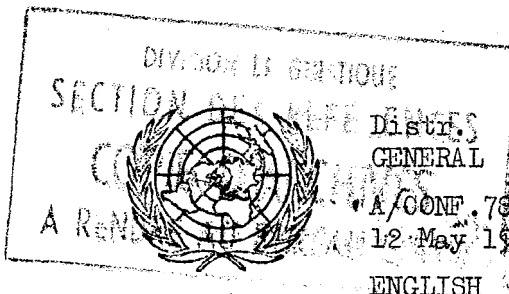


UNITED NATIONS GENERAL ASSEMBLY



UNITED NATIONS CONFERENCE ON TERRITORIAL ASYLUM

COMMITTEE OF THE WHOLE

SUMMARY RECORDS OF THE 1st TO 28th MEETINGS

held at the Palais des Nations, Geneva,
from 13 January to 4 February 1977

Corrigendum

This document contains delegation and Secretariat corrections applying to the English text of the summary records of the meetings held by the Committee of the Whole of the United Nations Conference on Territorial Asylum (A/CONF.78/C.1/SR.1-28).

With the issuance of this corrigendum, the summary records of the above-mentioned meetings are to be considered final.

1st meeting

Paragraphs 6, 8, 9, 11, 14, 15, 17, 19 and 39

The document symbol "A/10177" should be amended to read "A/10177 and Corr.1".

2nd meeting

Page 2, heading preceding paragraph 1

In the list of documents, the symbol "A/10177" should be amended to read "A/10177 and Corr.1".

Paragraph 25

In the third sentence, the word "right" should read "rights".

Paragraph 26

In the third sentence, the words "that same view" should read "the same view".

* Incorporating document A/CONF.78/C.1/SR.12/Corr.1.

Paragraph 49

The first sentence should read as follows:

Doubts, which his delegation shared, had already been cast on the usefulness of preparing an international convention, since the granting of asylum was already regulated in many international instruments and in national legislation.

Paragraph 62

The second sentence should read as follows:

Naturally, it was not an abstract right for all persons subject to any kind of persecution, but a right of those who, although they had not contravened any of the basic rules of civilized co-existence, did not necessarily conform to the society in which they lived and were persecuted on the grounds enumerated in the text of the draft convention.

Paragraph 63

The second sentence should read as follows:

Consequently, his delegation favoured draft article 1 in the consolidated text, although he agreed with the Australian representative, who had proposed that the phrase "acting in the exercise of its sovereign rights" should be amended to "acting in the exercise of its sovereignty".

3rd meeting

Paragraph 10

The third sentence should read as follows:

With regard to the proposal by the Holy See and Colombia (A/CONF.78/C.1/L.8), he wished to point out that the question was not actually before the present Conference, but he stated, simply for information, that the same Decree specified that the members of the family of the asylee were entitled to the same rights as the asylee.

Paragraph 20

The name of the speaker should read "Mr. ZEMLA".

Paragraphs 42, 43 and 44

These paragraphs should read as follows:

42. Mr. ROSENNE (Israel) said that the consolidated text ~~sought~~ to set forth the rights and obligations of States in relation to other States, its enforceability directly by individuals in court being left to the domestic law of the country concerned. In that connexion, in Israel, there was no automatic incorporation of international treaties in domestic law; there had to be an appropriate domestic enactment which was totally separate from the act of ratification. For countries with such a legal system, the

question as to whether an international treaty should establish a right of asylum for the individual was a question of the interpretation of the relevant texts and their evolution. His delegation could accept draft article 1 in the consolidated text, although it had some hesitations concerning the phrase "shall use its best endeavours". In that connexion the proposals of Austria, Argentina and Ghana seemed to be essentially drafting amendments designed to overcome some of the difficulties involved. The last sentence of the proposals by Argentina and Austria and the new paragraph 2 proposed by Ghana could be accepted.

43. The word "asylee" appeared in some of the proposals. None of the standard dictionaries included that word, whose meaning was obscure. It should be replaced by a clearer term.

44. His delegation doubted whether there was any need to define the expression "territorial asylum" but would be prepared to accept something along the lines of the Indian proposal.

Paragraph 47

The second sentence should read as follows:

In that respect, there were two distinct trends in the Committee - one side maintaining that the States should have no liberty at all to refuse asylum, which would be a right of the individual, and the second maintaining that the State should be subject to restrictions in its competence to grant asylum.

Paragraph 70

In the first sentence, the words "right to asylum" should read "right to seek asylum".

4th meeting

Paragraph 11

The name of the speaker should read "Mr. del CASTILLO".

Paragraph 33

The second sentence should be replaced by the following sentence:

It was not clear who should say if the endeavours of a State were or were not the best ones.

Paragraph 34

In the third sentence, the word "provision" should be replaced by the word "convention".

5th meeting

Paragraph 21

The name of the speaker should read "Mr. CHAUS".

6th meeting

Paragraph 51

This paragraph should be replaced by the following two paragraphs:

51. That error of interpretation was acknowledged during a discussion in which Mr. GEBREKIDAN (Ethiopia), Mr. GOMEZ FYNS (Uruguay), Mr. de ICAZA (Mexico), Mr. SANCHEZ MARINCOLO (Argentina), Mr. GRIFFEN (Venezuela), Mr. FAJARDO MALDONADO (Guatemala), Mr. AMLIE (Norway), Mr. ZEMLA (Czechoslovakia), Mr. ARIAS SCHREIBER (Peru) and Mr. BENITO MESTRE (Spain) took part.

51 bis. 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.

7th meeting

Paragraph 21

This paragraph should be replaced by the following text:

21. Mr. LARSSON (Sweden) said that his delegation had voted in favour of article 1 as proposed by the Group of Experts and as amended. It had done so against its own conviction, owing to uncertainty about what would have happened had the proposal been defeated. Thus it would not have liked to be part of a decision that might have caused confusion among members. However, his delegation's vote at the present time would not prejudice its final attitude towards the provision. On the other hand, his delegation had not been able to support the proposal by Denmark and Ghana for the reasons it had given at an earlier meeting of the Committee. He wished to make it clear, however, that it was the understanding of his delegation that the provision adopted did not preclude bilateral and regional arrangements that might ease the burden on the countries of first asylum.

Paragraph 31

The second sentence should read as follows:

Accordingly, it had voted against only in three instances, and in all other cases it had either voted in favour or abstained.

Paragraph 33

The name of the speaker should read "Mr. SALEEM".

Paragraph 34

This paragraph should be replaced by the following text:

34. His delegation's second amendment related to the deletion of the word "nationality" in paragraph 1(a). Eligibility for the grant of asylum because of persecution solely on the basis of "nationality" was not understandable to his delegation. It would be reasonable to presume that an individual who was being prosecuted solely because of his "nationality" would seek the protection of the country of his nationality. It was surely not the intention to absolve a country of responsibility for extending protection to its own nationals.

8th meeting

Paragraph 16

The second sentence should read as follows:

It was not wedded to any particular text, provided that the exception in paragraph 2 was broad enough to include offences covered by the 1970 Hague Convention and the 1971 Montreal Convention, mentioned in the Israeli amendment, and by various other instruments designed to punish crimes against internationally protected persons and generally.

Paragraph 26

The last sentence in the paragraph should be deleted.

Paragraph 51

The first half of the second sentence should read as follows:

"The words 'with respect to whom there are serious reasons for considering that he has committed' were unsatisfactory from the humanitarian standpoint,".

Paragraph 54

In the first sentence, the word "twice" should be deleted.

10th meeting

Paragraph 11

The paragraph should read as follows:

11. For the reasons explained by the Australian and Swiss representatives, he considered that the USSR amendment (A/CONF.78/C.1/L.23), which listed examples of activities or political opinions giving rise to persecution, was unnecessary.

11th meeting

Paragraph 5

The fourth sentence should read as follows:

As the convention would not include any absolute obligation for the State to grant asylum correspondingly, his country could not agree to assume an absolute obligation not to grant asylum, in certain cases, as was advocated in the Argentine proposal in question.

Paragraph 28

In the third sentence, "International Convention on Civil and Political Rights" should read "International Covenant on Civil and Political Rights".

Paragraph 55

The second sentence should read as follows:

However, he thought that it would be more appropriate for the sponsors of the amendments themselves to indicate whether they thought that their amendments were of a substantive or drafting nature, leaving the final decision, however, to the Committee.

12th meeting

Paragraph 31

This paragraph should be replaced by the following text:

31. Referring to the amendments proposed by certain delegations for the addition to article 2, paragraph 2, of a new sub-paragraph on the diversion of aircraft and terrorism, he said that there was absolutely no question about Cuba's position on that subject, for it had been the first country to suffer systematically from the diversion of aircraft and, when that practice had become widespread, it had suggested to all countries a solution which had led to the conclusion of several bilateral agreements, with positive results; Cuba had also been the victim of terrorist attacks since the 1960s; the recent destruction, in full flight, of a "Cubana de Aviación" aircraft, with the loss of all passengers and crew, revealed the monstrous proportions that had been assumed by such attacks. However, although he regarded the Soviet proposal as a positive contribution, he would suggest, in line with the Cuban approach to the solution of those problems, and bearing in mind the statements of certain African delegations, that that proposal should be merged with the Yugoslav proposal, in other words, that they should be combined in a more general provision by the Drafting Committee.

Paragraph 70

The paragraph should read as follows:

70. His delegation would make known its views on the various amendments when they were put to the vote, but it wished to state unequivocally from the outset that it would vote against any proposal to delete references to colonialism and apartheid. On the other hand, it supported the idea underlying the proposal by the delegation of Bangladesh

(A/CONF.78/C.1/L.59) on the prohibition of activities contrary to the purposes and principles of the Charter of the United Nations, an idea which had been reflected also in article 10, entitled "Regime of asylees", set out in the report of the Group of Experts (A/10177*, para. 127). The draft convention submitted by the Nigerian delegation (A/CONF.78/C.1/L.2) also contained an article prohibiting a refugee from engaging in subversive activities against his State of nationality, the host country, or the country of his former domicile or habitual residence. He recalled that article III of the OAU Convention of 1969 governing the specific aspects of refugee problems in Africa, to which Morocco was a party, declared the principle that refugees must refrain from all subversive activities. His delegation was in favour of the inclusion of a similar provision in the future convention.

Paragraph 83

The last sentence should read as follows:

For instance, dictatorship, particularly the dictatorship of the proletariat, might be added to fascism and nazism.

Paragraph 84

In the third sentence, the words "under the laws and regulations of a State" should be replaced by the words "in certain cases".

13th meeting

Paragraph 29

The fourth sentence should be replaced by the following text:

In his opinion, it was designed to safeguard freedom of opinion, of expression, of speech and of the press, which were recognized in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It was not intended to cover cases in which persons who had obtained asylum in a State practised incitement to violence or aggression against another State.

Paragraph 52

The second sentence should read as follows:

Nor did it consider that all the rights and obligations of persons granted asylum could be defined in a single article.

Paragraph 53

The first sentence should read as follows:

53. The Austrian amendment also appeared to be superfluous, because it was obvious that the laws and regulations of the State granting asylum automatically applied to all residents of that State and, naturally, to those who had received asylum.

17th meeting

Paragraph 19

The last sentence should read as follows:

However, in order to avoid giving the impression that it was opposed to the honest efforts made to attain objectives which, although perhaps less ambitious, were nevertheless valuable in the eyes of many States represented at the Conference, his delegation had abstained from the vote on draft article 2 as amended, as a whole, and it reserved its position on the remainder of the convention in the hope that a satisfactory solution could be found for the other draft articles.

18th meeting

Paragraph 41

The paragraph should read as follows:

41. With regard to the latter, the convention should contain provisions defining both the rights and the obligations of persons granted asylum. The inclusion of a number of clauses dealing solely with the respect due to the laws and regulations of the State granting asylum would deprive the convention of its humanitarian character and turn it into a police convention. It was obvious that in every State persons granted asylum there were subject to the legal provisions in force. In Belgium such persons were usually granted the status of refugees as provided for in the Convention relating to the Status of Refugees of 28 July 1951, as indeed was recommended in the Final Act of the Conference preceding the adoption of the Convention, which expressed the hope that the Convention would have value as an example exceeding its contractual scope and that all nations would be guided by it in granting so far as possible to persons in their territory as refugees, and who would not be covered by the terms of the Convention, the treatment for which it provided.

19th meeting

Paragraph 7

The first sentence should read as follows:

7. Mr. IARSSON (Sweden) said he had voted against the new article contained in document A/CONF.78/C.1/WP.3, but he found some consolation in the fact that the article had been adopted by a very small majority.

22nd meeting

Paragraph 46

The last sentence should read as follows:

The words "who, having been convicted by a final judgement of a particularly serious crime" in paragraph 2 of article 3 would impose too strict a criterion and should be replaced by the words "against whom criminal proceedings are pending regarding a particularly serious crime".

Paragraph 79

The paragraph should read as follows:

79. The amendment by the Union of Soviet Socialist Republics, for the deletion of the second sentence of paragraph 1, was also a step in the right direction, although its relationship with article 4 was not clear.

Paragraph 89

The words "paragraph 1" should read "paragraph 2".

23rd meeting

Page 2

In the list of documents following the sub-heading "Article 3", the symbol "L.28" should be amended to read "L.28/Rev.1".

Paragraph 39

The last sentence should read as follows;

In his delegation's view, the draft in the Experts' text, with the changes he had indicated, was the one most likely to be accepted by a large number of countries under different regimes and with different conditions.

24th meeting

Paragraph 18

The last sentence should read as follows:

Consequently, his delegation considered that paragraph 1 of the consolidated text was not entirely satisfactory, and it supported the four-Power amendment (A/CONF.78/C.1/L.102).

Paragraph 24

The second sentence should read as follows:

Nor was his delegation opposed in principle to the elimination of the distinction made in paragraph 1 between non-refoulement and non-rejection at the frontier.