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CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE TENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 6 July 1951, at 3 p.m.

CONTENTS:

Present:

President: Mr. LARSEN

Members:

Australia	Mr. BURBAGE
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Federal Republic of Germany	Mr. von TRUTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON Mr. KAHANY
Italy	Mr. THEODOLI
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO

Observers:

Iran	Mr. KAFAI
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and other inter-governmental organizations:

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

Representatives of non-governmental organizations:

Category A

Inter-Parliamentary Union	Mr. ROLLIN Mr. BOISSIER Mr. ROBINET de CLERY

Category B and Register

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Catholic International Union for Social Service	Miss de ROMER
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Council of Women	Dr. GIROD
International Federation of Friends of Young Women	Mrs. FIECHTER Miss van WERVEKE
International Student Service	Mr. RIEGNER
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. BUENSOD
World Jewish Congress	Mr. RIEGNER

Secretariat:

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. STATEMENT BY THE REPRESENTATIVE OF THE INTER-PARLIAMENTARY UNION

The PRESIDENT said that, before consideration of the draft Convention was resumed, he would call upon Senator Rollin to address the Conference on behalf of the Inter-Parliamentary Union.

Mr. ROLLIN (Inter-Parliamentary Union) thanked the members of the Conference for giving his Union the opportunity of acquainting it with the text of the resolution it had adopted at its last meeting, held in Monaco in March, 1951. The present occasion was the first time that the Union had made direct contact with a diplomatic conference, and it might be hoped that it would not be the last. International activity had considerably increased in recent years, its field of interests had widened, and it now took in a whole series of questions normally dealt with by national parliaments. Moreover, the procedure which left governments and ministries to draft conventions, and allowed parliaments only the alternative of adopting or rejecting them was no longer satisfactory. For that reason, the States represented at the present Conference had agreed to the direct co-operation of a non-governmental organization in elaborating the Convention before them. In that respect, it was to be observed that the Inter-Parliamentary Conference of the three Benelux States had recently expressed the hope that in future governments would submit the text of conventions they proposed to sign to a joint commission on which parliaments would be represented. Similarly, the Charter of the United Nations provided for representation of and consultation with non-governmental organizations. His Union proposed to use the opportunity afforded to it, first, to demonstrate its interest in the Convention before the Conference, and secondly, to draw the attention of the members of the Conference to certain observations which were important because they reflected misgivings which might later find expression within the various national parliaments. The Council of the Inter-Parliamentary Union would be meeting the following month. It had nevertheless desired to shoulder its responsibilities in the matter, and, after consultation with its legal and political committees, to communicate to the Conference its reflections on the text of the draft Convention on the Status of Refugees. The resolution

expressing the Union's views, which would be circulated later to members of the Conference, had the merit of brevity. Of the six paragraphs it contained, only four contained comments on the Convention; the first was limited to approval of the draft before the Conference, of which the Union had appreciated the clarity and precision, and the last transmitted the text of the resolution to the members of the Conference.

With regard to the draft Convention, the Inter-Parliamentary Union approved of its general pattern, and hoped that the Conference would use it as the basis for a convention which would be ratified by all governments. The Union had nevertheless considered it necessary to submit four specific observations, which could not, however, be regarded as a final judgment on the value of the draft. The short time the Union had had to study it had not permitted it to reach a final opinion. Its observations were solely concerned with the imperfections which had struck it most forcibly, and which it thought susceptible of adequate revision.

In the case of article 4, on exemption from reciprocity, the Inter-Parliamentary Union considered that the second sub-paragraph of paragraph 2 might give rise to misunderstandings. It provided that other refugees (that was, those not enjoying at the date on which the Convention came into force the rights and benefits laid down in the first sub-paragraph of paragraph 2), would enjoy those same rights and benefits, without regard to reciprocity, when they had been resident in the territory of the Contracting State for a certain period. By "the same rights and benefits" was therefore meant rights and benefits which certain refugees had been enjoying without regard to reciprocity, which was tantamount to promising to refugees the status of the aliens most favoured by the reciprocity clause. The results would accordingly be different in each country, according to the rights and benefits granted to aliens in virtue of such a clause.

Furthermore, the Inter-Parliamentary Union considered it essential to draft the reciprocity clause in the most liberal spirit. In the draft Convention, provision had been made for three different regimes according to the rights in question: in respect of the protection of artistic, industrial and scientific

rights, refugees would have the same treatment as nationals. In other cases (articles 10 and 12 on the right of association and wage-earning employment respectively), they would receive the most favourable treatment accorded to aliens. Finally, they might also have the treatment accorded to aliens generally. Moreover, certain provisions mitigated those conditions by specifying that refugees would be granted treatment as favourable as possible, and, at the very least, the same treatment as aliens generally.

The question arose whether the term "treatment as favourable as possible" had any legal weight, or whether its application would be left to the discretion of the Contracting States, those States then being free to decide at their sole discretion the extent of the rights it was possible for them to grant to refugees.

Furthermore, it was stipulated that refugees would be exempt from reciprocity when they had been resident in the territory of the Contracting State "for a certain period". In the opinion of the Inter-Parliamentary Union, it would be advisable to revise that provision and consider the possibility of granting such exemption forthwith. The fact was that conditions in the countries of origin of refugees were usually such as to render it unlikely that agreements would be concluded between them and other States, providing for the grant of specific rights on the basis of reciprocity. Furthermore, even if treaties of that kind did exist between the States of origin and the receiving country, the refugee, who was looked upon with an unfavourable eye by his own Government, would hardly be able to invoke them. In any event, if certain States considered it impossible to grant exemption from reciprocity forthwith, their viewpoint could quite well be reconciled with that of the States which favoured such exemption, since article 36 of the draft Convention provided that Contracting States could make reservations to a number of articles, including article 4.

Turning to article 6, on continuity of residence, he urged that if an attempt was to be made to place refugees in different categories, such classification should be based essentially on humane and psychological principles. There were some refugees who neither hoped nor desired ever to return to their own countries, and others who regarded their exile as merely temporary. The former aspired

above all to shed their refugee status and become naturalized, thus becoming part of the nation which had received them. Many of them were stateless persons, whose main hope, so far as the Conference was concerned, was that it would adopt provisions facilitating their naturalization. Article 6 met their desires in part, since it made naturalization generally conditional on a period of residence; and it was an important matter, for a refugee in the first group, to be credited, as constituting residence, with the time spent by him in enforced displacement, or with the period before or after such displacement, in cases where the refugee had returned to his receiving country to re-establish his residence there. The latter provision was all the more useful in view of the fact that, under certain national legislations, the period of residence normally stipulated had to be extended if residence was interrupted. Nevertheless, the provisions of article 6 merely remedied an occasional situation caused by the second world war, without providing any solution in respect of the first category of refugees to which he had referred. Accordingly, the Inter-Parliamentary Union trusted that the Conference would consider reducing the period of residence required for naturalization. That step, he pointed out, would not render naturalization a right, and conferment of nationality would remain subject to the approval of the competent authorities.

However, in cases where no political obstacles arose, the shortening of the period of residence would considerably improve the lot of those refugees who desired naturalization. It was, he might add, a question of plain common sense. The length of the waiting period imposed on applicants for naturalization was intended to provide time to verify that the link formerly existing between them and their country of origin had been severed. In the case of stateless persons or refugees, it could be presumed, with greater force than in the case of other aliens, that they were sincerely attached to their host country.

For all those reasons, the Inter-Parliamentary Union trusted that the Conference would consider the possibility of reducing the period of residence for refugees who wished to be naturalized, at least so far as stateless persons were concerned.

With regard to article 7, which stipulated that the personal status of a refugee would be governed by the law of the country of his domicile or, if he had no domicile, by the law of the country of his residence, he pointed out that a large number of the countries of continental Europe had shown a tendency to determine the personal status of aliens in accordance with their national law. It therefore appeared, at first sight, that it would be simpler for them to apply their national laws uniformly to refugees residing in their territory, regardless of the latters' country of origin. There were, however, certain difficulties in the way of applying those provisions to refugees. That a political refugee who had a horror of his country of origin, and had no intention whatsoever of returning to it, should find himself given the personal status provided by the legislation of his host country seemed reasonable. But would it be reasonable, it might well be asked, to impose on refugees who were still attached to their country of origin and lived only in the hope of returning to it (as formerly the German anti-fascists had done and as the Spanish Republicans were doing at present), a personal status which might vary considerably according to their country of residence, and to adopt that measure, according to changes in circumstances of the country of domicile, without the person affected having an opportunity of expressing his own desires on the matter? Incidentally, the reservation expressed in paragraph 2 of article 7, referring to respect for previously acquired rights, was, he suggested, somewhat ambiguous. For example, a refugee married under the system of separate estate without contract who came to Belgium would be subject, under that country's legislation, to the system of joint estate in the absence of a contract. If such a refugee inherited personal estate, the question would arise whether the possession of such property was governed by the rights attaching to the marriage in the country of origin, or by the system obtaining in the receiving country. The courts might find that in contracting marriage the refugee had not acquired a right in the property, but only the capacity to acquire a right, and that, by virtue of his change of status, the property must revert to joint conjugal estate. That example illustrated the practical difficulties to which application of article 7 might give rise, and that was why it seemed preferable to limit the withdrawal

of personal national status to stateless persons only. The Inter-Parliamentary Union addressed a wish to that effect to the Conference, and also asked that the question of withdrawal of personal status from refugees be re-examined.

He then examined article 33, laying down methods for settlement of disputes. The Inter-Parliamentary Union, which had won its laurels in the campaign for arbitration, could have no objections to the principle underlying that article. It nevertheless felt that the wording was insufficiently clear to ensure reasonable supervision over the application of the Convention. In fact, the article referred solely to disputes that might arise between States; whereas the persons really concerned were not States, but individuals, who would not possess the nationality of the Contracting States and who would not be protected by their country of origin. The United Nations had recently established an embryonic international organization comprising a High Commissioner for Refugees whose task it would be to assist refugees in different countries. The Inter-Parliamentary Union therefore suggested - and it was a point to which it attached vital importance - that it would be advisable to ensure observance of the Convention by a different procedure from that provided for in article 33. It was not a question of replacing that article by a new text, but rather of adding supplementary provisions to it. In the Union's opinion, the High Commissioner might be granted consular powers which would enable him to render invaluable services both to refugees and to the Contracting States themselves and, if the need arose, to seek advisory opinions from the International Court of Justice. The last suggestion might, perhaps, go beyond the powers of the Conference; if so, instead of inserting formal provisions to that effect in the text of the Convention itself, it might include the voeu in an annex. All the documents would be transmitted to the General Assembly, which would have to settle the question. He recalled that when the draft International Covenant on Human Rights had been in course of preparation, a provision to that effect had been adopted, and, without giving individuals access to the International Court of Justice or even to a European court, it had been provided that they might approach a Committee which, in turn, could refer a dispute to a European court. In the light of that fact, the request of the Inter-Parliamentary Union seemed

very moderate. It was legitimate to use the opportunity provided by the Charter, under which subordinate organs of the United Nations could ask the International Court of Justice for advisory opinions; and such power could be given to the High Commissioner for Refugees, upon whom the practical application of the Convention would in fact depend.

He concluded by expressing the hope that Geneva, where the League of Nations had left lasting evidence of its work, might again be the scene of an outstanding international event, and that the work of the Conference would result in a constructive solution of one of the most painful problems of the modern world.

The PRESIDENT thanked the representative of the Inter-Parliamentary Union on behalf of the Conference for his clear and admirable statement. Once the text of the resolution adopted by the Inter-Parliamentary Union had been circulated[1], members of the Conference would no doubt give it careful attention and bear in mind the points with which it dealt.

Mr. Rollin (Inter-Parliamentary Union) withdrew.

2. CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5) (resumed from the ninth meeting):

The PRESIDENT invited representatives to resume their consideration of the draft Convention, and drew their attention to article 15.

(i) Article 15 - Rationing

Article 15 was adopted by 17 votes to none, with 1 abstention.

(ii) Article 16 - Housing (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that the Yugoslav delegation had introduced an amendment to article 16 (A/CONF.2/31, page 2) because it would be unfair to refugees in countries where housing was controlled by the public authorities if they were treated differently from nationals in respect of

(1) See document A/CONF.2/NGO.8

housing. Unless refugees were given identical treatment, it would be impossible for them to secure accommodation.

The Yugoslav amendment was rejected by 9 votes to 1, with 7 abstentions.

Article 16 was adopted by 17 votes to none, with 1 abstention.

(iii) Article 17 - Public Education (A/CONF.2/31, A/CONF.2/45, A/CONF.2/NGO.1)

The PRESIDENT drew attention to the fact that amendments to article 17, public education, had been submitted by the delegations of Yugoslavia (A/CONF.2/31, page 2) and the Federal Republic of Germany (A/CONF.2/45).

Mr. MAKIEDO (Yugoslavia) withdrew his amendment in favour of that submitted by the delegation of the Federal Republic of Germany. The Yugoslav delegation held that no distinction should be made between refugees and nationals in the field of education.

Mr. von TRUTZSCHLER (Federal Republic of Germany) said that the purpose of the first sentence of paragraph 1 of his amendment (A/CONF.2/45) was to grant refugees facilities in higher as well as in elementary education. Such generosity would not only benefit refugees, but also the countries in which they resided. Indeed, there was a kind of moral obligation on public authority to help young people who, through no fault of their own, had been placed in unfavourable conditions. Moreover, although assimilation was difficult for the elderly, everything should be done to make it possible and easy for young people to share fully in the life of the country of their adoption. They should consequently be allowed access to all educational opportunities in their new homeland. It was with that principle in mind that the International Refugee Organization (IRO) had established universities, which had done excellent work for young refugees.

From the point of view of the State, there was too much of a tendency to look upon refugees as a burden, and a burden alone. It should not be forgotten that in the past emigrants had made fruitful contributions to the culture of the countries of their adoption; he would only mention, with the French

representative's permission, the group of French refugees who had come to Germany after the revocation of the Edict of Nantes, who had greatly enriched German life. It was true that the factors of expense and of competition in the liberal professions must be taken into account. The number of persons involved was, however, limited, since the Convention would in due course circumscribe the number of refugees who would benefit from it by imposing a date-line (Paragraph A(2) of Article 1). The effects of competition, moreover, would not be felt immediately, and it was to be hoped that the situation would be adapted to meet existing circumstances in the course of time.

The second sentence of paragraph 1 of his amendment did not go quite so far as his delegation would have liked, since it did not grant refugees the same treatment as nationals in respect of the award of scholarships and the remission of fees and charges. In that matter, Germany had certain constitutional difficulties because of the Länder system and the educational responsibilities exercised by the authorities of the various Länder.

Turning to paragraph 2 of his amendment, he would point out that refugees should not only be permitted to sit for examinations, but should also be granted the appropriate diplomas. He believed that that point should be specifically covered by the article dealing with education, the more so since it was in harmony with the provisions of article 14, which dealt with the recognition of diplomas in the liberal professions. German legislation had granted refugees the same opportunities as German nationals to exercise the liberal professions. If it proved impossible to provide for the granting of diplomas, refugees should at least be allowed to pass examinations which would prove of help to them in their careers.

Mr. ROCHEFORT (France) said he would have been glad to support the German Federal Republic's amendment (A/CONF.2/45) if it had been compatible with his delegation's instructions.

Should that amendment be adopted, it would be necessary to go back on the decisions already taken with regard to the right to work if those provisions were not to remain entirely illusory. The French Government considered that, except

in the case of highly gifted persons, it should not, by means of scholarships, encourage studies to be undertaken in fields for which there were no professional openings in France. On the other hand, all educational establishments were open to aliens with the exception of some of the great national schools.

Mr. RIEGNER (World Jewish Congress), speaking at the invitation of the PRESIDENT, drew attention to the proposal, similar to that at present under consideration, put forward by the World Jewish Congress in the memorandum it had submitted to the Conference (A/CONF.2/NGO.1). He wished to add a few words in his personal capacity as Vice-Chairman of the World University Service. In that position he had had the opportunity of learning the views of university students representing many nationalities, religions and schools of political thought. Indeed, the whole problem of the education of refugees had been carefully examined by the World University Service at the instigation of its French branch. Article 17 of the draft Convention, which was modelled on similar articles contained in previous conventions, was not satisfactory. The question of scholarships was of the utmost importance to students, but under article 17 as at present drafted, refugees would not be granted the most favourable treatment accorded to aliens, because that treatment derived from bilateral agreements which provided for a certain number of fixed scholarships and exchanges of students between the Contracting States. Thus, paragraph 2 of article 17 would, in effect, not be applicable to refugee students unless the matter was governed in the future by legislative acts of a general character and not by bilateral agreements. The inquiry carried out by the World University Service had proved that the mechanism of bilateral agreements would be inapplicable to refugees. The question was the more serious because the valuable and generous assistance given to students by IRO would shortly cease to be available.

Another difficulty which must be taken into account was that of the recognition of diplomas. The question needed careful study. He was afraid that the wording of paragraph 2 of the amendment submitted by the Federal Republic of Germany might in practice operate to the disadvantage of refugee students.

Mr. ROCHEFORT (France) wished to point out that in France there was a distinction between scholarships awarded under bilateral treaties, and those by which refugees could benefit. In the latter case, IRO's contributions accounted for only a part of the funds required, and their cessation would not check the efforts of the French Government in that field. At present, a large number of refugees held such scholarships, and although the French Government was prepared to give refugees all possible assistance in that direction, it could not go beyond the measures already taken.

Mr. HOARE (United Kingdom) said that article 17 raised issues of some difficulty for the United Kingdom Government. The general purpose of the article was wholly acceptable, but he must point out that, although the title of article 17 read "Public education", paragraph 1 referred to "elementary education", not to "public elementary education". The title would, however, not appear in the final text of the Convention, and it was therefore desirable to make it perfectly clear that paragraph 1 was intended to refer to elementary education admission to which was controlled by the State. There existed both in the United Kingdom and elsewhere institutions whose educational character was recognized, but over whose administration and rules of admission or exclusion the State had no control whatsoever. What the Conference must do was to bind States to give equality of treatment to refugees in the institutions over which the State had control.

The difficulty which had already been described by other representatives as latent in paragraph 2 existed also for the United Kingdom. Most-favoured-nation treatment raised the problem of such special arrangements as might be made between various countries. The United Kingdom had, for instance, made special and far-reaching provisions, including provision for education, for the Polish soldiers who had remained in the country at the end of the recent war. That had necessitated the introduction of special legislation which was far more favourable than that normally applied to aliens. In the United Kingdom Government's view the legal effect of paragraph 2 would be to impose upon it the obligation of treating all refugees as favourably as it had done one particular group. The

countries linked by the Brussels Treaty were also endeavouring to extend reciprocal arrangements between them to a large number of fields. It might be that schemes for the exchange of students and for scholarships would be developed. There again, such special arrangements would be inapplicable to refugees. He would therefore suggest that a more general phrase be used in paragraph 2, for instance: "treatment no less favourable than that accorded generally to aliens in the same circumstances". Unless some such change were made, the United Kingdom Government would be obliged to make a reservation on paragraph 2, and he could not but feel that it would be preferable so to redraft the text as to make it generally acceptable rather than to adopt it as it stood and oblige a number of governments to enter reservations.

Mr. FRITZER (Austria) supported the United Kingdom representative's point that explicit reference should be made in paragraph 1 to "public elementary education".

Mr. HERMENT (Belgium) also supported the United Kingdom representative. The same difficulties arose in the case of Belgium. Accordingly, although his delegation could support paragraph 1 of article 17, it considered, with regard to paragraph 2, that it must be provided that refugees should receive the treatment accorded to aliens generally. Otherwise, it would have to make an express reservation on that issue.

Mr. THEODOLI (Italy) supported the Belgian and United Kingdom representatives, and stated that he would also have to make a similar reservation on paragraph 2.

Mr. ZUTTER (Switzerland) said that the Swiss delegation could accept the text of article 17 as it stood in the draft Convention. On the other hand, it could not support the amendment of the German Federal Republic, since in Switzerland the cantonal, and not the federal, authorities were responsible for education.

He also declared that the Swiss Federal Government would continue to give refugees all the necessary facilities for continuing their studies, as it had done in the past.

Mr. CHANCE (Canada) said that circumstances in Canada made it possible for his Government to take a very liberal attitude with regard to paragraph 2 of article 17; but he thought that the United Kingdom representative's point was valid, and would therefore support an amendment along the lines suggested by that representative. He (Mr. Chance) also agreed that "public elementary education" should be specifically mentioned in paragraph 1.

He must further point out that, since in Canada education was not within the sovereign competence of the Federal Government, the insertion of the article generally known as the federal State clause was essential from his Government's point of view in respect of article 17 as a whole.

The PRESIDENT asked the representative of the Federal Republic of Germany to elucidate one aspect of his amendment. In some countries higher education was given in private institutions, and was then followed by a university course at the end of which a student was deemed qualified to exercise a profession. In other countries - and he believed that such was the case in Germany - degrees in certain subjects, such as law, were valueless unless followed by a period of service under the auspices of the public authorities. Only at the end of a two-year or three-year probationary period was the final examination taken and the student become fully qualified to exercise his profession. Did paragraph 2 of the amendment (A/CONF.2/45) include such a system in its reference to "the right to pass examinations..."?

Mr. von TRUTZSCHLER (Federal Republic of Germany) said that he had intended his amendment to deal with all public education and all examinations, including State ones. If a refugee fulfilled all the conditions required of a German national, he would be entitled to take the final examination even if it involved a period of service in an official administration. It was, however, doubtful whether he would then be taken into State employment unless he had in fact become a German national.

Mr. HERMENT (Belgium) thought it necessary to explain that the mere fact of being eligible for university examinations in no way conferred the right to

practise a profession. University degrees might be of a purely academic nature; consequently, in order to realize the intention of paragraph 2 of article 17, it would be necessary to specify examinations giving the right to practise a profession, and not, in general, an examination recognized by the State.

Mr. ROCHEFORT (France) said that the French delegation was not opposed to article 17, although it would prefer a formula which took account of the difficulties mentioned by previous speakers. The reservations made by his delegation concerned the award of scholarships to aliens, and in that connexion it should be noted that in France all aliens had access to all educational establishments, except certain large schools which prepared candidates for posts from which aliens were excluded, such as the Teacher's Training College, the Polytechnic and the like, although they might, in certain conditions, be admitted with alien status.

The PRESIDENT, speaking as representative of Denmark, observed that, so far as he was aware, Scandinavian countries made no distinction between nationals and foreigners in the matter of education. But if that were not so, it might be necessary for the Scandinavian countries to enter general regional reservations on article 17.

Baron van BOETZELAER (Netherlands) supported the suggested United Kingdom amendment to paragraph 1, and thought it possible that the Netherlands Government might find it necessary to formulate a reservation similar to that mentioned by other representatives on paragraph 2.

Mr. PETREN (Sweden) was not sure that the position in all Scandinavian countries was exactly as the President had described it. He personally preferred to take the same position as the United Kingdom representative.

The PRESIDENT observed that, as the United Kingdom representative had pointed out, the title "Public education" would disappear from the final text. It would therefore be necessary to revise the text in order to make it clear that only State-controlled education was meant; but he thought that could be left to the Style Committee.

Mr. BUENSOD (Pax Romana), speaking at the invitation of the PRESIDENT, observed that paragraph 2 of article 17 applied to university degrees. However, as had been said, there was a difference between taking a degree and practising a liberal profession; thus, while permitting refugees to enter for examinations recognized by the State under the same conditions as nationals, States would still be able to restrict access to the liberal professions.

The PRESIDENT put to the vote the amendment submitted by the delegation of the Federal Republic of Germany (A/CONF.2/45).

The amendment was rejected by 10 votes to 3, with 6 abstentions.

The PRESIDENT put to the vote the United Kingdom amendment to paragraph 2, namely, that the phrase "the most favourable treatment accorded to nationals of a foreign country" should be replaced by the phrase "treatment no less favourable than that accorded generally to aliens in the same circumstances".

The United Kingdom amendment was adopted by 12 votes to 1, with 5 abstentions.

The PRESIDENT put to the vote article 17 as amended.

Article 17, as amended, was adopted by 16 votes to none, with 2 abstentions.

(iv) Article 18 - Public relief

Mr. THEODOLI (Italy) recalled the special effort made by his Government when, by an agreement concluded with IRO in November, 1950, it had undertaken to receive a large number of refugees, 1,000 of whom had been hard-core cases requiring hospital treatment. In respect of those cases, the Italian Government had agreed to pay the same benefits as to Italians in receipt of public assistance, for as long as the refugees concerned lived. That represented a very considerable burden, particularly as there was small probability of their being able to work. Thus it would be very difficult for the Italian Government to give an undertaking in the terms of article 18 in respect of an indefinite number of refugees. For that reason, his delegation wished to notify the Conference that, after further consultation with the Italian Government, it might find that it had to make a

reservation on that article. He would add that if such responsibilities were in the future undertaken at international level by some organ of the United Nations, Italy would do her part in the collective effort to help those unfortunate people.

The PRESIDENT put article 18 to the vote.

Article 18 was unanimously adopted.

(v) Article 19 - Labour legislation and social security

The PRESIDENT, speaking as representative of Denmark, said that in Denmark an insured person only made a formal contribution to the social security scheme, and that it was in reality the State that contributed to the various funds. The Danish Government was prepared to extend social security to refugees, but under the Danish system it would be necessary for the benefits to be paid to refugees on that count to come from funds other than the old age pension fund and the like. Subject to the understanding that such an arrangement would not be regarded as failure to conform to the provisions of article 19, the Danish delegation would not require to make a reservation on that point.

Mr. HOARE (United Kingdom) observed that a similar situation arose in the United Kingdom. There were certain old age pensions for which foreigners were not eligible, but their grant depended on the applicants' means, and a foreigner whose means were the same would get the equivalent under the general social security legislation. He had assumed that article 19 could be interpreted broadly enough to meet the requirements of Denmark and the United Kingdom in that respect.

Mr. ZUTTER (Switzerland) said that the Swiss delegation could not wholly subscribe to the provisions of article 19. Although it approved the provisions of sub-paragraph 1 (a), it was obliged to reserve its position to some extent so far as apprenticeship and training were concerned. In that respect, refugees certainly received favourable treatment in Switzerland; nevertheless, Switzerland could not undertake unconditionally to treat them on an equal footing with Swiss nationals and, for example, to place them as apprentices even at times when the

number of openings in certain occupations was insufficient to meet the inflow of young Swiss nationals. In that field, therefore, refugees would have to be treated like other aliens. In other words, they would be subject to no restrictions if they held a permit to settle in Switzerland; but if they held only a residence permit they would have to apply for special permission in each case. He might add that applications from refugees would receive sympathetic consideration from the Swiss authorities.

As to the question of according to refugees the same treatment as was accorded to nationals in the field of social security, such a provision would create certain difficulties with regard to unemployment and old-age insurance, since, under Swiss law, foreign workers could normally insure against unemployment only if they were allowed to accept work, that was, if they were not debarred from finding employment by some regulation relating to aliens. Aliens who had been living in Switzerland for a fairly short period, and therefore did not have a permit to settle there, were subject to such restrictions, so that they could not take employment and were, consequently, not insurable. Nevertheless, there was a growing tendency to lift restrictions on refugees in respect of employment, and most of them could insure against unemployment. Accordingly, they were normally treated as well as, if not better than, other aliens. On the other hand, the Swiss Federal Government could not formally undertake to accord them the same treatment as it accorded to nationals, and would therefore be obliged to enter a reservation to the effect that the treatment accorded to refugees in the matter of unemployment insurance would be the same as that accorded to aliens generally.

As to old-age insurance and allowances paid to next-of-kin of deceased, the existing Swiss regulations were still more complex. Although aliens, and hence refugees, were insured, they were subject to certain special provisions. The Swiss Federal Government could not see its way at that juncture to amend the law relating to old-age insurance and allowances paid to next-of-kin of deceased, and would therefore be obliged to enter a reservation on article 19, sub-paragraph 1 (b), to the effect that in those matters refugees would enjoy, not the treatment accorded to nationals, but that accorded to aliens generally.

Mr. CHANCE (Canada) observed that in Canada some of the matters dealt with in article 19 came under federal and others under provincial jurisdiction. No distinction was made between nationals and aliens or refugees, although there were differences between the laws of the various Provinces. Subject to the acceptance of that position, the Canadian delegation could support article 19 without difficulty.

Mr. PETREN (Sweden) said that, generally speaking, the Swedish delegation could accept article 19. He would point out, however, that, so far as sub-paragraph 1 (b) was concerned, although most of the social security benefits in Sweden were granted to aliens and nationals alike, in some cases - especially with regard to old age pensions - the actual form of assistance was different as between aliens and nationals. It therefore might be necessary for the Swedish Government to enter certain reservations on that paragraph.

The PRESIDENT, speaking as representative of Denmark, said that the Danish Government would have no difficulty in assuming the obligations laid down in paragraph 1, but that it might be necessary for it to make certain reservations on paragraph 2. Danes were not allowed to draw pensions when resident abroad, so that it might not be possible, for instance, to allow the compensation payable on the death of a refugee to be transferred to his widow resident outside the country.

Mr. HOARE (United Kingdom) doubted whether the United Kingdom could comply with the provisions of paragraph 2, for the same reason as that given by the Danish representative.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his delegation's position was similar. He had not, however, considered that the phrase "the right to compensation" implied the transfer of such compensation outside the territory of the Contracting State.

Mr. THEODOLI (Italy) referred the Conference to his delegation's statement on articles 12 - 14 of the draft Convention, and added that in Italy social security and labour legislation was closely linked to the question of paid employment.

Baron van BOETZELAER (Netherlands) stated that the Netherlands delegation would be obliged to make a reservation on paragraph 2, because of the possibility of transfer of compensation, which would be governed by the existing foreign exchange rules and regulations.

Mr. ANKER (Norway) recalled the remarks on Norwegian social insurance legislation which he had made in the course of his general statement at an earlier meeting. Norway's position was the same as that of Sweden and Denmark, and he associated himself with the observations of the representatives of those countries. Some Norwegian social security schemes applied to all inhabitants of the country; old-age pensions, for example, were paid to all inhabitants, subject to a minimum period of residence in the country. Other schemes, however, applied only to Norwegian nationals. The Norwegian Government could not, therefore, accept the provisions of sub-paragraph 1 (b) without amending its legislation, and would have to enter a reservation on that sub-paragraph, although, of course, it was its intention to work towards equality of treatment as between nationals and refugees.

Mr. HOARE (United Kingdom) observed that paragraph 3 seemed to apply to refugees the benefits of agreements made between States to permit the nationals of one country to retain in another some or all of the social security rights acquired in their own country. He had no objection to the principle that those agreements, of which there were many, should apply equally to refugees and to nationals, but the text of paragraph 3 as drafted would appear to permit of the possibility that, under a bilateral agreement concluded between a State Party to the Convention and a State non-Party to the Convention, the former would be required to apply to refugees from the latter the same conditions as it would apply to its own nationals. Such a unilateral obligation would be an unjustifiable burden on the State Party to the Convention, and he doubted whether it would be practicable without the co-operation of the non-Contracting State. He believed the original intention had been that where such agreements existed between Contracting States, they should be automatically applied to refugees from both countries. In the circumstances, he proposed that the words "such agreements"

in the third line of paragraph 3 should be replaced by the words "any agreements which may be in force between Contracting States".

Mr. ROBINSON (Israel) considered that the meaning of paragraph 3 was narrower than that suggested by the United Kingdom representative. The Ad hoc Committee had taken the hypothetical case of an agreement between France and Poland concerning the benefits to be enjoyed mutually by the citizens of those two countries, and the question had been asked whether the benefits accruing to a refugee in Poland before he left that country would cease when he applied to the French Government for treatment as a refugee. That, he thought, was the case contemplated in paragraph 3.

Mr. HOARE (United Kingdom) observed that that might be a possible interpretation of the purpose of paragraph 3; he was not, however, aware of the history of the matter. In the field of social security, most bilateral agreements were of recent origin, and he doubted whether agreements of that kind had been concluded between possible Contracting States and so-called States of persecution.

Mr. HERMENT (Belgium) said that, to his knowledge, such an agreement did in fact exist, namely, that concluded between Belgium and France, which covered persons who had paid contributions with a view to drawing social insurance benefits later, and who had subsequently transferred their residence from one country to the other. The agreement provided that, from the standpoint of admission to social security benefits, contributions paid in the first of the two countries would be considered as if they had been paid in the second country of residence, irrespective of which of the two countries the worker was a national.

A codicil had subsequently been concluded between France and Belgium extending the benefits of the agreement to refugees who had paid social insurance contributions in either country.

Mr. HOARE (United Kingdom) thought that the Israeli representative might have had in mind the provision in paragraph 4, rather than the provision in paragraph 3. He endorsed the observations of the Belgian representative.

Mr. HERMENT (Belgium) fully agreed with the United Kingdom representative's interpretation. Such agreements included a signed undertaking between the Contracting States. In the present case, the High Commissioner for Refugees might approach the Contracting States with a request that they extend to refugees the benefits of the arrangements applied to nationals of both countries. But it should be noted, in that connexion, that there would be no question of an obligation, but only of a recommendation.

Mr. ROBINSON (Israel) agreed that paragraph 4 covered the case he had in mind. He also agreed with the Belgian representative's remarks. However, he believed that, before a vote was taker on that most important point, it would be advisable to look up the records of the earlier discussions on the subject.

The PRESIDENT requested the Israeli representative to examine those records and to enlighten the Conference at its next meeting. In the meantime, he would put paragraphs 1 and 2 of article 19 to the vote.

Paragraphs 1 and 2 of article 19 were adopted by 17 votes to none, with 1 abstention.

The meeting rose at 5.45 p.m.