



Dual distribution

CONFERENCE OF Plenipotentiaries ON THE STATUS OF
REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE NINETEENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 13 July 1951, at 10 a.m.

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meeting):

Article 1 - Definition of the term "refugee"

(A/CONF.2/9, A/CONF.2/13, A/CONF.2/16,
A/CONF.2/17, A/CONF.2/27, A/CONF.2/73,
A/CONF.2/74, A/CONF.2/75, A/CONF.2/76)

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Columbia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Luxembourg	Mr. STURM
Monaco	Mr. SOLAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETRÉN
Switzerland (and Liechtenstein)	Mr. SCHURCH
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Venezuela	Mr. MONTOYA
Yugoslavia	Mr. BOZOVIĆ

Observer:

Iran

Mr. KAFAI

High Commissioner for Refugees

Mr. van HEUVEN GOEDHART

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

International Refugee Organization

Mr. SCHNITZER

Council of Europe

Mr. TALIANI de MARCHIO

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions

Miss SENDER

Category B and Register

Caritas Internationalis

Mr. BRAUN

Mr. METTERNICH

Catholic International Union for Social Service

Miss de ROMER

Commission of the Churches on International Affairs

Mr. REES

Consultative Council of Jewish Organizations

Mr. MEYROWITZ

Co-ordinating Board of Jewish Organizations

Mr. WARBURG

Friends' World Committee for Consultation

Mr. BELL

International Association of Penal Law

Mr. HABICHT

Mr. POSNER

International Council of Women

Mrs. FIECHTER

International Federation of Friends of Young Women

Mrs. FIECHTER

International League for the Rights of Man

Mrs. BAER

International Union of Catholic Women's Leagues

Miss de ROMER

Pax Romana

Mr. BUENSOD

Standing Conference of Voluntary Agencies

Mr. REES

Women's International League for Peace and Freedom

Mrs. BAER

World Jewish Congress

Mr. RIEGNER

Secretariat:

Mr. Humphrey

Executive Secretary

Miss Kitchen

Deputy Executive Secretary

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

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13, A/CONF.2/16, A/CONF.2/17, A/CONF.2/27, A/CONF.2/73, A/CONF.2/74, A/CONF.2/75 and A/CONF.2/76).

The PRESIDENT recalled the fact that at the beginning of the Conference he had proposed that consideration of article 1 should be deferred for some little time. He had done so not only because of the difficulties inherent in that article, but particularly because he had wished to give representatives an opportunity of getting to know each other and of creating that atmosphere of confidence and collaboration which had, he was glad to note, marked the Conference's discussions, before embarking on that vital article. He had often had occasion to use the word "unanimous" in announcing decisions, and hoped that he would have further opportunities of doing so. He would, therefore, urge representatives to bring all their goodwill to the difficult task of considering the substance of article 1, in order that unanimous agreement might be reached.

Before opening the discussion, he would call upon the representative of the Standing Conference of Voluntary Agencies working for Refugees, known more briefly as the Standing Conference of Voluntary Agencies, to make a statement.

Mr. REES (Standing Conference of Voluntary Agencies) said that he would preface his observations by reminding representatives that the Standing Conference, of which he (Mr. Rees) was Chairman, comprised twenty-three international and nine national organizations which had been working on behalf of refugees for at least five years under formal agreements concluded with the International Refugee Organization (IRO). Those agencies had offered an equal measure of assistance to the United Nations High Commissioner for Refugees. They had wished their voice to be heard at the present Conference because their work had been carried out in camps, among human beings, in the midst of human suffering and misery. The Conference was about to adopt a legal definition of the term "refugee". But in the course of the work it had so far completed it had by inference so defined that term that truth and justice demanded that the general impression thus created

should be rectified. The voluntary agencies were aware that their rôle was to serve, and that of the Conference to legislate. But, while admitting that special cases existed, they could not but feel that the Conference had emphasised the exceptional to the detriment of the normal. It had, in fact, to use a popular expression, thrown the baby out with the bath water. Its decisions had at times given the impression that it was a conference for the protection of helpless sovereign states against the wicked refugee. The draft Convention had at times been in danger of appearing to the refugee like the menu at an expensive restaurant, with every course crossed out except, perhaps, the soup, and a footnote to the effect that even the soup might not be served in certain circumstances.

Even those who had constantly attended the Conference's discussions might easily have gathered the impression that the average refugee was a black marketeer in currency, a bankrupt, a dangerous criminal, an enemy agent, a menace to the labour market and a person unfit for higher education.

Such persons certainly existed, as they did in every cross-section of society, but those who worked with refugees felt impelled to remind the Conference that refugees were men and women with like passions and the same qualities as any others, and that experience both in Europe and, especially, in the countries of resettlement had shown that the vast majority of them were a potential asset to any community.

The Conference had legislated for the worst type of refugee living in the most liberal country. He would urge representatives also to take into account the average refugee living in the most reactionary country.

It was the refugees themselves who would most earnestly study the Convention, and he would appeal to the Conference to ensure, at long last, that its deliberations sounded a note of generosity and liberalism, not one of fear and niggardliness. If representatives were satisfied that they had already provided sufficient safeguards and limitations, surely they could afford to be generous in defining those unfortunate persons who would benefit from the rights accorded in the Convention.

Mr. CHANCE (Canada) paid tribute to the eloquent statement of the representative of the Standing Conference of Voluntary Agencies.

He, for his part, did not wish to complicate the problems underlying article 1, and was, moreover, in the happy position of being able to accept almost any text which proved generally acceptable. He was personally in favour of the widest possible definition, and only regretted that it had been impossible to reach agreement upon it.

He had no amendment to propose and no argument to press, but he would like to put one consideration to the Conference. In so doing he would ask that his argument be taken at its face value, and that there should be no suspicion that any ulterior motives lay behind it.

In his opening remarks he had referred to the fact that refugees arriving in Canada were immediately granted the status of landed immigrants, with the result that they became permanent residents in Canada, enjoying most civic rights and assuming the usual civic obligations. The history of the migration movement into Canada showed that his country aimed at assimilating and absorbing immigrants. Newcomers were prepared for Canadian citizenship in five years, which was the shortest possible statutory period. The fact that they were always spoken of as new Canadians revealed his country's attitude and objective. That attitude and that objective were not determined by altruism, but by the conviction that that was the best policy for both parties to the bargain.

Nothing could be worse for refugees, whether they were already in Canada or whether they were waiting to enter, than to have a sense of being apart from the rest of the community. Psychological and economic integration was essential. Of course, although the vast majority of refugees came to stay, some naturally yearned for home and hoped against hope that they might eventually be able to return there. Such persons were regarded with the greatest respect and consideration, and there was nothing in Canadian laws and regulations to prevent them from leaving the country if they wished. But in general, the Canadian Government would prefer that refugees who entered Canada with the intention of settling there permanently should not regard themselves as refugees within the terms of the Convention. No rights prescribed in the Convention would be denied to them in Canada. Indeed, that was a point on which he could not lay too much emphasis. Whether his Government acceded to the Convention or not, the Canadian authorities would give special consideration to refugees because of their special circumstances.

He was aware that that particular attitude of mind was difficult to incorporate in the text of a legal document, and, indeed, feared that if paragraph D of article 1 were amended in that sense the Convention as a whole would be weakened. He did not wish to cause such weakening, and had therefore refrained from submitting an amendment. The purpose of the Convention was to protect refugees, not States.

He would sum up by saying that in the Canadian Government's view it was in their own interests for refugees to try and put the past behind them, and welcome their new life in Canada and their status as new Canadians.

Mr. ROCHEFORT (France) interpreted the eloquent statement by the representative of the Standing Conference of Voluntary Agencies as referring in spirit to all restrictions which were not in the interests of refugees, regardless of whether they manifested themselves in the attitude of the receiving countries or in that of the countries of immigration. He would like to explain once again that the desire shown by certain delegations, including the French delegation, to give governments the opportunity of separating the wheat from the chaff whenever necessary sprang from a sincere wish to protect the interests of refugees so far as possible. If refugee status was to be granted to criminals, immigration countries could not fail to question its value. Furthermore, it was the duty of governments responsible for hundreds of thousands of refugees who had settled in their territories to see that the activities of undesirable elements did not cause a wave of xenophobia prejudicial to the mass of refugees as a whole.

Referring to the remarks of the Canadian representative, he pointed out that Canada had been one of the countries which, in 1949, had urged the French delegation to restrict the scope of the text it had proposed for the Statute of the High Commissioner's Office. He understood why the Canadian Government should wish its refugees to forget what they had undergone in the past and enter unreservedly into the life of their new country. He could not, however, share its views on the matter, for he felt that one of the most sacred rights of the individual was to be allowed to preserve his attachment to his native country; France was, in fact, sheltering within her territory a large number of Spanish refugees who, as the Constitution of IRO actually stated, were no more than temporarily resident in France.

He then introduced his amendment to sub-paragraph (2) of paragraph A of article 1 (A/CONF.2/75). Its object was to reinstate the words "in Europe", which had appeared in the initial draft adopted by the Economic and Social Council. He took the opportunity of mentioning that his amendment was submitted on formal instructions from the French Government.

Reviewing the background to the problem, he recalled that since 1949, when the status of refugees had first been dealt with on an international level, many positions had been adopted and many theories advanced. According to one of them, the definition to be embodied in the Statute of the High Commissioner's Office should be as narrow as possible, while that appearing in the Convention on the Status of Refugees should be as broad as possible. That position was not held by any delegation represented at the present Conference; those who held it were not represented, a fact which explained what they had had in mind. They had wanted to limit the mandate of the Office of the High Commissioner so that it would not apply to refugees within their territory, whereas, if they were not intending to sign the Convention, the definition used in that instrument could be as broad as possible without any inconvenience to them. The French Government, which was responsible for hundreds of thousands of refugees, had not been able to share that view.

Originally, there had been two opposite points of view; the first had been that of the French delegation, which had formed the subject of a draft submitted to the Ad hoc Committee on Statelessness and Related Problems. That draft would have ensured that the Convention became an important instrument for the international protection of refugees as well as a fine expression of international solidarity. It had been conceived in the most generous spirit and had prohibited any discrimination between refugees and non-refugees; it had proclaimed the need for States to take the necessary action, both on the national and on the international plane, to enable refugees to enjoy human rights and fundamental freedoms; it had expressed a desire to see the Convention applied on an ever-widening scale; and it had stated the need for countries to bring their legislation into harmony with the Convention, and the need for a large number of accessions to ensure the Convention's practical implementation. The text, which had listed the duties

incumbent upon refugees, had further contained a clause under which Contracting States undertook both to give sympathetic consideration to refugees' applications for admission and to recognize the international nature of the responsibilities which that entailed for certain countries. Two-thirds of the Ad hoc Committee had opposed that draft, and its various sections had been rejected by a large majority.

The other argument, which the United Kingdom Government seemed to have favoured from the outset, was to be found in the comments which the United Kingdom Government had submitted on the report by the Ad hoc Committee on Statelessness and Related Problems. The United Kingdom Government had stated that it had no intention of modifying the fundamental principles applied within its territory, or of creating a class of aliens enjoying special privileges. It had further stated that, although it saw no need for preparing a convention, it would be favourably disposed to acceding to one if it was actually drawn up. The French delegation had had to abandon its position, first, because the Ad hoc Committee had shown no sympathy for any of the generous principles embodied in its draft, and secondly, because it had wanted to preserve within the dual framework of the Convention and the High Commissioner's Office the international solidarity of IRO's Member States which had made that Organization a success. It had therefore felt that any text which failed to command the widest measure of support on those two points would be of no practical value. Hence, while still trying to arrive at as liberal and generous a text as possible, the French delegation had tried to find a compromise solution, which it thought it had indeed discovered in the General Assembly resolution of 1949 (319 (IV)) and in the text to which the Economic and Social Council had given final form in 1950 (Council resolution 319 XI)). Except for a few changes, that text was to be found in the draft Convention. The essential change was the deletion of the words "in Europe" from article 1. The French delegation thought it was important to point out that those words had appeared in the first draft prepared by the Ad hoc Committee and also in the second draft prepared by the Economic and Social Council. Only at the very last minute had they been deleted, against the wishes of one of the countries of the New World which had taken the greatest and most constructive

interest in the work of IRO. The French delegation had agreed to their deletion, considering that the amount of opposition which its attitude had provoked bore witness to the lively interest taken by the various countries in the Convention.

At that time, of course, it had been possible to regard the matter with a certain scepticism, as the countries concerned had only shown interest in the definition, and not in the actual articles of the Convention, which constituted the actual commitments which States would have to undertake. How could one have imagined that certain countries in Asia and elsewhere would be in favour of a definition by which States which undertook to grant to refugees the rights concerned would be obliged to do so without knowing who were to be the beneficiaries, and when neither the results of the Rockefeller Foundation's enquiry nor the total number of refugees concerned were yet known? The fact that 41 delegations had voted for the draft of the Convention on the one hand, and the number of invitations sent out by the Secretary-General on the other, had raised hopes that for the first time the world was showing a lively interest in the refugee problem. The composition of the present Conference had frustrated those hopes. Where were all those 41 countries? It was certainly right to be optimistic and to hope for a large number of accessions. But in the light of certain statements made by delegations to the Conference, it had to be admitted that the attempt to establish a general international system of protection covering all refugees had failed. Countries that were not represented at the Conference had accused the French delegation of a lack of generosity. It was always easy to be generous with words. But, as the United Kingdom representative had rightly remarked, the text of the Convention was not a treaty under which the Contracting States assumed certain obligations in exchange for certain advantages; it was rather a form of solemn declaration made in order to benefit a third party. That was profoundly true, and it would be fruitless, even with the existing link with the High Commissioner's Office in article 30, to attempt to find some means of securing advantages later, which the General Assembly certainly did not intend should be given either in the shape of funds or in that of assistance. The French Government considered that it was out of the question for it to accede to a Convention which included obligations towards the representative of the United Nations, unless countries represented in

that Organization which were not taking part in the work of the Conference undertook similar obligations. Moreover, the present text constituted a blank cheque.

He emphasized that there was no point in saying that the Convention governed neither the right of asylum nor the conditions of entry. That was an extremely doubtful point; it might be clear so far as island countries were concerned, but it appeared in quite another light to countries on the continent of Europe. The question, then, was whether the latter countries could undertake, towards countries which would not be bound in a similar manner, international obligations - in the moral sense they had already done so - regarding the right of asylum. In that connexion, the situation of island countries could not be compared with that of the continental countries, which were in direct physical contact with the source from which the refugees came. So far as France was concerned, the idea of the right of asylum was bound up with that of the type of refugee concerned. From a practical standpoint, therefore, the definition laid an obligation on countries that were responsible for hundreds of thousands of refugees. The definition was a dynamic one which covered, not only all the refugees who existed at present, but also all those who would come after them. It also covered every part of the world. No other convention had ever gone so far in that field.

Moreover, neither the total number of refugees, nor their distribution by nationality of origin, was yet known. The absence of the words "in Europe" therefore raised a whole series of problems. The French Government could not undertake to accede to the Convention until those problems had been solved. Furthermore, as the representative of Egypt had pointed out, the effect of paragraph C of article 1, for example, would be merely to postpone the inclusion of the Palestinian refugees. The French delegation was more than sympathetic towards the Arab refugees in Palestine (France was, incidentally, one of the countries which were helping in the efforts made on their behalf), and would view with favour any convention which directly concerned them; but it nevertheless considered that the problems in their case were completely different from those of the refugees in Europe, and could not see how Contracting States could bind themselves by a text under the terms of which their obligations would be extended to include a new, large group of refugees, not as the result of a decision freely arrived at, but

through the operation of United Nations policy - or, in other words, by the withdrawal of the assistance which various United Nations bodies were at present giving to the Arab refugees in Palestine. The problem of those refugees was one of such importance and such urgency that before a text was drawn up on the matter, it would have to be studied in a way in which it had never been studied before.

It might be thought, if the problem was viewed from a theoretical standpoint, that provisions covering all refugees in general could be embodied in a single text. Such a view would, however, be unrealistic, since conditions varied in different countries. To adopt such a method would be to confuse questions which had nothing in common. The problem arose, for example, of the way in which the obligations laid on Contracting States by the Convention would in practice meet the real needs and the situation of the Arab refugees in Palestine. What countries would in fact consider extending the benefits of the Convention to Arab refugees in Palestine? The immigration countries? Their laws did not provide for the immigration of refugees from countries outside Europe. The European countries? They already had to bear a very heavy load of refugees. Even the European countries which were interested in obtaining international assistance in that field, knew that even if the Convention granted it to them, their case would not be considered by the United Nations in the face of problems of current world importance such as, for example, the reconstruction of Korea or the relief of famine in India. The truth was that progress in the international field was necessarily slow. One region in the world was ripe for the treatment of the refugee problem on an international scale. That region was Europe. One problem was ready to form the subject of an international convention, namely, the problem of the European refugees. All refugee problems could not be dealt with in the same convention, for to do so would be to risk jeopardising what could certainly be done for the sake of something which could not perhaps be achieved. France, for her part, was responsible for too great a number of refugees to seek to extend her generosity to parts of the world which took no interest in the solution of such problems. There was no reason why the High Commissioner for Refugees should not, if necessary, take the initiative of drawing up conventions to meet the needs of different groups of refugees in accordance with their various requirements. France would take a leading place among the States that wanted to

collaborate in such work. Later, when once the various conventions existed, it would perhaps be possible to combine them in a single convention.

Finally, it was on the formal instructions of the French Government that his delegation had submitted its amendment, and it was his duty to make a reservation with regard to the possibility of his Government's acceding to the Convention if the text of the French amendment was not incorporated in it. He also wished to stress the fact that it appeared preferable to draw up a text which would allow governments like that of France to sign a Convention covering 300,000 refugees, than to adopt a wording, the universality of which would make it unacceptable or useless.

Mr. PETRÉN (Sweden) said that before commenting on his delegation's amendment (A/CONF.2/9) he would make some general comments on the Swedish Government's attitude.

Sweden was a country of asylum, situated near territories whence refugees fled. It had pursued a liberal policy, and would like to continue to do so, but the fact must be taken into account that its capacity for absorbing large numbers was limited and that, particularly in the present serious state of world affairs, considerations of national security must play a certain part. He associated himself with the views expressed by the French representative.

Turning to the draft Convention, he would recall that the Swedish Government had had no share in the preparatory work, and was consequently not quite so well versed as others in the background to the question. In its view it was in any case essential that the text should be as clear as possible, since in its interpretation of any convention the International Court of Justice could only take into account its actual text, not what had been said during the preparatory work without finding expression in the text.

The full significance of article 1 emerged when it was viewed in relation to articles 27 and 28.

According to the President's interpretation, article 27, which dealt with the expulsion of refugees lawfully in a country, meant in practice that a refugee was

only lawfully resident so long as he had a residence permit. Once that document had expired and not been renewed, the refugee was no longer lawfully resident in the territory that had issued it. But article 28 which dealt with expulsion to the country of actual persecution, was conceived in absolute terms, and allowed no discrimination between a lawfully or unlawfully resident refugee. If article 1 were made to cover categories of refugees other than those fleeing from actual persecution, a State would thus be enabled, under article 27, to take certain safeguards by granting temporary permits. Consequently, he submitted that a widening of article 1 would work to the detriment of the Convention as a whole.

Turning to the Swedish amendment (A/CONF.2/9), he pointed out that the first part suggested the inclusion in sub-paragraph 2 of paragraph A of a reference to persons who might be persecuted owing to their membership of a particular social group. Such cases existed, and it would be as well to mention them explicitly.

The second part of the amendment was intended to get round the difficulties inherent in the phrase: "for reasons other than personal convenience". That phrase referred, it had been pointed out, to such considerations as the memory of past sufferings, and was understandable enough, but he would submit that it would be very difficult to translate it into terms of domestic legislation. It attempted to exclude the possibility of a refugee's availing himself of asylum for the sake of financial gain, but nevertheless an individual's real motives might not always be easy to gauge. The Swedish Government would be unable to accept a text which was not sufficiently limited and precise.

The opening words of sub-paragraph (2): "As a result of events occurring before 1 January 1951", also gave rise to some misgivings. It was impossible to estimate the number of persons who had fled or who would flee as a result of those events. There were hundreds and thousands of people in the totalitarian countries who probably wished to flee as a result of those events, but had not yet been able to do so. It would be inadvisable to open the door of entry so wide that States might be obliged to treat as refugees persons who were, in fact, able to return to their countries of origin.

Finally, he considered that the statement made by the French representative provided much food for thought, and he would prefer to state his position on it at a later stage in the debate.

Mr. del DRAGO (Italy) recalled that the Italian delegation had had occasion to express its satisfaction that the definition of the term "refugee" approved by the General Assembly in December 1950 (resolution 429 (V)) approximated closely to the views which had been expressed on many occasions by the Italian Government, which had stressed the need for a convention covering the greatest possible number of refugees. While the definition in article 1 was satisfactory in that it covered longer periods of contemporary history, its geographical scope had caused some uneasiness. The Economic and Social Council had limited the definition to European refugees. The Italian delegation, which had not been able to attend the meetings of the Council except as observers, had consequently been unable to oppose the definition of the term "refugee" being extended to cover refugees throughout the world. It took the present opportunity to stress the fact that for Italy, a country where the refugee problem was particularly serious because of its surplus population and high incidence of unemployment, the possibility that the Convention might be applicable to all refugees throughout the world could not but give rise to the gravest misgivings. The deletion of the words "in Europe" enlarged the problem to enormous proportions which were neither foreseeable nor measurable. If the Convention covered Europeans who wanted to settle in overseas countries with a western civilization, the rights and duties of the refugee and of the receiving country could be defined. But if the western countries - the only ones which would assume a specific obligation by signing the Convention - were obliged to admit the victims of national movements such as those which had recently occurred in India and the Middle East, they would be faced with very serious problems, and would be quite unable to meet the commitment which the application of the Convention in its present form would entail. At the same time, they would have no knowledge whatsoever of the intentions of the High Commissioner for Refugees, who himself did not yet know the conclusions that would be reached in the Rockefeller Foundation's report. A precise definition might be commensurate with precise obligations; but a definition as wide as the one at present included

in article 1 could only be commensurate with very general commitments, and intentions, however good and humanitarian they might be, had to remain within the bounds of practical possibilities. The Italian Government would find it extremely difficult to accede to the Convention if the original text of article 1 were not reinstated, so as to restrict the application of the Convention to European refugees alone. The Italian delegation would therefore support the French amendment. It was also in favour of the Swedish amendment.

MOSTAFA Bey (Egypt) thanked the French representative for the sentiments he had expressed about the Arab refugees from Palestine. He would like to assure the French delegation that he fully understood its apprehensions; it should be noted, however, that the present situation of those refugees was a temporary one, and that the relevant resolutions of the General Assembly provided that they should return to their homes. If the Egyptian delegation had brought up the question of those refugees, it had done so because the present Conference was an offshoot of the United Nations, and the United Nations was responsible for their tragic fate. It was therefore the duty of members of the Conference to find a solution to the problem of those refugees. By its resolution of 11 December, 1948, the General Assembly had ordered the return to their homes of the Arab refugees who had expressed the desire to return. That resolution had had no practical result, and the situation had gone from bad to worse. Yet the only true solution of the problem was to ensure the return of the Arab refugees to their homes.

Introducing his amendment (A/CONF.2/13), he said that the aim of his delegation at the present juncture was to grant to all refugees the status for which the Convention provided. To withhold the benefits of the Convention from certain categories of refugee would be to create a class of human beings who would enjoy no protection at all. In that connexion, it should be noted that article 6 of Chapter II of the Statute of the High Commissioner's Office for Refugees contained a comprehensive definition covering all categories of refugees. The limiting clause contained in paragraph C of article 1 of the Convention at present covered Arab refugees from Palestine. From the Egyptian Government's point of view it was

clear that so long as United Nations institutions and organs cared for such refugees their protection would be a matter for the United Nations alone. However, when that aid came to an end the question would arise of how their continued protection was to be ensured. It would only be natural to extend the benefits of the Convention to them; hence the introduction of the Egyptian amendment.

Mr. AL PACHACHI (Iraq) also thanked the French representative for his generous and understanding attitude towards the problem of the Arab refugees from Palestine. He would point out that paragraph C of article 1 had been inserted in the definition at the express request of the Arab countries which had not wished to impose on Contracting States the burden of the Arab refugees from Palestine so long as the United Nations was caring for them. When the assistance at present being given by the United Nations came to an end, and the Convention accordingly became applicable to those refugees, it would not by any means follow that they would emigrate to France or other western European countries, if only for purely material reasons. The few persons who would be able to afford such a journey would definitely not become a burden on the governments of the receiving countries, because their journey would not in itself be possible unless they possessed sufficient means to support themselves.

Mr. HOARE (United Kingdom) said that the French representative's exposé reflected the divided opinion which prevailed on the refugee problem. He (Mr. Rochefort) was not alone in feeling disappointment with article 1, although others were perhaps disappointed for different reasons.

The United Kingdom Government had always advocated the widest possible definition, not from such egoistical considerations as that the United Kingdom was an island, and therefore better able to control the movement of refugees, nor for want of appreciation of the assistance given by other countries, but on the grounds that the status of refugee should be granted to any person fleeing from persecution. The purpose of the Convention was to give refugees certain minimum guarantees, and since it was being drawn up under the auspices of the United Nations those guarantees ought not to be limited to refugees from a particular area. The

Convention was primarily, indeed almost entirely, concerned with minimum rights and guarantees applicable to refugees once they had been admitted to the territory of a Contracting State. As had been pointed out at the present Conference, the Convention did not deal with the admission of refugees into countries of asylum or with the circumstances in which a State might refuse asylum. Indeed, the only article which had any bearing on that aspect of the matter was the article (28) prohibiting the expulsion of a refugee to a country where his life or freedom would be in danger. That was merely a recognition of the humanitarian practice followed by all countries of asylum, and the Conference had already amended that article so as to provide adequate safeguards for national security and public order. He would therefore urge the Conference, when it considered the French amendment (A/CONF.2/75), to keep in mind the fundamental purpose of the Convention. It was of course true that while the Convention related to events occurring before 1 January 1951, the movement of refugees caused by those events might persist in the future. The French representative had stated that he was willing to accept that conception in relation to events occurring in Europe. What would be the consequences of extending it to events outside Europe? Events had, for instance, occurred on the Continent of America, causing a movement of refugees. That movement might continue; but he could not believe either that it had been in the past, or that it would become in the future, a serious burden on European countries. Even if an eastward movement were to take place, the European countries would be able to control it. They would, in fact, in relation to any such movement, become countries of immigration in the same way as countries on the Continent of America were at present countries of immigration for European refugees, and would enjoy the same means of controls.

Turning to the category of refugees who were excluded from the present Convention under paragraph C, for example, the Palestinian Arabs, in his view the effect of the paragraph as drafted was to make the exclusion permanent. That was, indeed, why the Egyptian representative had submitted his amendment (A/CONF.2/13), since he wanted to provide for the possible future inclusion of that group within the Convention. He (Mr. Hoare) was supported in his view by the quite different reference to that category in the Statute of the High Commission (E/1831).

The Iraqi representative's argument was also pertinent, and he (Mr. Hoare) fully agreed that the risk that European States might be faced with a vast influx of Arab refugees was too small to be worth taking into account. If such an influx did occur, either from the Arab states, or from the Latin American countries or from the Far East, the matter would be one for each European country to deal with individually. There was very little likelihood that future movements of refugees caused by events occurring before 1 January 1951 would be felt in Europe. As the French representative had rightly pointed out, such movements would more probably be felt in such countries as Australia or the Non-Self-Governing Territories under British Administration,

Even if such an influx into Europe did occur, was it conceivable that European countries which had hitherto given refugees certain minimum rights would, even in the absence of a Convention, give the new arrivals less? They would, by adhering to the Convention, merely be undertaking to give to refugees from outside Europe who were admitted to their territory the rights which they would undoubtedly give them in any event.

The result of reinstating the words "in Europe" must, moreover, also be considered from the point of view of the overseas countries. It would be premature to suppose that overseas countries would not accede to the Convention. Whether they did or not, it was surely not desirable to put countries in Latin America, for instance, who might wish to accede to the Convention, and who had within their borders refugees both from Europe and from American countries, in the position of being able to accede only in respect of European refugees, and not in respect of the others. It was of the utmost importance that a convention negotiated under the auspices of the United Nations and with the participation of many non-European States should provide minimum guarantees for all refugees, wherever they came from.

MOSTAFA Bey (Egypt) supported the views expressed by the United Kingdom representative. The provisions of paragraph C would cease to be applicable the moment the aid at present being given by the United Nations to Arab refugees ceased; the latter would then be eligible for the benefits of the Convention.

The Egyptian delegation had submitted its amendment in order to avoid any misunderstanding as to the interpretation to be placed on paragraph C. Had the Egyptian Government thought that the present Conference would deal with the fate of European refugees alone, it would not have sent a delegation. Moreover, General Assembly resolution 429 (V), which instructed the Secretary-General to convene the Conference, had also stipulated that the Conference should be a general one; no one, therefore, had the right at the present juncture to limit the Conference's field of activity to the problems of European refugees alone. He would ask the President to be so good as to confirm his interpretation.

Mr. HOARE (United Kingdom) wished to make it quite clear that he understood paragraph C to exclude persons who were defined as those who at the time when the Convention came into force were receiving protection or assistance from United Nations organs or agencies, and that the cessation of the operations of such organs or agencies would not bring such persons within the scope of the Convention.

The PRESIDENT, replying to the Egyptian representative, said that it was not for him (the Chairman) to give a ruling as to whether or not it was right for the Conference to restrict the scope of the Convention. The Conference had, however, the power to restrict, if it so wished, by a majority vote, the application of the Convention to a specific group or groups of refugees.

Mr. ROCHEFORT (France) wished to point out that the question of whether the Arab refugees were covered by the Convention was a controversial one: according to the United Kingdom representative, those refugees were permanently excluded from the benefits of the Convention, whereas the Egyptian representative thought that the true interpretation was exactly the opposite. At the present stage he (Mr. Rochefort) would do no more than take note of the divergent views and point out that several methods of giving satisfaction to all Contracting States had been contemplated. One of those methods was that Contracting States should be free to extend the benefits of the Convention, at their discretion, to new categories of refugees. That method had been rejected, and another procedure

had been adopted; that procedure was obviously more ambiguous, since two delegations which were keenly interested in the problem, and which had both followed it very closely, were unable to give an authoritative interpretation of paragraph C of article 1.

Mr. WARREN (United States of America) said, referring to the French proposal (A/CONF.2/75) that the words "in Europe" should be reinstated in the definition of the term "refugee", and to the Egyptian amendment to paragraph C (A/CONF.2/13), said that on the first issue the attitude of the United States Government was well known; the United States delegation continued to support the French thesis and the French amendment. He had listened with great interest to the United Kingdom representative's lucid explanation of the reasons why he supported the more universal definition of the term "refugee". That was the first time he had heard such an approach made; unfortunately, the United States delegation could not share it. The United States approach was much more limited.

Prior to the outbreak of the second world war, a series of conventions dealing with the situation of refugees, primarily in Europe, had been in force. The war had then produced a large number of refugees with whom the United Nations had undertaken to deal. IRO had been set up, the membership of which had been open to all Governments, both Members and non-Members of the United Nations alike, and the fact that only 18 governments had chosen to join IRO indicated the degree of active interest in the world in the refugee problem. When IRO, which had finally succeeded in re-settling some one million European refugees, ceased to function, there would still be an important task to be carried out in Europe, part of which had been entrusted to the United Nations High Commissioner for Refugees. It was still, however, necessary to provide those refugees who remained in Europe with legal status, because the protection provided under reciprocal treaty arrangements did not cover refugees who had become detached from their country of origin. It was in order to meet that need that the United States Government had decided to participate in the drafting of the Convention on the Status of Refugees. It would be agreed that, if the work of the Conference was to have any real and practical effect, it was necessary when drafting contractual

obligations to be as specific and precise as possible, and, so far as refugees were concerned, to know exactly what refugees were intended to be covered. That had not been the view taken when the matter had been discussed in the General Assembly. Some 60 Governments were represented in that body, and it was, therefore, perhaps, natural for it to develop the concept, advanced by the United Kingdom representative, of a universal charter for all refugees to be applied by all the governments of the world. That concept had found expression in the broad provisions of article 1 of the draft Convention, as set out in document A/CONF.2/1, and the still wider provisions of the Statute of the High Commissioner's Office.

The United States delegation urged that one constructive step should be taken at a time, and felt that a convention drafted to meet European requirements was the first step. In his view, the development of an unrestricted charter for refugees would involve a certain amount of duplication of effort between the preparation of the draft International Covenant on Human Rights and the drafting of the present Convention, and would represent a very much larger undertaking, in which the United States Government would be only too willing to participate if and when it was clearly understood that such was the objective. An immediate attempt to achieve such an objective, however, might entail the loss of the advantages that would accrue from the conclusion of a convention of a more limited application.

He could not share the view that, because of certain geographical factors, there was no need to feel particular concern about the wording of article 1, and that a contract could be signed without hesitation, on the assumption that an obligation which it entailed would not require to be implemented. Everyone knew that governments always sought to know precisely what commitments they were entering into.

Again, the United States of America had participated in the drafting of the Convention in the hope that some real service would be rendered to those countries that depended on reciprocal treaty arrangements. An honest effort had been made in the United States of America to apply the provisions of the draft Convention, but both constitutionally and in practice considerable difficulties and unforeseen

factors had emerged, which, if the attempt were pursued, it would take Congress and the United States Supreme Court years to resolve. The United States delegation had refrained from introducing amendments to various clauses of the draft Convention with the object of making them more suitable for application in the Western hemisphere, because it had felt that the amendments that would have been necessary for that purpose would have made the clauses less adaptable to the needs of Europe. He mentioned that fact in view of the United Kingdom representative's contention that it would be easy to find a common denominator that would suit all refugees, known or unknown, present or future, in any part of the world.

With regard to the United Kingdom representative's comment that the insertion of the words "in Europe" would preclude Latin American countries from providing protection for other than European refugees, he would stress that the current practice in Latin American countries was such that the inclusion of those words could not possibly have a serious adverse effect on the status of refugees in that part of the world.

Turning to paragraph C, he recalled that the draft before the Conference was the one that had been adopted after the Arab States represented in the Third Committee of the General Assembly had made three attempts to devise a suitable text. He agreed with the United Kingdom representative's interpretation of that paragraph, and also with the French representative's observation that adoption of the Egyptian amendment (A/CONF.2/13) would present Contracting States with an undefined problem, and so reduce the number of States in Europe that would find it possible to sign the Convention.

In closing, he would draw attention to the fact that, although the wording of paragraph C might conform to that of the Statute of the High Commissioner's Office, it made no sense in terms of the draft Covenant, for the latter was not the statute of an organ or agency of the United Nations. If the paragraph was retained as it stood, its effect would be to exclude all refugees who came within the competence of the United Nations; it therefore required re-drafting to remove that anomaly.

Mr. HOARE (United Kingdom) observed that he did not think that the universal charter referred to by the United States representative would have any different content from the present instrument. What was in question was simply how widely the latter was to be applied.

The United Kingdom Government had already made a concession by accepting the date-line of 1 January 1951 in the definition of the term "refugee", recognizing that the Convention had to be made acceptable to a larger number of States than those sharing the United Kingdom view. Now a further limitation was being proposed, one of a territorial nature.

He emphasized the fact that the United Kingdom delegation did not favour a solution by which obligations which they could not fulfil would be imposed on the States which signed the Convention; he had merely tried to show that the fears of some countries that they would be overwhelmed by an influx of refugees unless the words "in Europe" were reinstated were not well-founded.

Again, he did not contest the fact that the Latin American States accorded the kind of rights for which the Covenant provided. He had only drawn attention to the implication that such States, who might well wish to adhere to the Convention, would, if the words "in Europe" were included, be obliged to apply the Convention only to European refugees who had become refugees as a result of events occurring before 1 January 1951, and to leave out of consideration other refugees in their territories from other parts of the world.

Mr. WARREN (United States of America) said that all he had wished to point out was that, if he understood the position aright, the United Kingdom representative would accept the broader definition on the assumption that the full commitment entered into would not have to be honoured. In his view, it would be wrong to proceed on such an assumption in connexion with an instrument such as the one at present under consideration. He fully supported the point made by the French representative that nothing was known of the numbers and needs of refugees in the Far East. When that problem had been fully evaluated and the measures required to cope with it had been assessed, it would probably be found that such

measures would have to be very different from those laid down in the draft Convention. If a refugee problem arose in the western Hemisphere, the same consideration would apply. In his view, the refugee problem in general would only respond to regional solution through the medium of regional conventions.

Mr. GIRALDO-JARAMILLO (Columbia) supported the views expressed by the United States representative. In Latin America, the term "refugee" was only used to describe refugees from Europe; if there were isolated cases of persons who were exiled from Latin American countries for political or other reasons, those cases were exceptional, and the problem they raised could simply not be compared to that caused by the existence of the great mass of European refugees. Moreover, the legislation of the countries of Latin America included provisions which enabled them to solve the problem.

Mr. MONTOYA (Venezuela) supported the Colombian representative.

Mr. HERMENT (Belgium) said that the Conference was faced with a problem of vital importance, on which the success or failure of its work depended. It therefore seemed to him necessary to give the question the thorough examination it deserved, and to reflect adequately on the statements made at the present meeting before taking a decision. He would therefore make a formal proposal that the afternoon meeting should not open until 4 p.m.

Mr. ROCHFORT (France) suggested that representatives might use the extra time thus made available to them to study the text of the 1933 Convention. The object of that Convention was fairly limited, namely, to protect Russian and Armenian refugees and assimilated persons. However, in article 1 thereof, which defined the refugees to which the Convention was applicable, it was expressly laid down that the definition was subject to possible modification by the Contracting States. However, in the case of the draft Convention before the Conference there appeared to be a tendency to avoid reservations of that kind. But, when signing the 1933 Convention, the Government of Egypt had specified that it reserved the right to expand or limit the definition given in the Convention as it wished. Thus it appeared that the doubts echoed by certain delegations at the present Conference had already been expressed before.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his delegation, on formal instructions from the Federal Government of Germany, had submitted the amendment contained in document A/CONF.2/76. The intention of that amendment was not to touch upon the substance of article 1, but merely to provide a text for paragraph E in which the reference to the London Charter of the International Military Tribunal would be replaced by more appropriate references. That Charter had been approved in 1944 by a limited number of States which had taken part in the last war, and a considerable number of States attending the present Conference had not signed it or taken position on it. Reference to that document therefore appeared inappropriate in the draft Convention. His delegation had sought to resolve the difficulty by referring, so far as war crimes and crimes against humanity were concerned, to the appropriate provisions of the Geneva Conventions, which had been carefully drawn up and unanimously approved by practically the whole community of nations. He believed that all States represented at the Conference had approved their principles; and they had already come into force and been ratified by some 12 States. By associating the Geneva Conventions with the work of the Conference the humanitarian aims which should govern the Convention would be stressed. He made particular reference to the crime of genocide. His delegation's amendment also included a complete list of the crimes against peace enumerated in the London agreement. The Federal Government of Germany fully agreed that all war criminals should be excluded from the benefits of the Convention, but it could not subscribe to an express reference to the Charter of the International Military Tribunal. His delegation was willing to discuss the matter, if necessary in a small committee, with a view to arriving at an appropriate solution of the difficulty, and would be grateful for assistance in overcoming an obstacle which would prevent the Federal Government of Germany from subscribing to the Convention, as it sincerely wished to do.

Speaking at the invitation of the PRESIDENT, Mr. HABICHT (International Association of Penal Law) said he had noted with some concern the further attempt to restrict the number of persons who would benefit from the Convention, and that the United Kingdom representative was virtually the only speaker who had opposed

the inclusion of the words "in Europe" in the definition of the term "refugee". The International Association of Penal Law had hoped that the Conference would endeavour to elaborate a world-wide convention that would become a Magna Carta for the persecuted. He would respectfully draw the attention of representatives to the disadvantage at which the further restriction contemplated would place thousands, and, in the future, perhaps even hundreds of thousands, of persons. A convention with the scope of a Magna Carta and containing minimum conditions for the readjustment of refugees would be in the interests not only of the refugees themselves, but of all the countries of asylum. He would therefore urge careful consideration of that important aspect of the problem.

Mr. ROCHEFORT (France) said he would like to know more about the hundreds of thousands of refugees to whom the representative of the International Association of Penal Law had referred; would he also be so kind, as an expert on international law, to give his interpretation of paragraph C of article 1?

Mr. HABICHT (International Association of Penal Law) replied that the territorial limitation proposed by the French representative would have the effect of excluding all non-European refugees, and that existing refugees in the Middle East alone numbered over 100,000. It was impossible to forecast political developments, but a piecemeal treatment of the refugee problem by limitation as to time and region would be certain to exclude in the future millions of people.

He placed the same interpretation upon paragraph C as the United Kingdom representative had done. The phrase "at present" implied that the Convention should not apply to those persons receiving at a specific time protection or assistance from organs or agencies of the United Nations; it did not imply that when such protection ceased the refugees concerned would come under the protection of the Convention.

Mr. ROCHEFORT (France) thanked the representative of the International Association of Penal Law for his explanations. He observed that the clause which, according to the interpretation which had just been placed on it, excluded the

Arab refugees from Palestine from the benefits of the Convention, had been inserted at the express request of the Arab States themselves.

Mr. WARREN (United States of America) remarked upon the tendency of those who advocated the broader definition to argue that millions of refugees would be excluded from the Convention if the words "in Europe" were inserted in the definition. In the circumstances, they were in fact asking governments whether they were prepared to enter into obligations in respect of such large numbers of unidentified persons, and it seemed to him wrong for a body such as the Conference to seek to legislate on that basis.

He was confident that the United Nations would continue in being and that it would prove capable of dealing with any new situation as and when it arose. He felt sure that the Convention would not be the last international instrument relating to the protection of refugees, and urged that governments should be content to take one practical and specific step at a time.

The Belgian representative's proposal that the discussion should not be resumed until 4 p.m. was unanimously adopted.

The meeting rose at 1.5 p.m.