

political protection". He hoped that his suggestions would be taken into consideration and added that he would support any move to enable the French and United States delegations to submit a joint draft resolution.

61. The CHAIRMAN proposed that the Committee should reverse its previous decision on the time-limit for the submission of new draft reso-

lutions and amendments and should fix 3 p.m. on 14 November 1949 as the time-limit for the submission of new draft resolutions, and 3 p.m. on 15 November 1949 as the time-limit for the submission of new amendments.

It was so agreed.

The meeting rose at 1.50 p. m.

TWO HUNDRED AND SIXTY-SECOND MEETING

Held at Lake Success, New York, on Monday, 14 November 1949, at 3 p.m.

Chairman: Mr. Carlos E. STOLK (Venezuela).

Refugees and stateless persons (A/971 and A/C.3/527) (*continued*)

1. The CHAIRMAN called attention to the new joint draft resolution submitted by France and the United States (A/C.3/L.29).

2. Mrs. ROOSEVELT (United States of America) said that the French and United States delegations had submitted a joint text on all points on which agreement had been achieved. The points of disagreement, however, remained as she had outlined them at the previous meeting. They concerned the refugees who were to fall under the competence of the High Commissioner, the question whether the High Commissioner should be appointed by the Secretary-General or elected by the Economic and Social Council on nomination by the Secretary-General, and the High Commissioner's authority to allocate funds.

3. Regarding the first point, the French delegation favoured the broadest possible definition of refugees, both existing and future. It believed that all refugees, who were to fall under the competence of the High Commissioner's Office, could be described in a single definition to be developed in the first instance by the Economic and Social Council and adopted later by the General Assembly. The United States delegation, on the other hand, believed that the General Assembly should decide specifically for what particular groups of refugees it was willing to accept responsibility. Such groups should be carefully identified after full consideration of the circumstances which had brought them into existence. That conviction was based on past experience. The League of Nations had found it necessary to identify specific groups of refugees falling within its competence. The IRO Constitution also covered specific and identified categories of refugees. In that connexion, she wished to point out that the High Commissioner would not be limited in the application of IRO definitions by any restrictions which IRO had had to adopt for administrative or financial reasons. Regarding additional categories of refugees not covered by the IRO Constitution, she pointed out that the Economic and Social Council would have ample opportunity to make recommendations to the General Assembly, which could consider them before the protection service was initiated by the High Commissioner on 1 January 1951.

4. The French delegation argued that the High Commissioner should be free to intervene in any emergency which might arise before action had

been taken by the General Assembly. She believed that the acceptance of responsibility for refugees by the United Nations was a serious matter on which only the General Assembly should decide. A High Commissioner with such broad authority might easily involve the United Nations in responsibilities which the General Assembly would not desire to assume. The High Commissioner, however, would always be free to bring any developments to the attention of the Economic and Social Council or the General Assembly.

5. Regarding the alternative clauses in paragraph 7 of the annex to the joint draft resolution, she was of the opinion that the High Commissioner should be appointed by the Secretary-General. That belief was based mainly on administrative considerations. Article 97 of the Charter stated that the Secretary-General was the chief administrative officer of the United Nations. He should not, therefore, be cut off in any way from any of the administrative undertakings of the United Nations. Yet that would be the case if the High Commissioner were elected by the General Assembly. On the other hand, to provide that the Economic and Social Council should elect an official who was to receive policy guidance from the General Assembly appeared impracticable.

6. It had been impossible to reach agreement on the question of material assistance to refugees. The French delegation believed that the High Commissioner should be given the authority to allocate such funds as he might receive from Governments or private sources to Governments or private organizations for the direct administration of relief to refugees. The High Commissioner of the League of Nations, who had had such authority, had not in fact received funds from Governments or voluntary organizations, while the allocation and administration of the funds accruing from the sale of Nansen stamps had raised difficulties out of all proportion to their amount. Furthermore, voluntary agencies were in no position to grant funds to the High Commissioner, and such limited funds as they had could best be administered directly.

7. She wished to emphasize the need to preserve the essentially deliberative character of the United Nations because there was an increasing tendency to drive the United Nations into the field of international relief and to use its organs as the source and centre of expanding appeals for relief funds. The organization of such relief funds in the past had generally grown out of the actual

situation that arose; and that method of organizing relief for each situation on an *ad hoc* basis was the one which should be followed. To adopt the French proposal on assistance would be to invite the use of the High Commissioner's Office for an endless succession of appeals which would divert the attention of even the High Commissioner himself from his main task of protection, and would only foster the tendency to increase the numbers of the staff required for the purpose of assistance.

8. Mr. ROCHEFORT (France) said that his delegation and that of the United States agreed on many aspects of the question and had therefore been able to submit a joint draft resolution, although the basic points of divergence remained the same.

9. Both delegations desired the establishment of a High Commissioner's Office, but the type of High Commissioner they envisaged, though similar in appearance, differed basically in his approach to the problem to be entrusted to his care. The United States delegation seemed to envisage a man who would optimistically say that there would be no further need for relief work and that, since he would in any event be unable to do much in that direction, it would be better not to receive any funds for assistance. The High Commissioner pictured by the French delegation, on the other hand, would be at the same time idealistic and realistic. He would see clearly that, in many cases, legal protection without material assistance would be useless and he would prefer to do even a little relief work rather than none at all. Those two pictures were in a way characteristic of the two different worlds from which the authors of the draft resolution came: the old world with all its bitter experience of ever-recurring hardships and the new world with its youthful optimism. In his opinion, the problem should be viewed from the point of view of suffering individuals rather than from the narrow outlook of specifically defined categories of refugees and strict administrative regulations.

10. He emphasized that his delegation had considerably altered its original proposal concerning funds for material assistance in the hope of achieving a compromise. He was not asking the Assembly to provide funds for relief work; he simply wished to include provisions for the administration of such funds in the hope that they might possibly become available from some outside sources. Even though such a provision had not proved of much help to the High Commissioners appointed under the League of Nations, that was no reason for abandoning the idea of granting material assistance completely.

11. A further difference of opinion on which it had been impossible to find a compromise had arisen out of the question of the refugees who were to come under the competence of the High Commissioner's Office. The two alternative texts submitted on that point seemed somewhat similar but there was a basic difference. The United States text spoke of "categories of refugees"—a term that had never been used in the IRO Constitution—and its adoption would in effect mean that the High Commissioner's field of action would be restricted indefinitely to the refugees who fulfilled the requirements of the IRO definitions. The French text, on the other hand, made it clear that the application of those defi-

nitions would only be provisional, pending the adoption by the General Assembly of new definitions for the term "refugee". His text made no mention of "categories", because he did not think that refugees should be divided strictly into categories. All those who came under the new definitions should automatically be eligible for any protection and assistance provided by the High Commissioner. An *Ad Hoc* Committee set up under resolution 248 B (IX) of the Economic and Social Council was studying the question of new definitions and no final decision on that question should be taken until the Assembly had received the report of that Committee.

12. The IRO definitions were extremely complicated and a vast legal machinery had been necessary in order to apply them. Moreover, unjust decisions had sometimes been made for administrative or financial reasons. He reminded the Committee that the High Commissioner's main task would be to negotiate with Governments in order to persuade them to grant legal protection to the refugees on their territories. He could not himself provide that protection and he would need a just text, international in its scope, as a basis for his appeals to Governments. He would not be likely to meet with much success if he were to base his appeals on the IRO Constitution, a document which was already out of date and had not entirely satisfactorily served the cause of even the limited group of refugees it had set out to help.

13. The final point of difference between his delegation and that of the United States concerned the question whether the High Commissioner should be elected or appointed. Mr. Rochefort emphasized that, in his original text (A/C.3/L.26), he had recommended the election of the High Commissioner by the General Assembly. He had gone half-way to meet the views of the United States representative since then and was proposing that the High Commissioner should be elected by the Economic and Social Council on the nomination of the Secretary-General. That was as far as his delegation was prepared to go in order to reach a compromise, and he hoped that other delegations would, in their turn, make some concessions. In his opinion, it was only by election that the High Commissioner could obtain the necessary prestige and authority to carry out his duties. His election by the General Assembly would show that the United Nations had full confidence in him and would be of immeasurable value to him in his negotiations with Governments. There was nothing in the Charter which would make his appointment by the Secretary-General essential and, as he was to receive instructions from the General Assembly it seemed only logical that he should also be elected by that body. If he were appointed by the Secretary-General he would simply be an ordinary official of the Secretariat, although his work demanded a somewhat different status. The French delegation preferred the method of election just as it had supported the establishment of a High Commissioner's Office rather than a special section within the Secretariat, for if the High Commissioner were appointed by the Secretary-General, his Office would in actual fact be nothing other than a special section of the Secretariat. He cited the precedents of the High Commissioners under the League of Nations who had all been elected and expressed the hope that the members of the Committee would share his

views and adopt the variants proposed by his delegation.

14. Mr. PENTEADO (Brazil) reminded the Committee that his delegation had already expressed its perturbation at the Secretary-General's failure to include in his report on refugees and stateless persons (A/C.3/527) any estimate of the cost to Member States in the form of increased contributions to the United Nations budget involved in implementing the principles so persuasively set out therein. Members might well hesitate to adopt those principles because the financial implications might entail dollar commitments which they would be unable to meet.

15. The Secretary-General's estimate of 750,000 dollars as the cost of giving merely legal protection to the refugees and displaced persons in the first year of the operation of the new machinery had been described during the debate as far too low, whereas the Advisory Committee on Administrative and Budgetary Questions had stated in its fifteenth report of 1949¹ that the requisite amount would probably be much smaller than the figure of 750,000 dollars tentatively submitted by the Secretary-General. It was essential that the Secretariat should account for such a discrepancy, even if it was unable to supply the detailed study of financial implications which the Brazilian delegation had requested at the 256th meeting.

16. The question of the financial implications must be fully and frankly faced at the current session before any decision was taken on the problem as a whole. The Committee must have full information on the Secretariat's view of the probable total of the refugees likely to be still under the care of IRO at the termination of its activities, the number of refugees classified respectively as immigrant labour and as the so-called hard core, the probable cost of the care, maintenance and resettlement of the former and the annual cost of the care and maintenance of the latter, including that of medical assistance and hospitalization, and of the financial difficulties of many Member States which might preclude them from accepting any substantial increase in their contribution to the regular United Nations budget.

17. The joint draft resolution submitted by the French and United States delegations appeared to reflect the reluctance already shown in the Secretary-General's report to come to grips with the financial implications. The Brazilian delegation would obviously not be prepared to impute any ulterior motive to that reluctance, such as that of an attempt to place Member States before a *fait accompli*. Nevertheless, it was surprising that the issue was being shirked, when it was obvious that any decision on principle might well mean a threefold or fourfold increase of the United Nations budget and, consequently, a proportionate increase of the Members' individual contributions.

18. The new joint draft resolution appeared at first sight to deal only with the narrow question of the appointment of a High Commissioner. If that was all that was involved, the Brazilian delegation would be delighted to co-operate. Behind the appearance of the laudable principle recommended in both the resolution and the Secretary-General's report, however, lay the profound,

but unstated, implication that the United Nations would have to take upon itself the entire refugee problem after the termination of IRO. It had not been denied that a very large number of refugees would remain in need of protection at that time. To state that a decision should be taken immediately only on their legal protection and that the question of their resettlement and maintenance should be settled when the occasion arose was simply to evade the problem as a whole. By officially taking cognizance of the termination of IRO and by taking over one of its functions, the United Nations was, at least morally, committing itself to assuming the other two functions eventually, because it would be unthinkable to tell the refugees that the organization would provide them with papers but not with food.

19. Furthermore, several representatives, the representative of Pakistan in particular (260th meeting), had drawn the Committee's attention to new categories of refugees, who were not covered by the definition in the IRO Constitution. IRO, having been created to take care of a specific category of refugees and displaced persons, had had the right, even the duty, to discriminate between various categories; the United Nations, however, could hardly exercise such a right if it employed funds derived from its regular budget, to which all Members were contributors. That problem was by no means insoluble; but it could not and should not be evaded.

20. Mrs. KALINOWSKA (Poland) said that her delegation would oppose the joint French and United States draft resolution and support that submitted by the Byelorussian SSR (A/C.3/L.25) because no representative had been able to refute the contention that the problem of refugees and stateless persons would have been solved long ago, had not their repatriation been hampered by certain countries and by IRO. The Polish Government had always been prepared to accept the repatriation of its nationals, whether healthy or disabled. It must be clear, however, that the Polish delegation had never recommended the repatriation of the Spanish Republican refugees to Franco Spain; any misunderstanding which had arisen on that score might perhaps have been created with ulterior motives.

21. Those representatives who had based their arguments upon allegedly humanitarian and practical considerations had deprecated the production of facts about the real living conditions of the refugees as not conducive to peaceful discussion. The peaceful return of forcibly displaced persons to their homes was, in her opinion, rather more important than peaceful debates in the Third Committee.

22. The representatives of the United Kingdom and the United States had repeatedly stated that repatriation had long been completed and that the remaining refugees did not wish to return to their homes; yet, on each occasion, the problem had again become urgent. At the 259th meeting a United Kingdom representative had confessed his weariness at the presentation of naked facts about the refugees; the Polish delegation was no less weary of the sanctimonious statements of representatives of countries which, while they laid wearisome stress upon their advocacy of respect for human rights, forced refugees to live in primitive barracks, or expelled foreign miners. The Polish delegation was equally weary of attempts

¹ Document A/1059.

to persuade the Committee that working and living conditions in Poland were wrapped in mystery, whereas the United Kingdom, for example, had invited representatives to investigate the living conditions of Polish refugees on the spot. The Polish Government had no need to accept that invitation; it had sufficient evidence from the Polish-language Press published in the United Kingdom—a Press which showed open hostility to contemporary Poland. Furthermore, the achievements of Polish reconstruction—aided by the import of capital goods from the Soviet Union—had become so familiar to the representatives of the United Kingdom information agencies that they had complained of their lack of novelty.

23. Similarly, there was no mystery about the repatriation of Polish and USSR citizens after the war, by bilateral agreement; it had been voluntary and complete. It must be understood that no Polish nationals had been forcibly repatriated to Germany from the territories east of the Bug River in 1939; precisely the reverse had occurred. The United Kingdom and the United States Governments had acknowledged that the overwhelming majority of the inhabitants of the territories east of the so-called Curzon Line had always been Byelorussians and Ukrainians, as the name itself showed. After the war, the USSR Government had repatriated to Poland not only its nationals but also collections and monuments of great sentimental value to that country, which had remained in the western Ukraine.

24. The representative of IRO had attempted to throw mystery on the fact that Polish representatives in Italy had questioned a group of Polish children and he had even asserted that they had tried to prevent their repatriation to Poland (259th meeting). There had been no such mystery and no such attempt. According to the Montreal newspaper *La Presse* of 10 September 1949, IRO had decided that the children should be transported to Canada through Germany without telling them whither they were bound; its representative had for three weeks exerted every effort to hamper a Polish repatriation commission. A Polish reporter who had talked to the children had confirmed that account.

25. The Polish Government was in possession of the names of those children. The proportion of the group eligible for treatment as children was much higher than had been asserted; there were seventy-two children between ten and sixteen years of age. They had, however, been kept for four years after the end of the war in a camp in Tanganyika, to which Polish representatives had only recently obtained access. If they were kept in Canada for a similar period, they would lose their status as children. UNRRA had assumed responsibility for them only under a war-time emergency programme. The full responsibility for abducting them, therefore, fell upon IRO. The Polish Government reserved its right to take appropriate action in that matter.

26. The Canadian representative had contributed little by referring the Polish delegation to the proposed High Commissioner's Office; it did not yet exist. That offer was, however, a slight advance, because the Polish Government had previously been referred only to the Canadian courts. With regard to the Canadian representative's observation that diplomatic channels were open, the Polish delegation wished to observe that those

channels had been employed for four years without the least result. It would, however, take due note of the Canadian representative's statement that the matter was still within the scope of diplomatic negotiations, as previously the Polish Government had been referred to the Canadian internal courts.

27. The case of the children in Canada was only one of many examples of the way in which the problem of refugees and displaced persons was being treated. The Polish Government would not relinquish its protection of the thousands of Polish adults and children remaining in the camps or living in the countries of immigration. It therefore strongly opposed the continuance of resettlement plans in any form, including that of a High Commissioner's Office, and believed that the principles embodied in the Byelorussian draft resolution provided the only just and genuinely humanitarian solution to the problem.

28. Mr. AZKOUL (Lebanon) pointed out that, while the first paragraph of the preamble to the joint French and United States draft resolution rightly stated that the final solution to the problem of refugees could only be provided by their voluntary repatriation or their assimilation within new national communities, the draft resolution itself contained no provision to that effect. In his opinion, that was somewhat inconsistent. He would not, however, object to the adoption of that first paragraph as he believed that no harm could come of stating once more that only repatriation and assimilation could truly solve the problem under discussion.

29. Referring to paragraph 4 of the draft resolution, he asked why it had suddenly been decided that the eighth regular session of the General Assembly should determine whether the Office of High Commissioner should be continued beyond 31 December 1953. That was the first time such a date had been mentioned.

30. In his opinion, it was essential that a resolution of so general a nature as that before the Committee should reflect the principles of the right to a nationality and the right of asylum which were embodied in the Universal Declaration of Human Rights. It would be remembered that the only reason why the Commission on Human Rights had not also stated that it was the duty of the United Nations to ensure those two rights was that the declaration was one of rights and not of duties. It had been generally agreed, however, that the right to a nationality and the right of asylum should be ensured by the United Nations.

31. For that reason, he proposed the insertion of the following paragraph between the first and second paragraphs of the preamble:

"Recognizing the responsibility of the United Nations for the international protection of refugees".

32. Both the United States and the French delegations recognized that the competence of the High Commissioner would extend over categories of refugees other than those specified in the Constitution of IRO. Indeed, his competence might extend to all refugees. It was essential, therefore, that the High Commissioner should enjoy all the necessary authority and prestige, and those he could derive only from election by the General Assembly. Neither election by the Economic and Social Council nor appointment by

the Secretary-General would confer the same authority and prestige as election by the General Assembly itself.

33. For that reason, he proposed that the French variant of paragraph 7 of the annex to the joint draft resolution should be amended to read: "elected by the General Assembly on the nomination of the Secretary-General".

34. He was not quite clear as to the exact difference between the French and United States proposals regarding the definition of the refugees who were to fall under the competence of the High Commissioner's Office. It seemed that while the French delegation wanted a broad definition of the term "refugee", the United States delegation advocated the addition of other categories to those already defined in the IRO Constitution. The practical results of both courses of action might in fact prove to be identical. For his part, he preferred to speak of various categories of refugees rather than of refugees in general because problems varied widely from one group of refugees to another. For some, the main problem might be one of repatriation or resettlement, while others might be in urgent need of assistance. He pointed out that under the United States variant of paragraph 3 of the annex to the draft resolution the competence of the High Commissioner would extend to all refugees defined in the IRO Constitution and to such others as the General Assembly might "from time to time" determine. At the same time, the United States variant to paragraph 3 (b) of the draft resolution itself requested the Economic and Social Council to submit to the General Assembly recommendations on the categories of refugees not defined in the Constitution of IRO which should become the concern of the Office of High Commissioner.

35. He thought that the true meaning of that latter paragraph would be made clearer by the addition of the words "from the moment of its establishment" at the end of the paragraph.

36. Thus it would be quite clear that, while the Economic and Social Council would suggest the categories to be taken over by the High Commissioner's Office as from the moment of its establishment, the General Assembly might from time to time determine other additional categories in the future.

37. Mr. FEARNEY (United Kingdom) felt that the submission of the compromise joint draft amendment by the United States and French delegations would expedite the work of the Committee, but that certain of its provisions were still open to objection. The United Kingdom delegation would submit amendments at a later stage.

38. The United Kingdom delegation at a previous meeting had emphasized its view that the Committee was not being called upon to set up a body to succeed the IRO. In suggesting that the definition of the term "refugee" should be broadened to cover all persons who were stateless *de jure* or *de facto*, it had made it clear that it did not seek a continuance of IRO in some other form. That principle should be recognized by the General Assembly immediately.

39. The adoption of a broad definition would not preclude the subsequent adoption of a narrower definition to meet particular situations which might arise. Experience, however, showed that the existing narrow definitions were appro-

priate solely to the specific problems with which IRO had been dealing; they had been designed for particular circumstances and particular conditions, which were rapidly disappearing. Any other than a broad definition would seriously impede the High Commissioner's freedom to advise on general refugee problems.

40. The practical objection to any such definition as that given in the long and complex provisions of the IRO Constitution was that it would necessitate the establishment in the High Commissioner's Office of elaborate and expensive administrative or even semi-judicial machinery to supervise its application. That would be inconsistent with the view expressed in paragraphs 6 and 8 of the annex to the joint draft resolution that the High Commissioner's functions should be advisory and that he should carry out his work with a small staff.

41. The General Assembly could not give the High Commissioner such terms of reference as would be exactly adapted to all existing refugee problems and particularly to future problems the nature of which was necessarily still unknown. The adoption of the IRO definition alone would preclude the High Commissioner even from dealing with a number of existing refugee problems.

42. Both the United States and the French alternative proposals in paragraph 3, sub-paragraph (b) of the resolution and paragraph 3 of the annex recognized that principle. The French alternative was preferable to that of the United States delegation because it made it clear that the IRO definition should be accepted only provisionally, subject to a subsequent decision by the General Assembly on the desirability of broadening the definition whereas the United States text merely left the door open for the General Assembly to determine at any time new *categories* of refugees. The United Kingdom delegation's view went even further; it would welcome discussion of it. Some delegations might find themselves unable to accept that view at that juncture; if so, the United Kingdom would not press it at the current session. In that case, the United Kingdom delegation would strongly support the French draft, which came closer to its own views than the United States alternative.

43. With regard to paragraph 1, sub-paragraph (c) and paragraph 5 of the annex, a decision on the High Commissioner's channel of responsibility to the United Nations could very well be postponed until the fifth session of the General Assembly after examination by the Economic and Social Council, because it did not involve such immediate questions as those of principle or of financial implications. If that suggestion did not meet with approval, the United Kingdom delegation would regretfully feel obliged, at the current stage of its thinking and in view of the prestige and importance of the post of High Commissioner, to move that the High Commissioner should be directly responsible to the General Assembly.

44. Paragraph 9 of the annex appeared unnecessary and should be deleted. Nothing in the terms of reference of the High Commissioner precluded him from appointing representatives to the Governments of the countries of residence of refugees. It would be neither desirable nor essential to prejudice in that particular the method of work which the High Commissioner might adopt in order to fulfil his responsibilities.

The meeting rose at 5 p.m.