International Federation of Friends of Young Women	Mrs. FIECHTER
International Union for Child Welfare	Mr. THÉLIN
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. BRENSAD
Standing Conference of Voluntary Agencies	Miss de ROMER
World Jewish Congress	Mr. RIEGNER
World Union for Progressive Judaism	Mr. MESSINGER

Secretariat:

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. GENERAL DISCUSSION (continued)

The PRESIDENT said that the leader of the French delegation had suggested to him in private conversation that it might be desirable for representatives to touch upon the definition of the term "refugee" in their general statements, since the matter was of such crucial importance to the work of the Conference. However, it would be as well if they refrained from going into technical det ls, and submitted amendments to article 1 of the draft Convention at a later stage; it might then be found useful to set up a working party in order to draft a text acceptable to all. He believed that there would be common consent that such a procedure would be the most practical.

It was so agreed.

Mr. del DRAGO (Italy) stated that he had not been aware of the fact, mentioned by the President at the Second meeting, that the views put forward by the Italian Government the previous year had been embodied in a document (E/1703/Add.6) prepared by the Secretariat. That notwithstanding, he felt it would be opportune to summarize the main elements in the Italian Government's views on the matter.

Its close concern with the problem was witnessed by the fact that, in July, 1949, at the third session of the General Council of the International Refugee Organization (IRO), the Italian Government had requested that the preparation of an international convention relating to the protection of refugees should be expedited. It was wholeheartedly in favour of embodying all relevant existing international instruments in a single consolidated convention. There were certain fundamental points, however, which would have to be solved to its satisfaction if it was to become a party to such a convention.

It was well known that Italy was faced with an ever-growing problem of over-population, which brought unemployment in its wake. In addition to alien displaced persons, there were some 450,000 Italian refugees, of whom 31,000 were being cared for in government camps. Those persons had become refugees as a result of the second world war and the territorial changes inherent in the Peace Treaty.

Owing to its geographical position, Italy was faced with the problem of catering for two different sets of refugees: first, those who had been displaced as a result of the second world war; and secondly, increasing numbers of persons seeking asylum from eastern European countries. Those two groups formed a disquieting element, in view of the delicate and extremely unstable international situation. Italy occupied an uneasy position close to the dividing line between eastern and western Europe. Hence it was necessary for the refugees in Italy to be moved further afield to countries where they could be safely resettled.

If the draft Convention was to prove effective and acceptable it should clearly distinguish between European countries offering asylum at the first and second stages, and overseas countries accepting refugees for final resettlement.

The definition of the term "refugee" in the new text of article 1 adopted by the General Assembly, and contained in the annex to Assembly resolution 429 (V), satisfied to a large extent the wish often expressed by the Italian delegation that protection should be extended to as many refugees of all categories as possible; refugees should all be regarded purely and simply as unfortunate, destitute and homeless persons.

Chapter III of the draft Convention, dealing with the practice of professions, presented considerable difficulties for the Italian Government, which could not accept any clause the implementation of which could in any way aggravate the serious internal situation due to over-population and unemployment. The Italian Government was confronted with an annual excess of half a million births over deaths, and it could not be expected to commit itself in respect of recommendations relating to naturalization of refugees who had only just entered its territory. With regard to provisions on the right to work, it had repeatedly shown its willingness to co-operate in all humanitarian activities within the framework of the United Nations or any other association of civilized and democratic peoples, and might therefore undertake to put some provision of that kind into effect in Italy as soon as unemployment had been reduced to a level yet to be determined, based on average figures over a certain number of pre-war years.

The Italian Government could only adhere to the proposed convention if it was accepted by a majority of the countries accepting refugees for resettlement. It would require an assurance that refugees allowed to enter Italy would, in accordance with their status under the convention, be able to leave within a reasonable, though generous, period of time.

The Italian Government was particularly interested in the creation of the High Commissioner's Office, which was to succeed IRO, and believed that the High Commissioner could only derive authority for his activities from the legal provisions of the proposed new convention. As Italy was not a member of the United Nations, a special agreement would have to be drawn up to ensure permanent working relations between the High Commissioner's representative in Italy and the interested agencies of the Italian Government.

Mr. MAKIEDO (Yugoslavia) stated that the general attitude of the Yugoslav Government on the problem of refugees was well known, and did not call for detailed exposition. The Yugoslav Government was actuated primarily by humanitarian motives. The Constitution and legislation of Yugoslavia contained certain provisions to safeguard the rights and freedoms of refugees. Those provisions applied to all who fled from persecution for their religious or political opinions or their national or racial origin, to those who sought asylum because they were fighting for democracy or seeking freedom to pursue scientific and cultural work, and to those who had been displaced from their normal homes by disturbances due to war or other factors. The Yugoslav Government was endeavouring to alleviate the position of refugees within its territory by according them rights which were often equivalent to those granted to its own nationals. It had thus gone even further than some of the proposed provisions of the draft Convention.

The problem of refugees was one of international importance, and had become so complicated that it could only be solved on an international basis. Mutual agreement was required to consolidate all existing instruments into a single convention, the main purpose of which should be to relieve the sufferings of countless human beings. The Yugoslav Government was prepared to lend every support in that task.

The draft Convention could be used as the basic working document for the Conference, but it contained some provisions which were not in the interests of refugees in general, and accordingly weakened it. Some of those provisions were of crucial importance, whereas others were of minor significance; in due course, the Yugoslav delegation proposed to submit appropriate amendments.

The Yugoslav Government regarded the definition of the term "refugee" contained in article 1 as unsatisfactory, because it was not conceived broadly enough, and laid down a date-line. Nor could the Yugoslav Government accept a definition which failed to exclude persons who had committed crimes as defined in Article 14 (2) of the Universal Declaration of Human Rights or in Article 6 of the Charter of the International Military Tribunal. Otherwise, notorious war criminals would continue to find protection in the territory of States Members of the United Nations.

His Government was greatly interested in the whole question. For the influx into Yugoslavia of refugees from some of the most ruthless tyrannies ever known to history was steadily increasing.

As regards the draft Convention, the Yugoslav Government was anxious that various omissions should be made good, and that provisions should be included whereby refugees would in numerous respects be accorded the same treatment as nationals of the country of asylum or resettlement. It was also concerned that Contracting States should undertake to prevent the formation of political associations by refugees engaged in activities hostile to their country of origin and thereby endangering friendly relations between the two countries concerned. Steps should also be taken to prevent the exploitation of refugees for political purposes or their organization in military formations. Nothing must be allowed to endanger peace. Propaganda inviting persons to seek refuge in another country and propaganda against repatriation should also be forbidden. The Yugosl- delegation would be submitting specific amendments on those matters too at the appropriate time. It would throughout be guided by two principles, namely, the need to further the welfare of refugees and the need to maintain peace, which all representatives who sincerely wished to find a solution to the problem would undoubtedly endorse.

Mr. ANKER (Norway) said that the Norwegian delegation felt that the general discussion should not be allowed to hold up the work of the Conference unduly. The subject had been amply considered by the Ad hoc Committee - which he complimented on its work - as well as by the Economic and Social Council and the General Assembly.

The Norwegian Government approved, in general, the principles set out in the texts submitted to the Conference, and was prepared to sign, subject to ratification, the Convention and Protocol which would emerge from the Conference's work. For a long time, Norway had been specially interested in the humanitarian problems connected with the refugee question. It had considered it only natural to take an active part in the work of the IRO, set up by the United Nations after the second world war, and had been happy to make the financial sacrifices such participation had entailed. It had been a Norwegian, Fridtjof Nansen, who had been appointed High Commissioner for Refugees by the League of Nations, and yet another Norwegian had been appointed head of the Nansen Office set up after the famous explorer's death. A few years ago, following the repatriation of a large number of refugees, the existence of a hard core of refugees had given rise to a particularly distressing problem. They were refugees who could not be repatriated because they were incapable of performing useful work, or because they were aged, invalid or disabled persons. The Norwegian Government had decided at that time to accept within its frontiers a number of blind refugees and other refugees from the hard core, and would continue to do all it could for refugees.

At the same time, the Norwegian Government experienced difficulties with regard to certain provisions of the draft Convention. It was, for example, concerned by the question covered by article 19. In Norway, one could distinguish two different types of social security. The first included accident insurance, civil servants' pensions and poor relief, and covered all persons domiciled in Norway, whether or not they were Norwegian nationals. The second category comprised old-age pensions, family allowances, pensions for the blind and disabled, and seamen's pensions, and covered Norwegian citizens only. It must

be pointed out, however, that the Norwegian Government was proposing to extend the benefit of the pensions payable to Norwegian sailors to all sailors domiciled for a certain length of time in Norway, and also that it was possible under Norwegian law, and subject to reciprocity, for the benefit of the second category of social security to be granted to foreign nationals who had been resident in Norway for a certain period. Agreements of that type had been concluded in 1949 with Denmark, Finland, Sweden and Iceland.

However, Norway considered that the rights granted to refugees should not be dependent on the existence of reciprocity, and the Norwegian Government was proposing to amend the country's legislation with a view to bringing it into line with the requirements of article 19 of the draft Convention, if the latter was adopted.

The Norwegian delegation reserved the right to submit a number of amendments to the draft Convention, and would make detailed comments when each article was discussed.

Mr. ZUTTER (Switzerland) said that Switzerland had consistently given evidence of its anxiety to see a satisfactory solution to the refugee problem brought about. Switzerland's geographical position made the country a natural asylum. During the second world war, Switzerland had accepted within its territory nearly 300,000 refugees, who had stayed in the country for varying periods. It was prepared to continue to help in settling the refugee question, and followed with interest and sympathy all the efforts being made in that direction by the various international bodies. Even though Switzerland had not become a party to a number of international agreements concerning refugees, its laws had granted them treatment which was, in certain respects, more generous than that provided for in those agreements. Switzerland approved the main outlines of the draft Convention, especially the provisions under which refugees should not be returned across the frontier of territories where their lives or freedom would be threatened. The Swiss delegation considered, however, that it went without saying that the Contracting States must also undertake to help each other and to support a country invaded by a mass-influx of refugees because of its geographical

position, by relieving it of some of the refugees it had admitted. It was obvious that a small country could not accept an unlimited number of refugees without endangering its very existence.

The Swiss delegation would have certain observations, and possibly certain reservations, to make in due course in respect of particular provisions of the draft Convention, though it could state at once that it welcomed the draft with sympathy.

Mr. ROCHEFORT (France) thanked the President for accepting his delegation's proposal regarding the procedure to be followed in the general discussion of the draft Convention. It would indeed be difficult to deal with the rights of refugees without first clarifying, to some extent, article 1 of the draft Convention in the general discussion, that was to say, without knowing what refugees would benefit from the Convention.

The French delegation shared the opinion of the High Commissioner for Refugees that, unlike previous conventions, the draft Convention now before the Conference covered refugees in general.

The only exceptions were domestic refugees, who in any case were not refugees in the legal sense of the word, and refugees already enjoying United Nations assistance. In the latter regard it had to be borne in mind, as the Egyptian representative had pointed out, that such refugees were excluded only temporarily, and that the clause in question would disappear, not by a decision of the Contracting States, but as a result of decisions taken by the United Nations. It could thus be said that the clause in question was really one which provided for deferred inclusion of such refugees.

The present draft did not impose any geographical restriction, the words "in Europe" having been dropped; the Contracting States were bidden to pledge themselves in respect not only of refugees from Europe, but also of refugees from all parts of the world, provided they had become refugees as a result of events subsequent to 1 January, 1951.

The retention of that date-line constituted the only difference between the scope of the mandatory protection deriving from the Statute of the High Commissioner for Refugees and that of the contractual protection deriving from the Convention.

There was no doubt that it was necessary to keep a date-line, since otherwise, as the High Commissioner had pointed out, governments would in fact be asked to sign a blank cheque.

Even with a date-line, however, the present draft represented a blank cheque, first because there was the possibility of the Convention, irrespective of the wishes of the Contracting States, being extended to cover refugees already receiving assistance from the United Nations, that was to say, in actual fact, the Arab refugees in Palestine, and secondly, because, until the work of the Committee of Enquiry financed by the Rockefeller Foundation had been completed, it would be almost impossible to determine what non-European refugees would be entitled to claim the benefits conferred by the Convention.

That blank-cheque formula had been defended in the General Assembly, a body which was ever-mindful of the need for avoiding excessive administrative expenditure, on the ground that the extension already mentioned would not entail additional expense, as the High Commissioner's Office was intended to be an authority, not an administration. That argument was valid so far as the protection afforded by the High Commissioner's Statute was concerned.

In the case of the draft Convention, however, the position was otherwise, since there it was no longer a resolution of the General Assembly that was involved, but real commitments entered into by governments.

An absolutely general formula, applying to all parts of the world, without limitation of date or place, could be defended, but the fact that the scope of the protection afforded by the Statute and of that afforded contractually by the Convention were the same, made it necessary for as many States to accede to the Convention as to the Statute, in so far as that was possible.

The French delegation had considered such a formula desirable, and for that reason had hoped that the text of the Convention would be endorsed by a vote of the General Assembly. At that time, the tendency had been towards more general application of both the mandatory and the contractual protection, based on the fact of international solidarity; despite certain practical drawbacks, that conception had had a certain grandeur and also some positive advantages.

Today, however, that goal had receded into the far distance. In the General Assembly, 41 delegations had voted in favour of article 1 of the Convention, the only one that it had examined. He understood that the Secretariat had sent out 80 invitations to the present Conference. Yet the Conference gave the appearance of being nothing more than a meeting of the Council of Europe, slightly enlarged. Twenty-three delegations were present, of whom four represented States that were not Members of the United Nations; hence only a small fraction of the 41 governments that had voted for article 1 in the General Assembly had been willing to come to Geneva to sign the Convention and nearly all those who had done so were European countries.

That meant that, in fact, those who had dictated the deletion of the words "in Europe" had done so without any feeling of definite responsibility; it meant that it was really European refugees who were still involved; it meant, too, that the non-European countries in whose territories European refugees were living did not wish to enter into commitments in respect of them.

It meant, moreover, that the system of generalized protection had in practice failed, and that both by reason of the absence of very many non-European countries who had European refugees in their territories and because of the position which the countries of immigration represented were known to have taken up, namely, that they wished to take part in the framing of the Convention but were resolved not to sign it on the pretext that the problem of protection did not arise in their countries, there seemed to be no practical possibility of the Conference's succeeding in giving refugees in general, and European refugees in particular, a truly international status.

The French delegation was glad in that connexion to associate itself with the view expressed by the High Commissioner, that even those countries where the problem of protection would not arise, or at any rate not in the same way, should be willing to sign the Convention.

The world, even the New World, was not in fact the best of all possible worlds. Legal protection was only one aspect of the question. One had to realize that in the New World, as in Europe, there would be differences of opinion and the distrust which derived from the division of the world, if one was to understand that, however carefully selected he might be, a refugee needed protection so long as he was not a citizen - and he would not be a citizen for five years in the countries in question. To whom and to what could he then turn? To the High Commissioner no doubt, but in that case his appeal would be based on resolutions of the General Assembly, not on commitments entered into by the government concerned.

However that might be, the French delegation was obliged to conclude, from the very composition of the Conference and from the position taken by certain delegations in it, that the system of generalized protection, which France had supported, had suffered a setback.

Around the conference table were assembled only those countries which were interested in European refugees, and in those circumstances the European countries could not be expected to agree to assume responsibilities in respect of refugees from countries which were not represented. The great family of IRO refugees scattered throughout the world would enjoy here and there the rights which the countries that had received them might be pleased to grant them and to continue granting them; but there would be no commitment on the part of those countries.

How was it possible in those circumstances to do other than conclude that to base the problem on a general provision from which the words "in Europe" were missing would be a travesty?

The problem was distorted in another way too, that to which the representative of the International Committee of the Red Cross had referred at the second meeting,

in speaking of the need, in certain cases, for international assistance and solidarity; the representatives of Italy and Switzerland had subsequently made the same point. To take into account the wishes of a non-European majority, which was no longer represented, it had been necessary, when framing the draft Convention, to remove any mention of that sort, except for a vague allusion which those countries had deigned to allow in the preamble.

Mr. PETRÉN (Sweden) wished to make two general observations on article 1.

In the first place, experience had shown that certain refugees had been persecuted because they belonged to particular social groups. The draft Convention made no provision for such cases, and one designed to cover them should accordingly be included.

In the second place, sub-paragraph A (2) of article 1, relating to the scope of the Convention, made mention of other reasons for seeking exile than the fear of persecution. Such other reasons were completely insusceptible of legal definition. It seemed preferable, therefore, to delete that provision from the draft Convention.

Mr. HOARE (United Kingdom) said that the United Kingdom Government welcomed the proposal that the draft Convention should be completed and signed. It would constitute an extremely important and much needed charter for the many people who were in the unhappy position of being refugees. He therefore hoped that the maximum possible number of States would accede to it.

He felt that he need add nothing to what had been said at the previous meeting by the United Nations High Commissioner for Refugees concerning the importance and value of the draft Convention and the method of work which the Conference should follow.

In order to secure the maximum number of accessions to the Convention, he agreed with the High Commissioner that there should be a certain amount of give and take on the part of delegations with regard to its wording. He was therefore

prepared broadly to accept the definition of the term "refugee" given in article 1, although the United Kingdom delegation would have preferred a wider definition on the lines indicated by the French representative.

Although he did not intend to propose any basic departures from the text of the draft Convention, he would at a later stage have some amendments and suggestions to introduce with a view to clarifying the text. However, as the President had invited comments on article 1 at the present stage, he would say at once, while reserving his right to revert to that article later, that the United Kingdom delegation was somewhat concerned by the phrase "he falls under the provisions of article 14, paragraph 2, of the Universal Declaration of Human Rights" in paragraph E. He presumed that the intention of the phrase was to exclude so-called "common criminals", but it was not clear whether those criminals should have been accused or convicted in their countries of origin or in the countries in which they had sought refuge. That was a point which would have to be examined when paragraph E came up for discussion. All he was concerned with at the moment was the idea that "common criminals" should be excluded from the category of refugee, even though they might fulfil all the other conditions for inclusion therein. While there was a clear case for granting States that were not in a position to control large influxes of refugees and were thus deprived of the power of selection the right to turn back or remove "common criminals", who were an undesirable element in any country, he submitted that, until such persons were removed, there was no case for denying them the rights envisaged in the Convention, which included all the usual personal rights, such as the right to appear before the courts or to own property. It was wrong that a person whom it might ultimately be necessary to expel should be regarded as a pariah in the meantime. Thus, although article 28, which imposed an absolute ban on expulsion, might require some modification to cover such cases as he had mentioned, there was no justification for excluding such persons from all the rights provided for in the Convention.

Mr. WARREN (United States of America) recalled that the United States of America had been represented on the Ad Hoc Committee, and that its position

was well known. The United States Government was interested in the drafting of a Convention which would be acceptable to the greatest possible number of States, and would offer its full collaboration to that end. It was, however, unlikely that the United States of America would sign and ratify the Convention, because it was not suited to its national legislation. The Convention was drafted in terms adapted to countries practising the system of reciprocity in the treatment of foreign residents. Under the United States Constitution, and the country's federal and State laws, all residents, including foreigners, enjoyed substantially the same rights and privileges as those provided for in the Convention. In many respects the position of refugees was the same as that of nationals; they were, for example, entitled to social insurance benefits and to acquire citizenship in five years. They were, however, excluded from certain professions and did not enjoy the right to vote. In fact, no distinction was made between refugees and other resident aliens.

The United States delegation would give serious consideration to the final draft of the Convention. If the Convention was widely accepted, it would give refugees a legal standing in certain countries and would provide them with a foundation on which they could achieve their independence and come to lead satisfactory lives.

It would be difficult for his Government to accept certain commitments and to render itself liable to accept refugees without qualification. Whatever action the United States of America might take in that connexion was a matter for the future, when the problem arose; the country's past record was well known and needed no justification.

Mr. CHANCE (Canada) said that he was in much the same position as the United States representative. From the outset of the work on the subject in the Ad Hoc Committee, the Canadian Government had shown a genuine interest in it, and hoped that something constructive and generally acceptable would emerge from the present Conference's deliberations.

Canada was separated by a vast ocean from the countries which were in close

contact with the refugee problem, and therefore approached the subject with modesty and even humility. There was no serious refugee problem confronting the Canadian Government, but it would lend its assistance in working out compromises and in improving the draft Convention.

Once a person, irrespective of origin, had "legally landed" in Canada, he ceased to be a refugee. He did not enjoy the right to vote for a certain period, but he was a free man for all practical purposes. Whether Canada acceded or did not accede to the Convention, the Canadian people would continue to treat refugees in the same way as all other bona fide immigrants, who already enjoyed in his country all the rights and privileges which the Convention sought to confer. He did not wish to appear complacent simply because Canada happened to be in a certain geographical position; on the contrary, it was his genuine desire to see a Convention drafted that could be signed in good faith by the greatest possible number of countries.

Certain difficulties arose from the federal structure of his country. He wished to point out that, even if Canada signed the final act, its federal structure meant that the provincial authorities were sovereign in certain fields. He knew that the Secretariat was bearing that consideration in mind, and hoped that it would be possible to draft a suitable text for the so-called "federal State clause".

The PRESIDENT said that Senator Henri Rolin, Chairman of the Inter-Parliamentary Union, wished to make a general statement. Since Mr. Rolin was unable to attend the Conference for several days, he should be given the opportunity of speaking when he arrived. With that reservation he (the President) felt that he could consider the general debate closed.

MOSTAFA Bey (Egypt) was rather doubtful about the advisability of closing the general discussion. Several representatives had made important statements which would undoubtedly influence the course of the Conference's work, hence it was desirable that delegations should be given time to digest the speeches, which might call for comment.

The PRESIDENT agreed that delegations would require a certain time to study the various points that had been made. Moreover, they would be unable to consider the general statements in detail until the summary records were distributed. He therefore suggested that the Conference should proceed to consider the various articles individually, starting with article 2, on the understanding that representatives would be entitled to revert to points on which they wished to make statements of a general nature. In other words the general debate was not to be considered finally closed.

The President's suggestion was adopted.

2. ARTICLE 2 OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (A/CONF.2/1, A/CONF.2/10, A/CONF.2/12, A/CONF.2/18) - GENERAL OBLIGATIONS

The PRESIDENT pointed out that the Belgian and Australian representatives had tabled amendments (A/CONF.2/10 and A/CONF.2/12 respectively) to article 2, and invited them to introduce their proposals.

Mr. HERMENT (Belgium) said that his amendment concerned mainly a question of form. The Convention was an instrument concluded between States, and the beneficiaries, namely, the refugees, were not parties to it. Hence the Convention should not impose any direct obligation on refugees, and article 2 required to be modified accordingly. That was the purpose of the Belgian amendment.

Mr. SHAW (Australia), recalling the statements made by the United States and Canadian representatives, said that his interest in the subject was also of a general nature. The draft Convention was not of direct interest to Australia, since it did not confer any benefits on migrants which were not already provided for by Australian legislation; refugees resident in Australia, like all other foreigners, enjoyed virtually the same rights and privileges as British citizens. His country's interest in the draft Convention was based on its desire to ensure for refugees a proper definition of their status. One point which presented difficulties for the Australian Government in respect of

the Convention was the Displaced Persons Resettlement Scheme affecting migrants to Australia, and it was for that reason that he had submitted his amendment.

In 1947, when the Displaced Persons Resettlement Scheme had started, the Australian Government had undertaken to provide resettlement opportunities for selected migrants, and also to find employment for all displaced persons fit for employment and selected under the Scheme. It had also agreed to ensure that such employment would be under conditions and paid at wage rates not less favourable than those enjoyed by Australians doing similar work. That responsibility could be assumed only if the Australian Government exercised control over the employment of immigrant displaced persons. Appropriate provisions had therefore been included in the Agreement with IRO, and each immigrant was required to sign the following undertaking:

> "I fully understand that I must remain in the employment found for me for a period of up to two years and that I shall not be permitted to change that employment during that period without the consent of the Department of Immigration."

It had been made clear from the outset that the contract entered into by the migrant was with the Australian Government and not with any specific employer, so that, if any arrangement proved unsuitable through the fault either of the employer or of the employee, suitable adjustment could be made.

The Scheme provided for a very high rate of intake of migrants, which could not be sustained over a long period unless it was possible to ensure that certain basic industries and services were provided with labour to enable them to expand their production to keep pace with the growth of population. Complete freedom of movement within Australia would have resulted in metropolitan areas receiving more than their share of newly arrived migrants.

Linked to those two considerations was the necessity for Australia to develop its resources. The manpower for that purpose could be obtained only through immigration, but the purpose could not be achieved unless measures existed to ensure that the additional manpower thus obtained was suitably employed.

The Australian Government was put to considerable expense in selecting migrants, in contributing to the cost of their journey to Australia, in arranging for their reception, and generally in helping them to adapt themselves to their new place in the community. It had therefore been regarded as reasonable that migrants should recognize their obligation to their new country, and continue to do the work for which they were most needed for a limited period.

The Scheme was also beneficial from the migrants' point of view. The counterpart to the migrant's undertaking to remain for two years in the employment found for him was the Australian Government's undertaking to find work for him; that ensured that he was engaged in remunerative employment practically from the date of his arrival in the country. It also prevented his exploitation by unscrupulous employers, because all jobs filled by migrants were carefully checked by the Commonwealth Employment Service before placement was made.

The Scheme further gave migrants an opportunity of becoming familiar with Australia generally and with Australian working conditions, of learning something of the language, and frequently of building up small savings before they were left to their own resources. It ensured their familiarity with at least one type of work under Australian conditions, in which they could continue, as most of them did, when their contracts had expired. It ensured their coming into contact with the Australian community to an extent which would not otherwise have occurred, and thus facilitated their assimilation.

The success of the Displaced Persons Resettlement Scheme was due in no small measure to the fulfilment by migrants of their contracts. It had greatly contributed to the fact that over 164,000 displaced persons had been accepted into the Australian community with the minimum of dislocation.

Under new migration agreements coming into force in the course of 1951 for migrants from the Netherlands and Italy, the Governments of those countries, which were naturally concerned about the welfare of their nationals abroad, had satisfied themselves that a two-year contract was in the best interests of the migrants and had agreed to similar provisions for emigrants from their own countries to Australia.

Articles 3, 12, 13, 14 and 21 of the draft Convention might be considered as conflicting with the Australian two-year contract requirements, and he had therefore tabled his amendment on the assumption that article 2 related to the entire Convention. He was also in favour of the approach of the Belgian amendment (A/CONF.2/10) and suggested that the two amendments might be combined by the addition of the words ", and observe the conditions upon which their entry to the country was permitted," after the words "maintenance of public order" in the Belgian amendment.

Mr. ROBINSON (Israel) appreciated the particular importance which the Australian representative attached to his amendment, and felt that there should be no obstacle in the way of meeting his point either by adopting his amendment, or in some other way.

But, the Belgian amendment was a revolutionary departure from the original intention of article 2. He recalled the fact that when article 2 had been drafted, many representatives had felt that there was no need for it. It had been maintained that the laws of a given country obviously applied to refugees and aliens as well as to nationals of the country. Article 2 had been introduced for psychological reasons, and to maintain a balance, because the draft Convention as a whole tended to over-emphasize the rights and privileges of refugees. It was psychologically advantageous for a refugee, on consulting the Convention, to note his obligations towards his host country. Article 2 was therefore a qualifying clause to article 1.

The Belgian amendment would entirely change the meaning of article 2. If it were adopted, refugees who were guilty, for example, of minor infractions of the law would be deprived of all their rights and privileges. To try to make saints out of refugees would be to set the Convention at naught. Again, while he believed in the good faith of the countries that would sign the Convention, it could not be denied that xenophobia existed in certain countries, and junior officials who disliked refugees might seek pretexts to deprive them of their rights. Refugees should not be penalized unduly for minor contraventions. He therefore urged the Belgian representative to reconsider his amendment.

Mr. HOARE (United Kingdom) fully supported the Israeli representative. He also sympathised with the difficulties described by the Australian representative, because the same difficulties confronted the United Kingdom, whose migrants came mainly from the continent of Europe.

He thought that articles 12 and 13 covered the case adequately. Article 12 provided that Contracting States should accord to refugees lawfully living in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances. In other words, refugees would be admitted on the same terms as other foreigners of a comparable category. If that was the meaning of the words "in the same circumstances" the point was covered; otherwise article 12 would have to be amended.

As he understood it, the general effect of many articles of the Convention was to assimilate refugees and other foreigners. That general conception was qualified by the words "in the same circumstances", since the treatment of foreigners was not necessarily uniform, but would depend in many instances upon the individual's circumstances and claims to consideration.

The Belgian amendment would confer on States full power to abolish refugee status for any infractions of the laws of the country concerned, which was such a large extension of the meaning of article 2 that he would hesitate to accept it. It would, in fact, nullify all the rights conferred by the Convention.

Mr. HERMENT (Belgium) thought that the Israeli representative had exaggerated the effect of the Belgian amendment. It was really no more, as he (Mr. Herment) had already said, than a question of form. It was impossible to write into a convention an obligation resting on persons who were not parties thereto. His amendment would permit Contracting States to withdraw the benefit of the provisions of the Convention from refugees contravening the laws and regulations of the receiving country, or failing to fulfil their duties towards that country or guilty of disturbing public order. His delegation still considered that although the Convention could grant rights to refugees, it could not reasonably impose obligations pure and simple upon them, as it could if they were contracting parties to it.

Mr. CHANCE (Canada) appreciated the point made by the Belgian representative, but shared the anxiety of the Israeli and United Kingdom representatives about the inclusion of a clause which might frustrate the purposes of the Convention.

Canada was in a similar position to Australia, inasmuch as it found it necessary in the interests of migrants, whether refugees, displaced persons or immigrants, to ask them to remain in the same type of work for at least one year unless they had sufficient financial resources to take care of themselves. On the other hand, he did not have the same difficulty as the Australian representative with regard to the Convention. He submitted that once a refugee entered Australia, he was no longer a refugee in the sense of the Convention; in fact, he acquired a new status. He therefore felt that the Australian representative had no great grounds for anxiety. In any case, if an amendment was needed, it could be introduced more appropriately to article 12.

MOSTAFA Bey (Egypt) considered that the misgivings to which the Belgian amendment had given rise were totally unjustified. The Belgian amendment constituted, not a formal and positive rule providing for punishment of offenders, but rather a moral rule. There was undoubtedly a relation of cause and effect between article 2 and article 27, but it was the latter article which was punitive in character. In any case, whether the Belgian amendment was adopted or not, the Egyptian delegation considered it necessary to add to the end of article 2 the words "and of morality", for morality was inseparable from public order.

Mr. ROCHEFORT (France) introduced an amendment (A/CONF.2/18) to article 2.

That amendment was inspired by the fears that his country felt, fears which had been increasing for some time. It was necessary that the countries receiving clandestine refugees should have at their disposal adequate means for repressing the activities of certain refugees liable to threaten internal or external security.

Baron van BOETZELAER (Netherlands) appreciated the reasons which had prompted the introduction of the Australian amendment, but felt that its scope might be too wide. It could well lead to abuses, as States might attach all types of conditions to the entry of refugees. He therefore urged the Australian representative to wait until article 12 was taken up before pressing his point.

With regard to the Belgian amendment, he agreed with the view expressed by the United Kingdom representative.

Mr. SHAW (Australia) said that the Canadian representative's reference to what was meant in the Convention by "a refugee" raised the question of article 1. As Australia had not participated in the previous discussions on article 1, he had refrained from bringing the matter up, fearing that it might give rise to a long discussion. The Australian immigration authorities considered the words "in the same circumstances" in article 12 to be insufficiently clear, because they expressed in a negative manner what would be more properly expressed in a more positive form. The same difficulty arose with articles 3, 13, 14 and 21. Even if he accepted a more elaborate formula to express the same idea, it would have to be included in all those articles, and he had therefore considered it more practical to introduce a general clause in article 2 or article 3. His amendment could be introduced equally well in either article 2 or article 3, but he felt that the difficulties of the Australian authorities would not be met merely by modifying article 12 and the other articles which he had listed.

The meeting rose at 1.0 p.m.