



Twentieth session
Agenda item 63

DRAFT DECLARATION ON THE RIGHT OF ASYLUM

Report of the Sixth Committee

Rapporteur: Mr. Gonzalo ALCIVAR (Ecuador)

INTRODUCTION

1. The item entitled "Draft Declaration on the Right of Asylum" has been before the General Assembly since 1960. At the eighteenth session, the Third Committee, because of lack of time, proposed that the item be postponed until the nineteenth session, and the Assembly so decided at its 1279th plenary meeting, on 12 December 1963.
2. The item was not considered by the General Assembly at its nineteenth session. In accordance with the statement made by the President of the Assembly at that session,^{1/} it was placed by the Secretary-General on the provisional agenda of the twentieth session.
3. At the 159th meeting of the General Committee, on 22 September 1965, a number of representatives recalled that the item had been before the General Assembly for several years, and that the Third Committee, owing to pressure of work, had been able to consider only the preamble and article 1 of the draft Declaration. It was pointed out that the item raised many legal issues and it was proposed that it be allocated to the Sixth Committee, whose agenda was not so heavy as that of the Third Committee.
4. The General Committee decided to recommend to the General Assembly that the item be allocated to the Sixth Committee (A/5988); and the Assembly so decided at its 1336th meeting, on 24 September 1965.

^{1/} Official Records of the General Assembly, Nineteenth Session, Annexes, annex No. 2, document A/5884, para. 6.

5. The Secretary-General submitted a note to the Sixth Committee, summarizing the background of the draft Declaration, and surveying the consideration by the Sixth Committee and by the International Law Commission of the more general question of the codification of the principles and rules of international law relating to the right of asylum (A/C.6/L.564).

ESTABLISHMENT OF A WORKING GROUP

6. At the 872nd meeting of the Sixth Committee, on 9 November 1965, the Committee agreed to a proposal by the Chairman that a Working Group of fifteen members should be set up to facilitate and accelerate the work of the Sixth Committee.

7. At the 882nd meeting, on 24 November, the Committee approved a suggestion by the Chairman that the Working Group should be composed of representatives of Australia, Bulgaria, Ceylon, Colombia, France, Iraq, Japan, Mali, Nigeria, Norway, the Philippines, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela.

8. At the same meeting, on the proposal of the Chairman of the Sixth Committee, it was agreed that the Working Group should be charged with the task of examining the various procedural questions which arise in connexion with consideration by the Sixth Committee of the item on the draft Declaration and that it should report at its earliest convenience.

9. The Working Group held four meetings, on 26 and 30 November and on 2 and 6 December. At its first meeting it elected by acclamation Mrs. A. Moore (Nigeria) as Chairman-Rapporteur. On 7 December, the Working Group submitted its report to the Sixth Committee (A/C.6/L.581). The report contained a summary of its discussions and its recommendations, including a draft resolution.^{2/} This draft resolution is identical with the draft recommended by the Sixth Committee (see paragraph 16 below).

CONSIDERATION BY THE WORKING GROUP

10. In its report, the Working Group noted that, because of considerations of time in the Sixth Committee, the Working Group's terms of reference had been

^{2/} A/C.6/L.581, para. 14.

formulated so as to make it unnecessary for it to enter into questions of substance relating to the draft Declaration on the Right of Asylum.^{3/} The report states that discussion proceeded on the assumption, accepted by all members, that the draft Declaration prepared by the Commission on Human Rights^{4/} would continue to serve as a basis for the drafting of a text to be recommended to the General Assembly for adoption.

11. The Working Group considered the question whether the Sixth Committee should proceed with the draft Declaration, independently of the work of codification to be undertaken by the International Law Commission. Taking account of previous discussions on this point outlined in the Secretary-General's note,^{5/} the Working Group answered the question in the affirmative. It pointed out in its report^{6/} that, when the Sixth Committee completed its draft and a Declaration was adopted by the General Assembly, that Declaration would be one of the elements available to the International Law Commission in its task of progressively developing and codifying the rules of international law relating to the right of asylum.

12. The Working Group also considered the question whether the text of the preamble and article 1 of the draft Declaration, as adopted by the Third Committee, should be accepted by the Sixth Committee in its present wording, or whether the text should be subject to further discussion. The report of the Working Group records^{7/} that a general consensus emerged among its members to the effect that, taking into account the action of the Third Committee with respect to the preamble and article 1 as noted by the General Assembly in its resolution 1839 (XVII) of 19 December 1962, it would be the task of the Sixth Committee to proceed with the consideration of articles 2 to 5 of the draft Declaration as submitted by the Commission on Human Rights and to submit to the General Assembly the complete text of a draft Declaration, making such a review of the preamble and article 1 as might, for that purpose, appear to be necessary.

^{3/} Ibid., para. 7.

^{4/} A/C.6/L.564, annex I.

^{5/} A/C.6/L.564, para. 2 and paras. 22-24.

^{6/} A/C.6/L.581, para. 9.

^{7/} Ibid., para. 11.

13. Another question discussed by the Working Group was whether the amendments to the draft Declaration submitted to the Third Committee were to be considered as still subsisting, or whether they should be resubmitted. Noting that these amendments took the form of Third Committee documents, the Working Group agreed^{8/} that the Secretary-General should consult with the sponsors of amendments previously submitted and ascertain whether they wished those amendments to be presented, with or without modification, to the Sixth Committee. In all cases where the sponsors indicated that they maintained their amendments, they would be issued as Sixth Committee documents.

14. Finally, the Working Group discussed the question whether the Secretary-General should invite those Member States which have previously submitted comments on the draft Declaration to supplement those comments, and invite other Member States to submit comments before the twenty-first session. The Working Group answered this question in the affirmative.^{9/} It noted that not all Member States had previously submitted comments and that, in view of the increase in the United Nations membership since the item was last discussed in any detail, Member States should be given the opportunity to submit new or additional remarks. Furthermore, the Secretary-General might submit such other material as he deemed useful in assisting and expediting discussion of the item concerned.

CONSIDERATION BY THE SIXTH COMMITTEE

15. At the 895th meeting of the Sixth Committee, on 10 December, the Chairman-Rapporteur of the Working Group introduced the Group's report (A/C.6/L.581). The Committee then adopted without discussion the draft resolution recommended by the Working Group in paragraph 14 of its report.

RECOMMENDATION OF THE SIXTH COMMITTEE

16. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

^{8/} Ibid., para. 12.

^{9/} Ibid., para. 13.

Draft Declaration on the Right of Asylum

The General Assembly,

Recalling its resolution 1839 (XVII) of 19 December 1962 relating to the draft Declaration on the Right of Asylum,

Having considered, at the twentieth session, certain procedural aspects of the item with a view to expediting its future consideration,

1. Requests the Secretary-General to invite those Member States which have not yet done so to submit their comments on the draft Declaration on the Right of Asylum before the twenty-first session of the General Assembly and to invite those Member States which have previously submitted comments to submit supplementary comments if they so wish;

2. Decides to take up the item entitled "Draft Declaration on the Right of Asylum" as soon as possible at its twenty-first session with a view to completing the text of the draft Declaration as a whole.
