

ARTICLE 62 (3)

Table of Contents

	<u>Paragraphs</u>
Text of Article 62 (3)	
Introductory Note	1 - 3
I. General Survey	4 - 12
II. Analytical Summary of Practice	13 - 42
A. The preparation of draft conventions	13 - 34
1. The preparation of draft conventions by the Economic and Social Council and the applicability of Article 2 (7)	13 - 17
a. Draft International Covenant on Human Rights	14 - 15
b. Draft Convention on the Nationality of Married Women	16
c. Draft Convention relating to the Status of Refugees and draft Protocol relating to the Status of Stateless Persons	17
2. Decisions of the General Assembly affecting the preparation of draft conventions by the Economic and Social Council	18 - 27
a. Recommendation concerning provisions on reservations to multilateral conventions	19
b. Decisions relating to the preparation of the draft Convention on the Prevention and Punishment of the Crime of Genocide	20 - 21
c. Decisions relating to the preparation of the draft international covenants on human rights	22 - 27
3. Consultation with Member States by the Economic and Social Council in the preparation of draft conventions	28
4. Consultation with specialized agencies by the Economic and Social Council in the preparation of draft conventions	29

Table of Contents
(continued)

	<u>Paragraphs</u>
5. Requests of the Economic and Social Council for preparation of draft conventions by other bodies . .	30 - 34
a. Requests to the International Law Commission	32 - 33
b. Requests to the International Labour Organisation	34
B. Authorization by the Economic and Social Council to the Secretary-General and others to submit draft conventions to the General Assembly	35 - 38
C. Submission by the Economic and Social Council of draft conventions to international conferences of States called under Article 62 (4)	39 - 42
1. United Nations Conference on Road and Motor Transport and United Nations Conference on Customs Formalities for the Temporary Importation of Private Road Motor Vehicles and for Tourism . . .	40
2. United Nations Opium Conference	41
3. United Nations Conference on the Status of Stateless Persons	42
Annex I. List of draft conventions and protocols submitted to the General Assembly	
A. Substantive drafts	
B. Drafts relating to the transfer of functions to the United Nations	
Annex II. List of draft conventions and protocols submitted to international conferences of States	
Annex III. List of draft conventions, protocols and agreements under preparation	

TEXT OF ARTICLE 62 (3)

It [the Economic and Social Council] may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

INTRODUCTORY NOTE

1. The material in this study concerns the preparation by the Economic and Social Council of draft multilateral conventions and international instruments, 1/ with respect to matters falling within its competence, and the submission of such drafts to the General Assembly or to international conferences of States. The preparation of international instruments relating to the creation of specialized agencies under Article 59 is dealt with in the study on that Article. 2/ The action taken by the General Assembly on the draft conventions and other international instruments submitted to it by the Council is only briefly indicated in this study. Information regarding the status of international instruments prepared by the Economic and Social Council and subsequently adopted by the General Assembly or by international conferences is not included in this Repertory, but may be found in the periodic publication Status of Multilateral Conventions prepared by the Secretariat.

2. The General Survey contains a general account of the initiation, procedure and methods of preparation of draft conventions under the auspices of the Council, the subject-matter of such drafts, the action taken by the Council on them and the submission by the Council of the drafts to the General Assembly or to international conferences of States. Lists of international instruments submitted or under preparation by the Council are contained in the annexes.

3. The Analytical Summary of Practice deals with the following points: the question of the Economic and Social Council authorizing the Secretary-General and others to submit draft conventions or protocols to the General Assembly; the submission by the Council of draft instruments to international conferences of States convened under Article 62 (4), the question of the decisions of the General Assembly affecting the preparation of draft instruments by the Council; the question of consultation with Member States and specialized agencies by the Council in the preparation of draft instruments; and the question of the Council requesting other bodies to prepare draft conventions. The question of the preparation of draft conventions by the Council and the applicability of Article 2 (7) is touched upon but for detailed treatment of Article 2 (7), the study of that Article in this Repertory should be consulted.

1/ This study does not include material on the preparation of draft international instruments by other organs of the United Nations in connexion with which the Council did not play any part with regard to matters which also fall within its competence. In particular, no reference is made to the agreements of a regional character concluded under the auspices of the regional economic commissions of the Council, such as the numerous agreements adopted by the Inland Transport Committee of the Economic Commission for Europe.

2/ It may be noted that the Council has initiated work on the preparation of draft international instruments relating to the establishment of the World Health Organization, the International Refugee Organization, the Inter-Governmental Maritime Consultative Organization and the International Trade Organization.

I. GENERAL SURVEY

4. The Economic and Social Council has submitted to the General Assembly ten draft conventions and two draft protocols of a substantive nature. ^{3/} The Council has also submitted to the General Assembly seven draft protocols ^{4/} relating to the transfer to the United Nations of functions and powers exercised under international agreements, conventions and protocols by the League of Nations or by a particular State. Two draft conventions and two draft protocols were referred by the Council to international conferences of States. ^{5/}

5. The General Assembly has adopted and opened for signature most of the draft conventions and protocols submitted to it by the Council. In two cases, ^{6/} the drafts were referred by the Assembly to international conferences of States. The Assembly has yet to consider one other draft convention and two draft covenants. ^{7/}

6. The Council has also recommended the preparation of draft conventions to another organ ^{8/} of the United Nations and to a specialized agency. ^{9/} It has, in one case, referred a draft convention to Member States. ^{10/} In one instance, ^{11/} the Council has rejected a proposal for the preparation of a draft convention. Six draft conventions, protocols and agreements ^{12/} remain under preparation by the Council.

^{3/} See annex I A.

^{4/} See annex I B. It may be noted that opinion in the Council was divided concerning the necessity for the preparation and adoption of a draft protocol to transfer to the United Nations functions exercised by the League of Nations under the International Slavery Convention of 1926, as it was considered by some members that General Assembly resolution 24 (I) was, in the present circumstances, adequate in so far as the transfer of functions was involved. (E/AC.7/SR.228-230 and E S C (XV), 772nd mtg.)

^{5/} See annex II. See also paras. 39-42 below. One of the draft protocols, namely, the draft Protocol relating to the Status of Stateless Persons had originally been submitted to the General Assembly. See also in this Repertory under Article 62 (4).

^{6/} The draft Convention on the Declaration of Death of Missing Persons, and the draft Convention relating to the Status of Refugees together with the draft Protocol relating to the Status of Stateless Persons.

^{7/} The draft Convention on Freedom of Information, the draft Covenant on Civil and Political Rights, and the draft Covenant on Economic, Social and Cultural Rights.

^{8/} See paras. 32 and 33 below.

^{9/} See para. 34 below.

^{10/} See para. 31 below.

^{11/} At its seventeenth session, the Economic and Social Council rejected a proposal for the preparation of a draft convention relating to censorship of outgoing news dispatches (E/AC.7/SR.268, p. 5).

^{12/} See annex III. It may be noted that a proposal for a convention on the enforcement of arbitral awards is at present under study. (E S C resolution 520 (XVII)).

7. The draft conventions, protocols and agreements in question, examples of which are cited in the relevant footnotes, have related to the following: narcotic drugs; 13/ transport and communications; 14/ economic statistics; 15/ traffic in persons and circulation of obscene publications; 16/ recognition abroad of maintenance obligations; declaration of death of missing persons; and human rights, 17/ including prevention and punishment of the crime of genocide, status of refugees and stateless persons, 18/ freedom of information, 19/ political rights of women, and slavery. 20/

8. The preparation of draft conventions has been undertaken on the initiative of the

13/ Besides the draft protocols on the transfer of functions and powers exercised by the League of Nations to the United Nations relating to certain agreements, conventions and protocols on narcotic drugs, there has been prepared a draft Protocol to bring under International Control Drugs outside the Scope of the Convention of 13 July 1931 for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs and a draft protocol relating to the limitation of the production of opium. Under preparation is a new single convention on narcotic drugs.

14/ These are draft conventions relating to road and motor transport and to customs formalities prepared under the auspices of the Economic Commission for Europe. Under consideration by the Council is a draft Protocol on a Uniform System of Road Signs and Signals. In this case, a recommendation by the Transport and Communications Commission that the Council request the Secretary-General to open the Protocol for signature by Governments was not adopted by the Council (E S C (XV), Suppl. No. 4, paras. 43 and 44); and the Council had so far not adopted any convention.

15/ Draft Protocol to transfer to the United Nations the functions of the League of Nations under the International Convention relating to Economic Statistics signed on 14 December 1928.

16/ Besides the draft protocols amending the agreements, conventions and protocols relating to suppression of traffic in women and children and of the white slave traffic, and the suppression of the circulation of obscene publications, a draft Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others was prepared, which aimed, *inter alia*, at unifying four international instruments adopted previously.

17/ The draft Covenant on Civil and Political Rights and the draft Covenant on Economic, Social and Cultural Rights. Under preparation is a draft Convention on the Nationality of Married Women.

18/ The Convention relating to the Status of Refugees and a Protocol relating to the Status of Stateless Persons, which was later adopted as a Convention.

19/ Draft Convention on Freedom of Information, draft Convention on International Transmission of News and draft Convention on the International Right of Correction. The last two draft conventions were subsequently amalgamated into a single Convention on the International Transmission of News and the Right of Correction, but later the General Assembly decided to separate the articles relating to the right of correction and to open for signature the Convention on the Institution of an International Right of Correction.

20/ The draft Protocol transferring to the United Nations the functions undertaken by the League of Nations under the International Slavery Convention of 1926. The Council has also under consideration the preparation of a supplementary convention on slavery.

Council, 21/ or on recommendation of its functional commissions, 22/ of ad hoc committees of the Council, 23/ of conferences convened by the Council, 24/ of specialized agencies, 25/ and of non-governmental organizations in consultative relationship with the Council. 26/ The Council has also undertaken the preparation of draft conventions and protocols at the request of the General Assembly, 27/ or as a result of an offer by a Member State to transfer functions undertaken by it under certain conventions and agreements to the United Nations. 28/

9. Varying methods and procedures have been employed in the preparation of substantive draft conventions. In some cases, the Secretary-General has prepared preliminary drafts, either at the request of the Commissions 29/ or the Council, 30/ in other cases, 31/ the Commissions of the Council have themselves prepared drafts.

-
- 21/ The draft instruments relating to the status of refugees and the status of stateless persons may be cited as examples.
- 22/ Proposals for draft conventions have emanated from the Transport and Communications Commission, the Social Commission, the Commission on Narcotic Drugs and the Commission on Human Rights, whose terms of reference explicitly refer to the preparation of draft conventions relating to matters falling within their purview.
- 23/ The Ad Hoc Committee on Slavery recommended the setting up of a committee to draft a supplementary convention to the International Slavery Convention of 1926.
- 24/ Three draft conventions were submitted to the Council by the United Nations Conference on Freedom of Information.
- 25/ The Preparatory Commission of the International Refugee Organization suggested the drafting of a convention relating to the declaration of death of missing persons.
- 26/ By resolution 520 (XVII), the Council, taking note of the draft Convention on the Enforcement of International Arbitral Awards submitted by the International Chamber of Commerce, a non-governmental organization in category A consultative status with the Council, established an ad hoc committee and instructed the committee to study the matter and to report its conclusions to the Council, "submitting such proposals as it may deem appropriate, including, if it sees fit, a draft convention."
- 27/ The Convention on the Prevention and Punishment of the Crime of Genocide was prepared under the instructions of the General Assembly. The initiative for the preparation of draft protocols to transfer to the United Nations functions and powers exercised by the League of Nations was taken by the General Assembly under resolution 24 (I). Subsequently, the preparation of various draft protocols was initiated by the Council and by some of its Commissions.
- 28/ The draft protocols to amend the convention and agreements relating to white slave traffic and obscene publications in order to transfer to the United Nations the functions exercised by the Government of France were initiated upon the offer of such a transfer by that Government.
- 29/ The Commission on the Status of Women requested the Secretary-General to examine the possibility of proposing a convention and later to prepare a draft convention on the political rights of women (E S C (IX), Suppl. No. 5 (E/1316), para. 18).
- 30/ By resolution 158 (VII), the Council requested the Secretary-General to prepare, in consultation with the International Refugee Organization and with other competent organizations, a preliminary draft convention on the declaration of death of missing persons.
- 31/ The draft international covenants on human rights were prepared by the Commission on Human Rights.

In some instances, the Council has set up ad hoc committees to prepare drafts ^{32/} or to prepare conventions on the basis of earlier drafts, ^{33/} and sometimes drafts have been submitted to the Council by international conferences ^{34/} or by subsidiary bodies. ^{35/} In a number of instances, ^{36/} a combination of methods of preparing draft conventions has been utilized, such as the preparation of preliminary drafts by the Secretary-General, the submission of such drafts to commissions or committees of the Council, and their final consideration by the Council itself. As regards draft protocols on the transfer to the United Nations of functions formerly exercised by the League of Nations or by a particular State, the Secretary-General or the Secretariat has usually been requested to prepare the drafts concerned. ^{37/}

^{32/} Reference may be made to the Ad Hoc Committee on Refugees and Stateless Persons, established by Council resolution 248 B (IX), which prepared the draft Convention relating to the Status of Refugees and the draft Protocol relating to the Status of Stateless Persons.

^{33/} As an illustration may be mentioned the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations, constituted pursuant to Council resolution 390 H (XIII), to formulate, on the basis of the working drafts or drafts prepared by the Secretary-General, the text of a model convention or model reciprocal law, or both on the subject.

^{34/} Three draft conventions relating to freedom of information and of the press were submitted to the Council by the United Nations Conference on Freedom of Information.

^{35/} The recommendations concerning a supplementary convention to the International Slavery Convention of 1926 submitted by the Ad Hoc Committee on Slavery established pursuant to Council resolution 238 (IX) are an example.

^{36/} The following procedure was adopted in the preparation of the Convention on the Prevention and Punishment of the Crime of Genocide: The Secretary-General was instructed by Council resolution 47 (IV) to undertake, with the assistance of experts in the field of international and criminal law, the necessary studies with a view to drawing up a draft convention in accordance with General Assembly resolution 96 (I); and after consultation with the General Assembly Committee on the Development and Codification of International Law and, if feasible, the Commission on Human Rights, and, after reference to all Member Governments for their comments, to submit a draft convention to the Council. Subsequently the Council, by resolution 117 (VI), established an ad hoc Committee to prepare the draft Convention in accordance with the General Assembly resolution, taking into consideration the draft Convention prepared by the Secretary-General and the comments and other drafts of Member States, and instructed the Committee to submit a draft, together with the recommendation of the Commission on Human Rights thereon, to the Council.

^{37/} These drafts have been subsequently considered by the commissions and the Council before submission to the General Assembly, except in the case of the transfer of functions exercised by the Government of France in which case the Secretary-General was requested to submit to the General Assembly the draft protocols in consultation and agreement with that Government, and in the case of the International Slavery Convention of 1926, in which the Secretary-General was requested to prepare a draft protocol and to communicate it to the States parties to that Convention for their observations and to submit it to the General Assembly for appropriate action.

10. In the preparation of all substantive conventions, Member States have been invited, at some stage of the drafting to submit their comments and observations on the instruments concerned. ^{38/} In some instances the Council has also invited observations from non-member States, ^{39/} from specialized agencies ^{40/} and from non-governmental organizations. ^{41/} Instruments dealing with the transfer to the United Nations of functions exercised by the League of Nations or by a particular Government have usually been submitted for comments to the parties to the agreements, conventions and protocols concerned.

11. The Economic and Social Council, before submitting draft conventions to the General Assembly or to international conferences of States, has examined a number of these drafts in some detail, ^{42/} and in some cases it has restricted itself to a general discussion ^{43/} of the drafts. In a few instances it has merely transmitted or authorized the transmission of drafts to the General Assembly or to international conferences of States. ^{44/}

12. The Council, in submitting draft conventions to the General Assembly, has usually made recommendations to the Assembly with regard to the adoption ^{45/} or the desirability of adoption ^{46/} and the opening for signature of the instruments, the States which might be invited to sign and ratify them ^{47/} and, in some cases, the territorial

^{38/} See para. 28, below.

^{39/} See para. 28, below.

^{40/} See para. 28, below.

^{41/} The draft international covenants on human rights and the draft Convention on the Recovery Abroad of Claims for Maintenance. See also para. 29, below.

^{42/} The draft Convention on the Gathering and International Transmission of News, the draft Convention relating to the Status of Refugees, the draft Protocol to bring under International Control Drugs outside the Scope of the Convention of 13 July 1931, and the draft protocol relating to the limitation of the production of opium.

^{43/} As illustrations may be mentioned the draft Convention on the Prevention and Punishment of the Crime of Genocide, the draft Convention on the Declaration of Death of Missing Persons, the draft Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the draft Convention on the Political Rights of Women.

^{44/} For example, the draft Protocol relating to the Status of Stateless Persons and the draft international covenants on human rights, various aspects of which had been discussed previously at different sessions of the Council.

^{45/} By resolution 243 B (IX) the Council recommended to the General Assembly the conclusion of an international Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

^{46/} By resolution 249 (IX), the Council recommended that the General Assembly consider the draft Convention on the Declaration of Death of Missing Persons, with a view to having a convention adopted and opened for signature during its fifth session.

^{47/} By resolution 445 B (XIV) the Council recommended that an international convention on political rights of women embodying the preamble and substantive clauses included in the resolution be opened for signature and ratification by Member States and such other States as will be invited by the General Assembly.

application of the drafts. ^{48/} In connexion with draft protocols to transfer to the United Nations functions exercised by the League of Nations, the Council has usually recommended to the General Assembly that the latter recommend that, pending the entry into force of the protocols, effect be given to their provisions by the parties to any of the agreements, conventions and protocols concerned.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The preparation of draft conventions

1. *The preparation of draft conventions by the Economic and Social Council and the Applicability of Article 2 (7)*

13. Article 62 (3) empowers the Economic and Social Council to prepare draft conventions "with respect to matters falling within its competence". It may be noted that in connexion with the preparation of the draft covenants on human rights, the draft Convention relating to the Status of Refugees, the draft Protocol relating to the Status of Stateless Persons and the draft Convention on the Nationality of Married Women, the question of the applicability of Article 2 (7) has been raised. ^{49/}

a. DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

14. At the fifth session of the General Assembly, during the discussion ^{50/} on the question of the adequacy of the articles relating to measures of implementation included in the draft International Covenant on Human Rights, which had been submitted by the Council ^{51/} to the Assembly, the Assembly rejected two amendments ^{52/} to a draft resolution under consideration. Under the first amendment the General Assembly would have recognized "that the implementation of the provisions of the Covenant on Human Rights falls entirely within the domestic jurisdiction of States", and under the second would have considered "that articles 19 to 41 ^{53/} of the draft Covenant should be deleted, since their inclusion would constitute an attempt at intervention in the domestic affairs of States and an encroachment on their sovereignty."

^{48/} By resolution 159 I (VII) the Council recommended that the General Assembly urge States to take as soon as possible the necessary steps with a view to extending the application of the Protocol to bring under International Control Drugs outside the Scope of the Convention of 13 July 1931 for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs to territories for the foreign relations of which they were responsible, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

^{49/} See in this Repertory under Article 2 (7).

^{50/} G A (V), Plen., vol. I, 317th mtg., paras. 150 and 163; G A (V), 3rd Com., 314th mtg.

^{51/} E S C resolution 303 I (XI).

^{52/} G A (V), Annexes, a.i. 63, pp. 35 and 36, A/1576.

^{53/} Articles 19-41 of the draft Covenant prepared at the sixth session of the Commission on Human Rights in 1950 envisaged a system of international implementation based on the establishment of a Human Rights Committee whose functions would be to ascertain the facts in cases of alleged violation of the Covenant brought to the attention of the Committee by States parties and to make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as defined in the Covenant.

15. At the twelfth session of the Economic and Social Council, a draft resolution ^{54/} was submitted by which the Council would instruct the Commission on Human Rights "to delete from the draft covenant on human rights the provisions concerning implementation contained in articles 19 to 41 thereof as they provide for methods of supervising the implementation of the covenant which constitute an attempt at intervention in the domestic affairs of States and at encroachment on their sovereignty." This draft resolution was not voted upon, but was transmitted to the Commission on Human Rights by the Council, ^{55/} together with relevant resolutions adopted at the fifth session of the General Assembly and other proposals which were submitted to the Council concerning the draft Covenant.

b. DRAFT CONVENTION ON THE NATIONALITY OF MARRIED WOMEN

16. At its ninth session, the Economic and Social Council adopted resolution 242 C (IX) relating to the nationality of married women. By this resolution the Council endorsed the recommendation of its Commission on the Status of Women that a convention on the nationality of married women should be prepared as promptly as possible and laid down the procedure which was to be followed. During the discussion of the recommendation of the Commission on the Status of Women, the Social Committee of the Council rejected a motion to the effect that the draft resolution submitted by the Commission on the subject of nationality of married women be deleted from the annex to the report of the third session of the Commission on the Status of Women. ^{56/} The view was advanced that the matter was outside the competence of the Council; representatives supporting that view expressed the opinion that questions of nationality pertained exclusively to the domestic jurisdiction of States, and that a convention would constitute interference with that jurisdiction, and would thus contravene Article 2 (7). ^{57/}

c. DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES AND DRAFT
PROTOCOL RELATING TO THE STATUS OF STATELESS PERSONS

17. During the various stages of the preparation of international instruments relating to the status of refugees and stateless persons, the point of view has been expressed ^{58/} that these matters affected the domestic jurisdiction of States and that they fell within the exclusive competence of States.

2. *Decisions of the General Assembly affecting the preparation of
draft conventions by the Economic and Social Council*

18. The General Assembly has made decisions affecting the preparation by the Economic and Social Council of draft multilateral conventions in general and of certain draft conventions in particular. ^{59/}

^{54/} E S C (XII), Annexes, a.i. 12, pp. 8 and 9, E/L.137.

^{55/} E S C (XII), 442nd mtg., para. 48.

^{56/} E/AC.7/SR.101, p. 17.

^{57/} E/AC.7/SR.101, pp. 15-17, E/AC.7/SR.102, p. 5 and E S C (IX), 316th mtg., p. 477.

^{58/} E S C (VI), 159th mtg., p. 309; E S C (IX), 327th mtg., p. 641; E/AC.7/SR.270;

G A (V), 3rd Com., 329th mtg.

^{59/} See General Assembly resolution 734 (VIII) by which the Assembly requested the Council to do its utmost to complete, if possible, its work on the question of recognition and enforcement abroad of maintenance obligations, in such time as to enable the Council to report on results to the General Assembly at its ninth session. In resolution 527 (XVII) the Council, having noted the General Assembly resolution, decided upon certain steps with a view to expediting its consideration of the matter, including a request for observations by Member States and non-member States members of specialized agencies on the convening of an international conference to conclude a convention on the recovery abroad of claims for maintenance.

a. RECOMMENDATION CONCERNING PROVISIONS ON RESERVATIONS
TO MULTILATERAL CONVENTIONS

19. The General Assembly, by resolution 598 (VI), recommended that: "organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them".

b. DECISIONS RELATING TO THE PREPARATION OF THE DRAFT CONVENTION
ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

20. By resolution 96 (I), the General Assembly recommended that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide, and, to this end, requested the Economic and Social Council to undertake the necessary studies, with a view to drawing up a draft convention on the crime of genocide to be submitted to the General Assembly.

21. By resolution 47 (IV), the Council requested the Secretary-General to take certain steps in connexion with the study of the matter, and, by resolution 77 (V), it decided to inform the General Assembly that it proposed to proceed as rapidly as possible with the consideration of the question, subject to any further instructions of the Assembly. By resolution 180 (II), the General Assembly requested the Council to continue the work it had begun, including the study of the draft Convention prepared by the Secretariat, and to proceed with the completion of the Convention, taking into account that the International Law Commission, which would be set up in due course in accordance with General Assembly resolution 174 (II), had been charged with the formulation of the principles recognized in the Charter of the Nürnberg Tribunal, as well as with the preparation of a draft code of offences against peace and security. The Assembly also informed the Council that it need not await the receipt of the replies of all Member States before commencing its work, and requested the Council to submit to it a report and the Convention on this question at its third session in 1948. By resolution 117 (VI), the Council established an ad hoc committee to prepare the draft Convention in accordance with the resolution of the General Assembly.

c. DECISIONS RELATING TO THE PREPARATION OF THE DRAFT INTERNATIONAL
COVENANTS ON HUMAN RIGHTS

22. The General Assembly has, at its fifth, sixth and eighth sessions, adopted resolutions relating to the preparation of the draft international covenants on human rights.

23. At its fifth session, the General Assembly considered certain questions in connexion with the draft first International Covenant on Human Rights, which had been referred to it by the Council. Under resolution 303 I (XI) the Council had concluded that further progress in the preparation of the Covenant could not be made unless policy decisions were taken on the question of: (a) the adequacy of the first eighteen articles of the Covenant which related to civil and political rights; (b) the desirability of including special articles on the application of the Covenant to federal States and to Non-Self-Governing Territories; (c) the desirability of including articles on economic, social and cultural rights; and (d) the adequacy of the articles relating to implementation. The General Assembly, by resolutions 421 (V) and 422 (V), requested that the following action be taken by the Council: (1) the revision of the first eighteen articles relating to civil and political rights with a view to including additional rights and with a view to defining the rights and limitations thereto with the greatest possible precision; (2) the study of a federal State article and preparation of recommendations to secure the maximum extension of the Covenant to the constituent units of federal States and to meet the constitutional problems of such States. Having decided, by resolution 421 (V), section E, to include

in the draft Covenant economic, social and cultural rights and explicit recognition of equality of men and women in related rights, as set forth in the Charter, the General Assembly further requested the Council to take steps for (3) the inclusion in the draft Covenant of a clear expression of economic, social and cultural rights and the taking of the steps necessary to obtain the co-operation of other organs of the United Nations and of the specialized agencies in the consideration of such rights; (4) the consideration of provisions, for insertion in the draft Covenant or in separate protocols, for the receipt and examination of petitions from individuals and organizations concerning alleged violations of the Covenant, taking into consideration certain pertinent proposals submitted to the General Assembly; and (5) the inclusion of an article stating that the provisions of the Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust or Colonial Territories administered or governed by such metropolitan State. The Council, by resolution 349 (XII), transmitted these recommendations of the General Assembly to the Commission for appropriate action, at the same time providing for the co-operation of the specialized agencies interested in economic, social and cultural rights.

24. At its thirteenth session, the Council, by resolution 384 (XIII), considering that the work on the Covenant had reached a stage where it would be desirable for Governments not represented on the Commission on Human Rights or on the Council to have an opportunity to express their views, transmitted to the General Assembly the report of the seventh session of the Commission together with the records of its discussion and the observations of certain Governments and specialized agencies. It also invited the Assembly to reconsider its decision of the fifth session to include in one covenant articles on economic, social and cultural rights, together with articles on civil and political rights. The General Assembly, by resolution 543 (VI), requested the drafting of two covenants on human rights, one to contain civil and political rights and the other economic, social and cultural rights. Both covenants were to be submitted simultaneously to the General Assembly, and were to contain as many similar provisions as possible, particularly with regard to the reports on implementation to be submitted by States.

25. By a series of resolutions, 543 (VI), 544 (VI), 545 (VI), 546 (VI) and 547 (VI), the General Assembly also requested that the following action be taken: (1) Member States and appropriate specialized agencies should submit drafts or memoranda containing their views on the form and content of the proposed Covenant on economic, social and cultural rights for the information and guidance of the Commission on Human Rights; (2) the Commission should revise the articles on economic, social and cultural rights, taking into consideration the views expressed in the Assembly during the discussion of the proposed covenant and any comments that Governments of Member States, specialized agencies and non-governmental organizations might think fit to advance; (3) the Commission should prepare, for inclusion in the two draft covenants, one or more clauses relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them; (4) the Commission should consider as additional basic working papers a series of proposals on measures for implementation of the draft covenants transmitted to the Commission through the Council; and (5), the Commission should include in the Covenant or covenants an article on the right of peoples and nations to self-determination, a text of which was also transmitted by the Assembly as a basis for consideration by the Commission.

26. At its first special session the Council, by resolution 415 (8-1), transmitted those of the above-mentioned requests which had been addressed to the Council to the Commission for action.

27. At its eighth session, the General Assembly, in considering the report of the ninth session of the Commission on Human Rights which had been transmitted to it, decided, by resolution 737 (VIII) to transmit to the Commission on Human Rights certain draft resolutions and the records of the meetings of its Third Committee relating to

the question of a federal State clause and the right of petition. By resolution 510 (XVI), the Council transmitted these documents to the Commission.

3. Consultation with Member States by the Economic and Social Council in the preparation of draft conventions

28. In all cases of preparation of substantive draft conventions and protocols, the Council has, at some stage of the preparation, consulted Member States by seeking their comments and observations on the instruments concerned. The Council has often consulted non-member States as well. 60/

4. Consultation with specialized agencies by the Economic and Social Council in the preparation of draft conventions

29. Consultation with the specialized agencies concerned has taken place in connexion with the preparation of certain draft conventions. 61/ At its fourteenth session, the Council decided by resolution 456 A (XIV), on the recommendation of the Administrative Committee on Co-ordination and the Council Committee on Co-ordination, to insert the following rule (rule 81) in its rules of procedure:

"Where items are placed on the provisional agenda or the supplementary list of items for a session with a view to the adoption of an international convention, the Secretary-General shall, at the same time as he is requesting governments for their comments on the proposed convention, consult the specialized agencies in respect of any provision of the proposed convention which affects the activities of such agencies, and the comments of such agencies shall be brought before the Council, together with the comments received from governments."

5. Requests of the Economic and Social Council for preparation of draft conventions by other bodies

30. The Council has, in one case, urged another organ of the United Nations to prepare draft conventions, and, in another, it has requested a specialized agency to continue its efforts to prepare international conventions.

60/ By resolution 545 B (XVIII), the Council requested the Secretary-General to bring the draft international covenants on human rights and the parts of the report of the Commission on Human Rights concerning them to the special attention of the Governments of States Members and non-members of the United Nations and to collect any comments they may have to make. In another instance, the Council, by resolution 467 F (XV) instructed the Secretary-General to circulate for comments to Member States and non-member States members of the specialized agencies drafts and documents relating to the customs formalities for the temporary importation of private vehicles and for tourism. Again the Council, by resolution 395 B (XIII), requested the Secretary-General to submit the principles of the proposed protocol relating to the limitation of the production of opium drafted by the Commission on Narcotic Drugs to Member States and to non-member States parties to the international treaties on narcotics for the communication of their observations thereon.

61/ For example, the draft international covenants on human rights, and in particular the draft Covenant on Economic, Social and Cultural Rights, and the draft Convention on the Recovery Abroad of Claims for Maintenance.

31. It may also be noted that, although not specifically requesting the preparation of a draft convention, the Council, by resolution 347 (XII), referred a proposed draft convention on customs treatment of samples and advertising material ^{62/} to Member States and to the Contracting Parties to the General Agreement on Tariffs and Trade (GATT). The Council expressed the hope that the Contracting Parties to GATT would examine the question at their next session and take the measures they deemed appropriate. ^{63/}

a. REQUESTS TO THE INTERNATIONAL LAW COMMISSION

32. In considering the problem of statelessness, the Council, by resolution 319 B,III (XI), noted with satisfaction that the International Law Commission, established by the General Assembly, intended to initiate as soon as possible work on the subject of nationality, including statelessness, and urged the Commission to prepare at the earliest possible date the necessary draft international convention or conventions for the elimination of statelessness. It invited the Secretary-General to transmit this resolution to the International Law Commission. ^{64/} Subsequently, by resolution 526 B (XVII), the Council endorsed the principles underlying the work of the International Law Commission, and requested it "to continue its work with a view to the adoption of effective international instruments for the reduction and elimination of statelessness."

33. It may also be noted that, in another instance, the Council had proposed the preparation of a draft convention by the International Law Commission, but subsequently such preparation was undertaken by a Commission of the Council. At its eleventh session, by resolution 304 D (XI), the Council, noting that the International Law Commission had at its first session included amongst the topics selected for study and codification "nationality, including statelessness", proposed to the Commission that it undertake the drafting of a convention to embody the principles recommended by the Commission on the Status of Women in regard to the nationality of married women. By resolution 385 F (XIII), the Council expressed the hope that the International Law Commission would endeavour to complete the drafting of this convention as soon as practicable. While the International Law Commission, at its second session, adopted a resolution by which it deemed it appropriate to entertain the proposal of the Council in connexion with its contemplated work on the subject of nationality, including

^{62/} The proposal originated from the International Chamber of Commerce, a non-governmental organization in category A consultative status with the Council.

^{63/} It may be noted that the Contracting Parties to GATT prepared a draft convention. See GATT: Basic Instruments and Selected Documents, vol. II, May 1952, p. 210; and First Supplement, March 1953, pp. 94-99.

^{64/} The Statute of the International Law Commission, annexed to General Assembly resolution 174 (II), provides in article 17, paragraph 1, that the Commission shall consider "proposals and draft multilateral conventions submitted by Members of the United Nations, the principal organs of the United Nations other than the General Assembly, specialized agencies, or official bodies established by inter-governmental agreement to encourage the progressive development of international law and its codification, and transmitted to it for that purpose by the Secretary-General." Paragraph 2 of that article provides the general procedure to be followed by the Commission "If in such cases the Commission deems it appropriate to proceed with the study of such proposals or drafts".

statelessness, ^{65/} it decided, at its fourth session, against complying with the proposal of the Council to draft a convention embodying the principles recommended by the Commission on the Status of Women and communicated this decision to the Council. ^{66/} Subsequently the Council, on the recommendation of its Commission on the Status of Women, by resolutions 504 B (XVI) and 547 C (XVIII), requested the Secretary-General to submit to Member States for comments the text of draft conventions, prepared by the Commission on the Status of Women, on the nationality of married persons and on the nationality of married women respectively. The latter draft was also forwarded to the International Law Commission for its information.

b. REQUESTS TO THE INTERNATIONAL LABOUR ORGANISATION

34. By resolution 52 (IV), the Council, having taken note of the agenda item regarding trade-union rights, which was included in its agenda at the request of the World Federation of Trade Unions, and the memoranda submitted by the World Federation of Trade Unions and the American Federation of Labor, resolved to transmit these documents to the International Labour Organisation (ILO) with a request that the item be placed upon its agenda and considered at the forthcoming session of the International Labour Conference, and that a report be sent to the Council for its consideration. By resolution 84 (V), the Council took note of the report of ILO and decided to request it "to continue its efforts in order that one or several international conventions may be quickly adopted". ^{67/} This resolution of the Council was approved by the General Assembly by resolution 128 (II).

B. Authorization by the Economic and Social Council to the Secretary-General and others to submit draft conventions to the General Assembly

35. The Economic and Social Council has in three instances authorized the submission by the Secretary-General and others of draft conventions and draft protocols directly to the General Assembly.

36. By resolution 82 (V), the Council requested the Secretary-General to present to the Social Commission a report on the proposal made by the representative of France to transfer to the United Nations the functions hitherto exercised by the Government of the French Republic under the International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, the International Convention of 4 May 1910 for the Suppression of the White Slave Traffic, and the International Agreement of 4 May 1910 for the Suppression of Obscene Publications. The Social Commission approved the suggestion for the transfer of the functions to the United Nations. The Council, by resolution 155 D (VII), directed the Secretary-General, in consultation with the

^{65/} G A (V), Suppl. No. 12 (A/1316), para. 19.

^{66/} G A (VII), Suppl. No. 9 (A/2163), para. 30.

^{67/} Two conventions were adopted by ILO: (1) the Convention concerning Freedom of Association and Protection of the Right to Organise (1948) and (2) the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (1949). Reference may also be made to the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, adopted in June 1951 by the International Labour Conference. By resolution 121 (VI) of 10 March 1948, the Economic and Social Council had endorsed the recommendation of its Commission on the Status of Women that ILO be invited to present its views on the implementation of the principle of equal pay for equal work. Subsequently the Council, by resolutions 196 (VIII) and 242 D (IX), noted that ILO had taken action and was making studies and inquiries with a view to the preparation of one or more international conventions on the subject of equal pay for equal work and decided to transmit to ILO all the relevant material.

Government of France, to prepare a protocol for the purpose of effecting the transfer of the said functions to the United Nations and, with the agreement of that Government, to submit the protocol to the General Assembly for its approval. The Council also recommended that the General Assembly approve the assumption by the United Nations of the functions exercised by the Government of France and that it consider the protocol drawn up by the Secretary-General for this purpose.

37. The Ad Hoc Committee on Refugees and Stateless Persons, established by Council resolution 248 B (IX), prepared a draft Convention relating to the Status of refugees and a draft Protocol relating to the Status of Stateless Persons. After considering the drafts generally and preparing the text of the preamble and of article 1 entitled "Definition of the term refugee" for inclusion in the draft Convention relating to the Status of Refugees, the Council, by resolution 319 B, I (IX), requested the Secretary-General to reconvene the Committee in order that it might prepare revised drafts, and to submit the drafts, as revised, to the General Assembly. It recommended to the General Assembly the adoption of international agreements on the basis of the revised draft agreements prepared by the Ad Hoc Committee, taking into account comments of Governments and the views expressed in the Council.

38. By resolution 475 (XV), the Council requested the Secretary-General to prepare a draft protocol transferring to the United Nations the functions undertaken by the League of Nations under the International Slavery Convention of 1926, to communicate it to the States parties to the Convention for their observations, and to submit it to the General Assembly for appropriate action. The Council recommended that the Assembly invite the States parties, or which might become parties, to the Convention, to agree to this transfer.

C. Submission by the Economic and Social Council of draft
conventions to international conferences of States
called under Article 62 (4)

39. Article 62 (3) authorizes the Economic and Social Council to prepare draft conventions for submission to the General Assembly. While the Council has submitted most of the draft conventions and draft protocols so prepared to the General Assembly, ^{68/} it has called four conferences under Article 62 (4) to consider such drafts. ^{69/}

^{68/} See para. 4 above.

^{69/} The idea of convening a conference to conclude a convention on the recovery abroad of claims for maintenance is under study by the Council. By resolution 527 (XVII), the Council requested the Secretary-General to transmit the report of the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations to Governments and to ascertain from States Members of the United Nations and those non-members of the United Nations which are members of any of the specialized agencies, whether they considered it desirable to convene a conference of plenipotentiaries to complete the drafting of the Convention on the Recovery Abroad of Claims for Maintenance and whether they were prepared to attend such a conference. The Secretary-General was to submit a report on the result of this consultation to the Council at its nineteenth session in 1955. Reference may also be made to a decision, taken by the Council under resolution 387 (XIII), not to convene a conference to conclude a convention on freedom of information, the desirability of convening such a conference having been suggested to the Council by the General Assembly under resolution 426 (V). The Council had earlier transmitted, by resolution 152 B (VII), the draft Convention on Freedom of Information to the General Assembly.

1. *United Nations Conference on Road and Motor Transport and United Nations Conference on Customs Formalities for the Temporary Importation of Private Road Motor Vehicles and for Tourism*

40. The Council has, on the recommendation of its Transport and Communications Commission, and bearing in mind observations of Governments on the draft instruments concerned, convened (a) the United Nations Conference on Road and Motor Transport 70/ with the object of concluding a new world-wide Convention on Road and Motor Transport, and (b) the United Nations Conference on Customs Formalities for the Temporary Importation of Private Motor Vehicles and for Tourism, 71/ with the object of concluding on a world-wide basis two conventions relating to customs formalities, with respect to: (1) the temporary importation of private road motor vehicles carrying persons and the equipment of such vehicles; (2) tourism, that is to say, the personal effects of tourists travelling by any means of transport.

2. *United Nations Opium Conference*

41. The draft protocol relating to the limitation of production of opium was referred by the Council in resolution 436 A (XIV) for consideration to an international conference of States, on the recommendation of the Commission on Narcotic Drugs, and on the basis of observations received from Member States and non-member States parties to international instruments on narcotic drugs.

3. *United Nations Conference on the Status of Stateless Persons*

42. The draft Protocol relating to the Status of Stateless Persons was submitted by the Council to a Conference of Plenipotentiaries which it convened in 1954. 72/ It should be noted, however, that this draft Protocol which, together with the draft Convention relating to the Status of Refugees, had been prepared by the Ad Hoc Committee on Refugees and Stateless Persons established by the Council in 1949, had been submitted to the General Assembly at its fifth session. The General Assembly, by resolution 429 (V) decided to convene a conference of plenipotentiaries to complete the drafting and to sign both the Convention relating to the Status of Refugees and the Protocol relating to the Status of Stateless Persons. The Conference, which met in 1951, adopted the Convention relating to the Status of Refugees, but referred the draft Protocol relating to the Status of Stateless Persons to the appropriate organ of the United Nations for further study. By resolution 629 (VII), the General Assembly requested the Secretary-General to communicate the draft Protocol to all Governments invited to the above-mentioned conference for their comments and to submit these comments to the Economic and Social Council and requested the Council to take whatever action seemed useful in the light of the comments, in order that a text might be opened for signature after the Convention relating to the Status of Refugees had entered into force. The Council, in the light of the comments received, decided to convene a conference of plenipotentiaries to revise the draft Protocol.

70/ E S C resolution 147 B (VII).

71/ E S C resolution 468 F (XV).

72/ E S C resolution 526 A (XVII). It may be noted that the Conference which met in September 1954 agreed upon a Convention instead of a Protocol on the Status of Stateless Persons.

ANNEX I.

List of draft conventions and protocols submitted to
the General Assembly

A. Substantive drafts

1. Draft Protocol to bring under International Control Drugs outside the Scope of the Convention of 13 July 1931 for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs as amended by the Protocol signed at Lake Success on 11 December 1946
Economic and Social Council resolution 159 I (VII)
2. Draft Convention on the prevention and Punishment of the Crime of Genocide
Economic and Social Council resolution 153 (VII)
3. Draft Convention on the Gathering and International Transmission of News
Economic and Social Council resolution 152 B (VII)
4. Draft Convention on the Institution of an International Right of Correction
Economic and Social Council resolution 152 B (VII)
5. Draft Convention on Freedom of Information
Economic and Social Council resolution 152 B (VII)
6. Draft Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
Economic and Social Council resolution 243 B (IX)
7. Draft Convention on the Declaration of Death of Missing Persons
Economic and Social Council resolution 249 (IX)
8. Draft Convention relating to the Status of Refugees
Economic and Social Council resolution 319 B I (XI)
9. Draft Convention relating to the Status of Refugees: Provisions relating to the problem of statelessness
Economic and Social Council resolution 319 B III (XI)
10. Draft Convention on the Political Rights of Women
Economic and Social Council resolution 445 B (XIV)
11. Draft Covenant on Civil and Political Rights
Economic and Social Council resolution 545 B I (XVIII)
12. Draft Covenant on Economic, Social and Cultural Rights
Economic and Social Council resolution 545 B I (XVIII)

B. Drafts relating to the transfer of functions to the United Nations

1. Draft Protocol amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925, and 19 February 1925, and 13 July 1931, at Bangkok on 27 November 1931, and at Geneva on 26 June 1936
Economic and Social Council resolution 12 (III)
2. Draft Protocol to amend the Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, and the Convention

for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933

Economic and Social Council resolution 81 (V)

3. Draft Protocol to amend the Convention of 12 September 1923 for the Suppression of the Circulation of and Traffic in Obscene Publications
Economic and Social Council resolution 81 (V)
4. Draft Protocol to amend the International Convention relating to Economic Statistics, signed at Geneva on 14 December 1928
Economic and Social Council resolution 114 A (VI)
5. Draft Protocol to amend the International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, and the International Convention of 4 May 1910 for the Suppression of White Slave Traffic
Economic and Social Council resolution 155 D (VII)
6. Draft Protocol to amend the International Agreement of 4 May 1910 for the Suppression of Obscene Publications
Economic and Social Council resolution 155 D (VII)
7. Draft Protocol transferring to the United Nations the functions undertaken by the League of Nations under the International Slavery Convention of 1926
Economic and Social Council resolution 475 (XV)

ANNEX II.

List of draft conventions and protocols submitted to international conferences of States

1. Draft Convention on road and Motor Transport
Economic and Social Council resolution 147 B (VII)
2. Draft protocol relating to the limitation of the production of opium
Economic and Social Council resolution 436 A (XIV)
3. Draft conventions relating to customs formalities and tourism
Economic and Social Council resolution 468 F (XV)
4. Draft Protocol relating to the Status of Stateless Persons
Economic and Social Council resolution 526 A (XVII)

ANNEX III.

List of draft conventions, protocols and agreements under preparation

1. Proposed Single Convention on Narcotic Drugs
Economic and Social Council resolutions 159 II, D (VII), 246 D (IX), 315 (XI), 355 B (XII), 395 B (XIII) and 548 K (XVIII)
2. Draft Convention on the Nationality of Married Women
Economic and Social Council resolutions 242 C (IX), 304 D (XI), 385 F (XIII), 504 B (XVI) and 547 C (XVIII)

3. Draft Protocol on a Uniform System of Road Signs and Signals
Economic and Social Council resolutions 272 (X), 468 D (XV) and
518 A (XVII)
4. Draft Convention on the Recovery Abroad of Claims for Maintenance
Economic and Social Council resolutions 390 H (XIII) and 527 (XVII), and
General Assembly resolution 734 (VIII)
5. Draft international agreement for the prevention and control of restrictive
business practices in international trade
Economic and Social Council resolution 375 (XIII) and 487 (XVI)
6. Draft supplementary convention on slavery
Economic and Social Council resolutions 475 (XV) and 525 B (XVII)