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CONFERENCE OF Plenipotentiaries ON THE STATUS OF REFUGEES  
AND STATELESS PERSONS

SUMMARY RECORD OF THE TWELFTH MEETING

held at the Palais des Nations, Geneva,  
on Monday, 9 July 1951, at 3 p.m.

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Present:

President: Mr. LARSEN

Members:

Australia	Mr. SHAW
Austria	Mr. FRITZER
Belgium	Mr. HERMENT
Brazil	Mr. de OLIVEIRA
Canada	Mr. CHANCE
Denmark	Mr. HOEG
Egypt	MOSTAFA Bey
Federal Republic of Germany	Mr. von TRÜTZSCHLER
France	Mr. ROCHEFORT
	Mr. COLEMAR
Greece	Mr. PAPAYANNIS
	Mr. PHILON
Iraq	Mr. Al PACHACHI
Israel	Mr. ROBINSON
Italy	Mr. del DRAGO
Netherlands	Baron van BOETZELAER
Norway	Mr. ARFF
Sweden	Mr. PETREN
Switzerland (and Liechtenstein)	Mr. ZUTTER
Turkey	Mr. MIRAS
United Kingdom of Great Britain and Northern Ireland	Mr. HOARE
United States of America	Mr. WARREN
Yugoslavia	Mr. MAKIEDO

Observers:

Iran

Mr. KAZEMI

High Commissioner for Refugees

Mr. van HEUVEN GORDHART

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

International Labour Office	Mr. DONAT Mr. WOLF
International Refugee Organization	Mr. SCHNITZER
Council of Europe	Mr. von SCHMIDEN

Representatives of non-governmental organizations:

Category B and Register

Caritas Internationalis	Mr. BRAUN
Catholic International Union of Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. REES
Consultative Council of Jewish Organizations	Mr. MEYROWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
•International Council of Women	Mrs. GIROD
International Federation of Friends of Young Women	Mrs. FIECHTER Mrs. GIROD
International Union of Catholic Women's Leagues	Miss de ROMER
Standing Conference of Voluntary Agencies	Mr. REES
World Jewish Congress	Mr. RIEGNER

Secretariat:

Mr. Humphrey	Executive Secretary
Miss Kitchen	Deputy Executive Secretary

1. LETTER FROM THE PRESIDENT OF THE SWISS CONFEDERATION

The PRESIDENT announced that he had received a letter from the President of the Swiss Confederation thanking the Conference for the telegram sent to him on the occasion of his seventieth birthday, and wishing it every success in its work.

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

(i) Article 23 - Travel documents (A/CONF.2/31, A/CONF.2/49, A/CONF.2/56)

The PRESIDENT, inviting the Conference to resume its consideration of the draft Convention, drew the attention of representatives to the Yugoslav, Netherlands and Italian amendments to article 23 (A/CONF.2/31, A/CONF.2/49 and A/CONF.2/56 respectively).

Mr. MOWAT (International Labour Organisation) said that he wished to refer, in connexion with article 23, to the position of seamen, whose labour conditions had been the concern of the International Labour Organisation for the last thirty years. Refugees who were continuing in that calling, or who had adopted it after leaving their country of origin, might not be very numerous; in fact, the International Labour Organisation did not possess any accurate statistics on the matter. However, even though only a few might be involved, that should not prevent them from being accorded equitable treatment; yet it was known that refugees did not always enjoy the same working conditions as other members of a ship's crew who benefited by the proper protection of their government.

The question had been brought to the notice of the International Labour Organisation by the International Refugee Organization (IRO) at the end of 1950, and had been placed on the agenda of the Joint Maritime Commission of the International Labour Organisation. That Commission had decided that the question deserved consideration, and had adopted a resolution for transmission to the Governing Body of the International Labour Office, which had approved it at a

recent meeting. Under that resolution the Director-General of the International Labour Office had been instructed to bring the matter to the notice of the High Commissioner for Refugees and of governments, urging them to take measures to alleviate the situation of such refugee seamen. It was also suggested that the time spent by seamen serving in a ship belonging to a given country should count towards the period of residence necessary to secure the right to travel documents. He realized that it might be difficult for many governments represented at the Conference to enter into a specific commitment of that kind; if so, perhaps the suggestion might be incorporated in a separate recommendation. He would, however, tentatively put forward for consideration the following text:

"For the purpose of paragraph 1 of this article, Contracting States shall give sympathetic consideration, in the case of a refugee who is a bona fide seafarer, to the possibility of allowing such a refugee to reckon any period spent as a crew member on board a ship flying the flag of a Contracting State as residence in the territory of that State."

There was no need to emphasize that that provision was, of course, intended to benefit only genuine seamen and not refugees who were escaping by sea from their country.

The PRESIDENT suggested that the phrase "in their territory", which occurred several times in paragraph 1 of article 23, was unnecessarily restrictive. He failed to understand why a Contracting State should be prevented from issuing a travel document to a refugee outside its borders. For example, the Danish Government might issue a travel document to enable a refugee to emigrate overseas. There was no valid reason why it should not, if it wished, issue a similar document for that refugee's wife, even though she happened to be in another country at the pertinent time. Any difficulty arising from the deletion of that phrase was, in his opinion, met by the word "may" in the second sentence of paragraph 1.

Baron van BOETZELAER (Netherlands) said that in the Netherlands the issue of a passport was a favour, not a right. The object of his amendment

(A/CONF.2/49) had been to apply the same treatment to refugees as to Netherlands nationals, but, after mature consideration, he thought the amendment unnecessary, and would therefore withdraw it. The Netherlands delegation would enter a reservation on article 23 when it signed the Convention.

Referring to the Italian amendment (A/CONF.2/56), he felt certain that the Governments of Contracting States would refuse to issue a travel document to refugees engaging in illicit traffic, and that there was therefore no need to mention the point specifically in the draft Convention.

Mr. COLEMAR (France) wished to make a reservation of substance on paragraph 1 of article 23. Under paragraph 13 of the Schedule annexed to the draft Convention, refugees would not require entry and exit visas for the country issuing the travel document. France already granted facilities to refugees covered by the 1933 Convention, and could enter into no formal undertaking for the future, since circumstances might make it necessary for her to keep a check on the movements of refugees and aliens. She could therefore accept article 23 only subject to reservations on paragraph 13 of the Schedule.

Mr. PETREN (Sweden) stated that the Swedish Government had acceded to the agreement relating to the issue of a travel document to refugees who were the concern of the Inter-Governmental Committee on Refugees set up in 1946. However, it had found that there were certain disadvantages in allowing freedom of movement to refugees in and out of Sweden without control of any sort. In the interests of national security, the Swedish Government wished to reserve its right to exercise some supervision over the movements of such persons, and he might at a later stage have to enter a reservation to that effect.

Mr. del DRAGO (Italy) said that the position of the Italian Government to article 23 was similar to that of the French and Swedish Governments. His delegation's amendment (A/CONF.2/56) was so clear that it called for no comment.

Mr. SHAW (Australia) said that the Netherlands representative had raised an extremely pertinent point. The issue of travel documents was a matter for the discretion of each government. There might be cases where a Contracting State, for good reason, refused a passport to one of its own nationals to travel for a certain purpose. It would be anomalous in the extreme if a refugee wishing to travel for a similar purpose were entitled to be issued with a travel document. He believed that some change in the sense of the Netherlands amendment was necessary in the case of article 23.

Mr. HERMENT (Belgium) fully understood that there must be certain limitations on the issue of travel documents to refugees and aliens, but such persons could not be required to conform to the same conditions as nationals, who were subject, for example, to certain restrictions by reason of their military status. Some other wording must therefore be found for paragraph 13 of the Schedule (A/CONF.2/1, Annex) covering the issue of the travel documents referred to in article 23.

The Belgian delegation was unable to accept the Yugoslav amendment; the substitution of the words "may issue" for the words "shall issue" would deprive paragraph 1 of all force.

Mr. CHANCE (Canada) stated that the position of the Canadian Government was similar to that of the Australian Government. Passports were issued in pursuance of the royal prerogative, and no citizen had an inalienable right to receive a passport. The issue of a passport could be refused in certain circumstances, but so far, to the best of his knowledge, that had never been done on the ground of the political opinions held by the applicant. It was, however, conceivable that that might occur in the future under the pressure of public opinion. It was obvious that refugees could not be given preferential treatment over nationals in that respect, and he might be obliged to enter some kind of reservation on the point unless article 23 was appropriately amended.

Mr. MAKIEDO (Yugoslavia) said that he was largely in agreement with the preceding speakers and would be interested to hear the views of the Conference on

his amendment, which, he added, he did not propose to press, although, if article 23 as finally adopted was not satisfactory, the Yugoslav Government would also have to enter a reservation on it.

The PRESIDENT suggested that the Schedule annexed to the draft Convention (A/CONF.2/1, pages 21 - 27) be considered in conjunction with article 23, to which it related.

Mr. HERMENT (Belgium) felt it would be preferable first to examine article 23 by itself, since the question at issue was one of principle.

It was so agreed.

Mr. HERMENT (Belgium) proposed that, as the President had already suggested, the words "in their territory" should be deleted wherever they occurred in paragraph 1 of article 23, for Contracting States should clearly be in a position to issue travel documents to refugees outside their territories.

Mr. HOARE (United Kingdom) contended that adoption of that suggestion would weaken article 23 by making it no longer the primary obligation of the Contracting State in whose territory the refugee was resident to issue travel documents.

Mr. COLEMAR (France) agreed with the United Kingdom representative. The principle must be maintained by which a travel document had to be issued by the authorities of the country where the refugee was domiciled.

The PRESIDENT said he would not press his suggestion. If, however, the unconditional obligation on States to issue travel documents laid down in the first sentence of paragraph 1 of article 23 was retained, the Conference would have to make some provision to cover cases in which Contracting States could legitimately refuse to do so.

Mr. HERMENT (Belgium) suggested that the words "and subject to the requirements of national security" should be inserted after the words "lawfully



resident in their territory", in the second line of paragraph 1 of article 23. That proviso should allay the fears expressed by certain representatives.

The PRESIDENT suggested that the difficulty mentioned by the Belgian representative was met by the provisions of paragraph 14 of the Schedule.

Mr. van HEUVEN GOEDHART (United Nations High Commissioner for Refugees) emphasized the vital importance of article 23. The issue of travel documents was one of the most essential aspects of the treatment accorded to refugees. Any proposed changes in article 23 should be approached with the greatest caution. The adoption of the Yugoslav amendment, for example, would virtually vitiate its intention, for the article would then mean that refugees would have no guarantee that they would be able to secure travel documents. However, he realized the cogency of the objections raised by certain representatives concerning the mandatory obligation imposed by the first sentence of article 23. They might be disposed of by substituting the words "undertake to issue to refugees" for the words "shall issue, on request, to a refugee". The principle would then be more generally stated, and the acquisition of travel documents would not be defined as a right belonging to the individual. In conclusion, he earnestly appealed to representatives to refrain from weakening the article as a whole.

Mr. FRITZER (Austria) agreed with the High Commissioner. He thought that the existing wording of article 23 was adequate to meet the requirements of the situation in which the refugees found themselves. The clauses contained in the Schedule were quite sufficient to allay the anxieties expressed by certain representatives.

Mr. von TRUTZSCHLER (Federal Republic of Germany) expressed agreement with the High Commissioner's arguments and his amendment. The objections raised by certain representatives to the wording of article 23 should be met by the provisions of paragraph 14 of the Schedule.

Mr. PETREN (Sweden) doubted whether the mandatory terms of paragraph 13 of the Schedule, which opened with the words "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", were consistent with paragraph 14. Some modification seemed to be called for.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) was unable to grasp the Swedish representative's difficulty. If a refugee possessed a travel document, he was entitled to leave the country in which it had been issued. The problem arose only in cases where refugees did not possess travel documents.

The PRESIDENT said that he, too, saw no objection to the High Commissioner's amendment. Its effect would be similar to that of article 2 of the 1933 Convention relating to the International Status of Refugees. A suitable proviso, recognizing the right of Contracting States to refuse travel documents or to withdraw them, could be inserted in the Schedule.

Mr. CHANCE (Canada) also supported the High Commissioner's amendment.

Mr. SHAW (Australia) suggested that the High Commissioner's amendment would not substantially alter the implications of article 23. The general obligation laid on States would be interpreted as being to respect a right to which the individual refugee was entitled, and refugees might thus be in a position to claim something which was denied to nationals. His principal objection to the original text of article 23 therefore still remained valid.

Mr. ZUTTER (Switzerland) shared the opinion expressed by the Australian representative.

Mr. HERMENT (Belgium) thought that the words "s'engagent" should be used in the French text of the High Commissioner's amendment, not "s'engageront". The idea expressed by the present tense was different from that expressed by the future.

Mr. CHANCE (Canada) stated that if the High Commissioner's amendment failed to command general approval, he might be prepared to accept the original

text of article 23 on the understanding that certain provisos would be included in the Schedule annexed to the Convention.

Mr. SHAW (Australia) asked whether the Netherlands representative had formally withdrawn his amendment (A/CONF.2/49).

The PRESIDENT replied in the affirmative, but pointed out that an amendment which had been withdrawn by its author could always be re-introduced by another representative.

Mr. HERMENT (Belgium) drew the Conference's attention to the fact that the London Agreement of 1946, concerning the issue of travel documents to refugees coming under the mandate of the Inter-Governmental Committee on Refugees, had been signed by 19 States, and that no difficulties had arisen in its application. That was a consideration which should be borne in mind.

Mr. FEITZER (Austria) observed that each country had specific legislation or regulations governing the issue of passports, which stipulated, no doubt, the cases in which issue could be refused. Such regulations presumably extended to the issue of passports to refugees. No provision in the Convention could impair that sovereign right of States. He therefore believed that article 23 should prove acceptable as it stood.

Mr. ROBINSON (Israel) reminded representatives that the Schedule relating to article 23 and annexed to the draft Convention had been drafted by experts in 1946. Its provisions had stood the test of six years' application. It might be imprudent to attempt to make substantial changes to it, particularly as many delegations to the present Conference did not include qualified experts on the subject. The Ad hoc Committee on Refugees and Stateless Persons had been careful not to go into the technical details of the Schedule, and it would be wise for the Conference to follow that example. It was true that the situation had changed somewhat since the 1946 Agreement had been signed, and that many governments were at present more keenly aware of the requirements of national security. However, he believed that such pre-occupations would be fully met by the addition of a provision such as that proposed in the Italian amendment (A/CONF.2/56).

Mr. PETREN (Sweden) said that, owing to the unfortunate experiences of the Swedish Government with the uncontrolled movement of refugees under the 1946 Agreement, it considered that article 23 required modification. In reply to the Austrian representative's argument, he must state clearly that Swedish domestic legislation did not provide an adequate safeguard.

Mr. COLEMAR (France), replying to the observations made by the Israeli representative, explained that he was not pressing for an examination of the provisions of the Schedule paragraph by paragraph. However, article 23 referred to the Schedule, and raised an important question of principle, on which a definite position would have to be adopted if France were not to be obliged to enter a reservation in respect of that article. Admittedly, the issue of travel documents to refugees would have to be subject to certain conditions, but the principle governing their issue should nevertheless be enunciated. Perhaps the Netherlands amendment, changed slightly to meet the points raised by the Belgian representative, might be taken up again. It would not be difficult, he thought, to reach an agreement on those lines.

Mr. de OLIVEIRA (Brazil) suggested that the problem could be solved by combining the suggestions made by the High Commissioner and the Belgian representative.

Mr. ZUTTER (Switzerland) was afraid the Conference was getting bogged down. Switzerland was prepared to accept the present text of article 23 and of the Schedule. However, in view of the fact that certain representatives had raised various objections to those texts, it would only be proper to ask them to set down their views in the form of amendments, which could then be examined formally.

Mr. HOARE (United Kingdom) believed that it would be regrettable to attempt substantial amendment of an article which embodied a principle accepted by the signatories of the 1946 Agreement. The arguments put forward in the discussion possibly reflected the fact that the situation had deteriorated since that time. If governments, while accepting article 23 in principle, had to enter certain reservations to it, those reservations might be wider in scope than any

amendment the Conference might devise. If modifications were to be introduced, he believed that their proper place was in article 23, where the circumstances in which refugees had a right to acquire travel documents were broadly defined, and not in the Schedule, which was concerned only with the machinery for providing them with such documents. It should be made clear that the purpose of any modifications that might be made was to cover purely exceptional cases in which refugees would be treated on the same footing as nationals. He would suggest a provision based on the Italian proposal (A/CONF.2/56) and reading as follows:

"As a purely exceptional measure a Contracting State may withhold the issue of a travel document to a refugee if its issue is for a purpose for which the issue of a passport to a national of that State could be refused."

Mr. ROBINSON (Israel) said that, although the United Kingdom amendment went one step further than the Italian amendment towards meeting the aspirations of refugees, it might be preferable not to press article 23 to a vote for the time being. Several representatives were somewhat diffident about accepting that article, and they should be given every chance of submitting whatever amendments and suggestions they desired. He therefore proposed that 1 p.m. on Tuesday, 10 July, should be fixed as a date-line for the submission of amendments to article 23, that discussion of the article should be deferred until the afternoon of 10 July, and that the Conference should in the meantime pass on to article 24.

Mr. COLEMAR (France) asked the President whether amendments could be submitted to the provisions of the Schedule to which article 23 referred, or whether those provisions must be regarded as being automatically adopted.

The PRESIDENT explained that consideration of those parts of the Schedule which pertained to article 23 would be suspended on the same conditions as the discussion on article 23 itself.

The Israeli proposal was adopted.

(ii) Article 24 - Fiscal charges (A/CONF.2/31)

Mr. MAKIEDO (Yugoslavia) pointed out that, under paragraph 3 of article 24 it would be possible to impose on refugees a duty to which other foreigners were not subject. He appreciated the fact that the revenue accruing from the duty was to be applied to charities for the relief of refugees, but felt that such a provision would be more troublesome than useful. He would not press too strongly for the adoption of his amendment to article 24 (A/CONF.2/31, page 3), but would welcome the opinions of other delegations.

Mr. MIRAS (Turkey) opposed the deletion of paragraph 2 of article 24, which contributed to the clarification of that article.

With regard to paragraph 3, refugees had already been assimilated to nationals in respect of public assistance (article 18) and labour legislation and social security (article 19). Was it therefore absolutely necessary also to contemplate imposing a tax intended to provide relief for refugees? He thought not. The Turkish delegation therefore supported the Yugoslav proposal that paragraph 3 be deleted.

Mr. MAKIEDO (Yugoslavia) said that he would withdraw his proposal that paragraph 2 be deleted. His amendment would therefore only affect paragraph 3.

Mr. FRITZER (Austria) supported the Yugoslav proposal. Paragraph 3 should be deleted.

Mr. von TRÜTZSCHLER (Federal Republic of Germany) asked whether some member of the ad hoc Committee could explain why it had been decided to include the special provision in paragraph 3.

The PRESIDENT replied that he had voted against the provision in the Ad hoc Committee, but would nevertheless try to explain why it had been included.

Paragraph 2 of article 24 merely stated that Contracting States could charge refugees for the type of documents mentioned in article 20. Nationals of a given

country had birth certificates or other valid documents, whereas refugees required affidavits instead. It had been thought in the Ad hoc Committee that refugees should not be supplied with affidavits free of charge.

There had been a considerable amount of discussion on paragraph 3 in the Ad hoc Committee. In the past, the regulations relating to Nansen passports had provided for two charges in respect of such documents: the normal passport fee plus a special stamp fee of 5 gold francs, the revenue from the latter fee accruing to the funds of the Nansen Office. Certain delegations to the Ad hoc Committee had felt that there was no need to replace the Nansen system by a similar one, whereas others had thought that, since refugees under the Nansen system had been accustomed to paying the stamp fee in question, and as the system had worked efficiently, there was no reason why the practice should not be continued. Under the Nansen system it had been the duty of the State concerned to impose the fee, and the existing wording of paragraph 3 had been adopted by the Ad hoc Committee as a compromise.

Mr. PETRÉN (Sweden) asked the President whether what he had said about paragraph 2 did not apply to all documents issuable to refugees, and not merely to those provided for in article 20,

The PRESIDENT replied that paragraph 2 did indeed state expressly that identity papers were included. He would therefore interpret it as applying to all the documents, including identity papers, referred to in the draft Convention. There might be other articles necessitating the issue of other administrative documents, and Contracting States should reserve the right to charge a small fee for delivering them.

Mr. PETRÉN (Sweden) presumed that the documents in question were thus all those required by refugees but not by nationals.

The PRESIDENT replied that such appeared to be the case.

Mr. HOARE (United Kingdom) sympathized with the motives which had prompted the Yugoslav representative to propose the deletion of paragraph 3, and supported that proposal.

Mr. PETRÉN (Sweden) favoured the deletion of paragraph 3. In Sweden, aliens were treated differently from nationals in the matter of certain taxes, for instance, taxes levied upon commercial travellers and performing artistes. That did not necessarily imply that a higher charge would be levied on them than on nationals, but Sweden would be obliged to enter a slight reservation in that respect the scope of which, however, would be considerably reduced if paragraph 1 of article 24 was amended to refer to refugees lawfully resident in the territory of a Contracting State. The Swedish delegation would nevertheless not press that amendment if it raised difficulties for other delegations.

The PRESIDENT thought that the problem referred to by the Swedish representative, which was a question of domicile or habitual residence rather than of nationality, could indeed be solved within the framework of paragraph 1. For example, if a Swedish artiste resident in Denmark went back to Sweden to perform for a short period, he would be subject to the same taxes as, for instance, a Danish artiste in the same position.

Baron van BOETZELAER (Netherlands) had no strong feelings about the retention or deletion of paragraph 3. He preferred the French text to the English wording of the last sentence of that paragraph, because he believed the sense to be that the total amount of money accruing from the duty should be wholly applied to charities for the relief of refugees. The Style Committee might take that linguistic point into account.



The PRESIDENT put to the vote the Yugoslav proposal that paragraph 3 should be adopted.

The Yugoslav proposal was adopted by 15 votes to 1, with 4 abstentions.

The PRESIDENT then put to the vote article 24, as amended.

Article 24, as amended, was adopted by 19 votes to none, with 1 abstention.

Mr. CHANCE (Canada) recalled that the Ad hoc Committee, and subsequently the Conference itself, had benefited from the distinguished assistance of Dr. Paul Weis. Dr. Weis was not a member of the Style Committee, to which the Conference had delegated a great amount of work, and representatives might wish to consider the advantage of Dr. Weis' participating in the work of that Committee. The point was, however, one which could be dealt with informally.

The PRESIDENT fully concurred with the Canadian representative's appreciation of Dr. Weis. He would regard it as the privilege of the Style Committee to call upon the services of Dr. Weis if it so desired.

The meeting rose at 5 p.m.