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CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF
REFUGEES AND STATELESS PERSONS

* SUMMARY RECORD OF THE TWENTY-NINTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 19 July 1951, at 3 p.m.

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Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRUTZSCHLER
France	Mr. ROCHEFORT
Greece	Mr. PAFAYANNIS
The Holy See	Monsignor COMTE
Iraq	Mr. AL PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Monaco	Mr. SALAMITO
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 Mr. BOLOVIC
<u>High Commissioner for Refugees</u>	Mr. van HEUVEN GOEDHART

Representatives of specialized agencies and of other intergovernmental organizations:

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

Consultative Council of Jewish
Organizations

Mr. MEYROWITZ

Co-ordinating Board of Jewish
Organizations

Mr. WARBURG

International Council of Women

Dr. GIROD

International Federation of
Friends of Young Women

Mrs. FIECHTER

International Union of Catholic
Women's Leagues

Miss de ROMER

World Jewish Congress

Mr. RIEGNER

World Young Women's Christian
Associations

Miss ARNOLD

Secretariat:

Mr. Humphrey

Executive Secretary

Miss Kitchen

Deputy Executive Secretary

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

Article 1 - Definition of the term "refugee" (A/CONF.2/9, A/CONF.2/13,
A/CONF.2/74, A/CONF.2/81, A/CONF.2/82, A/CONF.2/82/Rev.1,
A/CONF.2/92) (continued)

The PRESIDENT requested the Conference to continue its consideration of article 1, on the definition of the term "refugee".

Mr. ROCHEFORT (France) announced that the Israeli and French delegations had examined the text of the Israeli amendment to sub-paragraph B(5) (A/CONF.2/81) adopted at the preceding meeting by 7 votes to 3, with 14 abstentions. They had agreed that there was a difference in meaning between the English and French texts, the words "compelling reasons" being used in the English text, and the words "raisons déterminantes [decisive reasons]" in the French text. The Israeli representative had accordingly agreed to amend his text by deleting the words "compelling [déterminantes] family reasons or" from the last sentence, and inserting the word "compelling [impérieuses]" before the words "reasons arising out of previous persecutions".

The PRESIDENT put the Israeli amendment to the vote again, further modified in the sense explained by the French representative.

The Israeli amendment to sub-paragraph (5) of paragraph B, as thus revised, was adopted by 17 votes to none, with 5 abstentions.

The PRESIDENT requested the Conference to take up the Israeli amendment (A/CONF.2/82 and A/CONF.2/82/Rev.1) to sub-paragraph (6) of paragraph B.

Mr. ROBINSON (Israel) pointed out that the Israeli amendment to sub-paragraph B(6) would require to be revised in the same way as that to sub-paragraph B(5) just adopted.

The PRESIDENT drew attention to the fact that the word "unable" in the third line of the amendment (A/CONF.2/82/Rev.1) should read "able".

He then put the Israeli amendment to the vote, as modified.

The Israeli amendment to sub-paragraph (6) of paragraph B of article 1 was adopted, as modified, by 17 votes to none, with 4 abstentions.

The PRESIDENT put to the vote paragraph B of article 1 as amended.

Paragraph B of article 1, as amended, was adopted unanimously.

Mr. PETRÉN (Sweden) assumed that the adoption of paragraph B automatically entailed the adoption of the Swedish amendment to sub-paragraph (2) of paragraph A (A/CONF.2/9).

The PRESIDENT was under the impression that the Swedish representative had withdrawn his amendment.

Mr. PETRÉN (Sweden) believed that there must have been some misunderstanding. He had not withdrawn his amendment; in fact, the Israeli amendments to sub-paragraphs (5) and (6) of paragraph B had been regarded as sub-amendments to the Swedish amendment (A/CONF.2/9), which proposed the deletion from sub-paragraph (2) of paragraph A of the words "or for reasons other than personal convenience". Perhaps he had failed to make himself absolutely clear when the matter had last been under discussion.

Mr. ROBINSON (Israel) said that his understanding of the position tallied with that of the Swedish representative.

The PRESIDENT said that if there was no objection, he would put the Swedish amendment to the vote.

The Swedish amendment (A/CONF.2/9) to sub-paragraph (2) of paragraph A of article 1 was adopted unanimously.

The PRESIDENT invited the Conference to resume its discussion on paragraph C of article 1, to which an amendment (A/CONF.2/13) had been submitted by the Egyptian delegation.

MOSTAFA Bey (Egypt) appreciated the courtesy that the Chair had shown him by deferring the discussion on paragraph C until his return. He recalled his previous statements on the subject, and felt that it was necessary for him to emphasize only one or two major considerations. In the view of the Egyptian delegation, the Convention should represent a definite step forward in the protection of refugees, and should therefore apply to all categories of refugee. That idea lay at the heart of the amendment submitted by his delegation, which felt strongly that any other solution of the refugee problem would be so much wasted effort. Any limitation of the Convention in time or in space could only weaken it, by denying protection to a large number of refugees. The Conference was expected, according to its terms of reference, to provide for all categories of refugees, and it was on that understanding alone that the Egyptian Government was represented there. The object of the Egyptian amendment was to make sure that Arab refugees from Palestine who were still refugees when the organs or agencies of the United Nations at present providing them with protection or assistance ceased to function, would automatically come within the scope of the Convention. He believed that the adoption of the Egyptian amendment would help many States which would otherwise be reluctant to do so to adhere to the Convention.

Mr. ROCHEFORT (France) drew attention to the fact that the adoption of the Egyptian amendment could not be allowed to conflict with the specification by each of the Contracting States for which article 1 now provided as a result of the adoption by the Conference of the amendment (A/CONF.2/80) introduced by the representative of the Holy See.

Mr. HOARE (United Kingdom) agreed with the French representative. If the Egyptian amendment was adopted, it would be subject in its operation to the decision taken by the Conference on sub-paragraph (2) of paragraph A, and would take effect only for those States which had adopted the wider geographical alternative in the definition of the term "refugee". He would vote for the Egyptian amendment, because it seemed desirable to meet the wishes of those who had been responsible for inserting the clause in question, now that they were seeking to broaden its scope.

Mr. ROCHEFORT (France) wished to explain why he had thought it necessary to press the point, and why he had expressed the hope that article 1 would make provision for a specification of the kind which it now permitted. At Lake Success, the French delegation had had conversations with the delegation of an Arab State; that delegation had on that occasion expressed its wish to subscribe to a convention designed to apply to European refugees living in its territory if such a Convention were concluded, but had emphasized that it would find it difficult to undertake similar commitments in respect of the Arab refugees it had taken in. The point of view, the acceptance of which the French delegation had tried to secure in that connexion, had often not been grasped. The considerations he had submitted in respect of certain Latin American countries, and which had recently been confirmed by the Columbian representative himself, also held good for certain Arab countries. In practice, the Convention would not merely be devoid of any advantages for the countries which signed it - it would actually entail certain expenditure for them. The Arab countries which were at present bearing the enormous cost of the assistance they were providing for Arab refugees from Palestine earnestly wished to cope with the demands made by that problem. However, it appeared that the scope of the Convention would not be wide enough to cover that case, and the French delegation would therefore have liked to see the problem most carefully gone into with the United Nations agencies responsible for providing assistance to the Arab refugees from Palestine. Within those agencies, political responsibilities were more clearly defined than they were at the present Conference. The French delegation would also have been gratified had the Arab delegations been able to see their way to taking into account the difficulties to which it had drawn attention, and which might discourage, rather than encourage, certain Arab countries to accede to the Convention. The Egyptian representative was, perhaps, expressing an agreed point of view common to all the Arab countries with Palestine refugees in their territory. But it might well be that his proposal would later cease to correspond to future developments in the matter. A text that was too rigid might cause difficulties that a flexible text would make it possible to avoid. Although it might be right for the Statute of the

Office of the High Commissioner for Refugees to cover other refugees, it would be inappropriate to include them in the scope of the present Convention. At the proper time, the High Commissioner could easily arrange for a protocol to be added to the convention or, if necessary, for the conclusion of a separate convention, which would then be perfectly suited to the requirements of the situation of the Arab refugees from Palestine.

Under existing conditions, it might well happen that the Arab refugees would eventually come under the provisions of the present Convention, but that those provisions would not then answer to the requirements of their situation.

Mr. AL PACHAGHI (Iraq) wholeheartedly supported the Egyptian amendment and the remarks of the Egyptian representative, and confirmed that the amendment represented an agreed proposal on the part of all the Arab States. He was also grateful to the United Kingdom representative for supporting the amendment. He could not see that the apprehensions of the French representative were justified, in view of the amendments to sub-paragraph (2) of paragraph A of article 1 and to article 30 (Co-operation of the national authorities with the United Nations) already adopted by the Conference, the second of them at the instance of the French delegation itself. It was obvious that, if the Egyptian amendment was rejected, the refugees it was designed to protect might eventually find themselves deprived of any status whatsoever.

Mr. ROCHEFORT (France) pointed out that the intentions of the Arab delegations would equally well be realized if the Arab countries assumed commitments now in respect of the categories of refugees they desired to help at present (by making appropriate statements as provided for in article 1), and later in respect of Palestine refugees.

MOSTAFA Bey (Egypt) had two comments to make in reply to the French representative's observation. In the first place, he must recall that he had informed the Conference that after the first world war Egypt had taken in some thirty thousand refugees, who had now been integrated into the life of the country, most of them having already become naturalized. He submitted therefore

that, in the light of its geographical position, Egypt had made a substantial contribution to the solution of the general refugee problem. In the second place, he maintained that if the problem of the Arab refugees was not solved through the efforts of international organizations, other means of dealing with it would have to be devised.

The PRESIDENT ruled the discussion closed, and put the Egyptian amendment (A/CONF.2/13) to paragraph C of article 1 to the vote.

The Egyptian amendment (A/CONF.2/13) was adopted by 14 votes to 2, with 5 abstentions.

The PRESIDENT put to the vote paragraph C of article 1, as amended.

Paragraph C of article 1, as amended, was adopted by 18 votes to none, with 5 abstentions.

The PRESIDENT drew attention to the Report of the Working Group appointed to study paragraph E of article 1 (A/CONF.2/92), and, in particular, to paragraphs 3 and 4 thereof.

Mr. ROCHEFORT (France) pointed out that the French delegation had not taken part in the work of the Working Group, and asked that that fact be mentioned in its report.

The PRESIDENT intimated that the French representative's declaration would be reported in the summary record of the meeting.

Mr. CHANCE (Canada) proposed that the Conference adopt the United Kingdom proposal in paragraph 3 of the report of the Working Group, namely, that the phrase

"(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes."

should be substituted for the phrase

"(a) he has committed a crime specified in Article 6 of the London Charter of the International Military Tribunal."

in the original text of paragraph E.

The United Kingdom proposal was adopted by 20 votes to 1, with 2 abstentions.

Mr. ROBINSON (Israel) explained that the Israeli delegation had been unable to vote for the United Kingdom text. While removing some of the legal objections formulated by the Israeli Government against the amendment submitted by the Federal Republic of Germany (A/CONF.2/76), the new text was less remarkable for what it revealed than for what it concealed. It omitted all reference to the London Charter, the legal basis for numerous sentences passed by competent tribunals. The Israeli delegation felt that such an omission might have far-reaching political and moral implications; those potential implications were responsible for its attitude.

Under Hitler, Germany had waged two wars, one for world hegemony, the other for the destruction of the Jewish people, in other words, for the death of every Jewish man, woman and child in the world. Germany's bid for world domination had failed, but the war against the Jewish people had all but succeeded; six million victims, two-thirds of European Jewry, which for a thousand years had been the reservoir of Jewish genius, had been killed.

With the end of the Grand Coalition and the partition of the world into two opposing blocs, one part of Germany had been gradually drawn into one camp, and the other into the opposite camp. That might in part account for the rapidity with which the process of "forgive and forget" was taking place in Germany. The decision just taken by the Conference represented the last step in that process.

But what of the second world war? Six years ago, Hans Frank, the former Governor-General of Poland, and one of the major war criminals, when on trial before the International Military Tribunal, had exclaimed: "Thousands of years will pass and the world will not forget the crime committed by the Germans against the Jewish people." The world appeared already to have forgotten, and, so it seemed, had Germany. The Germans had made no amends whatsoever to the Jewish people. While, therefore, the two blocs might consider that the Germans had individually atoned for their guilt, the Jewish people and the State of Israel could not share that view.

He requested that his statement should be reproduced verbatim in the summary record of the meeting.

The PRESIDENT asked the Conference to take up clause (b) in paragraph E, and the two United Kingdom alternative amendments thereto in document A/CONF.2/74.

Mr. HOARE (United Kingdom) would have no objection to a discussion on his delegation's amendments. However, the matter had been referred to the Working Group as a result of the Israeli suggestion that, instead of bringing the second clause of paragraph E into line with the first, the reverse procedure should be followed; there was also the important question of extradition which called for further consideration. It might therefore be preferable to refer the whole question to a working group in order to avoid fruitless debate in plenary meeting.

The PRESIDENT observed that the French delegation had been unable to attend the meetings of the Working Group, and that the Working Group had achieved no results on clause (b). In the circumstances, he would be reluctant to pass the question back to a working group without giving that group more substantive guidance.

Mr. HOARE (United Kingdom) felt that in that case he must again explain the United Kingdom delegation's reasons for submitting the alternative amendments in document A/CONF.2/74. Clause (b) of paragraph E referred to the provisions of Article 14(2) of the Universal Declaration of Human Rights. That Declaration dealt only with principles and ideals, and as such was not an instrument to which reference could satisfactorily be made in a legal text. Article 14(2) laid down that the right of asylum could not be invoked in cases involving prosecutions genuinely arising out of non-political crimes. A reference to that paragraph, therefore, would mean that if there were serious reasons for considering that a person fell within that category, that person would not be covered by the Convention. But what was meant by considering that a person fell within a category of prosecutions? A person who was prosecuted and convicted would

certainly seem to fall within that category. As it stood, therefore, clause (b) would include refugees who had committed a crime, no matter how trivial, in the country of refuge, provided it was not a political crime, and would thus automatically exclude them from the benefits of the Convention. It must be obvious to all that such a proposition was untenable.

Paragraph 2 of Article 14 of the Universal Declaration of Human Rights went on to say that the right of asylum could not be invoked in the case of prosecutions genuinely arising from acts contrary to the purposes and principles of the United Nations. Thus, the text of clause (b) of paragraph E would automatically exclude from the benefits of the Convention refugees who had been prosecuted for such acts. He had doubts as to the exact meaning of the words "acts contrary to the purposes and principles of the United Nations", and felt that the adoption of such a text might make it possible for governments to exclude refugees who should not be so treated. Moreover, the adoption of the amendment to clause (a) of paragraph E was another reason for considering that clause (b) could be deleted, since the terms adopted for clause (a) were sufficiently wide for all practical purposes. He would therefore keep both the alternative amendments in A/CONF.2/74 before the Commission; both of them would exclude the common criminal from the application of paragraph E.

Baron van BOETZELAER (Netherlands) supported the United Kingdom representative's arguments. Reference to the Universal Declaration of Human Rights was inappropriate, and had given rise to some misunderstanding in the earlier discussions on the point. It had been rightly argued that it would be illogical to exclude common criminals from the benefits of the Convention. Paragraph 2 of Article 14 of the Universal Declaration of Human Rights excluded common criminals only in so far as the right of asylum was concerned. In his view, that notion should be retained in the Convention. Common criminals should not enjoy the right of asylum; but that consideration had already been taken care of in article 28 of the draft Convention, as amended (Prohibition of expulsion etc.). In the circumstances, the Netherlands delegation would support the United Kingdom alternative amendments to clause (b) of paragraph E.

Mr. ROCHEFORT (France) agreed that Article 14 of the Universal Declaration of Human Rights related only to the right of asylum. But the right of asylum was infinitely more important than the granting of the status of refugee, since it was the conditio sine qua non of the possession of that status. How, indeed, would it be possible to accord the status of refugee to a person to whom the right of asylum had been refused, and who was accordingly unable to enter any receiving country? Faced with a text which did not grant the right of asylum on the one hand and envisaged the possibility of expulsion on the other (such were, in effect, the provisions of article 28), the French delegation wondered what advantage that proposal could confer on refugees. There was a certain category of persons to whom the French Government, for its part, would be prepared to grant asylum on purely humanitarian grounds. Nevertheless, the French Government would be unable to accord refugee status to such persons, and it could not be constrained to do more in that direction. The United Kingdom proposal postulated a policy far more Draconian than the one that the present text of the Convention would entail.

That proposal would leave only one course open to the French Government: to refuse asylum to the person involved, or, if he was already in French territory, to expel him. In the opinion of the French delegation, paragraph E constituted a vital provision, which, happily, would affect only a small number of refugees. True, the provision might have certain drawbacks which it was unfortunately not possible to remedy, since, in the present state of affairs, there was no international court of justice competent to try war criminals or violations of common law already dealt with by national legislation. Countries had certain sovereign rights, such as that of acceding to the extradition of certain persons, which went much farther than the refusal to grant a person refugee status. At Lake Success, the Belgian delegation had expressed misgivings, which the French delegation was now echoing, about the possible deletion of those provisions. It would be a very serious matter if the receiving country was not to be permitted to carry out screening operations to weed out persons who had made an unauthorized entry into French territory, for example, - persons to whom the French Government might consider granting asylum without conferring the status of refugee on them.

Mr. HERMENT (Belgium) to some extent shared the view expressed by the French representative. There were certainly objections to granting the status of refugee to a person who was not worthy of it. In any event, article 28 provided a possible solution to that problem. None the less, the Belgian delegation did not consider that the status of refugee could be denied to a person simply because he had been convicted of a common law offense in his country of origin. In any case, the countries of origin concerned, and their methods of dispensing justice, were well enough known. For those reasons, the Belgian delegation supported the United Kingdom proposal that clause (b) be deleted, although on condition that a reservation relating to extradition was added to article 28: there were cases in which it was impossible, on purely legal grounds, to refuse extradition.

Baron van BOETZELAER (Netherlands) said that the French representative had failed to convince him of the necessity for denying the benefits of the Convention to a refugee who had committed a minor crime. That the Convention should not apply to those who had committed serious crimes was reasonable enough, but that eventuality was taken care of in article 28. He would also support the Belgian suggestion that a reservation on the subject of extradition be added to article 28.

Mr. HOARE (United Kingdom) appreciated the Belgian representative's support for the principle of the United Kingdom amendment. As he (Mr. Hoare) saw it, the real difficulty was somewhat as follows.

Article 14 of the Universal Declaration of Human Rights was concerned with the right of asylum, and its second paragraph constituted a proviso to the general provision of the first paragraph. That second paragraph seemed to him to be intended to apply to persons who were fugitives from prosecution in another country for non-political crimes, and the effect would seem to be that the provisions of article 14 would not override specific extradition obligations. He could not imagine that those who had drafted it had intended that Article 14(2) should apply to a person who, having been granted asylum, subsequently committed a crime in the country of refuge. Article 14 was not concerned with common

criminals who were in the territory of the receiving country concerned. The difficulty that had arisen in the conference over clause (b) appeared to be due to the looseness of the language used in Article 14, and to the fact that it had been introduced into the definition in the draft Convention of the term "refugee", and understood as applying to common criminals in the country of refuge. That was the category of refugee that the United Kingdom delegation wished to see excluded from the effect of paragraph E, so as not to deprive them of the benefit of the Convention. If his delegation's understanding was correct, there remained the question of the person who was sought, by a Contracting State or by a State of persecution, on legitimate prima facie grounds, for trial for a non-political crime. He did not oppose the solution to that problem proposed by the Belgian representative. Nevertheless, the Convention mentioned neither the right of asylum nor the principle of extradition. In that connexion, the action of States was governed by treaties relating specifically to extradition, and it would therefore be for States to take appropriate action in any given case in the light of their obligations under such treaties. Article 28 spoke only of the expulsion or return of a refugee, and he would prefer that no mention of extradition be made anywhere in the Convention, for, as he had said, that was a matter that should be left to be dealt with under existing extradition arrangements between the various countries.

Mr. ROCHEFORT (France) said that, if it had been the aim of the discussion to place as many difficulties as possible in the way of certain Governments acceding to the Convention, he would be the first to express his appreciation of the manner, courteous, it was true, in which it was being conducted. However, that was certainly not its aim.

Mr. HOARE (United Kingdom), speaking to a point of order, strongly denied that the United Kingdom delegation had, either now or at any time during the Conference, taken a position which would make it difficult for States to accede to the Convention. On the contrary, he had done his best on more than one occasion to meet the views of other representatives, so as to promote maximum adherence to the Convention.

Baron van BOETZELAER (Netherlands) said that he had wished to make a statement similar to that just made by the United Kingdom representative.

Mr. HERMENT (Belgium) supported the protest made by the United Kingdom representative. He had often voted against his own convictions, and almost against his instructions from the Belgian Government, in order to make the Convention acceptable to as large a number of Governments as possible.

Mr. ROCHEFORT (France) stressed that he himself had only one aim: to make the text of the Convention acceptable. He failed to understand how the French position could be strongly opposed when it had been accepted by the Economic and Social Council and by the General Assembly. During the discussions in a conciliation party, in which the United Kingdom representative had taken part, the latter had agreed with the French position. He had gone back on that agreement in the Third Committee, but that body had none the less retained the compromise formula drafted by the conciliation party. The French delegation could not see why its statements should be taken so tragically. What would be truly tragic, would be if it was made impossible for the French Government, which was responsible for some hundreds of thousands of refugees, to sign the Convention. It was precisely in the interests of those refugees that the French delegation had put forth all its efforts.

Mr. BOZOVIC^V (Yugoslavia) recalled that he had already stated at an earlier meeting that the United Kingdom amendment was unacceptable to the Yugoslav delegation. Indeed, if it was adopted, he would be obliged to reserve the Yugoslav Government's position, and there would be a good chance that the latter would be unable to sign the Convention. The reason for his attitude was that the purpose of the amendment was to authorize the grant of refugee status to persons who had committed a crime in common law.

Mr. PETREN (Sweden) said that, starting from Article 14 of the Universal Declaration of Human Rights, he reached the same conclusions as the United Kingdom representative. That article was clearly related to the issue of

extradition and, although the Swedish delegation considered that it was of the greatest importance that the French Government should be in a position to sign the Convention, it could not but concede the validity of the United Kingdom representative's arguments.

Mr. BOŽOVIĆ (Yugoslavia) said that the point at issue was whether criminals should be granted refugee status, not the problem of extradition.

Mr. SCHURCH (Switzerland) wondered whether it would not be preferable, instead of referring in paragraph E to article 14 of the Universal Declaration of Human Rights, to refer simply to serious crimes as a reason for exclusion of a refugee from the benefits of the Convention. Inclusion of a formula referring to the purposes and principles of the United Nations did not appear to be necessary, since paragraph A of article 1 covered the same ground.

Mr. BOŽOVIĆ (Yugoslavia) proposed that paragraph E should be amended as follows: the words "in common law" to be inserted after the word "crime" in the third line, and a third sub-paragraph, "(c)", comprising the second United Kingdom amendment in document A/CONF.2/74, to be added at the end.

Mr. ROCHEFORT (France) supported the Yugoslav amendment. States which, like France, placed the most liberal interpretation on the right of asylum, needed a provision of that sort to enable them to screen the refugees entering their territories; otherwise the right of asylum itself might be jeopardized. Such a provision, of course, might not seem important to countries which considered that the Convention was not intended to govern problems of admission. France, for its part, was not of that opinion, and no one could deny it the right to regard the Convention as applicable to such problems too.

It was precisely that situation that made it necessary for his country to protect itself by taking certain precautions. If, for example, in the near future, France found itself called upon to cope with an influx of refugees, victims of a counter-revolution in a totalitarian State, it would have to be free to decide once and for all, according to the circumstances of the case and

in the light of such considerations as it deemed appropriate, whether it would accord those persons the right of asylum and the status of refugees, or whether it would simply allow them to remain in French territory without according them that status.

France had a vital need of such a provision.

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

Mr. PETREN (Sweden) said that two cases were involved: that of persons who, at the time of their entry into the receiving country, had already been guilty of a crime; and that of persons who committed a crime after such entry. He would like to know whether the anxiety felt by the French representative related to the first or to the second of those categories.

Mr. HERMENT (Belgium) said that he had been about to put the same question to the Yugoslav representative.

Mr. ROCHEFORT (France) said that his concern related to crimes committed before entry into the territory of the receiving country.

Mr. BOŽOVIC (Yugoslavia) shared the misgivings of the French representative. He stressed the importance of such a provision for Yugoslavia, in view of her past experiences in that field.

Mr. ROCHEFORT (France) pointed out that a crime was not the same thing as a misdemeanour, and that the term "crime", in the sense in which it was used in the Universal Declaration of Human Rights, meant serious crimes.

Mr. PETREN (Sweden) considered that the word "crime" had acquired a certain significance in international law.

The provisions of article 28 would make it possible to qualify the crimes referred to, and it would be desirable to maintain its prohibition in paragraph E.

Mr. HOARE (United Kingdom) had no objection to a provision relating to crimes committed before entry into the country of refuge, but had been under the impression that that was not the proposal hitherto under discussion.

Mr. SCHURCH (Switzerland) said that one could conceive of a case in which a refugee could commit a serious crime in the territory of a receiving country without the receiving country considering expelling him for it. In those circumstances, he did not see why such a person should be treated differently from one who had been guilty of a crime in his country of origin.

Mr. ROCHEFORT (France) said that in the example cited by the Swiss representative, the refugee would already have been allowed to reside in the territory of the receiving country, in that of France, for example. That permission conferred certain rights on him, and, although he would not be a French national, he would none the less to some extent form part of the French community. Such was the French delegation's view, always subject, however, to the reservation of the possibility of expulsion provided for in the Convention.

To understand the French point of view, it was necessary to imagine oneself in France's situation - that of a country surrounded by States from which refugees might pour in, some of whom might commit crimes. The definition of the term "refugee" should therefore contain a clause designed to protect his country, to enable it to exercise the right of asylum it had always so liberally granted, without thereby having to grant to the persons enjoying that right the status of refugee. Unless such provision was made, entry would be permitted to refugees whose actions might bring discredit on that status.

He did not understand how the right to refuse the status of refugee could be disputed in the case of a country which was so generous in granting the right of asylum - a right infinitely more precious than that conferred by recognition of refugee status. According to certain delegations, the Convention did not govern conditions of admission. For the French delegation, however, the purpose of the text was to govern the manner in which refugees would be admitted to a country of asylum. And it was for that very reason that the French Government considered

it essential that the text of the Convention should include a provision, the application of which would provide a screen to protect its most vital interests.

Mr. BOZOVIC (Yugoslavia) recalled that he had included the second alternative United Kingdom amendment to clause (b) of paragraph E (A/CONF.2/74) in his own amendment to that paragraph.

Mr. ROCHEFORT (France) proposed the insertion in the Yugoslav amendment of the word "serious" before the word "crimes".

Mr. BOZOVIC (Yugoslavia) accepted the French proposal.

Mr. ROCHEFORT (France) drew attention to the fact that if the Yugoslav amendment were rejected, the Convention would become applicable to persons in respect of whom there were good grounds for suspecting that they had committed serious common law crimes or had been guilty of acts contrary to the purposes and principles of the United Nations. It would be rather paradoxical if persons guilty of such acts were thus enabled to claim the protection of the United Nations.

Mr. BOZOVIC (Yugoslavia) warmly supported the views expressed by the French representative.

The PRESIDENT said that in view of the delicacy of the issue at stake, he believed that it would be best for the delegations concerned to try and arrive at an agreed text. He therefore suggested that the meeting be suspended in order to give them the opportunity of doing so.

It was so agreed.

The meeting was suspended at 5.10 p.m. and was resumed at 5.25 p.m.

Mr. BOZOVIC (Yugoslavia) announced that he had evolved a text for the second part of paragraph E which seemed to be generally acceptable. It read as follows:

- " b) he has committed a serious crime under common law outside the country of reception; or
- c) he has committed an act contrary to the purposes and principles of the United Nations."

Mr. HOARE (United Kingdom), while he did not regard the revised Yugoslav amendment as entirely free from objection, felt that it at least removed his (Mr. Hoare's) main objection to the text of paragraph E as originally drafted, which would have made it too easy for States to withdraw the status of refugee from many persons who had been granted asylum from persecution.

The PRESIDENT asked what were the implications of the phrase: "en dehors du pays d'accueil". Did it refer to the time before a refugee first entered the country of asylum, or did it also cover the time during which a refugee was travelling in other countries?

Mr. ROCHEFORT (France) explained that the case in question was that of a person who did not yet enjoy refugee status in any country, but who was seeking to acquire it.

If such a person already enjoyed refugee status in a neighbouring country, he had his residence there, and the second receiving country would be quite entitled to refuse him entry into its territory, since he was the responsibility of the country in which he had hitherto had his residence. If he entered another receiving country illegally, the latter could always return him on the grounds that his entry had been illegal, and therefore inadmissible, since he had his normal residence in the other receiving country.

Baron van BOETZELAER (Netherlands) proposed that the words "not yet having refugee status" be inserted at the beginning of clause (b) of the revised Yugoslav amendment.

In reply to a question from Mr. BOZOVIC (Yugoslavia), he explained that the intention of his proposal was to ensure that if a refugee, after being admitted to

a country of asylum, committed a crime there and subsequently took refuge in another country, his crime would not be counted against him in the second country, that was, that it would not deprive him of his refugee status there.

Mr. BOZOVIC (Yugoslavia) could not accept the Netherlands proposal which he feared, might lead to lengthy discussions on the application of criminal laws.

Mr. HOARE (United Kingdom) withdrew the United Kingdom amendments to paragraph E (A/CONF.2/74).

The PRESIDENT said that it would seem that the situation could be illustrated by the following example: a refugee resident in Denmark might go abroad on a Danish travel document, commit a crime, and return to Denmark. The State in whose territory the crime had been committed might not wish to ask for his extradition for fear lest, after having served his term of imprisonment, the refugee would have to remain in its territory. In that case, the offender would be tried and sentenced in Denmark. On regaining his freedom, would he find himself deprived of the status of refugee? If so, what would be his position, since there was little likelihood that any other country would accept him?

Baron van BOETZELAER (Netherlands) said that a case such as that described by the President would in his view be covered if the Netherlands proposal was adopted.

Mr. ROCHEFORT (France) pointed out that in the example cited by the President, the person concerned would retain his refugee status so far as the High Commissioner for Refugees was concerned, and would therefore enjoy some degree of international protection. Moreover, as a general rule, the police forces of the various countries attempted to trace criminals, who were sometimes brought back for trial to the countries in which their crimes had been committed.

He observed that, whenever reference was made to a person already enjoying refugee status, the matter ceased to be a question of definition and became one of the application of the Convention; certain provisions, especially those of article 28, then came into force.

The French delegation was proceeding on the assumption that the person affected by the provisions of paragraph E would not yet enjoy refugee status.

The PRESIDENT drew attention to the fact that paragraph E opened with the words: "The provisions of the present Convention shall not apply to any person...."

Mr. ROCHEFORT (France) said that that was precisely his point. The word used was "person", not "refugee".

The PRESIDENT agreed, but doubted whether those who would have to apply the Convention would be aware of so fine a distinction.

Mr. ROCHEFORT (France) pointed out that the same difficulty arose in connexion with clause (a) of paragraph E.

The PRESIDENT conceded the force of the French representative's argument, and recalled that no such exception had been provided for in earlier instruments, which had to some extent relied on bona fide implementation.

When a person with a criminal record sought asylum as a refugee, it was for the country of refuge to strike a balance between the offences committed by that person and the extent to which his fear of persecution was well founded.

He would simply ask representatives to keep in mind the hypothetical case of some minor official of an outlawed political party who had a criminal record. He was convinced that all countries, both in Europe and overseas, had, even under the earlier Conventions, always dealt with such cases fairly.

Mr. ROCHEFORT (France) thought that the difference between the present Convention and earlier ones, to which the President had drawn attention, was partly due to the fact that the scope of the latter had been confined to limited groups of refugees, and that, moreover, Contracting States had been free to enter reservations even in respect of the definition of such refugees.

The present Convention was a general text designed to apply to future refugees as well. It was also expressly provided that no reservations should be entered in respect of the definition of the term "refugee" in article 1. What was more, no one in former times had envisaged the difficulties at present created by the existence of certain totalitarian regimes, which presented countries with fresh problems every day.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) drew attention to the difference in that respect between the Statute of his Office and the Convention. The former explicitly excluded from protection a person "in respect of whom there are serious reasons for considering that he has committed a crime covered by the provisions of treaties of extradition ...". (A/AC.36/1, page 11). Thus a person affected by the terms of the amendment at present under discussion would not come within the mandate of his Office.

Mr. ROCHEFORT (France) thought that, in cases of the kind mentioned by the High Commissioner, the United Nations should not prevent extradition procedure from being applied.

Mr. HERMENT (Belgium) preferred the words "serious crimes", as used in the Yugoslav amendment, to mention of crimes "covered by the provisions of treaties of extradition" in the Statute of the High Commissioner's Office. Some crimes in respect of which the offender could be extradited were punishable by only three months' imprisonment, and were obviously not serious.

He had no objection to the Netherlands amendment, since it in any event referred to offences under common law committed outside the receiving country.

As the French representative had pointed out, the essential point was to give States the power to refuse refugee status to persons who had committed serious crimes before their admission to a receiving country.

Mr. HDARE (United Kingdom) thought that the question was one of defining a point in time. The Yugoslav amendment referred to crimes committed

before the entry of a refugee into the receiving country; but the crime might be discovered only after such entry. He would therefore suggest that the best formula would be: "... in whose case at any time before he has been given permission to reside in the territory of the Contracting State there are serious reasons for considering that he has committed a grave [serious] crime, outside that territory." Thus paragraph E would cover any crime committed by a refugee abroad, and its provisions would cease to apply once the refugee had been assimilated into the country of asylum.

Mr. ROCHEFORT (France) had no objection to the wording suggested by the United Kingdom representative, although he did not understand the exact significance of the reference to Contracting States.

He wondered what the position of a refugee would be if he had committed a crime in the territory of a non-Contracting State.

Mr. HOARE (United Kingdom) explained that the reference to "Contracting States" was merely intended to express clearly the geographical notion of the territory in which the refugee resided.

Mr. HERMENT (Belgium) proposed the following version for clause (b) in the revised Yugoslav amendment: "that he has committed a serious crime under common law outside the receiving country before being admitted to it as a refugee".

Mr. HOARE (United Kingdom) considered that the phrase: "before being admitted to it as a refugee" would give rise to certain difficulties. Some countries were not in a position to select refugees before entry, and it might be discovered only afterwards that refugee status should be withheld from a person. It was in view of that aspect of the problem that he had suggested the formula "at any time before he has been given permission to reside".

Mr. BOZOVIC (Yugoslavia) was prepared to accept the Belgian amendment, which he preferred to the United Kingdom proposal.

Mr. ROCHEFORT (France) also accepted the Belgian proposal, provided there was no intention of deleting clause (c) from the revised Yugoslav amendment.

Baron van BOETZELAER (Netherlands) observed that the Conference had to consider two cases: first, the question of crimes committed before the guilty person had acquired the status of refugee; secondly, that of crimes committed outside the receiving country.

He thought that a decision might be taken on each of those points in turn; the task of finding a wording which accurately interpreted the intentions of the Conference could then be left to the Style Committee.

Mr. ROCHEFORT (France) proposed that a vote be taken on the Netherlands proposal.

Mr. CHANCE (Canada) said that, having followed the discussion with great attention, he had been under the impression that the issue turned on the temporal element, namely, whether a person had committed a crime outside the territory of the receiving country before he had applied for the status of refugee.

Mr. BOŽOVIĆ (Yugoslavia) agreed. He explained that his amendment embraced two concepts: that of crimes committed outside the receiving country; and that of crimes committed by persons who had not at the time acquired the status of refugee.

The PRESIDENT put to the vote clause (b) of the revised Yugoslav amendment as re-cast by the Belgian representative.

Clause (b) in the Yugoslav amendment was adopted in that form by 22 votes to none, with 2 abstentions.

The remainder of the revised Yugoslav amendment, namely, the proposal that the words: "(c) he has committed an act contrary to the purposes and principles of the United Nations" be added to paragraph E, was adopted by 22 votes to none, with 2 abstentions.

Paragraph E of article 1 was adopted as a whole and as amended by 23 votes to 1.

Mr. PHILON (Greece) asked the President's permission to record the fact that he had not taken part in the vote on the Egyptian amendment to article 1 because he had at that moment been absent from the meeting room. He wished to state that the Greek delegation supported that amendment.

The meeting rose at 6.15 p.m.