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UNITED NATIONS CONFERENCE ON TERRITORIAL ASYLUM  
COMMITTEE OF THE WHOLE  
SUMMARY RECORD OF THE SIXTH MEETING  
held at the Palais des Nations, Geneva,  
on Wednesday, 19 January 1977, at 11 a.m.

Chairman: Mr. NASCIMENTO E SILVA (Brazil)

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CONSIDERATION OF THE DRAFT CONVENTION

Article 1 (A/10177, A/CONF.78/7 and Corr.1, A/CONF.78/C.1/L.1, L.2, L.3, L.5, L.6, L.8, L.11, L.14, L.15, L.16 and L.30) (continued)

1. The CHAIRMAN recalled that the list of speakers on article 1 had been closed the previous day and that all of them had already taken the floor. He therefore suggested that a vote should be taken immediately on article 1. In his opinion, the establishment of a working party, as suggested by some delegations, would merely delay the Committee's work because, under rule 46 of the rules of procedure (A/CONF.78/9), each State participating in the Conference could be represented on the working group.
2. Mr. EVSEEV (Union of Soviet Socialist Republics) pointed out that the Peruvian delegation had submitted a new amendment to article 1 (A/CONF.78/C.1/L.30) which had just been distributed to the members of the Committee and which delegations had not yet had time to examine. As the Committee was unable to vote on an amendment which had not been discussed, either the debate on article 1 should be reopened to enable delegations to discuss the amendment or the amendment should not be voted upon.
3. The CHAIRMAN remarked that the representative of Peru had submitted his amendment orally at the previous meeting; it was for the Committee to decide whether it wished to vote on it or not.
4. Mr. KIBRIA (Bangladesh) thought that the Committee's work would be expedited if the authors of the different amendments were to consult one another. There were so many amendments to article 1 that it would be difficult to vote on all of them in turn; some of them, however, contained common elements and could be amalgamated. It might be possible to reduce them to three or four main proposals on which the Committee could take a decision more easily.
5. He therefore thought that, before a vote was taken, the authors of the amendments should reach agreement. Article 1, which was highly important, would determine the general tone of the draft convention and should not be adopted without due reflection.
6. Mr. CLARK (Nigeria), referring to the question raised by the representative of the Soviet Union, said it was for the Chairman to decide whether the debate on article 1 was closed or whether the new Peruvian proposition should be considered.
7. He wholeheartedly supported the proposal by the representative of Bangladesh, as well as that of the Panamanian representative to set up a working group. It seemed rather premature for participants to vote on article 1 at the present juncture, because they constituted not a committee of experts but a Conference of plenipotentiaries whose decisions were binding upon their Governments. An attempt should therefore be made to reconcile the positions of delegations before a vote was taken.

8. Accordingly he proposed that the Committee should consider the draft convention as a whole on first reading before voting on individual articles and that, as the representative of Panama suggested, it should establish a working group to reconcile different points of view and to prepare a joint text.

9. Mr. NIKOLOV (Bulgaria) shared the view of the Soviet Union representative that the Committee could not vote on the Peruvian amendment (A/CONF.78/C.1/L.30) because it had been circulated only that morning, whereas rule 29 of the rules of procedure (A/CONF.78/9) stated that "no proposal shall be discussed or put to the vote at any meeting of the Conference unless copies of it have been circulated to all delegations not later than the day preceding the meeting".

10. Mr. BRENNAN (Australia) said he saw no reason to set up a working group to prepare a joint text, as proposed by the Nigerian representative, because that was exactly what the Group of Experts had been requested to do, and in his opinion, the text it had prepared had the best chance of gaining general support. He also thought it was too late to try to reconcile the positions adopted by the authors of the different amendments because their views were too far apart. It was only by voting that the Committee could decide on the proposals before it. Admittedly, they were very numerous but some delegations would probably agree to withdraw or amalgamate their amendments, and that would facilitate the voting.

11. He agreed with the Chairman that the establishment of a working group, far from saving time, would simply delay the work of the Committee still further. He therefore proposed that the Chairman should exercise his authority and call for a vote on article 1.

12. He pointed out that rule 29 of the rules of procedure referred to by the Bulgarian representative stated that "the President may ..... permit the discussion and consideration of amendments, or motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day". Consequently, the Peruvian amendment should be accepted and put to the vote, together with the other amendments, at the present meeting.

13. Mr. KERLY (United States of America) agreed with the Australian representative that it was too late to set up a working group or to organize a meeting of sponsors of amendments to article 1. It seemed to him highly improbable that any such working group could arrive at a consensus, because the most important differences were over questions of principle. Three main positions had emerged from the discussions in the Committee: two were extreme positions, one simply enunciating the right of States to grant asylum and the other making it obligatory for a State to do so, and the third was an intermediate position recognizing the right of asylum but making it a purely moral obligation for the State concerned. The only way for the Committee to choose between those positions was to vote on them. It should therefore vote on the principle to be adopted without further ado, and leave it to the Drafting Committee to draw up the final text. In that respect he agreed with the procedure proposed by the Australian representative.

14. Mr. ARIAS SCHREIBER (Peru) said that his delegation's amendment (A/CONF.78/C.1/L.30) did not make any substantive changes in the text prepared by the Group of Experts, but if it was to be used as a pretext for continuing the discussions, he would withdraw it, provided that the Drafting Committee agreed to take it into account when considering the texts submitted by the Committee. His delegation thought it was pointless to set up a working group or to ask the Drafting Committee to study the amendments to draft article 1; it was therefore unable to support the proposals made by the representatives of Bangladesh and Nigeria and was in favour of a vote on the amendments.

15. Mr. CHARRY (Colombia) associated himself with the views expressed by the representative of Australia and proposed that the Committee should proceed to a vote on the amendments.

16. Mr. DE ICAZA (Mexico) thought it was impossible to reconcile the three points of view expressed during the discussion of draft article 1. Moreover, as a working group could not be convened at the same time as the Committee, the latter would have to interrupt its work to enable the group to meet. It would therefore be preferable to take a vote, which would serve to some extent as an opinion poll and ascertain which texts would be referred to the Drafting Committee. If the Committee decided to follow that procedure, it would not be adopting the final text of article 1 but simply giving instructions to the Drafting Committee.

17. The Peruvian amendment (A/CONF.78/C.1/L.30) represented an attempt to reach a compromise and did not contain any points that had not already been examined at length.

18. Mr. AMLIE (Norway) considered that the principles stated in the course of the discussion were irreconcilable and offered no room for compromise. The Committee should realize that it was not always possible to arrive at a consensus. He was opposed to the establishment of a working group, to the postponement of a decision and to the continuation of consultations, and felt that a vote should be taken on the various amendments before the Committee.

19. The CHAIRMAN said he would abide by the rules of procedure and noted that delegations had had ample time to study the draft convention, which was the result of a consensus in the Group of Experts. As it was impossible either to reconcile opposing points of view or to set up a working group, because all delegations could take part in it, a vote should be taken. The Drafting Committee would then have before it a text which would later be returned to the Committee of the Whole for further consideration before being submitted to the Conference in the last instance.

20. Mr. PONCE (Ecuador) saw no reason why the Peruvian amendment (A/CONF.78/C.1/L.1) should not be put to the vote. In order to facilitate the work of the Committee, he would withdraw his own delegation's amendment (A/CONF.78/C.1/L.11) provided that paragraph 1, and the first and second sentences of paragraph 2 of the Danish amendment (A/CONF.78/C.1/L.15) were voted on separately, so that the two sentences would become two separate articles.

21. Mr. EVSEEV (Union of Soviet Socialist Republics) said that, although several delegations had expressed their views on the Peruvian amendment (A/CONF.78/C.1/L.30), the Committee had not decided whether it would take that amendment into account.
22. The CHAIRMAN said that as no representative had expressed an opinion on the substance of the Peruvian amendment, he would decide in due course whether it should be put to the vote.
23. Mr. BRENNAN (Australia) moved the closure of the debate under rule 26 of the rules of procedure.
24. The CHAIRMAN observed that the debate could not be closed as delegations were at present speaking on points of order.
25. Mr. CLARK (Nigeria), noting that neither his delegation nor that of Bangladesh opposed a vote on the amendments to draft article 1, said that they had simply made suggestions in the light of the practice followed at other conferences. For its part, his delegation supported draft article 1 as submitted by the Group of Experts, but felt it was only fair that other delegations should be given the opportunity of exchanging views in order to reach a consensus.
26. Mr. EVSEEV (Union of Soviet Socialist Republics) was surprised at the pessimism of many delegations which considered a consensus impossible; his own delegation saw no reason for pessimism. The participants in the Conference had met in order to draft the text of a convention which would be acceptable to the greatest possible number of States; they should not reiterate views which they had already expressed through their amendments. In addition, he pointed out that, contrary to what had been stated, the basic text submitted to the Committee was the outcome not of a consensus but of a vote by the Group of Experts.
27. As the question of granting asylum raised a sensitive question, namely, that of the internal jurisdiction of States, the convention would be doomed to complete ineffectiveness if it reflected the viewpoint of only one group of States.
28. As to the objection that it was too late to establish a working group, he agreed with the adage "Better late than never".
29. His delegation hoped that the Committee would reach a consensus on articles 1 and 2, which were the most important of the future convention.
30. The CHAIRMAN said that, before taking any other action, the Committee must take a decision on the Nigerian proposal that it should defer the vote on article 1 and should resume consideration of article 2. He therefore put the Nigerian proposal to the vote.
31. The Nigerian proposal was rejected by 45 votes to 32, with 7 abstentions.

32. The CHAIRMAN invited members of the Committee to vote on the various amendments to article 1, beginning with the amendments furthest removed in substance from the text proposed by the Group of Experts and continuing with those amendments which added provisions to that text without amending it. He put to the vote the amendment to article 1 proposed by the Federal Republic of Germany (A/CONF.78/7).

33. The amendment was rejected by 53 votes to 4, with 21 abstentions.

34. Mr. NETTEL (Austria) announced that his delegation wished to withdraw its amendment (A/CONF.78/C.1/L.5), because most delegations seemed to endorse the text proposed by the Group of Experts.

35. The CHAIRMAN said that the Drafting Committee would nevertheless take into consideration the reference to State sovereignty implicit in the Austrian amendment.

36. He put to the vote the Pakistan amendment (A/CONF.78/C.1/L.14).

37. The amendment was rejected by 30 votes to 14, with 32 abstentions.

38. Mr. FAJARDO MALDONADO (Guatemala) announced that, in order to expedite the Committee's work and in a spirit of compromise, his delegation wished to withdraw its amendment to article 1 (A/CONF.78/C.1/L.19).

39. The CHAIRMAN put to the vote the Argentine amendment (A/CONF.78/C.1/L.1/Rev.1).

40. The amendment was rejected by 35 votes to 3, with 43 abstentions.

41. The CHAIRMAN put to the vote the Cuban amendment (A/CONF.78/C.1/L.3).

42. The amendment was rejected by 26 votes to 23, with 28 abstentions.

43. Mr. ARIAS SCHREIBER (Peru) said that his delegation's amendment (A/CONF.78/C.1/L.30) was prompted by a spirit of compromise and that it departed very little from the text proposed by the Group of Experts. For that reason, his delegation had decided to withdraw it, on the understanding that the Drafting Committee would be able to revise the text which the Committee of the Whole was to adopt and that further drafting amendments could subsequently be submitted to the latter Committee.

44. The CHAIRMAN put to the vote the Jordanian amendment (A/CONF.78/C.1/L.16).

45. That amendment was adopted by 31 votes to 29, with 18 abstentions.

46. The CHAIRMAN invited the members of the Committee to vote on the text of article 1 proposed by the Group of Experts, as amended by the Jordanian proposal, and then on those amendments which did not alter the Group's text but added a provision which would constitute either the second paragraph of the article or a separate article.

47. Mr. GRISHCHENKO (Ukrainian Soviet Socialist Republic), supported by Mr. EVSEEV (Union of Soviet Socialist Republics) and Mr. NIKOLOV (Bulgaria), said that, before voting on article 1 as proposed by the Group of Experts, the Committee should vote on all the amendments to article 1, in accordance with rule 40 of the rules of procedure and the procedure previously suggested by the Chairman. All those amendments unquestionably related to article 1. One of them, the amendment proposed by the Danish delegation (A/CONF.78/C.1/L.15), was in fact expressly intended to replace the Group's article 1 by a different text. If the Group's text was put to the vote first, there would no longer be any point in voting on the remaining amendments.

48. After an exchange of views in which Mr. KATEKA (United Republic of Tanzania), Mr. AMLIE (Norway), Mr. GRISHCHENKO (Ukrainian Soviet Socialist Republic), Mr. EVSEEV (Union of Soviet Socialist Republics), Mr. NIKOLOV (Bulgaria), Mr. JAY (Canada), Mr. BRENNAN (Australia) and Mr. LEDUC (France) took part, the CHAIRMAN decided to put to the vote the text of article 1 proposed by the Group of Experts, as amended by the Jordanian proposal (A/CONF.78/C.1/L.16). He read out the text which was to be put to the vote.

49. The text was adopted by 56 votes to 2, with 17 abstentions.

50. Mr. PONCE (Ecuador) said that, according to the Spanish interpretation, the text proposed by the Group of Experts had been put to the vote without the Jordanian amendment. That error of interpretation might have vitiated the vote.

51. After a discussion in which Mr. GEBREKIDAN (Ethiopia), Mr. GOMEZ FYNIS (Uruguay), Mr. de ICAZA (Mexico), Mr. SANCHEZ MARINCOLO (Argentina), Mr. GRIFFIN (Venezuela), Mr. FAJARDO MALDONADO (Guatemala), Mr. AMLIE (Norway), Mr. ZEMLA (Czechoslovakia), Mr. ARIAS SCHREIBER (Peru) and Mr. BENITO MESTRE (Spain) took part, the CHAIRMAN said he was convinced that the Spanish-speaking delegations had voted in full knowledge of the question at issue. He urged them not to press for a second vote on the text adopted, as that would give rise to serious procedural difficulties.

52. Mr. SANCHEZ MARINCOLO (Argentina) said that, because of the error of interpretation, his delegation had voted against, instead of in favour of, the text put to the vote.

53. Mr. VANDERPUYE (Ghana) announced that, after consultation with the Danish and Nigerian delegations, his delegation wished to withdraw its amendment (A/CONF.78/C.1/L.6).

The meeting rose at 1.20 p.m.