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UNITED NATIONS CONFERENCE ON TERRITORIAL ASYLUM

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE 25TH MEETING

held at the Palais des Nations, Geneva, on
Wednesday, 2 February 1977, at 3.40 p.m.

Chairman: Mr. DO NASCIMENTO L SILVA (Brazil)

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CONSIDERATION OF THE QUESTION OF TERRITORIAL ASYLUM IN ACCORDANCE WITH
RESOLUTION 3456 (XXX) ADOPTED BY THE GENERAL ASSEMBLY ON 9 DECEMBER 1975
(item 11 of the agenda of the Conference) (continued)

Article 3 (A/10177 and Corr.1; A/CONF.78/7; A/CONF.78/C.1/L.2; L.10, L.17,
L.28/Rev.1, L.38, L.39, L.44, L.48, L.49, L.51/Rev.1, L.54, L.55, L.60/Rev.1,
L.64, L.65, L.66/Rev.1, L.69, L.70 and L.102; A/CONF.78/C.1/WP.2) (continued)

1. Mr. MICHEEL (German Democratic Republic) said that his delegation associated itself with other delegations which believed that article 3 should contain unambiguous statements concerning the rights and responsibilities of sovereign States and the safeguarding of generally accepted rules of international law, on the one hand, and concerning the rights of asylum-seekers, on the other hand. In that connexion, he drew attention to the amendment to draft article 3 which his delegation had submitted in document A/CONF.78/C.1/L.64. That amendment was in conformity with the amendment submitted by the Soviet Union (A/CONF.78/C.1/L.69) and with the views expressed by the delegations of Hungary and the Byelorussian Soviet Socialist Republic concerning the need to safeguard national legislations and to create conditions to ensure that benefits accorded to asylum-seekers would not conflict with those legislations.

2. That requirement could be met only by deleting the second sentence of paragraph 1, as proposed in the Soviet amendment, and by proceeding from the premise that a request for asylum made at a frontier crossing point, as well as a request made inside a country, was made on the territory of the State concerned. His delegation could also support the amendments submitted by Cuba, Romania and Turkey (A/CONF.78/C.1/L.51/Rev.1, L.48 and L.55) because their purpose was the same as that of the Soviet amendment.

3. His delegation also welcomed the amendments proposed by Pakistan (A/CONF.78/C.1/L.17), Indonesia, Malaysia and the Philippines (A/CONF.78/C.1/L.60/Rev.1), Argentina (A/CONF.78/C.1/L.65) and Japan (A/CONF.78/C.1/L.54), and thought that the adoption of those amendments would enhance the sovereign rights of States, add to the clarity of article 3 and stress its relationship with the preceding articles. On the other hand, his delegation could not agree to any amendments aimed at weakening the sovereignty of States and giving absolute priority to the subjective right of the asylee.

4. Mr. TOPERI (Turkey) said his delegation shared the view that article 3 on non-refoulement was of crucial importance. Accordingly, it would support amendments which clarified the Experts' draft of article 3 and attempted to strike a realistic balance between humanitarian considerations and the sovereign rights of States.

5. His delegation had proposed its amendment to paragraph 1 (A/CONF.78/C.1/L.55) in order to discourage illegal entries into the territory of a Contracting State and to force asylees who did enter illegally in emergency cases to legalize their presence in the country as soon as possible. Article 31 of the 1951 Convention

relating to the Status of Refugees contained a similar provision, and his delegation believed that such a provision should be included also in the draft convention on territorial asylum to prevent asylum-seekers from being granted a status which, with respect to the regulations concerning entry into the territory of Contracting States, was more privileged than the situation would justify. After consulting his country's authorities, however, he had been authorized to withdraw the amendment contained in document A/CONF.78/C.1/L.55 in order to prove that his delegation's purpose was not to weaken the principles to be embodied in the draft convention.

6. The amendment proposed by his delegation in document A/CONF.78/C.1/L.28/Rev.1 was necessary in order to make the draft convention more comprehensive. He noted that article 3, paragraph 2, of the 1967 Declaration on Territorial Asylum referred to "the case of a mass influx of persons", while draft article 3 in the Experts' text concentrated mainly on cases of individual asylum-seekers. The draft convention should, however, take account of the fact that, although the geographical location of many countries protected them against the possibility of a sudden and massive influx of refugees, there were other countries for which an influx of refugees would create insurmountable material problems and serious dangers to their security.

7. Moreover, the words "massive influx" did not refer to a situation already existing in a Contracting State. His delegation's proposed amendment would therefore not affect the status of persons who had already been granted asylum and it would not prevent a Contracting State from admitting a large number of persons if it considered that their presence would not constitute a serious problem of security. However, a Contracting State for which a sudden influx of a large number of persons was likely to create dangers must obviously have the right to prevent such dangers. The inclusion of such a provision in the draft convention would not place a general and obligatory restriction on all Contracting States, but would provide a safeguard for those Contracting States for which a serious security problem might arise. Such a provision would also ensure wider acceptance of the draft convention.

8. Mr. FALASE (Nigeria) said that the amendment to article 3, paragraph 1, proposed by his delegation and those of Australia, the Federal Republic of Germany and the United States of America in document A/CONF.78/C.1/L.102 had been submitted because of the similarity of the positions of the four sponsors and because of their humanitarian concern for the plight of asylum-seekers, particularly those at the frontier of a Contracting State.

9. Like many other delegations, his delegation was convinced that article 3 relating to the principle of non-refoulement was one of the most important provisions in the draft convention on territorial asylum. He noted that the scope of the 1951 Convention relating to the Status of Refugees was limited because it applied exclusively to asylum-seekers already within the territory of a State. Article II, paragraph 3, of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa had constituted a step forward because it widened the scope of application of the principle of non-refoulement to cover the case of asylum-seekers at the frontier of a State, thus making a valuable contribution to the progressive development of contemporary international humanitarian law.

10. Draft article 3 in the Experts' text, in its attempt to strike a balance between the sovereign rights of States and the subjective right of individuals in respect to non-refoulement, had in fact put the clock back. In his delegation's view, the asylum seeker at the frontier was entitled to the same treatment, with respect to the principle of non-refoulement, as the asylum seeker already in the territory of the State in which he was seeking asylum. Moreover, his delegation considered that the individual asylum-seeker at the frontier, who was usually being pursued by the authorities of his country of origin, needed greater protection than the individual who was already in the territory of the State in which he was seeking asylum.

11. Thus, if the Conference intended to promote the progressive development of contemporary international humanitarian law, it would be inappropriate for it to take a step backward by discriminating, in the application of the principle of non-refoulement, between asylum seekers in the territory of a Contracting State and asylum seekers at the frontier. In that connexion, he pointed out that draft article 4 in the Experts' text provided a safeguard for countries which might have to deal with cases of persons seeking asylum at their frontiers. The terms of draft article 4 prevented a person who had sought asylum at the frontier, and who had been granted a provisional stay in a Contracting State, from making his stay permanent without the approval of that State. Another safeguard for States having to deal with such cases was to be found in his delegation's proposal for a new article 12 (A/CONF.78/C.1/L.2). According to that proposal, a Contracting State which acted in accordance with the terms of the amendment contained in document A/CONF.78/C.1/L.102 by admitting an asylum-seeker at the frontier or, in accordance with draft article 4 of the Experts' text by provisionally admitting a prospective asylee, would be expected, if it rejected the asylee's request, to inform him promptly of its decision and give him time to move on to another State of his choice for the purpose of seeking asylum. He appreciated that, for that safeguard to apply, it might be necessary to amend the title of the new article 12 proposed in document A/CONF.78/C.1/L.2; and his delegation would be willing to do so at the appropriate time.

12. Lastly, he noted that the amendment contained in document A/CONF.78/C.1/L.102 related only to article 3, paragraph 1. His delegation fully supported paragraphs 2 and 3 in the Experts' text.

13. Mrs. POSSE DE JODOS (Argentina) said that, judging from the amendments submitted to article 3, it seemed that four distinctive trends had emerged in the Committee. The first trend was opposed to any differences in treatment between asylum-seekers within the territory and those at the frontier of a State, but would maintain the safeguard clauses in paragraphs 2 and 3 in the Experts' text. The various amendments along those lines had now been combined in the 4-Power amendment (A/CONF.78/C.1/L.102). The second trend was to delete the second sentence of paragraph 1, thereby leaving asylum-seekers at the frontier without any protective provisions. The amendments to that effect were those submitted by the German Democratic Republic (A/CONF.78/C.1/L.64) and the Union of Soviet Socialist Republics (A/CONF.78/C.1/L.69). The third trend was to accept the

differences in treatment found in the Experts' text, but to delete the safeguard clauses. That trend was exemplified by the Ecuadorian amendment (A/CONF.78/C.1/L.70). The fourth trend was to accept the Experts' text in principle, with some amendments to improve its wording. From the statements that had been made in the Committee, it appeared that the last-mentioned approach was the one adopted by a majority of delegations.

14. While her delegation looked with favour on the first trend, it was able to understand that a number of delegations would have difficulty in accepting an article which made no distinction between the asylum seeker within the territory of a State and a person seeking asylum at the frontier. Consequently, since it was conscious of the need to find a text acceptable to a majority of delegations, it was prepared to support the last trend - namely, acceptance of the Experts' text, perhaps with some drafting improvements.

15. It was quite unable to accept the second trend, to delete the second sentence of paragraph 1. That sentence constituted a significant contribution to international humanitarian law.

16. Her delegation was likewise unable to accept the deletion of paragraphs 2 and 3, which were needed to establish a suitable balance between the interests of the country granting asylum and the interests of the asylum-seeker.

17. Of the drafting amendments, her delegation was able to support the Pakistani amendments to the first sentence of paragraph 1 (A/CONF.78/C.1/L.17), the amendment to the same sentence submitted by Indonesia and two other States (A/CONF.78/C.1/L.60/Rev.1) and the United Kingdom amendment to paragraph 2 (A/CONF.78/C.1/L.38).

18. Mr. KARTASHIN (Union of Soviet Socialist Republics) said that the large number of proposed amendments to article 3 was understandable, since that article concerned the rights and interests of States and was also important for persons seeking asylum. The Conference should draft an article which safeguarded the sovereign rights of States and also the interests of persons seeking asylum. A balanced approach was in fact possible on the basis of some of the amendments proposed, for example those of Pakistan (A/CONF.78/C.1/L.17), the German Democratic Republic (A/CONF.78/C.1/L.64), Romania (A/CONF.78/C.1/L.48) and Turkey (A/CONF.78/C.1/L.55). Turkey's withdrawal of its amendment would, in his opinion, make it more difficult for the Conference to strike a balance in article 3 between the interests of States and those of persons seeking asylum.

19. Some of the amendments showed a regard for only one aspect of the question - the interests of persons seeking asylum - and would in effect impair the interests and sovereign rights of States. That was true particularly of the amendments proposed by the Federal Republic of Germany (A/CONF.78/7), Australia (A/CONF.78/C.1/L.10) and the United States of America (A/CONF.78/C.1/L.44). The Soviet Union considered Pakistan's proposal (A/CONF.78/C.1/L.17) to replace the words "entitled to" by "eligible for" and "shall" by "may" in paragraph 1 of article 3 as an extremely important amendment, since only States could and should

decide whether or not to admit persons seeking asylum. It was also essential to insert the word "legally" before the words "in the territory of a Contracting State", since only a person who had entered the territory of the State legally could be eligible for the benefits of the Convention. He hoped that the majority of delegations shared that view.

20. The Soviet Union had proposed the deletion of the second sentence of paragraph 1, as had Nigeria, because every State established a legal régime to be observed at its frontiers and in special frontier zones, and also procedures for entering such zones. The principle of territorial integrity and non-violation of frontiers had been accepted in international law. It was affirmed in Article 2 (4) of the United Nations Charter, in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, and in the Final Act of the Conference on Security and Co-operation in Europe. In the present context, that principle meant that every State, in accordance with the rules of international law, had the right to establish its frontier régime and make every effort to prevent the violation of its frontiers. Even those States - for example the sponsors of the joint amendment in document A/CONF.78/C.1/L.102 - which at first sight seemed to be in favour of granting to asylum-seekers an unrestricted right to cross frontiers, had a special frontier régime and laws which restricted access to their territory in the case of certain persons. Some States admitted only persons possessing means of subsistence or capable of contributing to the economy; and some denied admission to persons wishing to participate in international conferences, and also to United Nations Working Groups.

21. The Soviet Union supported the amendments to article 3 which would ensure a balance between the interests of States and those of asylum-seekers. As some speakers had rightly pointed out, the single sentence for paragraph 1 proposed in document A/CONF.78/C.1/L.102, which combined the substance of the two sentences in the Experts' text, dealt with two entirely different matters: the Contracting State's obligation not to expel persons eligible for the benefits of the Convention and seeking asylum, and its obligation to allow such persons to enter its territory. In supporting that amendment, some delegations had referred to articles 12 and 13 of the International Covenant on Civil and Political Rights. But those articles of the Covenant dealt not with any obligation of a State to allow persons seeking asylum to cross its frontiers but, quite rightly, only with the obligation of a State not to expel aliens legally in its territory. The admission or rejection of persons at the frontiers of a State was within the exclusive competence of that State, whose decision would depend on the individual case. The Canadian representative, supporting the joint amendment, had even proposed a change to the effect that not only persons eligible for the benefits of the Convention, but any person, should be entitled to cross into a State's territory and receive asylum there. Did the Canadian representative and those who had supported his suggestion imagine that States would agree to admit all persons seeking asylum, including criminals?

22. The Soviet Union hoped that such amendments would not be adopted by the Conference. In drafting an international convention, it was essential to take account of international realities and not to produce a document which would not command the support of a significant number of States and would not be implemented even by the States advocating it. Draft article 4 of the Experts' text dealt with the question of the provisional stay of persons seeking asylum in the territory of a Contracting State. The convention was concerned with a specific category of persons, defined in article 2, paragraph 1, who were eligible for the benefits of the convention. It would not be logical in other articles of the convention to extend those benefits to categories of persons not included in the definition in article 2, paragraph 1. During the discussion on article 2, most delegations had agreed that that article should define the categories of persons eligible for the benefits of the Convention. Why should that cardinal principle already agreed upon now be abandoned? To deal piecemeal with the same issues in article 3, paragraph 1, article 4, article 9 and other articles would be illogical and contrary to elementary legislative practice.

23. He appealed to delegations to reconsider carefully all the proposed amendments to article 3 and work out a text which would satisfy not merely one group of States, but the majority of those represented at the Conference.

24. Mr. CHARRY (Colombia) said that there appeared to be general agreement that article 3 was a very important one. The Group of Experts had, indeed, regarded it as the most important article in the whole convention. With few exceptions, however, the statements that had been made in connexion with that article were more in the nature of "explanations of vote" than substantive examinations of an essential element of the right of asylum.

25. His delegation believed that a distinction should be made between the concept of a frontier as a geographical line between two States, and the frontier zone which was something quite different and was normally governed by bilateral or multilateral frontier régimes which differentiated it from the remainder of the national territory.

26. A frontier zone was not necessarily or exclusively a land area. It could include a portion of a river, lake or navigable waterway between two or more countries, or, indeed, the territorial sea, which was legally part of a country's territory. It could also include air space. In practice, an asylum-seeker could approach a territory by various means - land, sea or air.

27. The two provisions in the Experts' text relating to rejection at the frontier and expulsion from the territory could produce situations revealing how artificial the distinction was. To take one example, an asylum-seeker might arrive on board an aircraft which would, of course, land in the territory of the State. It might be asked at what moment he would reach the frontier of the State for the purpose of the application of the convention. Would it be when the aircraft entered the air space of the State, when it landed, when the asylum-seeker left the aircraft or when he presented himself at the immigration control? That simple example revealed the complex situation covered by the word "frontier". In a world where technology was developing far more rapidly than the law, and where the number of asylum-seekers tended to increase rather than diminish, the problem was a real one.

28. The simplest solution, from both the practical and humanitarian points of view, was not to discriminate between persons already in the territory of a State and those seeking asylum at its frontier. In the circumstances, the best text for paragraph 1 that had been submitted was undoubtedly the joint text (A/CONF.78/C.1/L.102), as modified by the United Kingdom sub-amendment (A/CONF.78/C.1/L.38); and his delegation would support it.

29. The text in question, without infringing upon the legitimate rights of the State, had the advantage that, although it distinguished between persons within the territory of State and those seeking asylum at its frontier, it nevertheless removed the practical drawbacks of that distinction by establishing a single régime for both cases.

30. Mr. DAWSON (United States of America) said that his delegation wished specifically and fully to endorse the statement on the principle of non-refoulement by the Director of the Protection Division of UNHCR, who had rightly characterized the principle as one of fundamental humanitarian importance to refugees.

31. The text of the joint amendment (A/CONF.78/C.1/L.102) constituted, in his delegation's view, a realistic minimum. It was consistent with the Declaration on Territorial Asylum and the Universal Declaration of Human Rights, and would mark a distinct step forward in international humanitarian law.

32. The joint amendment contained an absolute prohibition against the return of any person eligible for the benefits of the Convention to a territory in which he would face persecution. That was a humanitarian provision of cardinal importance which would accord to refugees a right that was essential to their safety and well-being.

33. The Experts' text of paragraph 1 did not prohibit States from rejecting at their frontiers persons who would otherwise face persecution. It provided only that States should use their best endeavours to ensure that such persons were not rejected. Such a provision was not only insufficiently strong; it was also open to different interpretations by different States. In the circumstances, his delegation was bound to reject the Experts' text as well as any amendments - such as those of Japan (A/CONF.78/C.1/L.54) and Uruguay (A/CONF.78/C.1/L.49) - which used the term "best endeavours" in respect of asylum-seekers at the frontier.

34. The language used in the Argentine amendment (A/CONF.78/C.1/L.65) was somewhat stronger than the "best endeavours" formula in the Experts' text, but his delegation still preferred a categorical prohibition of refoulement.

35. On the other hand, the amendment submitted by Indonesia and two other States (A/CONF.78/C.1/L.60/Rev.1) was even weaker than the consolidated text, and was thus quite unacceptable to his delegation.

36. The delegation of the Union of Soviet Socialist Republics proposed (A/CONF.78/C.1/L.69) that the second sentence of paragraph 1 be deleted. While the United States delegation maintained that the "best endeavours" formula was already far too weak, the complete deletion of the second sentence would leave the convention without any provision whatsoever concerning non-rejection at the frontier. It would constitute a sharply retrogressive step and a conspicuous negation of human rights. It would be contrary to article 14 of the Universal Declaration of Human Rights and to the United Nations Declaration on Territorial

Asylum; and, more importantly, it would ignore the widespread practice of States in granting asylum at their borders to persons fleeing from persecution. The United States Government would oppose in the strongest terms the omission of such a provision from the convention on territorial asylum.

37. The amendment by the German Democratic Republic (A/CONF.78/C.1/L.64) would have the same effect as the USSR amendment and was thus equally unacceptable to his delegation.

38. The amendment by Ecuador (A/CONF.78/C.1/L.70), to delete paragraphs 2 and 3 of article 3, was not acceptable, since those paragraphs were needed to give a proper balance to the entire question of non-refoulement. Paragraph 2 contained the necessary exclusion clauses to protect the legitimate security interests of the Contracting State, while paragraph 3 implicitly recognized the extremely serious nature of refoulement - and the inhuman consequences which could flow from it - by providing the possibility of an alternative course of action even for persons who had failed on security grounds to qualify for non-refoulement.

39. Although a number of amendments had been submitted to paragraph 2, his delegation preferred the Experts' text of that paragraph, which would best and most equitably preserve the balance of the article as a whole.

40. Mr. AMLIE (Norway) said that his Government was not at all satisfied with the Experts' draft of article 3, since it felt that it was wrong to make a distinction between asylum-seekers already in the territory of a State and persons seeking asylum at its frontiers. His delegation had thus arrived at the Conference with instructions to try to restore the balance which had been established in the Bellagio text.

41. It was gratified to note that other delegations had submitted amendments designed to achieve precisely that objective. The amendments to which he referred were the four-Power amendment (A/CONF.78/C.1/L.102), which his delegation favoured, and the Pakistani amendment (A/CONF.78/C.1/L.17). The text proposed by Pakistan was constructed on the lines of the Experts' text, but contained formulations which rendered it acceptable to the Norwegian delegation.

42. His delegation had also been favourably impressed by the Argentine amendment (A/CONF.78/C.1/L.65) and particularly by the proposal to include the words "personal integrity" in the first sentence of paragraph 1. However, the words "do all in its power to" might well be regarded as redundant since in no case could a State do more than what was in its power.

43. The other amendments before the Committee relating to the rules governing the obligations of States with regard to non-refoulement seemed to be at least as restrictive as the Experts' text. Consequently, they were unacceptable to his delegation, and he would refrain from commenting upon them individually.

44. The amendment submitted by Ecuador (A/CONF.78/C.1/L.70) did not apparently seek to incorporate any substantive changes, but seemed rather to be a logical exercise. His delegation could accept the reasoning behind the amendment, but felt that it would be going too far to delete both paragraphs 2 and 3. It would be sufficient to delete paragraph 2, and to retain paragraph 3 amended as proposed by the United Kingdom (A/CONF.78/C.1/L.38).

45. The further United Kingdom amendment (A/CONF.78/C.1/L.39), now a sub-amendment to the joint text for paragraph 1 (A/CONF.78/C.1/L.102), was also highly acceptable to his delegation, as was, of course, the similar wording in the Argentine amendment, since the change proposed by the two delegations concerned would make it possible for individuals to benefit from the principle of non-refoulement, even if they were not eligible for the benefits of the Convention. In fact, such a change would, to some extent, compensate for the very restrictive language adopted for article 2.

46. There was also the practical consideration that, while frontier guards would find it difficult to determine whether a person was eligible for the benefits of the Convention, they would have no difficulty in verifying that a person was seeking asylum.

47. He had been impressed by the arguments put forward by the representative of the Netherlands to the effect that article 3 must be read in conjunction with article 2 and that, as one of the benefits of the convention was the right to non-refoulement, only those persons referred to in article 2, paragraph 1, should be entitled to that benefit. However, although that might be true in a formal legalistic sense, the protection of a human right was too important to be so restricted. In fact, the Conference was now having to pay the penalty for bad drafting in the case of article 2. He appealed to representatives not to be constrained by narrow legal considerations, but to be mindful of the plight of asylum seekers.

48. Mr. KARTASHIN (Union of Soviet Socialist Republics), speaking in exercise of his right of reply, observed that one delegation had asserted that the USSR proposal to delete the second sentence of paragraph 1 of article 3 would be tantamount to a negation of human rights. In reply, he would point out that the International Covenants on Human Rights, which listed the fundamental rights and freedoms that all States Parties were obliged to respect contained no reference whatever to an obligation of States to admit to their territory any person seeking asylum. A number of the States which objected to the USSR amendment had not ratified those Covenants, claiming that the provisions were too broad.

49. The deletion of the second sentence of paragraph 1 and the retention of paragraphs 2 and 3 of article 3 would have the effect of ensuring that the great majority of States would be able to support the convention not in words only but in fact.

50. The CHAIRMAN invited the Committee to proceed to the vote on draft article 3 and the amendments thereto.

51. Mr. EL FATTAL (Syrian Arab Republic) expressed his delegation's sincere condolences to the Norwegian delegation in connexion with the death of Professor Hambro.

52. Many delegations, he observed, had been unanimous in the view that article 3 was and would remain the pivotal provision of the convention. It was therefore necessary to formulate a balanced, straightforward and unambiguous article on non-refoulement. Unless article 3 commanded the support of all States, territorial asylum would remain a dead letter. The fact that so many amendments had been submitted to article 3 was a good sign of the Committee's interest in the matter; and the discussion had shown that the positions of delegations were not irreconcilable and that any differences related only to the mechanics and the modus operandi of the principle of non-refoulement.

53. The proposed recommendation that a second session of the Conference should be held did not mean that representatives had failed to carry out their task during the past few weeks, but rather that they had chosen the path of in-depth analysis. On the basis of extensive consultations which he had held with delegations, he proposed that the Committee should not vote on article 3 at the present session, but should postpone the vote to the second session of the Conference. That would give Governments and experts ample time to have a fresh look at all the texts before the Committee. However, his delegation was open-minded and would abide by the wishes of the majority.

54. Mr. KERLEY (United States of America) said that his delegation was opposed to the proposal to postpone the vote on article 3. There had been a fruitful exchange of ideas on the subject, and his delegation considered that the Committee should now proceed to the vote.

55. Mr. COLES (Australia) stressed that, in his delegation's view, the answer to the question of holding a second session of the Conference must depend on the outcome of the work at the present session. His delegation was open-minded with regard to the continuation of the exercise. Article 3 was one of the two main provisions of the convention. His delegation considered it essential for the Committee to vote on article 3 at the present stage, since the result of the vote would clarify the question of the utility of the Conference.

56. Mr. FAIASE (Nigeria) observed that it had been asserted that the Nigerian amendment to article 3 (A/CONF.78/C.1/L.2, article 4) was similar to that of the USSR (A/CONF.78/C.1/L.69). While the two amendments might appear to be identical, a careful examination would show that his delegation had proposed not only the deletion of the second sentence of paragraph 1 but also the insertion of the words "or at the frontier" after the words "in the territory" in the first sentence of that paragraph. The USSR amendment made no mention of the frontier.

57. Mr. GOROG (Hungary) said the discussion had shown clearly that there were wide differences between the views of delegations on article 3. He considered that the Syrian proposal was reasonable and acceptable.

58. Mr. TAIBI (Algeria) said that he fully supported the Syrian representative's arguments. While no official decision had been taken to recommend the convening of a second session of the Conference, it was obvious that a second session would have to be convened. He therefore supported the Syrian proposal that the vote on article 3 should be postponed to the second session.
59. Mr. CHARRY (Colombia) thought that the best course would be to vote on article 3 and not to leave it in abeyance. In his delegation's view, the Conference should adopt as many texts as possible on the basis of a consensus. He therefore appealed to the Chairman to give a ruling on the matter.
60. Mr. SALAS (Cuba) said that if the Committee decided to proceed to the vote, his delegation would accept that decision. However, since a number of amendments had been submitted and in view of the short time available before the closing date of the Conference, he was inclined to support the Syrian proposal. He thought that the vote on the article should be taken after States had had sufficient time to consider the question more carefully and to study the various documents.
61. The CHAIRMAN, referring to the proposal made by the Syrian representative, suggested that, since the provisions of articles 3 and 4 were closely related, the Committee should consider article 4 and then vote both on article 3 and on article 4.
62. Mr. DAWSON (United States of America) opposed that suggestion. The discussion had shown that article 3 was closely related not only to article 4 but also to articles 1 and 2. The Committee had not voted on article 1 in conjunction with article 2, despite the crucial relationship between those two articles.
63. Mr. EVSEEV (Union of Soviet Socialist Republics) supported the suggestion by the Chairman. No one doubted that work on the draft convention would be continued at a further session of the Conference. At the present stage there was in fact little difference between articles which had already been adopted by the Committee and those which had not yet been voted on. In neither case could the articles be regarded as what might be termed finished products. Even in the case of articles 1 and 2 and the article on family reunification, the Drafting Committee still had to submit its report for consideration by the Committee. Postponement of the vote on article 3 would provide an opportunity for further reflection and for consultations.
64. Mr. de ICAZA (Mexico) said that his delegation had no objection to the suggestion of the Chairman. Clearly, articles 3 and 4 were closely linked to each other. However, it was equally clear that all the articles of the draft convention were interrelated. If arrangements had been made for a further session of the Conference, he would like to know on what date it was to be convened.
65. Mr. CHARRY (Colombia) said that, if a vote was now taken on article 3, it would be easier for delegations to consider article 4 in the light of the text adopted for article 3.
66. Mr. AMLIE (Norway) said that the Committee already had a clear picture of the differing views on article 3. He was strongly opposed to any postponement of the vote.

67. Mr. MICHEEL (German Democratic Republic) said that his delegation had in a single document (A/CONF.78/C.1/L.64) proposed amendments both to article 3 and to article 4, precisely because it had considered that the two articles should be discussed together. Accordingly, he supported the suggestion of the Chairman.
68. Mr. ZEMLA (Czechoslovakia) proposed, under rule 37 of the rules of procedure, that a vote be taken by roll-call on the proposal by the representative of the Syrian Arab Republic.
69. Mr. FALASE (Nigeria), speaking on behalf of the sponsors of the amendment proposed in document A/CONF.78/C.1/L.102, said that it would be in the best interests of the Committee to reflect further on the matter and come to a decision at the next meeting. In any case, the Committee would not have time to complete its consideration of all the articles of the draft convention at the present session.
70. Following a procedural discussion in which Mr. KERLEY (United States of America), Mr. FALASE (Nigeria), Mr. von STEMPEL (Federal Republic of Germany), Mr. NETTEL (Austria), Mr. de ICAZA (Mexico), Mr. MARESCA (Italy), Mr. ZEMLA (Czechoslovakia) and Mr. GEBREKIDAN (Ethiopia) took part, the CHAIRMAN suggested that a vote should be taken on the proposal that the Committee should not vote on article 3 at the present juncture.
71. It was so decided.
72. At the request of the representative of Czechoslovakia, the vote was taken by roll-call.
73. Czechoslovakia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Czechoslovakia; Egypt; German Democratic Republic; Hungary; Indonesia; Iraq; Jordan; Kuwait; Lebanon; Libyan Arab Republic; Mongolia; Morocco; Poland; Romania; Saudi Arabia; Somalia; Syrian Arab Republic; Tunisia; Turkey; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; United Arab Emirates; Yugoslavia; Afghanistan; Algeria; Bangladesh; Bulgaria; Byelorussian Soviet Socialist Republic; Cuba.

Against: Denmark; Ecuador; El Salvador; Finland; France; Germany, Federal Republic of; Ghana; Greece; Holy See; Iceland; India; Ireland; Israel; Italy; Japan; Kenya; Mexico; Netherlands; New Zealand; Nicaragua; Norway; Panama; Peru; Portugal; Senegal; Spain; Sweden; Switzerland; Trinidad and Tobago; United Kingdom of Great Britain and Northern Ireland; United Republic of Tanzania; United States of America; Venezuela; Argentina; Australia; Austria; Belgium; Bolivia; Brazil; Canada; Chile; Colombia; Costa Rica.

Abstaining: Ethiopia; Iran; Ivory Coast; Malaysia; Nigeria; Philippines; Republic of Korea; Sri Lanka; Uganda; Uruguay.

74. The proposal was rejected by 43 votes to 29, with 10 abstentions.