

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/AC.32/SR.15
6 February 1950

ENGLISH
ORIGINAL: FRENCH

AD HOC COMMITTEE ON STATELESSNESS AND RELATED PROBLEMS

First Session

SUMMARY RECORD OF THE FIFTEENTH MEETING

Held at Lake Success, New York,
on Friday, 27 January 1950, at 10.30 a.m.

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draft convention relating to the status of refugees

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Chairman:

Mr. CHANGE

Canada

Members:

Mr. CUVELIER

Belgium

Mr. GUERREIRO

Brazil

Mr. CHA

China

Mr. LARSEN

Denmark

Mr. RAIN

France

Mr. ROBINSON

Israel

Mr. KURAL

Turkey

Sir Leslie BRASS

United Kingdom of Great Britain
and Northern Ireland

Mr. HENKIN

United States of America

Mr. PEREZ PEROZO

Venezuela

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Representatives of specialized agencies:

Mr. METALL	International Labour Organisation (ILO)
Mr. WEIS	International Refugee Organization (IRO)

Secretariat:

Mr. HUMPHREY	Representative of the Assistant Secretary-General
Mr. GIRAUD	Human Rights Division
Mr. HOGAN	Secretary of the Committee

INTERNATIONAL STATUS OF REFUGEES AND RELATED PROBLEMS: DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES (E/AC.32/2, E/AC.32/L.3) (continued)

1. The CHAIRMAN announced that the French representative was obliged to return to his country on 31 January or 1 February at the latest. Before his departure, the Committee should endeavour to adopt in its final form article 1 on the definition of the term "refugee". The Chairman therefore proposed that the working group which had been entrusted with drafting article 1 should meet on 30 January at 10.30 a.m. The Committee should then examine the draft article 1 at its next meeting, which would be held on 30 January at 2.30 p.m., or at the following meeting on 31 January at 10.30 a.m.

It was so decided.

Chapters VI and VII (continued)

2. The CHAIRMAN recalled that at its fourteenth meeting the Committee had considered articles 16 and 17, taking as a basis for its discussion article 6 of the Migration for Employment Convention, 1949, adopted by the International Labour Conference on 1 July 1949. Paragraph 2 of article 6 of the Convention had not been studied. As that paragraph was concerned with the "federal clause", which did not apply solely to questions of labour regulations and social security, it would be preferable to defer its examination until later.

It was so decided.

Article 18: Rationing

3. The CHAIRMAN read out article 18 on rationing, and the accompanying comment. He pointed out that the French draft did not include an article dealing with the question of rationing.
4. Mr. CHA (China) thought that the exact meaning of the words "treated on the same footing as nationals" should be made clear. He explained that when China had been obliged to introduce rationing during the Second World War, certain difficulties had arisen from the fact that the staple food of the Chinese population was rice, while refugees preferred bread as their basic food; moreover, refugees, particularly Russians and Jews, consumed far more sugar than the Chinese. The Chinese Government had given satisfaction to the refugees as far as had been possible; but, by doing so, it had not treated them on the same footing as nationals.
5. The CHAIRMAN thought that the meaning of the phrase was sufficiently clear: it should be taken to mean that refugees would not be treated less favourably than nationals.
6. Mr. CUVELIER (Belgium) pointed out that the word "rationing" was applied almost exclusively to foodstuffs. There were, however, many essential goods which could, in certain circumstances, be subject to a controlled distribution; as had been the case in many countries during the Second World War. Refugees should not be deprived of essential products subject to such controls; it would seem, therefore, that the text of article 18 should be made more explicit.
7. Mr. RAIN (France) did not altogether agree with the Belgian representative's interpretation of the word "rationing". In practice, rationing did apply principally to foodstuffs; that, however, was a question of usage which could not affect the etymological meaning of the word "rationing". He pointed out that, during the Second World War, products other than foodstuffs -- textiles, soap, petrol and so forth -- had been rationed in France.

8. The representative of the United States had suggested that the question of housing might be dealt with in article 18. Mr. Rain found it difficult to see how rationing could be made to apply to housing, unless there was some explicit reference to housing. Rationing might be defined as controlled distribution of commodities in short supply; theoretically, of course, dwellings might come under the heading of commodities in short supply and might therefore be rationed. Nevertheless, it must be noted that in practice housing accommodation had never been subject to rationing measures.

9. He was therefore forced to conclude that if housing accommodation was to be included in the list of commodities subject to rationing, that concept must be stated explicitly.

10. Mr. PEREZ PEROZO (Venezuela) thought that the point raised by the representative of Belgium could be covered by the substitution of the phrase "rationing of essential goods" for the word "rationing". Moreover, that amendment would be desirable for the Spanish text of the draft convention; the word "rationing" had the same meaning in Spanish as in English and French, but it also meant the "distribution of rations". The use of the word "rationing" alone, therefore, might make the Spanish text ambiguous; that would not be the case if his amendment was adopted.

11. Mr. HENKIN (United States of America), commenting on the French representative's remarks, stated that it was just as difficult to include housing under the heading of rationing in the English text as in the French text. He had raised the question of housing because it might so happen that refugees who had been authorized to reside in a given place might not find anywhere to live. The question of housing was therefore an important matter and could perhaps have been dealt with in the same way as rationing. Provided that the Committee considered the question of housing, he would not press for it to be dealt with in article 18.

12. The CHAIRMAN held the view that provisions regarding housing should not be included in the article on rationing; it would be better to state them in a separate article.

13. Sir Leslie BRASS (United Kingdom) wondered whether the amendment put forward by the representative of Venezuela. It was true that during the Second World War many countries had rationed petrol, which did not seem to come under the heading of essential goods.

14. Mr. CUVELIER (Belgium) suggested the phrase: "rationing of foodstuffs or other commodities".

15. Mr. HENKIN (United States of America) suggested the phrase: "rationing of commodities in short supply".

16. Mr. RAIN (France) considered that the wording proposed by the United States representative might be too far-reaching. Governments might be encouraged to ration commodities in short supply, such as common or precious metals, because they were of particular use to the country. The text of the article should make it clear that it concerned essential goods for individual use.

17. The CHAIRMAN wondered whether it would not be better to adopt the Secretariat draft without amendment, on the understanding that the text could be amended during the second reading, as would be the case for all the articles.

It was so decided.

Chapter VIII: Public Relief

Article 19

18. The CHAIRMAN read article 19 on public relief, and the accompanying comment.

19. Mr. RAIN (France) pointed out that the French draft did not contain a separate article on relief, because that question was dealt with in article 14 of the French draft, which referred to both social security and public relief.

On the question of public relief, article 14 of the French draft presented the same basic concept as article 19 of the Secretariat draft, but in a much more concise form. From the point of view of substance, the only difference between the two texts was that France had not intended to include unemployed among the categories of persons eligible for public relief. In France unemployment assistance was entirely different from the assistance which public relief provided to the sick, the disabled and the aged. Unemployment assistance was under the jurisdiction of the Ministry of Labour, while public relief came under the Ministry of the Interior.

20. He considered that the provisions of article 19 proposed a considerable step forward. As things were, foreigners in France, and undoubtedly in many other countries, were not eligible for public relief under the same conditions as nationals. Unless provided for by special conventions, foreigners in France were not eligible for any form of relief except hospital treatment.

21. It was desirable and even necessary that refugees should be placed on the same footing as nationals in the matter of public relief, in view of the fact that, owing to the broadening of social security systems, relief legislation was now merely secondary and the assistance granted had decreased considerably. It would therefore be inhuman to deny that assistance to refugees. Apart from the humanitarian aspect of the matter, it was in the national interest to grant public relief to refugees, for the slight assistance provided at home involved much less expense than hospital treatment.

22. Mr. CUVELIER (Belgium) fully agreed with the representative of France. He pointed out that it would be difficult to mention the unemployed in article 19, because legislation concerning the unemployed varied according to the country; in Belgium, for example, unemployment was covered by insurance rather than by assistance.

23. He proposed that any reference to the unemployed should be deleted, particularly since that amendment would in no way change the scope of article 19.

24. Sir Leslie BRASS (United Kingdom) stated that the provisions of article 19 were entirely consistent with practice in the United Kingdom; accordingly he supported that article unreservedly.

/25. There was

25. There was good reason to include the unemployed in that article. In the United Kingdom unemployment was covered by insurance provided through the social security system; that insurance, however, did not take effect until a certain number of contributions had been paid and it was granted for a specific period only, after which the unemployed person would, if necessary, receive assistance from public relief. That example would suffice to show that it was not superfluous to mention the unemployed in article 19.
26. Mr. HENKIN (United States of America) thought that there could be a reference to the unemployed in the article on labour.
27. Mr. WEIS (International Refugee Organization) pointed out that the United Nations was studying the question of assistance to destitute workers and that the Secretary-General had prepared a report in which it was recommended that foreigners, and therefore refugees, should be placed on an equal footing with nationals.
28. The enumeration in article 19 did not include certain groups such as pregnant women, nursing mothers etc., which appeared in article 9 of the 1933 Convention. A complete enumeration was always difficult to achieve, especially since it was, in point of fact, national legislations which determined the categories of persons eligible for public relief.
29. He suggested the following text for article 19: "In respect of public relief and assistance, the High Contracting Parties shall grant to refugees regularly resident in their territory the treatment accorded to nationals".
30. Mr. METAIL (International Labour Organisation) warmly supported the suggestion of the IRO representative. The representatives of France and Belgium had given the impression they did not favour a text enumerating the categories of persons eligible for public relief. Moreover, such an enumeration was of necessity incomplete. He pointed out, in that connexion that in the British Dominions there was a system of relief for the blind. He thought that such a system should not exclude refugees.

31. It would, he thought, be interesting to know what were the intentions of the Secretariat on the subject of the destitute, a question dealt with in the report of the Secretary-General to the Social Commission, to which the IRO representative had referred. It was an important matter, since many refugees were destitute.

32. The CHAIRMAN thought that the Committee should decide to adopt either the text proposed by the Secretariat or the text suggested by the IRO representative, since from the point of view of substance those two proposals constituted the only two possible solutions.

33. Mr. RAIN (France) preferred the text submitted by the IRO representative, which was both clear and concise.

34. He drew attention to certain points which should be mentioned in the Committee's report. The Secretariat had thought it necessary to mention the unemployed in the article on public relief, ^{because, although} the unemployed were mentioned in the article on social security, several countries had not yet adopted a social security system; it was therefore necessary to specify that, in such cases the unemployed should not be excluded from the benefits of public relief.

35. He added that in France, too, there was special legislation for the blind.

36. Relief legislation provided for particular situations; that was the case in France and probably in many other countries too. Certain groups of persons did not come into any of the categories listed. Moreover, definitions varied. The French definition of old age, for example, was not the same as that of the IRO, which regarded as old any refugee who could no longer be expected to adapt himself to some new type of work. A refugee in that position was obviously in need of assistance.

37. There were many refugees who did not come into any particular category for assistance and they should therefore be eligible for public or private relief, as was provided in the IRO text.

38. The CHAIRMAN proposed that the text submitted by the IRO representative should be adopted.

The IRO text was adopted.

Chapter IX -- Education

39. The CHAIRMAN opened the discussion on article 20, which dealt with the educational rights of refugees.

40. Mr. RAIN (France) withdrew article 15 of his draft in favour of the Secretariat text on the same subject.

41. The CHAIRMAN called first for a decision on paragraph 1, which provided that refugees should have the same treatment as nationals with respect to elementary education.

Paragraph 1 of article 20 was adopted.

42. The CHAIRMAN opened discussion on paragraph 2 concerning higher education and drew attention to the difficulties which might arise in connexion with the award of scholarships to refugees. It seemed that most scholarships were administered by a foundation and granted according to special provisions.

43. Mr. HENKIN (United States of America) thought that the provisions in that paragraph could apply only to State scholarships.

44. Sir Leslie BRASS (United Kingdom) recalled that, when signing the 1933 and 1938 Conventions, his Government had made reservations concerning the articles which corresponded to the paragraph under discussion. In the United Kingdom, higher education was in the hands of ^{schools} ~~and~~ universities, which were for the most part private institutions with their own regulations which could not be overruled by a Convention, particularly where fees were concerned. If it was understood that the provisions of paragraph 2 applied to public education only, his delegation would see no objection to accepting that text.

45. The CHAIRMAN, speaking as the representative of Canada, said that in his country higher education came under the internal administration of each province.

46. Mr. RAIN (France) said that there could not be any doubt concerning the interpretation of paragraph 2: it referred solely to public education and State scholarships. Private institutions could obviously not be compelled against their will to admit refugees or to grant them reduced rates.
47. Mr. ROBINSON (Israel) proposed that chapter IX should be entitled "Public Education", to avoid any misunderstanding.
48. Mr. CUVELIER (Belgium) agreed to the interpretation that had been given of the scope of article 20. He recalled, however, that certain countries had set up a system for the exchange of scholarships under the auspices of UNESCO. Those scholarships were financed from the public funds of the States concerned and they were based on the principle of reciprocity. Since, under article 8, the enjoyment of rights subject to reciprocity could not be refused to refugees, it seemed that, under article 20, they would be entitled to claim the benefit of that category of scholarships. That, however, would not correspond to the intentions of the States concerned or of UNESCO. He thought the Committee should express its opinion on that point in the report.
49. The CHAIRMAN pointed out that the Committee had not yet come to a decision on the reciprocity clause.
50. Mr. ROBINSON (Israel) suggested that the words "without prejudice to the bilateral agreements concluded under the auspices of UNESCO" should be added to paragraph 2.
51. The CHAIRMAN thought it would be better to state in the report that the paragraph would not apply to such bilateral agreements.
It was so decided.
52. The CHAIRMAN called for a decision on paragraph 2 of article 20 of the Secretariat draft.
Paragraph 2 of article 20 was adopted, on the understanding that the chapter would be entitled "Public Education".

53. Mr. HENKIN (United States of America) thought that if the Committee was going to adopt an article dealing with the question of housing accommodation, the logical course would be to insert it after article 20. He wondered, therefore, whether it would not be advisable to deal with that question forthwith.

54. The CHAIRMAN said that, in Mr. Humphrey's opinion, the provisionally adopted article 5 might be considered to cover that question in a certain sense.

55. Mr. HENKIN (United States of America) replied that article 5 dealt with the rights of refugees regarding immovable property and leases. The problem, however, was to decide whether refugees might benefit under any social welfare measures taken by States with a view to providing housing accommodation for certain categories of persons.

56. The CHAIRMAN said he would adjourn the discussion on that question until the United States delegation had submitted a draft article on the subject.

Chapter X - Administrative System

Article 21 - Identity Papers

57. The CHAIRMAN opened discussion on article 21 of the Secretariat draft, the text of which was identical with that of article 16 of the French draft.

58. Mr. CUVELIER (Belgium) remarked that the Secretariat draft dealt with residence papers, although it contained no provision relating to the right to residence. Such a provision was included in article 2 of the 1938 Convention, which gave refugees the right to move about freely, to sojourn and to reside in the territory to which they had been admitted. He would like to know why the Secretariat had omitted to include those provisions in its draft, and also whether the Committee would be prepared to have them in the Convention.

59. Sir Leslie BRASS (United Kingdom) pointed out that article 2 of the 1938 Convention and article 21 of the draft Convention dealt with two entirely different questions.

60. Mr. WEIS (International Refugee Organization) suggested that the question raised by the Belgian representative should be examined after the discussion on article 24, which dealt with questions concerning the right of residence.

61. Mr. RAIN (France) agreed with the Belgian representative that there was a gap in the draft where that point was concerned. In his opinion, the right to residence should be dealt with before and not after article 24, which laid down regulations governing expulsion and non-admittance, in other words, restrictions provided for extreme cases.

62. Article 21 laid down regulations governing the issue of papers corresponding to the right of residence. That was the formal aspect of the question; its substance had to be settled first. The Committee, should therefore examine first the right of residence of refugees and should only then begin discussion on the article concerning residence cards.

63. Mr. WEIS (International Refugee Organization) pointed out that article 21 concerned the issue of identity papers and not that of residence permits.

64. Mr. HENKIN (United States of America) did not much mind where the article concerning the right of residence was to be placed: it might, for instance, be inserted ^{even before} the chapter relating to personal status at the beginning of the Convention. The main problem was to prepare an acceptable text concerning the right to residence.

65. The CHAIRMAN suggested that the Committee should first conclude the discussion on article 21, to which no objection had been raised.

66. Mr. CUVELIER (Belgium) asked why the French text of article 21 used the word "séjourner", while the remainder of the draft always referred to the "residence" of refugees.
67. Mr. RAIN (France) urged that the Committee could not decide on a text for the question of residence permits until a satisfactory formula on the right of residence had been adopted.
68. Article 21 referred to refugees "authorized to reside". It clearly applied to refugees who had regularized their position with the competent authorities and/^{not}to those whose presence was merely tolerated on a temporary basis following an illegal crossing of the frontier. The latter only enjoyed the right of asylum until such time as their position had been regularized by the issue of a temporary and later of a permanent residence permit. While, as the IRO representative had emphasized, such permits would in practice serve them primarily as identity cards, that was a secondary aspect of the problem, since a variety of documents could serve in proof of identity. The residence permit was thus only secondarily an identity card; it primarily constituted permission to reside in the reception country.
69. The CHAIRMAN invited the Belgian representative, who had raised the question, to propose the text of an article on the right of residence.
70. Mr. CUVELIER (Belgium) proposed that the text of article 2 of the 1938 Convention (E/1112; page 132) should be adopted as it stood.
71. Mr. HENKIN (United States of America) pointed out that the first phrase of that article, "Without prejudice to the power of any High Contracting Party to regulate the right of sojourn and residence" appeared to nullify in advance the rights granted to refugees in the latter part of the text.
- /72. Mr. CUVELIER

72. Mr. CUVELLIER (Belgium) argued that the phrase in question applied only to the admission of the refugee to the territory; once the refugee had officially been granted the right of residence, he enjoyed complete freedom of movement and residence by virtue of the second part of the article.

73. Mr. HENKIN (United States of America) suggested that in order to avoid any misinterpretation the first part of the article should be drafted to read: "Without prejudice to the right of the High Contracting Parties to regulate the right of entry for permanent residence in the country".

74. Mr. RAIN (France) informed the Committee of the reasons Mr. Giraud had given for the omission of the article from the draft convention. The Secretariat had had in mind the case of the Spanish refugees who had presented themselves in large numbers at the French frontier towards the end of the Spanish Civil War and for whom it had been necessary to set up reception camps to meet their immediate needs before regularizing their position and arranging for their dispersal throughout the country. The obligation to remain in those camps was clearly a considerable limitation of the right of movement granted by the 1938 Convention. Such a practice might, however, prove essential in certain circumstances. It was difficult to provide for it in an article envisaging every possible case and the Secretariat had therefore preferred, on the basis of the facts, to omit the article on the right of residence from the draft convention.

75. Mr. HENKIN (United States of America) pointed out that the Spanish^{refugees} referred to by ^{Mr. Rain} raised a very different problem, since they had not been officially granted the right of residence. The proposed article applied to refugees to whom the right of residence had already been granted and was designed to guarantee them freedom of movement in the reception country.

76. Mr. KURAL (Turkey) pointed to the existence in most countries of frontier or strategic zones, access to which was forbidden to aliens. He wondered whether the formula proposed by the United States representative would permit the reception country to apply that regulation to refugees.

77. Mr. CUVELIER (Belgium) said that that was a question of the internal regulation of the movement and residence of individuals, certain provisions of which sometimes applied even to nationals of the country concerned.
78. The CHAIRMAN pointed out that article 2 of the 1938 Convention made it quite clear that the right of movement and residence could only be exercised "in accordance with the laws and internal regulations applying" in the territory concerned.
79. Mr. HENKIN (United States of America) thought it would be preferable to clarify the text of the article by inserting the following phrase "subject to any general provision applicable to aliens in general."
80. Mr. PEREZ PEROZO (Venezuela) drew attention to the problem with which the authorities of a signatory State might be faced in the event of the article's adoption, if, for example, refugees admitted as agricultural workers were to leave the farms to which they had been assigned and engage in trade in the towns, refusing to return to agricultural work. Although the refugees would thereby have infringed the conditions of their admission to the territory, the reception State might find itself powerless to take any action against them by virtue of the provisions of the article which the Committee was proposing to adopt.
81. Mr. RAIN (France) thought the problem would be seen more clearly if it were divided into three different aspects: the first concerned the treatment of refugees before they had reached an understanding with the authorities of the recipient countries; the second referred to their right to have their situation regularized and the conditions in which that was to be done; the third dealt with their rights after they had been lawfully authorized to reside in the country, which meant, in the case of France, after they were in possession of a residence card and a work card.

82. The last part of the problem was the easiest to solve: it would be sufficient to apply to refugees the rules in force for aliens in general.

83. The question raised by the Venezuelan representative could be solved by the application of the internal regulations, which certainly provided penalties for the case of a foreigner who left the region in which he was permitted to reside or changed his occupation without authorization. The Committee was certainly not trying to oppose the application of regulations which were necessary for the defence of the economic interests of the reception country and which were to the benefit of the refugees themselves, for if they had to be authorized to work in any occupation in any region, it was probable that many States would be reluctant to admit them.

84. The other two aspects of the problem presented difficulties which were much less easy to overcome.

85. Mr. LARSEN (Denmark) agreed with the French representative that the Committee should not approve texts which might provoke certain Great Powers to refuse to receive refugees in their territories.

86. In support of the observations of the Venezuelan representative, he cited two cases in which a limitation of the right to circulate freely appeared to be indicated with respect to certain categories of refugees.

87. The first case was that of States in which minorities lived: Denmark and Czechoslovakia, for example, would undoubtedly have hesitated to admit German refugees in 1938 if they had been obliged to allow them to settle in areas already inhabited by minorities, whose ranks would, in the first place, have been swelled ^{by the refugees} and in whose political activity against the unity of the country the refugees might subsequently have participated.

88. The other case was that of Denmark, which had admitted to its territory certain young German Jews on condition that after they had completed their agricultural training there they would leave for other countries, Israel, for example, in order to follow their occupation. Those refugees had thus been admitted only provisionally and for a specified occupation, which was of course, an indirect limitation of the right of residence.

89. In the opinion of the Danish delegation, article 2 of the 1938 Convention did not in any way prevent the reception country from making rules concerning the right of residence of refugees if it so desired. That was the sense in which Denmark had applied the article hitherto, and that was the sense in which it should be interpreted if it were included in the Convention which the Committee was drafting, for that draft convention must not contain any provision likely to discourage the goodwill of the signatory States towards refugees.

90. Mr. HENKIN (United States of America) fully understood the Danish representative's point of view. Article 2 of the 1938 Convention, thus understood, appeared to be acceptable to the United States delegation, which felt, however, that the text was too ambiguous and contained too many escape clauses. The United States delegation therefore suggested that the article should be redrafted.

91. Having already proposed the addition of the words "without prejudice to the right of the High Contracting Parties to regulate the right of entry for permanent residence into the country", the United States delegation was now suggesting the following amendment: "Subject to the right of the High Contracting Parties to admit refugees on condition that for a given period they confine themselves to specified occupations or specified regions of the country, a refugee admitted for regular residence shall be entitled to move about freely and to sojourn or reside in the place of his choice."

92. Mr. RAIN (France) suggested a new text, with the same idea as that of the United States representative:

"Refugees once authorized to reside within a territory shall have the right to fix the place of their residence and to move freely, subject to regulations governing foreigners in general".

93. The French delegation considered that it was advisable to indicate clearly that only those restrictions and limitations which applied to aliens in general should be imposed upon refugees regularly authorized to reside in a country. In issuing residence permits to refugees, authorities would be allowed, to impose limits of time and space, but only within the framework of the regulations which applied to aliens.

/94. Mr. HENKIN

94. Mr. HENKIN (United States/ of America) could accept the text proposed by the French representative but thought that certain provisions should also be included for refugees who had not yet been regularly admitted into a country.

95. Sir Leslie BRASS (United Kingdom) reserved his position in the matter, for he considered that everything depended on the interpretation of the expression "regularly admitted". That term was also of the greatest importance in connexion with the provisions of the articles of the draft convention dealing with working conditions.

96. Mr. WEIS (International Refugee Organization) thought that the French text was acceptable, but that it was essential to include provisions concerning refugees who had not yet been regularly admitted. Realities must be faced and it must be remembered that the problem which had arisen in France when vast numbers of Spanish refugees had arrived was reappearing, or was liable to reappear in other countries, such as Switzerland, Italy and so forth.

97. The CHAIRMAN suggested that a decision should first be taken on the French text. The question of refugees who had not been regularly admitted into a country could then be considered.

98. Replying to Sir Leslie BRASS (United Kingdom), Mr. RAIN (France) gave some details of the regulations which applied to aliens in France. A residence permit was issued to aliens, valid either for the whole of the national territory or for a part thereof. The permit was at first valid for only a short period and was then endorsed for a longer period. The regulations undoubtedly varied in the different countries, but that in no way altered the principle contained in the French proposal, according to which the regulations which applied to aliens in any given country would also apply in the case of refugees.

/99. Mr. KIRAL

99. Mr. KURAL (Turkey) had no objection in principle to the French proposal, but he wondered what the position would be in the case of a State which, having adopted a very liberal attitude with regard to aliens, who were subject to no restrictions of time or place, received refugees and wished in some way to restrict the conditions of residence of those refugees. Such a State might be prompted to modify its legislation concerning aliens, which would be a highly regrettable measure.

100. Sir Leslie BRASS (United Kingdom) wished to know whether the residence permits issued to aliens regularly admitted into France provided certain restrictions with regard to the choice of employment of the persons concerned.

101. Mr. RAIN (France) replied that the French authorities issued two types of documents to aliens: one was a residence permit issued by the Ministry of the Interior; that permit had nothing to do with the question of employment but simply mentioned a labour permit which was issued by the Ministry of Labour and which provided certain limitations in connexion with the employment of the person in question.

102. Sir Leslie BRASS (United Kingdom) gathered from that that a person holding both permits could be compelled to remain in a certain prescribed area and to engage in a given occupation. He wished to know at what stage that person would be considered to reside regularly in France.

103. Mr. CUVELIER (Belgium) pointed out that employment and residence were two entirely different questions. At the present time, the Committee was concerned only with the question of residence, the question of employment being dealt with in other articles of the draft convention.

104. What the Committee was endeavouring to do at the moment was to place refugees on the same footing as aliens.

105. Mr. HENKIN (United States of America) asked whether, under French law, an alien regularly admitted to the country could be forced to reside in a given area.

106. Mr. RAIN (France) replied in the affirmative, adding that, except in certain exceptional cases, the region or district in question was a vast area and usually comprised several neighbouring departments, so that the alien was assured real freedom of movement. Moreover, the alien was not forced to work in any particular concern but could be employed in any concern of similar activities, throughout the whole of the district.

107. Replying to Mr. HENKIN (United States of America), who wished to know whether the restrictions in question were imposed upon the alien for an unlimited time, Mr. CUVELIER (Belgium) explained that the French legislation provided for successive stages, a progressive expansion of both place and time, by means of which the alien was eventually authorized to reside anywhere he wished and to move about freely.

108. Mr. HENKIN (United States of America) concluded from that that persons subjected to these restrictions should nevertheless be considered, for purposes of the future convention, to have been regularly admitted.

109. Mr. RAIN (France) agreed that that was so. Any person in possession of a residence permit was in a regular position. In fact, the same was true of a person who was not yet in possession of a residence permit but who had applied for it and had the receipt for that application. Only those persons who had not applied, or whose application had been refused, were in an irregular position.

110. Mr. GUERREIRO (Brazil) saw no objection to the adoption of the French text. In point of fact, while it was true that refugees authorized to enter Brazil as farm workers were required to remain so for a certain number of years, the same provision applied equally to aliens.

111. The CHAIRMAN wondered whether it would not be desirable to complete the text proposed by the French representative by a supplementary guarantee, and to add the following words: "subject to the conditions under which they were admitted".

112. Replying to an observation by Mr. HENKIN (United States of America), the CHAIRMAN stated that, in his opinion, those words were quite applicable to regularly admitted persons; thus, for example, the displaced persons regularly admitted to Canada were asked to keep the same occupation for a certain length of time.

113. Sir Leslie BRASS (United Kingdom) feared that with such an addition the text would provide few safeguards for the refugees.

114. Mr. RAIN (France) shared the doubts of the United Kingdom representative. If new restrictions were introduced into a provision which was intended to grant to refugees simple equality of treatment with aliens -- an equality which, it seemed to him, should be taken for granted -- it would look as though States were being invited to treat the refugees with less consideration than was accorded to aliens.

115. Mr. GUERREIRO (Brazil) said that from his country's point of view it was not necessary to expand the French text as the Chairman had suggested.

116. Mr. CUVELIER (Belgium) felt that the addition proposed by the Chairman would have little merit.

117. The CHAIRMAN said that he was ready to accept the French representative's text, with certain reservations, if that text was generally acceptable to the Committee.

118. Mr. RAIN (France) wished to give a few more details concerning the regulations applied by the French Government to regularly admitted aliens. Residence authorization could not be limited to a single department, but was generally valid for the entire national territory. In certain cases, the Ministry of the Interior might decide that aliens should not be allowed to go to certain departments without a special authorization.

119. The CHAIRMAN asked the Committee to take a decision on the French representative's text, it being understood that the article would be numbered later and would be subject to certain minor amendments before being given its final form.

The French text was adopted.

120. Mr. LARSEN (Denmark) thought that consideration should now be given to the case of refugees in a country who had not yet been authorized to reside there. A country which was receiving large numbers of refugees could not contemplate making them recross the frontier or handing them over to the authorities which had persecuted them. Such refugees were often placed in camps, but it would be desirable to ensure them more normal and humane living conditions, for which purpose a certain number of fairly simple rules for the treatment of refugees not yet authorized to reside in a country should be drawn up.

121. He was therefore submitting a draft. The text had originally been intended to refer to paragraph 5 of article 24 of the draft convention prepared by the Secretariat, but the necessary amendments could easily be made to it. Paragraph 5 of article 24 dealt with the case of refugees who, having been admitted to a country, had to be expelled from it but could not leave immediately. It was clear that the two situations had certain points in common.

122. Mr. Larsen then read the following statement:

"In so far as the internal measures referred to in article 24, paragraph 5, or any such measures taken concerning other refugees, impose restrictions of movement, such restrictions shall be limited to those necessitated by reasons of national security and the maintenance of order.

"Internment and restricted residence may be enforced only in individual cases and for imperative reasons of national security and order. The conditions of internment and the treatment of interned refugees shall, both morally and materially, be consistent with human dignity and shall not be less favourable than that accorded to civilian internees in time of war according to the provisions of the Geneva Convention for the Protection of Civilian Persons in Time of War (articles 78 et seq) (alternatively 'that accorded to persons detained on charges pending investigation')."

123. The CHAIRMAN was not altogether sure that the Committee could discuss that particular aspect of the question at that stage of its work.

124. Mr. CAVELIER (Belgium) pointed out that that aspect of the question was related to the subject dealt with in article 3 on the admission of refugees. It would be recalled that when certain delegations had wished to discuss that question they had been told that the Committee had been instructed to prepare rules governing the status of refugees already admitted to a given country.

125. Mr. HENKIN (United States of America) thought that they had at that time been concerned with a somewhat different question: the question now before the Committee was not that of the policies of governments with regard to the admission of refugees generally, but rather the rights of an individual refugee who was at the border or actually in a given country to which they had not been admitted legally.

126. Mr. RAIN (France) thought that in the case in hand, as in many other cases, it was very difficult to separate the substance of the proposal from its form and place. In his opinion, that provision could scarcely be included anywhere other than in article 24, in connexion with which it had been drafted. Article 24 did indeed state that decisions in that field could be taken only in individual cases but that could obviously not apply to the case under discussion, namely, to refugees who had not been regularly admitted to a country. The admission that such refugees could be placed in camps was only due to the fact that such measures were sometimes inevitable if the refugees were in such vast numbers that a State felt that to allow them to scatter throughout its territory might be detrimental to public order. It was therefore not an individual but a collective problem.

127. Mr. LARSEN (Denmark) said that he was quite prepared to amend his text so as to make it more acceptable to the members of the Committee.

128. In reply to the French representative's remark, he suggested that he had perhaps not interpreted the word "individual" in the same way as the other representatives. If, for example, an immigration officer decided to send sixty refugees to a camp in order to provide them with adequate shelter and food, that was an individual and particular decision.

129. The CHAIRMAN asked the members of the Committee to reflect on the question.

The meeting rose at 1.5 p.m.