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ON THE STATUS OF REFUGEES AND
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DRAFT CONVENTION RELATING
TO THE STATUS OF REFUGEES

Report of the Committee appointed to study Article 3 (Non-Discrimination) of the
draft Convention relating to the status of refugees.

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

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

2. The difficulties which arose in connection with this Article were due mainly to the difference in wording of the French and English texts of Article 3. The French text of this Article reads as follows: "Aucun Etat contractant ne prendra de mesures discriminatoires sur son territoire, contre un réfugié en raison de sa race, de sa religion ou de son pays d'origine."

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

The difficulties referred to above can be summarized as follows:

- a. It was maintained that while the English version contained a prohibition of discrimination against refugees only "within the territory" of the Contracting States, the French version implied that this prohibition extended to all activities of States in regard to refugees, be they within their boundaries or beyond them. While non-discrimination on grounds of race or religion did not raise any difficulties, apprehension was felt that non-discrimination on the ground of country of origin might be interpreted as prohibiting systems of selective immigration on the basis of quotas assigned to particular countries.
- b. It was thought that the words "within its territory" in the place where they occur in the English text could be interpreted a contrario as permitting such discrimination outside the territory of the Contracting State. A document drawn up under the auspices of the United Nations ought not to be susceptible of such an interpretation.
- c. It was furthermore felt by some delegations that the expression "within its territory" in the English text might - if restrictively interpreted - exclude the operation of the non-discrimination clause, in regard to those Articles of the Convention whose effect is extra-territorial, as, for instance, Articles 7, 11 (par.3), 19 (par.2) and 23.
- d. Finally, it was thought by other members of the Committee that a provision on non-discrimination must be an explicit one, and could not appropriately be inserted in Articles establishing facts, but not imposing obligations, as, for instance, Article 1.

3. It was noted during the discussion that, whatever might be the scope of Article 26, the Convention does not deal either with the admission of refugees (in countries of first or second asylum) or with their resettlement (in countries of immigration).
4. The members of the Committee were in full agreement in their adherence to the principle of non-discrimination, in their desire to reach an acceptable (preferably a unanimous) solution which should cover the whole Convention, and in their determination not to "legislate" beyond the Convention.
5. As a result of the discussion, the Committee was faced with the following choices:
 - (1): the English version of Article 3.
 - (2): the French version of Article 3 as interpreted by the French-speaking delegations.
 - (3): the following text of Article 3:

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

(It will be noted that the words "within its territory" have been omitted.)
 - (4): an article 3 consisting of 2 paragraphs of which the first is identical with choice (3) and the second should read as follows:

"The present provision does not affect the conditions of immigration or residence-permit to which foreigners, whether or not they are refugees are subject".
 - (5): delete Article 3 and insert in Article 1 (Definition) Section A, second line, between the words "to any persons" and "who" the words: "without discrimination as to race, religion or country of origin."
 - (6): a new Article which would replace Article 3 and would immediately follow Article 1 reading as follows:

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

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

Choice (1) = 2 objections

Choice (2) = 3 objections

Choice (3) = 2 objections

Choice (4) = 2 objections

Choice (5) = 1 objection

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

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