



Monday, 27 November 1950, at 3.30 p.m.

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Chairman: Mr. G. J. VAN HEUVEN GOEDHART (Netherlands).

Refugees and stateless persons (A/1385, A/1396, A/C.3/528, A/C.3/538, A/C.3/540, A/C.3/547, E/1850 and E/1850/Annex) (*continued*)

[Item 32]*

BYELORUSSIAN DRAFT RESOLUTION (A/C.3/L.120)
(*concluded*)

1. Miss BERNARDINO (Dominican Republic) had voted against the Byelorussian draft resolution (A/C.3/L.120) because it was confused.

2. She was, however, prepared to vote for any resolution to improve the condition of refugees because her country had consistently opened its doors to refugees since 1937, when it had been one of the first countries to admit refugees from the Nazis. The refugees in the Dominican Republic enjoyed the same privileges and opportunities as its nationals. The refugee colony at Sosua had been regarded by refugees as a symbol of hope.

3. Her country had considered the problem as specifically a humanitarian one and had therefore been foremost in participating in, and contributing to, all United Nations activities for refugees, particularly the International Refugee Organization.

4. It was incumbent upon her to make that explanation because the Byelorussian representative had at the previous meeting appeared to cast a slur upon the treatment of refugees by the Latin American governments.

5. Mr. LORCA (Chile) had explained his delegation's position in the general debate, but wished to add that the Byelorussian representative's allegations that refugees were mistreated in Latin America and that Chilean nationals did not enjoy even a minimum of human rights were unfounded.

(b) DEFINITION OF THE TERM "REFUGEE" TO BE APPLIED BY THE HIGH COMMISSIONER FOR REFUGEES: RECOMMENDATIONS OF THE ECONOMIC AND SOCIAL COUNCIL (A/1385, A/C.3/547 AND E/1850)

6. Mr. ROCHEFORT (France) wished the discussion to cover both the definition of the term "refugee" to be applied by the High Commissioner for Refugees, as it appeared in the text submitted by the Economic and Social Council in its resolution 319 A (XI), and the definition to be embodied in the draft convention on the status of refugees, as it appeared in the text submitted by the Council in its resolution 319 B (XI).

7. The CHAIRMAN drew the Committee's attention to part II of the memorandum by the Secretary-General (A/1385) and to chapter II of the report of the *Ad Hoc* Committee on Refugees and Stateless Persons (E/1850), which contained the text of the draft statute and the text of the definition to be used in the draft convention. Both definitions were under discussion.

8. Mr. VALENZUELA (Chile) thought that the discussion in the Economic and Social Council had shown that the French representative's request was justified. The Chilean delegation had maintained in the Council that a distinction must be drawn between the definition to be applied by the High Commissioner and that to be embodied in the draft convention. The definition should be as broad as possible in the draft convention in order that refugees should obtain the fullest possible rights in the receiving countries, whereas the definition to be applied by the High Commissioner must inevitably be limited by its administrative and financial implications for the United Nations.

9. The Chilean delegation had therefore been in error in sponsoring the joint amendment (A/C.3/L.127) to chapter III, section C, of the draft statute for the Office of the High Commissioner, and wished to withdraw its name. In so far as that amendment referred to article 1 of the draft convention, the Chilean delegation still supported it.

10. Mr. LESAGE (Canada) observed that in the French text the words "*et ne peut pas*" should be inserted after the word "*politiques*" in sub-paragraph (a) of the joint amendment (A/C.3/L.127) to make it consistent with the English text.

* Indicates the item number on the General Assembly agenda.

11. Mr. ROCHEFORT (France) thanked the Chairman for his explanation. There were two questions to be decided: first, whether there should be one or two definitions of the term "refugee" and, secondly, whether the definition or definitions should be broad or should set out specific categories of refugees.

12. The United Kingdom representative had rightly observed, at the eleventh session of the Economic and Social Council, that the definition in the statute of the High Commissioner's Office need not necessarily be identical with that in the draft convention, because the convention would impose certain legal obligations on States, whereas the obligation under the statute of the High Commissioner's Office would be only a moral one. The representative of Chile had expressed a somewhat similar view and the representative of Belgium had supported the views of the United Kingdom delegation. The Economic and Social Council had decided to divide the question into two parts and, having started work on a definition to be embodied in the draft convention, had accepted by a large majority the principle that specific categories of refugees should be set forth.

13. The United Kingdom delegation's view had been supported recently (326th meeting) in the Third Committee by the Australian delegation, which favoured a broad definition in the statute of the High Commissioner's Office but one by categories in the draft convention. To proceed from the particular in the draft convention to the general in the statute had appeared to be empirical at that stage, but at the current stage seemed logical; it would be more realistic to start with the definition for the draft convention.

14. The French position with regard to the definition for the draft convention was determined by experience. Ever since 1920, successive waves of refugees had entered France, culminating in the influx of 750,000 Spanish Republicans in 1937 and 1938. Conventions for the international protection of those refugees had been required. One type, dealing with conditions for the issue of identity papers, had been comparatively simple; not so the other, dealing with the rights to be accorded to refugees by the governments concerned. The first type had been ratified without reservations, but a number of countries had made reservations when they ratified the second. The convention of 10 February 1938 covering refugees from Germany, although dealing with a geographically restricted category of refugees, had caused the United Kingdom Government to make the reservation that it should apply only to Germans who, at the time of ratification, no longer enjoyed the protection of the German Government. The problems, such as those regarding security and work permits, in connexion with the vast number of Spanish Republican refugees had been almost insoluble. Similar problems in connexion with a draft convention which imposed no specific limits of date or geography would inevitably be far harder to solve.

15. It was natural that a country situated on a continent where the refugee problem was chronic should have a different approach from that of a country situated on an island. An island country could to some extent choose the refugees it admitted, whereas a country like France had been compelled to take in every conceivable category. If an island country had considered in the past that a reservation regarding geographical

situation and a date limit were necessary, it would surely find it even more difficult to accept a convention without specific restrictions. The United Kingdom Government had noted, in its comment on article 36 of the draft convention (E/1703 and Corr.1), that it should be enabled to make full reservations inasmuch as the convention was not one in which in return for certain benefits a State undertook certain obligations, but was more in the nature of a declaration made in favour of a third party.

16. The representative of Chile had observed at the eleventh session of the Economic and Social Council that he could not see how any country could accept the proposal to extend the definition to cover further and unknown categories. The Belgian member of the *Ad Hoc* Committee on Refugees and Stateless Persons had stated that his country would give all the aid to refugees it could within reason. Australia, despite its remarkably fine practical record of assistance to refugees, had said in the Economic and Social Council that article 1 of the draft convention should not be interpreted as according the rights set forth in the convention to all the refugees who came within the definition, and the Canadian delegation had said that to accord the status of refugee to all possible categories would be impossible. The *Ad Hoc* Committee had expressed similar views.

17. The governments had not shown a great deal of interest in submitting their comments on the report of the *Ad Hoc* Committee. The United Kingdom Government had observed that a convention would not be needed to protect refugees in its territory. Only the French Government had commented that the definition ought to be broadened. At that time, however, it had assumed that reservations to the definition could be made and that the definition would apply only to the statute of the High Commissioner's Office. Hence, it had seemed possible to write into the preamble a broad definition which would give guidance to the High Commissioner without committing governments. In the Economic and Social Council the French delegation had therefore introduced a definition broader than that recommended by the *Ad Hoc* Committee, but had failed to win the support of those very delegations which had favoured a broad definition.

18. The question was not so much whether a broad or restrictive definition was the more desirable as whether the convention would come into force at all or whether the text would be so vague that it would bind no one and thus be of no value whatever in granting a status to the refugees, leaving them to the mercies of the individual governments.

19. He must draw the United Kingdom representative's attention to the dangers which his Government's position would entail for the refugees. It put in jeopardy the whole effectiveness of the statute of the High Commissioner's Office, the only basis upon which the High Commissioner would be able to supervise the application of the international conventions providing for the protection of refugees. It would not necessarily be the sole basis, as the High Commissioner would be empowered to promote the conclusion and ratification of other international conventions, supervise their application and propose amendments thereto. Certainly no Member wished to make the convention inoperative and

thus lose the results of two years' work by the United Nations; even less to deprive the refugees currently under the care of IRO of legal protection based upon governmental obligations. The United Kingdom delegation should realize its responsibilities. The Committee in deciding upon the definition should bear in mind that subsequent conventions could be drafted if the definition were found to be too restrictive.

20. The French delegation could accept the Venezuelan amendment (A/C.3/L.126) because it broadened the definition to the greatest possible extent. The original French draft preamble could have been as broad as that amendment if only the French delegation had received from the proponents of a broad definition the support which it had expected.

21. Lord MACDONALD (United Kingdom) had made his position quite clear at the previous meeting and would therefore only repeat that, while he would not object to two separate definitions, he thought one definition was adequate. The United Kingdom amendment (A/C.3/L.115) had been submitted with that end in view.

22. He was prepared to accept the Yugoslav amendment (A/C.3/L.122) to it, feeling that such an addition would go a long way towards meeting all views.

23. He was satisfied with the French representative's approach, and felt sure that all members were moved by the same earnest desire to help refugees. He remarked in passing that the United Kingdom had never made use of the reservation mentioned by the French representative.

24. Mr. ROBINSON (Israel) observed that while the General Assembly was free to establish in the statute of the High Commissioner's Office for Refugees a definition of the term "refugee" for the purpose of the statute, the definition to be included in the draft convention might be established by a conference of plenipotentiaries without regard to the first definition. Moreover, the High Commissioner might be empowered to conclude agreements with governments which would also have a bearing on the definition of the term, and the definition might vary from one agreement to another. Thus, different categories of refugees might be governed by different regulations; but that was not necessarily undesirable.

25. The Committee should be careful to separate, at least for the time being, the definition to be included in the draft convention and the definition to be made for the purposes of the statute. He drew attention to the fact that under article 36, paragraph 1, of the draft convention, States would not be able to make reservations with respect to article 1, which contained the definition of the term "refugee". The effect of authorizing reservations to article 1 would be to break up the convention into a number of conventions of varying scope.

26. Any investigation into the adequacies of the proposed definitions must be based on the actual situation with respect to refugees, and on the possibility of the emergence of new categories of refugees. Since the Palestine refugees were in a particular category and had been the concern of the United Nations since 1948, and since the United Nations had never been asked to

assume responsibility either for refugees of the Indian sub-continent or for German refugees in Western Germany—whom the Government of the Federal Republic of Germany did not regard as refugees, as could be seen from the communication from the Allied High Commission for Germany (A/C.3/538)—he concluded that at the moment there were no other categories of refugees in need of international protection than those enumerated in the definition drafted by the Economic and Social Council.

27. That definition was based on three criteria: it was geographically confined to Europe; it was based on recognition of the existing claims to treatment as a refugee acquired under previous international conventions, including the Constitution of IRO; lastly, it rested on a date limit which had apparently been misunderstood; the expression "as a result of events in Europe before 1 January 1951" did not mean a date limit for the appearance of new refugees, but rather for the events which caused the exodus of prospective refugees. That was made clear later in the same sentence, where there was a reference to any person who "has had to leave, shall leave, or remains outside the country of his nationality, before or after 1 January 1951". That point had been clearly made in the first report of the *Ad Hoc* Committee on Statelessness and Related Problems (E/1618, annex II). The definition in question contained exceptions which were entirely reasonable and which had been partly restated in the Yugoslav amendment (A/C.3/L.122). Both in its affirmative aspects and in the exceptions, the definition appeared to be entirely satisfactory.

28. It was, however, open to objection on the ground that it set a date limit on any possible emergence of new refugees. The international situation was such that there was no guarantee that new events would not create new categories of refugees; consequently, the definition should have a clause authorizing the High Commissioner to deal with such emergency situations.

29. The Israel delegation suggested that chapter III, section C, paragraph 2, of the draft statute should be replaced by the following text (A/C.3/L.124):

"In cases of emergency, the High Commissioner may, pending the extension of the definition of the term 'refugee' by the General Assembly, provide international protection and assistance to such categories of refugees not enumerated in the present definition as he deems appropriate in the circumstances".

30. He hoped that the proposed text would close the gap between the draft definition and its extension in cases of emergency by the General Assembly at subsequent sessions.

31. The general definition contained in the joint amendment proposed by Belgium, Canada, Turkey and the United Kingdom (A/C.3/L.130) was unacceptable for several reasons.

32. First of all, under that definition the High Commissioner would have to examine the eligibility of every single applicant to the status of refugee, whereas under the definition adopted by the Economic and Social Council he would have to institute eligibility proceedings only in the case of the relatively small group described

in paragraph A (3) of the definition in article 1 of the draft convention and would not need to re-examine hundreds of thousands of cases.

33. Moreover, the definition in the joint amendment re-stated the provision contained in paragraph A (3) that persons must be unable to return to their country for fear of persecution, but with the important difference that it made no reference to such fear entertained in the past; thus, persons who were unable to prove that the fear of persecution which had made them leave their countries was still well founded would not be recognized as refugees. That would eliminate large groups which had had that status until then. Thus, the definition contained in the joint amendment was restrictive, for all its appearance of generosity.

34. Furthermore, paragraph A (3) of the Council's definition was broader than the definition in the joint amendment also in that it accepted any reason for failing to apply for governmental protection "other than personal convenience", and not only the existence of a well-founded fear. That difference would be of decisive importance where a person had left his country for fear of persecution and where the situation had subsequently either improved somewhat or become so obscure that it was impossible to prove that he would not be persecuted.

35. Lastly, the definition in the joint amendment contained no guarantee that future categories of refugees would be brought within the scope of activities of the High Commissioner.

36. In those circumstances, he would support the definition of the term "refugee" as drafted by the Economic and Social Council, with such modifications as might appear appropriate; the Venezuelan amendment to article 1 of the draft convention (A/C.3/L.121); and his own amendment (A/C.3/L.124).

37. AZMI Bey (Egypt) introduced an amendment submitted jointly by the delegations of Egypt, Lebanon and Saudi Arabia (A/C.3/L.128).

38. Those delegations considered the definition of the term "refugee" adopted by the Economic and Social Council to be unduly restrictive, because it was limited in time and space and omitted certain categories of refugees.

39. The definition proposed in the joint amendment submitted by Belgium, Canada, Turkey and the United Kingdom (A/C.3/L.130), on the other hand, would submerge in the general mass of refugees certain groups which were the particular concern of the General Assembly and the right of which to repatriation had been recognized by General Assembly resolutions. That definition contained a general principle which would be more appropriately placed at the head of chapter I—entitled "General principles"—of the statute of the High Commissioner's Office for Refugees.

40. The amendment submitted by Egypt, Lebanon and Saudi Arabia had been based on those considerations, and was intended to reconcile the two opposing tendencies which had become apparent in the course of the debate.

41. Mr. AZKOUL (Lebanon) said that the basic idea underlying the amendment submitted jointly by the delegations of Egypt, Lebanon and Saudi Arabia (A/C.3/L.128) was the necessary distinction between

the universal nature of refugee problems and the particular tasks which would be imposed upon the High Commissioner in the course of actual events. The High Commissioner should not be given the competence to deal with all the refugees in the world on his own initiative. The question of refugees was not invariably a purely humanitarian matter; it often had important political aspects. If the entire initiative were left to the High Commissioner, his prestige and authority might be imperilled.

42. The joint amendment of which his delegation was a co-sponsor sought to safeguard the principle of universality while, at the same time, protecting the High Commissioner from possible embarrassment by providing that the determination of new categories of refugees was also to be the task of the General Assembly. It might be argued that a new category of refugees, not recognized in the draft statute of the High Commissioner's Office, might emerge very suddenly while the General Assembly was not in session, and that the High Commissioner would then be powerless to come at once to their aid. That argument was, however, more impressive in theory than in actual practice because the initial movement would in any event take some time and it might be several months before the refugees were in need of legal protection.

43. The joint amendment (A/C.3/L.128) proposed to preface chapter I, paragraph 1, of the draft statute by the definition of the term "refugee" contained in document A/C.3/L.130, and to delete in paragraph 1 itself the words "falling under his competence". The effect of both amendments would be to strengthen the principle of universality to which he had referred.

44. His delegation and the other sponsors of the amendments (A/C.3/L.128) also proposed the insertion of the words "or categories" in chapter III, section C, paragraph 1, after the words "and such other persons", in the belief that the Member States which might be most vitally concerned in the establishment of a new category of refugees to be brought under the competence of the High Commissioner's Office should be given an opportunity to state their own views before the Assembly decided to establish such a new category.

45. Finally, the joint amendment proposed the addition of a third paragraph in section C reading as follows:

"3. The mandate of the High Commissioner's Office shall not extend to categories of refugees at present placed under the competence of other organs or agencies of the United Nations."

46. Such an amendment would not be necessary if the General Assembly decided to adopt the restricted definition of the term "refugee" proposed by the Economic and Social Council. It would, however, be most urgently needed, in the opinion of the sponsors, if the General Assembly decided to adopt a broader definition.

47. The delegations concerned were thinking of the Palestine refugees, who differed from all other refugees. In all other cases, persons had become refugees as a result of action taken contrary to the principles of the United Nations, and the obligation of the Organization toward them was a moral one only. The existence of the Palestine refugees, on the other hand, was the direct result of a decision taken by the United Nations itself,

with full knowledge of the consequences. The Palestine refugees were therefore a direct responsibility on the part of the United Nations and could not be placed in the general category of refugees without betrayal of that responsibility. Furthermore, the obstacle to their repatriation was not dissatisfaction with their homeland, but the fact that a Member of the United Nations was preventing their return. That Member claimed to abide by United Nations decisions; the Organization should therefore prevail upon it to permit the Palestine refugees to return to their homes. He was addressing his remarks particularly to those Member States which had taken a leading part in bringing about the partition of Palestine.

48. Mr. BAROODY (Saudi Arabia) wished to dwell particularly on one of the amendments submitted jointly by Egypt, Lebanon and Saudi Arabia (A/C.3/L.128), namely, the proposal to add a third paragraph to chapter III, section C of the draft statute.

49. The problem of Palestine refugees was characterized by certain peculiarities. The International Refugee Organization had originally been established to deal with refugees of the Second World War. Since then many new categories of refugees had come into being as a result of hostilities between adjacent States without any intervention by the United Nations. In the case of Palestine, however, persons had become refugees as a direct result of a decision taken by the United Nations. That was the first peculiarity. The second was the fact that no other group of refugees constituted such a high percentage of the total population as did the Palestine refugees: some 700,000 to 800,000—that is, 60 to 70 per cent—of the total of 1,250,000 Palestine Arabs were living outside their homeland.

50. It was most instructive to compare the action of the United Nations in connexion with Palestine with its actions on other occasions. Yielding to strong political pressure, the United Nations had decided to partition Palestine. A United Nations Mediator had been sent to Palestine and had fixed boundary lines. But the Jewish people in Palestine had gone beyond those lines and established lines of their own choosing, in contravention of the decision of the United Nations.

51. In another part of the world, two Powers had agreed to draw an imaginary line, the 38th parallel through Korea, a country inhabited by a homogeneous population. When that line had been crossed, the United Nations had been induced to go to war against North Korea because the line, although drawn by the two Powers concerned without reference to the United Nations, was regarded as sacrosanct. Yet no voice had been raised in protest when the State created in Palestine by the United Nations itself had fixed its own boundary lines, completely ignoring the decision of the Organization.

52. The United States representative on the Advisory Commission of the United Nations Relief and Work Agency for Palestine Refugees had informed him that only 20,000 out of the total of more than 700,000 Palestine refugees could be assisted, and that on a very limited scale. It had been stated that one of the objectives of the "Point Four" programme was to raise the living standards of Arab countries. He would observe in that connexion that the low standard of living of the Palestine Arabs had become much lower since they had

been forced to flee from their country. If the General Assembly were to include the Palestine refugees in a general definition of refugees, they would become submerged and would be relegated to a position of minor importance. The Arab States desired that those refugees should be aided pending their repatriation, repatriation being the only real solution of their problem. To accept a general definition without the clause proposed by the delegations of Egypt and Lebanon, as well as his own, would be to renounce insistence on repatriation.

53. Since that would be impossible for his delegation, he could not vote for any definition which did not include the substance of the paragraph proposed for insertion as paragraph 3 of section C.

54. If the United Nations prevailed upon the State which had gone beyond the boundary line fixed by the Mediator to withdraw behind that line, a strip of territory would become available upon which it would be possible to care for the Palestine refugees. The alternative to such action was bound to be trouble, hostilities, revolution and new refugees.

55. He warned the Committee of that aspect of the question and urged it to bring that serious situation to the attention of the General Assembly. Pending a proper settlement of the matter, the Palestine refugees should continue to be granted a separate and special status.

56. Mr. PEREZ PEROZO (Venezuela) introduced the two amendments sponsored by his delegation. One of them (A/C.3/L.125) dealt with the definition of the term "refugee" in the draft convention on refugees (A/1385, appendix II), the other (A/C.3/L.126) with the definition of the same term as it was to be applied by the proposed High Commissioner for Refugees.

57. The delegations of Belgium, Canada, Turkey and the United Kingdom were proposing, in their joint amendment (A/C.3/L.130), that that same definition of the term "refugee" should be used both in the draft statute and in the draft convention, and that the definition should be general in character. The United Kingdom delegation was also proposing, in its draft resolution (A/C.3/L.68), that the draft convention should be referred to a conference of plenipotentiaries. It was conceivable that such a conference would adopt a definition by categories for the purposes of the draft convention, while the General Assembly might approve a general definition for application by the proposed High Commissioner, or *vice versa*.

58. The amendments submitted by his delegation were intended to minimize such a possibility, and were proposed in the light of the suggestions and comments made during the Committee's debate. Those amendments should not be construed as rigid proposals but rather as working texts which could readily be modified to meet the views of other delegations.

59. He compared parallel passages of the original texts and of the Venezuelan amendments, noting in detail points of coincidence and of divergence.

60. He pointed out, in particular, that paragraph 4 of the definition of the term "refugee" to be applied by the High Commissioner for Refugees, as proposed by the delegation of Venezuela (A/C.3/L.126), covered much

the same ground as the final paragraph of the joint amendment submitted by Egypt, Lebanon and Saudi Arabia (A/C.3/L.128) and should therefore meet the point made by the Arab States. Paragraph 5 of the same Venezuelan amendment was similar to the amendment submitted by the representative of Israel (A/C.3/L.124), although the latter went considerably further by authorizing the High Commissioner to provide international protection and assistance to categories of

refugees not included in the definition adopted by the Assembly, while the Venezuelan amendment would limit the High Commissioner's role in such cases to intercession with governments on behalf of such additional categories of refugees. He was however, willing to consider the idea of emergency action contained in the Israel amendment.

The meeting rose at 6.5 p.m.