



Fifteenth session

DRAFT DECLARATION ON THE RIGHT OF ASYLUM

Comments of Governments

1. By resolution 3 (XVI) the Commission on Human Rights requested States Members of the United Nations and members of the specialized agencies to submit comments on the draft Declaration on the Right of Asylum to the Economic and Social Council. The comments of Governments, submitted to the thirtieth session of the Economic and Social Council, were issued in documents E/3403 and Add.1-5.
2. In resolution 772 E (XXX) the Council transmitted to the General Assembly for its consideration the draft Declaration prepared by the Commission on Human Rights and, at the same time, requested the Secretary-General to transmit to the General Assembly any further comments of Governments which might be received. Pursuant to this resolution the Secretary-General brings to the attention of the General Assembly the comments of the Governments of Ceylon, Ghana and Switzerland.

CEYLON

12 July 1960

[Original: English]

"The text of the draft declaration now adopted by the Commission on Human Rights at its sixteenth session is, in substance, identical with the previous draft except for a variation in article 3.

"The previous drafts recognized the right of a State to refuse or deny asylum in the case of persons against whom there are reasonable grounds for regarding as a danger to the security of the receiving country or who having been convicted by a final judgement of a particularly serious crime or offence constitute a danger to the community of that country. Article 3 of the new draft substitutes the following words for the above: 'Except for overriding reasons of national security or safeguarding of the population'. The words 'safeguarding of the population' are vague and it is desirable that a suitable amendment be made to bring out the idea behind it. It is suggested that the following amendment might be more appropriate ... 'of national security, national interest or safeguarding of the population'.

"In regard to the other provisions of the draft, no further comments are called for, since they are similar to those in the previous draft approved by this Government."

GHANA

13 July 1960

[Original: English]

"The Government of Ghana is, in general, in agreement with the articles of the draft declaration and consequently has no comments to offer."

SWITZERLAND

27 July 1960

[Original: French]

"The Government of Switzerland is able to approve the new draft article 1 omitting the sentence according to which the State granting asylum incurs no international responsibility thereby; the obligation imposed on other States to respect asylum renders this provision superfluous.

"Article 2 in its new form is less constraining than it was in the first draft. Whereas, according to the first draft, the international community, as represented by the United Nations, had the responsibility to concern itself with the safety and well-being of those who had left their own or another country because of persecution or well-founded fear of persecution, the new version merely

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states that the situation of such persons is, without prejudice to the sovereignty of States and the purposes and principles of the United Nations, of concern to the international community. The moral obligation set forth in article 4, under which States which find difficulty in continuing to grant asylum (by which is meant the States which are referred to as countries of first asylum), has been transferred to the second paragraph of article 2 and reworded. In this regard, it should be pointed out that Switzerland has always considered it a duty to help those States, to the limit of its means, by accepting refugees and giving financial help. The Swiss authorities therefore welcome this recommendation which may be considered as especially directed to the great immigrant countries overseas.

"The new draft article 3, which no longer lists the reasons which might lead to rejection at the frontier, return or expulsion is in accordance with the principles concerning granting of asylum set forth in article 21 of the order giving effect to the Federal Act of 26 March 1931 on residence and domicile of aliens. The second paragraph, which has been added, is also in line with the practice of the Swiss Government and does not call for any reservations. It provides that when a State is unable to grant lasting asylum to persons in danger of persecution, it should consider the possibility of the grant of provisional asylum for a sufficiently long period to enable such persons to seek asylum in another country.

"The Swiss authorities have no comments on article 4, according to which persons enjoying asylum should not engage in activities contrary to the purposes and principles of the United Nations. They feel, however, that there should have been an additional provision to the effect that refugees should abide by the legal system of the country which has given them asylum. While that would seem to be self-evident, the same might be said of the 'right to return' laid down in article 5. The Federal Authorities therefore consider that the principle just mentioned could also have been stated.

"As the Swiss observer informed the Secretary-General in his communication of 28 October 1959, the Federal Authorities consider it self-evident that none of the provisions of this declaration should be open to an interpretation that would restrict the right of any person to return to his country. For that reason they raise no objection to the formulation of this principle in the new article 5, although in their view it could have been omitted."
