



GENERAL

A/CONF.2/SR.2
20 July 1951

ORIGINAL: ENGLISH
and FRENCH

Dual distribution

CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE SECOND MEETING

held at the Palais des Nations, Geneva,
on Monday, 2 July 1951, at 3 p.m.

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Present:

President: Mr. LARSEN (Denmark)

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey.
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Luxembourg	Mr. STURM
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. SCHURCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO

Observer:

Iran

Mr. KAFAI

High Commissioner for Refugees

Mr. van HEUVEN-GOEDHART

Representatives of specialized agencies and other inter-governmental organizations:

International Labour Organisation	Mr. WOLF
International Refugee Organization	Mr. STEPHENS
Council of Europe	Mr. von SCHNIEDEN

Representatives of non-governmental organizations:

Category B and Register

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Committee of the Red Cross	Mr. RUEGGER Mr. COURSIER
International Federation of the Friends of Young Women	Miss van WIRVEKE
International Union of Catholic Women's Leagues	Miss de ROMER
League of Red Cross Societies	Mr. LEDERMANN
World Jewish Congress	Mr. RIEGNER
World's Young Women's Christian Association	Miss ARNOLD

Secretariat:

Mr. Humphrey
Miss Kitchen

Executive Secretary
Deputy Executive Secretary

1. QUESTION OF THE PARTICIPATION OF THE HOLY SEE IN THE CONFERENCE

The PRESIDENT asked those representatives who had not yet submitted their credentials to do so as soon as possible.

Mr. WARREN (United States of America) wished to raise the question of the participation of the Holy See in the Conference. An observer from the Vatican had regularly attended the meetings of the International Refugee Organization. Moreover, the Holy See had always shown interest in and associated itself with various activities connected with the refugee problem.

The PRESIDENT stated that the Secretary-General of the United Nations had not sent an invitation to the Holy See. It was for the Conference to take the appropriate steps if it wished the Holy See to send an observer.

MOSTAFA Bey (Egypt) thought that the Holy See, which had carried out splendid humanitarian work on behalf of refugees, would undoubtedly be able to make a valuable contribution to the Conference's work, and therefore proposed that it be invited to send a representative to the Conference. He considered, moreover, that it should be represented, not by an observer but by a plenipotentiary. The Holy See's statehood had been recognized by the Lateran Treaty, and it was therefore logical that it should enjoy an equal footing with the other States participating in the Conference.

Mr. ROCHEFORT (France), Mr. del DRAGO (Italy) and Mr. WARREN (United States of America) supported the Egyptian representative's proposal.

The Egyptian proposal was unanimously adopted.

2. ADOPTION OF THE PROVISIONAL RULES OF PROCEDURE (item 4 of the agenda) (A/CONF.2/3 and Add.1 thereto, A/CONF.2/8) (resumed from the first meeting)

The PRESIDENT invited representatives to examine the provisional rules of procedure as set out in documents A/CONF.2/3 and A/CONF.2/3/Add.1

Rules 1 - 22 were adopted without comment.

Mr. ROCHEFORT (France) pointed out that in the French text of rule 23 the word "Il" should read "Elle".

Rule 23 was adopted subject to correction of the French text.

Rules 24, 25 and 26 were adopted without comment.

Replying to Mr. ROCHEFORT (France), who expressed his support for the additional rule proposed by the Belgian delegation (A/CONF.2/8), Mr. HERMENT (Belgium) said that his proposed text should be assimilated to rule 27, since its object was to confer on the Council of Europe the rights which rule 27 accorded to the specialized agencies and non-governmental organizations. The Council of Europe took a keen interest in the refugee problem, as was demonstrated by the fact that its experts had recently met at Strasbourg to study the question. The Council would therefore be able to make a positive contribution to the work of the Conference.

If his amendment were adopted, the title of Chapter XII of the rules of procedure should be amended consequentially to read: "Specialized agencies, and inter-governmental and non-governmental organizations".

The PRESIDENT drew attention to the Secretariat's proposal (A/CONF.2/3/Add.1) to the effect that a new paragraph 3 be added to rule 27. Assuming that both it and the Belgian proposal were adopted, rule 27 would consist of four paragraphs instead of the original two.

In reply to Mr. WARREN (United States of America), the EXECUTIVE SECRETARY explained that the purpose of the Secretariat's proposal was to provide a suitable status for those non-governmental organizations which had been admitted to the Register, but had not been granted consultative status with the Economic and Social Council.

The Belgian proposal (A/CONF.2/8) was adopted.

The Secretariat's proposal (A/CONF.2/3/Add.1) was adopted.

Rule 27, as amended, was adopted.

Rule 28 was adopted without comment.

The provisional rules of procedure (A/CONF.2/3) were unanimously adopted as a whole and as amended.

3. PROCEDURE FOR THE CONSIDERATION OF

- (a) THE DRAFT CONVENTION ON THE STATUS OF REFUGEES, and
- (b) THE DRAFT PROTOCOL ON THE STATUS OF STATELESS PERSONS
(item 5 of the agenda)

The PRESIDENT recalled that certain governments had had many previous opportunities of making known their points of view in the General Assembly, the Economic and Social Council, and the Ad hoc Committee on Refugees and Stateless Persons. Other governments, however, had not participated in those earlier discussions and would no doubt wish to declare their general attitude before the Conference started its detailed consideration of the draft Convention.

Mr. ROBINSON (Israel) wished to submit certain specific proposals concerning procedure. In the Israeli delegation's view, the Conference had first to solve four distinct problems. The first was whether the draft Convention contained in document A/CONF.2/1 should be taken as the basis for the Conference's work; the second was whether or not there should be a general discussion; the third issue related to the procedure to be followed in examining the draft Convention if it was accepted as the basic working document; and, lastly, a number of questions had been left unresolved in the draft Convention, such as, for instance, the questions of the admission of refugees, of military service, of the federal State clause and so on. When and how should the Conference deal with those outstanding questions?

As to the first issue, he would point out that, although the General Assembly had recommended that the Conference adopt the draft Convention (A/CONF.2/1) as a basis for its work, the Conference was, as the Executive Secretary had rightly pointed out at the preceding meeting, sovereign, and hence was not bound by any decisions or recommendations emanating from the General Assembly. It would therefore seem that the Conference should formally record

its desire to take the draft Convention as a basis for its work.

With regard to the desirability of holding a general discussion, although it was certainly true that the refugee problem had been discussed at great length in the past, it would surely only be fair to give those States which had not participated in the earlier meetings an opportunity of expressing their views.

Finally, he would suggest that the Conference might entrust the task of linguistic and legal co-ordination to a special committee. The work of such a body would be greatly facilitated by the valuable document prepared by the Secretariat (A/CONF.2/5), in which the various discrepancies between the English and French texts of the draft Convention and the draft Protocol were set out.

Mr. ROCHEFORT (France) thought that the analytical statement of the representative of Israel contained some most useful and constructive proposals. The French delegation would like to emphasize one point that it regarded as essential, namely, the necessity for holding a general discussion. It would be useful to know what attitude the various States represented were proposing to take with regard to signature of the Convention, and how far they might be inclined to enter reservations.

Mr. HERMENT (Belgium) thought it would be premature to expect States definitely to declare their attitude while they were still ignorant of the nature of the text to be adopted. Hence he felt that it would be desirable to start by drawing up a final version of the text.

Nor did he consider that it would be wise to set up drafting committees for the time being, although such committees might do useful work later in dealing with any particular passage in the draft Convention that gave rise to difficulties, or in putting the finishing touches to the final draft.

Mr. FRITZER (Austria) said that the Austrian Government was in favour of the adoption of an international Convention for regulating the status of refugees. Austria would have no difficulty in subscribing to such an instrument, since in actual practice she was granting refugees most of the benefits provided

for in the draft Convention. Undoubtedly, the Convention would encroach to a limited extent on the sovereignty of States and entail financial obligations for them. Nevertheless, his country, having already admitted a considerable number of refugees into her territory, was prepared to sign the Convention, subject to certain reservations.

The PRESIDENT, replying to a question by Mr. del DRAGO (Italy), explained that the Italian Government's observations had been published in document E/1703/Add.6

Mr. CHANCE (Canada), supported by Mr. WARREN (United States of America), approved the Israeli representative's observations, and formally proposed that the Conference adopt as its basic working document the draft Convention as set out in document A/CONF.2/1.

Mr. SHAW (Australia) assumed that adoption of the Canadian proposal would not preclude the inclusion in the draft Convention of additional articles, such as one relating to colonial and dependent territories and what was generally known as the federal State clause.

It was so agreed.

The Canadian proposal was unanimously adopted.

It was further agreed that a general discussion should be held.

The PRESIDENT recalled that the Belgian representative had made a valuable and constructive comment in connection with the Israeli representative's proposal that a drafting committee should be set up. He (the President) fully agreed that committees should be set up only as and when occasion arose; that was not yet the case. Later, the Conference would probably wish to set up a committee to revise the draft Convention from the point of view of style and to collate the two texts.

It was agreed that drafting committees should be set up only as the need for them arose.

The PRESIDENT suggested that the questions left unresolved in the text of the draft Convention should be dealt with in the following manner: any questions relating to specific articles in the draft Convention should be taken in conjunction with those articles; other points should be taken up as soon as the Conference had concluded its work on the substantive articles, and before it started to examine the executory and transitory provisions (Chapter VI).

It was so agreed.

4. GENERAL DISCUSSION

Mr. van HEUVEN-GOEDHART, High Commissioner for Refugees, expressed his appreciation at being granted the opportunity of addressing the first conference convened to consider an international instrument on the status of refugees in general, as defined in article 1 of the draft Convention (A/CONF.2/1). Hitherto, such international agreements as had been concluded had only regulated the status of particular groups of refugees. But the purpose of the proposed convention was to consolidate existing agreements and conventions and, further, to determine the status of those refugees who had so far enjoyed no protection under any of the existing instruments. That fact alone demonstrated the importance of the Conference and of the work it was about to undertake.

One of the main disabilities under which refugees laboured was their uncertainty of status, since in their case there was no link between the individual and international law, nor did the protection of the Government of their country of nationality extend to them. Their position was both precarious and unfortunate, since they were bereft of the benefits of international law which possession of nationality normally ensured. A convention of the type proposed would give refugees their proper standing in international law, and would more clearly define their rights and duties, not only in their own interest but also in that of the governments of the countries in which they resided.

Action taken in other fields by the United Nations had shown that human rights and fundamental freedoms were a matter of international concern. There was surely no other group of persons who more urgently needed to have their rights defined in international law than did refugees. A convention on the status of refugees would therefore form an essential supplement to any international covenant on human rights. A global convention on the status of refugees might well develop into a refugees' charter. He did not doubt that thousands of refugees scattered over many countries would be endeavouring to find out about the proceedings of the Conference and fervently hoping for its success.

The success of the Conference was also absolutely vital to himself, to enable him to discharge the functions with which he had been charged by the General Assembly. Among them, special importance attached to the supervision of the application of certain conventions and agreements; those would include the proposed Convention on the Status of Refugees, by virtue of its provisions as at present drafted. He could not refrain from expressing satisfaction at the number of Governments that had sent representatives to the Conference and thereby signified their interest in the refugee problem.

The Conference had just decided to take as the basis for its discussions the draft Convention and the draft Protocol drawn up by the Ad hoc Committee on Refugees and Stateless Persons. The Ad hoc Committee had considered the problem at two lengthy sessions, and tribute must be paid to the magnificent work done by its members, which would undoubtedly greatly facilitate the Conference's task. In his view, the Ad hoc Committee deserved to be specially commended on its wisdom and on its sense of balance. He would be the last person to under-estimate the difficulty of drafting a convention which must, so far as possible, be acceptable to all Governments while at the same time laying down adequate standards for the status of refugees. Legal, economic and social conditions varied from country to country. Different legal systems, different geographical conditions and different levels of economic and social development must all inevitably influence the attitude of countries to the refugee problem. The Ad hoc Committee had had to try to find a common

denominator. It had not dared to attempt to prescribe the best possible status for refugees, since that would have made the convention unacceptable to many countries. But, though unable to achieve perfection, the Ad hoc Committee had not sunk to the lowest common denominator, and had declined to draw up a convention in terms of the laws and legal standards obtaining in any given country. Those standards varied very considerably, and the Committee had had to hold the balance between widely divergent views. As it had stated in its first report (E/1618), it had, as the Ad hoc Committee on Statelessness and Related Matters, steered a middle course. Its approach to the problem was surely the right one, being as it was both humanitarian and realistic. He would appeal to the Conference to approach the problem along the same lines. Though pre-eminently humanitarian, it must yet be solved by the machinery of international law.

Certain governments might well claim that their legislation already provided for all the rights laid down in the present draft Convention, and that it even went further in many respects. Such Governments would have no difficulty in signing the proposed instrument, and it was of the utmost importance that they should set an example by doing so. On the other hand, he was aware that not all the provisions of the draft Convention were adapted to conditions in every country. Clearly, governments would wish to examine the text very carefully, since it contained obligations binding on all signatory States. Such careful examination might reveal that in some respects the Convention deviated from or was inconsistent with the legislation in force in certain countries. Again, the adoption of some of the proposed provisions might entail some degree of sacrifice for such countries, he would submit that such a sacrifice would be worth while. International co-operation and international agreements always involved a measure of sacrifice, and where was sacrifice more justified than in the case of a cause which was in the truest sense of the word humanitarian?

There was general agreement that one of the first things that must be done was to improve the situation of refugees. No such improvement would result if the convention were simply a codification of the existing legislation

in certain countries.

If a government felt that any particular provision was not in keeping with the situation in its country, or that legal, political, economic or social circumstances made it impossible for it to assume certain specific commitments, it might fall back on a reservation. The liberal clause on reservations proposed in article 36 was designed to facilitate the accession to the Convention of governments which might, for certain reasons, consider it indispensable to enter a reservation.

Since, in his view, the Ad hoc Committee's draft laid down adequate standards for the status of refugees, it was unnecessary for him to suggest any major amendments to the text. He would therefore limit himself to surveying briefly its main provisions. They had been very fully discussed by the competent organs of the United Nations, and it might therefore be useful if he were to describe both the background and the developments that had led up to the drafting of the text now before the Conference.

The definition of the term "refugee", set out in article 1, had been discussed at length by the Ad hoc Committee at its first session, by the Economic and Social Council and by the General Assembly. The definition annexed to General Assembly resolution 429(V), under which the present Conference had been convened, was based on the principle of definition by categories. The General Assembly had taken the view that governments would wish to assume the legally binding commitments laid down in the draft Convention only with regard to definite groups of refugees, and that they would not be prepared to "sign a blank cheque" in respect of unknown future groups.

In document A/CONF.2/4, article 1 of the draft Convention had been set out in juxtaposition to the corresponding provisions of the Statute of the Office of the United Nations High Commissioner for Refugees. The differences between the two texts were thus clearly brought out. The fulfilment of his mandate would be facilitated if the two texts could be brought into harmony.

The Ad hoc Committee had had the happy thought of listing the general obligations of refugees at the beginning of the draft Convention, in article 2.

Refugees had not only rights, but obligations too: they must obey the laws of their country of residence and adapt themselves to the best of their ability to their new environment.

The principle of non-discrimination, laid down in article 3, would, he believed, meet with general approval, although different opinions might be held as to the best way of wording such a provision.

The principle of exemption from reciprocity, as laid down in article 4, was of pre-eminent importance for refugees. Reciprocity played a great rôle in international relations, and in the treatment currently accorded to aliens in their country of residence. Refugees, who, by definition, did not enjoy the diplomatic protection of their country of origin, were now placed outside the pattern of reciprocal treatment and reciprocity treaties. They possessed no bargaining value, and in their case the principle of reciprocity lost its raison d'être. Article 4 of the draft Convention laid down that refugees should be exempt from reciprocity on certain conditions. Although the principle had seemed generally acceptable in itself, it had proved difficult to find a formula which would grant refugees those rights that were normally granted to aliens on the basis of reciprocity, but which would not automatically confer on them the benefit of rights granted to aliens on a preferential basis. The present wording of article 4 had been accepted by the Ad hoc Committee after lengthy discussion, and with the approval of the representatives of those States for which, in view of their legal systems, the question was of particular importance.

The second world war had shown that the principle of nationality, which had played such a decisive rôle in the nineteenth century, was no longer the sole governing factor in determining the attitude of the individual in cases of disputes between States. Between 1939 and 1945 thousands of persons of many nationalities had joined the Allied cause because they had believed in it. Many refugees from Nazi or Fascist oppression, who had still formally possessed the nationality of their countries of origin, had distinguished themselves in the fight for the cause of freedom. Article 5, which was drafted

on the model of article 44 of the Convention for the Protection of Civilian Persons in Time of War, reflected that experience by stipulating that exceptional measures against refugees should not be applied solely on grounds of nationality.

The principle laid down in paragraph 1 of article 7, to the effect that the personal status of a refugee should be governed by the law of his country of domicile or residence, might constitute an innovation in certain countries, particularly in those where personal status was regulated by the law of the country of nationality. Continuation of that latter practice would, however, create an artificial distinction between those refugees who were stateless and those who had de jure retained their former nationality. The principle of paragraph 1 had already been included in the 1933 Convention concerning the status of Nansen refugees, in connection with which it had been successfully applied by a number of countries. Its universal adoption would prove beneficial to refugees and help to remove legal difficulties that had existed in the past.

Article 12, on wage-earning employment, was obviously of major importance, the refugee's right to earn his living being secondary only to his right to live and his possibility of finding asylum. But that was a matter in respect of which variations in conditions from country to country were particularly marked. In countries of immigration, immigrants as a rule enjoyed, from the moment they entered the country, the same right to work as nationals; such liberality of treatment might not prove possible in countries which granted temporary asylum, and which might themselves have a considerable number of unemployed nationals. In certain countries, for instance, the employment of foreign manpower was regulated by a quota system. In his view, however, article 12 laid down an adequate average standard, and it would always be possible to deal with special circumstances by reservations.

Article 18 provided for the assimilation of refugees to nationals in respect of public relief and assistance. It conformed with the Economic and Social Council's recommendations that in that sphere aliend should be granted the same treatment as nationals.

Article 19 provided that refugees should receive the same treatment as nationals ("national treatment") in respect of conditions of work and social security. That was in accordance with the Migration for Employment Convention adopted by the International Labour Conference in 1949. Paragraph 3 of article 19 provided that the benefits of agreements for the maintenance of acquired rights and of rights in the process of acquisition in regard to social security should be extended to refugees - an important matter for refugees in view of their frequent movement from country to country. The question of the so-called totalization of periods and benefits was regulated by many bilateral and multilateral agreements. The provision in the draft Convention would, if adopted, be mainly applicable to future agreements in that field, but the Conference might wish to consider adopting a recommendation calling on governments to extend the scope of existing agreements to refugees resident in the territories of the contracting States.

In the past, the question of providing refugees with documents and other papers which was regulated in article 20, had been dealt with in different ways in different countries according to their domestic legal systems and the international practices that had grown up out of them. In some countries that function was carried out by the representatives of the specialized agency responsible for refugees, in others by the national authorities, while in a third group of countries the problem was not acute, because the law provided that missing documents could be replaced by making a sworn affidavit or by similar means. Article 20, as it stood, merely provided that the need of refugees for personal documents and papers should be fulfilled by some specific authority, national or international.

The principle of freedom of movement dealt with in article 21 was also vital for refugees. The text of that article would not confer a privileged position on refugees, since their movements could always be restricted where such restrictions were imposed on aliens generally.

All who had dealt with the refugee problem knew how important it was for a refugee to possess identity papers. A person without such papers was often suspect for that very reason. Article 22 was therefore important; but it had also to be clearly understood that the duty it imposed on States would not in any way affect their right to regulate the admission and residence of refugees.

The possession of a travel document, as provided for in article 23 and the annex to the Convention, was, of course, essential for refugees. It was also in the interests of States themselves that refugees should be free to travel abroad in the exercise of their business, in order to look after their interests or to seek better opportunities of making a living. Such a document was indispensable for the re-settlement of refugees in receiving countries. The purpose of article 23 was to consolidate the various existing agreements relating to travel documents for refugees, and to replace the documents issued under such agreements by a uniform travel document for refugees. Among such documents was the one which had been issued under the London Agreement of 15 October, 1946, and which had received wide recognition. He believed the Conference might wish to consider the possibility of continuing the issue of that document pending the accession of a sufficient number of countries to the new Convention, and of extending it to all the refugees covered by the Convention, instead of only to refugees covered by the Mandate of the International Refugee Organization (IRO), as had been the case in the past.

Article 26 allowed for the fact that refugees frequently crossed borders illegally, under pressure amounting to moral coercion; it seemed only just to recognize that fact by exonerating them from the penalties prescribed by the law for such illegal entry.

Expulsion, which was regulated by article 27, meant particular hardship for a refugee who, unlike other aliens, had no country to which he could return as of right. The draft First International Covenant on Human Rights provided that no alien legally admitted to the territory of a State could be expelled from that State except on legally established grounds and in accordance with procedures and safeguards which should in all cases be provided by law. If it was remembered that in all civilized countries the individual enjoyed numerous safeguards in respect of criminal proceedings, and moreover, that for a refugee expulsion might be an even harsher punishment than a sentence to imprisonment, the safeguards against expulsion provided for in article 27 would be seen to be fully justified.

A vital right for the refugee was that to be protected from being returned to a country where his life or freedom would be threatened. The principle that repatriation should be on a voluntary basis had been recognized by the United Nations on several occasions. Article 28 laid down that principle, which, fortunately, was generally followed in most countries.

The status of refugee should not be a permanent one. The ultimate solution of the refugee problem lay in the repatriation of the refugee or in his re-settlement in a country of permanent residence. In order that a refugee might become completely assimilated in the country in which he found permanent asylum, it was necessary that he should become a citizen of that country as soon as possible. Since, however, in most countries, naturalization was a privilege rather than a right, the Ad hoc Committee had felt that it could go no farther than to embody in the draft Convention a recommendation (article 29) that the assimilation and naturalization of refugees should be facilitated by States so far as possible.

By contrast with earlier agreements and conventions, the instrument under consideration established a link between the Convention and the agency charged by the United Nations with the international protection of refugees (article 30). Such a ~~close link would~~ be of particular value in facilitating the uniform application of the Convention.

Article 32 followed naturally from the character of the Convention as a consolidating international instrument replacing earlier agreements and conventions relating to refugees.

The Ad hoc Committee had adopted the final clauses (Chapter VII - articles 33 - 40) in tentative form only, since such questions as, for instance, the colonial clause, had not come within its terms of reference, and would therefore have to be decided by the Conference itself.

With regard to the draft Protocol relating to the Status of Stateless Persons, it was clear that his Office could deal only with those stateless persons who were refugees under the terms of its Statute. Generally speaking, however, the position of persons who were, or had become, stateless by the sheer operation of law was frequently very precarious. In drafting the Protocol, the Ad hoc Committee had limited itself to extending to stateless persons those rights laid down in the draft Convention relating to the Status of Refugees which might be considered as basic, and which did not in any way provide for special treatment that might be justified for refugees by reason of their special position, but could not be justified in the case of stateless persons generally. In his view, the general application of the Protocol would be of interest to States, as well as to stateless persons, because it would establish uniform minimum standards.

In conclusion, he urged the Conference to approach the draft Convention in the spirit of humanitarian realism displayed by the Ad hoc Committee; in other words, not to strive after perfection, but to view the provisions of the Convention from a universal rather than from an individual point of view. He believed that it was of equal importance that the Convention should establish adequate standards for refugees on the one hand, and that those standards should become universal on the other. It was therefore essential that the Convention should be made acceptable to as many countries as possible, if it was not to remain a dead letter. If the Convention commanded wide ratification, the Conference would have achieved the noble task of establishing a charter of rights for a most deserving group of human beings.

Mr. von TRUTZSCHLER (Federal Republic of Germany) wished to make a short statement on his Government's general attitude to the draft Convention. Immediately after the end of the war, an enormous number of displaced persons had found themselves on German soil. The United Nations Relief and Rehabilitation Administration (UNRRA) and the International Refugee Organization (IRO), to whose efforts he wished to pay tribute, had repatriated or re-settled the great majority of those persons. The work of those organizations was the more admirable in that the influx of non-German refugees uprooted from Eastern Europe had persisted even after 1945. The repatriation and re-settlement of those refugees had been all the more necessary since some nine million German refugees and persons forcibly expelled had simultaneously moved into the territory of the Federal Republic. The Federal Authorities had for some time past been considering what future status should be given to non-German refugees in the country.

So long as non-German refugees had remained in Germany their legal status had been safeguarded under the IRO Constitution; but after re-settlement they naturally lost their right to preferential treatment. Insofar as they did not acquire the nationality of their new country, they were treated as aliens under the national legislation of the country in which they settled. That appeared to his delegation to be one of the reasons why some sort of international minimum standards should be established.

While the large majority of non-German refugees had left the Federal Republic, there appeared, at present, no prospect of re-settling, in other parts of the world, some 100,000 - 200,000 such refugees still in that country.

As a result of discussions with the Allied High Commission, the Federal Authorities had decided to base national legislation on the principles laid down in the draft Convention now under consideration. They had, however, considered it advisable to go even farther than the draft in order to enable such refugees to be rapidly integrated within the national community, in the conviction that that would serve the best interests both of the refugees and of the German community. On 25 April, 1951, therefore, a law had been

promulgated on the legal status of homeless aliens, granting them legal equality with German nationals, except in the matter of purely political rights, and providing for their legal protection. It was hoped that in ensuring them such protection, the co-operation of the United Nations High Commissioner for Refugees would be available. The same law gave refugees the right to work on a parity with German nationals, and also provided for free access to all courts of law - two facilities which were regarded as fundamental. It also gave refugees the right of access to all educational facilities on the same footing as German nationals, and even held out hope of some degree of cultural autonomy where that was desired.

It would thus be readily understood that the Government of the Federal Republic of Germany favoured a solution to the refugee problem on an international basis which would confer on refugees as many rights as were acceptable to the community of nations. While realizing that it might be difficult to draw up a world-wide convention containing all the far-reaching provisions which it had been found possible and advisable to enact in his own country, he contended that at least a decent minimum standard must be granted to refugees in all countries. He hoped that such a standard would be drawn up by the Conference, and that the Convention as finally adopted would be acceptable to the maximum number of States.

His delegation would, in the course of discussion, submit a few amendments concerning points of detail. The Federal Government had already declared that it was, in principle, willing to sign a convention on the status of refugees as soon as that was technically possible. His delegation was authorized to repeat that declaration to the Conference.

Mr. SHAW (Australia) said that the Australian Government's approach to the draft Convention differed somewhat from that of other governments, being that of a country of immigration, with all that processes resulting problems. None the less, he could express his Government's support for the idea of a convention designed to secure for refugees or displaced persons definite rights in the country of their adoption. At least 200,000 of the immigrants who had entered Australia since the end of the War could be

classified as refugees, and 164,000 of them had been settled under IRO schemes. While that absolute figure had been exceeded only in the United States of America, on a population basis the Australian intake had been twenty times as great as the United States one. It would thus be seen that Australia had a real problem to tackle. As to the welcome and assistance given by his Government to refugees, it need only be pointed out that as late as July, 1950, Australia had agreed to receive an additional 30,000, and that IRO had been more than satisfied with the treatment accorded to those who had already been re-settled.

However, in view of the numbers that had already arrived in Australia, and the expected future influx, it would be appreciated that acceptance of the draft Convention as it stood might cause the Australian Government a certain amount of difficulty in the fields of administration and control. For example, to facilitate the protection of such immigrants from exploitation, their absorption into the economic life of the country, and the securing for them of treatment and conditions equal to those enjoyed by the ordinary Australian worker, it had been found advisable to require them to take up directed employment for a period of two years. In its present form, the draft Convention did not appear to provide for directed employment, and his delegation would accordingly be obliged to suggest an appropriate amendment. His delegation would also have to propose certain other amendments, largely of a drafting nature. It also attached importance to the inclusion of a federal State clause.

In conclusion, he expressed his conviction that the Conference would succeed in working out adequate solutions for the provision to refugees of the treatment they deserved.

Mr. PETREN (Sweden) said that, although his Government had not taken part in the preparatory work for the drafting of the Convention, it was disposed to accept the draft text in its main outlines. However, before committing itself definitely, the Swedish Government would feel obliged to put certain questions, and, if necessary, to enter some reservations or submit suitable amendments. At the present stage of the

proceedings, the Swedish delegation would merely like to point out that the Convention should represent the incarnation of an effort to achieve international solidarity; hence its entry into force must be made to subject to a considerable number of ratifications, and not merely to the deposit of two instruments of ratification or accession as laid down in article 37.

MOSTAFA Bey (Egypt) emphasized Egypt's great concern with the refugee problem. In 1920, at the end of the first world war, although faced with serious population problems, the area of arable land being very restricted and the population having been increasing rapidly as the result of improved sanitation and social conditions generally, Egypt had admitted to her territory a number of White Russian and Armenian refugees. Between 1927 and 1933 there had been about 30,000 such refugees. They had subsequently been granted Egyptian nationality, and had become fully assimilated in the economic life of the country.

At the present time, Egypt was faced with the serious problem of the Arab refugees from Palestine, the tragic result of the war in his part of the world. As was well known, various United Nations organs were providing relief for those refugees. For that reason, the Egyptian Government considered that so long as the problem of the Palestine refugees continued to be a United Nations responsibility, the Convention should not be applicable to them. Once United Nations assistance ceased, the Palestine refugees should automatically enjoy the benefits of the Convention. The Egyptian Government had no doubt at all that such refugees came under the terms of article 1.

The meeting was suspended at 5.05 p.m. and was resumed at 5.30 p.m.

Speaking at the invitation of the PRESIDENT, Mr. RUEGGER (International Committee of the Red Cross) recalled the main principles underlying the International Committee's work on behalf of refugees. The draft Convention for the Protection of Civilian Persons in Time of War, submitted in 1948 to the Seventeenth International Conference of the Red Cross, had contained a provision, in article 127, under which signatories to the Convention were required to make every effort, as from the date of the close of hostilities or occupation, to facilitate the return to their domiciles, or the settlement in a new country of residence, of all persons who, as a result of the war or occupation, were unable to lead a normal existence at the place where they found themselves. The signatories were also required to ensure that such persons might travel, if they so desired, to other countries and were provided with the necessary passports or similar documents. The provision gave an empirical, but humanitarian, definition of the term "refugee", though it did not actually use that word. After approval by the Red Cross Conference, it had been incorporated in the text which had served as the basic working document for the Diplomatic Conference held at Geneva, in 1949. It was not, however, included in Geneva Convention No. 4, being one of the few provisions of the draft which had not been incorporated in one form or another in the final text of the Convention.

It should not, however, be concluded that the principles underlying article 127 had not met with the full approval of the various delegations to the Diplomatic Conference. The fact that they had not been finally adopted had been due to one delegation's pointing out that the problem of refugees was too vast to be settled so summarily in a convention which also dealt with another subject. Moreover, the Economic and Social Council had at that time already gone a long way with its study of the whole problem of refugees and stateless persons, and a draft international convention relating to the status of refugees - the one that the present Conference was about to examine - was to be prepared by the Council a few months later and submitted to the General Assembly.

The International Committee of the Red Cross could only praise the spirit in which the text of the Convention had been conceived: it codified the essential features of previous Conventions which had not been ratified, and formulated specific obligations in an endeavour to remedy one of the gravest evils with which humanity had so far been afflicted. It was questionable, however, whether the text fully met the aim of article 127 of the draft Convention of 1948, which had been to solve the problem in a humanitarian manner, without any unjustifiable discrimination. A Convention designed to give effect to such very general principles must, of course, entail political, economic and social consequences which signatory States would have to examine in the light of their responsibilities. The International Committee hoped, however, that the general agreement reached at Geneva in 1949 would be confirmed and, so far as possible, translated into a text. Viewing the refugee problem as it did from a strictly humanitarian angle, the International Committee of the Red Cross considered that the following principles should be adopted: all persons compelled by force of circumstances to seek asylum outside their usual country of residence had a right to be received, subject, of course, to reservations similar to those included in article 14 of the Universal Declaration of Human Rights, denying the benefits of that provision to common criminals. Moreover, if such persons could not lead a normal life where they found themselves, they should be entitled to assistance from the authorities of the territory concerned. If the resultant expense proved to be beyond the pocket of those authorities, the international community should assume some responsibility in the matter, for reasons of human solidarity, that responsibility being discharged through the competent political authorities. Finally, humanitarian institutions should be entitled to support the action of the public authorities so far as their means permitted. Those were the principles on which the International Committee of the Red Cross had based its appeal of 1 May, 1950, when it had drawn the attention of the responsible governments and institutions to the paramount importance of not restricting the status of refugees by defining too narrowly who was to benefit by it, but on the contrary, of adopting wide and universal definitions which took full account of the sad fate of all human beings who might stand in need of that status now or in the future.

Speaking at the invitation of the PRESIDENT, Mr. LEDERMANN (League of Red Cross Societies) said that the League of Red Cross Societies, which was the world federation of the national Red Cross and Red Crescent Societies at present in existence in 68 countries, had more than 100 million individual members, all pursuing the same humanitarian ideal of serving suffering humanity in the spirit of the Red Cross. In time of war, the Red Cross assisted the armed forces in the care of the wounded, the sick, prisoners of war and civilian victims of hostilities, whereas in time of peace it endeavoured to relieve human suffering in periods of distress when the urgent need of relief made its practical assistance indispensable. During the last few years alone, the cost of relief provided by the Red Cross had amounted to hundreds of millions of Swiss francs.

The League and its Societies could not therefore remain indifferent to the distressing human problem represented by the existence of tens of millions of stateless persons or exiled refugees. The resolutions adopted by the main organs of the League were an expression of its concern in that matter, and the national Red Cross Societies, in response to the appeal which the League had addressed to them on 10 May, 1950, had generously helped in the alleviation of the sufferings of refugees so far as it had lain in their power to do so. In particular, with the assistance of an international team placed at its disposal by the national Red Cross and Red Crescent Societies of 19 different countries, the League had undertaken the distribution of relief to more than 300,000 Palestine refugees over a period of eighteen months. The national Red Cross Societies of many countries had also helped Turkish refugees from Bulgaria and refugees from Burma, India and Pakistan, and Korea. They had even actively assisted emigrants. Substantive decisions on emigration and immigration problems were, of course, a matter for the competent official authorities; but the Red Cross considered that it could and should play an important subsidiary rôle in the provision of humanitarian and social aid to emigrants. The assistance it could give them before their departure, on their journey and during the early stages of their settlement in a new country could usefully supplement action taken by the administrative authorities on their behalf.

Its efforts were primarily directed towards improving conditions for mothers and children, old or sick persons and juvenile refugees. Various practical steps had been taken to improve the lot of refugees, such as arranging for children to be received by families, the hospitalization of the sick, gifts in kind, facilitation of the exchange of correspondence between refugees and their families in other countries, the sending of parcels to camps, and, lastly, the provision of equipment for workshops and work-rooms and of books, games and equipment for first-aid instruction.

Again, the League of Red Cross Societies had convened in Germany an international conference of Red Cross Societies to study the problem of relief for refugees in western Germany and Austria, the recommendations of which had been submitted to the present Conference. The Conference of Red Cross Societies had especially requested that the United Nations should broaden its activities on behalf of refugees, and extend its assistance to categories of persons so far deprived of legal protection.

In conclusion, he wished to associate himself with the statements made on behalf of the International Committee of the Red Cross, and to point out that the League of Red Cross Societies would continue, as in the past, to accord its material and moral assistance to all refugees. The League earnestly urged the governments represented at the Conference of Plenipotentiaries on the Status of Refugees to adopt a convention in the widest possible terms, which would enable all refugees without distinction once more to enjoy a really human existence.

5. FUTURE PROGRAMME OF WORK

The PRESIDENT believed that when it came to the question of the order in which the sections of the draft Convention should be examined, it would be best to defer consideration of the preamble and of article 1 until the remaining articles and the Protocol had been dealt with; in that way representatives would get a better idea of the general feeling of their colleagues before embarking on those two important and difficult points.

Mr. van BOETZELAER (Netherlands) thought it would be difficult to study the substance of the various articles of the draft Convention without knowing to what categories of refugees the Convention would be applicable. For that reason, his delegation was only prepared to accept the President's proposal on the understanding that, after the adoption of article 1, the Conference would be free to revert to the other articles if it so wished.

Mr. HERMENT (Belgium) thought that delegations had already made up their minds about the categories of refugees to which they wished the benefits of the provisions of the Convention to be extended. The adoption of the method of work suggested by the President would therefore not interfere with the study of the later articles.

Mr. ROCHEFORT (France) did not entirely agree. If the categories of refugees in question were not defined at the outset, there would be a risk of the Conference working in an atmosphere of uncertainty, that would be detrimental. It was to be noted that, as it stood, the draft definition would grant the United Nations the power of increasing the contractual obligations of signatory States. It was therefore all the more essential that those States should know in advance the categories of refugees to which the benefits of the provisions of the Convention would be extended. Thus, for example, as the Egyptian representative had pointed out, the Arab refugees from Palestine should benefit from the Convention so soon as the assistance at present being granted to them by various United Nations organs came to an end. It was possible that his Government would in due course consider the adoption of a text granting certain rights to such refugees, but it could not, in existing circumstances, pledge itself in that connexion without further study of the question.

Nevertheless, while his delegation would prefer that the categories of refugees to which it was proposed that the benefits of the Convention should extend should be defined at once, it would not formally oppose the President's suggestion.

Mr. CHANCE (Canada) suggested that it might be time enough to go into the question raised by the President when all the general statements had been made.

It was so agreed.

The meeting rose at 6 p.m.