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CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

held at the Palais des Nations, Geneva,
on Monday, 16 July 1951, at 3 p.m.

CONTENTS:

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Columbia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Federal Republic of Germany	Mr. von TRUTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
The Holy See	Monsignor COMTE
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO Mr. THEODOLI
Monaco	Mr. BACHERT
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER Mr. ARFF
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
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. MAKIEDO

Observer:

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

Representatives of specialized agencies and of other inter-governmental organizations:

International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. TALIANI de MARCHIO

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER

Category B and Register

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Council of Women	Dr. GIROD
International Social Service	Miss FERRIERE
League of Red Cross Societies	Mr. LEDERMANN
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER

Secretariat:

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

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 and Corr.1 (continued):

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2/17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74 A/CONF.2/75, A/CONF.2/76, A/CONF.2/77, A/CONF.2/78, A/CONF.2/79 A/CONF.2/80, A/CONF.2/81) (continued)

The PRESIDENT invited representatives to resume their consideration of article 1 of the draft Convention, dealing with the definition of the term "refugee".

Msgr. COMTE (The Holy See) emphasized the vital importance of the definition of the term "refugee". He pointed out that considerable divergences had appeared in the Conference on that subject; to reconcile the different views that had been expressed and so reach unanimous agreement, he proposed that the following words be added to sub-paragraph A 2 of article 1: "in Europe, or in Europe and other continents, as specified in a statement to be made by each High Contracting Party at the time of signature, accession or ratification." (A/CONF.2/80). Such a formula would satisfy both the French delegation and those other delegations which disagreed with its views. He hoped that his amendment would be taken into consideration, and that it would make it possible to achieve the unanimity which all delegations earnestly desired.

Mr. ROCHEFORT (France) thought the proposal of the representative of the Holy See an excellent solution; it had the merit of reconciling the universalist principles upheld by the Vatican with a proper sense of the responsibilities involved. As it also obviated the necessity for making a specific reservation to article 1, it should satisfy all delegations.

Mr. PHILON (Greece) and Mr. SCHURCH (Switzerland) supported the proposal of the representative of the Holy See.

Baron van BOETZELAER (Netherlands) also supported the proposal, on the understanding that the Conference was engaged for the time being only on the first reading of the Convention. If adoption of the proposal entailed consequential amendments to other articles of the Convention, they could be made at the second reading.

Mr. PETREN (Sweden) supported the Netherlands representative's statement and the reservation he had made.

Mr. HOARE (United Kingdom) said that he had throughout stood for what had been described as the universalist point of view, but even more for a unanimous solution. He consequently welcomed the proposal made by the representative of the Holy See and the French representative's acceptance thereof.

In accepting the proposal he must make the same reservation as the Netherlands representative, since it was more than likely that its formulation would have to be further considered and that it would necessitate consequential drafting changes elsewhere in the Convention.

Mr. HERMENT (Belgium) was very happy to agree to the proposal made by the representative of the Holy See. He expressed the strong hope that the Conference would not again be divided by such differences as had become apparent in that connexion.

The PRESIDENT said that the Conference had reached the stage at which it could take a decision on sub-paragraphs (1) and (2) of paragraph A of article 1. He would recall that those paragraphs were the subject of amendments submitted by the Belgian and the Yugoslav delegations (A/CONF.2/78 and A/CONF.2/79 respectively).

He would suggest that sub-paragraph (1), with the Belgian amendment thereto be put to the vote first, the Conference then taking a decision of principle on sub-paragraph (2).

He ruled the discussion on sub-paragraph (1) closed and asked the Conference to vote on the Belgian proposal (A/CONF.2/78) that the words: "Since 1 August 1914" be deleted.

The Belgian amendment (A/CONF.2/78) to sub-paragraph (1) of paragraph A of article 1 was adopted unanimously.

Mr. MAKIEDO (Yugoslavia) said that the second sentence of sub-paragraph (1) provided that all persons considered eligible by the International Refugee

Organization (IRO) should be considered as such under the Convention, as well as the other persons referred to in sub-paragraph (2). He agreed that the eligibility decisions taken by IRO should not militate against the granting of refugee status to other persons, but was opposed to the acceptance en bloc of that Organization's decisions as to eligibility, since it had operated under special conditions and had granted the status of refugees to persons who could not, at the present time, be considered as such. Paragraph 2 of section A of Part 1 of Annex I to the Constitution of IRO read as follows:

> ...."the term 'refugee' also applies to a person, ... who is outside of his country of nationality or former habitual residence, and who, as a result of events subsequent to the outbreak of the second world war, is unable or unwilling to avail himself of the protection of the government of his country of nationality or former nationality."

He was unable to accept the criterion of unwillingness, since a person might be unwilling to return to his country of origin for reasons of personal convenience. Governments had frequently disagreed with IRO about certain cases, and misunderstandings had arisen. It was for those reasons that his delegation had submitted its amendment (A/CONF.2/79) to the effect that the words "or withdrawn from persons who do not fulfil them" should be added at the end of the second sentence of sub-paragraph (1).

Mr. ROCHEFORT (France) pointed out that the sentence to which the Yugoslav amendment related should be understood in its original sense. It arose from a resolution adopted by the General Council of IRO with a view to preventing a decision adopted by that Organization as to the eligibility of a refugee being cited by a government against a person who might, but for that decision, be regarded as a refugee within the meaning of the draft Convention at present before the Conference. The points raised by the Yugoslav representative were answered in paragraph B of article 1, which applied, in fact, to all persons-even those declared eligible by IRO. The adoption of the Yugoslav amendment would have the effect of weakening the IRO definition, and the French delegation would therefore be unable to vote for it.

Mr. HERMENT (Belgium) suggested that the meaning of the sentence in question would be clearer if, instead of eligibility, it spoke of decisions as to ineligibility taken by IRO. It was difficult to see how decisions as to eligibility could prevent the status of refugee being accorded to certain persons.

Mr. ROCHEFORT (France) pointed out that the wording suggested by the Belgian representative was precisely what he (Mr. Rochefort) himself had originally proposed. The General Council of IRO had, however, explained that it would hardly be correct to speak of "decisions as to ineligibility", since there had never been any, the only decisions taken being those as to eligibility. The French delegation appreciated the Belgian representative's point, but was obliged to remark that it would be extremely difficult to find an expression that would exactly convey just what he had in mind. The term "refusal of eligibility" might, perhaps, do.

Mr. HERMENT (Belgium) agreed with that suggestion.

The PRESIDENT thought that the Belgian representative's point was a matter of drafting, which should not be raised at the present stage.

He ruled the discussion on the Yugoslav amendment closed.

The Yugoslav amendment (A/CONF.2/79) to sub-paragraph (1) of paragraph A was rejected by 10 votes to 2, with 9 abstentions.

The PRESIDENT stated that in view of the amendment introduced by the representative of the Holy See to sub-paragraph (2) and the French representative's acceptance thereof, he considered the French amendment (A/CONF.2/75) as having been withdrawn, and would put the former to the vote.

The amendment (A/CONF.2/80) to sub-paragraph (2) of paragraph A mitted by the representative of the Holy See was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT recalled that at the nineteenth meeting he had expressed the hope that the Conference would be able to reach unanimity on the difficult issues raised by article 1. He could not refrain from recording his pleasure at

the unanimity with which the felicitous amendment submitted by the representative of the Holy See had been adopted.

He drew attention to the Swedish amendment (A/CONF.2/9), which proposed the insertion of the words "membership of a particular social group" after the words "for reasons of race, religion, nationality" in the second and third lines of sub-paragraph (2).

The Swedish amendment was adopted by 14 votes to none, with 8 abstentions.

The PRESIDENT invited the Conference to consider the United Kingdom amendment (A/CONF.2/27) to sub-paragraph (2) of paragraph A.

Mr. HOARE (United Kingdom) said that the United Kingdom amendment was intended to remove a discrepancy from the text of sub-paragraph (2) which, as it stood, provided for two different types of condition which would enable a refugee to claim the benefits of the Convention. The first clause, which ran from the opening words down to the words "the protection of that country;" stipulated for refugees possessing a nationality the double condition of events occurring before 1 January 1951 and departure from their country of origin because of well-founded fear of being persecuted, whereas the second clause, which opened with the words "or who" and covered persons without nationality, imposed no corresponding stipulations in respect of such persons. The grammatical sequence was, so to speak, interrupted by the placing of a semi-colon between the two clauses, and although he, for his own part, having taken his stand on the wider point of view, did not object, he believed that, since the present wording represented a compromise solution, the text should truly reflect it. The purpose of his amendment was consequently to link stateless persons to those who were governed by the twin conditions of a date and a well-founded fear of persecution as the motives for their departure.

Mr. ROCHEFORT (France) had no fundamental objection to the United Kingdom amendment. He felt obliged to point out, however, that he had not studied the problem sufficiently, and was at the moment unable to form a clear picture of the practical consequences of adopting the amendment. The problem was of vital importance, since the measures involved could either give or withhold access

to receiving countries on the part of refugees. The text which the United Kingdom amendment proposed to modify had been studied, in the case of the French delegation, by specialists. Speaking personally, he was unable to express an opinion for the time being, and therefore suggested that the amendment be referred to a working party for study.

Mr. ROBINSON (Israel) conceded that the United Kingdom representative's argument was valid, and that the text of sub-paragraph (2) as at present drafted stipulated two different kinds of prerequisite for refugees who possessed a nationality and for those who were stateless. The question was, however, much wider in scope than the United Kingdom representative had suggested. The process by which an individual became a stateless person consisted of three stages. First, he must leave his country; secondly, he must remain abroad; and thirdly, he must refuse to return to his country of origin. Consequently, if the text only covered persons who left their country for fear of persecution, it would exclude persons who for instance, went abroad on a diplomatic mission or to study and, while still abroad, were overtaken by a revolution which made it impossible for them to return. In order to be able to claim the status of refugee, would it be enough for persons in that category to declare that they did not wish to return to their country of origin? Should all three stages in the process of becoming stateless be mentioned, or would the last and cardinal stage - the refusal to return - suffice?

The French representative had said that the issues raised by the United Kingdom amendment were very important. He (Mr. Robinson) believed that the Conference was not yet ready to vote on the matter, and that a working party should be set up to consider it.

Mr. HOARE (United Kingdom) thanked the Israeli representative for his lucid statement which illustrated his (Mr. Hoare's) contention that, according to the text of sub-paragraph (2), different conditions were required of persons possessing a nationality and of stateless persons respectively. At the same time, his (Mr. Robinson's) suggestion that there existed another category of persons who, having left their country for private reasons, subsequently found it impossible to return, was tantamount to modifying the principle on which sub-

paragraph (2) was based. That was a question which the Conference must decide in plenary meeting. His (Mr. Hoare's) sole concern was to make sure that the same criteria were applied to persons having nationality and to stateless persons. It might be best for a working party to consider that particular point.

Mr. PETREN (Sweden) concurred with the Israeli representative's interpretation.

The PRESIDENT assumed that the United Kingdom representative had, for the time being, withdrawn his amendment (A/CONF.2/27), while reserving his right to re-introduce it at a later stage.

He ruled the discussion closed.

Paragraph A of article 1, as amended and as a whole, was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT invited representatives to turn to paragraph B of article 1, and drew attention to the Austrian amendment (A/CONF.2/17) to sub-paragraph (3).

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that the Austrian representative had asked him to speak on the Austrian amendment, the purpose of which was to ensure that refugees coming under the Convention continued to enjoy the benefits thereof, particularly in respect of international welfare measures, after naturalization.

While expressing his appreciation of the keen interest taken by the Austrian representative in the work of the Conference, he did not doubt that the latter would understand that he (the High Commissioner) found some difficulty in meeting his wishes.

The Austrian amendment would not affect the Statute of the High Commissioner's Office, since it contained the identical exclusion clause embodied in sub-paragraph (3). If the amendment, which attenuated that exclusion clause, was adopted, the

outcome would be that a group of refugees, or rather former refugees, would come within the scope of the Convention, but would be outside the Statute of the High Commissioner's Office. There would thus exist the three following groups of refugees: those covered both by the Convention and the Statute; those not covered by the Convention but within the High Commissioner's Mandate under the terms of paragraph 6 B (A/AC.36/1); and finally, those who in terms of the Austrian amendment would remain under the Convention but outside the Statute. In point of fact, the definition of the Statute would in that respect be narrower than the definition of the Convention, although the general provision of paragraph 6 B was in other respects wider. He wished to draw the attention of the Conference to those facts, particularly since the Statute was not under discussion, and the Austrian amendment raised an issue which the Conference must settle on its own merits.

He would like to add some further comments. Both in theory and in practice, naturalization had always been considered as bringing refugee status to an end. Naturalization did not even have to be formal, since both under the Convention and under the Statute of his office there existed a de facto statelessness and a de facto citizenship. Recognition of the latter was made in paragraph D of article 1 of the draft Convention which read as follows:

> "The present Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country." (cf. paragraph 7(b) of Chapter II of the Statute, A/AC.36/1, page 10).

Clearly, and in his view rightly, the authors of both texts had considered that refugee status, being abnormal, should not be granted for a day longer than was absolutely necessary, and should come to an end (or, possibly, should never even come into existence) if, in accordance with the terms of the Convention or the Statute, a person had the status of de facto citizenship, that was to say, if he really had the rights and obligations of a citizen of a given country. It was therefore not entirely correct to argue that the Convention and the Statute covered the period between the time when a person became a refugee and the moment

when he was naturalized as a citizen of a given country. In order to accord completely with the facts, the Austrian amendment should be amplified by the words: "unless before his naturalization he has acquired de facto citizen status".

He would take the following example. If a Volksdeutsche refugee living in Austria - and therefore covered by the Statute of the High Commissioner's Office - were to cross the Austrian-German frontier, he would by that act put himself at once beyond the mandate of the High Commissioner's Office, because in Germany Volksdeutsche were "considered to have the rights and obligations which are attached to the possession of German nationality". Thus such a refugee would become a de facto German, and would no longer be a refugee in the sense in which that term was used in the Statute and in the Convention.

The concept of "refugee" was closely bound up with the pre-supposition that a refugee was a person who had no nationality in the practical sense of the word. He might theoretically have the nationality of his country of origin, and hence not come within the "stateless" category, but whatever his background, the prospects before him were that he would only be a refugee so long as he did not acquire a new nationality either in practice (paragraph D of article 1 of the Convention and paragraph 7(b) of Chapter II of the Statute) or formally through naturalization.

That "classic", if one might so call it, concept of a refugee was what the Austrian amendment sought to change. By the adoption of that amendment a third category would be added to the two categories with which representatives had hitherto been concerned, namely, that of the naturalized refugee who, being the national of a certain country, would have more rights than a refugee could possess, but who would at the same time, by virtue of the fact that he was still considered as a refugee, have more rights than a national of that country could possess.

Indeed, under the Austrian amendment, still further complications would arise. Since it would have no retroactive effect, it would not cover refugees who had been naturalized prior to the entry into force of the Convention.

Thus it would be necessary to distinguish between four different categories of persons: nationals to whom the Convention did not apply; refugees naturalized prior to the coming into force of the Convention and therefore outside its scope; refugees naturalized after the coming into force of the Convention and therefore falling within its scope; and refugees not yet naturalized and therefore covered by the Convention. The Austrian delegation was undoubtedly aware of the fact that that third category of refugees, which its amendment was intended to cover, would not be able effectively to enjoy all the rights bestowed by the Convention. Wherever the Convention provided for treatment for refugees equal to that accorded to aliens in general or to aliens enjoying most-favoured treatment, the third category of naturalized refugees would certainly prefer to enjoy the treatment to which they would be entitled as nationals of the country in question. He presumed that the Austrian amendment had been introduced only for the sake of preserving certain special rights to former refugees. The Conference might consider that the amendment as at present drafted was too wide, since it amounted to the deletion of the exclusion clause in sub-paragraph (3) of paragraph B of article 1, and the substitution for it of a clause providing that the Convention would remain applicable to a refugee after acquisition of new nationality, the refugee accordingly being entitled to enjoy all the rights which he had previously enjoyed under the Convention.

It was for the Conference to decide whether it wished to establish a third category of refugees. A provision on the lines of the Austrian amendment would have the effect of intensifying the desire of persons in that group to acquire a nationality, since they would not thereby lose the benefits of the Convention. It would at the same time have the disadvantage of creating a special class within a national community, that of nationals who in certain respects would also be refugees. The Conference might further wish to consider whether there might not be some risk of conflict between domestic legislation and conventional rights in the case of persons who would be entitled to appeal to both. Finally, the Conference might consider whether such a provision might not make it more difficult for certain governments to adhere to the Convention.

Turning to the second question raised in the Austrian amendment, namely, that refugees falling in the third category should be entitled to the international welfare measures provided for refugees, he would first like to make clear that he was speaking on the matter only because the Austrian representative had requested him to do so. The Statute of his Office forbade him as High Commissioner to appeal to governments for funds or to make a general appeal without the prior approval of the General Assembly (A/AC.36/1, page 12). It seemed clear to him that the definition of a refugee given in article 1 of the Convention was a special one, in that it was a definition for the purposes of the Convention. In his view, therefore, it was not prejudicial to any other definition applied to refugees receiving international assistance and not covered by the present Convention. Thus, for instance, the United Nations Korean Reconstruction Agency rendered assistance to Korean refugees who were nationals of Korea. He assumed that representatives would agree that any definition of refugees must depend on the purpose for which it was drawn up, and was sure that if a definition was at any time to be adopted for the purpose of rendering international assistance to refugees, the definition of the present Convention would not be prejudicial thereto, the criterion obviously being the need of the refugees in question to receive international assistance.

Mr. FRITZER (Austria) thanked the High Commissioner for his statement, especially with regard to the question of international welfare measures. The Austrian delegation regarded the High Commissioner's statement as being an authoritative interpretation of the situation, but felt that it would not be effectively defending the cause of the Austrian Volksdeutsche if it withdrew its amendment (A/CONF.2/17). He believed that States would have no difficulty in taking a positive attitude towards it, since no State would wish its nationals to be placed in a worse position than refugees.

The Austrian Federal Government would be prepared to accept the decision of the Conference as an interpretation of the point.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) also thanked the High Commissioner, noting with satisfaction the latter's view that the definition contained in the Convention was not prejudicial to any other definition which might be adopted for the purpose of international welfare measures for refugees. On that assumption, the Government of the Federal Republic of Germany was prepared to accept paragraph D of article 1.

Turning to the example, cited by the High Commissioner, of a Volksdeutsche entering Germany and acquiring de facto rights of citizenship, he would like to point out that the issue depended on the German authorities who were competent to determine the legality of a person's admission to Germany and the rights to be granted to or withheld from him. Actually, his Government had granted de facto citizenship to some nine million German refugees.

He would abstain from voting on the Austrian amendment.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) drew attention to the fact that he had quoted verbatim from paragraph D of article 1 of the Convention and paragraph 7(b) of the Statute of his Office, which implied that once a person had been legally admitted into a country, he might enjoy de facto citizenship. As to the other aspect of the problem, he had not given an authoritative interpretation, but had merely expressed his personal conviction that if international welfare measures were initiated at any time, another definition of the term "refugee" would be required.

The Austrian amendment (A/CONF.2/17) to sub-paragraph (3) of paragraph 8 was rejected by 10 votes to 1, with 13 abstentions.

The PRESIDENT requested the Conference to turn to the Netherlands amendment to sub-paragraph B (3) of article 1 (A/CONF.2/73).

Baron van BOETZELAER (Netherlands), introducing his delegation's amendment, explained that it had been prompted by certain doubts as to whether the cases envisaged in sub-paragraph 3 properly represented all the contingencies that were liable to occur.

Nationality might be acquired either voluntarily or automatically.

If nationality was acquired voluntarily, the person involved might nevertheless not enjoy the protection of the country whose nationality he had acquired. It was for that reason preferable to define more clearly the first part of the Netherlands amendment by the addition of the following words: "he enjoys the protection of the country whose nationality he has acquired". In cases where the person involved did not enjoy the protection of the country in question, he would have to continue to be regarded as a refugee.

As to the case of a person who acquired a nationality automatically, it might happen that he would not wish to avail himself of the protection afforded by the country of his new nationality. As a result, it would be necessary to restrict application of that provision to cases where the interested party claimed the protection of the country whose nationality he acquired; in other cases, he would again have to continue to be regarded as a refugee.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) supported the Netherlands amendment.

Mr. HERMENT (Belgium) said that he would have been prepared to support the amendment without the additional reservations just made by the Netherlands representative. He believed that the criterion on which the Netherlands amendment was based was that of the declaration of intention by the refugee. It now appeared, however, that it was considered that there might be refugees who would desire simultaneously to acquire a new nationality and to retain the privileges conferred on them by their status as refugees. Such was, indeed, the significance of the clause which the Netherlands representative had just added to the first part of his amendment. Acquisition of a nationality was an act of volition, and therefore a refugee would have been in a position to find out in advance the consequences entailed by the acquisition of his new status.

For those reasons he considered that it was essential to retain the criterion of the declaration of intention by the refugee.

Baron van BOETZELAER (Netherlands) explained that it was not the purpose of his amendment to allow a refugee who had acquired a new nationality to refuse to avail himself of the protection of the country of which he had become a national. Nevertheless, cases could be envisaged in which he would be unable to do so.

He therefore proposed to replace the clause which he had added to the first part of his amendment (sub-paragraph 3(a)) by the words: "and cannot claim the protection of the country whose nationality he has acquired".

Mr. PETRÉN (Sweden) asked what the position would be in the case of a refugee who acquired a nationality by marriage. Marriage was a voluntary act, but its effects might not be so.

Mr. HERMENT (Belgium) replied that under most legislative systems, in such cases the wife might or might not, at choice, acquire the nationality of the spouse.

Mr. PETRÉN (Sweden) said that that was the general case. But it was easy to imagine a stateless refugee contracting a marriage in a country where the law automatically prescribed acquisition of the nationality of the spouse.

Mr. ROCHEFORT (France) felt certain doubts about the automatic acquisition of a new nationality. Although examples existed of international or national authorities having taken a decision by which a group of persons acquired a new nationality, such cases were comparatively rare. Automatic acquisition of a new nationality might indeed constitute a form of persecution compelling the person against whom it was directed to seek refuge in another country. In that case the problem did not arise in the terms of the Netherlands amendment, for the person involved could invoke persecution or a conscientious objection. Furthermore the hypothesis of automatic acquisition of a new nationality could not be accepted by the countries signatory to the Convention. In the case of France, in particular, the problem of nationality was one for the free choice of the individual; in his opinion, therefore, an individual could not be compelled to acquire a new nationality.

Sub-paragraph B(3), which the Netherlands amendment proposed to modify, had been the subject of protracted study, and the French delegation would be placed in a difficult position if certain details liable to have unforeseeable practical consequences were called in question.

Mr. von TRUTZSCHLER (Federal Republic of Germany) referred to recent changes in the legislation of eastern European States, and to the possibility that every person born in one of those States after a certain date would be regarded as a citizen of that State. He believed that the aim of the Netherlands delegation would best be achieved by the substitution of the words "avails himself of" for the word "enjoys" in the original text of sub-paragraph B(3). That would enable a national of such a State living abroad to claim the status of refugee in preference to availing himself of the protection of the country of his nationality.

Mr. ROCHEFORT (France) pointed out that the hypothesis of the automatic acquisition of a new nationality, as expressed in the Netherlands amendment, referred to the receiving country, whereas the hypothesis mentioned by the representative of the Federal Republic of Germany referred to the practice of certain countries which were not receiving countries. The Netherlands amendment could not apply to the receiving countries, where no system existed for the compulsory acquisition of nationality.

Mr. HERMENT (Belgium) thought it desirable to provide for the case of a refugee in a receiving country who, either by an act of the authorities in his country of origin, or by an act of a Power exercizing authority over the territory of his country of origin, found himself saddled with a nationality that he did not wish to possess. Cases were known where deprivation of nationality had been pronounced ex officio. It seemed right, therefore, to consider also the case of the automatic acquisition of nationality.

Mr. ROCHEFORT (France) remarked that the object of the Convention was to provide for what would happen in receiving countries, not in countries of origin. Decisions taken in the country of origin could have no bearing on the case of a refugee living in a receiving country.

Mr. HOARE (United Kingdom) observed that sub-paragraphs (1) (2) and (3) of paragraph B were concerned with three quite different types of case, and it was clear, if those different types of case were considered, that sub-paragraph (3) was not concerned with the imposition of nationality by an outside authority, but related to the acquisition by a refugee of a new nationality other than that of the country of persecution. Sub-paragraph 3 was designed to meet the case where a refugee in a particular country of refuge paid a brief visit to another country and took advantage of the facilities available there to acquire the nationality of that country. When such a person returned to the country of refuge, the latter would be faced with the situation of his having acquired a new nationality. In his view, therefore, it would be better to say "enjoys the protection of the country of his new nationality", for that would leave the State concerned to decide whether the refugee in fact enjoyed such protection, and how the prhase should be interpreted. If the words "avails himself of" were substituted for the word "enjoys", as had been proposed by the representative of the Federal Republic of Germany, it would be impossible to take a decision in the matter until the person in question took some specific action, for instance, until he applied for and was given a passport. He (Mr. Hoare) considered that sub-paragraph (3) of paragraph B as it stood amply covered the type of case with which it was concerned, and that any refinement of the text might take the matter beyond the point that had originally been intended.

Baron van BOETZELAER (Netherlands) explained that the questions which the Netherlands delegation had thought it useful to raise in connexion with sub-paragraph (3) of paragraph B arose out of the fact that the Netherlands Government had not been acquainted with the discussions which had resulted in the wording of that sub-paragraph as it appeared in document A/CONF.2/1. He had listened with much interest to the United Kingdom representative's explanations, as a result of which sub-paragraph (3) now seemed reasonably clear to him. His delegation would therefore withdraw its amendment.

The PRESIDENT invited the Conference to consider the Israeli amendment (A/CONF.2/81) to sub-paragraph (5) of paragraph B of article 1. The second Swedish amendment in document A/CONF.2/9 also related to that sub-paragraph.

Mr. ROBINSON (Israel) said that, although his amendment had so far been circulated only in English, and a further amendment (A/CONF.2/82) submitted by his delegation to sub-paragraph B (6), closely connected with the Swedish amendment and to the first Israeli amendment, had not yet been circulated, he would endeavour to explain the purport of his delegation's amendment and its attitude towards the Swedish amendment.

It was clear from the wording of sub-paragraph (2) of paragraph A of article 1, as it now stood, that the cessation of persecution was not regarded as automatically terminating the status of refugee, but that a refugee could invoke other grounds for retaining that status. That idea was expressed in the words "for reasons other than personal convenience". The Swedish delegation had objected to that phrase on legislative and practical grounds. The Israeli delegation sympathized with the Swedish view that it was a negative and vague formula, and could well understand how it might give rise to difficulties in some countries the constitutional structure of which was such that domestic legislation had to be passed before an international convention could be ratified. He also sympathized with the Swedish Government's difficulty in the practical sphere, which derived from the fact that sub-paragraph A (2) appeared to oblige governments to accept the possibility of receiving an unknown number of persons who might become refugees after 1 January 1951 as a result of events occurring before that date. The Israeli amendments to sub-paragraphs(5) and (6) of paragraph B were intended to solve both the legislative and factual objections raised by the Swedish representative. Instead of the vague formula "for reasons other than personal convenience", his delegation suggested the use of the post-persecution clause introduced by IRO, which spoke of refugees who were able to invoke compelling family reasons or reasons arising out of previous persecutions for refusing to avail themselves of the protection of the country of nationality. That would apply equally to stateless persons, with the consequential difference that "habitual residence" would be substituted for "country of nationality". In the matter of the practical difficulty arising out of the uncertainty of the obligations to be assumed by Governments, the Israeli delegation's suggestion was that refugees falling under sub-paragraph (1) of paragraph A of article 1, where to all intents and purposes the obligations were known, should alone be referred to

As to procedure, he suggested that his amendments should be considered as amendments to the Swedish proposal, and that they should be taken together and voted on first.

Mr. PETRÉN (Sweden) thanked the Israeli representative for proposing a compromise solution. He had already had the opportunity of explaining the reasons for which the Swedish delegation had submitted its amendment. His delegation was prepared provisionally to accept the Israeli amendment, making it clear, however, that its final position must depend on the attitude that the Swedish Government adopted in the matter.

Mr. ROCHEFORT (France) observed that the French delegation was not alone in experiencing some difficulty both in interpreting the exact scope of the Israeli amendment and in estimating the practical consequences to which the amendment might give rise. It was impossible for him personally to give a decision at that juncture; he could only transmit the text of the amendment to the French Government and await instructions.

The PRESIDENT proposed, and Mr. ROBINSON (Israel) and Mr. PETRÉN (Sweden) agreed, that the discussion on sub-paragraph (5) of paragraph B should be deferred until the Israeli amendment was available in both English and French.

It was so agreed.

The PRESIDENT drew attention to the Netherlands amendment (A/CONF.2/77) which proposed the addition of a new sub-paragraph in paragraph B of article 1.

Baron van BOETZELAER (Netherlands) said that the Netherlands proposal might appear somewhat revolutionary. Nevertheless, the Netherlands Government wished to sound the Conference on its substance. His Government was of course ready to accord preferential treatment to refugees as provided for in the draft Convention, but it wondered whether such a régime should persist indefinitely. He pointed to circumstances in which it would be necessary, in the view of his delegation, to promote assimilation and to take steps to avoid leaving refugees

in the position of enjoying indefinitely treatment which went beyond that accorded to aliens generally, and which conferred rights that were almost equivalent to those enjoyed by nationals without imposing the full corresponding obligations incumbent upon nationals. The first part of his amendment was concerned with the question of promoting assimilation. It also appeared reasonable that refugees who could not become naturalized because of misbehaviour should not indefinitely enjoy the status of refugee and that, if such a person was still not naturalized after the passage of a certain period of time, no distinction should be made between him and an ordinary alien. That was the purport of the second part of the amendment.

Mr. ROCHEFORT (France) said that in the French delegation's view, the questions of nationality and naturalization depended on the free choice of the refugee concerned. It was therefore impossible for him to agree to as much pressure being brought to bear upon them as that proposed in the Netherlands amendment.

In France, certain refugees clung tenaciously to the hope of returning to their own country, and the French Government did not feel that it had the right to deprive them of that hope.

In that respect, he recalled the case of the Spanish refugees, whom he had already mentioned, and who under the terms of the Constitution of IRO were resident in France only temporarily, waiting until a change of circumstances in Spain permitted them to return home.

Moreover, the Netherlands amendment would have rather regrettable practical consequences. Thus, for example, in France naturalization was not granted to persons who were cohabiting but not legally married.

He would also emphasize the extremely vague nature of the expression "his misbehaviour". He recalled that at an earlier meeting certain delegations had opposed the French desire to make certain provisions dependent upon the maintenance of public order. He appealed to those delegations not to accept a much more restrictive formula than the one they had previously resisted so

strongly. If the Netherlands amendment was adopted, the French delegation would be obliged to enter a reservation which would raise anew the question of reservations to article 1 of the Convention.

Mr. HERMENT (Belgium) entirely shared the French representative's point of view. For example, it would be impossible to require refugees who had been living in Belgium for five or ten years to seek naturalization on pain of forfeiture of the benefits of the Convention. Some of those refugees still had hopes, which, although they might be vain hopes, were none the less understandable, of returning to their homeland; one could not snatch those hopes from them. It should be noted that only one generation was affected; for the children of refugees would either be nationals of the country of reception, or they would be called upon to choose the status they preferred. It therefore seemed preferable to leave it to the refugees to settle the question of nationality themselves.

Mr. HOARE (United Kingdom), too, was unable to support the Netherlands amendment for the reasons given by the French and Belgian representatives. It was common knowledge that certain refugees entertained the hope of returning to their country of origin, and it would be unfair to put the abandonment of such a hope to the test within a period of ten years. He also deprecated the bringing of any pressure to bear on refugees to adopt the nationality of the country of refuge. Not only was there the risk that governments might abuse the facility for refusing naturalization offered by the use of such a term as "misbehaviour", but there would also be a difficulty so far as the refugee himself was concerned, for it would mean that, if a refugee with a conviction against him applied for and was refused naturalization on that ground, he would lose his refugee status.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) observed that the question raised by the Netherlands amendment had been amply discussed on previous occasions. An internal draft for a convention on the status of refugees, prepared by IRO in 1949, had contained a paragraph dealing with that specific point, but the provision had never been adopted, even though it had been worded much more precisely than the amendment now before the Conference. It had

spoken of a period of residence which would qualify the refugee for naturalization; it had provided that the authorities might invite him to submit an application for naturalization; and, finally, it had afforded him an opportunity of producing valid reasons for refusing to adopt the nationality of the receiving country. He cited the case of Count Sforza of Italy who, he contended, could not reasonably have been required to apply for naturalization in the country of asylum within a period of ten years. He therefore urged the Netherlands delegation to consider most seriously the advisability of proceeding with its amendment.

Mr. HOEG (Denmark) said the Danish delegation could not support the Netherlands amendment for the reasons given by previous speakers. While many refugees might be eager to acquire a new nationality, some might have valid reasons for not applying for naturalization. He also agreed with the French representative as to the danger of using such a word as "misbehaviour".

Mr. CHANCE (Canada) said the Canadian delegation could not support the Netherlands amendment. Although he had previously stated that in the Canadian Government's view an immigrant should not continue to regard himself, or to be regarded by others, as a refugee, he did not wish that to be understood as implying that he favoured the insertion in the Convention of an article that would force citizenship on a refugee.

Mr. ROCHEFORT (France) said that the IRO draft to which the High Commissioner had alluded had been a draft prepared by the administration of IRO which had been in no way binding on the Governments Members of the General Council of IRO, who could not have accepted a provision of that kind.

Mr. PETRÉN (Sweden) appreciated the underlying intention of the Netherlands amendment but, after having heard the arguments advanced by other representatives, endorsed their point of view.

Mr. del DRAGO (Italy) recalled the Italian delegation's general statement on article 29 of the Convention, in the course of which it had stated that the Italian Government could not consider the question of naturalization for reasons that were well known. He was thus unable to support the Netherlands amendment.

Baron van BOETZELAER (Netherlands) believed that he now had a clear idea of the views of the Conference on the basic idea underlying his delegation's amendment. The period of ten consecutive years of habitual residence suggested therein was not in any way final, and a long period could have been prescribed. Again, a more precise term could have been found to replace the word "misbehaviour". Since, however, the amendment did not commend itself to the Conference, he would withdraw it.

The PRESIDENT suggested that the vote on paragraph B should be deferred until the Israeli amendments to sub-paragraphs (5) and (6) were available. As the Egyptian representative was absent, it would also be advisable to defer discussion on paragraph C until he was present, since the Conference had before it the Egyptian amendment in document A/CONF.2/13.

It was so agreed.

The PRESIDENT requested the Conference to take up paragraph D, to which there was a Belgian amendment (A/CONF.2/78) which affected the French text only. That amendment could probably be left to the Style Committee, whose conclusions the Conference would have an opportunity of considering at the second reading.

Mr. HERMENT (Belgium), introducing the Belgian amendment to paragraph D (A/CONF.2/78), pointed out that in law the French terms "élire domicile" and "établir sa résidence" had completely different meanings. It was perfectly possible to elect to be domiciled in one country and to reside in another. That was why the Belgian delegation was proposing the substitution for the words "élire domicile" in the French text (corresponding to the words "has taken residence" in the English text) of the term "a établi sa residence" which was more in accordance with the purpose of Paragraph D.

Baron van BOETZELAER (Netherlands) asked for clarification concerning the phrase "rights and obligations which are attached to the possession of the nationality of that country". The Netherlands delegation assumed that those did not denote political rights and obligations, such as the right to vote, the right

to occupy certain public positions or the obligation to do military service, but only economic and social rights.

Mr. WARREN (United States of America) recalled the fact that paragraph D had been adopted by the General Assembly as the result of the deletion of the words "in Europe" from sub-paragraph A (2) of article 1. The intention was to take care of de facto citizenship. It had been thought that a grant of citizenship might take place in certain circumstances, and that, while that status was being legally confirmed, the refugees in question should to all intents and purposes have the rights and obligations of nationals.

The PRESIDENT believed that in those circumstances the appropriate term would be "habitual residence" and not "residence".

Mr. ROCHEFORT (France) remarked that, so far as the Belgian amendment was concerned, the correct term would be "a établi sa résidence régulière". He pointed out that the text of paragraph D had been considered and drafted with great care. It was therefore necessary to avoid making amendments at the present stage which might call in question the consequence which would ensue in practice from the application of paragraph D. The French delegation would keep strictly to the interpretation which had prevailed during the discussion at Lake Success.

The PRESIDENT considered that it was for the Conference itself to decide whether the criterion should be residence or habitual residence.

Mr. CHANCE (Canada) thought that, if the concept of habitual residence were to be retained in the English text, it would be necessary to revise it to read "in which he has taken up permanent residence".

Mr. HOARE (United Kingdom) believed that for the purposes of paragraph D the idea of taking up residence was equivalent to taking up permanent stay. In the sense in which it had been used in other parts of the Convention, the phrase "habitual residence" implied much less than permanent residence. The point was undoubtedly one for consideration by the Style Committee in so far

as the question of concordance between the French and English texts was concerned, but in his opinion the words "taken residence" were sufficient for the purposes of the article.

The PRESIDENT enquired whether it was generally agreed that the question was one for the Style Committee.

Mr. HERMENT (Belgium) said he would agree to the procedure suggested by the President. The distinction, to which he had drawn attention, between the legal meaning of the terms "élection d'un domicile" and "établissement d'une résidence" must be preserved.

Mr. ROCHEFORT (France) thought that the delegation of the Federal Republic of Germany should be represented on any working party set up to study the text of paragraph D, since the purpose of that text was to deal with a situation which existed in Germany, and the text itself had been drafted at Lake Success in the presence of observers from the German Federal Republic.

The PRESIDENT pointed out that the Style Committee had not yet been constituted. If the German representative was not appointed a member, the Committee could co-opt his services.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that he would be at the disposal of the Style Committee for any assistance that he might be able to render.

It was agreed to refer the question raised by the Belgian amendment (A/CONF.2/78) to the Style Committee.

The PRESIDENT put to the vote paragraph D, as it stood.

Paragraph D of article 1 was adopted by 19 votes to none, with 2 abstentions

The meeting rose at 6 p.m.