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CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE TWENTY-FIFTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 17 July 1951, at 3 p.m.

CONTENTS:

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRUTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
The Holy See	Archbishop BERNARDINI
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PERSSON
Switzerland (and Liechtenstein)	Mr. SCHURCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO Mr. BOZOVIC

Observer:

Iran	Mr. KAFAI

High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

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

International Refugee Organization	Mr. SCHNITZER

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
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Union of Catholic Women's Leagues	Miss de ROMER
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

1. 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):

(i) Article 7 - Personal Status (A/CONF.2/31, A/CONF.2/36) (resumed from the seventh meeting)

The PRESIDENT suggested that, as the French text of the amendment to article 3(B) submitted jointly by the Israeli and United Kingdom delegations was not yet ready, the Conference should resume its consideration of article 7, on personal status, paragraph 1 of which had already been adopted.

It was so agreed.

The PRESIDENT drew attention to the Yugoslav and United Kingdom amendments to paragraph 2 of article 7 (A/CONF.2/31 and A/CONF.2/36 respectively).

Mr. HOARE (United Kingdom) recalled the statement he had made in introducing his delegation's amendment.[1] He emphasized that that amendment was in two parts; it proposed, first, that the words "that State" should be substituted for the phrase in the original text reading "the country of his domicile or, if he has no domicile by the law of the country of his residence"; and secondly, that the proviso "provided that the right is one which would have been recognized by the law of that State had he not become a refugee" should be added. As those two parts dealt with different considerations, it would be desirable to take them separately.

M. MAHER (Egypt) doubted whether it would be possible to solve the question of rights attaching to marriage previously acquired by a refugee, when private international law had not yet succeeded in solving the problem of the personal relationship between husband and wife.

Mr. ROCHEFORT (France) asked for clarification concerning the position of a divorced refugee who had obtained his divorce in a country the national legislation of which recognized divorce, but was resident in a country, like Italy,

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1) See summary record of the seventh meeting (A/CONF.2/SR.7).

where divorce was not recognized. In that case, he submitted, the right to divorce acquired by the refugee would not be recognized by the receiving country.

Mr. HOARE (United Kingdom) did not feel particularly qualified to reply to the French representative's question. As he saw it, that question was related to the first part of paragraph 2 of article 7, that was to say, to the requirement that the rights under consideration should be respected by a Contracting State. Some thought would have to be given to the exact meaning of that requirement so as to determine what its scope should be. The second part of paragraph 2 was merely a requirement that certain formalities should be complied with, and in his delegation's opinion they should be the formalities obtaining in the State where the rights were to be exercised.

Mr. ROCHEFORT (France) said that the United Kingdom representative's interpretation of the text tallied with his own. He wished, however, to point out that the refugee in the case he had cited might have some difficulty in obtaining, say, a certificate of divorce - a document which he might well need - if divorce was not recognized by the legislation of the country in which he resided.

Mr. HOARE (United Kingdom) believed that if a particular country did not recognize divorce, it could not possibly issue a certificate authenticating such a status. That point seemed to lead direct to the second element in his amendment, namely, the proviso that the right was one which would have been recognized by the law of the particular State had the person in question become a refugee.

Mr. HERMENT (Belgium) remarked that in principle States which forbad divorce did so only to their own nationals. It was solely for reasons of public order that a State might decide not to recognize divorces between foreigners or not to authorize them to divorce in its territory. As the United Kingdom representative had pointed out, the question of a divorce granted by the authorities of a country other than that of residence was a matter of the jurisprudence of the States concerned. The purpose of the United Kingdom amendment was to place refugees on the same footing as aliens in respect of rights dependent on personal status.

Moreover, in the case cited by the French representative the courts of the receiving country would have to decide whether they would have recognized a divorce granted in the same circumstances to two aliens who were not refugees.

Mr. ROCHEFORT (France) accepted the Belgian representative's interpretation. The purpose of his question had been to establish whether the text proposed by the United Kingdom delegation was at variance with such an interpretation.

Mr. BOZOVIC (Yugoslavia) recalled his delegation's explanation[1] of the idea underlying the amendment (A/CONF.2/31) it had submitted to paragraph 2 of article 7. In view of the objections that had been raised to it, and particularly in the light of the Belgian representative's remarks at the seventh meeting, he would withdraw the amendment. At the same time, he considered that a satisfactory solution could have been found and that the observations of the Belgian representative were not entirely satisfactory, since the Yugoslav proposal had referred only to duties existing prior to the date on which the person had become a refugee.

Mr. ROCHEFORT (France) appreciated the considerations which had prompted the introduction of the Yugoslav amendment, and he would suggest that, to meet them, the following clause should be added to paragraph 2:

> "The refugee shall be required to respect obligations he has contracted by reason of his personal status in so far as he is not prevented from doing so by reason of his being a refugee".

To give an illustration of the practical consequences of such a clause, he cited the case of a refugee with an obligation to maintain a relative. If both the relative and the refugee found asylum in the same country of reception, it would be normal for the refugee to comply with his obligations. But if the beneficiary remained in the country of origin, it might be difficult for the refugee, by reason of his being a refugee, to comply with his obligations.

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1) loc. cit.

Mr. HERMENT (Belgium) felt much sympathy for the reasons behind the position taken by the French and Yugoslav delegations. He must, however, point out that it might be very difficult to apply such a clause in practice, since it was a question of a personal obligation, which would have to be enforced, if necessary, by a court order.

Mr. ROCHEFORT (France) thought that a court trying a case similar to that which he had described would be able to decide on the basis of the text he had proposed, whether or not the refugee was in a position to comply with his obligations.

Mr. HERMENT (Belgium) doubted whether the judicial authority trying such a case would give a decision based on the Convention. In his opinion, the decision would be taken on the basis of factors external to the Convention. Moreover, if it were a question of an obligation originating in a decision given in a country other than the receiving country, it could not be made the subject of summary measures of execution unless it was covered by a demand for enforcement from the courts of the former country. The question would then arise of the existence or otherwise of a convention between the two countries relating to the enforcement of judgments given in the other country.

Mr. ROCHEFORT (France) said that the case he had been considering was one in which the refugee and the person to whom he was under an obligation were both resident in the receiving country. In that case, powers of enforcement would not be essential. Moreover, the courts could not be unaware of the terms of article 7 of the Convention. In France, for example, international law took precedence over national law, and article 7 would therefore become part and parcel of the refugees' charter.

Mr. HOARE (United Kingdom) said that while he sympathized with the aim of the Yugoslav delegation he was unable to support its amendment. He endorsed the Belgian representative's view that, if it was merely a question of a moral obligation on the part of a refugee to support relatives in another country, the refugee could not be compelled by the authorities of the country of his residence

to fulfil such an obligation, Convention or no Convention. Again, enforcement in one country of judgments pronounced in another depended on the law of the former or on treaties relating to such matters. The United Nations had under consideration a draft multilateral convention covering just such cases as those which the Yugoslav representative had in mind, and it would therefore be premature for the Conference to attempt to deal with the subject. Obligations devolving upon refugees in respect of relatives, when both resided in the same country of asylum, could be left to the law of the land. Finally, since article 7 was of a highly legal and technical character it would merely be confusing the issue to seek to introduce an affirmation of the moral obligation of refugees to support those dependent upon them in other countries.

Mr. ROCHEFORT (France) said that the wording he had suggested was intended solely to meet the wishes of the Yugoslav delegation. He would not press the proposal, which in any case was not a formal one, but he would emphasize that it had been conceived in a liberal spirit, since it would have allowed a refugee to free himself from obligations deriving from his personal status whenever his status as a refugee prevented him from complying with them.

Mr. HERMENT (Belgium) thought that it would be regrettable to introduce such an exemption clause into the Convention. Moreover, there seemed to him to be no case for introducing a clause relating to civil rights into an article dealing with the personal status of refugees.

Mr. ROCHEFORT (France) repeated that he was not pressing his proposal. It would nevertheless have been equitable to provide for the case of a refugee's being unable to meet the obligations incumbent on him, owing to the fact of his being a refugee.

Mr. ROBINSON (Israel) said that if paragraph 2 was left as it was and there was no provision in favour of refugees, a judge would take action in accordance with the law of the land as it applied to aliens. The concern of the Yugoslav delegation seemed to him to be somewhat unjustified, for there need be no fear of an abuse of the status of refugee. The absence of any specific provision

such as that proposed by the Yugoslav delegation would not mean that the refugee would be exonerated from fulfilling his obligations, since he would continue to be subject to the law of the country of refuge as it applied to nationals, aliens and refugees. As the French representative had pointed out, a question of public law in the shape of the transfer of funds from one country to another was also involved. It would be best, therefore, to confine the scope of article 7 to the personal status of a refugee.

Mr. BOZOVIC (Yugoslavia) stated that the Yugoslav Government was well aware of the obligations that would devolve upon governments as a result of the adoption of his delegation's amendment; it was only because no provision of that nature had been made that the proposal had been introduced. So far as the Yugoslav delegation was concerned, the problem was a humanitarian one, but in view of the apparent difficulties to which the amendment gave rise, he would, as he had already indicated, withdraw it, although he still considered that a way could have been found of getting round those difficulties.

The PRESIDENT declared the discussion closed, and put to the vote the first element of the United Kingdom amendment, namely, that the words "the country of his domicile or, if he has no domicile, by the law of the country of his residence" should be replaced by the words "that State" in paragraph 2 of article 7.

The first element in the United Kingdom amendment was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT put to the vote the second element in the United Kingdom amendment, namely, that the words "provided that the right is one which would have been recognized by the law of that State had he not become a refugee" should be added to paragraph 2.

The second element in the United Kingdom amendment was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT put to the vote paragraph 2 as amended.

Paragraph 2 of article 7, as amended, was adopted by 18 votes to none, with 2 abstentions.

The PRESIDENT put to the vote article 7, as a whole and as amended.

Article 7, as a whole and as amended, was adopted by 20 votes to none, with 1 abstention.

Mr. del DRAGO (Italy) said that the Italian delegation had voted in favour of article 7, subject to any reservation it might have to enter after consultation with the Italian Government.

(ii) Article 14 - Liberal professions (resumed from the ninth meeting)

The PRESIDENT recalled that the vote on article 14 had been deferred pending further consideration of certain drafting changes in the phrase "In their colonies, protectorates or in Trust Territories under their administration", in paragraph 2 of article 14.

Mr. ROCHEFORT (France) did not intend to submit a formal amendment on that point. It seemed to him, however, that the formula used on several occasions in similar cases was:

"Territories for the international relations of which it is responsible".

The PRESIDENT submitted that since the substance of paragraph 2 of article 14 had already been adopted, the drafting changes in question could be left to the Style Committee.

It was so agreed.

(iii) Article 30 - Co-operation of the national authorities with the United Nations (A/CONF.2/31, A/CONF.2/71)

The PRESIDENT requested the Conference to turn to article 30, which dealt with the co-operation of national authorities with the United Nations, and drew attention to the amendments thereto proposed by the Australian and Yugoslav delegations (A/CONF.2/71 and A/CONF.2/31 respectively).

Mr. MAKIEDO (Yugoslavia), introducing his amendment, stated that his Government, although not a member of the International Refugee Organization (IRO), had closely co-operated with that organization, that it had favoured the establishment of the Office of the High Commissioner for Refugees, and that it intended to co-operate wholeheartedly with the High Commissioner. The Yugoslav Government questioned, however, the desirability of imposing on Contracting States the obligation of co-operating with some unknown agency of the United Nations that might be established in the future. Only after something was known of such an organization would it be possible to take a decision of that sort. Moreover, it was somewhat premature at the present stage to consider what would be the position on termination of the High Commissioner's activities.

Mr. SHAW (Australia) believed that the Australian amendment was self-explanatory. Many governments shared the Australian Government's concern about the growing burden of supplying documentation requested by a large number of international organizations. While he was sure that the High Commissioner would not make any unnecessary demands, some formal limitation should, he thought, be imposed; hence his suggestion that the word "necessary" should be inserted before the word "data" in the fourth line of paragraph 2.

Mr. HERMENT (Belgium) drew the Conference's attention to a divergence between the French and English versions of paragraph 2 of article 30, where the French text made use of the words "tout autre institution ..... qui lui succédera"; the last three words did not appear in the English text. The result was that the two versions meant two different things. By the English text, Contracting States were being asked to provide the information in question to any appropriate agency, even those already in existence, whereas the French text referred only to a single organization, the High Commissioner's Office or any body which might succeed it.

The PRESIDENT believed that the presence in the French version of the words "qui lui succèdera" might have been due to an oversight in translation from the English. The original English text submitted by the Secretary-General had contained such a phrase, but it had been dropped by the Ad hoc Committee at its first session.

Mr. ROBINSON (Israel) wondered whether the Yugoslav delegation fully appreciated the implications of its amendment to article 30. The Convention would remain in force so long as two Contracting States adhered to it and it was unlikely that a new convention on the status of refugees would be entered into within the next ten years. The Office of the High Commissioner had been set up for a period of three years, and if it was to be replaced by some other organ of the United Nations, a new conference of plenipotentiaries would have to be convened for the purpose if the Yugoslav amendment was adopted.

As to the Australian amendment, the question arose as to who would decide what information was "necessary". If it was to be the High Commissioner, the inclusion of the word "necessary" would be of no assistance to governments. On the other hand, the insertion of that word might even give rise to controversy. Limitations on the information that could be requested were provided under (a), (b) and (c) in paragraph 2, and if the information requested by the High Commissioner did not fall under any one of those heads, governments would be in a position to regard it as unnecessary.

Mr. ROCHEFORT (France) appreciated the concern which had inspired the Yugoslav amendment, but did not think the amendment essential. Article 30 as it stood had been drafted so as to take into account the temporary character of the High Commissioner's Office. If a Contracting State was dissatisfied with the body eventually set up to succeed the High Commissioner's Office, it might be led to denounce the Convention. The French delegation wished to draw attention to the fact that article 30 represented an innovation by comparison with the provisions of earlier conventions, and in particular those of the 1933 Convention, which had operated without any representative of an international organization to supervise its implementation; yet it could hardly be maintained that it had not given good results for that reason. His delegation had not submitted an amendment to article 30, but it considered that the article should be dealt with in connexion with the article on reservations (article 36). The French Government considered that article 30 was one of those to which it might be obliged to enter a reservatio

Mr. del DRAGO (Italy) said that although Italy was not a member of the United Nations, the Italian Government supported article 30 in principle, subject to the conclusion of a direct agreement between it and the High Commissioner for Refugees.

Mr. SHAW (Australia) believed that his delegation's point could alternatively be met by the deletion of the word "any" from the fourth line of paragraph 2, that was to say, by reversion to the text drawn up by the Ad hoc Committee at its second session. The retention of the word "any", even in terms of the three heads under which information could be requested, might prove an embarrassment for Contracting States.

The Australian delegation would also be interested to learn how supervision of the application of the provisions of the Convention, referred to in paragraph 1, would be carried out. Was it the intention that refugees should appeal to the High Commissioner against alleged contraventions of the Convention and that he should hear such appeals?

Mr. MAKIEDO (Yugoslavia) said that, in the light of the comments made on the Yugoslav amendment (A/CONF.2/31), he would withdraw it.

Mr. HERMENT (Belgium) did not think it necessary to submit a formal amendment in connexion with the drafting point to which he had drawn attention; he asked whether the English-speaking representatives would be prepared to agree that the words "qui lui succédera" occurring in the French text of paragraph 2 article 30 should be reinstated in the English text.

Mr. ROCHEFORT (France) preferred the expression "qui lui succéderait", which he thought would be safer.

Mr. HERMENT (Belgium) agreed.

The PRESIDENT enquired whether the insertion of the words "which may succeed it" commanded general approval among the English-speaking delegations.

Mr. HOARE (United Kingdom) said that at first sight he had no objection, but felt handicapped through not knowing why the phrase had been consistently omitted from the English text.

The PRESIDENT explained that article 22 of the draft of the Convention prepared by the Secretary-General had laid down that Contracting States should facilitate the High Commissioner's work, and that the succeeding article had made provision for liaison between national authorities and the High Commissioner. In the Ad hoc Committee the Danish delegation had suggested that, as the Convention would probably outlive the Office of the High Commissioner, reference should be made to United Nations institutions generally, the Office of the High Commissioner being quoted as an example. That proposal had been adopted by the Ad hoc Committee and the idea had been embodied in the text now before the Conference. The discussions had been based on the English text only, and it would appear that the phrase "qui lui succédera" should not have been retained in the French version. There was, of course, no reason why the Conference should not vote on the substance of that point.

Mr. von TRUTZSCHLER (Federal Republic of Germany) submitted that if the phrase in question was reinstated in paragraph 2, it should also be included in paragraph 1.

Mr. HERMENT (Belgium) pointed out that paragraph 1 referred to an organization charged by the United Nations with the international protection of refugees. The Belgian delegation accepted that paragraph; on the other hand it could not agree to the vague expression "toute institution" which was used in the French text of paragraph 2.

Mr. HOARE (United Kingdom) suggested that the words "or other appropriate agency" in paragraph 2 be replaced by the words "or other such agency", the link between the two paragraphs thus being made perfectly clear.

Mr. MAHER (Egypt) asked whether the reinstatement of the words "which may succeed it" would imply that Contracting States might withhold their co-operation from existing organizations.

The PRESIDENT said that it was impossible for him to make any statement on the action which might be taken by Contracting States. He was, as President, unable to give an interpretation on that point.

Mr. von TRUTZSCHLER (Federal Republic of Germany) believed that there would be a discrepancy between paragraphs 1 and 2 if the latter was amended as proposed by the United Kingdom representative and a reference made to an agency which might succeed the Office of the High Commissioner. As the text stood at present there was at least the theoretical possibility that another United Nations agency, apart from the Office of the High Commissioner, would benefit from the co-operation of Contracting States. If the United Kingdom amendment was adopted it would mean that so long as the Office existed, it would be the only agency with which Contracting States would be obliged to co-operate.

The PRESIDENT said that the Conference must decide between three possibilities: first, co-operation with the Office of the United Nations High Commissioner for Refugees; secondly, co-operation with the agency which might succeed it; and thirdly, co-operation with other agencies which might under the terms of different agreements or arrangements be empowered to supervise the implementation of the present Convention.

Mr. Al PACHACHI (Iraq) thought that paragraph 1 was perfectly clear. In his opinion, the term "other appropriate agency" in paragraph 2 related to agencies of the kind mentioned in paragraph 1. He therefore thought it would be wise first, to take a decision on paragraph 1, and then to substitute for the words he had quoted from paragraph 2 the words "or an agency of the kind mentioned above".

Mr. ROCHEFORT (France) asked for clarification of the relation between paragraph 1 of article 30 and paragraph C of article 1. Those two clauses contradicted one another, since paragraph C excluded from the benefits of the Convention persons receiving from other organs or agencies of the United Nations protection or assistance, whereas paragraph 1 of article 30, constituted an appeal to Contracting States to co-operate with those very agencies.

The PRESIDENT thought that it would be difficult for the time being to link the provisions of article 30 with paragraph C of article 1, since no decision had yet been taken on the latter.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) again urged that the reference in paragraph 1 to another agency should be qualified by the phrase "which might succeed it". Everybody knew what the High Commissioner's Office was; but no one could foresee the nature of future agencies and the scope of their responsibilities.

Mr. MAHER (Egypt) presumed that, if adopted, that amendment would be tantamount to negating co-operation between Contracting States and existing or future agencies established by the United Nations, except in the case of the High Commissioner's Office.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that in his view such an interpretation of his amendment was incorrect.

Mr. ROCHEFORT (France) pointed out that States represented at the Conference, like States not represented there, would have every right to refuse the co-operation called for in paragraph 1, especially since there was a question of co-operating with agencies not yet in existence. Moreover, paragraph 1 was in effect only a recommendation.

Mr. HERMENT (Belgium) thought that the question was whether it should be made obligatory for States to comply with requests received not only from the Office of the High Commissioner, but from other appropriate agencies as well. The Belgian Government recognized that there was one body competent to request the information referred to in paragraph 2, namely, the Office of the High Commissioner for Refugees. The French text conveyed that point of view, whereas the English text might give rise to a different interpretation.

Mr. ROCHEFORT (France) considered that paragraph 1 carried with it an obligation on the part of Contracting States to co-operate with, for example, the

United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNWRAPRNE) who, by paragraph C of article 1, were excluded from the benefits of the Convention. The French delegation, whose Government was a member of that agency, could not understand why, under article 30, Contracting States should be required to undertake to co-operate with agencies responsible for refugees to whom the Convention would not apply. The obligations to be assumed by States on that subject should be clearly defined.

Mr. HOARE (United Kingdom) recalled that paragraph C of article 1, unless amended by the Conference, would exclude the Arab refugees from Palestine from the definition of "refugee". Consequently, the agency entrusted with the protection of that group would not be covered by article 30.

He believed that the simplest solution would be to reinstate in the English text the words "which may succeed it".

The PRESIDENT, speaking as representative of Denmark, said that in practice an agency concerned with the welfare of the Palestine refugees would be most unlikely to solicit the collaboration of the Danish Government. Should such a situation arise, however, he could not imagine that the Danish Government would withhold its collaboration, if only for reasons of international etiquette.

Mr. MAHER (Egypt) asked if that was indeed the general sense of the meeting.

The PRESIDENT replied that he was unable to impose any interpretation on the meeting, and would only reiterate that three different possibilities existed. The point at issue was whether the Conference should impose the obligation on governments to co-operate with any agency charged with the international protection of refugees other than the High Commissioner's Office.

Mr. ROCHEFORT (France) submitted that, although the Conference had not actually embarked on a discussion on paragraph C of article 1, it was hardly possible for it to remain unaware of its existence. The solution suggested by the President as representative of Denmark was, he thought, admirable. However,

although the Danish Government might be prepared to enter into undertakings in respect of agency X without knowing what manner of body X would be, the French Government's concern for clarity and its desire not to confuse two distinct problems prevented it from taking the same attitude. The French delegation regretted that some of the questions raised during the discussions by various delegations, especially that put by the Australian delegation, had remained unanswered. It also regretted that some of the Latin American countries to whom that problem was of some concern were not present at the meeting.

While it was wise to avoid creating confusion between separate problems, he nevertheless felt that there were cases in which an article could hardly be examined absolutely independently of the preceding and succeeding articles; article 30 was followed at some little distance by the article providing for possible reservations. So far as the French delegation was concerned, it was unable to come to a decision on article 30 without first knowing whether it would be possible for it to enter reservations on that article by virtue of article 36. It had been somewhat surprised at the statements made by various delegations which, while accepting the amendment suggested by the representative of the Holy See to sub-paragraph a (2) of article 1, had reserved the right to reconsider their decision should the subsequent articles of the Convention necessitate, in their view, certain changes to article 1. The French delegation would like to know whether, in the opinion of the delegations which took that position - which, indeed, it was somewhat at a loss to understand - the possibility of making a reservation in respect of article 30 was compatible with their expressed agreement to the text suggested by the representative of the Holy See.

Mr. WARREN (United States of America) said that, whatever governments might do about co-operation with other agencies, it must be made perfectly clear that the supervision of the present Convention must devolve upon the United Nations High Commissioner's Office or the agency which succeeded it. If the Conference accepted the principle of co-operation with other agencies, doubts would inevitably arise as to the number of agencies entitled to supervise the present Convention. He believed that the French text sought to entrust the duty

of supervision only to the High Commissioner's Office or its successor, and consequently supported the proposal that the French text of article 30 be adopted. Thus any doubt about the rôle of future agencies would be removed.

Mr. MAHER (Egypt) said that he had had in mind, not a number of agencies, but some specialized or smaller agency working under the general direction of the main agency charged with the international protection of refugees.

Mr. HERMENT (Belgium) thought that the debate should be closed. To that end, he formally moved his earlier suggestion that the English text of paragraph 2 of article 30 be brought into line with the French text, particularly in the case of the words "qui lui succéderait".

Mr. MAHER (Egypt) pointed out that UNWRAPRNE had been set up by a General Assembly resolution. In making his point about co-operation, he had had in mind not only that agency, but others which might be created in future to protect other groups of refugees.

Mr. HERMENT (Belgium) invited the Egyptian representative's attention to the fact that article 30 related only to the refugees covered by the Convention. It would in no way prohibit Contracting States from co-operating with United Nations agencies responsible for other refugees.

Mr. MAHER (Egypt) would be prepared to agree with the Belgian representative, provided explicit reference was made in the text to the fact that other agencies were not excluded from its scope. In article 30 as now drafted the term "co-operate" did not imply direct action, and the Egyptian Government was unable to accept an implicit negation of co-operation.

Mr. ROCHEFORT (France) pointed out that there was a certain difference between an instrument inviting States Members of the United Nations to co-operate with an agency, and the actual exercise of such co-operation. In his opinion, that co-operation could only be effected through special charters or agreements signed between the States concerned and the agency in question. The idea of

co-operation, moreover, called for clarification. Thus, 31 Member States had voted for the Constitution of IRO, whereas only 18 States, of which several were not Members of the United Nations had actually co-operated in that organization's work. The French delegation did not think that governments could be led by a roundabout device to assume commitments wider than those they were prepared to accept.

The PRESIDENT said that every international arrangement, whatever its form, created a community, namely, that of the participating States. The present Convention was designed for a certain community of Contracting States. The Egyptian representative had in mind another community of States, which also operated under the aegis of the United Nations. It went without saying that certain States might belong to both communities. The Convention did not and could not prohibit the members of one community from co-operating with organizations entrusted with the application of arrangements set up by another. Any provision to that effect would be absurd. Article 30 was properly silent on the point, leaving existing and future arrangements and agreements between States to the discretion of the latter.

Mr. MAHER (Egypt) assumed that he was interpreting the Belgian amendment rightly in thinking that its adoption would be tantamount to the exclusion from the scope of article 30 of any agency which might be set up in the future, other than the successor to the High Commissioner's Office. If that were indeed so, the article would endanger such agencies as the United Nations might create in the future, as well as the position of the refugees themselves.

Indeed, if the amendment were adopted, any future amendment of paragraph C of article 1 would have no effect. He therefore failed to see how the matter could be put to the vote at the present stage.

Mr. HOEG (Denmark) proposed that the Australian amendment to paragraph 2 (A/CONF.2/71) be further amended by deleting the words "any necessary" from the proposed phrase "with any necessary data". The text of paragraph 2 would then read: "[the Contracting States undertake to provide them in the appropriate form] with data, ...".

Mr. SHAW (Australia) agreed to the Danish proposal, which he had in fact suggested himself, although less formally, earlier in the meeting. Indeed, the discussion which had just taken place revealed the importance of adopting that amendment, since the text would then clearly specify the limitations on the obligations which Contracting States would be required to assume.

Mr. HERMENT (Belgium) drew the Egyptian representative's attention to two possible cases: either paragraph C of article 1 would be retained, and the refugees whom it was intended to cover would be deprived of the benefit of the Convention, in which case the agency dealing with them would not have to ask for the information mentioned in article 30; or, alternatively, paragraph C would be dropped, in which case the refugees to whom it referred could properly form the subject of a request for information of that kind.

Mr. ROCHEFORT (France) observed that the question he had asked earlier during the meeting had not yet been answered. The solution to the difficulty, so far as the French delegation was concerned, would be to adjourn the present discussion, thus permitting the Conference to examine article 30 at the same time as article 36, on reservations. In the circumstances, therefore, and in view of the fact that it had not received the information for which it had asked, his delegation would not take part in the vote on article 30.

The PRESIDENT said that, before putting to the vote the Belgian amendment concerning the insertion in paragraph 1 of the words "qui lui succéderait", he would remind representatives that the position with regard to article 30 was the same as with all other articles in the Convention. The Conference was still engaged on a first reading of the text.

In English, the Belgian amendment would read:

",.... the Office of the United Nations High Commissioner or any agency of the United Nations which may succeed it...."

The Belgian amendment was adopted by 17 votes to 2, with 3 abstentions.

The PRESIDENT said that he would interpret the vote on the Belgian amendment to paragraph 1 as covering that to paragraph 2 also. The Style Committee would in due course check the concordance of the two texts.

He invited representatives to vote on the Australian amendment to paragraph 2, as further amended by the Danish representative, and consisting therefore of the deletion of the word "any" from before the word "data" in the fourth line.

The amendment was adopted by 18 votes to none, with 2 abstentions.

Article 30, as a whole and as amended, was adopted by 18 votes to 2, with 2 abstentions.

(iv) Article 31 - Measures of Implementation of the Convention (A/CONF.2/85)

Mr. HOARE (United Kingdom) said that the United Kingdom amendment (A/CONF.2/85) proposed the deletion of article 31 on the grounds that it constituted an innovation in international treaties. Such a provision already figured in one instrument which had not been generally adopted, and also in a draft instrument, where the propriety of its inclusion had been keenly disputed. It was an accepted principle in international law that once a convention had been ratified it immediately came into force in the territory of the Contracting State concerned. Advantage was taken of the interval which elapsed between signature and ratification to make any adjustments necessary in domestic legislation. The same applied to accession. In the present case, however, it was provided that the Contracting State should, within a reasonable time and in accordance with its constitution, adopt legislative or other measures, it being therefore pre-supposed that ratification would take place before the appropriate domestic legislative measures had been introduced. It was further pre-supposed that such measures would be taken at the discretion of the State within a reasonable time. Such latitude constituted a departure from existing practice. Moreover, he considered the article to be superfluous, since the Convention laid down provisions which, in the case of most countries, were already covered by domestic law. If any legal adjustments had to be made, they should not be left for an undetermined

interval after ratification of the Convention. The article should therefore be deleted, since it would not only create a bad precedent, but would also have harmful effects in practice.

Mr. HERMENT (Belgium) completely shared the views expressed by the United Kingdom representative.

Mr. ROBINSON (Israel) said that the United Kingdom representative had started out from the assumption that there existed only one method of implementing international conventions, namely, the method used by such countries as the United Kingdom and Israel. In point of fact, that was not so. There were two other types of method, namely: the automatic type used, for instance under the United States Constitution, and the type where ratification or accession preceded the taking of appropriate domestic legislative measures.

He need only cite the case of the recently concluded Convention on the Prevention and Punishment of the Crime of Genocide in which, under article V, the Contracting States undertook to enact appropriate legislation. Although that Convention had been ratified by some 25 or 26 States, both Members and Non-Members of the United Nations, only two had so far enacted the necessary legislation. Thus it remained a dead letter, since the penalties for the crime of genocide must be prescribed by national law.

He agreed that in the case of those countries which applied the procedure followed by the United Kingdom, as well as in the case of those which used the process of automatic application, article 31 was unnecessary. But for other countries - and there were many of them in South America and some in Europe - the inclusion of the article was essential, the more so inasmuch as the Convention sought to legislate for the whole world.

He knew from his own experience in the United Nations that informal requests to States to bring the Convention on the Crime of Genocide into force had been met by the answer that the appropriate legislative steps had to be taken. It was true that the expression "within a reasonable time" was somewhat vague, but if its legal effectiveness was small, it at least carried certain psychological weight.

By virtue of article 31, governments would be able to appeal to parliaments to enact the necessary legislation.

Nor was he able to agree with the United Kingdom representative's point that the provisions of the Convention already existed in all national legislations. The Swiss representative had raised a point pertinent to that issue in connexion with article 7, on personal status. Would that article become applicable automatically by ratification? Or would it be necessary to enact special legislation? That question must be answered by each country in accordance with its own Constitution. But article 7 was not the only one which raised that issue. He believed that it would be very risky to ignore in the Convention the practice applied by the third group of States, which legislated after ratification.

The drafting of article 31 was not satisfactory, and he would consequently suggest the insertion of the words "if and when necessary" after the word "adopt" in the second line. In that way, the first two types of country would be covered, and the article would be made mandatory for the third type.

Mr. HOARE (United Kingdom) was unable to agree with the Israeli representative. He accepted the definition of the two first types of procedure, but considered that it would be going too far to accept the third kind of procedure as recognized constitutional practice.

If allowance was made for such a practice, no Contracting State would know just what the position was with regard to the enforcement of a multilateral treaty. States would be in a position of inequality vis-à-vis one another. How was it possible that one State should be able to defer the application of a Convention which it had already ratified, while other States were bound forthwith by its terms? He conceded the difficulties of the Federal State, but those would be covered by the appropriate Federal State clause. The Convention must come into force on ratification.

The Israeli representative's comments on the Convention on the Prevention and Punishment of the Crime of Genocide bore out his (Mr. Hoare's) contention, since it appeared that despite ratification the Convention was still not in force

in the territory of many ratifying countries. It was fortunate that its application was not a matter of immediate necessity.

There was no doubt that the correct doctrine was that once the Convention had been ratified, the rights prescribed therein must be granted.

Mr. ROBINSON (Israel) agreed with the United Kingdom representative's criticisms of the third class of country, but maintained that it was impossible to eliminate that category by deleting article 31. Without it there would be no hold over such countries. How could one best render service to the Convention: by retaining a provision which could be used as a whip, or by ignoring the existence of half the countries in the world? It would be in the best interests of the Convention and of refugees to retain article 31.

Mr. HERMENT (Belgium) considered that the Israeli representative's very interesting statement dealt with a purely theoretical situation. So far as he knew there existed no case where a government had ratified a convention without putting it into effect.

If the Israeli proposal was adopted together with article 31, it would be impossible to know definitely whether the Convention was being effectively applied by the signatories, since the latter would always be able to invoke the excuse of the "reasonable delay" required to bring their domestic legislation into harmony with the provisions of the Convention. The practice so far followed might, of course, cause some delay, but the Belgian delegation for one preferred to face that possibility but to be certain that ratification would be followed by effective implementation.

Mr. SCHURCH (Switzerland) recalled that he had raised a similar question with regard to article 7. He had asked whether, on accession, national legislation would have to be modified to give effect to the provisions of that article. Such an eventuality would involve the Swiss Federal Government in certain difficulties, since Swiss legislation provided, in the event of the country's accession to an international instrument, for the incorporation of that instrument in its national legislation. For those reasons, article 31 would raise certain problems

and the Swiss delegation therefore supported the United Kingdom proposal that the article be deleted.

Mr. HOARE (United Kingdom) wished to reply to the Israeli representative's question by putting another. What had been the practice in the past before an article such as article 31 had been thought of and such a concession made? The plea for a weapon had been effectively answered by the Belgian representative. It would seem to him (Mr. Hoare) that the proposed weapon would be less effective than that of ratification. It would be possible to ask States why they had not enforced a convention which they had ratified. That would be a better method than exhortation under an escape clause.

Mr. ROBINSON (Israel) said that the era of multilateral treaties dated from 1907, and that the majority of such treaties had been negotiated after the first world war. The practice in the past had been for countries to take action through the usual diplomatic channels, and for admonitory correspondence to be exchanged between governments parties to a treaty. Surely it was preferable to include one article in a convention than to foresee the exchange of innumerable diplomatic notes?

As to the point raised by the Belgian representative, the term "ratification" had a clear and generally accepted meaning. There was no implication that ratification must follow the adoption of appropriate domestic legislation. If allowance was to be made for that conception, paragraph 2 of article 34 would have to be amended accordingly, since, as at present drafted, it read "/This Convention/ shall be ratified". If it could be assumed that the Belgian and United Kingdom conception that ratification must follow domestic legislative adjustment was reflected in article 34, the difficulty would be solved, and he would have no further objection to raise.

Baron van BOETZELAER (Netherlands) stated that States which ratified a convention were obliged to apply it. If they could not do so because their national legislation was not adapted to the needs of the convention, then they were in default. The adoption of article 31 would mean that defaulting States

would be allowed to invoke the excuse of a reasonable delay in order to avoid applying the convention in their territories. The Netherlands delegation therefore considered that it would be of greater service to substitute for article 31 a clause which would make it obligatory for Contracting States to notify the Secretariat of the texts of the laws and regulations which they had adopted with a view to implementing the convention. With such a clause there would be some check on the position.

It was agreed that further discussion on article 31 should be deferred until the next meeting.

2. MEETING OF THE WORKING PARTY ON PARAGRAPH E OF ARTICLE 1

Mr. ROCHEFORT (France), replying to a question by the PRESIDENT, said that he had not received the instructions for which he had asked the French Government concerning paragraph E. He would therefore be unable to make a constructive contribution to the discussions of the Working Party which were to follow the present meeting. The French delegation, however, had no objection to the Working Party's meeting.

The meeting rose at 6.15 p.m.