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Eleventh Session

SOCIAL COMMITTEE

SUMMARY RECORD OF THE HUNDRED AND SEVENTY-FIRST MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 10 August 1950, at 3 p.m.

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E/AC.7/L.75) (resumed from the 170th meeting)

/Present:
E/AC.7/SR.171

Present:

Chairman:

Mr. DAVIDSON (Canada); Vice-Chairman

Members:

Australia	Miss DOBSON
Belgium	Mr. DELHAYE
Brazil	Mr. PENLEADO
Canada	Miss MEAGHER
Chile	Mr. BERNSTEIN
China	Mr. YU Mr. CHA
Denmark	Mr. FRIIS
France	Mr. ROCHEFORT
India	Mr. DESAI
Iran	Mr. KHALATBARY
Mexico	Mr. CALDERON PUIG
Peru	Mr. CABADA
United Kingdom of Great Britain and Northern Ireland	Mr. FEARNLEY
United States of America	Mr. ROSEMAN

Representatives of specialized agencies:

International Labour Organisation Mr. FLORES

Representatives of non-governmental organizations:

Category B and Register

Consultative Council of Jewish Organizations	Mr. TIMEV
International Co-Operative Women's Guild	Miss ROSSIER
Liaison Committee of Women's International Organizations	Miss ROSSIER
World Jewish Congress	Mr. LIBAN

Secretariat:

Mr. Humphrey
Mr. Hogen
Mr. Alexander
Mr. Dumentet

Director, Division of Human Rights
Department of Social Affairs
Department of Social Affairs
Secretary to the Committee.

REFUGEES AND STATELESS PERSONS (item 32 of the agenda) (continued)

(a) General Assembly resolution 319 (IV) A (E/1668, E/1669, E/1767, E/1767/Add.1, E/1801, E/1802, E/L.80, E/AC.7/L.60, E/AC.7/L.72, E/AC.7/L.73, E/AC.7/L.74 and E/AC.7/L.75) (resumed from the 170th meeting)

The CHAIRMAN requested the Committee to resume consideration of the French working paper (E/AC.7/L.60), and drew attention to an additional document (E/AC.7/L.74) containing two Mexican amendments thereto. He also mentioned a Belgian paper (circulated later as document E/AC.7/L.75) containing three amendments that were substantively the same as certain of the Belgian amendments appearing in E/L.80. He proposed that the Committee deal with the French working paper chapter by chapter and paragraph by paragraph, but reserving consideration of the opening paragraph containing the proposed draft resolution for the General Assembly until the annex had been disposed of. He also suggested that the Belgian amendment relating to the opening paragraph be taken as a separate item when that paragraph was considered.

In reply to Mr. FEARNLEY (United Kingdom), he confirmed that the draft General Assembly resolution in paragraph 5 of document E/1669, submitted by the Secretary-General, was before the Committee in so far as it dealt with the election of the High Commissioner and the invitation to be sent to governments, and he proposed that those two points should form the subject of a separate resolution by the Council.

Mr. DELHAYE (Belgium) accepted the Chairman's suggestion, adding that the Belgian delegation would withdraw its proposal in sub-paragraph 1 (a) of point 5 of document E/L.80, as there now seemed to be no point in it. The Belgian delegation would support the United Kingdom proposal in document E/AC.7/L.72.

Chapter I of the annex - General principles

The CHAIRMAN suggested that as the Committee appeared to be in agreement with the procedure he had outlined, it should turn its attention to paragraph 1 of chapter I of the annex. The United States delegation had proposed (E/AC.7/L.73) that the words "a final solution of the problem of such refugees" be replaced by the phrase "permanent solutions of the problems of these refugees".

/Mr. ROSEMAN

Mr. ROSEMAN (United States of America) said that his delegation felt that a final solution of the refugee problem was probably very remote, and also that it was the solution of various refugee problems, and not of one single problem, that was being sought; hence the proposed amendment.

The CHAIRMAN put the United States amendment to the vote.

The United States amendment was adopted by 12 votes to none, with 2 abstentions.

The CHAIRMAN then drew attention to the United States amendment (E/AC.7/L.73) to the same paragraph, proposing the substitution of the words "by assisting governments and voluntary agencies in facilitating their voluntary repatriation or their assimilation" for the words "either by facilitating their voluntary repatriation or by facilitating their assimilation".

Mr. ROCHEFORT (France) could not accept the amendment. It was not desirable to place governments and voluntary agencies on the same footing. Repatriation and the assimilation of refugees into a national community were political operations, in which voluntary agencies could only participate to the extent that the governments concerned were prepared to allow. If the amendment were adopted, he was afraid it would lead to confusion, and even to disputes.

Incidentally, the amendment involved a substantive change to resolution 319 (IV) A, which placed voluntary agencies in an entirely different category.

Mr. ROSEMAN (United States of America) appreciated the point made by the French representative. The United States amendment, however, was based on the wording used in the annex to the General Assembly resolution. On reading that resolution again, he felt constrained to bring his amendment still more closely into line with it, and suggested that the last phrase of the paragraph be amended to read: "within new national communities", instead of "within a national community". His delegation considered that voluntary agencies had an important role to play in the matter of assimilation of refugees within new communities. To associate Governments and voluntary agencies in the same phrase did not derogate in any way from the authority of Governments.

/Mr. FEARNLEY

Mr. FEARNLEY (United Kingdom) supported the United States proposal. While appreciating the French point of view, he believed that subsequent provisions of the draft statute made it quite clear that the High Commissioner would not attempt to make use of voluntary agencies without the agreement of governments. In the circumstances, he felt that the misgivings of the French representative were hardly justified.

Mr. DELHAYE (Belgium) shared, in part at least, the misgivings of the French representative, and said he would abstain from the vote on the United States amendment.

Mr. ROCHEFORT (France) proposed that the words "with the agreement of governments" be inserted in the United States amendment between the word "and" and the words "voluntary agencies". He felt that the agreement of governments was necessary, at least so far as the main lines of a policy of assimilation and repatriation were concerned. It was not for voluntary agencies to initiate such a policy unless governments gave their consent.

Mr. FEARNLEY (United Kingdom) appreciated the French representative's difficulty, but wondered whether it would not be better to say "subject to the approval of the governments concerned" so as to avoid all misunderstanding.

Mr. ROSEMAN (United States of America) said that his delegation was satisfied that there need be no concern that voluntary agencies would intervene without the approval of the governments concerned; he felt that the sense of the wording in paragraph 4 (c) of the annex to General Assembly resolution 319 (IV) A should be retained. For that reason, his delegation would not be able to support the French proposal, even as modified by the United Kingdom representative.

Mr. ROCHEFORT (France), while accepting the suggestion of the United Kingdom representative, was not fully satisfied by the assurances given by the United States representative, whose amendment did not specify which voluntary agencies were concerned. There might be in a particular country agencies which were foreign or international in character. Such organizations might wish to

operate on lines which were not in harmony with the policy of the government of the country. That situation had already arisen in France, where certain voluntary agencies had actually tried to force the hand of the French government, for example in the matter of repatriation, or had maintained a policy opposed to that of France. Moreover, the term "private organizations" used in resolution 319 (IV) A was much more vague than the expression "voluntary agencies".

The CHAIRMAN put to the vote the French proposal that the words "subject to the approval of the governments concerned" be inserted before the phrase "voluntary agencies" in the amended text proposed by the United States delegation.

The proposal was adopted by 10 votes to none, with 3 abstentions.

The CHAIRMAN then put the United States amendment, as amended by the French delegation, to the vote.

The United States amendment, as amended, was unanimously adopted.

The CHAIRMAN then put to the vote paragraph 1 of chapter I of the annex, as amended, and reading as follows:

"It shall be the duty of the High Commissioner for Refugees to provide international protection of the refugees falling under his competence and to seek permanent solutions for the problems of these refugees by assisting governments and, subject to the approval of the governments concerned, voluntary agencies in facilitating their voluntary repatriation or their assimilation within new national communities".

Paragraph 1 of chapter I was adopted by 12 votes to none, with 1 abstention.

The CHAIRMAN observed that as the Committee had already decided to delete paragraph 2, the following paragraphs would be renumbered 2, 3 and 4 respectively.

/He then

He then drew attention to the United States amendment (E/AC.7/L.73) to paragraph 2 suggesting that the text in the working paper be amended to read: "He shall follow policy directives given to him by the United Nations according to methods determined by the General Assembly".

Mr. ROCHEFORT (France) agreed to the United States amendment. His own working paper had in any case merely reproduced the text of the annex to resolution 319 (IV) A.

The CHAIRMAN put the amended text to the vote.

Paragraph 2, as amended, was unanimously adopted.

Paragraph 3 of chapter I was then unanimously adopted.

The CHAIRMAN drew attention to the Mexican amendment to paragraph 4 (E/AC.7/L.74), proposing the deletion of the words: "Unless the General Assembly subsequently decides otherwise" from the beginning of the second sentence.

Mr. CALDERON PUIG (Mexico) said his delegation had proposed its amendment since it was patent that the General Assembly, being the sovereign body of United Nations, could at any time alter its decisions. The words in question were therefore superfluous.

Mr. ROCHEFORT (France) said that in his working paper he had merely taken the relevant passage verbatim from General Assembly resolution 319 (IV) A. He did not think it would be desirable to change a text which the General Assembly had experienced great difficulty in adopting.

Mr. FEARNLEY (United Kingdom), while agreeing with the Mexican representative with regard to the power of the General Assembly to alter its decisions, supported the French representative, since the phrase in question had been incorporated in the General Assembly resolution only after very careful thought, and was one of several points in that resolution to which a number of delegations attached considerable importance. It would therefore be preferable if the Mexican representative refrained from pressing for its deletion.

/The CHAIRMAN

The CHAIRMAN put the Mexican amendment to the vote.

The Mexican amendment was rejected by 6 votes to 3, with 4 abstentions.

Mr. CALDERON FUIG (Mexico) said that his delegation, although it would vote for paragraph 4 with the phrase in question retained, nevertheless reserved its position with regard to the desirability of incorporating that phrase.

Mr. FEARNLEY (United Kingdom) thought that it might be preferable, and an improvement to the draft statute, if all questions relating to finance and administration were gathered together under one heading, and suggested that paragraph 4 might be transferred to chapter IV, and the latter re-entitled "Administration and Finance".

Mr. ROCHEFORT (France) explained that he had felt he should include the point in chapter I of the annex as one of the general principles governing the functioning of the High Commissioner's Office. What was involved was a fundamental principle which had given rise to long discussion in the General Assembly. The other financial provisions were much narrower in scope, and he feared the Committee might be accused of trying to restrict the scope of that principle, too, if it decided to lump it together with the other financial measures.

Mr. FEARNLEY (United Kingdom) said he would not press his point.

The CHAIRMAN put paragraph 4 to the vote.

Paragraph 4 was unanimously adopted.

Chapter II of the annex - Organization

Section A - High Commissioner's Office.

The CHAIRMAN called attention to the United States amendment (E/AC.7/L.73) proposing the replacement of the words: "who shall draw up his contract" in paragraph 1 by a new sentence reading: "The terms of appointment of the High Commissioner at rank equivalent to shall be arranged by the Secretary-General".

/Mr. ROSEMAN

Mr. ROSEMAN (United States of America) said his delegation felt that its amendment was essentially a drafting change. Clearly, the High Commissioner would have to be elected by the General Assembly, and the specific arrangements for his engagement worked out by the Secretary-General.

Mr. YU (China) said that it seemed to his delegation that the appointment of the High Commissioner by way of nomination by the Secretary-General differed from a procedure followed for the election of the United Nations Commissioner for Libya. The latter - and it would be noted that he was an ordinary Commissioner, not a High Commissioner - had been nominated by the President of the General Assembly in collaboration with the Vice-Presidents, and with the Chairmen of certain of its Committees. That was a much more democratic procedure than the one now proposed, which was, in fact, dangerous. In his view, although the General Assembly had laid down in a resolution the conditions relating to the election of the High Commissioner, the matter should be re-examined at the proper stages, and the Council should consider the possible danger inherent in the nomination by the Secretary-General of a person to so elevated a post. The standing of the High Commissioner, no matter what his rank would be higher than that of an ordinary Commissioner. In order to lend dignity to the office, therefore, the Committee should see to it that the organ or person responsible for the nomination was of appropriate standing. To confer such power on one individual, in the present case the Secretary-General, who was an administrative officer, would be to create a dangerous precedent. Such a course might be satisfactory if his judgment were sound; but if it were not, the interests of the refugees might well suffer. His delegation regretted that it must point out that its past experience had left it with the impression that the Secretary-General had not always been completely impartial, but had allowed his judgment to be influenced by political considerations. His remarks should not be regarded as an attack upon the Secretary-General, but merely as an attempt to show the undesirability of placing so much power in the hands of one person.

/Mr. CALDERON PUIG

Mr. CALDERON PUIG (Mexico) said that his delegation had full confidence in the integrity of the Secretary-General. Nevertheless, the Committee should seriously consider the dangers inherent in creating a precedent pointed out by the representative of Ghana. He would like to know the origins of the paragraph under consideration, and the reason why the nomination of the High Commissioner had not been left to the President and Vice-Presidents of the General Assembly as in the case of the election of the Commissioner for Libya.

Mr. ROCHEFORT (France) felt that it was not always desirable to be over-scrupulous about precedents. That could only make one a slave to routine. People must occasionally have the courage of their convictions..

In the case in point, there were two issues to be considered: in the first place the necessity for giving the High Commissioner greater moral authority by basing it on a General Assembly vote; and secondly, the necessity for choosing someone who would enjoy the full confidence of the United Nations Secretariat. The formula used in the French working paper should be quite satisfactory, since it took account of both considerations. The Council could hardly call in question a procedure which had been settled after extremely long and complex discussions in the General Assembly.

Mr. DELHAYE (Belgium) wondered whether the Secretariat could give any additional information in connexion with the passage relating to the procedure to be followed in nominating the High Commissioner.

Mr. HUMPHREY (Secretariat) regretted that he was not in a position to answer the Belgian representative's question. If the latter wished, however, he would ask Headquarters for the necessary information.

Mr. FEARNLEY (United Kingdom) felt the Committee should take good note of the French representative's remarks. The United Kingdom delegation to the General Assembly had originally been opposed to the arrangements proposed, but since the formula before the Committee represented a decision of the General Assembly, his delegation was prepared to abide by it. The question of

the appointment of the High Commissioner would not necessarily end with his nomination by the Secretary-General, for the General Assembly would not elect the latter's nominee if it did not approve of him. However, he assumed that the Secretary-General, with his wide experience, would try with tact and diplomacy to find a person who would be generally acceptable to the General Assembly. He also believed it would be difficult for the Secretary-General to answer the Belgian representative's question with regard to procedure and was sure that the Secretary-General would in fact succeed in finding an acceptable candidate.

Mr. FRIIS (Denmark) thought the Committee would do well to accept the text in the French working paper, which followed the formula agreed on by the General Assembly. His delegation, however, felt that textually neither the French version nor the United States amendment were entirely satisfactory. He agreed to the deletion of the words "who shall draw up his contract" as suggested by the United States representative, but thought it preferable that the terms of appointment should be left to a decision of the General Assembly. Finally, in view of the unique character of the post of High Commissioner he would propose that the words "at rank equivalent to" be deleted from the text proposed by the United States.

Mr. DELHAYE (Belgium) explained that he had not asked for any modification of the text; he had merely asked whether the Secretariat had any additional information about the procedure to be followed. He was satisfied with the answer of the representative of the Secretariat.

Mr. ROSEMAN (United States of America) recognized the validity of the point made by the Danish representative. He suggested that the United States amendment be modified to read "The terms of appointment of the High Commissioner shall be proposed by the Secretary-General and approved by the General Assembly."

Mr. FRIIS (Denmark) withdrew his proposal in favour of that suggestion.

The CHAIRMAN put to the vote the United States representative's amendment to his delegation's original amendment.

That text was adopted by 12 votes to none, with 1 abstention.

The CHAIRMAN then put paragraph 1, as amended, to the vote.

Paragraph 1 of Section A of Chapter II was adopted by 11 votes to 1, with 2 abstentions.

As adopted it read:

- "1) The High Commissioner shall be elected by the General Assembly on the nomination of the Secretary-General. The terms of appointment of the High Commissioner shall be prepared by the Secretary-General and proposed by the General Assembly.

He shall be elected for a term of three years, from 1 January 1951."

Mr. YU (China), explaining his vote, said that his delegation had not desired to propose a substantive change to the text at that stage, but merely to place its views before the Committee, and to warn the latter of the risk attaching to the procedure suggested for the nomination of the High Commissioner, which, he repeated, was not sufficiently democratic.

The CHAIRMAN drew attention to the United States amendment (E/AC.7/L.73) to paragraph 2, proposing the deletion of the words "as soon as he is elected".

Mr. ROSEMAN (United States of America) said his delegation appreciated the need for the High Commissioner's deputy to begin his work as soon as possible. It was unnecessary, however, to provide in the statute that he should be appointed as soon as the High Commissioner was elected, for the High Commissioner would certainly make the appointment one of his first tasks.

Mr. FEARNLEY (United Kingdom) agreed with the United States representative.

The CHAIRMAN put the United States amendment to the vote.

The amendment was adopted by 12 votes to none, with 1 abstention.

The CHAIRMAN then put paragraph 2 to the vote.

Paragraph 2 of Section A of Chapter II was adopted by 12 votes to none with 1 abstention.

Mr. ROCHEFORT (France) pointed out that the provisions corresponding to the questions listed in paragraph 3 of Section A had not appeared in the draft resolution on implementation submitted by the Secretary-General (E/1669). There was no precedent for such provisions in United Nations practice. No doubt there were precedents in the history of the League of Nations, and it would be well to bear them in mind, since the inclusion of such provisions was essential. The High Commissioner might, after all, submit his resignation at a time when the General Assembly was not sitting.

/He therefore

He therefore suggested that the Secretary-General study the question and submit proposals to the General Assembly, unless the Council found time to discuss it before the end of the present session. But he felt that at the present stage of its work, the Committee itself should not spend too much time on the question, which ought not to raise any political issues.

The CHAIRMAN thought that the Committee could decide either to draw the attention of the Secretary-General to the four points mentioned under paragraph 3, and refer him to the summary records of the Committee's discussion, or to proceed to consider the formulation of appropriate texts. The Director of the Division of Human Rights had certain texts which might provide a basis for discussion.

Mr. ROSEMAN (United States of America) said his delegation did not believe that it was necessary to include specific provisions for the points in question. It hardly seemed necessary to provide for the interim period when provision had already been made for a deputy High Commissioner.

Mr. ROCHFORT (France) explained that he might equally well have mentioned the possibility of the death of the High Commissioner, or any other accident preventing him from carrying out his functions as his resignation. Such an event might occur immediately after the end of a General Assembly session, in which case months might pass before a new High Commissioner could be appointed.

The CHAIRMAN assumed that in the absence of specific provisions for replacing the High Commissioner during his term of office, his deputy would in case of need carry out his functions until the General Assembly met again.

Mr. ROSEMAN (United States of America) noted that corresponding provisions had not been made in respect of the Secretary-General, and consequently felt that there was no great need for concern if they were omitted from the statute, at least at that stage.

Mr. CALDERON PUIG (Mexico) considered that if there was a gap to fill, the Committee should fill it, and that it would be useful if the Committee had an opportunity of examining the texts that the Secretariat had prepared.

Mr. FRIIS (Denmark) supported the Mexican representative. Assuming that the work involved would not delay the Committee unduly, he felt it would be to its credit if it were to work out suitable wordings for the various provisions concerned.

The CHAIRMAN suggested that the matter be left over for the time being and that, when the vote on the statute as a whole came to be taken, an opportunity should be given to any delegation to revert to the paragraph and put forward appropriate texts.

Mr. FRIIS (Denmark) wondered if the texts prepared by the Secretariat could be circulated as a working paper.

Mr. HUMPHREY (Secretariat) said he had two texts available. It should be understood that if they were reproduced, the Secretary-General would not thereby go on record as considering that it was necessary to provide texts for the points in question.

At the suggestion of Mr. CALDERON PUIG (Mexico) he read out the two following texts, one relating to the resignation of the High Commissioner, and the other containing provisions for the interregnum preceding the appointment of his successor.

"Resignation of the High Commissioner shall be effected either by a two-thirds vote of no confidence of the General Assembly, or by his voluntary submission of his resignation".

"In the event of the resignation of the High Commissioner the Deputy High Commissioner shall take charge and will perform the functions assigned to the High Commissioner until the nomination by the Secretary-General and election of a new High Commissioner".

Mr. FRARNLEY (United Kingdom) said that, so far as his delegation was concerned, if those texts were placed before the Committee he would be willing to consider them. He wondered, however, whether at that stage such texts were essential. The common sense of the General Assembly and the working practices of the United Nations would, he felt, provide clear guidance in that unfortunate event of the resignation or the death of the High Commissioner. He would certainly deprecate any suggestion in the draft statute of impeachment by a two-thirds majority, a suggestion which seemed to figure in the text relating to resignation. He preferred the Chairman's proposed procedure.

The Committee adopted the Chairman's suggestion that the matter be deferred for the time being, and that when the Statute as a whole came to be put to the vote an opportunity should be given to any delegation to revert to the paragraph in question and put forward appropriate texts.

Section B - Advisory Council for Refugees

The CHAIRMAN pointed out that the French working paper contained no specific draft for Section B, but only the French delegation's views. Nevertheless, the Belgian delegation had proposed, in document E/AC.7/L.75, an amendment to Section B. The United States delegation, on the other hand had proposed in document E/AC.7/L.73 a new section in its stead.

Miss MEACHER (Canada) said that her Government's general attitude to the establishment of new bodies was that if they were necessary or intended to perform useful work they should be supported, but that, as there were already very many United Nations bodies, it was essential to consider very carefully whether their establishment was justified. In the case of the Advisory Council for Refugees, it had to be remembered that the High Commissioner had not yet begun his work. There was therefore much to be said for giving him an opportunity of acquainting himself with the problems he would have to face, and of working out an initial approach to them, before it was decided

whether there should be an Advisory Council. Her Government did not oppose the idea of an Advisory Council as such, but considered that it would be premature to set one up before the need for it had become plain. She accordingly suggested that all references to such an Advisory Council be deleted from the draft statute, and that the question be raised again at the thirteenth session of the Council, when the general picture would be clearer, the advice of the High Commissioner would be available, and a decision could be reached by the Council in full knowledge of all relevant facts.

Mr. FEARNLEY (United Kingdom) agreed with the Canadian representative's views. His Government was not opposed in principle to the establishment of an Advisory Council for Refugees, but thought that some working experience of the High Commissioner's Office was necessary before the question could be considered. The General Assembly resolution had asked that means should be provided whereby non-member States of the United Nations could be associated with the work of the High Commissioner; his Government agreed wholeheartedly with that aim. Until experience had been gained, however, it would be extremely difficult to decide what exactly those means should consist in, and what Member and non-member States should be brought into association with the work. He accordingly supported the Canadian representative's proposal that all references to the Advisory Council for Refugees be deleted from the draft statute, and suggested that when the draft resolution in document E/1669 was taken up, a recommendation should be made to the General Assembly that the question be deferred pending further consideration on the lines suggested by the Canadian representative.

Mr. ROCHEFORT (France) said that in Section B he had merely sketched a few general ideas in outline, as he felt some diffidence about defining his views more clearly. He shared the view of the Canadian and United Kingdom representatives, though he felt that under General Assembly resolution 319 (IV) A, the Committee was bound to do something to bring interested governments of States not members of the United Nations into the work of the High Commissioner's Office. The French proposal had been drafted with that end in view.

If the Committee rejected his proposal, it would automatically eliminate the measure proposed in the United States amendment in paragraph 14 (2) of document E/AC.7/L.73.

It was important that the Committee adopt a fairly definite attitude on the question, if it were not to destroy the balance of the "definition by categories" it had adopted previously.

He suggested that the Committee confine itself to preparing the way for the General Assembly and the High Commissioner, by recommending the establishment of an Advisory Committee consisting of States, whether Members of the United Nations or not, interested in the cause of refugees and anxious to assist the work of the High Commissioner; and by recommending that the High Commissioner go into the question and report to the Economic and Social Council at a later session on the final constitution of that Advisory Committee.

The French delegation felt that the Advisory Committee should not be placed on the same footing as the High Commissioner, but should be under his direction, thus ensuring that the former's efforts could not be stultified by any activities of the latter.

He therefore urged the Committee to adopt the few general principles laid down under Section B; he agreed that they might appropriately be embodied in a recommendation to the General Assembly.

Mr. CHA (China), while not opposed to the establishment of an Advisory Council or Committee for Refugees, was more concerned with the part to be played by the Economic and Social Council itself in relation to such a body. He thought that some provision should be made, giving the Council power to review the Advisory body's work.

Mr. CALDERON FUIG (Mexico) had no objection in principle to the creation of an Advisory Council, which no doubt would be very helpful, but agreed with the views of the Canadian representative. In view of the provision already adopted, that the High Commissioner should follow policy directives given to him by the United Nations according to methods determined by the General Assembly, the existence of an Advisory Council would mean unnecessary duplication of work.

Mr. DELHAYE

Mr. DELHAYE (Belgium) asked the French representative if he wished the text given in document E/AC.7/L.60 to be retained.

Mr. ROCHFORT (France) said he was not specially anxious that that particular text should be kept; it was a mere suggestion, not a formal proposal.

Mr. ROSEMAN (United States of America) agreed with the French representative that it was desirable to make some provision in the statute for an Advisory Committee or Council, in order to carry out the instructions to the Economic and Social Council from the General Assembly concerning association of non-member States with the work of the High Commissioner. He appreciated the Canadian and United Kingdom representatives' views, but pointed out that his delegation's amendment proposed that the Advisory Committee be established by the Council, so that it could not be set up before the spring of 1951, by which time the High Commissioner would have had time to take his bearings. It was important, too, to remember as the French representative had said, that the Advisory Committee would provide a method whereby the High Commissioner could secure advice, as opposed to directives, on the extremely complex and difficult problems with which he would be faced. The Advisory Committee would be subordinate to him, and, as its name indicated, purely advisory in function.

With regard to the Chinese representative's observation, the last sentence of the United States amendment provided for an annual report by the Committee to the Economic and Social Council. Information on the work done by the High Commissioner's Office would thus be conveyed to the Council by a channel independent of the High Commissioner.

He pointed out that in his amendment it was provided that the Committee would advise the High Commissioner "upon his request". For budgetary and administrative reasons, it was desirable that the Committee should not be completely independent, but rather one to be called by the High Commissioner in order to give him advice.

/Mr. Bernstein

Mr. BERNSTEIN (Chile) agreed with the Canadian representative that in existing circumstances no provision should be made for an Advisory Council or Committee, as the High Commissioner would in due course be able to advise on whether such a body would be necessary or not.

Mr. FRIIS (Denmark) agreed in general as to the desirability of establishing an Advisory Council or Committee, but felt that it would be better to contemplate its establishment at a later stage. The Economic and Social Council might limit itself for the present to a general reference to the Advisory Committee, either in the recommendations it would make, or in its report. For that reason, he would not go in detail into the proposals that had been made, except in relation to the last sentence of the United States amendment. It did not seem to him that the provision that the advisory body should report annually to the Council on its work was in conformity with the general advisory function allotted to it; it appeared, indeed, to militate against the independence of the High Commissioner. It would be preferable, therefore, for the High Commissioner to deal in his own report with the work of the advisory body.

Mr. ROCHEFORT (France) supported the representative of Denmark. It would be wrong to provide that the Advisory Council should report to the Economic and Social Council, as that would not be in keeping with the relationship which should exist between the High Commissioner and the Advisory Council.

He would, moreover, be glad if two amendments could be made to the text proposed by the United States delegation, regardless of whether that text were incorporated in the Statute of the High Commissioner's Office or in a recommendation to the General Assembly. Those amendments were as follows: the words "after hearing the report which the High Commissioner will make on this question" to be inserted between the words "The Economic and Social Council shall establish" and the words "an Advisory Committee"; and the last sentence to be deleted and replaced by the following phrase: "The Council shall be presided over by the High Commissioner".

Miss DOBSON (Australia) was convinced of the necessity for an Advisory Council, but pointed out that, as its function was to advise a High Commissioner who had not yet begun his work, and as it was to meet only once a year, there was ample time in which to consider its composition. She therefore thought that consideration of the question could be deferred, but that there should be a reference in the resolution to be adopted by the Committee to the desirability of establishing such an Advisory Council.

Miss MEAGHER (Canada) explained that if the Economic and Social Council and the General Assembly decided on a definition of refugees by categories, her country would be prepared to agree to a method whereby the High Commissioner would be permitted to take interim decisions pending authorization by the Council or the General Assembly.

With regard to the subordination of the Advisory Council or Committee to the High Commissioner, she pointed out that it would create a new precedent if the High Commissioner, an international civil servant, were to preside over a group of representatives of States. While not specifically opposed to the suggestion, her delegation thought that it required careful consideration.

Clearly some method should be found for associating non-member States with refugee work. The High Commissioner's advice would be extremely useful on that question; an Advisory Council might indeed be required, but there were other possible solutions for such association, such as the granting of observer status.

If the Committee decided to set up an Advisory Council, and if the United States delegation's draft were accepted as a working paper, her delegation would have some observations to make on the wording of that draft.

Mr. FEARNLEY (United Kingdom) suggested that there were two ways out of the impasse in which the Committee found itself: one was to take a vote on the principle whether an Advisory Council should or should not be established at that stage, and, if it were decided that it should be, what steps should be taken towards setting it up; the second was to defer consideration of the question and to take it up in relation to the draft resolution.

Mr. DESAI (India) said his country had opposed from the outset the proposal that there should be a High Commissioner's Office for Refugees. He did not therefore propose to take sides in the issue before the Committee, but would like to help in the formulation of definite proposals. There was considerable force in the United States and French representatives' argument in favour of the establishment of an Advisory Council or Committee, but it was unnecessary to wait, as the Canadian representative had suggested, till the thirteenth session of the Council to consider the question, as the High Commissioner could report at the twelfth session whether an Advisory Council or Committee was required or not.

With regard to the submission of an annual report, there seemed to be no reason why the Advisory Council should not report to the Council through the High Commissioner.

He asked whether the United States representative intended that the qualification: "on the basis of their demonstrated interest in and devotion to the solution of the refugee problem" in that delegation's amendment applied both to States Members and to States non-members of the United Nations.

Mr. ROSEMAN (United States of America), in reply to the Indian representative, said that the words in question were certainly intended by his delegation to include both Member States and non-member States of the United Nations. It was not proposed to establish a Committee of all States Members of the United Nations; the qualifying words provided a basis for selection.

In order to further the proceedings, he proposed to delete the last two sentences from his amendments, leaving only the first sentence, which would serve as a declaration of principle. The Council would then be able to deal later with the establishment of an Advisory Committee, presumably at its twelfth session.

Mr. ROCHEFORT (France) accepted the United States proposal, and withdrew the second of his own two amendments, maintaining the first.

Mr. DELHAYE (Belgium) stated that in that case his delegation would withdraw its amendment relating to that point contained in document E/AC.7/L.75, while reserving the right to revert to it later.

Mr. FEARNLEY (United Kingdom) thought that it was essential first of all for the Committee to decide whether at that stage interested Member and non-member States should be brought into association by means of an Advisory Council or not.

The CHAIRMAN pointed out that whenever a vote was taken on a principle and an attempt was later made to apply that principle, great difficulties invariably arose. He therefore suggested that the Committee vote first on the earlier part of the United States delegation's amendment, reading:

"The Economic and Social Council shall establish an Advisory Committee on Refugees".

That part of the amendment, if taken by itself, seemed to meet the objection advanced by the United Kingdom representative. When a vote had been taken on the first part of the United States delegation's amendment, the remainder could, if necessary, then be voted upon.

Mr. FEARNLEY (United Kingdom) explained that his delegation was not convinced that the establishment of an Advisory Committee or Council was the best method of securing the association of non-member States, so that the Chairman's suggestion did not meet his objection. If the Chairman did not propose to put the question of principle to the vote, he would not oppose his decision, but would vote against the first part of the United States delegation's amendment.

Mr. CALDERON PUIG (Mexico) proposed, as a compromise between the two different views in the Committee, that the American delegation's amendment be modified to read as follows:

"The Economic and Social Council may decide, after hearing the views of the High Commissioner on the subject, to establish an Advisory Committee on Refugees..." etc.

Miss MEAGHER (Canada), Mr. DELHAYE (Belgium), Mr. PENTEADO (Brazil), Mr. ROCHEFORT (France), and Mr. ROSEMAN (United States of America) accepted the Mexican representative's proposal.

Mr. FHEARNLEY (United Kingdom), admitting that the Mexican representative's proposal was much nearer his delegation's point of view, explained that he had prepared for submission another proposal combining his and the Canadian delegations' views. As the Canadian representative had accepted the Mexican representative's proposal, however, he would not put forward that proposal in the Committee, but would abstain from voting and reserve his Government's right to raise the question again in the General Assembly.

The CHAIRMAN put to the vote the United States amendment (paragraph 7, E/AC.7/L.73) to Section B of Chapter II of the French working paper (E/AC.7/L.60), as amended by the Mexican representative.

The United States amendment, as amended, was adopted by 12 votes to none, with 2 abstentions.

Section C - Headquarters.

Section C of Chapter II of the French working paper (E/AC.7/L.60) was adopted unanimously.

Chapter III - Powers, Functions and Competence.

Section A - Powers.

Mr. ROSEMAN (United States of America), introducing his delegation's amendment (paragraph 8, E/AC.7/L.73), said that the United States Government felt that the first three sub-paragraphs of paragraph 1 of Section A of Chapter III should more logically be transferred to Chapter II, Section A. With regard to the fourth sub-paragraph, it did not consider that there was any necessity for such a provision, as the staff regulations of the United Nations should be sufficiently wide in scope to cover all such contingencies.

/Mr. ROCHEFORT

Mr. ROCHIFFORT (France) said that he had deemed it advisable to include the question of the appointment of staff in Chapter III, since he considered it one of the important functions of the High Commissioner. He would, however, yield to the Committee's view on that question, and would not press his proposal.

With regard to the fourth sub-paragraph of paragraph 1, he had thought it expedient to make that provision in case the High Commissioner should wish to call on certain individuals for voluntary services, since he was not quite sure that the staff regulations of the United Nations allowed for such a possibility. Perhaps the representative of the Secretary-General could enlighten him.

Mr. HUMPEREY (Secretariat) replied that he would need to refer to the Bureau of Personnel for a definite answer to that technical point.

Mr. ROSEMAN (United States of America) suggested that the question be left over until information was forthcoming. He agreed with the French representative that if there were no regulations covering voluntary services, some provision therefore should be made in the statute.

The CHAIRMAN proposed that all four sub-paragraphs be transferred provisionally to Section A of Chapter II, and that a decision on the deletion of the fourth be deferred until the Secretariat had ascertained whether staff regulations made the provision unnecessary. The United States representative could then, if he wished, propose that the fourth sub-paragraph be deleted.

It was so agreed.

The CHAIRMAN put to the vote paragraphs 2, 3 and 4 of Section A of Chapter III of the French working paper (E/AC.7/L.60).

Paragraph 2 was adopted unanimously.

Paragraph 3 was adopted unanimously.

/Paragraph 4 was

Paragraph 4 was adopted unanimously.

Mr. FEARNLEY (United Kingdom) suggested that paragraph 5 be deleted, as the Council, if it decided to set up an Advisory Committee, would also establish its terms of reference.

It was unanimously agreed that paragraph 5 should be deleted.

Section B - Functions

The CHAIRMAN stated that the Belgian delegation had submitted an amendment (E/AC.7/L.75 to paragraph 1) of Section B which, if adopted, would entail consequential amendments.

Mr. ROSEMAN (United States of America), while appreciating the Belgian delegation's attempt to describe more fully the functions of the High Commissioner, thought that the amendment gave an incomplete summary of a convention that had not yet been completely drafted, and that, because it was incomplete, it might give rise to misinterpretation. His delegation would therefore oppose it.

Mr. ROCHEFORT (France) agreed with the United States representative's observations, since the international protection of refugees had been defined in paragraph 4 of the Annex to General Assembly resolution 319 (IV) A, and it would be difficult to amend the terms of that definition.

He thought that the second part of the Belgian amendment constituted a summary of the Convention which would be out of place in the text at present before the Committee.

Mr. FEARNLEY (United Kingdom) said that his delegation would oppose the Belgian amendment, partly for the reasons advanced by the United States representative.

The CHAIRMAN put the Belgian amendment to the vote.

The Belgian amendment (E/AC.7/L.75, paragraph 3) to paragraph 1 of Section B was rejected by 6 votes to 2, with 6 abstentions.

The CHAIRMAN then put to the vote, as amended at the previous meeting, paragraph 1 of Section B of Chapter III of the French working paper.

Paragraph 1 of Section B of Chapter II, as amended, was adopted unanimously.

Mr. FEARNLEY (United Kingdom), referring to paragraph 2, pointed out that the French delegation had omitted the words "For the information of the General Assembly the High Commissioner should include in his annual report a statement of his activities in this field". Those words appeared in paragraph 5 of the Annex to the General Assembly resolution, and he considered it desirable that they should be inserted in the draft statute, in order that the latter follow the language used by the General Assembly to as great an extent as possible.

After some discussion,

the Committee agreed unanimously to add the sentence quoted by the United Kingdom representative to the end of paragraph 2.

Mr. ROSEMAN (United States of America) said that his delegation had proposed the addition of the words "for funds" after the word "governments" at the original end of paragraph 2, because the French working paper did not clarify the kind of appeal the High Commissioner might be making, and it was desirable that it should be so specified.

The United States amendment to paragraph 2 was adopted unanimously.

Paragraph 2 of Section B of Chapter II, as amended, was adopted unanimously.

Mr. FEARNLEY (United Kingdom) asked that the vote on paragraph 3 should be taken in two parts, the first part down to the word "determine", the second comprising the remainder of the paragraph. His delegation attached considerable importance to maintaining as far as possible the actual words used in the General Assembly resolution, and it would vote therefore for the first part of paragraph 3, which used those words. The second part of the paragraph seemed to be unnecessary, and might once again raise various issues at the General Assembly; he therefore proposed to vote against it.

The first part of paragraph 3, down to the word "determine", was adopted unanimously.

The second part of paragraph 3 was adopted by 10 votes to 4.

Paragraph 3 of Section B of Chapter III was adopted as a whole, by 10 votes to none, with 4 abstentions.

Mr. HUMPHREY (Secretariat), in answer to the question put earlier by the representative of France, informed the Committee that it was possible under United Nations staff regulations for the Secretary-General to employ voluntary unpaid personnel; it was not, however, his policy under those regulations to do so, except in cases of students, when the arrangement was of mutual benefit, and in cases of certain special studies.

The meeting rose at 6.15 p.m.
