



GENERAL

A/CONF.2/SR.4

19 November 1951

ENGLISH

ORIGINAL: ENGLISH and
FRENCH

Dual distribution

CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS
OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE FOURTH MEETING

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

CONTENTS:

pages

Consideration of the draft Convention on the Status
of Refugees (A/CONF.2/1 and Corr.1, A/CONF.2/5)
(continued):

1. Article 2 - General Obligations (A/CONF.2/10,
A/CONF.2/12, A/CONF.2/18) (continued)
2. Article 3 - Non-discrimination (A/CONF.2/20,
A/CONF.2/22)

4 - 13

13 - 19

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
	Mr. PHILON
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ANKER
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
	Mr. SCHURCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOLRE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO

Observers:

Cuba	Mr. DUSSAG FISHER
Iran	Mr. KAFAI

High Commissioner for Refugees

Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and other inter-governmental organizations:

International Refugee Organization
Council of Europe

Mr. STEPHENS
Mr. von SCHMIEDEN

Representatives of non-governmental organizations:

Category B and Register

Caritas Internationalis

Mr. METTERNICH
Mr. BRAUN

Commission of the Churches on International
Affairs

Mr. REES

Consultative Council of Jewish Organizations

Mr. MEYROWITZ

Co-ordinating Board of Jewish Organizations

Mr. WARBURG

Friends' World Committee for Consultation

Mr. BELL

International Committee of the Red Cross

Mr. COURSIER

International Council of Women

Mrs. FLECHTER

International Federation of Friends of
Young Women

Miss van WIRVEKE

International Union for Child Welfare

Mr. THELIN

International Union of Catholic Women's Leagues

Miss de ROMER

World Jewish Congress

Mr. RIEGNER

World's Young Women's Christian Association

Miss ARNOLD

Secretariat:

Mr. Humphrey
Miss Kitchen

Executive Secretary
Deputy Executive Secretary

CONSIDERATION OF THE DRAFT CONVENTION ON THE STATUS OF REFUGEES (A/CONF.2/1 and Corr.1, A/CONF.2/5) (continued)

1. Article 2 - General Obligations (A/CONF.2/10, A/CONF.2/12, A/CONF.2/18) (continued)

The PRESIDENT invited the Conference to resume its consideration of article 2 of the draft Convention on the Status of Refugees (A/CONF.2/1, page 6).

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) fully appreciated the desire of the Australian authorities to make sure that practice in Australia conformed to the provision in article 2, but wondered whether the Australian amendment (A/CONF.2/12) was necessary for that purpose. There were only two possibilities: first, that the period of directed labour was based on law or on regulation - in which event the position was covered by article 2; or secondly, that it was based on a contractual obligation - which the refugee would be under an obligation to fulfil. Hence his doubts as to the need for amending article 2. His own belief was that if the Australian delegation felt it necessary to take specific action, its best course would be to enter a reservation amounting to an interpretation of the article in question, to cover the Australian position.

Mr. HOEG (Denmark) observed that, whereas in Australia a special system had been introduced to enable migrant refugees to settle in that country, the position was somewhat different in a number of other countries, such as Denmark, where there were no definite quotas and where refugees entered the country without any prior examination. However, in such countries too certain restrictions were frequently imposed, particularly with regard to employment, so that in all probability the situation in the two groups of countries did not differ so greatly as appeared on the surface. What was important was that the refugee should not constitute a problem, and that he should conform to the laws and regulations to which he was subject. When he failed to do so, appropriate sanctions should be applied, and repeated violation of regulations might reasonably warrant expulsion. Until he was expelled, however, he should be treated in accordance with the provisions of the Convention and be subject only to such sanctions as were

applicable to other law-breakers.

Mr. SHAW (Australia) said that if the Australian amendment did not command support, he would not press it. The points made by the High Commissioner for Refugees had already been fully weighed by the Australian Government, which had come to the conclusion that the statement in article 2 that the refugee must conform to laws and regulations was not sufficiently specific for what it had in mind. Moreover, the Australian legal and migration authorities had fully explored all possible means of ensuring that that particular obligation was discharged, but no other method had commended itself to them. To enter a reservation would not be appropriate, and his delegation preferred a positive statement of the position. If the Conference could not accept the Australian amendment to article 2, he would feel obliged to introduce a similar amendment to article 3. It would be noted that neither refugees entering Australia nor the Australian Government itself stood to gain much by the adoption of the draft Convention, since the Australian laws and regulations governing migration already conferred all the benefits provided by the draft Convention. If the Australian amendment proved unacceptable to the Conference, Australia might find it difficult to sign the Convention.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) felt that the Australian representative's point might be met if some such words as "contained in special immigration arrangements" were inserted after the word "conditions" in the last line of the Australian amendment (A/CONF.2/12).

The PRESIDENT believed that the Conference was called upon to decide whether States should be permitted to impose conditions on migrant refugees, and also whether a refugee who failed to fulfil certain conditions should forfeit the rights procured in the draft Convention, even if his country of refuge did not expel him. That led to the further question whether such failure should entitle the country concerned to expel the refugee. If it did, in other words if the intention was that certain offences committed by refugees against public order should justify expulsion, the matter might best be dealt with under article 27. If, on the contrary, no such drastic measure was contemplated, it would be

necessary to decide whether the problem was really any different from the normal problem of keeping order in a country.

Mr. HOARE (United Kingdom) agreed with the President's reading of the situation. He believed that the Australian delegation was not so much concerned with the failure of a refugee to comply with conditions, as with the need for ensuring that the special conditions imposed on entry to Australia conformed with the provisions of the draft Convention. Article 2, as it stood, and even as amended by the Australian proposal, was no more than a statement of the duties owed by a refugee, and made no mention of the duties of the State. Thus, it seemed to him that the question of whether the Australian practice was permissible, must be considered in the light of other articles of the draft Convention which imposed certain conditions upon States. He would therefore suggest that the Australian representative should withdraw his amendment for the time being.

After disposing of that point it would be necessary to consider whether article 2 should lay down not only the duties incumbent on the refugee, but also the rights which would accrue to States in the event of his failing to comply with regulations.

MOSTAFA Bey (Egypt) said that the point at issue raised the problem of the co-existence of international law and national legislations, and of their respective force. Jurists made a distinction in the subject between various systems, such as juridical monism or juridical dualism. In Egypt, national law prevailed over international law, and such was also the case in several other countries. Thus, for example, certain speakers had already said that it would be impossible for their governments to sign a convention whose provisions conflicted with the national law of their countries. In such circumstances, he thought that it would perhaps be preferable for the Conference to confine itself to a statement of principle, leaving the national legislations of the various Contracting States to determine the practical application of that article of the Convention.

Mr. SHAW (Australia) observed that the point made by the United Kingdom

representative had occurred to the Australian Government. The latter had concluded, however, that the question should be taken care of in a general provision rather than by separate specific clauses. Articles 2 and 3 were both of a general nature, and he would only withdraw his amendment to article 2 on the understanding that he would be free to introduce a similar amendment to article 3.

The PRESIDENT understood that the Australian representative had withdrawn his amendment, reserving his right to introduce a similar amendment to article 3. The Conference could therefore turn to the Belgian and French amendments to Article 2 (A/CONF.2/10 and A/CONF.2/18 respectively).

Mr. HERMENT (Belgium) said that he would withdraw the Belgian amendment (A/CONF.2/10) in favour of the French amendment (A/CONF.2/18).

Mr. ROBINSON (Israel) said he would be glad for some clarification of the French amendment. In the first place, did the term "duty" in the first line refer to the duty incumbent on refugees in a general way, or to the duties mentioned in what would be the first sub-paragraph of article 2 were the French amendment adopted, namely, the duties of a refugee as a resident in the receiving country? Incidentally, the term "receiving country" was somewhat vague; it might refer either to the country of reception proper or to the country of selective immigration.

Secondly, with regard to the "appropriate procedure" for depriving a refugee of his rights, did that term refer to the various measures already existing under national laws in the various countries, or to a series of new measures to be introduced specifically for the purpose?

Thirdly, it would be well to specify what was to be understood by "forfeiture", and in particular to stipulate whether the provision in question would be applied by the courts in the form in which it now appeared in the French amendment, or whether it would be embodied in a separate law.

Fourthly, the question arose as to the connexion between the French amendment and certain parts of the draft Convention, especially paragraph B of article 1,

paragraph 2 of article 5, and article 28. It should be made clear whether the French text was to constitute a general provision, paragraph 2 of article 5 catering for exceptional measures. And it should be decided how far the French amendment would affect the scope of article 28, which prohibited the expulsion of refugees to the frontiers of territories where their lives or freedom would be threatened.

Lastly, there was yet another important question, namely, what would be the status of a person found guilty of dereliction of duty under the text proposed by the French delegation, and thus forfeiting his rights as a refugee and exposing himself to the whim of the authorities.

All those problems called for attention, and would have to be solved before decisions were taken. Of course, he fully appreciated the anxiety which had dictated the attitude of the French Government, since France was the most hospitable country in Europe, and for that very reason found herself faced with many difficulties.

Mr. ROCHEFORT (France) wished in the first place to point out that there could be no question, so far as France was concerned, of any choice in the matter: the authorities concerned were of the opinion that a text on the lines proposed in his amendment was essential in the present state of affairs. The text could, of course, be improved; and he would be glad to learn from the Israeli representative how a provision of that nature would be applied in Israel.

Furthermore, he would point out, in reply to an observation made by the United Kingdom representative at the third meeting, that refugees not benefiting by the provisions of the Convention would not thereby become pariahs; in France, at any rate, their position would be the same as that of the 300,000 or so refugees not at present covered by any international instrument, except - in certain cases - by the 1933 Convention. Like them, they would enjoy the benefit of the measures applied by the French Government of its own free will without contracting any international obligations as such in that respect.

In reply to the points raised by the Israeli representative, he explained that the word "duty" in the French amendment referred to the duties mentioned in the first line of article 2 itself, which were incumbent on the refugee as a resident in the receiving country. While, it was true, the concept of "receiving country" was somewhat vague, it covered - at least, to the mind of the French delegation - both the "receiving country" and what was meant by the "country of selective immigration". With regard to the procedure to be adopted in respect of the forfeiture by the refugee of the rights pertaining to his status, it should be noted that the measures in question related to extremely serious - and, incidentally, rare - cases, and came within the category of counter-espionage operations. No country could possibly be expected to expatiate in an international forum on the measures which it proposed to adopt in that connexion. "Forfeiture" of his rights by the refugee would transfer him from the jurisdiction of the international convention to that of the legislation currently in force in the countries concerned.

In conclusion, he would repeat that the draft Convention, as it stood, merely reiterated the rights already granted to refugees in France.

Mr. PETREN (Sweden) said that the French amendment fully reflected the considerations exercising the mind of the Swedish Government as a result of the existence in Sweden of problems similar to those experienced in France. The proposal was fully in line with the actual needs of the situation. Actual problems were involved; and the Swedish Government, for its part, was intent on retaining the right to expel from its territory any person who, after entering it under the cover of flight from political persecution, proceeded to engage in activity prejudicial to Sweden's national security. For those reasons, the substance of the French amendment should be included in the draft Convention in one form or other.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) submitted that while some provision such as that proposed by the French delegation was desirable, it would more appropriately be placed in article 1, among the provisions relating to the exclusion from the benefits of the Convention of certain categories of refugees.

Mr. HERMENT (Belgium) could not agree with the High Commissioner. It was clear that the measures contemplated in the French amendment would not necessarily result in expulsion. Moreover, the person subjected to them would preserve his status as refugee; the pronouncement of his forfeiture of rights would in no way withdraw that status from him, but would simply have the effect of depriving him of all or some of the benefits granted by the Convention. For that reason it would be undesirable to incorporate the French amendment in article 1, which was designed to define the term "refugee", whereas the French amendment was designed to punish persons whose status as refugees had already been recognized.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that he had not intended to suggest that a refugee dealt with as proposed in the French amendment would cease to be a refugee. He had simply meant that he would cease to be a refugee for the purposes of the Convention, and that its benefits would no longer accrue to him.

Mr. HOARE (United Kingdom) agreed with the French and Swedish representatives that cases of refugees constituting serious threats to national security should be dealt with in a special manner; for there was a definite danger that some of the many refugees flocking into certain countries might be tempted to indulge in harmful activities on behalf of foreign Powers. In his view, it should be recognized that in the last resort a country might be obliged to return the offender to the country from which he came. He found fault with the French amendment, however, in that it was not confined to action of that kind. It would be wrong to exclude any such person from the benefits of the Convention while he still remained as a refugee in a particular country. So far as criminal offences were concerned, there was normally, under national law, provision for offences against the law perpetrated by foreigners, and it was the sense of the draft Convention that the refugee should be given the same treatment as foreigners. Thus, the consequences of the national law for foreigners, so far as they involved any disabilities, would apply equally to refugees.

He had not wished to imply that a country such as France would treat refugees as pariahs. His point had been that the Conference would be making a mistake by

including in the draft Convention a provision by virtue of which a State would be able to treat a refugee as a pariah. However desirable it might be to deal with the issue by providing States with the right to expel a refugee, careful consideration would have to be given to the dangers of allowing States to deprive any person of the status of refugee.

Mr. ROCHEFORT (France) wished to draw attention to a very important aspect of the problem. It was actually a matter of fundamental interest to refugees generally that the measures advocated by the French delegation should be taken against such refugees as carried on activities constituting a danger to the security of the countries receiving them. If certain disturbances provoked by organized bands were allowed to increase in France, the final outcome would be a wave of xenophobia, and public opinion would demand not merely the application of the measures laid down in the French proposal, but the expulsion of a great many innocent refugees. To appreciate France's position fully, it should be remembered that refugees were admitted into that country without any discrimination on racial, political or other grounds. Thus, the body of refugees resident in France included persons of the most varied religions and races, and of political creeds which varied enormously according to the period when they had been admitted and their country of origin. Moreover, it was often impossible to assimilate such refugees to other aliens, since they crossed the frontier clandestinely, did not register with the authorities and had no fixed abode; obviously they could not be treated with the same confidence as refugees who had been settled in France for years. The situation raised a number of extremely complex problems.

As to making a distinction between the internal and external security of a country, any such distinction seemed rather artificial at the present time. Obviously, a whole network of problems divided not merely the various States one from another, but even the various sections of public opinion within national communities themselves. For all those reasons, while the French delegation was prepared to amend the wording of its text in order to make it more readily acceptable to countries who were not faced with France's difficulties, and were therefore willing to display a more liberal attitude towards the text of the

Convention, it felt obliged to state that its formal instructions from the French Government made it impossible for it to agree to any fundamental changes. Incidentally, the French delegation shared the view of the United Kingdom and Belgian representatives as to the most suitable place for the French amendment. It should certainly not be inserted in the definition of the term "refugee", since the individuals to whom it referred would still retain the status of refugee.

Mr. ROBINSON (Israel) believed that there were three questions before the Conference. First, there was the advisability of including in the Convention a section dealing with threats to internal and external security constituted by refugees. It was clear that the intention of the French amendment was to take care of such serious threats to security as were not covered by national criminal codes; and for that a special provision seemed highly desirable. The sanction provided for in the amendment was important, namely, the withdrawal from the person concerned of his international refugee status. That led to the second question: what was the appropriate place in the Convention for such a provision? The offender, he submitted, remained a refugee, but without international status. The third question was to draft a suitable text, and that presumably could be left to a drafting group.

Thus he felt that the Conference could agree that a provision like that proposed in the French amendment was desirable, and that consideration of the other two questions might be deferred for the time being, since they were very closely related to other articles of the Convention, the fate of which was still unknown.

The PRESIDENT believed that the Conference was agreed at that stage that something on the lines of the French amendment should be included in the draft Convention, and suggested that a working party made up of the representatives of France, Israel and the United Kingdom should meet and endeavour to harmonize the various views expressed and to find an appropriate place in the Convention for such a provision.

Mr. ROCHEFORT (France) accepted the method of work suggested by the President. He thought it advisable, however, to appoint the Belgian representative

also to the working party. The particular problems which confronted France in that field essentially concerned the continental countries of Europe. It was therefore logical that those countries should be represented on a footing of equality with others.

The President's suggestion was adopted, subject to the inclusion of the Belgian representative in the working party.

2. Article 3 - Non-discrimination (A/CONF.2/20, A/CONF.2/22)

The PRESIDENT drew attention to the Australian amendment (A/CONF.2/20) to article 3.

Mr. MAKIEDO (Yugoslavia) emphasized the possibility of discrimination for other reasons than those stated in article 3, and suggested the addition of the words "or for other reasons" at the end.

Speaking at the invitation of the PRESIDENT, Mr. REIGNER (World Jewish Congress) stated that the Congress was greatly interested in and fully supported the idea of an international convention relating to the status of refugees. As the written statement submitted by the Congress had not yet been circulated, he would make a short comment on article 3 of the Draft Covenant which established a rule of prime importance for refugees. From its present wording it might appear that the obligation to avoid discrimination only rested on the State in which the refugee was resident. Refugees, however, often had interests in other States, as was recognized in article 9 and article 11, paragraph 3. It was obvious from the comments of the Ad Hoc Committee that it had included the words "within its territory" in article 3 so as to make it clear that the rule did not apply to immigration. He believed, however, that the most satisfactory means of achieving that distinction would be to delete the words "within its territory" from article 3, and to state in the final Act that article 3 was not intended to apply to immigration.

Mr. SHAW (Australia) said that the Australian amendment (A/CONF.2/20) had been introduced as a direct consequence of the discussion on article 2. In the

absence of a general provision in article 2 safeguarding the position of the Australian authorities, it seemed from the Australian point of view that article 3 would be vague and dangerous without the proviso contained in the amendment. A reservation on the part of the Australian Government would not be appropriate; it was amendment of the text that was required.

Mr. CHANCE (Canada) said that, while the Canadian delegation did not feel the same anxiety in the matter as did the Australian delegation, he would support the Australian amendment, provided the word "settlement" was inserted before the word "conditions".

The PRESIDENT, speaking as representative of Denmark, maintained that it was essential to keep in mind not only the policies and legislations of overseas countries which accepted immigrants on a large scale, but also those of European States which tended to apply a system of gradual admission for persons entering their countries. He would, therefore, propose that the Australian amendment be amended by the insertion of the words "or authorized to stay in" after the words "admitted to", the last clause therefore reading: "... from observing the conditions under which he was admitted to or authorized to stay in such territory".

Mr. ROCHEFORT (France) supported the Danish amendment. It seemed to him more equitable not to consider the question solely from the point of view of immigration, for that would be equivalent to showing preference to clandestine immigrants. It would be illogical if refugees admitted by certain overseas countries after preliminary selection were less well treated than refugees entering European countries without any formality. The wording proposed by the President as Danish representative took account of both aspects of the problem, and the French delegation would be happy to support it.

Mr. SHAW (Australia), referring to the Canadian suggestion, observed that "settlement conditions" would not always cover what the Australian Government had in mind; for refugees would not always "settle" in the country. The phrase "entry conditions" would be more suitable. He could accept the Danish proposal.

Mr. SCHURCH (Switzerland) felt that the text of article 3 still lacked clarity, even with the addition of the amendment proposed by the Australian representative. What, he wondered, was the exact meaning of the word "discriminate"? If the discrimination referred to meant measures of a humiliating character, Switzerland fully endorsed the principles illuminating the article. To his mind, however, it was obvious that any State which signed the Convention would of its own accord abstain from adopting measures of that kind; otherwise, it would hardly undertake, through the medium of an international instrument, to grant refugees greater rights than those enjoyed by other aliens and in some cases rights equal to those of its own nationals.

If, by "discriminate" was meant the adoption, not of humiliating measures, but merely of measures which would not be adopted in respect of other aliens, the Swiss delegation's position would be slightly different. While Switzerland considered it natural not to discriminate in any way against refugees for reasons of race, religion or origin, or any similar reasons, it nevertheless recognized the need on occasion to subject groups of refugees pouring into a State to special control, to house them in camps if no other accommodation was available, or to put them to special work in the event of their finding it impossible to obtain employment. If article 3 prohibited the enactment of measures of that kind, it would conflict with the provisions of article 5 concerning exceptional measures.

It was therefore essential to clarify the scope of article 3; and if the Swiss delegation was correct in interpreting it as referring merely to the adoption of measures of a humiliating character, it seemed quite unnecessary.

Mr. HERMENT (Belgium) observed that article 3 enunciated a general principle, whereas article 5 provided an exception to that principle.

Mr. SCHURCH (Switzerland) submitted that if article 3 laid down a general principle, it would hold good regardless of the provisions of article 5. It would be necessary, accordingly, to formulate an express reservation with regard to the exceptional cases referred to in article 5. However, the Swiss delegation would not press its point, on the full understanding that its argument would be reported in the summary record of the meeting.

Mr. ROBINSON (Israel) considered that the drafting of article 3 would be improved if the proviso contained in the Australian amendment came before the statement of principle. The article would then read:

"Provided that this article shall not be deemed....., no Contracting State shall discriminate ...".

Mr. HERMENT (Belgium) thought that it would be better to make the Australian amendment a separate provision; the problem of discrimination on account of race, religion or origin, dealt with in article 3, was entirely different from that of the conditions of admittance to a receiving country.

Mr. SHAW (Australia) agreed to the Belgian representative's suggestion.

The PRESIDENT said that since it had been agreed that the Australian amendment to article 3 should form a separate provision, the final drafting of which would be taken up in due course, the Conference should revert to article 3 in its original form, as given in document A/CONF.2/1. He drew attention to the Yugoslav proposal (A/CONF.2/22) that the words "or for other reasons" be added at the end of the article, after the word "refugee".

Mr. ZUTTER (Switzerland) pointed out that the provision prohibiting discrimination because a person was a refugee raised problems similar to those to which the Swiss delegation had previously drawn attention; that provision could, in fact, prohibit States from taking in respect of refugees measures which did not apply to other aliens, even if their purpose was to protect the interests of the refugees and of the receiving country.

MOSTAFA Bey (Egypt) considered the Swiss representative's observation most pertinent. He wished to have further details of the scope of the provision on non-discrimination, and would like to know, for example, whether that provision would prohibit a State from reserving the exercise of certain occupations to its nationals alone.

Mr. HERMENT (Belgium) replied that the purpose of the provision was to prohibit discriminatory measures based solely on the fact that the person in question was a refugee. For instance, if a refugee and an alien clandestinely

entered the territory of a State they would both be expelled for the same reason, namely, for having crossed the frontier in an irregular manner, the same measures being applied to the alien as to the refugee, and the latter not being liable to any special penalties simply because he was a refugee.

Mr. ZUTTER (Switzerland) quite understood the intention of the provision. He must point out, however, that the present wording of article 3 permitted an interpretation being placed on it that went beyond the aim of its authors, in that it could prohibit States from taking measures of the kind he had just described.

Mr. ROCHEFORT (France) supported that view. In order to remove all ambiguity he thought it would be wise to distinguish between discrimination on account of race, religion or origin, and discrimination based solely on the fact that the person in question was a refugee.

Mr. ROBINSON (Israel) considered that the criticisms of article 3 were wholly justified, and that the difficulty was caused by the insertion in the text of the final words "or because he is a refugee". Without them, the meaning was perfectly clear. The article provided that all refugees, whatever their race, religion or country of origin, should be given the same treatment. The provision was not intended to relate to discrimination between the nationals of any given country and refugees. The final words, however, introduced the notion of the respective treatment meted out to aliens and refugees. That point was covered in paragraph 1 of article 4. He would therefore propose that the words "or because he is a refugee" be deleted. Article 3 would not then be open to misinterpretation.

Mr. FRITZER (Austria) had no objections to the provisions of article 3. The article in no way prohibited States from granting refugees the same treatment as other aliens; it merely prevented refugees from being subjected to more restrictive or more rigorous measures than such aliens.

Mr. HERMENT (Belgium) did not agree with the interpretation placed on article 3 by the Israeli representative. If that had been intended, the reference would have been to discrimination "between" refugees, and not to discrimination "against" refugees.

Mr. ROCHEFORT (France) said that the Israeli amendment, if adopted, would defeat its own ends, since then, if all refugees received equally bad treatment, the State concerned could claim to have observed the provisions of article 3.

The PRESIDENT recalled that the issue had been fully discussed in the ad hoc Committee, and that the words in question had been inserted in order to provide for cases of mass movements of population across a frontier, for instance, in time of war. It might well be that among all the persons fleeing from such peril, some might be refugees as defined in the Convention. No discriminatory measures should be taken against them by the country of asylum on the grounds that they were refugees, although that country would retain the right to take all appropriate sanitary and social measures to meet an emergency situation.

Mr. PHILON (Greece) agreed with the Swiss representative that the question of what type of measures were to be regarded as discriminatory must be cleared up. For when, for example, refugees from neighbouring countries with political ideologies different from those of the receiving country sought refuge in a State, it was natural for the latter to adopt appropriate security measures, such as prohibiting the refugees from residing in the frontier zone.

Mr. FUTTER (Switzerland) thought that the difficulty could be resolved by adopting the Israeli proposal and deleting the last six words of the article.

Mr. PHILON (Greece) and Mr. MIRAS (Turkey) supported the Swiss representative.

MOSTAFA Bey (Egypt) also supported the Israeli proposal, provided that the words "subject to the requirements of public order and morals" were added to article 3 as thus amended.

Mr. ROCHEFORT (France) said that he would not be altogether satisfied with the text of article 3, even if the proposed amendments were adopted. In his view, the statement that the State should not discriminate against a refugee within its territory on account of his race, religion or country of origin seemed

to suggest that the State was perfectly entitled to discriminate against persons wishing to enter its territory, that was to say, against persons not yet resident in its territory. He therefore proposed that the words "within its territory" be deleted.

Replying to a question by Mr. PHILON (Greece), he explained that the French delegation felt that refugees should not be treated differently according to whether they resided or did not reside within the territory of the State concerned. That principle in no way prejudiced the right of States to accept or reject immigrants according to whether the latter satisfied or did not satisfy the requirements applicable to them. But it would be abnormal, in a convention for the protection of refugees, to proclaim the legality of an attitude which was, after all, the negation of the right of asylum.

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.2/22), which was wider in implication than the deletion proposed by the Israeli representative.

Mr. MAKIEDO (Yugoslavia) withdrew his amendment.

The Israeli proposal that the words "or because he is a refugee" should be deleted from article 3 was adopted by 18 votes to none, with 3 abstentions.

The PRESIDENT drew attention to the discrepancy between the English and French texts of article 3, with regard to the phrase: "within its territory". Whereas the English text read "[No Contracting State shall discriminate] against a refugee within its territory", the French text read: "... sur son territoire, contre un réfugié". Thus the French text forbade discrimination against refugees, even if they happened to be outside the territory of the Contracting State.

The meeting rose at 5.55 p.m.