UNITED NATIONS

GENERAL ASSEMBLY

GENERAL
A/CONF.2/SR.24
27 November 1951
ENGLISH
ORIGINAL: ENGLISH and FRENCH

Dual distribution

CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE TWENTY-FOURTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 17 July 1951, at 9.30 a.m.

CONTENTS:

		Pages
1.	Statement by the President on the Kansas City disaster.	4
2.	Consideration of the draft Convention on the Status of Refugees (item 5(a) of the agenda) (A/CONF.2/1 and Corr.1, A/CONF.2/5 and Corr.1) (resumed from the twenty-third meeting):	4
(i)	Article 1 - Definition of the term "refugee" (A/CONF.2/4, A/CONF.2/64, A/CONF.2/74, A/CONF.2/76, A/CONF.2/78, A/CONF.2/79) (continued)	4
(ii)	Article 2 - General obligations (resumed from the fourth meeting)	19
(iii)	Article 3 - Non-discrimination (A/CONF.2/28, A/CONF.2/72,) (resumed from the eighteenth meeting)	19
(iv)	Article 3B- (resumed from the sixth meeting)	21
(v)	Article 4 - Exemption from reciprocity (A/CONF.2/32) (resumed from the sixth meeting)	21
(vi)	Article 5 - Exemption from exceptional measures (A/CONF.2/37, A/CONF.2/83) (resumed from the seventh meeting)	24

Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW Mr. BURBAGE
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Columbia	Mr. GIRALDO-JARAMILLO
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAPAYANNIS
The Holy See	Archbishop BERNARDINI
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. THEODOLI
Monaco	Mr. SALAMITO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PERSSON
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. MAKIEDO Mr. BOZOVIĆ

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
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Council of Women	Dr. GIROD
Pax Romana	Mr. BUENSOD
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
World's Young Women's Christian Association	Miss ARNOLD
Secretariat:	
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. STATEMENT BY THE PRESIDENT ON THE KANSAS CITY DISASTER

The PRESIDENT said that he wished to express the profound sympathy of the Conference with the victims of the disaster which had just occurred in Kansas City, as a result of which many thousands of people had been made homeless.

Mr. WARREN (United States of America) said that he deeply appreciated the President's expression of sympathy which he would convey to the United States Government.

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

(i) Article 1 - Definition of the term "refugee" (A/CONF.2/4, A/CONF.2/64, A/CONF.2/74, A/CONF.2/76, A/CONF.2/78, A/CONF.2/79) (continued)

The PRESIDENT announced that the leader of the Egyptian delegation would be absent from Geneva for a few days. It would be most undesirable for the Conference to discuss his amendment (A/CONF.2/13) to paragraph C of article 1 in his absence, and he (the President) therefore suggested that its consideration might be deferred.

It was so agreed.

The PRESIDENT opened the discussion on paragraph E of article 1, and drew attention to the United Kingdom amendment (A/CONF.2/74) and to the amendment (A/CONF.2/76) submitted by the representative of the Federal Republic of Germany.

Mr. HOARE (United Kingdom), introducing his amendment, pointed out that under sub-paragraph (b) of paragraph E the provisions of the Convention could not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations. It seemed to the United Kingdom Government quite arbitrary and unjustifiable to place such persons beyond the scope of the Convention. The problem had already been considered in connexion with article 28 (prohibition of expulsion to territories where the life or freedom of a refugee is threatened), and it had been precisely

to cover such cases that the French and United Kingdom delegations had submitted an amendment (A/CONF.2/69) to that article, which had been adopted, giving a State the right to expel a refugee whom it had admitted, if it had reasonable grounds for regarding him as a danger to national security or if he had been convicted in that country of particularly serious crimes or offences. In the presence of such a provision it seemed to him that it was unnecessary to exclude from the benefits of the Convention persons who came within the terms of at any rate the first clause of Article 14 (2) of the Universal Declaration of Human Rights. He had therefore introduced an amendment (A/CONF.2/74) providing for two alternative courses: either the total deletion of sub-paragraph (b) of paragraph E or at least the substitution of words derived from the second part of Article 14 (2) of the Universal Declaration of Human Rights. He preferred the former alternative and would ask that it be voted on first, as it was difficult to define what acts were contrary to the purposes and principles of the United Nations, though he presumed that what was meant was such acts as war crimes, genocide and the subversion or overthrow of democratic régimes.

Mr. ROCHEFORT (France) said that the question was one of long standing. The text of paragraph E of article 1 of the draft Convention had been originally proposed by the French delegation. It had been opposed by the United Kingdom in the Economic and Social Council, in the Third Committee of the General Assembly, and in the General Assembly itself. On each of those occasions, the French standpoint had been upheld and that of the United Kingdom rejected.

It was impossible for France to agree to drop the limiting clause in the case of common-law criminals. The joint amendment to article 28 submitted by the French and United Kingdom delegations (A/CONF.2/69) and adopted by the Conference met the point, it was true, with regard to that particular article; but it was essential to make provision for differentiating between refugees, in order to eliminate common-law criminals, in the article defining the term "refugee" as well. There were so many bona fide refugees that it was important not to allow any confusion between them and ordinary common-law criminals.

He had already explained the difficulties experienced by his country in that connexion, which were far greater than those which could possibly arise in

countries whose geographical position permitted them to refuse entry visas to refugees who were common-law criminals. The deletion or retention of the provisions of paragraph E would be a prime factor in determining France's attitude towards the Convention as a whole. He would add that his observations applied, mutatus mutandis, to persons falling under the other provisions of article 14 (2) of the Universal Declaration of Human Rights.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that his delegation had given the most careful consideration to the pre-occupations and arguments of the representative of the Consultative Council of Jewish Organizations[1], but had come to the conclusion that they were in no way justified by the terms of the Federal Republic's amendment (A/CONF.2/76).

It had been maintained that the adoption of that amendment would in some way threaten the development of the principles of international law with regard to the responsibility of the individual for war crimes and crimes against humanity. The Federal Government of Germany was most anxious that those principles should be firmly established and their universal application secured, but it doubted whether any decision taken by the Conference would be effective in making them so.

The real purpose of paragraph E of article 1 was to exclude from the scope of the Convention persons regarded as criminals, on the grounds that they should not be placed on an equal footing with bona fide refugees. He believed that there was general agreement as to the kinds of person who should be thus excluded; the only difficulty was to express it in a positive form. In considering that point the legal experts of the Federal Government of Germany had decided that the matter would be sufficiently covered by the terms of sub-paragraph (b) of paragraph E, by which anyone who had committed non-political crimes or acts contrary to the purposes and principles of the United Nations would be excluded from the benefits of the Convention. The crimes enumerated in Article 6 of the Charter of the International Military Tribunal (the London Charter) were certainly to a very large

---

1) See summary record of the twenty first meeting (A/CONF.2/SR.21)

extent punishable under the normal criminal law of most civilized States. If some were not covered in that way, they would come within the scope of article 14 (2) of the Universal Declaration of Human Rights as acts contrary to the purposes and principles of the United Nations. His Government's legal experts therefore regarded the whole of sub-paragraph (a) of paragraph E as superfluous, and it was only in order to avoid misunderstanding that his amendment made specific mention of war crimes, crimes against humanity and crimes against peace.

The Government of the Federal Republic of Germany had not participated in the preliminary work on the draft Convention, but he assumed that paragraph E had been based on similar provisions in the Constitution of the International Refugee Organization (IRO). It was quite natural that that instrument should refer to the London Charter, as the majority of refugees falling within IRO's mandate had become refugees owing to events connected with the second world war. The purpose of the Convention, however, was to extend legal protection to other refugees whose plight was not the immediate consequence of the war and of the crimes mentioned in the London Charter. It should be noted also that article 6, section (c), of the London Charter expressly dealt with crimes against humanity committed "before or during the war", thus excluding such crimes committed at a later date. It would therefore seem logical that the Convention should not include a reference to an instrument of incontestably limited scope.

That view should not be interpreted to mean that the Government of the Federal Republic of Germany did not accept the definitions contained in the London Charter. It had been said that the purpose of mentioning the London Charter was to indicate the types of crime, commission of which would preclude persons from invoking the protection of the Convention. The representative of the Consultative Council of Jewish Organizations had suggested a wording which would make that point even clearer. His own purpose in mentioning the Geneva Conventions was similar. The fact that the Geneva Conventions as such were applicable only to future international and civil wars, and did not expressly mention the responsibility of individuals, was therefore of no importance, since paragraph E of the draft Convention was not intended to confirm the provisions of the Geneva Conventions

or the Convention on Genocide as such, but simply to indicate the various types of crimes envisaged, by references to definitions contained in the relevant articles of those Conventions.

He had already explained that he would not insist on the exact wording of his amendment. Any solution would be acceptable to his Government which did not contain an express reference to the Charter of the International Military Tribunal. His Government hoped that the Conference would not write into the Convention considerations which were quite outside its scope.

Apologizing for having spoken at such length, he explained that he had done so to try and overcome a serious obstacle and to reaffirm the whole-hearted agreement of the Government of the Federal Republic of Germany that war criminals, wherever they might have succeeded in escaping to, must be excluded from the protection of the Convention.

Mr. HOARE (United Kingdom) said that if his first alternative, namely, the total deletion of sub-paragraph (b), did not find favour with the majority of representatives he would not press it. What he was concerned about was that persons who committed minor crimes in their country of refuge should not be excluded from the benefits accorded to refugees under the Convention. He would assure the French representative that he was fully aware of the realities of the situation, and that he was being guided by what he must regard as the most reasonable considerations. Mr. Rochefort was mistaken if he supposed that refugees had never committed crimes in the United Kingdom, or that the United Kingdom Government had not occasionally admitted refugees who were criminals. The question at issue was one of principle. The Conference was engaged on framing a charter of minimum rights to be guaranteed to refugees, such as property rights, social security benefits, the right to work, rights relating to personal status, the right of access to courts and so on. In all civilized countries even a criminal possessed such rights, and a man who had been committed to prison for a crime, though he had temporarily to forego his social security benefits, still retained the right of access to the courts, as was explicit, for example, in the right of appeal.

He was most anxious that refugees who had committed such crimes as petty thefts in their camp should not thereby be placed once and for all beyond the reach of the Convention. It had been argued that as a matter of civilized treatment that would not occur; if so, he could see no objection to giving the principle legal recognition in the Convention. Otherwise States would be given a loophole of which they could take advantage to divest themselves of responsibility for any refugee who happened to be convicted of any crime on their territory.

He found it difficult to understand the French representative's attitude, since article 28 in its amended form already provided adequate protection to States against having to harbour undesirable elements. If the so-called common criminal was to forego the right of being considered a refugee for the purposes of the Convention, the joint French-United Kingdom amendment to article 28 became entirely superfluous.

Mr. HERMENT (Belgium) observed that the discussion had so far turned mainly on refugees who had committed crimes in the receiving countries; however, paragraph E related also to refugees who had committed crimes in foreign countries, or even in their country of origin. As things stood at present, a bona fide refugee prosecuted by his country of origin could be expelled by the receiving country and handed over to the authorities of the country of origin by virtue of the provisions of article 28. The United Kingdom amendment sought to preclude that possibility. It might so happen, nevertheless, that the receiving country had concluded an extradition treaty with the country of origin the clauses of which might conflict with the provisions of the Convention. As a result, a situation would be created in which an international convention would be in conflict with a bilateral treaty. Thus it was possible that, under international law, a refugee convicted of, or charged with, a common-law crime would have necessarily to be handed over to the authorities of his country of origin. Inclusion of the provision in question in the Convention was therefore imperative.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) said that in addition to the point made by the Belgian representative there was another matter which required consideration. It would be observed that in the

Statute of the Office of the High Commissioner for Refugees (A/CONF.2/4), Chapter II, paragraph 7 (d), three categories of refugees were excluded from the competence of the Office, two being the same as those specified in paragraph E of the draft Convention, the third being those who had committed a crime covered by the provisions of extradition treaties. Perhaps the two provisions should be brought into line.

Mr. ROCHEFORT (France) thought that the observations which the Belgian representative had just made threw a clear light on the situation. The fact should be stressed that the present provision had at first been the subject of a unanimously accepted compromise, which the United Kingdom, however, had afterwards turned down. Article 14 of the Universal Declaration of Human Rights dealt with the right of asylum. The United Nations had had no hesitation in refusing that right to common-law criminals. In the case of the Convention, article 1 provided a similar means of sorting out bona fide refugees. It was necessary to retain that article as it stood, for it was not always possible to screen the influx of refugees properly at the frontier. The present text of paragraph E was satisfactory. Its retention would not prevent France from granting asylum to individual common-law criminals; but if those persons had no right to asylum under the Universal Declaration, they had even less right to enjoy the benefits provided under the Convention. France would not be able to apply the proposed definition, unless it contained the limiting clause in question.

Mr. HOARE (United Kingdom) recognized the validity of the Belgian representative's argument concerning extradition. The matter was delicate. For example, a request for extradition might be made by a country from whose persecution the person in question had fled. In submitting the joint amendment to article 28, he had assumed that the provisions for expulsion contained in that article in no way affected the procedure for extradition which, at least so far as the United Kingdom was concerned, was entirely different. He had presumed that extradition would still be covered by the provisions of bilateral agreements. The point could be met by amending paragraph E so as to exclude from the application of the Convention persons liable to extradition. It would, however, in his opinion be

preferable to pursue the alternative course of amending article 28, if necessary, so as to make it clear that its provisions in no way affected existing agreements under bilateral extradition treaties.

Mr. ROBINSON (Israel) pointed out that it was not fortuitous that the clause relating to extradition which appeared in the Statute of the High Commissioner's Office had been omitted from the draft Convention. The latter could not affect existing bilateral agreements between two non-Contracting States, but the question arose as to which instrument would have precedence in the case where a persecuting government ratified the draft Convention. He did not believe that paragraph E should be amended by the inclusion of a clause relating to extradition; on signing the Convention, States could always enter a reservation saying that it did not affect their rights and contractual duties under previously concluded bilateral agreements relating to extradition.

Mr. HERMENT (Belgium) supported the views of the United Kingdom representative. A clause referring to extradition treaties ought to be included in the Convention, but it would have to be made clear that such treaties must be observed and that they should remain outside the framework of article 28.

Mr. ROCHEFORT (France) did not know how the High Commissioner for Refugees intended to interpret his Statute in respect of common-law criminals, but if Contracting States were obliged to grant the status of refugee to common-law criminals, the position might be reached where such persons would be considered as refugees under the Convention while not being regarded as such under the High Commissioner's Mandate.

Mr. HOARE (United Kingdom) agreed that there were certain disadvantages in allowing divergencies between the definition of refugees contained in the Statute of the High Commissioner's Office and that contained in the Convention. Nevertheless, facts had to be faced. Perhaps it might later be found possible to modify the Statute.

Mr. ROCHEFORT (France) observed that the divergence between the two standpoints arose from the fact that certain delegations wished their governments to be able to return and expel refugees who were common-law criminals, whereas the French Government wanted to be able, under certain conditions, to receive them, without, however, being compelled to apply to such individuals the benefits accorded by the Convention. For France, the definition was the criterion for the right of asylum, and that was why she attached fundamental importance to it.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) pointed out that the Israeli representative had admitted that a question might arise as to whether a signatory State was bound by the provisions of the Convention or by its obligations towards another State under an extradition agreement. Perhaps some explicit decision on that point should be reached and included in the draft Convention.

Mr. ROBINSON (Israel) said that the matter involved intricate legal considerations; there might be some danger in making reference to bilateral agreements specifically dealing with extradition to the exclusion of other bilateral agreements which might also be affected by the provisions of the Convention. The question should, perhaps, be left to the Style Committee.

Mr. HERMENT (Belgium) remarked that it was not a question of quoting extradition treaties in the draft Convention. It would suffice to state that the provision in question did not apply to cases of extradition.

The PRESIDENT, speaking as representative of Denmark, said that if explicit mention were made in the Convention of bilateral agreements concerning extradition, a clause would also have to be inserted to cover those States which, under their domestic legal system, practised extradition without having concluded actual extradition treaties. Both methods should be taken into account.

Baron van BOETZELAER (Netherlands) said that the point raised by the President in his capacity as representative of Denmark would, as had been suggested by the representative of Belgium, be met by a general reference to extradition, without mention of treaties or agreements.

The PRESIDENT, speaking as representative of Denmark, observed that States which received a request for the extradition of a refugee who had committed a crime of no great consequence from the very government that was likely to persecute him, would be faced with a very difficult decision. On the other hand, States could not be expected to grant asylum to persons committing capital crimes merely because they happened to be exposed at the same time to relatively minor dangers on account of some unimportant political activity. A proper balance must be struck between all the considerations involved.

Mr. HOARE (United Kingdom) was anxious that the question of extradition - which, admittedly, would have to be settled - should be kept separate from the United Kingdom amendment. His particular preoccupation was that persons who committed crimes in their country of refuge should not be excluded from the application of the Convention.

Mr. ROCHEFORT (France) thought that neither the provisions of article 28 nor the clauses in existing extradition treaties covered all the problems involved.

France granted asylum to a certain number of Polish nationals convicted of serious crimes, to whom the Polish Consulate had refused a passport. But that was not sufficient reason for granting those persons refugee status. Some delegations were prepared to admit the right of Contracting States to expel or extradite refugees living in their territory, but refused to admit their right not to grant refugee status to common-law criminals. It was difficult, of course, to compare the position of insular countries in respect of the refugee problem with that of continental countries. For her part, France relied essentially on the barrier formed by paragraph E, which was a conditio sine qua non of her accession to the Convention. Moreover, it should not be forgotten that the text of that section had already been adopted by the Economic and Social Council and by the General Assembly. France's reason for taking such a firm stand on the subject lay in the fact that she had to administer the right of asylum under much more difficult conditions than did countries which were in a position to screen immigrants carefully at their frontiers.

Mr. ROBINSON (Israel) stated that the representative of the Federal Republic of Germany had contended that his amendment (A/CONF.2/76) was not one of substance, but largely one of form. However, it seemed to have been inspired by a fear of calling things by their right names; it replaced reference to the Charter of the International Military Tribunal by references to other sources, namely, the Geneva Convention of 12 August 1949, relative to the Protection of Civilian Persons in Time of War, three other Geneva Conventions of the same date, and the Convention on Genocide of 9 December 1948, together with a definition of crimes against peace reproduced from Article 6 of the London Charter without indication as to its source.

Approaching the matter from a purely legal angle, two questions arose: whether, in fact, there was any substantive difference between paragraph E of article 1 and the amendment submitted by the representative of the Federal Republic of Germany, and, if there was no substantive difference, what would be the legal effect of omitting reference to the London Charter.

Taking the first problem, it would be seen that so far as crimes against peace were concerned, the wording of the amendment was identical with that of the London Charter. As to war crimes in the narrow sense of the word, there were minor divergencies between the provisions of Article 147 of the Geneva Convention and Article 6, section (b) of the London Charter, although the wording of the Charter had undoubtedly influenced that of the Convention.

With regard to crimes against humanity, as defined in Article III of the Convention on Genocide and the Geneva Convention of 1949 on the one hand and the London Charter on the other, there were significant differences. Article 147 of the Geneva Convention was exhaustive; on the other hand, Article 6, section (c) of the London Charter referred to "other inhumane acts", the interpretation of that phrase being left to the courts. Other differences were that the Geneva Convention did not mention persecution on political, racial or religious grounds, and related to acts committed in "time of War" - as defined in Articles 2 and 3 - whereas Article 6, section (c) of the London Charter covered crimes committed "before or during the War". Finally, the Geneva Convention dealt only with crimes committed by the enemy in occupied territory, whereas the London Charter dealt with crimes committed against any population, including that of the Contracting State concerned.

Even if paragraph E of article 1 of the draft Convention reproduced in toto Article 6 of the London Charter there would still be grave difficulties, since the competence of the present Conference was restricted to establishing a legal status for refugees. It was not called upon to legislate in questions of international criminal law, or to define international crimes and embody them in provisions which would exclude certain categories of persons from the scope of the Convention. However, there was nothing to prevent the Conference from inserting references to existing instruments which formulated principles of international law, and it was, perhaps, that consideration that had prompted the delegation of the Federal Republic of Germany to mention the Geneva Convention and the Convention on Genocide, instead of reproducing the wording of Article 6, sections (b) and (c), of the London Charter. In its amendment, however, that delegation gave no indication of the source of its definition of crimes against peace.

There was no more authoritative or more widely recognized source of international criminal law than the London Charter, and it would be most dangerous to delete all mention of it. Furthermore, it would be impossible to apply and interpret the provisions of paragraph E of article 1 without reference to that instrument. Related material such as that assembled during the preparatory work of the International Military Tribunal and the records of the Nürnberg and other trials would assist in determining what were criminal acts of States, the criminal responsibility of government officials, the treatment of such pleas as those of "superior orders", "duress", "necessity", "overriding national interest" or "national emergency". The proposed deletion of reference to Article 6 of the London Charter would render paragraph E a dead letter. He did not believe that the present state of world affairs justified such a step.

Respect for the decisions of the majority in the United Nations had been put forward as an argument in defence of paragraph A of article 1 of the draft Convention, but that argument surely applied with far greater force to paragraph E. The "Nürnberg Principles" had twice been re-affirmed in the General Assembly, and not a single defection had occurred since. He therefore considered that, apart from incontestable legal considerations, it was the duty of the

Conference, as a body convened by the General Assembly, to reject the amendment presented by the representative of the Federal Republic of Germany.

Mr. ROCHEFORT (France) suggested that the amendment submitted by the delegation of the Federal Republic of Germany should be referred to a working group.

The PRESIDENT felt that the French representative's suggestion was extremely useful, and that it represented the only possible solution for the time being.

Mr. HOARE (United Kingdom) had no objections to the French suggestion. The whole of paragraph E might well be taken up by the working group, which should also take into account the points he and other representatives had made, in connexion with the United Kingdom amendment, on the matter of extradition.

Mr. del DRAGO (Italy) supported the French representative's suggestion.

Mr. CHANCE (Canada) also favoured the French representative's suggestion. To his mind, one matter of great concern to all delegations was the possibility that refugees, or persons presumed to be such, might present themselves in a given country and endeavour to subvert the State. The working group might also consider including a suitable reference to Article 30 of the Universal Declaration of Human Rights.

The PRESIDENT suggested that the working group should be set up immediately, and proposed that it should be made up of the representatives of France, the Federal Republic of Germany, Israel and the United Kingdom. The High Commissioner for Refugees should also be invited to participate in the working group's discussions on sub-paragraph (b) of paragraph E, which would bear upon the definition used in the Statute of his Office.

The President's suggestion was unanimously adopted.

The PRESIDENT then drew attention to the amendments to paragraph F of article 1 submitted by the Belgian and Yugoslav delegations (A/CONF.2/78 and A/CONF.2/79 respectively).

Mr. ROBINSON (Israel) remarked that, whereas paragraphs B, C, D and E were all restrictive in character, paragraph F was the opposite. The Yugoslav representative was possibly justified in feeling that, unless paragraph F was made subject to the provisions of paragraph E, new categories of refugees created in the future might be regarded as free from all restrictions. On the other hand, there was some danger in including the words proposed in the Yugoslav amendment because they might be interpreted as meaning "subject to the provisions of paragraph E exclusively." He requested the Yugoslav representative to reconsider his proposal in that light. In his opinion, the logical place for paragraph F was immediately after paragraph A. There would then be no risk of the Yugoslav amendment to paragraph E being misunderstood.

Mr. ROCHEFORT (France) said that if the Israeli representative's suggestion was acceptable to the Yugoslav representative, all would be well. The Yugoslav amendment, however, assuaged anxieties that France itself shared. If one followed the development of the text of the draft Convention, it would be observed that paragraph F was no more than a survival, and no longer had any meaning, now that the definition in article 1 had been broadened. Of what other categories of persons, indeed, could there now be any question ? It seemed that provision had already been made for all the categories of refugees to whom the status of international refugee could be extended, other than those mandatorily - and regrettably - excluded under paragraph C. It was certain that the United Nations did not intend to apply the provisions of the Convention to national refugees, such as those in Germany, India and Pakistan. Yet paragraph F of article 1 seemed to imply that certain categories of international refugees had been left out of the Convention which was not the case.

At all events, the Belgian amendment to paragraph F provided a more satisfactory formula than the existing text. It introduced an element of tact vis-à-vis Contracting States, as it laid down that if a Contracting State decided to apply the term "refugee" to other categories of persons, it should so inform the Secretary-General of the United Nations, who would then invite the other Contracting States to inform him whether they accepted such an extension of the term.

Mr. ROBINSON (Israel) pointed out that there was a discrepancy in time between the definition of the term "refugee" in the Statute of the Office of the Commissioner for Refugees and the one in the draft Convention before the Conference. In the latter, reference was made to events prior to 1 January 1951; there was no such reference in the Statute of the High Commissioner's Office. In order to provide the High Commissioner with an additional legal basis for his activities, the General Assembly had felt that an extending clause, namely paragraph F, should be included in the Convention on the Status of Refugees.

Mr. ROCHEFORT (France) did not think that those were the reasons which had led to the inclusion of paragraph F. France had no great objection to that text, provided, however, that it was not considered as authorizing the General Assembly to place under the jurisdiction of the High Commissioner for Refugees the refugees he (Mr. Rochefort) had mentioned earlier.

If events subsequent to 1 January 1951 were to be considered, they could only be events which would turn the world upside down once again, and in that case it was probable that a fresh conference of plenipotentiaries would have to be convened.

Mr. HERMENT (Belgium) wished the possibility of an extension in time to be retained. That was the object of his amendment to paragraph F of article 1.

Mr. MAKIEDO (Yugoslavia) said that he attached great importance to the restrictive provisions of paragraph E. He supported the observations of the French representative, but was unable to accept the United Kingdom amendment (A/CONF.2/74), which would extend the benefits of the Convention to refugees guilty of common crimes and, if the first United Kingdom alternative were accepted, to persons guilty of acts contrary to the principles of the United Nations.

For reasons similar to those given by the Israeli representative, he could not accept the amendment to paragraph E submitted by the delegation of the Federal Republic of Germany. In view of the place occupied by paragraph F in the original draft, it was necessary to specify that all possible extensions of the term "refugee" should be subject to the exclusive reservations provided for in paragraph E, as was proposed in the Yugoslav amendment. That would preclude any subsequent

misunderstandings. However, even if paragraph F was placed immediately after paragraph A, the Yugoslav amendment would, in his opinion, still be necessary.

Mr. CHANCE (Canada) drew attention to a technical difficulty, namely, that the purport of paragraph E was not yet known.

The PRESIDENT supported a suggestion by Mr. MAKIEDO (Yugoslavia) that that point should be left in abeyance for the time being, and suggested that, since the Conference had discussed article 1 so far as was possible for the time being, it should resume its consideration of article 2.

It was so agreed.

(ii) Article 2 - General obligations (resumed from the fourth meeting)

Mr. ROCHEFORT (France) said that the French delegation, having carried its objections over to article 28, (prohibition of expulsion), withdrew its amendment (A/CONF.2/18) to article 2.

The PRESIDENT put article 2 to the vote.

Article 2 was adopted by 24 votes to none, with 1 abstention.

(iii) Article 3 - Non-discrimination (A/CONF.2/28, A/CONF.2/72) (resumed from the eighteenth meeting)

The PRESIDENT drew attention to the report of the Committee set up to study article 3 (A/CONF.2/72), and especially to the six choices with which the Committee had been faced (section 5).

Mr. ROCHEFORT (France) supported the text in section 5 (6) of the Committee's report. It would be desirable, however, to clarify that text by some such addition as "and, in respect of country of origin, without prejudice to the provisions of article 1". Without such clarification, the new article and article 1 would contradict one another, as it might be argued that the fact that certain countries would apply the Convention only to European refugees would in itself constitute discrimination.

Mr. HOARE (United Kingdom) appreciated the French representative's point, but felt that it was covered by the Committee's draft in section 5(6), because Contracting States would be obliged to apply the provisions of the Convention to persons defined in article 1 without discrimination as to country of origin, race and so on. Article 1 now provided States with a choice between two alternatives for the geographical scope of the Convention, and the non-discriminatory clause would therefore apply only to refugees in the sense of the alternative which any given Contracting State selected.

Mr. ROCHEFORT (France) thought that his suggested amendment was essential. Replying to the PRESIDENT, he said that he could submit a written text later.

Mr. ROBINSON (Israel), speaking to a point of order, suggested that, provided the French representative had no objection, the Conference should proceed to vote on the substance of article 3, subject to subsequent textual emendations.

The PRESIDENT ascertained that the French representative was agreeable to that procedure. He then drew the Conference's attention to section 5(6) of the Committee's report.

Mr. HERMENT (Belgium) requested that the vote should be taken solely on the text as submitted, to the exclusion of any amendments which might be made to it by the Style Committee, and which might easily turn out to be more than mere changes of form.

Mr. ROCHEFORT (France) said that in those circumstances he would abstain from voting on the new draft of article 3.

Mr. HERMENT (Belgium) indicated that he would reserve his delegation's entire attitude towards a text which was to be subject to modification by the Style Committee.

The PRESIDENT pointed out that all the votes taken so far related to the first reading of the text; representatives would be free to revise their positions in the light of the texts prepared by the Style Committee. He then put to the vote the new article 3 as set forth in section 5(6) of the Committee's report.

New article 3, thus amended, was adopted by 21 votes to none, with 3 abstentions.

Mr. MAKIEDO (Yugoslavia) explained that he had abstained because his amendment, which aimed at preventing every type of discrimination, had not been adopted; he was unable to vote for a text which, while forbidding discrimination on account of race and country of origin, left the way open to other forms of discrimination.

Mr. MAHER (Egypt) remarked that his position was similar to that of the Yugoslav representative. His delegation, too, had submitted an amendment to article 3 (A/CONF.2/28) which had not been taken into consideration.

(iv) - Article 3 B (resumed from the sixth meeting)

The PRESIDENT recalled that the Conference had decided to defer consideration of article 3 B pending the preparation of a text by the United Kingdom and Israeli representatives. Unfortunately, the Secretariat had not yet been able to get the text translated and distributed. He therefore suggested that the Conference should in the meantime pass on to article 4.

It was so agreed.

(v) - Article 4 - Exemption from reciprocity (A/CONF.2/32) (resumed from the sixth meeting)

Baron van BOETZELAER (Netherlands) recalled that he had originally supported the joint French/Belgian amendment to article 4 (A/CONF.2/32); however, he had since discovered certain points regarding which he wished for some clarification.

According to the first paragraph of the French/Belgian amendment, certain refugees would continue to enjoy the reciprocity which they had previously enjoyed; that included the legislative reciprocity mentioned in the second paragraph, as well as diplomatic and de facto reciprocity. On the other hand, new refugees would, according to the same amendment, enjoy exemption from legislative reciprocity only after a period of three years' residence in the receiving country. He

appreciated the reasons for which certain States felt obliged to limit the rights of new refugees in that way, but pointed out that there were other States which visualized the possibility of extending the idea of reciprocity even to non-statutory refugees. He therefore requested the authors of the joint amendment to delete the word "legislative"; countries which regarded the retention of that word as indispensable could make appropriate reservations.

A second point was that paragraph 3 of article 4 was not covered by the French/Belgian amendment, an omission which the co-sponsors had not fully clarified.

Finally, he asked the Belgian representative whether he did not agree that it would be useful to add an extra paragraph relating to the reciprocal regional agreements existing between certain groups of countries, such as Benelux and the Scandinavian countries.

Mr. HERMENT (Belgium) did not think that a clause relating to regional agreements could be included in the Convention. Contracting States which wished to do so would always be able to enter a reservation on that point at the time of signing the Convention.

As to paragraph 3 of article 4, the fate of which was causing concern to the Netherlands representative, the Belgian delegation did not wish to see it deleted. In fact, the French/Belgian amendment related only to paragraph 2 of article 4. It was emphatically not designed to exclude de facto reciprocity.

As to diplomatic reciprocity, he had received precise instructions from his Government to press for its exclusion. If the French/Belgian amendment were rejected, he reserved the right to introduce a new proposal on that issue.

Baron van BOETZELAER (Netherlands) said that he would not press for the inclusion of the extra paragraph relating to regional agreements, but thought that the word "legislative" should definitely be deleted from the joint amendment.

Mr. ROCHEFORT (France) asked the Secretariat to state how many countries observed exemption from legislative reciprocity under the terms of the 1933 Convention. It was certain that their number was very small, for the case of

exemption was rare. The present discussion was therefore purely theoretical. In any event, it would be better to avert the possibility of reservations being entered on the point.

Mr. WARREN (United States of America) pointed out that, if the word "legislative" were deleted, the text of the joint amendment would be much the same as the original text of article 4.

Mr. HERMENT (Belgium) said that in his opinion the modification proposed by the Netherlands representative to the French/Belgian amendment would not involve a change of substance, but only one of form, and one that would not improve the text at that.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) observed that the original text used the words "for a certain period", whereas the joint amendment referred to "a period of three years".

The PRESIDENT replied that the words defining the period of time could be voted on separately.

The EXECUTIVE SECRETARY pointed out that, in the 1933 Convention, reservations to article 14, which related to exemption from reciprocity, had been entered by Belgium, Czechoslovakia, Denmark, Norway and the United Kingdom; none had been entered by Bulgaria, France and Italy.

Mr. HOARE (United Kingdom) explained that the United Kingdom reservation had been made simply because the article in question had had no application in the United Kingdom.

Mr. ROCHEFORT (France) thought it would be difficult to vote on the joint amendment before knowing exactly what kinds of exemption from reciprocity were involved.

The PRESIDENT put to the vote the Netherlands proposal that the word "legislative" be deleted from the joint French/Belgian amendment (A/CONF.2/32).

The Netherlands proposal was rejected by 5 votes to 3, with 15 abstentions.

The PRESIDENT suggested that the Conference should vote on the qualifying words "after a period of three years' residence".

Mr. HERMENT (Belgium) asked why the text of the joint amendment could not be put to the vote in the form in which it appeared in document A/CONF.2/32. The question of the period of residence could then be voted on separately.

The PRESIDENT felt that certain representatives might be willing to support the amendment if the reference to the period of three years' residence were deleted.

Mr. ROCHEFORT (France) thought that at the present stage of the discussion it could not be said that the question of length of residence had been examined. In his opinion, the question of the three years' period could not be separated from the rest of the French/Belgian amendment.

The joint French/Belgian amendment (A/CONF.2/32) was adopted by 9 votes to 5, with 11 abstentions.

Article 4, as amended, was adopted by 20 votes to none, with 4 abstentions.

(vi) - Article 5 - Exemption from exceptional measures (A/CONF.2/37, A/CONF.2/83) (resumed from the seventh meeting)

The PRESIDENT recalled that the discussion of article 5 had been deferred at the request of the United Kingdom representative, who had wished to introduce an amendment. The text of the latter was now to be found in document A/CONF.2/83; the Swedish delegation had also submitted an amendment to article 5 (A/CONF.2/37).

Mr. PERSSON (Sweden) requested the Conference to defer consideration of the Swedish amendment until the next day, in view of the absence of the leader of the Swedish delegation.

Mr. HOARE (United Kingdom) supported the Swedish representative's suggestion, particularly as the Conference had not had sufficient time to study his own amendment (A/CONF.2/83).

The Swedish representative's suggestion was adopted.

The meeting rose at 12.45 p.m.