

ARTICLE 62 (3)

CONTENTS

	<i>Paragraphs</i>
Text of Article 62 (3)	
Introductory note	1
I. General survey	2-13
II. Analytical summary of practice	14-16
A. The preparation of draft conventions	14-15
**B. Authorization by the Economic and Social Council to the Secretary-General and others to submit draft conventions to the General Assembly	
C. Submission by the Economic and Social Council of draft conventions to international conferences of States under Article 62 (4)	16

ARTICLE 62 (3)

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 structure of this study is similar to that of the studies of Article 62 (3) in the *Repertory* and its *Supplements Nos. 1, 2 and 3*, and the material supplements that were included in the earlier studies. The preparation of international instruments under the auspices of the regional economic commissions of the Economic and Social Council is dealt with under Article 68.

I. GENERAL SURVEY

2. During the period¹ under review, the Economic and Social Council prepared, through its subsidiary organs, and submitted to the General Assembly several draft international instruments with respect to matters falling within its competence. These included the draft declaration on the elimination of discrimination against women, prepared at the request of the General Assembly¹ by the Commission on the Status of Women and revised by that body at the instance of the General Assembly for various reasons² prior to its submission by the Council at its forty-second session.³ The draft was considered by the Assembly at its twenty-second session, together with various amendments submitted, and adopted.⁴

3. The Declaration, as adopted, included a provision in its article 11, stating that the principle of equality of rights of men and women demanded implementation in all States in accordance with the principles of the Charter and of the Universal Declaration of Human Rights; it urged Governments, non-governmental organizations and individuals to do all in their power to promote such implementation. In 1968 the Council, in its resolution 1325(XLIV), referred to the above provision and endorsed a number of recommendations by the Commission on the Status of Women calling for action of various kinds with respect to the implementation of the Declaration by the Secretary-General, the specialized agencies, Member States, and national and non-governmental organizations.

4. At its forty-fourth session,⁵ the Council forwarded the text of a draft declaration on social development, as recommended by the Commission for Social Development,⁶ together with all the amendments submitted thereto⁷ and the relevant comments and reservations made during the session, to States Members of the United Nations for their comments; the Council subsequently forwarded this documentation to the General Assembly at its twenty-third session. The Council had

been called upon by the Assembly⁸ to request the Commission to prepare and submit the draft for its consideration at its twenty-third session at the latest. It was not, however, until the twenty-fourth session that it was adopted by the General Assembly,⁹ as the Declaration on Social Progress and Development, together with a further resolution relating to its implementation.¹⁰

5. At its twenty-third session the Commission on Human Rights forwarded to the Council,¹¹ for submission to the General Assembly, a draft convention and certain additional drafts¹² relating to a draft international convention on the elimination of all forms of religious intolerance. The Council discussed the matter at its forty-second session and subsequently transmitted¹³ to the General Assembly at its twenty-second session: (a) a preamble and twelve articles of a draft international convention on the elimination of all forms of religious intolerance, adopted by the Commission; (b) an additional draft article submitted by one delegation, and one proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities which, after discussion, the Commission had considered should be submitted to the Assembly; and (c) the preliminary draft of additional measures of implementation submitted by the Sub-Commission which the Commission had not considered owing to lack of time. In the same resolution, the Council expressed the hope that the General Assembly would decide on suitable measures of implementation and final clauses of the draft convention. During the discussion referred to above, a few members noted that the Commission had been given the task of preparing a draft declaration and a draft convention and that, while the latter was nearing adoption by the General Assembly, the former had not yet been completed by the Commission. They proposed

¹See General Assembly resolution 1921(XVIII).

²General Assembly resolution 2199(XXI).

³Economic and Social Council resolution 1206(XLII).

⁴General Assembly resolution 2263(XXII).

⁵E S C (XLIV), Suppl. No. 1 (E/4548), p. 11.

⁶*Ibid.*, Suppl. No. 5 (E/4467/Rev.1), annex 1.

⁷E/AC.7/L.535, 538-540, 543 and 544 (mimeographed).

⁸G A resolution 2215(XXI).

⁹G A resolution 2542(XXIV).

¹⁰G A resolution 2543(XXIV).

¹¹E S C (XLII), Suppl. No. 6, resolution 3(XXIII), para. 134.

¹²See also *Repertory, Supplement No. 3*, vol. II, under Article 62 (3), paragraph 3; and G A resolution 2020(XX) in which the Commission was requested to make every effort to complete the preparation of a draft declaration on a draft international convention on the elimination of all forms of religious intolerance in time for submission to the General Assembly at its twenty-first session.

¹³E S C resolution 1233(XLII).

that the Council's resolution should refer, in one way or another, to the fact that the Commission on Human Rights had not completed the preparation of the draft declaration. The proposal was later withdrawn in the light of the discussion.

6. The General Assembly, at its twenty-second session, bearing in mind the decisions taken by the Third Committee at that session not to mention any specific type of religious intolerance in the convention and to amend the title,¹⁴ the preamble and article 1 of the draft proposed by the Commission on Human Rights, and having been unable to complete the consideration of the draft convention owing to lack of time, decided¹⁵ to accord priority to the item at its twenty-third session. At that session, however, and again at the twenty-fourth session, consideration of the draft was deferred owing to lack of time.

7. In accordance with its resolution 1158(XLI),¹⁶ the Council at its forty-second session also transmitted¹⁷ to the General Assembly the preliminary draft of a convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, prepared by the Secretary-General at its request for consideration by the Commission on Human Rights. The Council expressed its regret in the resolution that for lack of time the Commission had been unable to complete the draft, which was transmitted to the Assembly with the report of the working group established by the Commission to consider it, together with the proposals submitted to the Commission and the records of its discussion of the subject. The Council recommended¹⁸ that the Assembly take all these documents into account in preparing a draft convention, which it hoped would be adopted at the earliest possible moment.¹⁹ After considering the report of a joint working group of the Third and Sixth Committees and inviting the comments of Member States thereon,²⁰ the Assembly adopted the draft Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity at its twenty-third session.²¹

8. The General Assembly, at its twenty-first session, adopted²² the draft International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and an Optional Protocol to the International Covenant on Civil and Political Rights. The draft Covenants had been prepared by the Commission on Human Rights and were transmitted to the Assembly by the Council at its eighteenth session;²³ in their final versions additional provisions were included by the Assembly relating, in particular, to the rights of the child and the right to freedom from hunger, as well as to measures for implementation. The Optional Protocol was adopted by the Assembly on the recommendation of its Third Com-

mittee. The Assembly adopted separate resolutions, at the same time, on publicizing the Covenants²⁴ and on the establishment of national commissions on human rights.²⁵

9. The General Assembly also had before it, at its sessions from 1965 onwards, a draft convention which had been formulated by an *ad hoc* committee established by it in 1950,²⁶ on freedom of information, as well as a draft declaration on the same subject which had been transmitted to it by the Council in 1960.²⁷ At its twenty-third session, in 1968, the Assembly recalled a decision taken in 1965²⁸ to hasten the conclusion, among other instruments, of a convention on freedom of information and decided²⁹ that, pending the completion of that convention, it would give priority to the draft declaration at its next session. Because of a heavy programme of work, it was not able to do so and accordingly postponed³⁰ consideration of the matter to the twenty-fifth session.

10. During the period under review, the draft Convention on Road Traffic and the draft Convention on Road Signs and Signals, replacing the previous Convention and Protocol respectively, were adopted by the International Conference of States held for that purpose in 1968 under the terms of Economic and Social Council resolutions 1082 B (XXXIX), 1129(XLI) and 1203 (XLII).³¹

11. In 1968 the Council, which had had under consideration during that year the question of international control of psychotropic substances,³² was requested by the General Assembly to call upon the Commission on Narcotic Drugs to give urgent attention to the problem of the abuse of such substances, including the possibility of placing them under international control.³³ In response to this request, which was forwarded to the Commission, the Council, at its forty-sixth session, considered a draft protocol in two alternative texts and decided that the Commission should hold a special session as early as possible in 1970 to prepare and submit to it a revised protocol.³⁴

12. In a somewhat similar instance, the General Assembly in 1968 invited the Secretary-General to study, *inter alia*, the need for additional humanitarian international conventions or other appropriate legal instruments to ensure the better protection of civilians, prisoners and combatants in armed conflicts and the prohibition and limitation of the use of certain methods of warfare.³⁵ Upon consideration of the study, in 1969, the Assembly decided to transmit it to the Commission on Human Rights and the Council for their comments at the following session.³⁶

¹⁴The title of the draft convention, as amended, became the "International Convention on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief": see G A (XXII), Annexes, a.i. 54, A/6934, para. 21.

¹⁵G A resolution 2295(XXII).

¹⁶See *Repertory, Supplement No. 3*, vol. II, under Article 62 (3), para. 3.

¹⁷E S C resolution 1220(XLII).

¹⁸*Ibid.*, para. 3.

¹⁹*Ibid.*, para. 1.

²⁰See G A resolution 2338(XXII).

²¹General Assembly resolution 2391(XXIII). The Assembly at the same session, by resolution 2392(XXIII), decided to take up at a later date a draft optional protocol to the Convention (A/C.3/L.1570/Rev.2) which it believed raised closely related issues.

²²G A resolution 2200 A (XXI).

²³E S C resolution 545 B (XVIII).

²⁴G A resolution 2200 B (XXI).

²⁵G A resolution 2200 C (XXI).

²⁶G A resolution 426(V).

²⁷E S C 756(XXIX).

²⁸G A resolution 2081(XX).

²⁹G A resolution 2448(XXIII).

³⁰G A resolution 2596(XXIV).

³¹See *Repertory, Supplement No. 3*, vol. II, under Article 62 (3), paragraph 4.

³²E S C resolutions 1293(XLIV) and 1294(XLIV).

³³G A resolution 2433(XXIII).

³⁴The special session was held in January 1970 and, in accordance with the recommendations made thereat, the Council adopted a resolution (1474(XLVIII)) in which it decided to convene in 1971, under Article 64 (4) of the Charter, a Conference of Plenipotentiaries for the Adoption of the Protocol on Psychotropic Substances.

³⁵G A resolution 2444(XXIII).

³⁶G A resolution 2597(XXIV).

13. At the Council's forty-third session,³⁷ the question was again raised of the preparation by an *ad hoc* working group of a draft declaration of the principles which should guide States in their economic relations with one another. The Council decided³⁸ to defer

consideration of the question until its forty-fifth session, when it postponed³⁹ discussion until later in the year. At the resumed forty-fifth session the Council decided to postpone it *sine die*.⁴⁰

³⁷For texts of relevant statements, see E S C (XLIII), 1505th mtg.

³⁸E S C (XLIII), Suppl. No. 1 [Other decisions], p. 5.

³⁹E S C (XLV), Suppl. No. 1 [Other decisions], p. 7.

⁴⁰E S C (Resumed XLV), Suppl. No. 1A, p. 2.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The preparation of draft conventions

14. As in similar instances in the past, the General Assembly gave directions or made requests with respect to the preparation of international instruments to be submitted for its consideration. Thus, having "noted with interest" the text of the draft declaration on the elimination of discrimination against women prepared by the Commission on the Status of Women and transmitted to it by the Council, the Assembly requested the Council to invite the Commission to review it, bearing in mind the large number of amendments that had been submitted to the text and taking into account the relevant discussions in the various Assembly organs and the observations of Governments.⁴¹ In the case of the draft declaration on social development,⁴² the Assembly called upon the Council to request the Commission for Social Development to prepare "a draft declaration on social development which would, in general terms, define the objectives of social development and the methods and means of achieving them", on the basis of the purposes and principles of the United Nations and the specialized agencies and in the light of certain specified resolutions, documentation and discussions,⁴³ which were amplified by the Assembly at its succeeding session.⁴⁴

15. The draft protocol on psychotropic substances originated from studies carried out by the Commission on Narcotic Drugs and the World Health Organization (WHO) which led to the request by the Assembly in

1968 that the Council call upon the Commission to give urgent attention to the problem.⁴⁵ In furtherance of its work, the Commission asked the Secretary-General to seek the views of Governments on control measures and to prepare a draft instrument to include control provisions. A questionnaire was subsequently sent to 146 Governments and a draft protocol prepared, consisting of two alternative texts and commentary. The Commission later adopted the text of a draft protocol on the subject and the Secretary-General made a compilation of the comments of Governments on that text. Comments were also offered by the International Narcotics Control Board and by WHO, which in addition prepared a provisional listing of psychotropic substances to be controlled under the proposed protocol.

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

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

16. During the period under review, an international conference was convened under the terms of Economic and Social Council resolutions 1082 B (XXXIX), 1129 (XLI) and 1203 (XLII) for the purpose of considering two draft conventions.⁴⁶

⁴¹G A resolution 2199 (XXI).

⁴²See paragraph 4 above.

⁴³G A resolution 2215 (XXI).

⁴⁴See G A resolution 2293 (XXII), para. 7.

⁴⁵See para. 11 above.

⁴⁶See para. 10 above and *Repertory, Supplement No. 3*, under Article 62 (3), para. 10.