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REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 18 July 1951, at 11 a.m.CONTENTS:pages

- | | |
|--|---------|
| 1. Programme of work and appointment of the Style Committee (A/CONF.2/L.2) | 1 - 5 |
| 2. Consideration of the draft Convention on the Status of Refugees (item 5 (a) of the agenda) (A/CONF.2/1 and Corr. 1, A/CONF.2/5 and Corr.1) (resumed from the twenty-fifth meeting): | 5 - 6 |
| (i) Article 31 - Measures of implementation of the Convention (A/CONF.2/85, A/CONF.2/86) (continued) | 6 - 7 |
| (ii) Article 32 - Relation to previous Conventions (A/CONF.2/53) | 8 |
| (iii) Article 3B - (A/CONF.2/41, A/CONF.2/42, A/CONF.2/84) (resumed from the twenty-fourth meeting) | 8 - 10 |
| (iv) Article 5 - Exemption from exceptional measures (resumed from the twenty-fourth meeting) | 10 |
| (v) Article 33 - Settlement of disputes | 10 - 11 |
| (vi) Article 34 - Signature, ratification and accession (A/CONF.2/31, A/CONF.2/88) | 11 - 14 |

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
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRUTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Monaco	Mr. THEODOLI
Netherlands	Mr. BICHERT
Norway	Baron van BOLTZELAER
Sweden	Mr. ARFF
Switzerland (and Liechtenstein)	Mr. PERSSON
Turkey	Mr. SCHURCH
United Kingdom of Great Britain and Northern Ireland	Mr. MIRAS
United States of America	Mr. HOARE
Venezuela	Mr. WARREN
Yugoslavia	Mr. MONTTOYA
	Mr. MAKIEDO

High Commissioner for Refugees

Mr. van HEUVEN GOEDHART

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

International Labour Organisation	Mr. WOLF
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
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Category B and Register

Caritas Internationalis	Mr. BRAUN Mr. METTERNICH
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Catholic International Union for Social Service	Miss de ROMER
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Commission of the Churches on International Affairs	Mr. REES
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Consultative Council of Jewish Organizations	Mr. MEYROWITZ
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Co-ordinating Board of Jewish Organizations	Mr. WARBURG
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International Union of Catholic Women's Leagues	Miss de ROMER
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Standing Conference of Voluntary Agencies	Mr. REES
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World Jewish Congress	Mr. RIGNER
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World Union for Progressive Judaism	Mr. MESSINGER
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Secretariat:

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. PROGRAMME OF WORK AND APPOINTMENT OF THE STYLE COMMITTEE (A/CONF.2/L.2)

The PRESIDENT said that, if the Conference failed to complete its agenda by Saturday, 21 July, it could arrange to meet on Monday, 23 July, and, possibly, on Sunday, 22 July. Since other meetings were due to take place in the Palais des Nations the following week, the simultaneous interpretation staff would be otherwise occupied, but consecutive interpretation could be provided on Monday.

He then read out a proposed time-table of meetings.

Mr. ROCHEFORT (France) pointed out that, even if the Conference kept to the programme of work proposed by the President, as he was sure it would agree to do, that did not necessarily mean that it would end its work within the time allowed. In any event there was nothing to prevent it from holding a second session.

The PRESIDENT drew the attention of the Conference to the note (A/CONF.2/L.2) drawn up by the Secretariat which showed the action taken by the Conference up to 17 July, 1951, in respect of each article of the draft Convention.

The officers of the Conference, who, under rule 2 of the rules of procedure, were required to examine the credentials of representatives and submit a report thereon, had presented their report in document A/CONF.2/87. The document had been circulated for the information of delegations, and, since changes in the position of certain representatives would probably occur in the near future, he suggested that the Conference should not take a decision on the report until a later meeting.

It was so agreed.

The PRESIDENT pointed out that the Style Committee had still to be appointed, and he suggested that it should comprise the representatives of Belgium, France, Israel, the United Kingdom and the United States of America.

Mr. ROCHEFORT (France) said that, as States Non-Members of the United Nations had been invited to take part in the Conference's work, one of them should be represented on the Style Committee. He proposed Italy for that purpose, in view of the difficult refugee problem with which that country was faced.

Mr. ROBINSON (Israel) thanked the President for suggesting that he should serve as a member of the Style Committee, but was obliged to decline the honour for personal reasons.

The PRESIDENT expressed his regret that the Israeli representative, who had been a member of the ad Hoc Committee and of various working groups throughout the entire United Nations history of the refugee question, was unable to accept appointment.

Mr. del DRAGO (Italy) thanked the French representative for nominating him for membership of the Style Committee. In accepting nomination, he assured the Conference that the Italian delegation would collaborate wholeheartedly in the work of the Committee.

The PRESIDENT suggested that the High Commissioner for Refugees should also be represented on the Style Committee, the other members therefore being the representatives of Belgium, France, Italy, the United Kingdom and the United States of America.

It was so agreed.

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

Mr. MONTOYA (Venezuela), speaking to a point of order, announced that the Brazilian, Columbian and Venezuelan delegations, which by coincidence had all been absent the previous day when article 30 had been discussed, although it had

not originally been on the agenda for the day, had authorized him to state that they would reserve their positions on that article until it was reconsidered during the second reading.

(i) Article 31 - Measures of implementation of the Convention
(A/CONF.2/85, A/CONF.2/86) (continued)

The PRESIDENT pointed out that amendments to article 31 had been submitted by the United Kingdom and Netherlands delegations (A/CONF.2/85 and A/CONF.2/86 respectively).

He suggested that, since the United Kingdom amendment was a proposal to delete article 31, representatives who were in favour of it could show their support by voting against the article. He would not, therefore, put that amendment to the vote separately.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) wondered whether it was possible to bring the Netherlands amendment to article 31 into line with the text of article 30 adopted at the preceding meeting.

Mr. HERMANT (Belgium) asked the Netherlands representative whether, as article 30 as adopted provided that Contracting States should undertake to provide the Office of the High Commissioner for Refugees, or other appropriate agency of the United Nations, with information concerning the implementation of the Convention, that provision would not be sufficient to achieve the intentions of the Netherlands amendment.

Baron van BOETZELER (Netherlands) admitted that there was a certain amount of overlapping between his amendment and article 30 as adopted, but thought that it would nevertheless be useful to retain his amendment as a separate article. His amendment was in conformity with the other articles of the draft Convention. Sub-paragraph 2 (b) of article 30 might be consequentially revised at the second reading; if it was then retained as it stood, he would reconsider the matter.

The PRESIDENT asked whether the Netherlands representative was withdrawing his amendment.

Baron van BOETZELAER (Netherlands) said that he was not.

The PRESIDENT thought that the obligation which the Netherlands amendment sought to impose on Contracting States should be supplemented by an obligation on the Secretary-General to communicate to Contracting States information on developments connected with the Convention occurring in other Contracting States. He therefore submitted that the idea underlying the Netherlands amendment might logically be considered in connexion with article 40 (Notifications by the Secretary-General).

Baron van BOETZELAER (Netherlands) had no objection to the President's suggestion. His amendment was similar to an article in the Red Cross Convention, which provided that signatories should communicate certain laws and regulations to the Government of the Swiss Confederation.

With regard to the comment of the Belgian representative, he remarked that article 30 specified that Contracting States should provide appropriate agencies of the United Nations with any data, statistics and information requested concerning the implementation of the Convention, whereas the Netherlands amendment provided that Contracting States should communicate the entire texts of the relevant laws and regulations.

He had originally introduced his amendment on the assumption that the United Kingdom proposal would be adopted, that the original text of article 31 would thereby be deleted, and that his amendment would then take its place. His amendment should therefore be considered as a new article.

The PRESIDENT put to the vote the original text of article 31.
(A/CONF.2/L, page 17).

Article 31 was rejected by 17 votes to 3, with 4 abstentions.

The Netherlands proposal (A/CONF.2/86) for a new article relating to measures of implementation was adopted by 7 votes to 3, with 13 abstentions.

(ii) Article 32 - Relation to previous Conventions (A/CONF.2/53)

Mr. HERMENT (Belgium) said that his amendment (A/CONF.2/53) to paragraph 2 of article 32 was purely textual. The existing wording of paragraph 2 seemed to imply that there could only be two States parties to a previous instrument. His amendment corrected that drafting error.

Mr. HOARE (United Kingdom) felt that, since the Belgian amendment did not affect the English text and merely aimed at improving the wording of the French text, it might be referred to the Style Committee.

The PRESIDENT added that the English text was also somewhat defective from the point of view of style. He asked the Belgian representative whether he would withdraw his amendment on the understanding that the text of article 32 would be referred to the Style Committee.

Mr. HERMENT (Belgium) withdrew his amendment on that understanding.

Article 32, subject to textual modification by the Style Committee, was adopted unanimously.

(iii) Article 3 (B) (A/CONF.2/41, A/CONF.2/42, A/CONF.2/84)
(resumed from the twenty-fourth meeting)

The PRESIDENT said that two amendments (A/CONF.2/41, A/CONF.2/42) to article 3 (B) had been submitted by the Australian delegation. However, in actual fact, those amendments were proposals for two new articles. A note on article 3 (B) had also been submitted by the Israeli and United Kingdom representatives jointly (A/CONF.2/84); they suggested that paragraph (b) of article 3 (B) should be deleted as meaningless, and that paragraph (a) should be redrafted in the way they indicated. He proposed to treat their suggestion as an amendment to article 3 (B).

Mr. SHAW (Australia) doubted whether the redraft of article 3 (B) suggested by the Israeli and United Kingdom representatives would solve the difficulties of the Australian delegation. The Australian Government would find it difficult to determine which groups of refugees were in the same circumstances as groups of other aliens as a result of the migration agreements which it had concluded with the International Refugee Organization (IRO) and with other countries.

By way of general observation, he wished to state that the more he had studied the question the more he had been impressed by the fact that Australian practice, so far as refugees were concerned, was fully in keeping with, and at times even more liberal than, the terms of the draft Convention.

Australia, which was in much the same position as Canada, aimed at assimilating refugees, but, since the proportion of aliens who could claim refugee status was of the order of 3% of all aliens entering the country, he was obliged to consider the text very carefully.

The proposal submitted by his delegation in document A/CONF.2/41 related to a possible interpretation of the Australian labour-contract system, which was an integral part of the country's immigration scheme. There was no reason to believe from any statement made in the Conference that any representative felt that the Australian labour-contract system was contrary to the spirit or letter of the draft Convention. Certain representatives, as well as the High Commissioner for Refugees, had submitted that his misgivings were unfounded, and that the Australian position was amply covered by the draft Convention. He had taken note of those observations. Nevertheless, he felt that even the redraft of article 3 (B) now before the Conference did not fully meet the position so far as Australia was concerned. He had certain doubts about the position of aliens who entered Australia for a particular purpose but who might later conceivably claim refugee status, a point which was connected with the interpretation of the words "lawfully living in the territory".

It was to cover those possible difficulties, which he was apparently alone in feeling existed, that he had submitted his amendments. He was prepared, however, to agree instead to make some form of interpretative reservation, as had been

suggested by the High Commissioner. On that understanding, he would support the redraft of article 3 (B) suggested by the Israeli and United Kingdom representative and withdraw his own amendments (A/CONF.2/41, A/CONF.2/42).

The PRESIDENT put to the vote the suggestion made jointly by the Israeli and United Kingdom representatives that paragraph (b) of article 3 (B) be deleted.

The suggestion was adopted by 22 votes to none, with 2 abstentions.

The new wording for paragraph (a) of article 3 (B) suggested in the Israeli/United Kingdom joint note was adopted by 23 votes to none, with 1 abstention, subject to any textual amendments that might be made by the Style Committee.

(iv) Article 5 - Exemption from exceptional measures
(resumed from the twenty-fourth meeting)

Mr. HOARE (United Kingdom) recalled that the Conference had decided the previous day to defer consideration of paragraph 1 of article 5 until the return of the leader of the Swedish delegation.

The PRESIDENT said that he would interpret the United Kingdom representative's observation as a motion that consideration of article 5 be deferred until the afternoon meeting.

The United Kingdom motion was adopted.

(v) Article 33 - Settlement of disputes

The EXECUTIVE SECRETARY said that the Legal Department of the United Nations Secretariat had submitted a memorandum on Chapter VI ("Final Clauses" - articles 33 to 40 inclusive) of the draft Convention. That memorandum had not been distributed, but he would like to draw the attention of the Conference to several points raised in it with a view to bringing the Convention into line with usual conventional practice.

In the first place, the Legal Department had suggested that, in the interest of greater precision, the words "two or more" should be included after the words "shall arise between" in the first line of article 33.

Baron van BOETZELAER (Netherlands) sponsored the suggestion made by the Legal Department.

Mr. HOARE (United Kingdom) felt that the original text was satisfactory, but had no objections to the suggestion if the Legal Department considered the inclusion advisable.

Mr. ROBINSON (Israel) thought that the wording of article 33 was somewhat heavy; it should be abbreviated and made more lucid.

The PRESIDENT remarked that the Style Committee would be extremely grateful for any textual suggestions which the Israeli representative might care to make.

Mr. ROBINSON (Israel) said he would do his best to help.

Article 33 was adopted by 24 votes to none, with 1 abstention, subject to any textual amendments that might be made by the Style Committee.

(vi) Article 34 - Signature, ratification and accession (A/CONF.2/31, A/CONF.2/88)

Mr. MAKIEDO (Yugoslavia) explained that the aim of his amendment to article 34 (A/CONF.2/31, page 3) was to give the power to invite States Non-Members of the United Nations to accede to the Convention to the General Assembly, which was a more representative body than was the Economic and Social Council. His feeling was that the original text of article 34 had been drafted on the assumption that only States Members of the United Nations would be invited to accede. In fact, however, the Secretary-General had been instructed by the General Assembly to invite all States.

The PRESIDENT pointed out that the Holy See had been invited to participate in its work by the Conference itself, and that it would be impossible to adopt a Convention which would empower any other body to decide whether the Holy See should be invited to sign the Convention.

Archbishop BERNARDINI (The Holy See) pointed out that the invitation which the Holy See had received from the Secretariat indicated that it had been invited not only to take part in the work of the Conference, but also to sign the Convention. The Holy See had, indeed, accepted the Secretariat's invitation on that second condition.

Mr. ROBINSON (Israel) agreed that article 34 had originally been drafted on the assumption that the Convention should be adopted by the General Assembly. In view of the changed circumstances, the present text was therefore unsuitable. There would be little meaning in the invitation to attend the Conference which had been extended to eighty States if, after signing the Convention, some of those States had to wait until they received invitations from the Economic and Social Council before they could sign the Convention.

There was, however, one exception. There was a resolution of the General Assembly (39 (1)) placing restrictions on the accession of Spain to international instruments drafted under United Nations auspices. He therefore suggested that the words "to which an invitation has been addressed by the Economic and Social Council" be replaced by some such words as "subject to the exceptions specified in relevant resolutions of the General Assembly".

The EXECUTIVE SECRETARY confirmed that, when article 34 had been drafted, it had been contemplated that the Convention would be signed at a regular annual session of the General Assembly.

There were two other questions which the Conference should consider: the place of signature and the matter of accessions. The Convention would be adopted in Geneva, but it was contemplated that it would be held open for signatures for a

certain period. It would be desirable for the text to specify where the instrument would be available for signing. In the Torquay Protocol drawn up by the Contracting Parties to the General Agreement on Tariffs and Trade provision had been made for signing on 21 April, 1951, in Torquay and subsequently at United Nations Headquarters from 7 May until 21 October, 1951. There might be some difficulty in following that precedent in the case of the present Convention. If the Conference completed its work by Saturday evening, 21 July, it would take the Secretariat two or three days to arrange for the text to be printed prior to signing. The question arose whether representatives, including those who did not intend to sign, were prepared to remain in Geneva for that length of time. On the other hand, if the document was ready for signing on Wednesday, 25 July, some delegations might not be fully authorized to sign it until later. It might be useful to state that the Convention would be available for signature in Geneva for a short period and then later at United Nations Headquarters.

The Legal Department's memorandum, to which he had referred in connexion with article 33, stated the following concerning the device of accession:

"Paragraph 3 [of article 34] follows a certain tradition in using accession as a device available to States only after the Convention is no longer open for signature, and in this respect has as a precedent the Genocide Convention, for example. There is very little gain by this distinction, however, under present procedures, and it sometimes happens that it better meets the preference or convenience of some States to accede directly without an intervening signature. In such case, it merely delays the entry into force of the Convention, at least as to States not already signatories thereto, to permit accession only after it is no longer open for signature, in the present instance only after one year.

"Under the most efficient procedures as currently developed it normally seems preferable for a final article of this type to give States at all times the choice of either ratifying a prior signature or of acceding forthwith. The difference between signature followed by ratification on the one hand, and accession on the other, is now a purely formal one in the absence of some intent (not apparent here) to delay the time when a specific class of States might become parties."

With regard to the accession of States not represented at the Conference, he recalled that the Secretary-General had been instructed by the General Assembly to invite all States to attend the Conference; however, it had not been easy to define what exactly constituted a "State". The Secretary-General had followed the criterion of inviting entities recognized as States either by the United Nations and/or by its specialized agencies. It was possible that other political entities whose status might later be clarified, or which might subsequently come into existence as States, might want to accede and it had been suggested that some appropriate method for their doing so might be mentioned in the Convention itself,

He then read out a text for article 34, suggested by the Legal Department of the Secretariat (A/CONF.2/88), which was intended to meet the various difficulties he had outlined with regard to that article. There remained, however, the question of what procedure was to be adopted the following week for signing.

Further discussion of article 34 was deferred until the next meeting.

The meeting rose at 1.5 p.m.