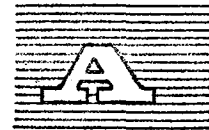
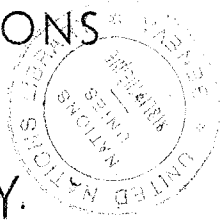


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UNITED NATIONS CONFERENCE ON TERRITORIAL ASYLUM

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE EIGHTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 20 January 1977, at 10.55 a.m.

Chairman: Mr. DO NASCIMENTO E 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) (A/10177; A/CONF.78/7; A/CONF.78/C.1/L.2, L.10, L.12, L.17, L.19-23, L.24 and Corr.1., L.26, L.27, L.29/Rev.1, L.32, L.33, L.35, L.36, L.37, L.39, L.40, L.43, L.46, L.47 and L.50) (continued)

Article 2 (continued)

1. The CHAIRMAN said that there were certain resemblances among the numerous amendments to article 2. Their sponsors should endeavour to combine them with a view to reaching a consensus before the vote.
2. Mr. NAKAGAWA (Japan), introducing his delegation's amendments to article 2 (A/CONF.78/C.1/L.24 and Corr.1), said that the relationship between subparagraphs 1(a) and 1(b) of article 2 was not clear, as pointed out in paragraph 37 of the report of the Group of Experts (A/10177). Moreover, the meaning of subparagraph (b) itself was not clear. Prosecution or punishment could be regarded as a form of persecution, and the content of subparagraph (b) would thus be covered by subparagraph (a). To avoid any possible misinterpretation, his delegation proposed that subparagraph (b) should be deleted.
3. Paragraph 2 of the article, which defined the cases in which the benefits of the future Convention would not be applicable, was based on the 1951 Convention relating to the Status of Refugees. Since the adoption of that Convention, several important international instruments on crime prevention had been adopted, such as the Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted at Tokyo in 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, adopted at the Hague in 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, adopted at Montreal in 1971, and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York in 1973. In order to make paragraph 2 more comprehensive, his delegation had proposed the insertion of the words "or other crimes" in subparagraph (a). On the other hand, it had proposed that application of the provision should be confined to cases in which the State concerned was a party to the international instruments in question. Moreover, the exceptions envisaged in paragraph 2 should also apply to attempts to commit as well as the actual commission of the acts listed therein. Consequently, his delegation had proposed the insertion of the words "or attempt to commit" at the end of the introductory part of that paragraph.
4. The expression "a serious common offence", used in paragraph 2(b) was unclear and not in keeping with the expression "a particularly serious crime" in paragraph 2 of article 3. His delegation was not proposing any amendment on that point, but hoped that the Drafting Committee would make the appropriate adjustments.

5. His delegation noted with great interest that the Yugoslav amendment (A/CONF.78/C.1/L.22) specified that persons requesting asylum for purely economic reasons would be excluded from the application of the proposed convention - an exception that was implicit in the provisions of article 2.
6. In addition, his delegation thought that the future convention should not apply to anyone who, for ulterior motives, deliberately and artificially created conditions for eligibility under the requirements of article 2, paragraph 1 so as to take advantage of the benefits of the convention. Such would be the case if a person, whose term of temporary stay in a foreign country was expiring, engaged in political activities against his own country for the sole purpose of extending his stay, either by obtaining asylum or by the application of the principle of non-refoulement. In his delegation's view, the benefits of the proposed convention should be accorded only to bona fide asylum seekers, other persons being unworthy of the humanitarian considerations on which the draft convention was based.
7. Mr. van der KLAUW (Netherlands) introducing his delegation's amendments to paragraph 2 of article 2 (A/CONF.78/C.1/L.46), said that the text proposed by the Group of Experts was generally acceptable but could be improved. In particular, due account should be taken of international legal rules concerning the depoliticization of certain criminal acts, such as those directed against civil aircraft, the life, liberty or safety of internationally protected persons and other innocent victims. Some conventions had already been concluded in that area and others would be concluded shortly. As the existing conventions had not been universally accepted and future developments had to be safeguarded, his delegation proposed the addition to paragraph 2 (b) of the words "or by virtue of its international obligations". In that way, the convention would clash neither with existing international obligations nor with any international legal rules which might be developed in the future.
8. For reasons similar to those explained by the representative of Austria, his own delegation would prefer the use of the word "crime" rather than "offence" in paragraph 2 (b). In legal terms, the word "offence" was too vague, the more so as it might also cover offences, such as serious traffic accidents, which would not justify a refusal of asylum.
9. The amendment which his delegation proposed to subparagraph (c) would also render it more precise from the legal standpoint.
10. Mr. EVSEEV (Union of Soviet Socialist Republics), introducing his delegation's amendments to article 2 (A/CONF.78/C.1/L.23), said that they called for the insertion, in paragraph 1 (a) of the words "struggle for national liberation" and "a policy of aggression, war propaganda, nazism and neo-nazism, fascism, genocide, racism", the deletion of the words "membership of a particular social group", and the addition of a new subparagraph to paragraph 2 as well as a new paragraph 3.
11. The reason for those amendments was that article 2, which was an essential provision of the future convention, should be clearly worded and reflect the latest developments of international law. It was precisely in order to avoid varying interpretations that his delegation proposed the deletion of the words "membership of a particular social group" from paragraph 1 (a).

12. Persons struggling against colonialism should be included among the persecuted persons able to benefit from the future convention. In one of its declarations, the General Assembly had outlawed colonialism and, in 1976, the International Law Commission had adopted a draft article on State responsibility, in which colonialism was described as an international crime. According to contemporary international law, acts of aggression were also regarded as serious crimes, and the Nuremberg Tribunal had proclaimed that their punishment was not subject to prescription. Genocide and the policy of apartheid, moreover, were regarded as crimes against humanity under contemporary international law, as was clear from the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Suppression and Punishment of the Crime of Apartheid, and various United Nations decisions and resolutions. The General Assembly had also, on several occasions, stressed the danger of nazism, neo-nazism and fascism. On 10 December 1973, the twenty-fifth anniversary of the adoption of the Universal Declaration of Human Rights, it had proclaimed a Decade for Action to Combat Racism and Racial Discrimination, having already on many occasions condemned all forms of racial discrimination. The purpose of his delegation's amendments to paragraph 1 (a) was to extend the application of the future convention to all persons who were persecuted because they were taking part in a struggle for national liberation.

13. Mr. FALASE (Nigeria), introducing his delegation's amendment to article 2 (A/CONF.78/C.1/L.2), explained that it wished to insert the words "domicile or" before the words "habitual residence" at the end of article 3, paragraph 1. Although the concept of nationality was generally accepted as a basis of personal law in civil law systems, the principle of domicile was the dominant factor in common law systems, and there were some doubts whether the term "habitual residence" was generally accepted. The change had thus been proposed for the benefit of the common law countries which would be parties to the Convention.

14. As for the amendments submitted by other delegations, his own delegation supported the Australian amendments (A/CONF.78/C.1/L.10) to insert the word "kinship" in the list in paragraph 1 (a), and to substitute the phrase "is still liable to punishment" for the words "has committed" in paragraph 2. His delegation also endorsed the amendment proposed by the delegations of Indonesia, Malaysia and the Philippines (A/CONF.78/C.1/L.12) to replace the words "A serious common offence" by the words "A common crime", as the word "offence" was capable of wide interpretation, which was undesirable in an instrument based on humanitarian considerations; that change would also be in keeping with the working of paragraph 2 (a). Nevertheless, as an alternative, his delegation wished to commend the expression "serious non-political crime", which appeared in article 1, paragraph 4 (f) of the Convention governing the Specific Aspects of Refugee Problems in Africa, adopted by the Organization of African Unity in 1969.

15. Mr. ROSENNE (Israel), introducing his delegation's amendment to article 2 (A/CONF.78/C.1/L.40), said it was designed to develop what was already implicitly contained in the text of the Group of Experts by mentioning, in paragraph 2, the various categories of offences which formed the subject or might shortly form the subject of international instruments relating to their suppression or containing provisions with respect to extradition. That trend in international law was aimed precisely at limiting the grant of political asylum in cases of offences of that nature. Care should be taken to ensure that the future convention did not run counter to the general trend to depoliticize certain offences.
16. His delegation agreed with most of the views expressed by the delegations which had submitted amendments along the same lines. It was not wedded to any particular text, provided that the exceptions in paragraph 2 explicitly included 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.
17. Mr. SANCHEZ MARINCOLO (Argentina) said that article 2 was of prime importance because, the basic principle enunciated in article 1 having been stated, it indicated which persons were eligible for the benefits of the convention and which were excluded from its application. For methodological reasons, he thought it better to divide that article in two. He proposed, therefore, that it should be replaced by two separate articles: an article 2 (A/CONF.78/C.1/L.20), which defined the applicability of the convention by indicating the persons to whom asylum might be granted, and an article 2 bis (A/CONF.78/C.1/L.21) defining a "régime of exclusion", by indicating which persons could not claim the benefits of asylum.
18. There was a basic difference in approach between the article 2 proposed by his delegation in document A/CONF.78/C.1/L.20 and paragraph 1 of the article 2 proposed by the Group of Experts. It thought that a "well-founded fear" was far too vague a concept and a highly subjective one which could cause difficulties in practice. His delegation therefore proposed its replacement by a legally acceptable concept, namely, by the expression "being faced with a definite possibility of".
19. In subparagraph (a) of its proposed text, his delegation had retained the concept of persecution which appeared in paragraph 1(a) of the text proposed by the Group of Experts because, in its view, that was one of the subjective concepts which had a bearing on the decision to grant asylum. Like some of the experts (cf. A/10177, para. 35), it thought it pointless, however, to include, among the causes of persecution, "the struggle against colonialism and apartheid", as that factor was covered by the expression "reasons of politics"; it was unnecessary to itemize all the political reasons for persecution.
20. On the other hand, his delegation considered that the concept of punishment introduced by the Group of Experts in paragraph 1 (b) of article 2 was not legally acceptable, and proposed that the word "punishment" should be replaced by the word "conviction".

21. His delegation's proposal for the last sentence of article 2 was along the same lines as that of the Holy See and Colombia (A/CONF.78/C.1/L.8) and designed to protect the integrity of the family. It was the view of his delegation that the natural place for a provision concerning the refugee's family was in article 2, which dealt with the persons to whom the convention applied. It had tried to make the provision flexible by using the rather vague expression "members of the immediate family of the person granted asylum", leaving it up to the State of asylum to broaden the concept of the family or to limit it to spouses and children.

22. The article 2 bis proposed by his delegation in document A/CONF.78/C.1/L.21 defined the persons excluded from the benefits of asylum and stated a principle equivalent to a quasi-commitment on the part of States by using the words "The Contracting States undertake not to grant territorial asylum to any person ...".

23. Subparagraphs (a) and (b) in essence reproduced the texts of subparagraphs 2 (a) and 2 (b) of the article 2 proposed by the Group of Experts. Subparagraph (c) introduced new elements by mentioning "Acts of terrorism or seizure of public transport equipment" and cases of aiding and abetting. Subparagraph (d), which was identical with subparagraph 2 (c) of the text submitted by the Group of Experts, enunciated a principle that was admissible in international law by stating that persons who had committed "Acts contrary to the purposes and principles of the United Nations" were ipso facto excluded from the benefits of the convention.

24. Mr. GOMEZ FYNS (Uruguay) said that his delegation had proposed the deletion of the word "serious" before the words "common offence" in article 2, paragraph 2 (b) (A/CONF.78/C.1/L.43), as it considered that only persons who fulfilled the conditions set forth in article 2, paragraph 1 (a) and (b), should be eligible for the right of asylum, and that persons who had committed a common offence, even a minor common offence, must be excluded from the scope of the convention. Persons guilty of common offences should not be in a position to invoke the provisions of the convention to have a request for extradition rejected. In that respect, he agreed with the amendment proposed by Algeria (A/CONF.78/C.1/L.27).

25. Mr. QAAWANE (Somalia) said that, as racial persecution could assume different forms, his own delegation and the delegations of the other Arab countries had proposed (A/CONF.78/C.1/L.50) that the words "colour, national or ethnic origin" should be inserted after the word "race" in paragraph 1 (a).

26. Mr. ALMODOVAR SALAS (Cuba) said that, in its proposal (A/CONF.78/C.1/L.32), his delegation had reworded article 2, paragraph 1. In particular, it had deleted the phrase "if he has no nationality", which deprived persons who had a nationality of the possibility of returning to their country of habitual residence. However, that possibility should be provided not only for stateless persons but for all refugees.

27. The Cuban proposal supplemented the list in paragraph 1 (a) and, in addition to the struggle against colonialism and apartheid, mentioned other causes of persecution which, at the international level, gave rise to many requests for asylum, namely, a struggle against a policy of aggression, war propaganda, fascism, nazism, neo-nazism, genocide, racism and neo-colonialism. It also listed "activities in support of the rights and demands of the workers", which could constitute grounds for persecution in some countries. Paragraph 1 (a) of his delegation's proposal was fairly similar to the text proposed by the Soviet delegation (A/CONF.78/C.1/L.23), and he felt that the two delegations would be able to reach agreement on a joint text.

28. After referring to his delegation's proposal concerning paragraph 1 (b) relating to the Spanish and the French texts, he pointed out that the Cuban proposal also specified prosecution "without just cause", and covered cases in which the person seeking asylum feared imprisonment or torture.

29. The Cuban amendment to paragraph 2 (b) took into account not only the laws and regulations of the Contracting State granting asylum, but also the laws and regulations of the State of the asylum seeker's "nationality or of his former habitual residence".

30. Mr. KIBRIA (Bangladesh) said that the number of amendments proposed to article 2 was a clear indication of the importance attached by delegations to that article. He hoped that some of the amendments, which had elements in common, could be merged in order to facilitate the work of the Committee.

31. The amendment to article 2, paragraph 1, submitted by Indonesia, Malaysia and the Philippines (A/CONF.78/C.1/L.12) was highly pertinent, for asylum was a privilege granted by the State in the exercise of its sovereign rights, and it was for the State to ascertain the eligibility of a person seeking asylum. He therefore fully supported that amendment. The amendment proposed by the same countries to paragraph 2 (b) to delete the word "serious" from the phrase "serious common offence" was also justified, because it was for the State to determine whether or not a common offence was serious. The word "serious" might introduce a subjective element that could lead to conflicting interpretations.

32. He also endorsed the new paragraph proposed by Indonesia, Malaysia and the Philippines; it contained the same idea as that in the amendment to paragraph 2 proposed by the United Kingdom (A/CONF.78/C.1/L.37), and he felt that those two texts could be merged.

33. He would support the amendment to paragraph 1 (a) proposed by Algeria and the other Arab countries (A/CONF.78/C.1/L.29/Rev.1) to add the words "foreign occupation, alien domination and all forms of racism" after the word "apartheid". In his view, it was an improvement on the consolidated text, and would cover situations that were only too well known. He would also support the other amendment to paragraph 1 (a) proposed by Algeria and the Arab countries in document A/CONF.78/C.1/L.50.

34. The amendment to paragraph 2 (b) proposed by Czechoslovakia and Poland (A/CONF.78/C.1/L.33) deserved careful consideration by the Committee, because it took into account not only the laws and regulations of the contracting State granting asylum but also those of the contracting State of the asylum seeker's nationality or habitual residence. The convention should not be allowed to serve as a pretext for affording shelter to criminals fleeing from justice in their own countries.

35. He endorsed the Pakistan proposal (A/CONF.78/C.1/L.17) that the word "shall" in paragraph 1 should be replaced by "may", as the mandatory connotation of the word "shall", employed in the consolidated text, introduced an element of compulsion which conflicted with the principle enunciated in article 1, under which a State which granted asylum was acting in the exercise of its sovereign rights.

36. He hoped that delegations which had submitted proposals would be allowed time to consult one another before the vote in order to consolidate some of the amendments, thus giving the Committee a clearer picture of the different trends of thought and enabling it to vote in a more rational manner on article 2.

37. Mr. ZEMLA (Czechoslovakia) said that the convention on territorial asylum would represent a step forward in defining generally recognized rules governing the grant of asylum if article 2 specified as precisely as possible the grounds on which asylum could be granted or refused. The fate of the convention would depend on the wording of articles 1 and 2.

38. Draft article 2 of the consolidated text had to be improved in certain respects. For that reason, his delegation supported the USSR proposal (A/CONF.78/C.1/L.23) and viewed with sympathy the amendment proposed by Cuba (A/CONF.78/C.1/L.32).

39. The Czechoslovak and Polish delegations, convinced that the convention should contain very clear provisions under which persons who had committed serious common offences would not benefit from the convention, had proposed an amendment to paragraph 2 (b) (A/CONF.78/C.1/L.33) designed to prevent common criminals from abusing the provisions of the convention and to prevent the State granting asylum from taking arbitrary and politically motivated decisions as to whether or not the asylum seeker had committed a serious common offence.

40. In considering the nature of the offences committed by an asylum seeker, the State granting asylum would therefore, under the proposed amendment, take into account not only its own laws and regulations but also those of the other State concerned. Some of the amendments before the Committee showed that a number of delegations welcomed that idea.

41. Paragraph 2 (a) of draft article 2 should also be amended to cover other offences and crimes already defined in international legal instruments, such as, air piracy, against which an urgent struggle must be waged, as the unfortunate experience of his own country proved. It was in the interest of the international community to combat international terrorism, air piracy and other crimes of that kind, and paragraph 2 (a) should clearly stipulate that asylum would not be granted to those who perpetrated those crimes. For that reason, his delegation supported the proposal by the Union of Soviet Socialist Republics (A/CONF.78/C.1/L.23), the proposal by Yugoslavia (A/CONF.78/C.1/L.22) and other amendments along the same lines, for example, that of Argentina (A/CONF.78/C.1/L.21).

42. His delegation was opposed to the adoption of the proposed new article, because it would weaken the grounds for granting or refusing asylum set forth in article 2 and would thus impair the spirit and the effectiveness of the convention.

43. He would support the Romanian amendment to draft article 2 (A/CONF.78/C.1/L.47) and also the amendment proposed by the Arab States (A/CONF.78/C.1/L.29/Rev.1). A number of the other amendments worsened the consolidated text or dealt with matters of minor importance, and his delegation would make its position on them known when they were put to the vote.

44. His delegation therefore supported all amendments aimed at a more precise definition of the grounds for granting or refusing asylum, so as to prevent those who committed offences from abusing the institution of territorial asylum and certain States from misusing it for political reasons. If the Committee adopted such amendments, the granting of territorial asylum would not be regarded as an unfriendly act towards another State and would be respected by all States.

45. Mr. PONCE (Ecuador) referring to the Australian amendment (A/CONF.78/C.1/L.10), said that he supported the proposed change in paragraph 1 (a) of the draft article but was unable to endorse the modification in the first sentence of paragraph 2, which would limit the scope of the institution of asylum.

46. Nor was he able to support the Israeli amendment (A/CONF.78/C.1/L.40) which, by listing a number of international instruments of which not all States participating in the current Conference were necessarily signatories, would prevent some States from acceding to the convention under consideration. In that regard, he supported the text prepared by the Group of Experts.

47. His delegation endorsed the United Kingdom amendment (A/CONF.78/C.1/L.39), which was along the same lines as the one his delegation had co-sponsored with the delegations of Guatemala and Mexico (A/CONF.78/C.1/L.35).

48. He was prepared to support the Netherlands amendment (A/CONF.78/C.1/L.46), subject to the deletion of paragraph (c), as proposed in document A/CONF.78/C.1/L.35.

49. The expression "if satisfied that he" in the amendment by Indonesia, Malaysia and the Philippines (A/CONF.78/C.1/L.12) caused his delegation some concern, because it might give rise to a number of problems; indeed, it was sometimes difficult to produce evidence of persecution, and an inquiry in that regard might be regarded as an act of interference in the internal affairs of the State concerned. His delegation was unable to support the new paragraph proposed in the same amendment, as it failed to see how a refugee could constitute a threat or danger to the security of the State in which he sought asylum; his delegation intended, moreover, to submit an amendment to delete a similar provision in the consolidated text prepared by the Group of Experts.

50. Lastly, referring to the amendment submitted by Poland and Czechoslovakia (A/CONF.78/C.1/L.33), he said that differences in the legislation of States reflected different scales of value, because certain acts were crimes for some countries but not for others. It would therefore be better if the authorities of the State which granted asylum took account solely of customary practice in their country.

51. Mrs. THAKORE (India) said that, as worded at present paragraph 1 of draft article 2 submitted by the Group of Experts was acceptable to her delegation, but that paragraph 2 raised certain problems. The words "with respect to whom there are serious reasons for considering that he has committed" was unsatisfactory from the humanitarian standpoint, because they would have the effect of excluding from the benefits of the convention persons who had committed serious offences for which they had already been punished. Her delegation preferred the following wording: "with respect to whom there are serious reasons for considering that he is still liable to punishment" (A/10177, para. 50). It would thus be clear that the persons covered by the exclusion clause were essentially fugitives from justice. If the persons referred to in paragraph 2 of draft article 2 had been punished, the question whether or not they qualified for asylum should be decided in the light of all relevant circumstances. Experience indicated that cases where a person had committed a serious common offence and was at the same time a bona fide asylee were rare. Her delegation therefore urged the Committee to accept the wording she had read out. The fact that the consolidated text was drafted along the lines of a corresponding provision of the 1951 Convention relating to the Status of Refugees was not a sufficiently strong reason for departing from the Bellagio draft.

52. In addition, her delegation proposed the deletion of the words "as defined in the international instruments drawn up to make provision in respect of such crimes" in paragraph 2 (a), because it was unclear which "international instruments" were being referred to.

53. Lastly, the expression "acts contrary to the purposes and principles of the United Nations" in paragraph 2 (c) of article 2 might prove difficult to interpret in the context of the application of national laws, unless that concept was defined more clearly.

54. Her delegation supported the Australian amendment (A/CONF.78/C.1/L.10), but considered that the term "offence" which appeared twice in paragraph 2 (b) should be replaced by the word "crime". It also supported paragraphs 2 and 3 of the amendments submitted by Indonesia, Malaysia and the Philippines (A/CONF.78/C.1/L.12), as the proposed change in paragraph 2(b) improved the original text and because it was hardly necessary to stress the importance of the proposed new paragraph. Her delegation supported the other amendments containing similar ideas and had sympathy for the amendments proposed by Austria (A/CONF.78/C.1/L.26) and the United Kingdom (A/CONF.78/C.1/L.37).

55. Mr. COLES (Australia) said he was unable to support the amendment proposed by Pakistan (A/CONF.78/C.1/L.17) to paragraph 1 of draft article 2, because the question of the requirements to be met to be eligible for the benefits of the convention was governed by the legislation of the State and did not depend on the discretionary power of the Government of that State. Referring to the same paragraph, he also said that it was preferable not to specify the reasons for which a person could be persecuted; the reasons set out in the Soviet Union amendment (A/CONF.78/C.1/L.23) were not the only ones, and many other political creeds, for example, had forced hundreds of thousands of persons to leave their country and seek refuge in Australia.

56. With regard to paragraph 2, his delegation supported the retention of the word "serious" in subparagraph (b), whose deletion had been proposed by Uruguay (A/CONF.78/C.1/L.43) as well as by Indonesia, Malaysia and the Philippines (A/CONF.78/C.1/L.12), or the use of a similar term.

57. The United Kingdom amendment (A/CONF.78/C.1/L.39) was acceptable to his delegation, which could not, however, agree to the amendment by Poland and Czechoslovakia (A/CONF.78/C.1/L.33), because persons were sometimes prosecuted in one State for acts which would not be regarded as crimes in another.

58. His delegation had taken note of the amendments relating to certain offences which were the subject of international instruments. It agreed with the purpose of those amendments, and reserved its right to revert to that point at a subsequent stage.

59. Lastly, he said that the amendment by Ecuador, Guatemala and Mexico (A/CONF.78/C.1/L.35) to add a new paragraph to draft article 2 was fully acceptable to his delegation.

60. Mr. GOROG (Hungary) said that the solution to the problem raised by the conditions in which a person would be eligible for the benefits of the Convention would influence the accession of States to the convention. In his delegation's opinion, the questions raised by article 2 should be approached from both the legal and political standpoints. It should be stated explicitly that persons who were fighting for progressive ideas were eligible for the benefits of the convention, and that persons who had committed serious common offences, including criminal acts such as the seizure of civil aircraft and other acts of terrorism, were not. His delegation therefore supported the Soviet Union amendment (A/CONF.78/C.1/L.23). As there were substantial differences between the legal systems of States and as, therefore, the same criminal act did not always have the same legal consequences, his delegation fully approved the amendment submitted by Poland and Czechoslovakia (A/CONF.78/C.1/L.33), which sought to resolve that problem.

61. Mr. SCHURCH (Switzerland) said that his delegation could accept draft article 2 submitted by the Group of Experts as it was the result of considerable thought and already constituted a compromise between the various positions; however, he was open to any proposal which, without weakening the substantive scope of the draft article, would help to improve its wording. It therefore supported the amendments by Australia (A/CONF.78/C.1/L.10) and Algeria (A/CONF.78/C.1/L.27) to paragraph 2(b), as well as the amendments by Austria (A/CONF.78/C.1/L.26) and the Netherlands (A/CONF.78/C.1/L.46); in his opinion, those amendments should be transmitted to the Drafting Committee for consolidation.

62. During the discussion on article 1, considerable stress had been placed on the fact that, in granting asylum, a State acted in the exercise of its sovereignty; he pointed out that that principle would no longer be respected if a State from which asylum was requested had to take account of the legal nature of an offence under the laws of the State of nationality or habitual residence of the person seeking asylum, as envisaged in the amendment by Poland and Czechoslovakia (A/CONF.78/C.1/L.33). In that regard, his delegation supported the substance of the amendment by Ecuador, Guatemala and Mexico (A/CONF.78/C.1/L.35), which was based largely on the draft article 9 prepared by the Group of Experts, but thought that consideration should be given to redrafting the amendment and to the place it should occupy in the convention.

63. His delegation was not opposed to the idea proposed by Indonesia, Malaysia and the Philippines (A/CONF.73/C.1/L.12) to add a new paragraph 3 to draft article 2, but would prefer the solution proposed by the United Kingdom (A/CONF.78/C.1/L.37). Furthermore, it supported the amendment to paragraph 1(b) proposed by the United Kingdom in the same document, as well as that proposed by Austria (A/CONF.73/C.1/L.26), which improved the text of draft article 2 drawn up by the Group of Experts.

64. Referring to the Colombian amendment (A/CONF.78/C.1/L.36), he observed that the expression "any person with respect to whom there is serious evidence that he has committed" was less stringent than the requirement for formal evidence, which would be virtually impossible to furnish in cases involving acts committed abroad. In that connexion, he said that the version adopted by the Group of Experts reproduced faithfully the corresponding provision of the 1951 Convention relating to the Status of Refugees, which did not seem to have raised any difficulties since the adoption of that instrument.

65. Turning to the Yugoslav amendment (A/CONF.78/C.1/L.22), he said that the proposed new paragraph was superfluous and that, in addition, it was often difficult to determine whether the reasons why a person requested asylum were purely economic in nature. The proposed amendment to paragraph 2 took account of developments that had occurred in international law as a result of new types of criminal acts. In that regard, he informed members of the Committee that his Government had just decided to sign the European Convention on the Suppression of Terrorism. The Swiss Government thus recognized that a number of criminal acts were so serious in nature that it was unjustified to regard them as political offences. In so doing, it was also demonstrating its intention to associate itself with efforts made at the international level to suppress acts of terrorism. His delegation was therefore able to support the Netherlands amendment (A/CONF.78/C.1/L.46), which took account of both the sovereignty of the State and the requirements of the struggle against terrorism.

The meeting rose at 1.05 p.m.