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CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 18 July 1951, at 2.30 p.m.

CONTENTS:

Present:

President:	Mr. LARSEN
Members:	
Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	Mr. MAHER
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PHILON
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. MAKIEDO
High Commissioner for Refugees	Mr. van HEUVEN GOEDHART

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

International Labour Organisation	Mr. WOLF
International Refugee Organization	Mr. SCHNITZER

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
International Committee of the Red Cross	Mr. OLGIATI
International Council of Women	Dr. GIROD
International Social Service	Miss FERRIERE
International Union of Catholic Women's Leagues	Miss de ROMER
League of Red Cross Societies	Mr. LEDERMANN
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER
World Union for Progressive Judaism	Rabbi MESSINGER
World Young Women's Christian Association	Miss ARNOLD

Secretariat:

Mr. Kerno	Assistant Secretary-General in charge of the Department of Legal Affairs
Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. COMPOSITION OF THE STYLE COMMITTEE

Mr.SCHURCH (Switzerland) said that when members of the Style Committee had been appointed at the preceding meeting, he had assumed that the President would take the Chair at the Committee's meetings. On subsequent perusal of the Conference's rules of procedure, however, he had ascertained that they did not make any provision in that connexion. He therefore wished formally to propose that the President should preside over the Style Committee.

Mr. SHAW (Australia) and Mr. HERMENT (Belgium) supported the Swiss representative's proposal.

The Swiss proposal was adopted unanimously.

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 sixth meeting):

(i) Article 34 - Signature, ratification and accession (A/CONF.2/88)(continued)

The PRESIDENT drew attention to the text of the suggestion of the Legal Department of the Secretariat mentioned by the Executive Secretary at the preceding meeting, which had since been circulated as document A/CONF.2/88. One point that had still to be settled was whether invitations to sign addressed to States non-Members of the United Nations should be issued by the Economic and Social Council or by the General Assembly.

Mr. WARREN (United States of America) said that he was prepared to sponsor the Legal Department's text.

Mr. MAKILDO (Yugoslavia) stated that the United States (formerly Secretariat) text would be acceptable to him, provided the words "General Assembly" were substituted for the words "Economic and Social Council" in paragraph 2. He did not consider it appropriate that the right of invitation should be given to the Economic and Social Council.

Mr, HERMENT (Belgium) asked whether any difference of procedure was involved.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) stated that it was open to the Conference to decide whether invitations should be extended by the Economic and Social Council or by the General Assembly. In the case of the Convention on Genocide, for example, non-Member States had been invited to sign by the General Assembly. As the question of refugees was one of particular interest to the Economic and Social Council, it might perhaps be appropriate for that organ to issue the invitations. Furthermore, that would avoid delay, since the Council held two sessions a year, whereas the General Assembly normally met only once. On the other hand, the Yugoslav representative's argument certainly had weight, and if there was any doubt whether a given political entity was in fact a State, the General Assembly would be better qualified to decide that point. There would be very little practical difference, whichever of the two alternatives was adopted.

Mr. ROCHEFORT (France) proposed that the Convention should be open for signature at United Nations Headquarters up to 31 December, 1952. He asked what States the Secretariat had invited to the present Conference.

The EXECUTIVE SECRETARY stated that the Secretary-General had issued invitations to participate in the Conference to the following non-Member States: Albania, Austria, Bulgaria, Cambodia, Ceylon, the Federal Republic of Germany, Finland, the Hashemite Kingdom of the Jordan, Hungary, Ireland, Italy, Japan, Laos, Liechtenstein, Monaco, Nepal, Portugal, the Republic of Korea, Romania, Switzerland, and Viet-Nam.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that that list probably covered all States which were likely to receive invitations to sign the Convention.

Mr. MIRAS (Turkey) proposed that the final date for signature at the European Office of the United Nations at Geneva should be 31 July, 1951, and that paragraph 1 should be amended accordingly.

Mr. KERNO (Assistant Secr ral in charge of the Department of Legal Affairs), referring to the Fr sentative's proposal concerning the last date for signature, pointed out ough there was no substantive objection to it, it might entail del fication.

The PRESIDENT put the Turki representative's proposal to the vote.

The Turkish proposal was adopted by 24 votes to none.

The PRESIDENT put to the vote the French representative's proposal that the words "31 December" be inserted after the words "1951 to" in the last line of paragraph 1.

The French proposal was adopted by 19 votes to none, with 5 abstentions.

The PRESIDENT observed that the remaining blanks in paragraph 1 would be filled at the second reading.

Paragraph 1 was adopted as amended by 23 votes to none.

The PRESIDENT put to the vote the Yugoslav proposal that the words "General Assembly" should be substituted for the words "Economic and Social Council" in paragraph 2.

The Yugoslav proposal was adopted by 18 votes to none, with 6 abstentions.

Paragraph 2 was adopted as amended by 24 votes to none.

The PRESIDENT announced that as no amendments had been submitted to paragraph 3, he would not put it to the vote separately.

The United States text (A/CONF.2/88), to replace the existing text of article 34, was adopted as amended by 24 votes to none.

Mr. HERMENT (Belgium), referring to paragraph 3 of article 34, asked whether the Convention should not be open for accession from the last date selected in paragraph 1 for opening for signature at United Nations Headquarters, and not the first date as stated in the parenthesis.

The EXECUTIVE SECRETARY recalled that he had drawn attention at the preceding meeting to the fact that it might be preferable for the Convention to be opened for accession at once, rather than after the expiration of the period for which it would be open for signature.

The PRESIDENT observed that some States might need the insertion of a federal State clause in the Convention. He would remind the Conference that the question had been deferred by the Ad hoc Committee at its first session. If such a clause proved necessary, it should follow article 35, but so far no representative had submitted a proposal in that sense.

(ii) Article 35 - Colonial clause (A/CONF.2/31)

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.2/31) to article 35.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) drew attention to an inconsistency between articles 35 and 37. According to the former, the Convention would enter into force in the territories concerned as from the thirtieth day after the notification to the Secretary-General that its application had been extended to any territories for whose international relations the State in question was responsible, whereas according to article 37 the Convention would come into force on the ninetieth day following the day of deposit of the second instrument of ratification or accession. Thus it was possible for the Convention to enter into force in Non-Self-Governing Territories sixty days earlier than in metropolitan Territories. He doubted whether that result had been intended.

Mr. ROCHEFORT (France) stated that the Conference should first take a decision on the substance of article 35. The question of bringing it into line with article 37 might then be considered.

He was unable to accept the Yugoslav amendment which, if adopted, would preclude the French Government from being able to sign the Convention, for the reasons

developed at great length by the French representative in the Social Committee of the Economic and Social Council on 27 July, 1950.[1)]

Mr. HOARE (United Kingdom) did not wish to re-open the controversy concerning the colonial clause. The United Kingdom Government was in much the same position as the French Government and must insist on the inclusion of the clause for constitutional reasons. All its dependent territories were advancing towards a greater degree of self-government, and it was a principle of United Kingdom administration that, whatever the degree of advancement of any territory, it would not be committed to accession to any international instrument without prior consultation to ascertain whether it was ready to accept the obligations entailed and prepared to make any domestic legislative changes required. A colonial clause was not a means of excluding Non-Self-Governing Territories from the application of any international agreement, but the only constitutional method of extending its application to them. If article 35 were deleted, the United Kingdom Government would be forced to consult the governments of all such territories, in order to make sure that they could accede to the Convention, before it could sign the Convention itself. That procedure might take a very long time. If speedy accession by the United Kingdom Government was desired, article 35 must be maintained.

Mr. HERMENT (Belgium) said that, for constitutional reasons, the Belgian delegation could not support the Yugoslav amendment. If that amendment were adopted, his delegation would request that it be granted the right to enter a reservation to article 35.

Mr. MAKIEDO (Yugoslavia) stated that the Yugoslav Government was in principle opposed to the inclusion of colonial clauses in international instruments. The question should be studied in the light of the obligations undertaken by States which assumed responsibility for the administration of territories whose peoples

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1) See document E/AC.7/SR.153, page 4-6.

had not yet attained a full measure of self-government under the provisions of Article 73 of the Charter of the United Nations. According to paragraph C of that Article the States in question undertook

> "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement".

It would be contrary both to the spirit and to the letter of the Charter to authorize metropolitan powers to exclude such territories from the application of the present Convention. He did not believe that the arguments based on constitutional considerations for the inclusion of colonial clauses were valid. Either dependent territories enjoyed self-government and were free to accede to international agreements, or self-government was illusory. With those considerations in mind he had submitted an amendment which proposed that the existing text of article 35 should be replaced by a text drafted on the lines of the article recommended for inclusion in the draft International Covenant on Human Rights by the General Assembly in its resolution 422(V).

Mr. ROCHEFORT (France) emphasized that in the prevailing circumstances it was not a question of advantages which certain governments might consider withholding from the populations of Non-Self-Governing Territories, but of obligations to be imposed upon the governing authorities of such populations.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) said that he would abstain from voting on article 35, as he believed the matter should be decided by the States directly concerned.

The PRESIDENT put to the vote the Yugoslav amendment (A/CONF.2/31, page 3) to article 35.

The Yugoslav amendment was rejected by 14 votes to 1, with 8 abstentions.

Mr. ROCHEFORT (France) was prepared to agree that a decision should be taken on article 35, on the understanding that the title "Colonial Clause" would

not appear in the final text. If a title was retained in the final text, the French delegation would formally propose the words: "Territorial Application Clause", the same words to be used in all passages of the Convention in which article 35 was mentioned.

The PRESIDENT reminded the French representative that there seemed to be general agreement that the articles of the Convention should not have titles, but that titles should be retained in the case of the chapters. The question had already come up in connexion with article 17 (Public education). Perhaps the matter could be left to the Style Committee which was fully cognizant of the views expressed by the Conference.

It was so agreed.

The PRESIDENT put article 35 to the vote.

Article 35 was adopted by 18 votes to 1, with 5 abstentions.

(iii) Article 36 - Reservations (A/CONF.2/31)

The PRESIDENT drew attention to the Yugoslav amendment (A/CONF.2/31) to article 36.

Mr. MAKLEDO (Yugoslavia) said that in putting forward his amendment he had been prompted by the desire to ensure that the greatest possible assistance was accorded to refugees, and hence to increase the number of articles on which governments would be debarred from making reservations. He realized, however, from the trend of the discussions in the Conference that governments would be forced to enter a great many reservations, and he did not wish his amendment to discourage them from acceding to the Convention. He would accordingly withdraw it.

Mr. ROCHEFORT (France) recalled that during the discussion on article 30 (Co-operation of the national authorities with the United Nations) the French delegation had proposed that that article should appear among those on which governments had the right to make reservations. That proposal affected article 36,

which stipulated that Chapter VI (Executory and Transitory Provisions), in which article 30 appeared, could not be subject to reservations. The French delegation accordingly submitted a formal amendment enabling governments to make a reservation to article 30.

He had no special preference regarding the form of that amendment: it could be provided that Chapter VI should not be subject to reservation, except for article 30; or all the articles in Chapter VI except article 30 could be listed in article 36. The French delegation must, however, press the substance of the amendment.

He also drew attention to the impossibility of deciding the problem of reservations in respect of the articles following article 35, as they had not yet been considered by the Conference.

The PRESIDENT pointed out that it would be possible at the second reading to make further provision in article 36 for reservations. For the time being it would seem that the Conference was content with the reservations mentioned therein, possibly with the addition of the right of Governments to enter reservations on article 30, as proposed by the French representative.

Mr. HERMENT (Belgium) remarked that the French amendment, if adopted, would in effect leave States free not to co-operate with the United Nations High Commissioner for Refugees.

The Belgian Government keenly desired the High Commissioner's collaboration in the execution of the Convention. In its opinion there was, in the present instance, no question of an international organization interfering in the exercise by Contracting States of their prerogatives, but only of a guarantee afforded to the refugees covered by the Convention. Although the need for such a guarantee might not often be felt, it was none the less true, as the Belgian delegation had already pointed out, that the authorities of the country of reception would be at the same time both judge and party in every appeal submitted by a refugee and in every request concerning the exercise of a right by a refugee. Article 30 gave refugees moral satisfaction in that it amounted to the setting up of the "refugees' government" to which they had long aspired.

The Belgian Government had desired and had agreed to the setting up of the High Commissioner's Office; it welcomed the opportunity of co-operating with that Office in the work being done for refugees, and it felt certain that the co-operation of the Office would be both very useful and very well received by the refugees themselves and by the majority of Contracting States as well.

Mr. MAHER (Egypt) did not see how it was possible for the Conference to discuss article 36 without first having taken a decision on paragraph C of article 1, which was still outstanding.

The PRESIDENT stated that the Conference had decided to follow a procedure by which certain questions had been deferred. It was, of course, true enough that every article in a convention was related to all the others, but representatives would be completely free to raise any outstanding points of substance at the second reading.

Mr. del DRAGO (Italy) said that the Italian delegation had already had an opportunity of expressing its views on article 30. Since Italy was not a member of the United Nations and the Italian Government had not taken part either in the election of the High Commissioner or in the preparation of the Statute of his Office, it could not consider itself as in any way bound by the substance of article 30. That did not mean that it declined to collaborate with or was inspired by unfriendly feelings towards the High Commissioner. It was simply an indication that before assuming any obligations towards the Office of the High Commissioner, the Italian Government desired to negotiate an agreement with the latter, such agreement to be approved by the Italian Parliament.

The Italian position was perfectly clear. His Government believed, however, that other governments of States Members of the United Nations, although desirous of signing the Convention, might not feel able to do so if no reservations to article 30 were allowed. The Convention itself would thus be dangerously weakened owing to lack of signatures. He consequently took the view that reservations should be permitted to article 30, and that article 36 should be amended in that sense.

Mention had been made of the possibility of modifying the Statute of the High Commissioner's Office. Since the Italian Government would probably not take part in any work that might be undertaken to that end, it was the more reluctant to bind itself in advance by unreservedly accepting article 30. It went without saying that that argument applied with equal force to any organization that might succeed the Office of the High Commissioner.

Finally, he would recall the reservations which he had made earlier on articles 12, 13 and 14 (Chapter III - Practice of professions), as well as on article 29 dealing with naturalization.

Mr. ROCHEFORT (France), while glad to learn that the Belgian Government was anxious to accept the provisions of article 30 without reservation, observed that the Belgian Government's point of view was not necessarily that held by the Contracting States generally. Agreement to allow reservations to be made to article 30 would not prevent the Belgian Government from acting as it wished, while it would permit other governments, among them the French Government, which were unable to adopt the same attitude, to act in accordance with their possibilities and wishes.

He wished to make it clear that the French Government's position was one of principle which did not signify its refusal to co-operate; that was not the question. The co-operation referred to in article 30 did not necessarily form part and parcel of the application of the Convention. To cite a case in point, the 1933 Convention, which made no provision for co-operation of that kind, had nevertheless been applied and had rendered very great services to large numbers of refugees. Furthermore, the High Commissioner's Office and the Convention were two entirely separate matters; the fact of their coming together was an historical event, but not an absolute necessity.

Although certain countries were prepared to apply article 30 without reservations, others might not desire to go so far; they might wish, in particular, to have the undertakings to be entered into by them in the matter of co-operation with the High Commissioner's Office embodied within the framework of General Assembly resolutions, more especially the resolution making the appointment of a

representative of the High Commissioner's Office in the territory of a Contracting State subject to the conclusion of an agreement between the Office and the Government of that State. Italy's position was not unique. Certain countries were represented at the Conference without being members of the United Nations. Other countries likewise not Members of the United Nations or participating in the work of the Conference, might have some difficulty in signing the Convention in view of the fact that they had taken no part either in the establishment of the High Commissioner's Office or in the drafting of its Statute; they might, for example, object to intervention by the High Commissioner's Office unless it was subject to some working procedure specified in an agreement between the Office and the Government concerned.

The French Government had initiated the first proposals for the establishment of the High Commissioner's Office. It considered that the arrangement thus arrived at was intrinsically useful, and that it would be useful in practice if it could be adjusted to the facts of the situation. It was for that reason that, in its opinion, article 30 should be kept flexible. The prohibition of reservations to that article might make it quite impossible for certain States to accede to the Convention. Should it prove that all the 41 delegations which had voted in the General Assembly for the Statute of the High Commissioner's Office were prepared to enter without reservation into the undertakings set forth in article 30, the French delegation would find it quite in order that in the event of a dispute between the Office and the government of a Contracting State, the Office should be able, by virtue of the States' contractual undertakings, to bring the matter before the General Assembly. The number of delegations attending the present Conference which had voted for the Statute of the High Commissioner's Office was, however, fairly small, and the number of States which would be prepared to adhere to the Convention was still unknown.

In those circumstances, it hardly seemed possible to set up as judge, possessing compulsory powers of jurisdiction, for questions affecting the interests of some of the Contracting States, an assembly in which those States would form only a small minority, and which would consist of a majority of States which had undertaken no commitments and which could have no comprehension of the problems facing

one or another of the Contracting States. The majority would tend to treat such problems in a liberal spirit that would be all the more facile in that they had not contracted any engagement having practical effect. Accordingly, while the French delegation had nothing in principle against co-operating with the High Commissioner's Office, it maintained that the possibility of making reservations to article 30 reflected a practical need, which, incidentally, was shared by many other countries. How could a State commit itself vis-à-vis a body which was at present a completely unknown quantity, and which, while it might prove admirable in the event, might also turn out to have been set up by a majority of States devoid of any knowledge of the problem, and which might impose unacceptable arrangements on the other Contracting States?

Mr. FRITZER (Austria) said that though the Austrian Federal Government was prepared to accept article 36 as drafted, he did not see why there should be any difficulty in allowing reservations on article 30; he regarded the French representative's arguments as entirely apposite. Maintaining his view, already expressed, that it was essential that the Convention should be signed by the French Government, he said he was ready to support the French amendment.

Mr. HERMENT (Belgium) assured the French representative that he had had no intention of implying that governments should not be free to express the desire to refuse to co-operate with the Office of the High Commissioner.

Mr. ROCHEFORT (France) pointed out that he had not said that France would refuse to co-operate with the High Commissioner. Nor was that question one for the Conference to discuss.

Mr. MONTOYA (Venezuela), recalling the statement he had made at the preceding meeting, said that the Venezuelan delegation was prepared to agree that provision should be made in article 36 for reservations to be entered on article 30, or at least, not to consider the matter as definitely settled. Governments should be allowed to exercise their judgment in making reservations to article 30 in its present form.

The PRESIDENT ruled the discussion closed and asked representatives to vote on the French amendment which, in substance, meant that article 30 also would be open to reservations. If that amendment was adopted, the appropriate drafting changes to article 36 would be made by the Style Committee and the Conference could re-examine the problem at the second reading.

The French amendment was adopted by 10 votes to none, with 14 abstentions.

Article 36, as a whole and as amended, was adopted by 23 votes to none with 1 abstention.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) wished to suggest two minor drafting changes in article 36. He had not done so earlier, in order not to obstruct the course of the discussion. The reference made in paragraph 1 to "Contracting States" might lead to difficulties, since the traditional notion that the Contracting States were the negotiating States had now been modified to mean States bound by a convention or treaty. He would therefore suggest that the formula "any State" be used in the first line of paragraph 1.

Secondly, the last sentence in paragraph 2 read: "The Secretary-General shall bring such communication to the attention of the other Contracting States". The question of notifications by the Secretary-General was dealt with in article 40. It would seem to him more logical to remove the last sentence from paragraph 2, and to amend sub-paragraph (c) of article 40 by the inclusion of the words "or withdrawals thereof" after the words "Of reservations made".

Mr. HERMENT (Belgium) thought that mention should be made in article 40 of the notifications to be sent in compliance with article 35 regarding any dependent territories which became parties to the Convention.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) agreed.

The Conference decided to refer the suggestions of the Belgian representative and of the Assistant Secretary-General to the Style Committee.

(iv) Article 37 - Entry into force (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that his proposal to substitute the word "tenth" for the word "second" in the first paragraph of article 37 was prompted by the consideration that two instruments of ratification or accession were not enough to require the enforcement of the Convention.

Mr. HERMENT (Belgium) proposed that the Convention should come into force after the deposit of six instruments of ratification.

Mr. PETREN (Sweden) favoured the Yugoslav amendment.

Mr. ROBINSON (Israel) said that experience showed that to make entry into force dependent upon only two ratifications in fact transformed a multilateral instrument into a bilateral one. He must once more refer to the example of the Convention on the Prevention and Punishment of the Crime of Genocide, the enforcement of which had at first been made dependent on twenty ratifications. When it had become clear that the Convention would remain unratified for a long time the drafters of multilateral treaties had panicked and, going from one extreme to the other, had reduced the required number of ratifications to two. That procedure was wrong from all points of view. It was true that the United Nations was based on the principle of the sovereign equality of States, but States could not merely be counted; their importance also must be weighed. If two small States who had no refugee problem were to sign and ratify the Convention and thus bring it into force, other States would undoubtedly become dilatory in signing or acceding to it.

The choice between the suggested alternatives of ten and six was certainly difficult, but he must emphasize that the requirement of only two instruments was unrealistic, and that its effects would be harmful.

Mr. MAKIEDO (Yugoslavia) accepted the Belgian representative's amendment.

Mr. STURM (Luxembourg) supported the proposal that the required number of instruments of ratification should be six.

Mr. PETREN (Sweden) still favoured the original Yugoslav proposal that ten ratifications should be required.

Mr. HERMENT (Belgium) said that to make the entry into force of the Convention dependent upon the deposit of too large a number of ratifications would involve the risk of bringing about considerable delay in its application.

Baron van BOETZELAER (Netherlands) said that it was necessary to distinguish between different types of conventions. In the present case, the main aim of the instrument was not to impose obligations on States, but to create a legal régime for refugees. Even if only one country ratified the Convention, something positive would have been achieved. He was consequently in favour of the original text of article 37. If it were thought necessary to add to the number of ratifications required, the increase should be as small as possible, and he would, as an alternative, not oppose the Belgian and Yugoslav point of view that the required number of ratifications should be six.

Mr. FRITZER (Austria) preferred the original stipulation, namely 2.

Mr. ROCHEFORT (France) pointed out that if two delegations, for example, those of the Holy See and Monaco, acceded to the Convention and their accession was not followed by the deposit of the ratifications of other States, the territorial application of the Convention would be very limited. In his delegation's opinion, the Israeli representative had emphasized an essential aspect of the question, namely, the necessity of weighing the comparative importance of the signatures. For his own personal use he (Mr. Rochefort) had drawn up a comparative table setting out the number of refugees residing in the various States. That table, which he placed at the disposal of members of the Conference, revealed the fact that there existed a profound difference between the formal majorities which became apparent at the time of voting, and the majorities of persons concerned, that was, the majorities of refugees. The French delegation therefore supported the Swedish delegation, which had taken up the

amendment initially submitted by Yugoslavia, namely, that ten instruments of ratification should be required to bring the Convention into force.

Mr. PETREN (Sweden) agreed with the French representative. The negotiation and application of a convention presupposed solidarity among States. Some States had a great many refugees, others had few. It would be unfair to allow obligations to be assumed only by a small number of States. The manner in which the Israeli representative had argued the case would seem to suggest that the way out of the difficulty might be through reservations, a State making its ratification dependent on other ratifications. If, however, the Conference preferred to deal with numbers, he would certainly advocate the highest suggested.

Mr. HERMENT (Belgium) pointed out that in practice refugees might remain without their charter for some time if the entry into force of the Convention were made dependent on the deposit of ten instruments of ratification. The Belgian delegation was well aware of the necessity for a large number of accessions; it must, however, draw attention to the fact that, by specifying too high a number, the entry into force of the Convention would be delayed, which, in his delegation's opinion, would mean that members of the Conference would have failed in their task.

Mr. HOARE (United Kingdom) entirely agreed with the Israeli representative's arguments, and concurred with the Netherlands representative that the present Convention was concerned mainly with refugees, and did not impose obligations as between States. It was very important that ratification should not be delayed, and he would therefore support the proposal that six instruments should lead to entry into force. The figure was reasonable, and not so high as to cause lengthy delays.

Mr. ROCHEFORT (France) pointed out that the entry into force of the Convention might be delayed by stipulating too small a number of instruments. For example, a country which had to undertake sole responsibility for a number of refugees equivalent to the number living in ten other countries would have some

difficulty in signing a convention ratified by only a few States. It had been argued that the present was not a case of a convention which would place obligations on contracting States. It should, however, be pointed out that the Convention did involve definite commitments, and that certain States would hesitate to become parties to it until a sufficient number of countries were prepared to grant refugees corresponding advantages in their territory. He quoted various figures showing the number of refugees living in the territory of certain States. There were approximately 1,000 in one country, 4,000 in another and 17,000 in a third. While he did not wish to minimize the magnitude of the ratio which those figures bore to the total population of the countries concerned, it should be fully recognized that in other States the problem was of infinitely greater significance, and that by making the entry into force of the Convention dependent on only six instruments of ratification, the Conference might deprive it of all practical value.

Mr. PETREN (Sweden) considered that the French representative's observations accurately described the position of every government, each of which would be willing to sign provided that there would be other signatures or accessions. If no reference was made in article 37 to the number of instruments of ratification required, States would undoubtedly delay, or refrain from, signing the Convention.

Baron van BOETZELAER (Netherlands) said that even if the Convention was applied by only a few countries, the London Agreement of 15 October, 1946, would still remain valid so far as travel documents were concerned.

Mr. ROCHEFORT (France) reminded the Netherlands representative that the French Government had not been able to sign the 1946 Agreements definitely.

Mr. al PACHACHI (Iraq) expressed concern at the trend of the discussion. The text of article 37 had presumably been drafted by lawyers, who had presumably known why they had provided for the deposit of two instruments of ratification or accession. The important point was that the Convention should enter into force.

Mr. ROCHEFORT (France) considered that the question of the minimum number of ratifications was more important than the Iraqi representative seemed to believe. If the Convention was ratified by only a very small number of States, it would have no practical effect. That failure would be particularly marked in view of the vast international machinery that had been set in motion to produce it; in that connexion he recalled the numerous meetings of the Economic and Social Council, of the Ad hoc Committee at its two sessions, and of the General Assembly. But, as everyone knew, out of the 80 States which had been invited to take part in the present Conference, only 24 had sent delegations. If the initial figure of 80, which represented the Secretary-General's hopes and desires, was finally reduced to 2, the goal would be a very long way short of having been attained. Moreover, by requiring a larger number of ratifications, States would be under an obligation to take prompt action. As to the argument that refugees were in dire need of a charter, he would remind the Conference that in countries like France, for example, refugees were by no means pariahs. They had the benefit of earlier Conventions, or of administrative measures introduced voluntarily by the French Government on their behalf. The problem, therefore, was not stated as accurately as it needed to be, when stress was laid on the urgent need for conferring on refugees the status provided by the Convention.

Mr. HERMENT (Belgium) shared the French representative's opinion about the position of refugees in certain countries of Europe. Nevertheless, the Convention offered the opportunity of giving them an even more favourable status, and there was no reason for not doing so forthwith. The 1933 Agreement had rendered immense services to tens of thousands of refugees, although it had been ratified by only three States.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) recalled the fact that four years had passed before eight ratifications had been deposited to the Convention of 1933. It might theoretically be the case that out of six ratifying States, four or five would not be concerned with the refugee problem on a large scale. But he himself believed that only States really

interested in and concerned with the Convention would sign and ratify it, so that if ten ratifications were required, it might take five years at least before the Convention could come into force. The proposed number of six instruments seemed to him to be safe, since there undoubtedly existed six States for which the refugee problem was a very real one. Refugees would benefit by a speedy entry into force of the Convention.

Mr. HOEG (Denmark) drew attention to the fact that the Convention of 1933 had come into force after the accession of two States, Members of the League of Nations. There had been no signatures, but the Convention had become effective after the accession of Bulgaria followed by Norway.

The Danish delegation was accordingly not opposed to the text of article 37 as drafted.

Mr. ROCHEFORT (France), replying to the High Commissioner for Refugees, said that the previous Convention had not made provision for any body such as the High Commissioner's Office. The idea of the Office had originated with the General Assembly, which had envisaged it as the means of making the Convention a dynamic and living reality. That it would not fail to do. Moreover, was it not pessimistic to envisage a period of five years, particularly when one remembered the "universalist" views which had prevailed at the present Conference? The High Commissioner had, furthermore, an additional means of prompting States to adhere to the Convention, namely, by pointing out that their hesitation was paralysing its implementation.

Replying to a question by Mr. HEMENT (Belgium), who pointed out that it would be a matter of considerable difficulty to obtain six ratifications in a relatively short time, he said that that argument was, in his opinion, invalid, since the problem had been treated - as the Belgian delegation itself had desired - on the universal scale; in theory, there were 80 States which the Convention was likely to concern, and in practice there were at least ten States, represented at the Conference, which were quite prepared to sign and ratify it as soon as possible.

Mr. HERMENT (Belgium) thought that, in that respect, the precedent of the 1938 Convention, which had aimed at the protection of persons suffering persecution at that time, did not justify any very solid hopes. It had secured no more than three ratifications.

Mr. von TRUTZSCHLER (Federal Republic of Germany) considered that the present argument was purely theoretical. It would appear from the discussion that certain States might not wish to bind themselves before others had done so. He failed to see why that reluctance should prevent those who were willing to take the risk from signing and ratifying the Convention.

Baron van BOETZELAER (Netherlands) pointed out that the Geneva Conventions for the Protection of Victims of War of 1949, which imposed far heavier obligations on the States signatories than the present Convention, were to come into force after the deposit of two instruments of ratification.

Mr. ROCHEFORT (France) drew the attention of the Conference to the fact that the High Commissioner for Refugees envisaged the establishment of an Advisory Council for Refugees, to be composed of countries which had ratified the Convention. There was a danger that the effectiveness of the Council would be impaired if a minimum of only six ratifications was prescribed. That was a fresh argument, which might induce States to overcome their hesitation and ratify the Convention without undue delay.

The PRESIDENT, speaking as representative of Denmark, said that he had been given full powers to sign the Convention, it being assumed by his Government that it would come into force on the deposit of two instruments. Certain Governments were eager to give force to the provisions of the Convention; the way should not be made too difficult for them.

Mr. PETREN (Sweden), in reply to the representative of the Federal Republic of Germany, said that it was certainly in the general interest to have a charter for refugees, but that charter must be applied by a number of States. If several small States ratified the Convention, an important State with a big

refugee problem would be bound to the initial signatories. It would be easier for an important State to sign knowing that other States in a similar position would do so too. It was essential that there should be a certain generalization of obligations. If only one State assumed them, it would be placed in a difficult position, since all refugees would flock to that country.

Mr. HERMENT (BELGIUM) observed that the Convention did not only constitute a binding agreement between States. It would be truer to say that it was an undertaking of obligations by States towards refugees. The only obligation which it laid on States vis-à-vis one another was that of recognizing travel documents issued in accordance with the Convention, which would be no greater than the obligations imposed by existing agreements.

Mr. ROCHEFORT (France) asked what was the point of article 33, which provided for the settlement of disputes between Contracting States, if it was considered that the Convention did not refer to mutual obligations undertaken by States.

The PRESIDENT ruled the discussion closed.

The Swedish proposal to substitute the word "tenth" for the word "second" in the second line of the first paragraph of article 37 was rejected by 12 votes to 6, with 5 abstentions.

The amended Yugoslav proposal to substitute the word "sixth" for the word "second" in both paragraphs of article 37 was adopted by 17 votes to 3, with 3 abstentions.

Mr. ROCHEFORT (France), explaining his vote, said that he had voted in favour of six ratifications in order that the number decided upon should not be two. That should not be taken to mean that the French Government agreed to the figure six, which it considered unrealistic.

Article 37, as a whole and as amended, was adopted by 21 votes to none, with 1 abstention.

Mr. ROCHEFORT (France) pointed out that the French delegation had not taken part in the vote on article 37 as a whole. He would like that fact to be noted in the summary record of the meeting.

(v) Article 38 - Denunciation (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that, as his delegation's amendment to article 35 had been rejected, he would withdraw his amendment to article 38 (A/CONF.2/31, page 4). He would, however, request that a separate vote be taken on each of the paragraphs of that article.

The PRESIDENT put article 38 to the vote paragraph by paragraph.

Paragraph 1 was adopted unanimously.

Paragraph 2 was adopted unanimously.

Paragraph 3 was adopted by 21 votes to 1, with 1 abstention.

Article 38, as a whole, was adopted by 22 votes to none, with 1 abstention.

(vi) Article 39 - Revision (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) said that similar considerations applied to article 39 as to article 34 (signature, ratification and accession). The Yugoslav Government's view was that the revision of the Convention was a matter for the highest and most broadly representative body of the United Nations; hence the amendment proposed by his delegation (A/CONF.2/31, page 3).

Replying to Mr. HOARE (United Kingdom), Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that in previous instruments of a similar nature the custom had been for revision to be left to the General Assembly. That would not, however, prevent the Conference from entrusting the task to the Economic and Social Council if, on account of political considerations or for reasons of expediency, it wished to do so.

Mr. ROBINSON (Israel) supported the Yugoslav amendment. He considered that, the mention of the Economic and Social Council having been replaced by that of the General Assembly in article 34, it would be logical for the Conference to do likewise in article 39.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) thought the Conference might also wish to consider the desirability of leaving the initiative in the matter of revision to Signatory States rather than to Contracting States. There was something to be said for both courses. It might be argued that revision was such a serious matter that only Contracting States should have the power to request it; on the other hand, it might be maintained that a Signatory State should be empowered to request revision in the hope that the revision would enable it to ratify the Convention.

Mr. ROBINSON (Israel) submitted that if Signatory States that had not ratified the Convention were enabled to request its revision, such an arrangement might put a premium on non-ratification, and might induce such States to abuse their right to request revision. Revision of such a Convention was a serious matter, and he could not but think that those who had been responsible for drafting article 39 had purposely confined the privilege of requesting revision to Contracting States.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) said that he personally would prefer that the text should remain as it was.

Mr. HOARE (United Kingdom) agreed with the Israeli representative that revision of a convention was a serious matter. No State would propose revision in the General Assembly unless it was sure of a considerable body of support, and he believed that if a Signatory State had a valid revision to propose, it would find among the Contracting States one which would put forward its proposals for it.

The PRESIDENT put to the vote the first paragraph of article 39.

The first paragraph of article 39 was adopted unanimously.

The PRESIDENT put to the vote the Yugoslav proposal (A/CONF.31, page 3) that the words "The Economic and Social Council" in the second paragraph of article 39 should be replaced by the words "The General Assembly".

The Yugoslav amendment was adopted by 19 votes to none, with 4 abstentions.

The PRESIDENT put to the vote the second paragraph of article 39, as amended.

The second paragraph of article 39, as amended, was adopted by 22 votes to none, with 1 abstention.

The PRESIDENT put to the vote article 39, as amended.

Article 39, as amended, was adopted unanimously.

(vii) Article 40 - Notifications by the Secretary-General.

The PRESIDENT recalled that the Conference had already taken a decision on the paragraph beginning "In faith whereof", and that it had also left the Style Committee to make certain alterations to the text of sub-paragraph (c) of the first paragraph.

Mr. KERNO (Assistant Secretary-General in charge of the Department of Legal Affairs) recalled the Belgian representative's remark with regard to the insertion in article 40 of a reference to the notifications which the Secretary-General would have to make under article 35 (colonial clause).

The PRESIDENT believed that that was a matter which could also be left to the Style Committee. He put the first paragraph of article 40 to the vote.

The first paragraph was adopted unanimously.

The PRESIDENT put article 40 as a whole to the vote.

Article 40, as a whole, was adopted unanimously.

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

The PRESIDENT called attention to the Swedish and United Kingdom amendments to article 5 (A/CONF.2/37 and A/CONF.2/83 respectively).

Mr. PETREN (Sweden), introducing his amendment to article 5 (A/CONF.2/37), recalled that the Conference had already adopted an article 5 (A) (the previous paragraph 2 of article 5 of the draft Convention). Article 5 (A) stipulated that, in time of war or other grave and exceptional circumstances, Contracting States could provisionally take measures essential to their national security in the case of any person, pending a determination that the particular person was a refugee and that such measures were still necess ry in his case in the interests of national security. If article 5, which provided that exceptional measures taken against the nationals of a given State should not apply to a refugee who was a national of that State solely on account of such nationality, was compared with article 5 (A), the wording of which he had just quoted, it seemed as if in the last resort Contracting States would have to decide whether or not such exceptional measures were still required in the interests of their national security. That was an essential aspect of the problem, and the Swedish delegation therfore felt that the matter should be mentioned at the beginning of article 5, if its interpretation of the text was correct.

However, the Swedish delegation felt some doubts whether that way of settling the problem would be the best. One could easily imagine cases in which it would appear fully justified to maintain the confiscation of the property of a refugee even if that property, in his hands, did not constitute a menace to national security. A person might for instance have fled from Nazi Germany at a very late stage of the second world war after having been a militant Nazi up till then.

Should States decide to take certain measures against the nationals of another State, it would have to be left to their administrations to decide whether refugees from the country in question could be exempted from them. Under Swedish legislation, for example, the decision in such matters would rest with the Government. Consequently, the Swedish delegation wished to add a further idea to the general principle stated in article 5, that such measures should not apply to a refugee solely on account of his nationality. That further idea was designed to meet the case of legislative systems similar to that of Sweden; it provided that the States concerned would be empowered to determine whether a refugee was subject to such measures or whether he could be exempted from them. That was the meaning of the Swedish amendment. It might be argued that the word "appropriate" was rather vague. The Swedish delegation had admittedly experienced some difficulty in finding a form of words which accurately expressed the ideas it had in mind, but it ventured to point out that the existing text of article 5 was equally vague.

Mr. HOARE (United Kingdom) believed that the Swedish amendment covered more or less the same point as the United Kingdom amendment (A/CONF.2/83). He appreciated the Swedish position, and agreed that the new article 5 (A) would not solve the problem since the measures to which it referred must be determined solely by considerations of national security. Peace treaties had been signed between the Allied Powers and Bulgaria, Hungary and Roumania; they required the Allied Powers to place a charge on the property of nationals of those States, though they also made provision whereby a refugee from one of the latter countries who had become a refugee in time of war, could secure the return of property that had been sequestrated by the State of asylum. The effect of article 5 would be to oblige the United Kingdom, for example, to return such property also in the case of persons who had become refugees as a result of events occurring before 1 January 1951, and who had property in the United Kingdom which had been sequestrated. Such persons might have been sympathisers with the wartime enemy regime, and might have been compelled to flee their country because of a change

regime that had supervened since the war. It was for such cases that his delegation felt that the Convention should allow an exception to be made, while always guaranteeing to genuine refugees no less favourable treatment than that provided by the peace treaties.

The matter was one which concerned a number of States, and for that reason the United Kingdom delegation had made the point in the form of an amendment, although it recognized that it could also be dealt with by way of a reservation. The purpose of the second sentence of the amendment was similar, namely, to give the State more latitude in respect of property belonging to German and Japanese nationals. The United Kingdom amendment might meet the needs of the Swedish delegation, although he recognized the possibility that it was not drafted in sufficiently wide terms to cover the Swedish position. So far as his own delegation was concerned, the point had to be covered either by amendment or by reservation.

Mr. ROBINSON (Israel) observed that the United Kingdom amendment was of a highly technical nature, and requested the Secretary to make available to the Conference at its next meeting a copy of each of the three peace treaties to which the United Kingdom representative had referred. At the same time, he believed that the purpose of the United Kingdom delegation would be better served if the United Kingdom and any other government in the same position were to make a more detailed and precise reservation on the point, which he considered it would scarcely be appropriate to deal with in an article in the Convention.

Mr. HOARE (United Kingdom) said that if that were the general consensus of opinion, he would not press his amendment, on the understanding, of course, that the United Kingdom would enter a reservation on the same lines.

Mr. PETREN (Sweden) observed that the ideas underlying his amendment were similar to those just expressed by the United Kingdom representative. The addition suggested by the Swedish delegation was extremely simple, and its sole aim was to meet a further eventuality which might arise under the legislation of certain countries.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) pointed to a substantial discrepancy between the French and English texts of the Swedish amendment. According to the French text, it would appear that the State should be the judge as to whether or not appropriate exemptions should be made, whereas according to the English text it seemed that appropriate exemptions would have to be made whether or not the State considered that they should be. He would also urge the Swedish representative to consider covering his point by a reservation rather than by amending article 5.

Mr. PETREN (Sweden) said that the authentic version of his amendment was the French one.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) enquired whether the intention was that there should be two courses open to the State, the first to apply the measures in question, and the second to grant exemptions from them. Exemptions would have to be made in any case, and, if it were left to the State to decide the point, that would be tantamount to an extension of the freedom already allowed to the State in the earlier part of the article.

Mr. HERMENT (Belgium) assumed from the Swedish amendment that Contracting States would be entirely free either to exempt refugees from certain measures taken against aliens from the same country, or to exempt them entirely from such measures.

Mr. PETREN (Sweden) said that that was exactly what was implied by his amendment. The matter would be settled by the State concerned.

Mr. HERMENT (Belgium) observed that in that case the Swedish amendment would considerably reduce the rights accorded to refugees by the Convention.

Mr. PETREN (Sweden) remarked that the present text of article 5 was just as limitative as his own amendment, since States would be at liberty to advance a variety of reasons, other than that of nationality, why refugees should be

subjected to the measures in question. His amendment, on the other hand, allowed for exemptions to be granted by the States concerned. He emphasized, once again, that it was a matter of general interest which seemed to satisfy completely the desiderata of certain delegations whose legislation on the subject contained provisions similar to those in force in Sweden. His delegation would therefore prefer to see its amendment inserted in the Convention than to be obliged to enter a formal reservation on article 5.

After some further discussion, Mr. PETREN (Sweden) suggested that the Swedish and United Kingdom delegations should consult together with a view to drafting a revised text of the Swedish amendment for submission to the Conference at the next meeting.

It was so agreed.

The meeting rose at 6 p.m.