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REPORT OF THE AD HOC COMMITTEE ON STATELESSNESS
AND RELATED PROBLEMS

Lake Success, New York
16 January to 16 February 1950

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/CHAPTER I

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CHAPTER I

ORGANIZATION OF THE COMMITTEE

1. The Ad Hoc Committee on Statelessness and Related Problems was established in accordance with Economic and Social Council resolution 248 B (IX) of 3 August 1949. This resolution appointed "an ad hoc Committee consisting of representatives of thirteen Governments, who shall possess special competence in this field and who, taking into account comments made during the discussions on the subject at the ninth session of the Council, in particular as to the distinction between displaced persons, refugees and stateless persons, shall:

"(a) Consider the desirability of preparing a revised and consolidated convention relating to the international status of refugees and stateless persons and, if they consider such a course desirable, draft the text of such a convention;

"(b) Consider means of eliminating the problem of statelessness, including the desirability of requesting the International Law Commission to prepare a study and make recommendations on this subject;

"(c) Make any other suggestions they deem suitable for the solution of these problems, taking into consideration the recommendations of the Secretary-General referred to above".

2. The Governments nominated by the Economic and Social Council to be members of the Committee were: Belgium, Brazil, Canada, China, Denmark, France, Israel, Poland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States, and Venezuela.

3. The Committee held its first meeting on Monday, 16 January 1950, at the interim headquarters of the United Nations at Lake Success, New York. The Committee held 32 meetings, terminating its work on 16 February 1950.

4. The following representatives of Governments members of the Committee participated in its work:

<u>Country</u>	<u>Representative</u>
Belgium	Mr. Jean Cuvelier
Brazil	Mr. Ramiro Saraiva Guerreiro.
Canada	Mr. Leslie Chance
China	Mr. Hsiu Cha
Denmark	Mr. Knud Larsen

/France

France	Mr. Rain Mr. Pierre Ordonneau Mr. Pierre Juvigny Mr. Devinat
Israel	Mr. Jacob Robinson
Poland	Mr. Alexander Rudzinski
Turkey	Mr. Adnan Kural
Union of Soviet Socialist Republics	Mr. N. I. Klimov
United Kingdom	Sir Leslie Brass
United States	Mr. Louis Henkin
Venezuela	Mr. Victor M. Perez Perozo

5. The following observers of specialized agencies were present at the session:

Mr. Metall } Mr. Evans }	International Labour Organisation (ILO)
Mr. Weis	International Refugee Organization (IRO)

6. The following consultants of non-governmental organizations also attended:

Category (a)

Mr. Stolz	American Federation of Labor (AF of L)
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Category (b)

Mr. Isaac Lewin	Agudas Israel World Organization
Mr. Dijour) Mr. Moskowitz)	Consultative Council of Jewish Organizations
Mr. B. Bernstein	Co-ordinating Board of Jewish Organizations
Miss G. Baer	(International League of the Rights of Man (Womens International League for Peace and Freedom
Mr. Perlzweig) Mr. Karbach)	World Jewish Congress

The Committee heard oral statements from Mr. Lewin and Mr. Perlzweig.

7. Mr. Cuvelier (Belgium) was delayed in his arrival and could not attend the first three meetings. Mr. Rain (France) was also delayed and could not attend the first meeting. Mr. Rain left before the conclusion of the session, and France was represented in the Committee at its 19th to 22nd, 25th and 26th meetings by Mr. Ordonneau, at its 23rd and 24th meetings by Mr. Devinat, and at the 31st and 32nd meetings by Mr. Juvigny.

8. Mr. John P. Humphrey, Director of the Division of Human Rights, opened the session as temporary chairman on behalf of the Secretary-General.

/9. Mr. Charles

9. Mr. Charles A. Hogan was Secretary of the Committee.

10. Mr. Klimov (Union of Soviet Socialist Republics), speaking at the first meeting on a point of order, questioned the credentials of the representative of China and called the attention of the Committee to the communications from the Central Peoples Government of the People's Republic of China to the Secretary-General, dated 18 November 1949 and 8 January 1950, to the effect that the presence in organs of the United Nations of representatives of the "Kuomintang Group" was illegal and must be brought to an end. Mr. Klimov stated that he was instructed by his Government not to participate in the work of the Committee until the representative of the "Kuomintang group" was excluded from it. He submitted the following resolution (Document E/AC.32/L.1):

"The Ad Hoc Committee on Statelessness and Related Problems

"Resolves to exclude the representative of the Kuomintang group from membership of the Committee."

Mr. Rudzinski (Poland) supported the views of Mr. Klimov and expressed his inability to take part in the work of the Committee as long as the representative of the "Kuomintang group" was allowed to sit in the Committee. Mr. Humphrey, the temporary chairman, asked the representative of the Union of Soviet Socialist Republics to permit the Committee to proceed with the election of a chairman after which the matter could be raised again. On the insistence of Mr. Klimov, the temporary chairman called for a vote on the Soviet draft resolution, since it was the first motion to be submitted. The resolution was rejected by the Committee. Mr. Klimov and Mr. Rudzinski then left the meeting after stating that their Governments would not recognize the legality of any decisions taken by the Committee.

11. The Committee elected the following officers:

Chairman	Mr. Leslie Chance (Canada)
Vice-Chairman	Mr. Knud Larsen (Denmark)
Rapporteur	Mr. Ramiro Saraiva Guerreiro (Brazil)

12. The views of the members of the Committee are contained in the summary records of its meetings (E/AC.32/SR.1 - 32).

CHAPTER II

Agenda and Method of Work

13. At its second meeting the Committee adopted as its agenda the following provisional agenda as prepared by the Secretary-General (E/AC.32/1):

1. Opening of the session
2. Election of officers
3. Adoption of the agenda
4. International status of refugees and stateless persons
5. Means of eliminating statelessness
6. Other suggestions for the solution of these problems
7. Adoption of the report of the Ad Hoc Committee to the Economic and Social Council.

14. The Committee decided to recommend to the Economic and Social Council that the most effective approach to the solution of the problems which had been referred to it would be by means of the conclusion of conventions. The Committee used as its basic texts the draft convention proposed by the Government of France (E/AC.32/L.3) and that presented by the Secretary-General (E/AC.32/2), respectively.

15. In view of the urgency of the refugee problem and the responsibility of the United Nations in this field, the Committee decided to address itself first to the problem of refugees, whether stateless or not, and to leave to later stages of its deliberations the problems of stateless persons who are not refugees.

16. The Committee met in 32 plenary meetings and for special purposes appointed two working groups. The first of these was charged with the duty of drafting an article defining the term "refugee." The second was asked to draft a preamble to the convention, to co-ordinate the French and English texts, to edit and organize the articles of the convention as they had been passed by the Committee and, finally, to consider the possibility of the application of certain articles of the convention to stateless persons who are not refugees.

17. The Committee prepared a draft Convention Relating to the Status of Refugees (annex I); Observations and comments relating thereto (annex II); a draft Protocol Relating to the Status of Stateless Persons (annex III); and Observations thereon (annex IV).

/18. Having

18. Having discharged these responsibilities, the Committee turned to the problem of the elimination of statelessness. After careful examination, it reached the decision that it was not practicable at this stage for it to examine this complex problem in great detail or to draft a convention on the subject. It prepared a draft resolution on this subject, however, for the consideration of the Economic and Social Council (see chapter IV, paragraph 26.)

CHAPTER III

Proposed Draft Convention Relating to the Status of Refugees and Proposed Protocol thereto Relating to the Status of Stateless Persons

19. The Committee decided to recommend a draft Convention Relating to the Status of Refugees and a Protocol thereto Relating to the Status of Stateless Persons. These appear in Annexes I and III respectively.

20. The Committee adopted the following resolution:

"The Ad Hoc Committee on Statelessness and Related Problems

"Requests the Secretary-General in accordance with resolution 248 B (IX) of the Economic and Social Council to submit the report of the Committee to Governments and invite them to forward their comments thereon to him by 1 May 1950 in order that the report along with the comments received may be submitted to the Council at its eleventh session; and

"Recommends that the Council consider the report and comments thereon and submit these along with its recommendations to a diplomatic conference which it would convene for the purpose of further review of the draft Convention Relating to the Status of Refugees and the Protocol thereto Relating to the Status of Stateless Persons and at which these would be opened for signature."

21. The Committee prepared comments on the draft Convention and draft Protocol. These appear in Annexes II and IV, respectively.

CHAPTER IV

Draft Resolution for the Economic and Social Council Concerning the Elimination of Statelessness

22. In dealing with the question of elimination of statelessness, the Committee discussed the responsibilities of various organs of the United Nations in regard to this problem, including the International Law Commission and the Commission on the Status of Women, having in mind the desirability of avoiding overlapping of activities in the same field.
23. It reviewed the basic causes of statelessness, including
- (a) failure to acquire nationality at birth;
 - (b) loss of nationality through marriage and dissolution of marriage;
 - (c) voluntary renunciation of nationality; and
 - (d) deprivation of nationality.
24. Discussions in the Committee developed two main points of view: (a) that of the majority, that the Committee could not at this stage proceed to the drafting of a convention on the subject of the elimination of statelessness; and (b) the view of the minority, that a draft convention could and should be formulated by the Committee as a basis of discussion for some other organ which would be called upon to deal more definitively with the matter. A proposal submitted by the Representative of Denmark as a basis for drafting will be found in Annex V.
25. The conclusions of the majority were based principally upon the following considerations:
- (a) The Committee had by the time it reached this item on the agenda already completed a draft Convention Relating to the Status of Refugees, and a Protocol Relating to the Status of Stateless Persons. These labors had largely exhausted the time at the disposal of the Committee.
 - (b) The Committee felt, moreover, that it was at this stage difficult, if not impossible, to approach in the necessary detail a matter of such complexity.
26. As a result of its deliberations, the Committee decided to recommend to the Economic and Social Council the following draft resolution:
- "The Economic and Social Council
- "A. 1. Invites Member States to reexamine their Nationality Laws

with a view to reducing so far as possible cases of statelessness which arise from the operation of such laws; and

"2. Recommends to Member States involved in changes of territorial sovereignty that they include in the arrangements for such changes the necessary provisions for the avoidance of statelessness; and

"3. Invites Member States to contribute to the reduction of the number of stateless persons by extending to persons in their territory the opportunity to be naturalized; and

"4. Requests the Secretary-General to seek information from Member States with regard to the carrying out of this resolution and to report thereon to the Council; and

"B. 1. Considering that progress in the elimination of statelessness requires joint international action; and

"2. Considering that the conclusion of an agreement or of agreements for this purpose is necessary;

"3. Requests the International Law Commission to prepare the necessary draft documents at the earliest possible date."

27. The Committee did not include in the above draft resolution a specific reference to the statelessness of women resulting from marriage or dissolution of marriage since the question of the nationality of married women is at present being considered on a broader basis by the Commission on the Status of Women.

CHAPTER V

Adoption of the Report of the Committee to the
Economic and Social Council

23. The Committee unanimously adopted this report at its final meeting. Mr. Cuvelier (Belgium) left a day before the adoption of the report; however, he had had opportunity to examine the draft report and had agreed to its substance.

ANNEX I

DRAFT CONVENTION RELATING TO
THE STATUS OF REFUGEES^{1/}

PREAMBLE

The Contracting States,

Considering the concern of the United Nations for the protection of human rights without any discrimination, as given expression in the Universal Declaration of Human Rights and especially Articles 6 and 14 thereof: and in particular their profound concern for the rights of refugees as evinced in various resolutions of the General Assembly and of the Economic and Social Council of the United Nations, especially resolution 319 A (IV), 3 December 1949, in which the General Assembly recognized the international scope and nature of the refugee problem and the responsibility of the United Nations for the international protection of refugees; and

Considering further that it is desirable to revise and consolidate previous international agreements relating to the protection of refugees, to extend the scope of such agreements to additional groups of refugees and to increase the protection accorded by these instruments,

Have agreed

^{1/} The titles of Articles have been retained to assist in the study of the Draft Convention. The Committee felt they would be omitted when the Draft Convention is approved.

CHAPTER I

GENERAL PROVISIONS

Article 1

Definition of the term "refugee"

A. For the purposes of this Convention, the term "refugee" shall apply to:

1. Any person who:

- (a) As a result of events in Europe after 3 September 1949 and before 1 January 1951 has well-founded fear of being the victim of persecution for reasons of race, religion, nationality or political opinion; and
- (b) Has left or, owing to such fear, is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence; and
- (c) Is unable or, owing to such fear, unwilling to avail himself of the protection of the country of his nationality.

This provision shall not include a person who was a member of a German minority in a country outside Germany and who is in Germany.

2. Any person who:

- (a) (i) Was a victim of the Nazi regime in Germany or in a territory purported to have been incorporated into Germany, or of a regime which took part on its side in the Second World War, or of a regime in a country occupied by Germany which assisted Germany against the United Nations; or
- (ii) Was or has well-founded fear of being a victim of the Falangist regime in Spain; and
- (b) Has left or is outside the country of his nationality or, if he has no nationality, the country of his former habitual residence; and
- (c) Is unable or, for reasons other than those of purely personal convenience, unwilling to avail himself of the protection of the government of the country of his nationality.

3. Any person who in the period between 4 August 1914 and 3 September 1939 was considered to be a refugee.

B. The Contracting States may agree to add to the definition "refugee" contained in this article persons in other categories recommended by the General Assembly.

/C. No Contracting

- C. No Contracting State shall apply the benefits of this Convention to any person who in its opinion has committed a crime specified in article VI of the London Charter of the International Military Tribunal or any other act contrary to the purposes and principles of the Charter of the United Nations.
- D. This Convention shall cease to apply to any refugee when:
1. He acquires a new nationality, or
 2. He returns to the country of his nationality, or if he has no nationality, to the country of his former habitual residence.

Article 2

General obligations

In any country in which a refugee finds himself he must conform to the laws and regulations, including measures taken for the maintenance of public order.

Article 3

Non-discrimination

The Contracting States shall not discriminate against a refugee on account of his race, religion, or country of origin, or because he is a refugee.

Article 4

Exemption from reciprocity

Where rights and favours are accorded to aliens generally, but are made subject to reciprocity, the Contracting States shall not refuse such rights and favours to refugees.

Article 5

Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State, solely on account of such nationality.

Article 6

Continuity of residence

The Contracting States agree that:

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is residing /there, the period

there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory;

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has subsequently returned there, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

CHAPTER II

LEGAL STATUS

Article 7

Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights acquired under a law other than the law of the country of domicile or residence of a refugee, more particularly rights attaching to marriage, shall be respected, subject to compliance, if this be necessary, with the formalities prescribed by the law of the country of his domicile, or, if he has no domicile, by the law of the country of his residence.

Article 8

Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 9

Artistic rights and industrial property

In respect of literary, artistic and scientific rights, and of industrial property such as patents, designs, models, licences, trademarks, trade names etc., the Contracting States shall accord to refugees the most favourable treatment accorded to nationals of foreign countries.

Article 10

Right of association

As regards non-profit making associations and trade unions the Contracting States shall accord to refugees lawfully in their territory the most favourable treatment accorded to nationals of foreign countries.

Article 11

Access to Courts

1. A refugee shall have free access to the courts of law in the territory of the Contracting States.
2. In the country in which he has his habitual residence, a refugee shall enjoy in this respect the same rights and privileges as a national. He shall, on the same conditions as a national, enjoy the benefit of legal assistance and be exempt from cautio iudicatum solvi.
3. In countries other than that in which he has his habitual residence, a refugee shall be accorded in these matters the treatment granted to a national of the country of his habitual residence.

CHAPTER III

GAINFUL OCCUPATION

Article 12

Wage-earning employment

1. The Contracting States shall accord to refugees lawfully in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

- (a) He has completed three years' residence in the country;
- (b) He has a spouse possessing the nationality of the country of residence;
- (c) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees in this regard to those of nationals, and in particular those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 13

Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible, and in any event, not less favourable than that accorded generally to aliens in the same circumstances, as regards the right to engage in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 14

Liberal professions

1. The Contracting States shall accord to refugees lawfully resident in their territory who hold diplomas recognized by the competent authorities of the country of residence, and who are desirous of practising a liberal profession, treatment /as favourable as

as favourable as possible, and in any event, not less favourable than that accorded generally to aliens in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in their colonies, protectorates or in Trust Territories under their administration.

CHAPTER IV

WELFARE

Article 15

Rationing

Where a rationing system exists, refugees shall be treated on the same footing as nationals.

Article 16

Housing

As regards housing, the Contracting States in so far as the matter is regulated by laws or regulations, or is subject to the control of public authorities, shall accord to refugees lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances.

Article 17

Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees the most favourable treatment accorded to nationals of a foreign country with respect to other education and in particular as regards the remission of fees and charges and the award of scholarships.

Article 18

Public relief

The Contracting States shall accord to refugees lawfully in their territory the same treatment with respect to public relief and assistance as is accorded to nationals.

Article 19

Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully in their territory the same treatment as is accorded to nationals in respect of the following matters:

/(a) In so far as such

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours to work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provisions in respect of employment injury, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency, which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

- (i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
- (ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. Contracting States whose nationals enjoy the benefits of agreements for the maintenance of acquired rights and rights in the process of acquisition in regard to social security, shall extend the benefits of such agreements to refugees subject only to the conditions which apply to nationals.

3. Contracting States will give sympathetic consideration to extending to individual refugees so far as possible the benefits of similar agreements which may have been concluded by such Contracting States with the country of the individual's nationality or former nationality.

CHAPTER V

ADMINISTRATIVE MEASURES

Article 20

Administrative assistance

1. The Contracting States in whose territory the exercise of a right by aliens would normally require the assistance of the authorities of his country of nationality shall arrange that such assistance be afforded to refugees by an authority or authorities, national or international.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered to refugees such documents or certifications as would normally be delivered to other aliens by their national authorities.
3. Documents or certifications so delivered shall stand in the stead of and be accorded the same validity as would be accorded to similar instruments delivered to aliens by their national authorities.
4. Subject to such exceptional treatment as may be granted to indigent refugees, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

Article 21

Freedom of movement

The Contracting States shall accord to refugees lawfully in their territory the right to choose their place of residence and to travel freely within their territory, subject to any regulations applicable to aliens generally in the same circumstances and to the conditions under which such refugees were admitted.

Article 22

Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document issued pursuant to article 23.

Article 23

Travel documents

1. The Contracting States shall issue, on request, to a refugee lawfully resident in their territory, a travel document for the purpose of travel outside their territory; and the provisions of the Schedule to this Convention shall apply with respect to such document. The Contracting States may issue such a travel document to a refugee not lawfully resident in their territory.
2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 24

Fiscal charges

1. The Contracting States shall not impose upon refugees in their territory duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents.
3. The Contracting States reserve the right to impose upon refugees a special duty payable either on identity cards, or residence permit, or on travel documents. Revenue accruing from this duty shall be wholly applied to charities for the relief of refugees.

Article 25

Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit a refugee to transfer assets which he has brought with him into its territory to another country where he has been admitted for the purposes of resettlement.
2. The Contracting States shall give sympathetic consideration to the application of a refugee for permission to transfer assets wherever they may be and which are necessary for his resettlement to another country where he has been admitted.

Article 26

Refugees not lawfully admitted

1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who enters or who is present in their territory without authorization, and who presents himself without delay to the authorities and shows good cause for his illegal entry or presence.
2. The Contracting States shall not apply to such refugee restrictions of movement other than those which are necessary and such restrictions shall only be applied until his status in the country is regularized or he obtains admission into another country. The Contracting States shall allow such refugee a reasonable period and all the necessary facilities to obtain admission into another country.

Article 27

Expulsion of refugees lawfully admitted

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order and in pursuance of a decision reached in accordance with due process of law.
2. Such refugee shall be entitled, in accordance with the established law and procedure of the country, to submit evidence to clear himself and to be represented before the competent authority.
3. The Contracting States shall allow such refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 28

Prohibition of expulsion to territories where the life or freedom of a refugee is threatened

No Contracting State shall expel or return, in any manner whatsoever, a refugee to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion.

Article 29

Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

IMPLEMENTATION AND TRANSITORY PROVISIONS

Article 30

Co-operation of the national authorities with the United Nations

1. The Contracting States shall maintain contact with the agencies charged by the United Nations with the international protection of refugees such as the United Nations High Commissioner for Refugees and shall facilitate their work.
2. In order to enable such agencies to make reports to the competent organs of the United Nations, the Contracting States shall provide them in the form prescribed with data, statistics and information concerning:

- (a) The condition of refugees,
- (b) The implementation of this Convention, and
- (c) All regulations, laws, decrees etc., made by them concerning refugees.

Article 31

Measures of implementation of the Convention

Each of the Contracting States shall, within a reasonable time and in accordance with its constitution, adopt legislative or other measures to give effect to the provisions of this Convention, if such measures are not already in effect.

Article 32

Relation to previous Conventions

1. Without prejudice to article 23, paragraph 2, of this Convention, this Convention replaces the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 June 1935, the Conventions of 28 October 1933 and 10 February 1938, and the Agreement of 15 October 1946, as between all parties to this Convention.
2. As between two States parties to a previous instrument mentioned in paragraph 1 of this article, one of which is not party to this Convention, the previous agreement shall continue in force.
3. Each of the above-mentioned instruments shall be deemed to be terminated when all the States parties thereto shall have become parties to this Convention.

CHAPTER VII

FINAL CLAUSES

Article 33

Settlement of disputes

If any dispute shall arise between parties to this Convention relating to its interpretation or application, and if such dispute cannot be settled by other means, the dispute shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice.

Article 34

Signature, ratification and accession

1. This Convention shall be open until ... (one year after the Convention is opened for signature) for signature on behalf of any Member State of the United Nations and on behalf of any non-member State to which an invitation has been addressed by the Economic and Social Council.
2. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The States mentioned in the first paragraph which have not signed the Convention by the ... (date indicated in the first paragraph) may accede to it.

Accession shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 35

Colonial clause

1. Any State may, at the time of signature, ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that the present Convention shall extend to all or any of the territories for the international relations of which it is responsible. This Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the day of receipt by the Secretary-General of the United Nations of this notification.
2. Each State undertakes with respect to those territories to which the Convention is not extended at the time of signature, ratification or accession to take as soon as possible the necessary steps in order to extend the application of

/this Convention

this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

3. The Secretary-General of the United Nations shall communicate the present Convention to the States referred to in article 36 for transmission to the responsible authorities of:

- (a) Any Non-Self-Governing Territory administered by them;
- (b) Any Trust Territory administered by them;
- (c) Any other non-metropolitan territory for the international relations of which they are responsible.

Article 36

Reservations

(See the comment of the Committee on this article in Annex II).

Article 37

Entry into force

This Convention shall come into force on the ninetieth day following the day of deposit of the second instrument of ratification or accession.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 38

Denunciation

1. Any Contracting State may denounce this Convention at any time by a written notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.
3. Any Contracting State which has made a declaration under article 35, paragraph 1, may at any time thereafter, by a written notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 39

Revision

Any Contracting State may request revision of this Convention at any time by a written notification addressed to the Secretary-General of the United Nations.

The Economic and Social Council shall recommend the steps, if any, to be taken in respect of such request.

Article 40

Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 34:

- (a) Of signatures, ratifications and accessions received in accordance with article 34;
- (b) Of the date on which this Convention will come into force in accordance with article 37;
- (c) Of reservations made in accordance with article 36;
- (d) Of denunciations received in accordance with article 38;
- (e) Of requests for revision received in accordance with article 39.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments, and of which the Chinese, English, French, Russian and Spanish official texts are equally authentic.

Done at _____ this _____ day of _____, in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the Members of the United Nations and to the non-member States referred to in article 34.

SCHEDULE

(see article 23)

Paragraph 1 (3)^{1/}

1. The travel document referred to in article 23 of this Convention shall be similar to the specimen annexed hereto.
2. The document shall be made out in at least two languages - French, and the national language or languages of the authority which issues it.

Paragraph 2 (4)

Subject to the regulations obtaining in the country of issue, children may be included in the document of an adult refugee.

Paragraph 3 (5)

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4 (6)

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5 (7)

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6 (8)

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.
2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

Paragraph 7 (9)

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 23 of this Convention.

^{1/} The numbers in brackets refer to the articles of the London Agreement of 15 October 1946, set out on page 154 of document E/1112, which correspond in substance.

Paragraph 8 (10)

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9 (11)

The Contracting States undertake to issue transit visas to refugees who have obtained visas for the territory of final destination.

Paragraph 10 (12)

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11 (13)

When a refugee has lawfully taken up residence in the territory of another Contracting State, the power to issue a new document will be transferred to the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12 (14)

The authority issuing a new document shall withdraw the old document.

Paragraph 13 (15)

1. The document shall entitle the holder to leave the country where it has been issued and, during the period of validity of the document, to return thereto without a visa from the authorities of that country, subject to those laws and regulations which apply to the bearers of duly visaed passports. Where a visa is required of a returning national a visa may be required of a returning refugee but shall be issued to him on request and without delay.
2. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14 (16)

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

/Paragraph 15 (17)

Paragraph 15 (17)

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16 (18)

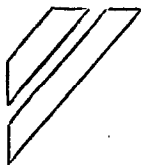
The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

ANNEX TO THE SCHEDULE

Specimen Travel Document

The document will be in booklet form (approximately 15 x 10 centimetres).

It is recommended that it be so printed that any erasure or alteration by chemical or other means can be readily detected, and that the words "Convention of" " be printed in continuous repetition on each page, in the language of the issuing country.



(Cover of booklet)

TRAVEL DOCUMENT

(Convention of)

No.....

(1)

TRAVEL DOCUMENT

(Convention of)

This document expires on unless its validity is extended or renewed.

Name

Forename (s)

Accompanied by child (children).

1. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality.

2. The holder is authorized to return to
[state here the country whose authorities are issuing the document] on or before unless some later date is hereafter specified.

[The period during which the holder is allowed to return must not be less than three months.]

3. Should the holder take up residence in a country other than that which issued the present document, he must, if he wishes to travel again, apply to the competent authorities of his country of residence for a new document.

(This document contains pages, exclusive of cover)

(2)

Place and date of birth
Occupation
Present residence
*Maiden name and forename(s) of wife
*Name and forename(s) of husband

Description

Height
Hair
Colour of eyes
Nose
Shape of face
Complexion
Special peculiarities

Children accompanying holder

Name	Forename(s)	Place and date of birth	Sex
.
.
.

* Strike out whichever does not apply.

(This document contains pages, exclusive of cover.)

(3)

Photograph of holder and stamp of issuing authority

Finger-prints of holder
(if required)

Signature of holder

(This document contains pages, exclusive of cover.)

(4)

1. This document is valid for the following countries:

.
.
.

2. Document or documents on the basis of which the present document is issued:

.....
.....
.....

Issued at

Date

Signature and stamp of authority
issuing the document:

Fee paid:

(This document contains pages, exclusive of cover.)

(5)

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority

extending or renewing the validity
of the document:

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority

extending or renewing the validity
of the document:

(This document contains pages, exclusive of cover.)

(6)

Extension or renewal of validity

Fee paid:

From

To

Done at Date

/Signature

Signature and stamp of authority
extending or renewing the validity
of the document:

Extension or renewal of validity

Fee paid:

From

To

Done at Date

Signature and stamp of authority
extending or renewing the validity
of the document:

(This document contains pages, exclusive of cover.)

(7-32)

Visas

The name of the holder of the document must be repeated in each visa.

(This document contains pages, exclusive of cover.)

ANNEX II

COMMENTS OF THE COMMITTEE ON THE DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES

General observations

1. The Committee in framing a draft Convention for submission to Governments thought it desirable on the one hand not to draw up a draft which would set out merely the existing practice common to all States represented on the Committee. On the other hand, it considered it undesirable to formulate an ideal solution and thereby set out provisions which would not be likely to obtain the acceptance of many Governments. It accordingly chose a middle course. The draft it has prepared has received the general consensus of approval of members of the Committee, but as appears from the Summary Records the Committee was informed during its deliberations that some Governments in view of their special problems might find difficulty in adopting all the proposals; it appeared that difficulties would arise on different articles for different Governments. The Committee felt its function to be that of preparing a draft for consideration by Governments and in those circumstances it has not been felt necessary in this annex to set out the difficulties faced or the reservations made by representatives.
2. All representatives agreed that since the draft convention could not at this stage be regarded as in any sense definitive, their Governments could not consider themselves bound to support the present draft in later sessions of organs of the United Nations or to accept the Convention or any of its provisions.
3. The draft convention contains provisions concerning a certain number of subjects. The fact that the draft convention is silent on a subject means that in this matter the Committee believed that a special provision was not necessary and that Governments would be free to decide upon it at their discretion according to international law.
4. The question of subjecting refugees to military service is an example of a matter upon which the draft convention remains silent despite the fact that the Secretariat draft and the draft of the French Government (E/AC.32/L.3) offered precise provisions on the subject. The Committee felt that such a provision might be open to misinterpretation and that this problem is covered by general rules of international law and practice. On the other hand, it was not intended
/to suggest

to suggest that Governments might not require military service of refugees subject to such law and practice.

5. In drafting this convention the Committee gave careful consideration to the provisions of previous international agreements. It sought to retain as many of them as possible in order to assure that the new consolidated convention should afford at least as much protection to refugees as had been provided by previous agreements. In some cases, the Committee has deviated from the provisions contained in previous Conventions, where this was deemed necessary in view of social and economic developments, or where experience has shown that the previous provisions were not adequate to the needs of refugees. Moreover, the draft convention contains provisions on certain subjects not covered by previous Conventions where the Committee felt that it was necessary or desirable to regulate these subjects specifically in the convention.

CHAPTER I

Article 1

Definition of the term "Refugee"

The Committee believed the draft Convention should contain a definition of the term "refugee" in order to state unambiguously to whom the Convention would apply and that it should not refer to definitions already given in other instruments. It is necessary, on the one hand, that Governments know without consulting other instruments to which refugees the Convention will apply, and, on the other, that the determination of the persons to whom the Convention will apply be adapted to the present situation.

In discussion of the scope of the Convention, the representative of the United Kingdom had proposed a general definition based on the broad concept of "unprotected persons", embracing both refugees and stateless persons who are not refugees. The Committee, however, decided to deal specifically with refugees first and the representative of the United Kingdom modified his proposal to accord with that made by the representative of France who urged the Committee to adopt a definition of "refugee" in general terms. They were in this regard supported by the representative of Belgium.

The Committee discussed whether it would include in a definition all refugees irrespective of their origin and of the fact that the events which caused the rupture with their country of origin belongs to the past or future. The Committee put aside this solution believing it would be difficult for a Government to sign a blank cheque and undertake obligations toward future refugees, the origin and number of which would be unknown. It was also felt that since this was a document prepared under the auspices of the United Nations and since the individuals protected by this Convention would probably become the charge of that organ of the United Nations concerned with the protection of refugees, the categories of individuals to be covered should be specified as was done in previous United Nations decisions in this regard.

The Committee adopted a definition which enumerates the three categories of refugees to whom the Convention will apply.

1. The first category includes refugees who became such "as a result of events in Europe after 3 September 1939 and before 1 January 1951".

/The expression

The expression "as a result of events in Europe" is intended to apply to happenings of major importance involving territorial or profound political changes, as well as systematic programmes of persecution in this period which are after-effects of earlier changes.

The second date, 1 January 1951, excludes events which happen after that date but does not exclude persons who may become refugees at a later date as a result of events before then, or as a result of after-effects which occurred at a later date.

The date of 1 January 1951 was chosen because it is the date of assumption of office by the United Nations High Commissioner for Refugees. It enables Governments to know at the time they become parties to the Convention the extent of their obligations. At the time of conclusion of the Convention another date may be inserted if this should prove more appropriate.

The expression "well-founded fear of being the victim of persecution for reasons of race, religion, nationality or political opinion" means that a person has either been actually a victim of persecution or can show good reason why he fears persecution.

"Former habitual residence" (A-1 (b)) of a refugee, for the purposes of this convention, means the country in which he had resided and where he had suffered or fears he would suffer persecution if he returned.

Sub-paragraph A-1 (c)

The Committee agreed that for the purposes of this sub-paragraph and sub-paragraph A-2 (c), and therefore for the draft Convention as a whole, "unable" refers primarily to stateless refugees but includes also refugees possessing a nationality who are refused passports or other protection by their own Government. "Unwilling" refers to refugees who refuse to accept the protection of the government of their nationality.

Final paragraph of A-1

This paragraph is intended to exclude from the benefits of the Convention members of former German minorities outside of Germany who returned to, sought refuge in, or were expelled to Germany, and who are living there. This paragraph reflects the view that these individuals should be and are being assimilated into the Germany community and are not properly refugees. Such persons would not be covered by the Convention even if at some future time they should leave Germany.

/The Committee agreed

The Committee agreed that in this article the term "Germany" was to be interpreted as the area which formed the German Reich in December 1937.

2. The second category includes victims of the Nazi regime or of regimes associated with it and the victims of the Falangist regime in Spain.

3. The third category includes "any person who in the period between 4 August 1914 and 3 September 1939 was considered to be a refugee".

Sub-paragraph A-3 is intended to dispense with the need of enumerating but to include all persons covered by previous agreements and also those who though not actually covered by such agreements were in fact victims of persecution and were given status as refugees by countries admitting them whether these countries were or were not parties to agreements concerning refugees. The Committee also intended that their children, even if they were born after 3 September 1939, should also enjoy the status of refugees, provided they are without nationality.

Members of the immediate family of a refugee should, in general, be considered as refugees if the head of the family is a refugee as here defined. Also, such members are to be regarded as refugees if the conditions set forth in paragraph A apply to them, even if the head of the family is not a refugee.

Paragraph B

The Committee anticipated the possibility of extending the application of the Convention to categories of refugees other than those defined in this article. Such extension would require the agreement of the Contracting States in order to become binding upon them. The General Assembly may propose the inclusion of new categories.

Paragraph D-1

Persons who have lost subsequently their new nationality are not meant to be excluded if the conditions set out in paragraph A apply to them.

Article 2

General Obligations

Article 2 states the obligation upon a refugee to comply with laws and regulations of the country in which he is.

The Committee fully appreciated that the provision made in this Article was axiomatic and need not be explicitly stated. However, it was considered useful to include such a provision in order to produce a more balanced document

/as well as

as well as for its psychological effect on refugees and on countries considering admitting refugees.

The representative of France proposed a second paragraph to this article, explicitly permitting Contracting States to restrict the political activity of refugees. The Committee felt that such a provision was too broad, and might be misconstrued as constituting approval of limitations on areas of activity for refugees which are in themselves unobjectionable. The Committee also felt that a provision of this kind was unnecessary and that in the absence of any provision to the contrary every sovereign government retained the right it has to regulate any activities on the part of an alien which it considers objectionable. The failure to include such a provision is not to be interpreted as derogating from the power of governments in this respect. In an effort to meet at least in part the view of the representative of France, the phrase "including measures for the maintenance of public order" was included.

Article 4

Exemption from reciprocity

1. In some countries there is at the root of the idea of the juridical status of foreigners the idea of reciprocity. The law considers a foreigner as being in normal circumstances a person in possession of a nationality. The requirement of reciprocity of treatment places the national of a foreign country in the same position as that in which his own country places foreigners.

Since a refugee is not protected by any State the requirement of reciprocity loses its raison d'être and its application to refugees would be a measure of severity. Refugees would be placed in an unjustifiable position of inferiority. (See Study on the Position of Stateless Persons, prepared by the Secretary-General - Part I. Document E/1112).

The exemption from reciprocity relates not only to rights and benefits specifically covered by the draft convention (articles 8, 13, 14, 16) but also to such rights and benefits not explicitly mentioned in the draft convention.

A reciprocity clause is contained in the Convention of 28 October 1933 and

in the Convention of 10 February 1938.^{1/} The Committee thought it desirable to clarify the meaning of the clause but no change in substance was intended.

2. The article is not intended to relate to treaty provisions conferring preferential treatment on aliens of a particular nationality, as for example, under a most favoured nation clause. Where, however, aliens generally enjoy rights whether by statute or by treaty arrangements with other countries (i.e. diplomatic reciprocity), these rights would be accorded to refugees also.

Article 5

Exemption from exceptional measures

1. Unless a refugee has been deprived of the nationality of his country of origin he retains that nationality. Since his nationality is retained, exceptional measures applied during war or emergency, or for special reasons, to such nationals would be applied to him. The article provides therefore that exceptional measures shall not be applied to a refugee where these would be applied only on grounds of his nationality.

2. This article is based upon the wording of article 44 of the Geneva Convention of 12 August 1949 relating to the Protection of Civilian Persons in Time of War.

1/ Article 14 of the Convention of 28 October 1933 reads as follows:

"The enjoyment of certain rights and the benefit of certain favours accorded to foreigners subject to reciprocity shall not be refused to refugees in the absence of reciprocity."

Article 17 of the Convention of 10 February 1938 is identical:

"The enjoyment of certain rights and the benefit of certain favours accorded to foreigners subject to reciprocity shall not be refused to refugees in the absence of reciprocity."

CHAPTER II

LEGAL STATUS

Article 7

Personal Status

Paragraph 1^{1/}

Two ideas are embodied in this paragraph:

(1) In the first place it establishes that the personal status of refugees will be governed by the law of their country of domicile or, failing this, by the law of their country of residence. In so doing it confirms existing practice. In fact, the laws and jurisprudence regarding the personal status of stateless persons are now practically uniform. This double formula exists in the Conventions of 1933 and 1938.

(2) In the second place paragraph 1 introduces an innovation. It makes no distinction between refugees who are stateless and those who formally still retain a nationality. In point of fact persons in either category no longer enjoy the protection of their countries of origin. Moreover, it is sometimes difficult to determine with certainty whether the refugee is or is not stateless or even to establish his former nationality. In these circumstances

1/ This text repeats in substance Article 4 of the Convention of 28 October 1933 which reads:

"The personal status of refugees shall be governed by the law of their country of domicile or, failing such, by the law of their country of residence.

The validity of acts of the religious authorities to whom the refugees are subject, in countries which admit the competence of those authorities, shall be recognized by the States Parties to the present Convention.

Rights acquired under the former national law of the refugee, more particularly rights attaching to marriage (matrimonial system, legal capacity of married women, etc.), shall be respected, subject to compliance with the formalities prescribed by the law of their country of domicile, or, failing such, by the law of their country of residence, if this be necessary."

it was considered advisable to apply to the legal status of a refugee the law of his domicile or of his residence. Such a solution would be to the advantage of the refugees, and would be welcomed also by other inhabitants of the country who may have legal proceedings with refugees, and by the courts of the country. Courts will be freed from what is frequently the very difficult task of deciding which law is applicable and of discovering what are the provisions of foreign laws in a particular regard. Moreover, in some countries, courts may exercise jurisdiction with regard to aliens only if their decisions are recognized by the Courts of the country of nationality of the alien. The present provisions would, by applying the law of domicile or of residence, eliminate this limitation with regard to refugees. Finally, refugees would by this provision be freed from the application of the laws of the country which they left.

This solution was applied by Article 4 of the Convention of 1933.^{1/} The French Government, by a decree of 15 March 1945, extended to all Spanish refugees, whether stateless de facto or de jure, Article 4 of the 1933 Convention which applies the law of the country of domicile or, failing this, the law of the country of residence. Similarly, an Ordinance now being drafted by the Allied High Commission in Germany adopts the principle that the law of the country of regular residence should be applied to all refugees and displaced persons.

^{1/} Another solution exists in the Convention of 10 February 1938, Article 6 which reads:

"Determination of the Law Governing the Personal Status of Refugees. The personal status of refugees who have retained their original nationality shall be governed by the rule applicable in the country concerned to foreigners possessing a nationality. Save as otherwise previously provided by treaty, the personal status of refugees having no nationality shall be governed by the law of their country of domicile or, failing such, by the law of their country of residence."

Paragraph 2^{1/}

The second paragraph embodies the principle of respect for the acquired rights of refugees, and mentions a particularly important case of the application of prescribed formalities; i.e., the rights attaching to marriage. It is not intended that the law of a state which would not have recognized a certain situation had the person not become a refugee should be required to do so on his becoming a refugee.

The Committee decided that it was not necessary to include a specific reference to family law, as this was covered by paragraph 1.

The Committee also decided that it was not necessary to include specifically in this article a reference to wills made by refugees prior to their arrival in the country of asylum, it being understood that the Courts of the various countries should, wherever possible, give effect to the wishes of the testator.

1/ Convention of 28 October 1933, Article 4 (paragraph 3):

"Rights acquired under the former national law of the refugee, more particularly rights attaching to marriage (matrimonial system, legal capacity of married women, etc.), shall be respected, subject to compliance with the formalities prescribed by the law of their country of domicile, or, failing such, by the law of their country of residence, if this be necessary."

Convention of 10 February, 1938 (Article 7):

"Rights Acquired Under the National Law. In countries where these matters are governed by the national law of the parties, rights acquired under the former national law of the refugee - for instance, rights resulting from marriage, such as the matrimonial regime, the legal capacity of married women etc. - shall be respected, subject to compliance with the formalities prescribed by the law of their country of domicile or, failing such, by the law of their country of residence, if this be necessary."

Article 8

Movable and immovable property

The formula used in this Article and in several others i.e., "treatment as favourable as possible and, in any event, not less favourable than that accorded generally to aliens in the same circumstances," is intended to assure that refugees will, regardless of reciprocity, be treated at least as well as other aliens and to encourage countries to give them better treatment where this is possible. The phrase "in the same circumstances" means that the treatment of refugees shall correspond to that granted to other aliens coteris paribus.

Article 9

Artistic rights and industrial property

1. This Article refers to the creations of the human mind. The recognition of rights in this field is not a favour and it is proper therefore to grant a refugee the best favourable treatment accorded to nationals of foreign countries

2. Wherever the words "the most favourable treatment accorded to nationals of foreign countries" are used in the draft Convention, they mean the best treatment which is given to nationals of any other country by treaty or usage. It is contemplated that should some Contracting States find it necessary, they might reserve with regard to preferential treatment accorded to nationals of certain countries under special agreement or by established tradition, as for example, among the Scandinavian countries or the Benelux countries.

Article 10

Right of association

1. This Article^{1/} refers only to non-profit-making associations. Profit-making associations are covered by Chapter III of the draft Convention.
2. The Committee agreed that, although not expressly stated, this Article recognizes the right of refugees to form as well as to join associations on the same terms as other aliens. Except as herein provided the power of governments to regulate the joining or formation of associations is not restricted.
3. In this article and elsewhere in the Convention the obligations undertaken by Governments refer to matters governed by legislation or within public control. In most countries associations and trade unions would, for example, still regulate their membership by their own rules.
4. The expression "lawfully within their territory" throughout this draft Convention would exclude a refugee who while lawfully admitted has overstayed the period for which he was admitted or was authorized to stay or who has violated any other condition attached to his admission or stay.

1/ Article 11 of the Convention of 28 October 1933, which concerns this matter reads:

"Refugees shall enjoy in the territory of each of the Contracting Parties, as regards the setting up of associations for mutual relief and assistance and admission to the said associations, the most favourable treatment accorded to the nationals of a foreign country."

Article 13 of the Convention of 10 February 1938 which concerns this matter reads

"Refugees shall, as regards the setting-up of associations for mutual relief and assistance and admission to the said associations, enjoy in the territories of the High Contracting Parties to which the present Convention applies the most favourable treatment accorded to the nationals of a foreign country."

Article 11

Access to Courts

Paragraphs 1 and 2

These paragraphs reproduce the substance of the 1933 Convention, Article 6^{1/} and the 1938 Convention, Article 8.

1/ The Convention of 28 October 1933, Article 6 reads:

"Refugees shall have, in the territories of the Contracting Parties, free and ready access to the courts of law.

In the countries in which they have their domicile or regular residence, they shall enjoy in this respect, the same rights and privileges as nationals; they shall, on the same conditions as the latter, enjoy the benefit of legal assistance and shall be exempt from cautio judicatum solvi."

Convention of 10 February 1938, Article 8 reads:

"Right to Appear Before the Courts as Plaintiff or Defendant.

1. Refugees shall have, in the territories to which the present Convention applies, free and ready access to the courts of law.

2. In the countries in which they have their domicile or regular residence, they shall enjoy in this respect, save where otherwise expressly provided by law, the same rights and privileges as nationals. They shall on the same conditions enjoy the benefit of legal assistance and be exempt from cautio judicatum solvi."

CHAPTER III
GAINFUL OCCUPATION

Article 12

Wage earning employment

Paragraph 1^{1/}

As indicated in the comment to Article 8, the phrase "in the same circumstances" refers to the purposes for which the refugee is in the country and the conditions imposed on his presence there. There is no intention to restrict the power of governments to attach conditions to the admission of refugees or to demand that they fulfil these conditions. Nor is this paragraph intended to remove any such conditions imposed prior to the entry into force of this Convention.

1/ The Convention of 28 October 1933, Article 7 (first paragraph) reads:

"The restrictions ensuing from the application of laws and regulations for the protection of the national labour market shall not be applied in all their severity to refugees domiciled or regularly resident in the country."

The Convention of 10 February 1938, Article 9 (first paragraph) is identical.

The Convention of 28 October 1933, Article 7 (second paragraph) reads:

"They shall be automatically suspended in favour of refugees domiciled or regularly resident in the country, to whom one of the following circumstances applies:

- (a) The refugee has been resident for not less than three years in the country;
- (b) The refugee is married to a person possessing the nationality of the country of residence;
- (c) The refugee has one or more children possessing the nationality of the country of residence;
- (d) The refugee is an ex-combatant of the great war."

The Convention of 10 February 1938, Article 9 (second paragraph) reads:

2. "They shall be automatically suspended in favour of refugees domiciled or regularly resident in the country, if one of the following conditions is fulfilled:

- (a) The refugee has been resident for not less than 3 years in the country;
- (b) The refugee is married to a person possessing the nationality of the country of residence;
- (c) The refugee has one or more children possessing the nationality of the country of residence."

CHAPTER IV

WELFARE

Article 15

Rationing

This article applies to the generally recognized systems of rationing, which apply to the population at large and regulate the general distribution of products in short supply.

Article 17

Public education^{1/}

The Committee intended this provision to apply only to education provided by public authorities from public funds and to any education subsidized in whole or in part by public funds, or to scholarships derived from them.

Paragraph 1

Article 26 of the Declaration of Human Rights lays down that:

"(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory...."

Paragraph 2

The Committee agreed that paragraph 2 was not intended to prejudice reciprocal arrangements for scholarships granted by governments including those encouraged by UNESCO or other organizations. However, it was the intention of the Committee to obtain for refugees as generous educational opportunities as possible.

1/ The Convention of 28 October 1933, Article 12 reads:

"Refugees shall enjoy in the schools, courses, faculties and universities of each of the Contracting Parties treatment as favourable as other foreigners in general. They shall benefit in particular to the same extent as the latter by the total or partial remission of fees and charges and the award of scholarships."

The Convention of 10 February 1938, Article 14 is identical with that of 28 October 1933.

/Article 18

Article 18

Public relief^{1/}

Article 19

Labour legislation and social security

Paragraph 1

Paragraph 1 of this article reproduces in general article 6 paragraph 1 of the Migration for Employment Convention (Revised) 1949, adopted by the International Labour Conference at its 32nd Session on 1 July 1949.

Sub-paragraph (a). This deals with labour regulations which in most countries are applied in the same manner to aliens as to nationals. The placing of aliens and national workers on the same footing not only meets the demands of equity but is in the interests of national wage-earners who might otherwise be afraid that foreign labour, being cheaper than their own, would be preferred.

1/ The Convention of 28 October 1933, Article 9 reads:

"Refugees residing in the territory of one of the Contracting Parties; unemployed, persons suffering from physical or mental disease, aged persons or infirm persons incapable of earning a livelihood, children for whose upkeep no adequate provision is made either by their families or by third parties, pregnant women, women in childbed or nursing mothers, shall receive therein the most favourable treatment accorded to nationals of a foreign country, in respect of such relief and assistance as they may require, including medical attendance and hospital treatment."

The Convention of 10 February 1938 Article 11, is identical in substance.

/Sub-paragraph (c)

Sub-paragraph (b). ^{1/}

A certain number of States already grant to aliens treatment equal to that accorded to nationals. States which would normally be prevented by the operation of national laws from incorporating aliens into their social security systems would be able to assume obligations under this sub-paragraph by providing that refugees be dealt with under special schemes.

This Article includes provision for payment in cases of employment injury even if in a particular country such payments do not constitute part of a social security system.

It was also agreed that in cases of fatal employment injuries the beneficiaries of the injured person should receive benefits even if they are not resident in the country where the injury occurred.

The Committee approved the Article though aware of the fact that the International Labour Organisation would prefer the term "invalidity" in place of "disability". This was merely a linguistic preference and was intended to cover the same situations.

1/ The Convention of 28 October 1933 covered this subject in two articles, Article 8 concerning industrial accidents and Article 10 concerning social insurance laws:

Article 8: Each of the Contracting Parties undertakes to accord to refugees who may be victims of industrial accidents in its territory, or to their beneficiaries, the most favourable treatment that it accords to the nationals of a foreign country.

Article 10: The Contracting Parties undertake to apply to refugees, as regards the social insurance laws at present in force or which may subsequently be established, the most favourable treatment accorded to the nationals of a foreign country.

The Convention of 10 February 1938 contained the same provisions in Articles 10 and 12.

CHAPTER V

ADMINISTRATIVE MEASURES

Article 20

Administrative assistance

Refugees do not enjoy the protection and assistance of the authorities of their country of origin. Consequently, even if the Government of the country of asylum grants the refugee a status which ensures him treatment equivalent to or better than that enjoyed by aliens, he may not in some countries be in a position to enjoy the rights granted him. Often he will require the assistance of an authority which will perform for him the services performed by national authorities in the case of persons with a nationality.

In this article Governments undertake to assure that refugees obtain required assistance. A Government may itself provide such assistance by creating an authority to do so or by assigning the task to an existing national authority, or a country may prefer to make arrangements for an international authority to render such assistance. If, for example, the United Nations High Commissioner for Refugees should deal with administrative assistance, a country may arrange with the High Commissioner to have such assistance rendered to refugees in its territory. In any event, however, there is an obligation on the Contracting States to see that such assistance is provided.

Paragraph 2

The authorities mentioned in paragraph 2 are required to deliver to refugees the documents and certifications^{1/} which are normally delivered to aliens who possess a nationality either by the judicial or administrative authorities of their country of nationality or by its consular authorities.

Paragraph 3

It is difficult in some cases to speak of a document or certification as standing in the stead of an original document, since in some instances there is no original document. Similarly it is impossible to speak of a document as having the same validity as the act to which it certifies.

The purpose of this clause is to have the Contracting States give documents issued to refugees the same validity as if the documents had been issued by the competent authority of the country of nationality (within the country or by a consular agent abroad) of an alien, or as if the act had been certified to by such authority. Such documents would be accepted as evidence of the facts or acts certified, in accordance with the laws of the country in which the document is presented. In stating this Article in its present terms the Committee in no way intended to reduce the value which such documents have under existing arrangements.

1/ As an indication of the types of documents which refugees may require according to the varying practices of countries a list is given below. This list is not intended to be exhaustive nor does it imply that these documents are necessary to refugees in all countries. The principal types of documents are:

- (a) Certifying the identity and the position of the refugees;
- (b) certifying their family position and civil status, in so far as these are based on acts performed or facts which occurred in the refugee's country of origin;
- (c) testifying to the regularity, validity and conformity with the previous law of their country of origin, of documents issued in such country;
- (d) certifying the signature of refugees and copies and translations of documents drawn up in their own language;
- (e) testifying to the good character and conduct of the individual refugee, to his previous record, to his professional qualifications and to his university degrees or academic diplomas etc.
- (f) recommending refugees to the competent authorities, particularly with a view to their obtaining visas, permits to reside in the country, admission to schools, libraries etc.

Article 21

Freedom of movement^{1/}

Article 22

Identity papers^{2/}

1/ This provision may be compared with Article 2 of the Convention of 10 February 1938 which reads:

"Without prejudice to the power of any High Contracting Party to regulate the right of sojourn and residence, a refugee shall be entitled to move about freely, to sojourn or reside in the territory to which the present Convention applies, in accordance with the laws and internal regulations applying therein."

2/ The Convention of 28 October 1933, Article 2, (first paragraph) reads:

"Each of the Contracting Parties undertakes to issue Nansen certificates, valid for not less than one year, to refugees residing regularly in its territory."

Article 23

Travel documents

Paragraph 1

Under present conditions any person wishing to travel abroad is generally required to be in possession of a national passport and in most cases must request the country to which he wishes to travel to issue an entry visa.

The travel document mentioned will take the place for refugees of a national passport for travel purposes.

The schedule annexed to this report states the conditions under which the travel document shall be delivered and used. It also states what the document must contain. This schedule and model travel document follow closely the provisions of the London Agreement of 15 October 1946^{1/}

1/ See Article 2 of the Convention of 28 October 1933 and Article 3 of the Convention of 10 February 1938 which read as follows:

Article 2

"Each of the Contracting Parties undertakes to issue Nansen certificates, valid for not less than one year, to refugees residing regularly in its territory.

The text of the said certificates shall include a formula authorizing exit and return. Bearers of Nansen certificates which have not expired shall be free to leave the country which has issued these documents and to return to it without requiring any authorization on exit or visa from the consuls of that country on their return.

The respective consuls of the Contracting Parties shall be qualified to extend these certificates for a period not exceeding six months.

The cost of visas for Nansen certificates shall, subject to their issue free of charge to indigent persons, be established according to the lowest tariff applied to the visas of foreign passports.

Article 3

Issue and Renewal

1. (a) The High Contracting Parties shall issue, to refugees coming from Germany and sojourning lawfully in their territory to which the present Convention applies, a travel document in the form of a certificate similar to the attached specimen (see Annex), or some other document taking the place of a passport.

(b) As a transitional measure, such travel documents may be issued to refugees not staying lawfully in those territories on the date of the coming into force of the present Convention, provided such refugees report themselves to the authorities within the period prescribed by the Government of the High Contracting Party concerned.

(footnote continued on following page)

The Committee agreed that in general the travel document would be accepted by other Governments only if the refugee was assured of the right to return to the issuing country. Upon his return, however, the refugees need be accorded no better status in the country than he had before he left. For example, a refugee authorized to remain in a country for a limited period who leaves that country with a travel document could, on his return, claim to remain only for the unexpired period granted in the original permission, unless the Government concerned decided to extend the period.

The term "lawfully resident" in this article is taken from the London Agreement of 1946 on the Issue of a Travel Document to Refugees and is used in the sense intended there.

1/ Footnote continued from preceding page:

2. The issue of the travel document shall be subject to the following conditions:

- (a) It shall be in conformity with the laws and regulations governing the supervision of foreigners in force in the territories of the High Contracting Party to which the present Convention is applicable;
- (b) It shall as a general rule be valid for one year as from the date of issue;
- (c) The renewal or extension of the travel document shall be a matter for the issuing authority, until such time as the holder may be able to secure the issue of a fresh travel document. Should a refugee lawfully take up residence in another territory to which the Convention applies, the authorities of that territory shall be required to supply him with a new travel document;
- (d) Consuls specially authorized for the purpose by the country issuing the travel document shall be empowered to extend its validity for a period which, as a rule, shall not exceed six months;
- (e) The travel document shall be made out in the language of the issuing authority, and also in French;
- (f) Children under 16 years of age shall be entered on the travel document issued to their parent or parents;
- (g) The fees charged for the issue of travel documents shall not exceed the lowest scale of charges for national passports.

It is recommended that, in the case of indigent persons, travel documents should be issued entirely free of charge."

Paragraph 2^{1/}

1/ On 10 July 1944, thirty-three countries were parties to the Arrangement with respect to the Issue of Certificates of Identity to Russian Refugees, signed at Geneva on 5 July 1922.

On the same date twenty countries were parties to the Arrangement relating to the Issue of Identity Certificates to Russian and Armenian Refugees, supplementing and amending the previous Arrangements of 5 July 1922 and 31 May 1924, signed at Geneva on 12 May 1926.

(See Signatures, Ratifications and Accessions in respect of Agreements and Conventions concluded under the auspices of the League of Nations - Twenty-First List).

Agreement of London dated 15 October 1946 on the Adoption of a Travel Document for Refugees - on 1 October 1949 17 countries were parties to this Agreement: Belgium, Brazil, Chile, China, Dominican Republic, France, Greece, India, Italy, Luxembourg, Netherlands, Norway, Union of South Africa, Sweden, Switzerland, United Kingdom, Venezuela.

Two countries, Argentina and Ecuador, had signed the Agreement ad referendum.

Documents issued under the London Agreement are recognized by the following countries which do not issue them: Australia, United Kingdom Territories (Falklands, Fiji, Hong Kong, Leeward Islands, Federation of Malaya, Nigeria, St. Helena, Sierra Leone, Singapore, Western Pacific, Zanzibar), Canada, Denmark, Guatemala, Haiti, Ireland, New Zealand.

The following countries, although not parties to the Agreement, have undertaken to recognize such documents for transit purposes only: United Kingdom Territories (Barbados, Gibraltar, Malta), Honduras, Turkey.

Article 24

Fiscal charges^{1/}

Paragraph 2

It should be noted that Article 20, paragraph 4 allows a Contracting State to charge for Administrative Assistance rendered a refugee. The charge mentioned in Article 20 is applied to refugees only, whereas the charges mentioned in Article 24 (2) are imposed on all aliens, refugees or otherwise.

Paragraph 3

This paragraph does not refer to any tax which would accrue to a Government but refers to a special duty the proceeds of which would benefit relief organizations serving refugees. The Convention of 28 October 1933, Article 13, paragraph 2, contains a provision concerning the so-called Nansen Stamp, the proceeds of which were to go to refugees. This paragraph would authorize a country to impose a fee of the same nature, which could be regulated differently, but the proceeds of which must be used for the benefit of refugees.

Article 26

Refugees not lawfully admitted

It is in keeping with the notion of asylum to exempt from penalties a refugee who is escaping from persecution but who after crossing the frontier clandestinely presents himself as soon as possible to the authorities of the country of asylum and shows good reason for his unauthorized entry.

1/ Paragraph 1 of article 13 of the Convention of 28 October 1933 reads:

"The Contracting Parties undertake not to impose upon refugees residing in their territories duties, charges or taxes, under any denomination whatsoever, other or higher than those which are or may be levied on their nationals in similar situations."

Paragraph 1 of article 16 of the Convention of 10 February 1938 is identical in substance.

Article 27Expulsion of Refugees Lawfully Admitted^{1/}Paragraph 1

While other aliens can, in cases of expulsion, be returned to their country of nationality, this is not possible in the case of refugees. In consequence the expulsion of a refugee is an especially serious measure.

Paragraph 2

Expulsion orders may sometimes be due to false accusations and the malice of ousted competitors. It may even happen that such orders are due to errors in identity. For these reasons paragraph 2 provides that a refugee shall be permitted to clear himself and to be represented before the competent authority.

Paragraph 3^{2/}

1/ The Commission on Human Rights in the Draft Covenant on Human Rights adopted at its fifth session (E/1371 page 12 - French) included the following provision: "No alien legally admitted to the territory of a State shall be expelled therefrom except on such grounds and according to such procedure and safeguards as are provided by law."

The Convention of 28 October 1933, Article 3, paragraph 1, reads: "Each of the Contracting Parties undertakes not to remove or keep from its territory by application of police measures, such as expulsions or non-admittance at the frontier (refoulement), refugees who have been authorized to reside there regularly, unless the said measures are dictated by reasons of national security or public order...."

The Convention of 10 February 1938, Article 5, paragraph 2, reads:

"1.

2. Without prejudice to the measures which may be taken within any territory, refugees who have been authorized to reside therein may not be subjected by the authorities to measures of expulsion or reconduction unless such measures are dictated by reasons of national security or public order."

2/ Convention of 28 October 1933, article 3, paragraph 3, reads:

"It reserves the right to apply such internal measures as it may deem necessary to refugees who, having been expelled for reasons of national security or public order, are unable to leave its territory because they have not received, at their request or through the intervention of institutions dealing with them the necessary authorizations and visas permitting them to proceed to another country."

Convention of 10 February 1938, article 5, paragraph 1 reads:

"1. In every case in which a refugee is required to leave the territory of one of the High Contracting Parties to which the present Convention applies, he shall be granted a suitable period to make the necessary arrangements."

Article 28

Prohibition of expulsion to territories where the life or
freedom of a refugee is threatened

The turning back of a refugee to the frontiers of a country where his life or freedom would be threatened on account of his race, religion, nationality or political opinion would be tantamount to delivering him into the hands of his persecutors.

The Convention of 1933 contains a provision of this kind.^{1/} In the present text reference is made not only to the country of origin but also to other countries where the life or freedom of the refugee would be threatened for the reasons mentioned. This Article does not imply that a refugee must in all cases be admitted to the country where he seeks entry.

Article 31

Measures of implementation of the Convention^{2/}

Article 32^{3/}

Relations to previous Conventions

1/ The Convention of 28 October 1933, Article 3, paragraph 2, reads:

"It undertakes in any case not to refuse entry to refugees at the frontiers of their countries of origin."

2/ The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others adopted by the General Assembly, resolution 317 (IV), 2 December 1949, Article 27 reads:

"Each Party to the present Convention undertakes to adopt, in accordance with its Constitution, the legislative or other measures necessary to ensure the application of the Convention."

3/ Paragraph 3 reproduces the last part of Article 28 of the Convention of 2 December 1949 for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

Article 36

Reservations

It was generally felt necessary to incorporate a reservations article in the draft convention but there was disagreement as to its scope. The Committee decided that in drafting such an article the comments of the Governments must be the determining factor. No text has been provided, therefore, for article 36, which should be drafted and incorporated in the Convention at a later stage after the comments of Governments have been received.

The Committee hoped that there would be few reservations. It was the opinion of the Committee that Governments might not find it necessary to reserve an article as a whole when it would be sufficient to reserve exceptional cases or special circumstances in connexion with the application of that article.

Federal clause (undrafted)

The Committee agreed that the draft convention should contain a clause relating to the application of the Convention in federal States. It was observed, however, that the problem of drafting an appropriate clause for this purpose continued to engage the attention of various organs of the United Nations. Since, by the time the draft convention would be approved, an appropriate clause might have been agreed upon, the Committee did not consider it necessary to propose one at this stage.

ANNEX III

PROPOSED PROTOCOL

RELATING TO THE STATUS OF STATELESS PERSONS

The Contracting States,

Considering that the Convention Relating to the Status of Refugees dated deals only with refugees, whether stateless or not, who are the special concern of the United Nations, as evinced in numerous resolutions of the General Assembly, and

Considering, moreover, that there are many stateless persons not covered by the said Convention who do not enjoy any national protection and, pending a more special solution of the problem of such persons, it appears desirable to improve the status of these persons;

Now therefore undertake to apply, mutatis mutandis, the provisions of Articles 2 to 4, 6 to 11, 12 paragraphs 1, 13, 14 paragraphs 1, 15 to 23, 24 paragraphs 1 and 2, 27, 29 and 31 of the Convention Relating to the Status of Refugees, to stateless persons to whom that Convention does not apply.

This Protocol shall not apply to a person who was a member of a German minority in a country outside Germany and who is in Germany.

The standard final clauses follow.

ANNEX IV

COMMENTS ON THE PROPOSED DRAFT PROTOCOL RELATING
TO THE STATUS OF STATELESS PERSONS

1. While the Committee hoped that the draft protocol would meet general approval by Governments and that reservations might be few, it nevertheless realized that special circumstances might prevent some Governments from accepting its provisions in full.
2. The Committee intended that the extension to stateless persons of provisions concerning refugees (who may enjoy, under the terms of the draft convention, treatment equal to and in some respects more favourable than that accorded to other aliens, shall not be interpreted as excluding stateless persons from the operation of any quotas governing the admission of aliens to certain types of paid or unpaid professional work.

ANNEX V

PROPOSAL OF THE REPRESENTATIVE OF DENMARK

(see paragraph 24 of the report)

Art. 1 Insofar as the law of a State provides that the legitimate child of a father, possessing the nationality of that State, acquires by birth the nationality of the father, regardless of where the child was born, the illegitimate child of a mother, possessing the nationality of that State shall acquire by birth the nationality of the mother.

Art. 2

- (1) Where the nationality of a State is not acquired automatically by reason of birth in its territory, a child born in the territory of that State of a mother possessing the nationality of that State and of a father without nationality, shall acquire the nationality of that State by birth.
- (11) The provision of paragraph (1) of this article shall also apply in cases where the father is in possession of a nationality which his children born abroad do not acquire by birth.

Art. 3

- (1) Where the nationality of a State is not acquired automatically by reason of birth in its territory, a child born in the territory of that State of parents having no nationality shall acquire the nationality of that State either by birth or at least after ____ years of residence in that State.
- (11) The provisions of paragraph (1) of this article shall also apply in cases where the parents are in possession of a nationality which, however, their children born abroad do not acquire by birth.

Art. 4 A wife shall not lose her nationality on marriage with a foreigner unless by such marriage she acquires a new nationality.

Art. 5 A wife shall not lose her nationality upon a change in the nationality of her husband occurring during marriage unless she herself, by such change, acquires a new nationality.

Art. 6 A wife shall not lose her nationality acquired on or during marriage by the mere fact of dissolution of her marriage.

Art. 7 A child born out of wedlock shall not lose its nationality on legitimation or recognition unless it, by such legitimation or recognition, acquires a new nationality.

Art. 8 A child shall not lose its nationality as a result of adoption unless, by such adoption, it acquires a new nationality.

Art. 9 A person who wishes to be released from his present nationality in order to acquire another nationality shall be released only on the condition that he acquires such nationality.

Art. 10 No person shall lose his nationality as a result of territorial settlements unless he acquires another nationality.
