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REPORT OF THE COMMISSION ON HUMAN RIGHTS

Chapter VI: Draft Declaration on the Right of Asylum

Observations of Governments

Note by the Secretary-General

In addition to the observations contained in documents E/3403 and Add.1, the Secretary-General has received from the Netherlands Government observations on the question of the Draft Declaration on the Right of Asylum:

* * *

The Netherlands Government has noted with interest the draft declaration on the Right of Asylum as adopted by the Commission on Human Rights at its Sixteenth Session (29 February to 18 March 1960). The Netherlands Government consider the present Draft Declaration a satisfactory synthesis of the original French draft, the comments submitted by a number of Governments and the views expressed at the Sixteenth Session of the Commission on Human Rights. In view of the fact that the discussions in the Commission have resulted in such a large measure of agreement as expressed in the present Draft Declaration, the Netherlands Government will confine itself to the following short observations:

1. Preamble

It is suggested that in the preamble it be explicitly stated that the Declaration exclusively relates to "territorial" asylum so as to exclude "diplomatic" asylum from its scope.

2. Article 2

Unlike Article 1, Article 2 does not clearly define the category of individuals concerned.

Article 1 refers to Article 14 of the Universal Declaration on Human Rights according to which the right of asylum cannot be invoked "in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations".

Article 2 of the Draft Declaration may imply the same restriction but the text is not entirely clear and refers in too general a way to "persecution or well-founded fear of persecution".

It is therefore proposed that the beginning of Article 2, paragraph 1 be worded as follows: "the situation of persons as referred to in Article 1 is, without".

3. Article 4

The Netherlands Government doubts whether it is appropriate to include Article 4 in a declaration relating to the rights and duties of States with regard to the right of asylum.

Furthermore, the text might create the impression that what is not explicitly forbidden in the article, would be allowed.

In the opinion of the Netherlands Government there is no need for a clause like Article 4.

If, however, the inclusion of the Article is insisted upon, it should be explicitly stated that persons enjoying asylum should also refrain from activities contrary to public order and the security of the State granting asylum.