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UNITED NATIONS JURIDICAL YEARBOOK

1963

Part Two. Legal activities of the United Nations and related inter-governmental organizations

Chapter III. Selected decisions, recommendations and reports of a legal character by the United Nations and related inter-governmental organizations



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Chapter III

SELECTED DECISIONS, RECOMMENDATIONS AND REPORTS OF A LEGAL CHARACTER BY THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

United Nations General Assembly — eighteenth session

1. QUESTION OF GENERAL AND COMPLETE DISARMAMENT: REPORT OF THE CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DISARMAMENT (AGENDA ITEM 26)

Resolution [1884 (XVIII)] adopted by the General Assembly

1884 (XVIII). Question of general and complete disarmament

The General Assembly,

Recalling its resolution 1721 A (XVI) of 20 December 1961, in which it expressed the belief that the exploration and use of outer space should be only for the betterment of mankind,

Determined to take steps to prevent the spread of the arms race to outer space,

1. *Welcomes* the expressions by the Union of Soviet Socialist Republics and the United States of America of their intention not to station in outer space any objects carrying nuclear weapons or other kinds of weapons of mass destruction;

2. *Solemnly calls upon* all States:

(a) To refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, installing such weapons on celestial bodies, or stationing such weapons in outer space in any other manner;

(b) To refrain from causing, encouraging or in any way participating in the conduct of the foregoing activities.

*1244th plenary meeting
17 October 1963*

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2. INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: (A) REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE; (B) REPORT OF THE ECONOMIC AND SOCIAL COUNCIL [CHAPTER VII (SECTION IV)] (AGENDA ITEM 28)

Resolution [1962 (XVIII)] adopted by the General Assembly

1962 (XVIII). Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space

The General Assembly,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be carried on for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between nations and peoples,

Recalling its resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and considering that the aforementioned resolution is applicable to outer space,

Taking into consideration its resolutions 1721 (XVI) of 20 December 1961 and 1802 (XVII) of 14 December 1962, adopted unanimously by the States Members of the United Nations,

Solemnly declares that in the exploration and use of outer space States should be guided by the following principles:

1. The exploration and use of outer space shall be carried on for the benefit and in the interest of all mankind.
2. Outer space and celestial bodies are free for exploration and use by all States on a basis of equality and in accordance with international law.
3. Outer space and celestial bodies are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.
4. The activities of States in the exploration and use of outer space shall be carried on in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and understanding.
5. States bear international responsibility for national activities in outer space, whether carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried on in conformity with the principles set forth in the present Declaration. The activities of non-governmental entities in outer space shall require authorization and continuing supervision by the State concerned. When activities are carried on in outer space by an international organization, responsibility for compliance with the principles set forth in this Declaration shall be borne by the international organization and by the States participating in it.
6. In the exploration and use of outer space, States shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space with due regard for the corresponding interests of other States. If a State has reason to believe that an outer space activity or experiment planned by it or its nationals would cause poten-

tially harmful interference with activities of other States in the peaceful exploration and use of outer space, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State which has reason to believe that an outer space activity or experiment planned by another State would cause potentially harmful interference with activities in the peaceful exploration and use of outer space may request consultation concerning the activity or experiment.

7. The State on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and any personnel thereon, while in outer space. Ownership of objects launched into outer space, and of their component parts, is not affected by their passage through outer space or by their return to the earth. Such objects or component parts found beyond the limits of the State of registry shall be returned to that State, which shall furnish identifying data upon request prior to return.

8. Each State which launches or procures the launching of an object into outer space, and each State from whose territory or facility an object is launched, is internationally liable for damage to a foreign State or to its natural or juridical persons by such object or its component parts on the earth, in air space, or in outer space.

9. States shall regard astronauts as envoys of mankind in outer space, and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of a foreign State or on the high seas. Astronauts who make such a landing shall be safely and promptly returned to the State of registry of their space vehicle.

*1280th plenary meeting
13 December 1963*

3. DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (AGENDA ITEM 43)

Resolution [1904 (XVIII)] adopted by the General Assembly

1904 (XVIII) United Nations Declaration on the Elimination of All Forms of Racial Discrimination

The General Assembly,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality of all human beings and seeks, among other basic objectives, to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Declaration, without distinction of any kind, in particular as to race, colour or national origin,

Considering that the Universal Declaration of Human Rights proclaims further that all are equal before the law and are entitled without any discrimination to equal protection of the law and that all are entitled to equal protection against any discrimination and against any incitement to such discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, and that the Declaration on the granting of independence to colonial countries and peoples proclaims in particular the necessity of bringing colonialism to a speedy and unconditional end,

Considering that any doctrine of racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination either in theory or in practice,

Taking into account the other resolutions adopted by the General Assembly and the international instruments adopted by the specialized agencies, in particular the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization, in the field of discrimination,

Taking into account the fact that, although international action and efforts in a number of countries have made it possible to achieve progress in that field, discrimination based on race, colour or ethnic origin in certain areas of the world continues none the less to give cause for serious concern,

Alarmed by the manifestations of racial discrimination still in evidence in some areas of the world, some of which are imposed by certain Governments by means of legislative, administrative or other measures, in the form, *inter alia*, of *apartheid*, segregation and separation as well as by the promotion and dissemination of doctrines of racial superiority and expansionism in certain areas,

Convinced that all forms of racial discrimination and, still more so, governmental policies based on the prejudice of racial superiority or on racial hatred, besides constituting a violation of fundamental human rights, tend to jeopardize friendly relations among peoples, co-operation between nations and international peace and security,

Convinced also that racial discrimination harms not only those who are its objects but also those who practise it,

Convinced further that the building of a world society free from all forms of racial segregation and discrimination, factors which create hatred and division among men, is one of the fundamental objectives of the United Nations,

1. *Solemnly affirms* the necessity of speedily eliminating racial discrimination throughout the world, in all its forms and manifestations, and of securing understanding of and respect for the dignity of the human person;

2. *Solemnly affirms* the necessity of adopting national and international measures to that end, including teaching, education and information, in order to secure the universal and effective recognition and observance of the principles set forth below;

3. *Proclaims* this Declaration:

Article 1

Discrimination between human beings on the ground of race, colour or ethnic origin is an offence to human dignity and shall be condemned as a denial of the principles of the Charter of the United Nations, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relations among nations and as a fact capable of disturbing peace and security among peoples.

Article 2

1. No State, institution, group or individual shall make any discrimination whatsoever in matters of human rights and fundamental freedoms in the treatment of persons, groups of persons or institutions on the ground of race, colour or ethnic origin.

2. No State shall encourage, advocate or lend its support, through police action or otherwise, to any discrimination based on race, colour or ethnic origin by any group, institution or individual.

3. Special concrete measures shall be taken in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.

Article 3

1. Particular efforts shall be made to prevent discrimination based on race, colour or ethnic origin, especially in the fields of civil rights, access to citizenship, education, religion, employment, occupation and housing.

2. Everyone shall have equal access to any place or facility intended for use by the general public, without distinction as to race, colour or ethnic origin.

Article 4

All States shall take effective measures to revise governmental and other public policies and to rescind laws and regulations which have the effect of creating and perpetuating racial discrimination wherever it still exists. They should pass legislation for prohibiting such discrimination and should take all appropriate measures to combat those prejudices which lead to racial discrimination.

Article 5

An end shall be put without delay to governmental and other public policies of racial segregation and especially policies of *apartheid*, as well as all forms of racial discrimination and separation resulting from such policies.

Article 6

No discrimination by reason of race, colour or ethnic origin shall be admitted in the enjoyment by any person of political and citizenship rights in his country, in particular the right to participate in elections through universal and equal suffrage and to take part in the government. Everyone has the right of equal access to public service in his country.

Article 7

1. Everyone has the right to equality before the law and to equal justice under the law. Everyone, without distinction as to race, colour or ethnic origin, has the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution.

2. Everyone shall have the right to an effective remedy and protection against any discrimination he may suffer on the ground of race, colour or ethnic origin with respect to his fundamental rights and freedoms through independent national tribunals competent to deal with such matters.

Article 8

All effective steps shall be taken immediately in the fields of teaching, education and information, with a view to eliminating racial discrimination and prejudice and promoting understanding, tolerance and friendship among nations and racial groups, as well as to propagating the purposes and principles of the Charter of the United Nations, of the Universal Declaration of Human Rights, and of the Declaration on the granting of independence to colonial countries and peoples.

Article 9

1. All propaganda and organizations based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin with a view to justifying or promoting racial discrimination in any form shall be severely condemned.

2. All incitement to or acts of violence, whether by individuals or organizations, against any race or group of persons of another colour or ethnic origin shall be considered an offence against society and punishable under law.

3. In order to put into effect the purposes and principles of the present Declaration, all States shall take immediate and positive measures, including legislative and other measures, to prosecute and/or outlaw organizations which promote or incite to racial discrimination, or incite to or use violence for purposes of discrimination based on race, colour or ethnic origin.

Article 10

The United Nations, the specialized agencies, States and non-governmental organizations shall do all in their power to promote energetic action which, by combining legal and other practical measures, will make possible the abolition of all forms of racial discrimination. They shall, in particular, study the causes of such discrimination with a view to recommending appropriate and effective measures to combat and eliminate it.

Article 11

Every State shall promote respect for and observance of human rights and fundamental freedoms in accordance with the Charter of the United Nations and shall fully and faithfully observe the provisions of the present Declaration, the Universal Declaration of Human Rights and the Declaration on the granting of independence to colonial countries and peoples.

*1261st plenary meeting
20 November 1963*

4. REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FIFTEENTH SESSION (AGENDA ITEM 69)

(a) Report of the Sixth Committee¹

*[Original text: English]
[6 November 1963]*

INTRODUCTION

1. At its 1210th plenary meeting held on 20 September 1963, the General Assembly decided to include the item entitled "Report of the International Law Commission on the work of its fifteenth session" in the agenda of its eighteenth session, and to allocate the item to the Sixth Committee.

2. The Sixth Committee considered this agenda item from its 780th to its 793rd meetings, held from 26 September to 15 October 1963.

¹ Document A/5601, reproduced from *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 69.

3. At the 780th meeting, the Chairman welcomed Mr. Eduardo Jiménez de Aréchaga, Chairman of the International Law Commission, on behalf of the Sixth Committee and invited him to present the Commission's report (A/5509). At the 789th meeting, held on 11 October, Mr. Jiménez de Aréchaga replied to the comments made by certain representatives during the debate.

4. The report of the International Law Commission consisted of five chapters, devoted respectively to the organization of the session, the law of treaties, the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations, the progress of work on other questions under study by the Commission, and other decisions and conclusions of the Commission. The reports of the Chairmen of the Sub-Committee on State Responsibility and of the Sub-Committee on the Succession of States and Governments appeared as annexes I and II, respectively, to the Commission's report.

5. The Sixth Committee discussed, under the agenda item, all the chapters of the report of the International Law Commission, except that on the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations, which constituted a separate item (item 70) allocated to the Sixth Committee by the General Assembly.

PROPOSAL AND AMENDMENT

6. Canada, Ceylon, Colombia, Cyprus, Guatemala, India and Indonesia submitted a draft resolution (A/C.6/L.529 and Corr.1) under which the General Assembly would (1) take note of the report of the International Law Commission covering the work of its fifteenth session; (2) express its appreciation to the Commission for the work accomplished at its fifteenth session, especially with regard to the law of treaties; (3) note with approval the programme of work for 1964 proposed by the Commission in its report; (4) recommend that the Commission should: (a) continue the work of codification and progressive development of the law of treaties, taking into account the views expressed at the eighteenth session of the General Assembly and the comments which might be submitted by Governments, in order that the law of treaties might be based on the widest and most secure foundations; (b) continue its work on State responsibility, taking into account the views expressed at the eighteenth session of the General Assembly and the report of the Sub-Committee on State Responsibility, and giving due consideration to the purposes and principles enshrined in the Charter of the United Nations; (c) continue its work on the succession of States and Governments, taking into account the views expressed at the eighteenth session of the General Assembly, the report of the Sub-Committee on the Succession of States and Governments and the comments which might be submitted by Governments, with appropriate reference to the views of States which had achieved independence since the Second World War; (d) continue its work on special missions and on relations between States and inter-governmental organizations, taking into account the views expressed at the eighteenth session of the General Assembly; (5) request the Secretary-General to forward to the International Law Commission the records of the discussions at the eighteenth session of the General Assembly on the report of the Commission; and (6) further request the Secretary-General to provide the Commission with the necessary technical services referred to in chapter V of its report.

7. Liberia submitted an oral amendment to draft resolution A/C.6/L.529 and Corr.1, entailing the deletion in paragraph 4 (c) of the words "with appropriate reference to the views of States which have achieved independence since the Second World War". This amendment was later withdrawn by the sponsor.

8. The Secretary-General submitted a statement (A/C.6/L.527) on the financial implications of the decision contained in paragraph 72 of the report of the International Law Commission.

DEBATE

9. The representatives who spoke in the debate on this subject congratulated the International Law Commission on the work it had done at its fifteenth session, with regard both to the progress achieved in the codification of the law of treaties and to the measures taken to advance the work on the other matters in the programme which had been assigned priority for codification. Thus it was pointed out that the International Law Commission, conforming to the recent resolutions adopted in that connexion by the General Assembly, had succeeded in reconciling the requirements of the development of international law and its codification with the current interests and aspirations of the international community, thereby considerably helping to strengthen the rule of law in international life, peaceful coexistence and friendly relations among States with different economic and political systems, and international peace and security in accordance with the purposes and principles of the Charter of the United Nations.

1. *Law of treaties*

Part II. Draft articles on the invalidity and termination of treaties

10. As the draft articles on invalidity, suspension and termination of treaties had been submitted to Governments so that they could make such written observations as they considered relevant, most of the representatives emphasized that they would confine themselves to general remarks of a preliminary nature concerning the general structure of the draft and on the text of the articles themselves. Some representatives stressed that Governments should make a careful study of the draft articles, and especially of those provisions which, containing as they did elements for the progressive development of the law of treaties, ought to be accepted as widely as possible.

11. A large majority of representatives considered the draft articles on the invalidity and termination of treaties prepared by the International Law Commission to be generally acceptable, although there was some difference of view with regard to the relevance, interpretation and application of certain specific provisions. Various representatives stated that the draft articles revealed a spirit of conciliation, moderation and realism which was particularly praiseworthy in that the members of the International Law Commission were drawn from countries with different cultures and different juridical, social, economic and political systems.

12. The importance of the draft was stressed by some representatives who pointed out that scrupulous respect for treaties was essential to the maintenance of friendly relations among States and the consolidation of the principles of peaceful coexistence. The International Law Commission, in its draft of the articles on invalidity and termination of treaties, had guaranteed that respect, and at the same time had introduced into the articles the idea of justice. This fact met with general approval. While some representatives emphasized the need to strengthen the principle of *pacta sunt servanda*, with a view to avoiding any weakening of the good faith and confidence which should prevail in relations between States, others laid emphasis rather on the requirement that that principle should be interpreted and applied correctly and should not be converted into something contrary to its true essence. On the same line of reasoning, many representatives thought that unjust or unequal treaties, resulting in many cases from the colonial system, were illegal by their very nature and could not be defended, or continue to be defended, on the principle of *pacta sunt servanda*. Those instruments, either because they contained undertakings incompatible with the sovereign equality of States, or because the conditions under which they had been concluded, vitiated the consent given by one of the parties, were contrary to the fundamental principles of present-day international law and should accordingly be eliminated from international relations.

13. Representatives intervening in the debate commented on almost all the articles of the draft prepared by the International Law Commission. The discussion, however, centred mainly on those dealing with provisions of internal law regarding competence to enter into treaties (article 31); fraud, error and coercion as defects of consent (articles 33-36); peremptory norms of international law (*jus cogens*) (article 37) and fundamental change of circumstances (*rebus sic stantibus*) (article 44). The provisions concerning the denunciation of treaties containing no provisions regarding their termination, denunciation or withdrawal, the termination or suspension of the operation of treaties by agreement (article 40); as a consequence of material breach or because of supervening impossibility of performance (articles 42 and 43); and the procedure for invalidation or termination of a treaty were also debated, though rather less exhaustively. The main trends of opinion concerning all those provisions has been summarized in the paragraphs below.

14. Regarding draft article 31 on provisions of internal law regarding competence to enter into treaties, some representatives expressed the view that internal law should have served as the basis for the drafting of the general rule, since international law did not regulate in detail the question of the formation of State consent, but left that matter to internal law. Certain exceptions should be made in favour of international law, however, in view of the necessity to respect the good faith of the other party or parties, particularly in multilateral treaties where it might be difficult to know the internal law of all the contracting parties. Other representatives pointed out that the article did not accord to internal law the place given it by many international treaties, for instance the Charter of the United Nations in Article 110. It was also stated that the necessity of observing the requirements of internal law should logically be dealt with in those provisions of part I of the draft articles on the law of treaties which related to the conclusion of treaties. Nevertheless, the majority of representatives speaking in the debate took the view that the International Law Commission had reached a reasonable compromise between the principal existing legal theories. Some of those representatives considered that the exception admitted to the general rule should be more clearly defined, since the term “manifest” did not seem to provide a sufficiently objective criterion, and its interpretation and application might in practice give rise to difficulties.

15. The insertion into the draft of articles dealing with fraud and error as defects of consent affecting the binding character of the treaty for a given State was welcomed by most representatives who spoke on the subject, although others voiced doubts about the appropriateness of drawing analogies in that matter between private law and international law. Some also held that fraud ought to cover any “fraudulent act”, and that the exceptions admitted to the general rule on error should be formulated with the greatest of care. Lastly, some representatives referred to the relationship that might exist between fraud and error and third States, and others added that it would be well to establish a time-limit within which the injured State could invoke fraud or error.

16. All representatives who commented on the provisions of the draft relating to coercion as a defect of consent felt that the International Law Commission had made an important contribution by distinguishing between the personal coercion of representatives of States (articles 35), traditionally recognized in international law, and the coercion of the State as such by the treat or use of force in violation of the principles of the United Nations Charter (article 36). Regarding the personal coercion of representatives of States (article 35), some representatives took the view that the injured State should be given the option of maintaining the treaty in force if it deemed fit; but that view was considered dangerous, and rejected, by other representatives. Some favoured the inclusion in the text of an explicit reference to threat against members of the families of representatives as a means of coercion.

17. The conclusions reached by the International Law Commission regarding the coercion of the State itself—namely (a) that the invalidity of a treaty procured by the illegal threat or use of force is a principle which is *lex lata* in the international law of today by reason of

the clear-cut prohibition of the threat or use of force in the United Nations Charter, and (b) that the violation of that principle renders the instrument in question void *ab initio*—were considered important achievements of the international community and received general endorsement. Nevertheless, differing opinions were expressed regarding the interpretation of “threat or use of force”. In the view of some representatives that expression should apply only to the threat or use of physical force, while many others held that it should be interpreted as meaning any kind of illegal pressure, whether economic or political. Among the latter group, some felt that the International Law Commission should revise the drafting of the present text of article 36 so as to remove any possible lacuna; others, however, did not consider such redrafting to be necessary. Certain representatives posed the question whether the provision should be interpreted retroactively, and others raised the issue of possible coercion by third States. Lastly, some representatives stressed the particular importance that the provision had for newly independent States, which at times had been constrained to accept certain instruments under political or economic pressures exerted by the former colonial Power.

18. The recognition by the International Law Commission that there exist in the general positive international law of today certain fundamental rules of international public order contrary to which States may not validly contract (*jus cogens*) was considered by all representatives who referred to the matter as being a step of great significance and importance for the progressive development of international law. Traditionally, international public order was a controversial notion, but the evolution of the international community in recent years, above all with the impetus of the Charter, had helped to turn the notion of *jus cogens* into a positive rule of international law. Many representatives pointed out that Article 103 of the Charter, by proclaiming that obligations under the Charter prevailed over obligations under any other international agreement, had aided greatly in creating that rule. Yet, as various representatives stated, its logical consequences had not been recognized, and it was that gap which the International Law Commission had filled by stating that an international treaty was void if it conflicted with a peremptory norm of international law (*jus cogens*). It was held in the debate to be a triumph of technical co-operation among jurists that the difficulty of agreeing on the sources of the rules of *jus cogens* had not prevented the members of the Commission from recognizing its existence. The majority of representatives welcomed the fact that the Commission had not drawn up a list of rules of *jus cogens*, but had left it to State practice and to the jurisprudence of international tribunals to determine those rules. While some representatives expressed concern at the difficulty of identifying the rules of *jus cogens* in practice, others pointed out types of treaties which in their view should be regarded as inconsistent with the rules of *jus cogens*—treaties, for instance, involving the illegitimate use of force, the commission of crimes under international law, the violation of human rights, intervention in the domestic affairs of a State inconsistent with the principles of the sovereign equality of States, and the disregard or violation of the principle of self-determination. A number of representatives added that the General Assembly could aid greatly in determining the rules of *jus cogens* when it examined agenda item 71—“Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations”. The question was again asked whether the provision drafted by the International Law Commission should or should not have retroactive effect, for if it did the problem of the validity of many existing treaties, especially treaties of peace, would arise. Some representatives remarked on the relative and evolutionary character of *jus cogens* as indicated by the Commission in the provision in article 45 concerning the emergence of a new peremptory norm of international law. In that regard other representatives held that that provision should be subjected to further careful study by the Commission.

19. Many representatives made comments on the provision regarding fundamental change of circumstances as grounds for terminating a treaty (article 44), usually known as the doctrine of *rebus sic stantibus*. Their statements revealed divergencies of view regarding

the advisability of including that provision, the merits of its present wording, and the possible consequences of its application in relation to the other provisions of the draft articles. A considerable number of representatives felt the provision to be useful, appropriate and necessary if international law was to keep pace with the development of the international community. They considered that this was already a principle of international law and that the International Law Commission was right to codify and define it, particularly in view of the fact that in order to prevent abuse, the Commission wisely restricted and regulated its application strictly to the law of treaties. Other representatives were of the opinion that the provision did not exist as a generally accepted rule of international law and that modern international law contained a whole series of positive principles and procedures, which enabled States to free themselves from certain over-rigid obligations without having recourse to the doctrine of *rebus sic stantibus*. Other representatives were opposed to the provision because they felt that it was not worded in a way which would provide sufficient safeguards against subjective interpretations which might introduce an element of instability into international life, and because they felt, in addition, that a provision of that kind should be accompanied by rules of procedure providing for compulsory jurisdiction or, at least, allowing for the application of the principle of good faith. Paragraph 3 (a) of article 44 stating that the provision did not apply to a treaty fixing a boundary was supported by some and criticized by others. Lastly, some representatives suggested that the possibility of examining the matter at a later date in so far as it related to the succession of States should be left open, since a fundamental change of circumstances might in certain cases be the direct consequence of the succession of States.

20. Some representatives expressed agreement with the provision recognizing an implicit right of withdrawal from a treaty which contains no provisions regarding its termination and which does not provide for denunciation or withdrawal unless it appears from the nature of the treaty or the statements of the parties (article 39). Regarding certain types of treaty, such as a treaty of alliance, it was stated, on the one hand, that an implicit right of denunciation should be assumed unless an explicit statement to the contrary was made by the parties, and on the other hand, that if such a right was to be assumed, account should be taken not only of the intentions of the parties, but of all the other circumstances surrounding the conclusion of the treaty. Other representatives expressed apprehension regarding the difficulties of interpreting and applying this provision, particularly if statements made by the parties subsequent to the drafting of the treaty were to be taken into account in determining the intentions of the parties. Lastly, still others held the view that the right to denounce a treaty should be recognized only when it was explicitly provided for in the treaty, for to seek the intentions of the parties in documents other than the treaty itself would open the door to uncertainty with regard to agreements.

21. The provision relating to the termination or suspension of a treaty by subsequent agreement (article 40) was the subject of some criticism from the point of view of the system established for multilateral treaties. Some representatives pointed out that, in its present form, the article seemed to complicate the procedure for terminating treaties by granting an unnecessary privilege to States which take part in drawing up a treaty but do not become parties to it. It was also pointed out that, in any event, if it was considered necessary to include such a provision, the transitional period at the expiry of which the agreement of the parties to the treaty alone would be required should be as short as possible. With regard to that period, it was also pointed out that the clause should be amended so that only the agreement of the States parties to the treaty was required both in the event of expiry of the agreed number of years and, if there was no agreed period, on the expiry of any other period specified in the treaty itself.

22. In connexion with the termination or suspension of the operation of a treaty as a consequence of its breach (article 42), some representatives felt that the International Law

Commission had been right in recognizing the principle of the separability of treaty provisions. Some representatives held the view that, in the case of multilateral treaties, the International Law Commission had not taken account of the fact that many multilateral treaties are essentially bilateral in application and that, therefore, the rules applicable to bilateral treaties should apply in the event of a breach of multilateral treaties. The view was also expressed that in multilateral treaties, the party injured by the breach should be given the right to terminate the treaty, at least after the expiry of a reasonable period.

23. Several representatives felt that the provision on the termination or suspension of the operation of a treaty because of supervening impossibility of performance (article 43) was incomplete. Reference was made to some cases where certain provisions of a treaty involving permanent advantages for one of the parties had been put into effect, and others where the situation making performance impossible had been deliberately created by the party concerned. It was also felt by some representatives that there was a very close link between this provision and the one on fundamental change of circumstances (*rebus sic stantibus*).

24. Many representatives expressed satisfaction at the fact that the draft articles included a provision laying down the procedure for nullifying or terminating treaties designed to provide protection against possible unilateral or arbitrary action. Some representatives regretted that the Commission had not specified the compulsory jurisdiction of the International Court of Justice as a procedure for settling conflicts. Others, on the other hand, commended the Commission for its realistic approach, inasmuch as in confining itself to the procedure for the settlement of disputes laid down in Article 33 of the Charter, it had taken account of the present practice of States.

2. *Action taken by the International Law Commission on other questions under study*

25. All the representatives who spoke on the question expressed their satisfaction at the action taken by the International Law Commission to pursue and speed up its work on those items in its programme to which it had given priority, namely, the law of treaties, State responsibility, the succession of States and Governments, special missions and relations between States and inter-governmental organizations. The appointment of Special Rapporteurs on State responsibility, the succession of States and Governments, and special missions, won general approval. Various representatives stressed the need to establish some degree of co-ordination between the Special Rapporteurs on the law of treaties, State responsibility and the succession of States and Governments, to which the Commission itself had drawn attention in its report.

26. Many representatives expressed their appreciation of the work done by the Sub-Committees on State Responsibility and the Succession of States and Governments, and they approved the general conclusions which the Commission had reached on the basis of the reports submitted on behalf of the Sub-Committees by their Chairmen.

27. Regarding State responsibility, some representatives stated that although they approved the Commission's general conclusions, they still felt that State responsibility for injuries to the persons or property of aliens was the central issue. Nevertheless, some of the representatives who spoke in the debate stressed the need to begin codifying the topic by defining the general rules governing State responsibility. It was believed by some representatives in that connexion that the Commission should study State responsibility for violation of fundamental rules of modern international law, i.e., responsibility for acts prejudicial to the maintenance of international peace and security and peaceful co-existence, for denial of the right of self-determination to colonial peoples and for violation of the principles of the sovereign equality of States and the freedom of States to dispose of their natural resources. In the opinion of some representatives State responsibility raised the question not only of compensation but also of sanctions against the State incurring the responsibility. Finally,

some representatives drew attention to the need to study the problems connected with the penal responsibility of States and the responsibility of international organizations.

28. The Commission's decision to give priority to the succession of States and not to deal with the succession of Governments for the time being, and its decision that succession in relation to treaties should be studied first, as part of the succession of States rather than as part of the law of treaties, received general approval. During the debate several representatives pointed out that the topic was particularly important for States which had just gained their independence. Thus some argued that the succession of States should be studied not merely with regard to the traditional practice of States in the matter, but also, and principally, in the light of the principles of the United Nations Charter and the situation created by the disappearance of the colonial system. Some representatives raised the question of how far new States could be considered as successors to treaty obligations which had been contracted by the Powers administering their territories before their independence and to which they had thus not freely consented.

29. Several representatives expressed their satisfaction at the fact that the Commission had already begun a general debate on the first report submitted by the Special Rapporteur on relations between States and inter-governmental organizations (A/CN.4/161 and Add.1) and emphasized the importance they attached to the study of the question by the Commission.

30. Finally, some representatives expressly indicated their agreement with the approach to the codification of the topic of special missions referred to in chapter IV of the Commission's report (A/5509).

3. *Programme of work and date of the next session of the International Law Commission*

31. During the debate several representatives expressed their approval of the programme of work adopted by the Commission for 1964 (see A/5509, chap. V). Nevertheless, as regards the proposal to hold a three-week winter session from 6 to 24 January 1964 devoted specifically to consideration of the draft articles being prepared by the Special Rapporteur on special missions, some speakers urged that the financial implications of such a session and the administrative difficulties it would entail (see A/C.6/L.527) should be taken into account.

32. At the 792nd meeting, on 17 October 1963, the Legal Counsel informed the Sixth Committee that in view of the fact that the Special Rapporteur for special missions had indicated that he would not be able to deliver his 150-page report to the Secretariat before 10 December 1963, the French text of the report would not be available at the European Office of the United Nations, Geneva before 6 January 1964 and the Spanish and English texts could not be circulated before 30 January 1964. In the circumstances the Secretariat could not recommend to the Fifth and Sixth Committees that \$67,300 should be allocated for a winter session which might prove pointless. If the Commission decided at its sixteenth regular session to prolong that session by two weeks, the Secretariat would take steps to request the funds necessary for the two extra weeks.

33. The Legal Counsel also stated that consideration had been given to the possibility of postponing the opening of the proposed winter session in order to give time for the Special Rapporteur's report on special missions to be prepared and distributed, but that it was impracticable because some members of the International Law Commission could not attend a winter session beginning later than scheduled and because the 1964 time-table of United Nations meetings was so crowded that the Secretariat might not be able to provide the necessary facilities.

34. Because of the difficulties mentioned by the Legal Counsel, the view was advanced that it would be preferable to cancel the proposed 1964 winter session, and approval was expressed of the operative paragraph of the draft resolution (A/C.6/L.529 and Corr.1) concerning the Commission's 1964 work programme subject to that reservation.

4. *Other decisions and conclusions of the Commission*

35. With regard to co-operation by the Commission with other bodies, many representatives noted with satisfaction that the Commission had decided to be represented by its Chairman at the next session of the Asian-African Legal Consultative Committee.

36. Several representatives voiced their satisfaction at the considerable improvement in the facilities made available to the Commission for the publication and translation of documents and summary records and expressed the hope that there would be further improvement with regard to the delay in the translation of documents into Spanish.

VOTING

37. At its 793rd meeting, on 15 October 1963, the Sixth Committee unanimously approved draft resolution A/C.6/529 and Corr.1.

Recommendation of the Sixth Committee

38. The Sixth Committee therefore recommends that the General Assembly should adopt the following draft resolution:

[*Text adopted by the General Assembly without change. See "Resolution adopted by the General Assembly" below.*]

(b) Resolution adopted by the General Assembly

At its 1258th plenary meeting, on 18 November 1963, the General Assembly adopted the draft resolution submitted by the Sixth Committee, (para. 38 above). For the final text, see resolution 1902 (XVIII) below

1902 (XVIII). Report of the International Law Commission.

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifteenth session (A/5509),

Recalling resolution 1765 (XVII) of 20 November 1962, by which the Assembly recommended that the Commission should continue its work of codification and progressive development of the law of treaties and its work on State responsibility and on the succession of States and Governments,

Emphasizing the need for the further codification and progressive development of international law with a view to making it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Noting that the work of codification of the topics of State responsibility, the succession of States and Governments, special missions and relations between States and inter-governmental organizations is proceeding satisfactorily, as set forth in chapter IV of the report of the Commission,

1. *Takes note* of the report of the International Law Commission on the work of its fifteenth session;

2. *Expresses appreciation* to the Commission for the work accomplished at its fifteenth session, especially with regard to the law of treaties;

3. *Notes with approval* the programme of work for 1964 proposed by the Commission in its report;

4. *Recommends* that the Commission should:

(a) Continue the work of codification and progressive development of the law of treaties, taking into account the views expressed at the eighteenth session of the General Assembly and the comments which may be submitted by Governments, in order that the law of treaties may be placed upon the widest and most secure foundations;

(b) Continue its work on State responsibility, taking into account the views expressed at the eighteenth session of the General Assembly and the report of the Sub-Committee on State Responsibility (*ibid.*, annex I), and giving due consideration to the purposes and principles enshrined in the Charter of the United Nations;

(c) Continue its work on the succession of States and Governments, taking into account the views expressed at the eighteenth session of the General Assembly, the report of the Sub-Committee on the Succession of States and Governments (*ibid.*, annex II) and the comments which may be submitted by Governments, with appropriate reference to the views of States which have achieved independence since the Second World War;

(d) Continue its work on special missions and on relations between States and inter-governmental organizations, taking into account the views expressed at the eighteenth session of the General Assembly;

5. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussions at the eighteenth session of the General Assembly on the report of the Commission;

6. *Further requests* the Secretary-General to provide the International Law Commission with the necessary technical services referred to in chapter V of its report.

*1258th plenary meeting
18 November 1963*

5. QUESTION OF EXTENDED PARTICIPATION IN GENERAL MULTILATERAL TREATIES CONCLUDED UNDER THE AUSPICES OF THE LEAGUE OF NATIONS (AGENDA ITEM 70)

(a) Report of the Sixth Committee¹

[*Original text: Spanish and Russian*]
[8 November 1963]

INTRODUCTION

1. At its seventeenth session the General Assembly, having considered chapter II of the report of the International Law Commission covering the work of its fourteenth session,² which contained draft articles and commentaries on the conclusion, entry into force and registration of treaties, adopted on 20 November 1962 resolution 1766 (XVII), on the participation of new States in the general multilateral treaties mentioned in paragraph (10) of the commentary to articles 8 and 9 of the draft articles on the conclusion, entry into force and registration of treaties, drawn up by the International Law Commission.³ The operative

¹ Document A/5602, reproduced from *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 70.

² *Official Records of the General Assembly, Seventeenth Session, Supplement No. 9.*

³ *Ibid.*, *Seventeenth Session, Annexes*, agenda item 76, document A/5287.

part of resolution 1766 (XVII), entitled "Question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations", stated the following:

"1. *Requests* the International Law Commission to study further the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations, giving due consideration to the views expressed during the discussions at the seventeenth session of the General Assembly, and to include the results of the study in the report of the Commission covering the work of its fifteenth session;

"2. *Decides* to place on the provisional agenda of its eighteenth session an item entitled 'Question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations'."

2. In compliance with operative paragraph 1 of the above resolution, the International Law Commission considered the question and reached a series of conclusions, which appear in chapter III of the report on the work of its fifteenth session (A/5509, paras. 18-50).

3. At its 1210th plenary meeting, held on 20 September 1963, the General Assembly decided to include the item entitled "Question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations" in the agenda of its eighteenth session and to allocate that item to the Sixth Committee.

4. The Sixth Committee considered that agenda item at its 794th to 802nd meetings, held from 16 to 29 October 1963.

PROPOSAL AND AMENDMENTS

5. Australia, Ghana, Greece, Guatemala, Indonesia, Mali, Morocco, Nigeria and Pakistan submitted a draft resolution (A/C.6/L.532), under which the General Assembly would: (1) decide that the General Assembly is the appropriate organ of the United Nations which should exercise the power conferred by multilateral treaties of a technical and non-political character on the Council of the League of Nations to invite States to accede to those treaties; (2) record that those Members of the United Nations which are parties to the treaties referred to above assent, by this resolution, to the decision in the preceding paragraph and express their resolve to use their good offices to secure the co-operation of the other parties to the treaties so far as this may be necessary; (3) request the Secretary-General (*a*) as depositary of the treaties referred to above, to bring to the notice of any party which is not a Member of the United Nations the terms of the present resolution; (*b*) to transmit copies of the present resolution to Members of the United Nations which are parties to these treaties; (*c*) to consult, where necessary, with the States referred to in sub-paragraphs (*a*) and (*b*) of this paragraph as to whether any of the treaties in question have ceased to be in force, have been superseded by later treaties, have otherwise ceased to be of interest for accession by additional States, or required action to adapt them to contemporary conditions; (*d*) to report on these matters to the General Assembly at its nineteenth session; (4) further request the Secretary-General to invite which, otherwise, is not eligible to become a party to the treaties in question, to accede thereto by depositing an instrument of accession with the Secretary-General of the United Nations; (5) decide to place on the provisional agenda of its nineteenth session an item entitled: "General multilateral treaties concluded under the auspices of the League of Nations".

6. At the 801st meeting, the co-sponsors of draft resolution A/C.6/L.532 accepted a suggestion made by the representative of Poland at the 797th meeting and accordingly amended operative paragraph 3 (*c*) of the draft resolution to read: "to consult, where necessary, with the States referred to in sub-paragraphs (*a*) and (*b*) of this paragraph and

with the United Nations organs and the specialized agencies concerned as to whether any of the treaties in question. . .”.

7. Ghana, Indonesia, Mali, Morocco and Nigeria submitted an amendment (A/C.6/L.533 and Corr. 1 and 2) to resolution A/C.6/L.532 proposing that operative paragraph 4 of the draft resolution should be completed by the insertion of the words “. . .any State. . .”.

8. Australia, Greece and Guatemala submitted an amendment (A/C.6/L.534) to draft resolution A/C.6/L.532 designed to complete the text of operative paragraph 4 of the draft resolution by the addition of the words “. . .each State Member of the United Nations or of a specialized agency. . .”.

9. Colombia, Congo (Leopoldville), Jamaica and Nicaragua submitted a further amendment (A/C.6/L.536 and Add.1) to draft resolution A/C.6/L.532. Under this amendment operative paragraph 4 of the draft resolution would be completed by the insertion of the following phrase: “each State which is a Member of the United Nations or of a specialized agency or a Party to the Statute of the International Court of Justice, or has been designated for this purpose by the General Assembly, and. . .”. At the 800th meeting Australia, Greece and Guatemala withdrew their amendment (A/C.6/L.534) in favour of the amendment in document A/C.6/L.536 and Add.1.

10. At the 801st meeting, Ceylon submitted an oral amendment to draft resolution A/C.6/L.532 for the deletion of operative paragraph 4 of the draft resolution.

11. The Secretary-General submitted a note (A/5528), for the convenience of delegations, reproducing the relevant parts of the summary records of the 712th and 713th meetings of the International Law Commission, at which the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations had been discussed.

DEBATE

12. The Committee discussed the merits of draft resolution A/C.6/L.532 and of the amendments. This draft resolution was based, generally speaking, on the conclusions reached by the International Law Commission.

13. All the representatives who spoke in the debate expressed warm approval for the ultimate aim of the draft resolution, namely the participation of new States in multilateral treaties of a technical and non-political character concluded under the auspices of the League of Nations, which had become closed as a result of the demise of the League. Many representatives pointed out that it could be inferred from the participation clauses in those treaties that it had been the intention of the parties that they should be open treaties and that only an event foreign to the wishes of the parties had changed them into closed treaties. Some representatives observed that wider participation in those treaties would be in the general interests of the international community and would at the same time strengthen the principle of the sovereign equality of all States.

14. The representatives who spoke in the debate also approved of the procedure proposed in draft resolution A/C.6/L.532, though a number of them expressed doubts about the relevance of some of the provisions to the aim in view. For example, various representatives wondered what would happen if one or more of the parties to the treaties voted against the draft resolution or abstained in the vote. The sponsors of the draft resolution expressed the hope that there would be no opposition to it and said that if there were any abstentions an effort would have to be made to induce the States in question to change their attitude. It was pointed out that the procedure of a protocol of amendment would not rule out the possibility of one or more of the States Parties objecting to the amendment of the participation clauses.

15. Some representatives expressed the view that the procedure proposed in the draft resolution would not ensure participation in the twenty-one treaties by the States referred to in the draft resolution's preamble. What was needed in many of those treaties, they held, was not mere adaptation of the participation clauses to enable the United Nations to assume the functions of the League of Nations, but revision of those clauses in order to renew a possibility which had ceased to exist long before the demise of the League. In accordance with that interpretation of the participation clauses of a number of treaties, those treaties had become closed before the dissolution of the League of Nations; the United Nations General Assembly could not exercise powers which the Council of the League had no longer possessed at the time of the League's dissolution. Accordingly, to enable the new States to accede to those treaties it would be necessary to adopt the procedure of an amending protocol. In the resolution approving the protocol, the General Assembly could also request the States Parties to the treaties to sign the protocol and put it into effect without delay. Other representatives took the view that under a more liberal interpretation of the participation clauses of the treaties it might be considered that the powers of the Council of the League of Nations had not been limited in time. Lastly, some representatives held that the possible need to revise some treaties through an amending protocol should not impede the adoption of draft resolution A/C.6/L.532. If in the course of time it proved necessary to employ the protocol procedure in certain cases, there was nothing to prevent that being done. In the meantime there should be no obstacle to the immediate participation by new States in those treaties to which accession would be made feasible simply by the adoption of the draft resolution.

16. Some representatives pointed out that the procedure proposed in the draft resolution might open the treaties to accession but not necessarily to effective participation by new States, since a resolution of the General Assembly could not bind States Parties in that respect. Those representatives took the view that draft resolution A/C.6/L.532 would be a temporary measure which might later yield positive results, depending on the outcome of the consultations requested of the Secretary-General. Other representatives expressed satisfaction at the conclusion reached by the International Law Commission to the effect that the special form of the participation clauses of the treaties appeared to diminish the force of the possible constitutional difficulties which some representatives had pointed out when the Sixth Committee had discussed the question at the seventeenth session.

17. As to the force and interest of the treaties in the present circumstances, the sponsors of the draft resolution considered that, although some of them were clearly in full effect and were of real and current interest to States, others might have ceased to be in force or lost their value or they might have been superseded by later treaties, or need to be adapted to the contemporary conditions of the world community. Therefore, the Secretary-General should consult the parties only where the state of the treaties seemed dubious, while in the remaining cases accessions of new States could be recorded immediately. Some representatives stated that it was illogical to seek the assent *in abstracto* of States Parties to the treaties without first studying the nature of the treaties in the light of contemporary conditions in order to determine whether they were of interest to new States. Others suggested that this need to study the treaties, coupled with the fact that the question was not especially urgent, made it advisable to examine the treaties before inviting new States to accede to them. Lastly, certain representatives expressed the opinion that the review should not be limited to the closed treaties but should also cover the treaties which did not have restrictive participation clauses. Such open treaties as were of interest to the new States and the international community should be brought up to date in their turn. The co-sponsors explained that no League of Nations function had ever existed in relation to these treaties and that, as there was nothing which could be transferred to the United Nations, it would not have been appropriate to include them in the draft resolution.

18. The paragraph of draft resolution A/C.6/L.532 which gave rise to the greatest amount of controversy was the one concerning the States that should be invited to accede to the treaties under consideration. Some representatives held that all States should be so invited (A/C.6/L.533 and Corr. 1 and 2). They stressed the desirability and necessity of reaffirming the principle of universality with regard to participation in general multilateral treaties; the participation of all States in such treaties, specially those of a technical and non-political character, was an inherent right of the State deriving from the principle of the sovereign equality of all States and its disregard was detrimental to peaceful world-wide co-operation and to the progressive development of international law. The adoption of formulae discriminating against certain States was inadmissible, contrary to the true interest of the United Nations and incompatible with the Purposes and Principles of the Charter and with the rules of general international law. In support of this point of view it was argued that the principle in question had been recognized in the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, signed at Moscow on 5 August 1963, in several resolutions of the General Assembly concerning the restoration of law and order in the Republic of the Congo (Leopoldville), such as resolution 1474 (ES-IV), and in article 8 of the International Law Commission's draft on the conclusion, entry into force and registration of treaties.

19. Other representatives took the view that, in accordance with the practice followed up to the present by the United Nations, an invitation should be extended only to States Members of the United Nations or of the specialized agencies (A/C.6/L.534). Some of those representatives held that the right of all States to participate in general multilateral treaties was not an established rule of international law and that there was nothing contrary to international law in defining the States which might accede to a treaty. Moreover, an invitation extended to all States would make it impossible for some States Parties to the treaties to agree to the procedure proposed in the nine-Power draft resolution, thus defeating its purpose. It was also argued that a decision to invite all States to participate would place the Secretary-General in a position where he would be forced to refer the matter back to the General Assembly with a request for an exhaustive list of the States eligible to become parties to the treaties. Speaking on behalf of the Secretary-General, the Legal Counsel stressed that the Secretary-General could not undertake to decide which entities not Members of the United Nations or the specialized agencies were States, and thus would require specific instructions from the General Assembly in that regard. Lastly, it was said that the Sixth Committee should refrain from deciding political issues which went beyond its competence. Those representatives considered that neither the Moscow Treaty, nor the General Assembly resolutions regarding the restoration of law and order in the Republic of the Congo (Leopoldville), nor yet article 8 of the International Law Commission's draft on the conclusion, entry into force and registration of treaties, justified the adoption of the "all States" formula.

20. Some representatives favouring an invitation to all States pointed out that in the case of open treaties for which the Secretary-General acted as depositary nothing prevented entities purporting to be States from acceding to the treaties. Other representatives taking the same position stated that it was illogical to limit accession to States Members of the United Nations or of the specialized agencies since that formula would be more restrictive than was desired by the parties to the treaties in question; the treaties authorized the Council of the League of Nations to invite the participation of States which were not Members of the League.

21. Some representatives considered that, in principle, general multilateral treaties should be regarded as open except where the parties to it declared the contrary. The consent of the parties was necessary since the principle of the sovereignty of States would be impaired by attempts to impose on a State the recognition of another State through accession to a treaty. Others stated, on the contrary, that a State was free to recognize another or not,

but that it could not deny its existence as a State and consequently its right to participate in general multilateral treaties.

22. In view of the difference of views, some representatives proposed that the decision on which States were to be invited to accede to the treaties should be postponed until the nineteenth session of the General Assembly. Other representatives opposed that proposal. Finally, the Committee decided in favour of the formula proposed in the amendment in document A/C.6/L.536 and Add.1, which was based in particular on the relevant provisions of the 1961 Vienna Convention on Diplomatic Relations⁴ and the 1963 Vienna Convention on Consular Relations.⁵ The formula proposed in the amendment was considered by some representatives to be a genuine compromise. Others, however, thought that in practice it did no more than perpetuate the discrimination against certain States. Finally, some representatives stated that although in the present circumstances the formula in question would continue to restrict participation in general multilateral treaties, it nevertheless meant some progress, since it authorized the General Assembly to invite any State which was not a member of the United Nations or of a specialized agency or a party to the Statute of the International Court of Justice.

23. Some representatives stated that the solution adopted on the question of extended participation in treaties concluded under the auspices of the League of Nations did not in any way prejudge the solution to be adopted in due course in the question of the succession of States and Governments. Finally, some representatives reserved the position of their Governments on the question of what measures might be taken in the future with regard to the substance of the treaties in question.

VOTING

24. At its 801st meeting, on 28 October 1963, the Sixth Committee adopted by 35 votes to 33, with 17 abstentions, a motion for closure of the debate made by the representative of Lebanon. The Committee then proceeded to vote on draft resolution A/C.6/L.532 as orally revised by its sponsors and the amendments to it. The result of the voting was as follows:

(a) The oral amendment by Ceylon proposing the deletion of operative paragraph 4 of the draft resolution (A/C.6/L.532) was rejected in a roll-call vote by 40 votes to 39, with 12 abstentions. The result of the voting was as follows:

In favour: Afghanistan, Albania, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Cuba, Czechoslovakia, Dahomey, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Ivory Coast, Lebanon, Madagascar, Mali, Mauritania, Mongolia, Morocco, Niger, Nigeria, Poland, Romania, Sierra Leone, Sudan, Syria, Tanganyika, Togo, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Against: Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Canada, Chad, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, France, Greece, Guatemala, Iceland, Iran, Ireland, Israel, Italy, Jamaica, Japan, Liberia, Luxembourg, Malaysia, Netherlands, New Zealand, Nicaragua, Panama, Peru, Philippines, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Central African Republic, Cyprus, Finland, Jordan, Kuwait, Libya, Mexico, Norway, Saudi Arabia, Uganda, Upper Volta, Yemen.

⁴ See *United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, Volume II, Annexes* (United Nations publication, Sales No. : 62.X.1).

⁵ See *United Nations Conference on Consular Relations, Official Records, Volume II, Annexes* (United Nations publication, Sales No. : 63.X.2).

(b) The amendment (A/C.6/L.533 and Corr. 1 and 2) submitted by Ghana, Indonesia, Mali, Morocco and Nigeria was rejected in a roll-call vote by 42 votes to 38, with 10 abstentions. The result of the voting was as follows:

In favour: Afghanistan, Albania, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Central African Republic, Ceylon, Chad, Cuba, Czechoslovakia, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Ivory Coast, Mali, Mauritania, Mongolia, Morocco, Niger, Nigeria, Poland, Romania, Sierra Leone, Sudan, Syria, Tanganyika, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Upper Volta, Yemen, Yugoslavia.

Against: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Dahomey, Denmark, Ecuador, Finland, France, Greece, Guatemala, Iceland, Iran, Ireland, Israel, Italy, Jamaica, Japan, Liberia, Luxembourg, Madagascar, Malaysia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Burma, Cyprus, Jordan, Kuwait, Lebanon, Libya, Mexico, Saudi Arabia, Togo, Uganda.

(c) The amendment (A/C.6/L.536 and Add.1) submitted by Colombia, Congo (Leopoldville), Jamaica and Nicaragua was adopted by 57 votes to 12, with 14 abstentions.

(d) Operative paragraph 4 of draft resolution A/C.6/L.532 as completed by the amendment (A/C.6/L.536 and Add.1) was adopted by 63 votes to 10, with 15 abstentions.

(e) Draft resolution A/C.6/L.532, as a whole, as orally revised by its sponsors and completed by the amendment (A/C.6/L.536 and Add.1) was adopted by 69 votes to none, with 22 abstentions.

Recommendation of the Sixth Committee

25. The Sixth Committee therefore recommends that the General Assembly adopt the following draft resolution:

[*Text adopted by the General Assembly without change. See "Resolution adopted by the General Assembly" below.*]

(b) Resolution adopted by the General Assembly

At its 1259th plenary meeting, on 18 November 1963, the General Assembly adopted the draft resolution submitted by the Sixth Committee (para. 25 above), after having rejected, at the same meeting, an amendment submitted by Ceylon and Ghana (A/L.431/Rev.1) and one submitted by Czechoslovakia (A/L.432). For the final text, see resolution 1903 (XVIII) below.

1903 (XVIII). Participation in general multilateral treaties concluded under the auspices of the League of Nations

The General Assembly,

Having considered the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations, and the report of the International Law Commission thereon (A/5509),

Noting that there are twenty-one such treaties of a technical and non-political character which by their terms authorized the Council of the League of Nations to invite additional States to become parties, and thus were not intended to be closed to new States,

Further noting that since the Council of the League ceased to exist a large number of new States have come into being and that many of them have been unable to become parties to the treaties in question through lack of an invitation to accede,

Recalling the recommendation made by the Assembly of the League of Nations at its final session, that its Members should facilitate in every way the assumption by the United Nations of functions and powers entrusted to the League of Nations under international agreements of a technical and non-political character,⁶

Further recalling that the General Assembly, in resolution 24 (I) of 12 February 1946, declared that the United Nations was willing in principle to assume the exercise of certain functions and powers previously entrusted to the League of Nations under international agreements,

1. *Decides* that the General Assembly is the appropriate organ of the United Nations to exercise the power conferred by multilateral treaties of a technical and non-political character on the Council of the League of Nations to invite States to accede to those treaties;

2. *Records* that those Members of the United Nations which are parties to the treaties referred to above assent by the present resolution to the decision set forth in paragraph 1 above and express their resolve to use their good offices to secure the co-operation of the other parties to the treaties so far as this may be necessary;

3. *Requests* the Secretary-General:

(a) As depositary of the treaties referred to above, to bring to the notice of any party which is not a Member of the United Nations the terms of the present resolution;

(b) To transmit copies of the present resolution to States Members of the United Nations which are parties to those treaties;

(c) To consult, where necessary, with the States referred to in sub-paragraphs (a) and (b) above, and with the United Nations organs and the specialized agencies concerned as to whether any of the treaties in question have ceased to be in force, have been superseded by later treaties, have otherwise ceased to be of interest for accession by additional States, or require action to adapt them to contemporary conditions;

(d) To report on these matters to the General Assembly at its nineteenth session;

4. *Further requests* the Secretary-General to invite each State which is a Member of the United Nations or member of a specialized agency or a party to the Statute of the International Court of Justice, or has been designated for this purpose by the General Assembly, and which otherwise is not eligible to become a party to the treaties in question, to accede thereto by depositing an instrument of accession with the Secretary-General of the United Nations;

5. *Decides* to place on the provisional agenda of its nineteenth session an item entitled "General multilateral treaties concluded under the auspices of the League of Nations".

*1259th plenary meeting
18 November 1963*

⁶ League of Nations *Official Journal, Special Supplement No. 194*, p. 57 (resolution of 18 April 1946).

6. CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS (AGENDA ITEM 71)

(a) Report of the Sixth Committee¹

[Original text: French and Russian]
[13 December 1963]

INTRODUCTION

1. At its seventeenth session the General Assembly adopted, on 18 December 1962, resolution 1815 (XVII) entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations".

2. The operative part of that resolution read as follows:

"The General Assembly,
"...

"1. *Recognizes* the paramount importance, in the progressive development of international law and in the promotion of the rule of law among nations, of the principles of international law concerning friendly relations and co-operation among States and the duties deriving therefrom, embodied in the Charter of the United Nations which is the fundamental statement of those principles, notably:

"(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

"(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

"(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

"(d) The duty of States to co-operate with one another in accordance with the Charter;

"(e) The principle of equal rights and self-determination of peoples;

"(f) The principle of sovereign equality of States;

"(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

"2. *Resolves* to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application;

"3. *Decides accordingly* to place the item entitled 'Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations' on the provisional agenda of its eighteenth session in order to study:

"(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

¹ Document A/5671, reproduced from *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 71.

“(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

“(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

“(d) The principle of sovereign equality of States;

and to decide what other principles are to be given further consideration at subsequent sessions and the order of the priority;

“4. *Invites* Member States to submit in writing to the Secretary-General, before 1 July 1963, any views or suggestions that they may have on this item, and particularly on the subjects enumerated in paragraph 3 above, and requests the Secretary-General to communicate these comments to Member States before the beginning of the eighteenth session.”

3. In accordance with operative paragraph 3 of resolution 1815 (XVII) the General Assembly, at its 1210th plenary meeting held on 20 September 1963, placed the item entitled “Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations” on the agenda of its eighteenth session and referred it to the Sixth Committee.

4. The Sixth Committee considered that agenda item at its 802nd to 825th meetings, from 29 October to 3 December, at its 829th meeting and at its 831st to 834th meetings, on 6, 9, 10 and 11 December 1963.

5. In accordance with operative paragraph 4 of resolution 1815 (XVII), eighteen Member States submitted in writing their views and suggestions on that item. The replies were published in documents A/5470 and Add.1 and 2.

6. A resolution entitled “Reduction of tensions and promotion of goodwill and mutual understanding; progressive development of international law,” adopted by the Eighteenth Plenary Assembly of the World Federation of United Nations Associations held at New York from 9 to 14 September 1963, was circulated under the symbol A/C.6/L.535.

7. A selection of documents prepared by the Secretariat was circulated under the symbol A/C.6/L.537.

PROPOSALS AND AMENDMENTS

8. Czechoslovakia submitted a working paper (A/C.6/L.528). That document provided for the establishment of two working groups after a general discussion of the principles enumerated in resolution 1815 (XVII): one to prepare a preliminary draft of the four principles in operative paragraph 3 of the resolution; the other to compile a list of other principles which should be given further consideration. The Czechoslovak working paper also suggested that the Committee should consider what additional measures could be taken to expedite the whole operation with a view to completing it, if possible, at the General Assembly’s nineteenth session.

9. Another working paper was submitted by Australia, Canada, Denmark, France, Malaysia and the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.531 and Corr.1). According to that working paper, the Committee would decide to study in turn each of the four topics enumerated in operative paragraph 3 of the resolution, without commitment at that stage as to the formulation of the results of that study, and would wait until its work was more advanced before deciding what further topics were to be added to its agenda.

10. A draft resolution (A/C.6/L.538 and Corr.1) was submitted by Afghanistan, Algeria, Burma, Cambodia, Cameroon, Ceylon, Cyprus, Ethiopia, Ghana, Guinea, India, Indonesia, Mali, Morocco, Nigeria, Somalia, Syria, Tanganyika, the United Arab Republic

and Yugoslavia. They proposed, *inter alia*, the establishment of a special committee which would begin its meetings in the course of the current session with a view to drawing up proposals for the progressive development and codification of the four principles enumerated in resolution 1815 (XVII). The committee would report to the Assembly at its nineteenth session, when the Assembly would also consider the three principles in operative paragraph 1 of resolution 1815 (XVII), which had not been referred to it at the current session.

11. Another draft resolution (A/C.6/L.539) was submitted by Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Nicaragua, Peru and Venezuela. That resolution also called for the establishment of a special committee to study the four principles, but recommended that it should be composed of jurists of recognized competence in international law. It would start its work as soon as possible and report to the General Assembly at its nineteenth session.

12. Draft resolutions A/C.6/L.538 and Corr.1 and A/C.6/L.539 were later combined in a single text (A/C.6/L.541 and Corr.1 and Add.1 and 2) submitted by the co-sponsors of the two above-mentioned drafts together with Brazil, Chile, Iraq, Lebanon, Liberia, Mauritania, Mexico, Niger, Panama, Philippines, Sierra Leone, Thailand and Togo.

13. That draft resolution read as follows:

“The General Assembly,

“Bearing in mind paragraph 1 a of Article 13 of the Charter of the United Nations,

“Recalling its resolutions 1505 (XV) of 12 December 1960, 1686 (XVI) of 18 December 1961, and 1815 (XVII) of 18 December 1962, which affirm the importance of encouraging the progressive development of international law and its codification and making it a more effective means of furthering the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

“Having decided in operative paragraph 2 of resolution 1815 (XVII) to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application, and accordingly to study at the eighteenth session the four principles enumerated in paragraph 3 thereof;

“1. Decides to establish a special committee of Member States to be appointed by the President of the General Assembly, taking into consideration the principle of equitable geographical representation and the necessity that the principal legal systems of the world should be represented, for the purpose of drawing up a report containing recommendations for the progressive development and codification of the four principles so as to secure their more effective application, taking into account in particular:

“(a) The practice of the United Nations and of States in the application of the principles established in the Charter;

“(b) The comments of Governments on this subject, in accordance with operative paragraph 4 of resolution 1815 (XVII);

“(c) The views and suggestions advanced by the representatives of Member States during the seventeenth and eighteenth ordinary sessions of the General Assembly;

“2. Recommends the Governments of the States designated members of the Special Committee, in view of the general importance and the technical aspect of the item, to appoint jurists as their representatives on the said committee;

“3. Requests the Special Committee to start its work as soon as possible and to submit its report to the General Assembly at its nineteenth session;

“4. *Requests* the Secretary-General to co-operate with the Special Committee in its work, and to provide all the services and facilities necessary for its meetings, including: (a) a systematic summary of the comments, statements, proposals and suggestions of Member States on this item, (b) a systematic summary of the practice of the United Nations and of views expressed by Member States in the United Nations in respect of the four principles, (c) such other material as he deems relevant;

“5. *Decides* to place the item entitled ‘Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations’ on the provisional agenda of its nineteenth session in order first to consider the report of the Special Committee and secondly, to study in accordance with operative paragraphs 2 and 3 (d) of resolution 1815 (XVII) the following principles:

“(a) The duty of States to co-operate with one another in accordance with the Charter;

“(b) The principle of equal rights and self-determination of peoples;

“(c) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

“6. *Invites* Member States to submit in writing to the Secretary-General, before 1 July 1964, any views or suggestions that they may have on the principles enumerated in paragraph 5 above and further urges those Member States which have not already done so to submit by that date their views in accordance with operative paragraph 4 of resolution 1815 (XVII);

“7. *Requests* the Secretary-General to communicate the comments requested in subparagraph (a) above to Member States before the beginning of the nineteenth session.”

14. Australia, Greece, Italy, Norway, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America submitted the following amendments (A/C.6/L.542) to draft resolution A/C.6/L.541 and Corr.1 and Add.1 and 2:

“1. Insert as a new first preambular paragraph:

“‘*Convinced* of the paramount importance of the Charter in the progressive development of international law and in the promotion of the rule of law among nations’.

“2. Substitute a comma for the colon appearing at the end of the third preambular paragraph and add, as a final preambular paragraph:

“‘*Considering* that the study contemplated has been initiated by the Sixth Committee at its eighteenth session and that the subsequent debate has made a useful contribution to that study’.

“3. In operative paragraph 1, replace the words:

“‘for the purpose of drawing up a report containing recommendations for the progressive development and codification of the four principles so as to secure their more effective application’ by the words :

“‘for the continued study of the four principles with a view to their progressive development and codification so as to secure their more effective application, in accordance with resolution 1815 (XVII)’.”

Those amendments were withdrawn at the 833rd meeting after the introduction of the Lebanese oral amendment.

15. Poland, Romania and Czechoslovakia submitted an amendment (A/C.6/L.543) to draft resolution A/C.6/L.541 and Corr.1 and Add.1 and 2 by which the words “for the purpose of drawing up a report containing recommendations for the progressive development and codification of the four principles” in operative paragraph 1 would be replaced by the words “for the purpose of preparing draft formulations of the four principles with a view

to their progressive development and codification". That amendment was withdrawn at the 833rd meeting after the introduction of the Lebanese oral amendment.

16. Jamaica and Madagascar also submitted an amendment (A/C.6/L.545) to draft resolution A/C.6/L.541 and Corr.1 and Add. 1 and 2 proposing that the words "for the purpose of drawing up a report containing recommendations for" in operative paragraph 1 should be replaced by the words "in order, in accordance with Article 13 of the Charter, to draw up a report containing a study and recommendations for the purpose of encouraging". In view of the acceptance of the Lebanese oral amendment by the sponsors of the draft resolution, the representatives of Jamaica and Madagascar stated that they would not press for a vote on their amendment.

17. Lebanon submitted an oral amendment (833rd meeting) to draft resolution A/C.6/L.541 and Corr.1 and Add.1 and 2 proposing that that part of operative paragraph 1 beginning "...for the purpose of..." should be replaced by the words "...in order to draw up a report which would, for the purpose of the progressive development and codification of the four principles, so as to secure their more effective implementation, contain the conclusions of its study and its recommendations, taking into account in particular: ...". That amendment was accepted by the sponsors of the draft resolution.

18. With respect to the financial implications of draft resolution A/C.6/L.541 and Corr.1 and Add.1 and 2, the representative of the Secretary-General made a statement to the effect that the convening of the special committee would not entail any additional expense if it held its meetings at Headquarters between 20 August 1964 and the opening of the nineteenth session of the General Assembly. If any State wished to invite the Committee to meet elsewhere it would, in accordance with resolution 1202 (XII), have to agree, after consultation with the Secretary-General as to their nature and possible extent, to defray the additional costs involved. In that event, the special committee could begin its work on approximately 15 June 1964.

19. Canada, Cyprus, Jamaica, Liberia, Mexico, the Netherlands, Pakistan and Sweden submitted a draft resolution (A/C.6/L.540 and Add.1 and 2) proposing, with reference to the principle that States should settle their international disputes by peaceful means, a study of the practice with regard to methods of fact-finding for the purpose of the progressive development of those methods. The draft resolution read as follows:

"The General Assembly,

"Recalling that in its resolution 1815 (XVII) the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered is mentioned as one of the principles to be studied at the eighteenth session,

"Recognizing the need to promote further development and strengthening of various means of settlement of disputes, as described in Article 33 of the Charter,

"Considering that in Article 33 of the Charter enquiry is mentioned as one of the peaceful means by which the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall seek a solution,

"Considering further that enquiry, investigation and other methods of fact-finding are also referred to in other instruments of a general or regional nature,

"Believing that an important contribution to the peaceful settlement of disputes and to the prevention of such disputes could be made by providing for impartial fact-finding within the framework of international organizations and in bilateral and multilateral conventions,

"Taking into account that with regard to methods of fact-finding in international relations a considerable practice is available to be studied for the purpose of their progressive development,

“*Believing* that such a study might include the feasibility and desirability of establishing a special international body for fact-finding or of the assumption by an existing organization of fact-finding responsibilities complementary to existing arrangements and without prejudice to the right of parties to any dispute to seek other peaceful means of settlement of their own choice,

“1. *Invites* Member States to submit in writing to the Secretary-General, before 1 June 1964, any views they may have on this subject and requests the Secretary-General to communicate these comments to the Member States before the beginning of the nineteenth session ;

“2. *Requests* the Secretary-General to study the relevant aspects of the problem under consideration and to report on the results of such study to the General Assembly at its nineteenth session and to any subsidiary organ that may be established at the eighteenth session in pursuance of the item ‘Consideration of principles of international law concerning friendly relations among States in accordance with the Charter of the United Nations’·

“3. *Requests* this subsidiary organ to include in its deliberations the subject matter as mentioned in the last preambular paragraph.”

DISCUSSION

General considerations, the Committee’s terms of reference and the form which the results of its work should take

General considerations

20. The representatives who spoke on this item stressed the great urgency of the question, perhaps the most important from the legal and political points of view with which the Sixth Committee had had to deal to date.

21. In the view of some representatives, it was important because the consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations was necessary for the consolidation of peace, the maintenance of friendly relations among States with different political, economic and social systems, and the promotion of co-operation among the members of the family of nations.

22. In the opinion of those representatives, the increasing headway being made in recent years by the policy of coexistence was an expression of the profound realities and compelling needs of the times and the only alternative to an all-devastating war. This policy was beginning to yield practical results; it had received positive demonstration in the Declaration contained in the final communiqué of the Bandung Conference of African and Asian States, held in April 1955; in the Declaration of the Heads of State or Government of the Non-aligned Countries, issued on the occasion of the Belgrade Conference, held in September 1961; and most recently in the Treaty banning nuclear weapon tests in the atmosphere, in outer space, and under water, concluded at Moscow on 5 August 1963, which was open to all States and to which more than 100 States had acceded. On its side the General Assembly had become increasingly conscious since 1960 of the broader scope given to international law and of the influence which international law and realities exercise on each other. This awareness had been expressed by the adoption of resolutions 1505 (XV) of 12 December 1960, 1686 (XVI) of 18 December 1961 and lastly by resolution 1815 (XVII) of 18 December 1962, which had led directly to the present agenda item.

23. In the view of other representatives, the topic was important because it concerned four of the fundamental principles of the Charter on which the whole structure of the United Nations rested; it was important also because of its political and legal scope, and because of its possible consequences, immediate and in the future, on the Organization, the solidarity of its Members and their comprehension of their rights and duties.

24. Some representatives pointed out that the expression “principles concerning friendly relations and co-operation among States” embraced all the principles of international law formulated or confirmed by agreement between the socialist States and the capitalist States. In the various conventions or declarations adopted in recent years, at Peking, Bandung, Belgrade, Addis Ababa and elsewhere, those principles varied in number according to the degree of interest taken in them by each State.

25. Lastly, some representatives said that, as resolution 1815 (XVII) attested, the subject before the Committee was not peaceful coexistence—a matter which was rather political than legal—but friendly relations among States, which was a much broader theme.

26. Other representatives declared that the expressions “peaceful coexistence” and “friendly relations and co-operation among States” were synonymous, and that moreover this question of terminology was secondary.

27. Although nobody denied the importance of the subject, differences of view became apparent concerning the scope of the terms of reference given to the Sixth Committee by resolution 1815 (XVII) and the form which the result of the Committee’s work should take.

The Committee’s terms of reference

28. In the opinion of several representatives, the Committee’s terms of reference under resolution 1815 (XVII) had their origin in Article 13 of the Charter, which stipulated that the General Assembly should initiate studies and make recommendations for the purpose of promoting international co-operation in the political field and encouraging the progressive development of international law and its codification. Operative paragraph 2 of resolution 1815 (XVII) is clear on this point.

29. In the view of some representatives, resolution 1815 (XVII) does not impose any obligation on the Committee other than to undertake a study of the four principles mentioned in operative paragraph 3—a study which in itself would contribute to the progressive development of the law. The Committee was therefore free to decide what effect should be given to this study. These representatives stressed the complexity of the question which called for thorough, careful and objective consideration relating both to the way in which Governments had interpreted and applied the Charter and to the meaning and evolution of the political, economic and social events which had occurred since the adoption of the Charter. Moreover, each principle should be considered thoroughly from every angle; it should be studied separately, for a simultaneous discussion of the four principles could only lead to confusion.

30. In the view of other representatives, the Committee’s task was not only the study of the four principles enumerated in resolution 1815 (XVII) but their progressive development and codification, so as to secure their more effective application. The Committee was not a scientific association but a political organ, and it was expected to produce more than mere studies, however complete they might be. Moreover, although the principles of international law were expressed or implied in the Charter, that document did not provide for all details of the practical application of this doctrine. It could not anticipate the extent and shape of the changes which had taken place throughout the world during the last decade, and in particular the recovery of their independence by a very large number of countries. The need, in applying the essential principles of the Charter, to allow for the new and changed conditions had called for their creative elaboration. This process of creative elaboration had been going on all the time through resolutions, declarations, law-making treaties and bilateral and multilateral documents which sought to enunciate the principles of coexistence.

31. Some representatives contended that the expression “progressive development of international law” employed in resolution 1815 (XVII) had a general meaning and not the technical sense which it had in article 15 of the statute of the International Law Com-

mission, namely, "the preparation of draft conventions on subjects which have not yet been regulated by international law or in regard to which the law has not yet been sufficiently developed in the practice of States". Similarly, "codification" was not used as meaning "the more precise formulation and systematization of rules of international law in fields where there already has been extensive State practice, precedent and doctrine", for the four principles were already to be found in the Charter.

32. The question before the Committee concerned not the codification or development of the international law in force but the application of that law. The Committee should determine first how the principles of the Charter were applied in relations among States. It would then be possible to determine whether the conduct of States in their relations with one another was influenced by the inadequacy or obscurity of the existing rules and to decide whether such rules could usefully be supplemented or corrected.

33. This point of view was rejected by several representatives who declared that operative paragraph 2 of resolution 1815 (XVII) was not at all ambiguous and that by the terms of this paragraph the Committee should work for the progressive development and codification of the principles of international law, that is to say, according to the definition in article 15 of the statute of the International Law Commission, for the preparation of draft conventions on subjects which have not yet been regulated by international law and for the systematization of rules of international law in fields where there already has been extensive State practice. In the opinion of these representatives, this definition did not exclude the idea of a declaration.

34. Some representatives said that under resolution 1815 (XVII) the Committee should also decide what other principles were to be given further consideration at subsequent sessions. Among these principles, representatives mentioned the three principles appearing in resolution 1815 (XVII) but not assigned for study at the eighteenth session, namely, (a) the duty of States to co-operate with one another in accordance with the Charter; (b) the principle of equal rights and self-determination of peoples; and (c) the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter.

35. Other representatives proposed also the principle of co-operation in economic, social and cultural fields, the principle of respect for the policy of non-alignment to any ideological or military bloc, the principle that ideological and warlike propaganda should be avoided in the conduct of international relations, and the principle of racial equality.

36. Several representatives considered that the study of other principles should not be initiated before the completion of the study of the first four principles.

Form which the results of the work should take

37. Several representatives declared that the result of the Committee's work should be embodied in a declaration, for the principles which the Committee had to study were so closely interrelated that to formulate them in isolation would be to divorce them from the context where they naturally belonged, thus depriving them of part of their substance. As the system the Committee had in mind would necessarily consist of prohibitive norms and co-operative, active and positive norms, which were complementary, there must be only a single document, as the Czechoslovak working paper (A/C.6/L.528) proposed.

38. In the opinion of these representatives, a declaration would offer many advantages, among them a better expression and more explicit statement, a more precise formulation and systematization, and better adaptation to contemporary needs of the law signified progressive development and codification, and that, in its turn, meant the improvement of the law. Such restatement and confirmation of the main principles of the maintenance and consolidation of peace and the peaceful coexistence of States having different economic and social systems corresponded to the present needs and demands of peoples all over the world, especially the smaller and weaker nations, which had of necessity to put their trust in law because their

wealth and arms were not sufficient to defend their vital interests. A declaration would transfer to the international plane the regional Declarations of Bandung, Belgrade and Addis Ababa. Moreover, a declaration would give to the principles the desired legal and moral weight. Although a declaration set out in a General Assembly resolution does not bind States in the same way that an agreement binds the parties to it, the adoption of such a declaration nevertheless would have much greater force than that of a mere recommendation. It might not be considered, *prima facie*, as a formal source of law, but it might become one if recognized by States as a rule of international law and adopted by them in practice, in which case its provisions would become provisions of customary law.

39. Several representatives had put forward, as an additional argument in favour of the preparation of a declaration, the many precedents within the United Nations. They mentioned the Universal Declaration of Human Rights of 1948, the draft Declaration on rights and duties of States of 1949 (resolution 375 (IV)), the Declaration on the granting of independence to colonial countries and peoples of 1960 (resolution 1514 (XV)) and the Declaration on the elimination of all forms of racial discrimination of 1963 (resolution 1904 (XVIII)).

40. Some representatives considered that the proposed declaration might be drafted between the present session and the twentieth session (1965), so that it would coincide with the United Nations Decade of International Law, mentioned in resolution 1816 (XVII).

41. Some representatives thought that the preparation of a declaration was only one step towards codification.

42. Other representatives were opposed to the preparation of a declaration of principles for the time being. They considered that because of the complexity of the question it was essential to exercise caution and not to make haste. It would be better to see what came out of the exchange of views on the subject before deciding on the final form in which the results of the work were to be expressed. This exchange of views would undoubtedly take a rather long time.

43. A large number of representatives were opposed to the preparation of any declaration, for resolution 1815 (XVII) was not a mandate to the Committee for the reformulation of the principles in the Charter. It need not entail the preparation of new codes or declarations relating to the principles mentioned, but should involve an analysis of these principles within the Charter, in which they were already embodied. It was unnecessary to rewrite the Charter or to restate, by way of recommendation, what the Charter contained by way of obligation. Such a procedure might weaken the scope of the legal obligations included in the Charter and accepted by Member States. The Charter should therefore remain intact. The four principles of resolution 1815 (XVII) were to be found in the Charter, and they could not be set down more precisely in a fashion which would be binding on Member States except by their amendment, that is to say, by amendment of the Charter.

44. In the opinion of these representatives there was no doubt that if the recommendations adopted at the conclusion of the study of the four principles added new elements and were not restricted to an interpretation compatible with the provisions of the Charter, the procedure of Article 13 could not be followed, for this Article contemplated only recommendations for the development or codification of international law and not the revision of the Charter. If the study disclosed gaps in the Charter, those gaps would have to be filled by the amendment procedure set out in Article 108.

45. Some of these representatives were even of the opinion that with reference to principles constituting the very foundation of the legal order of the United Nations, the procedure set out in Article 108 was not sufficient and that a review of the Charter, such as that contemplated in Article 109, would be necessary.

46. In reply, several representatives pointed out that the General Assembly on several occasions had interpreted the fundamental provisions of the Charter, especially in the Uni-

versal Declaration of Human Rights, resolution 1803 (XVII) on permanent sovereignty over natural resources, and resolution 1514 (XV) on the granting of independence to colonial countries and peoples. The Declaration in resolution 1514 (XV) could serve as an illustration and be of assistance to the Committee in its work. This Declaration summed up several other resolutions. It eliminated all the ambiguities left by Chapters XI, XII and XIII of the Charter. It interpreted the principle of self-determination of peoples in keeping with the changes which had taken place since 1945. This document enriched the Charter, not by revising or amending it, but simply by interpreting it.

47. Some representatives stated that these arguments were not convincing, for in the areas covered by these declarations, the provisions of the Charter were few and very succinct and did not relate to fundamental points.

48. One representative proposed the drawing up of a "universal statute of peace" which might embody many of the rules which had been formulated, since the entry into force of the Charter, to strengthen international security—for example, some of the resolutions of the General Assembly.

Debate on the four principles set out in resolution 1815 (XVII)

The principle of refraining from the threat or use of force in international relations

49. Almost all representatives agreed that the prohibition of the threat or use of force in international relations had been the outcome of the development since the end of the nineteenth century towards a restriction on the use of force and of the replacement in international law of the notion *jus ad bellum* by *jus contra bellum* under the pressure of events and advances in military techniques and arms which endangered the very existence of mankind. That development had been marked by the 1899 and 1907 Hague Conventions for the Pacific Settlement of International Disputes, and the Covenant of the League of Nations. Representatives also referred to the contribution in that field of the Soviet Government's Decree of Peace of 26 October 1917. Nevertheless, it was not until 1928 and the Briand-Kellogg Pact² that the principle of a prohibition of all wars of aggression was proclaimed for the first time. In consequence, the Charters of the Nürnberg and Tokyo International Military Tribunals set up in 1945 and 1946 had found the war criminals guilty of aggressive war in the Second World War. Finally, the authors of the United Nations Charter had gone still further and in Article 2, paragraph 4, had proclaimed a prohibition of the threat or use of force.

50. Some representatives stressed the importance of that principle and pointed out that Article 2, paragraph 4, had frequently been recalled in General Assembly resolutions, for instance in resolutions 192 (III) on the prohibition of the atomic weapon and on the reduction by one-third of the armaments and armed forces of the permanent members of the Security Council; 290 (IV) on the essentials of peace; 291 (IV) on the promotion of the stability of international relations in the Far East; 378 A (V) on the duties of States in the event of the outbreak of hostilities and 380 (V) on peace through deeds. The principle had also been proclaimed in a number of international instruments concluded since the war, such as the Charter of the Organization of American States (article 5),³ the Pact of Bogotá (article 1),⁴ the Bandung Declaration (principle 7), the Belgrade Declaration (chapter II) and the Charter of the Organization of African Unity (articles II and III).

51. Some representatives expressed doubts as to the desirability and even the feasibility of formulating a complete definition of the prohibition of the threat or use of force.

² General Treaty for Renunciation of War as an Instrument of National Policy, signed at Paris, 27 August 1928 (League of Nations, *Treaty Series*, vol. XCIV, 1929, No. 2137).

³ United Nations, *Treaty Series*, vol. 119 (1952), No. 1609.

⁴ United Nations, *Treaty Series*, vol. 30 (1949), No. 449.

52. With regard to the problem of defining “force”, which had been raised by several representatives, some stated that the term “force” should not apply only to military force, but also to force in any form, including its economic and political forms, because economic coercion could sometimes be more dangerous than physical force for the developing countries.

53. Other representatives thought that the word “force” in the specific context of Article 2, paragraph 4, of the Charter meant only physical force and armed force, and did not include the other forms of pressure, whether economic or political. They stated that the idea of economic aggression had been rejected in 1945 at the United Nations Conference on International Organization, held in San Francisco.

54. Some representatives thought, on the other hand, that the word “force” applied not only to regular forces, but also to irregular forces or armed bands operating against a State from bases within the territory of another State which tolerated their presence.

55. The definition of the threat of force should also include means of direct or indirect pressure exerted against the territorial integrity or political independence of a State and should be extended to cover the arms race. Some representatives even stated that the refusal of a coastal State to grant access to the sea to a landlocked State was a measure as dangerous as the threat of force.

56. Some representatives expressed the view that it should be stated that any advantage obtained by force, whether military, political or economic, would not be recognized.

57. Some representatives stated that the phrase “in their international relations” in Article 2, paragraph 4, raised a problem, for in the event of a revolt on the territory of a State, a group or community could claim international personality or statehood, and then any threat or use of force against the said community could be considered “international” and would fall under Article 2, paragraph 4.

58. Other representatives stated that the granting of assistance in wars of liberation did not constitute a violation of Article 2, paragraph 4, of the Charter. The Summit Conference of Independent African States, held at Addis Ababa in May 1963, had provided, *inter alia*, for joint action to promote the national liberation of peoples still living under the yoke of colonialism.

59. Several representatives emphasized the close and essential relationship between Article 2, paragraph 4, and Chapters VI and VII of the Charter, and particularly Article 39 on threats to the peace, breaches of the peace or acts of aggression, which went to prove that the function of interpreting and applying the principle prohibiting the threat or use of force was assigned by the Charter to the Security Council.

60. Several representatives emphasized that the prohibition of the use of force was absolute; the only possible exceptions were provided for by the Charter in Articles 42 (action decided on by the Security Council) and 51 (self-defence), and those exceptions should be interpreted *stricto sensu*.

61. In that connexion, some representatives stated that not only did Article 51 of the Charter provide for the legitimate use of force in exercise of the right of self-defence in the event of armed attack, but that Article 51 together with Article 2, paragraph 4, did not entirely replace and did not invalidate all the pre-existing rules of international law concerning the use of force in self-defence. Individual or collective self-defence against armed attack was an absolute inherent right.

62. That opinion was considered inadmissible by several representatives who believed it to be a retrograde step; in their view, limiting the interpretation of Article 2, paragraph 4 and widening the scope and meaning of Article 51 weakened the Charter by leaving room for the justification of the use of force in cases not provided for by the Charter, such as preventive war.

63. Several representatives expressed the opinion that the formulation of the principle of the threat and use of force, as given in the draft submitted by Czechoslovakia at the seventeenth session⁵, was satisfactory and could serve as a basis for the formulation of that principle in a declaration.

64. Other representatives, on the other hand, believed that the formulation contributed nothing, because the principle was already covered by a complete rule of law set forth in Article 2, paragraph 4, of the Charter and there was nothing to be gained from changing its wording. That general rule was sufficient to cover many contingencies which a more precise and detailed rule might very well not provide for.

65. In common with the draft submitted by Czechoslovakia at the seventeenth session, some representatives attached particular importance to the prohibition of war propaganda and the problem of disarmament, a principle of law closely linked to the principle contained in Article 2, paragraph 4. They pointed out that signatories of the Charter had undertaken in Article 26 to formulate plans for the regulation of armaments and that several resolutions had already been adopted to that effect. Moreover, the Belgrade Declaration stated in detail what should be understood by general and complete disarmament. The notion embraced not only the elimination of armed forces, armaments, foreign bases, the manufacture of arms and the establishments and installations needed for military training, but also an absolute ban on producing, keeping and using nuclear, thermo-nuclear, bacteriological and chemical weapons and the elimination of the equipment and installations required for firing, guiding and using operationally weapons of mass destruction on national territories.

66. Other representatives, while subscribing to the political objective of disarmament, did not think that the Sixth Committee could, at least at the present stage, lay down rules concerning the legal obligation of States to disarm. Maintaining that the political objective created a legal obligation was tantamount to ignoring the pre-conditions for establishing a rule of law.

The principle of the peaceful settlement of disputes

67. The paramount importance of the principle of the peaceful settlement of disputes, set forth in Article 2, paragraph 3, of the Charter, was stressed by most representatives. Some stated that the principle of the peaceful settlement of disputes could be considered as a mandatory and established norm of international law. As early as 1826 in Panama, Colombia, Central America, Peru and Mexico had signed a treaty providing for the peaceful settlement of disputes. Furthermore, that principle appeared in the Charter of the Organization of American States (article 21), the Belgrade Declaration (chapter III) and the Charter of the Organization of African Unity (articles III and XIX).

68. Some representatives pointed out that the above principle was a natural corollary to the prohibition of the use of force and that all the important international instruments which prohibited the threat or use of force obliged signatory States to settle their disputes by peaceful means. That obligation was as mandatory as the prohibition; moreover, the two were juxtaposed in Article 2 of the Charter, as also in the Briand-Kellogg Pact. The only choice open to States under the Charter was that mentioned in Chapter VI of the Charter, which should be read in conjunction with Article 2. Article 33 of the Charter specified the peaceful means which States could use in a given case: negotiation, enquiry, mediation, conciliation, arbitration or judicial settlement. The choice depended upon the nature of the dispute and the international context in which it took place.

⁵ *Official Records of the General Assembly. Seventeenth Session, Annexes, agenda item 75, document A/C.6/L.505.*

69. Some representatives laid particular stress, as did the draft submitted by Czechoslovakia at the seventeenth session, on the advantages of direct negotiations between States a basic means which no State could reject unilaterally.

70. Other representatives expressed surprise that some countries which were the most fervent advocates of the codification of principles of international law concerning friendly relations and co-operation among States seemed to show no interest in the codification of the principles of the peaceful settlement of disputes. They maintained that to regard direct negotiations as the fundamental means of settling disputes, as was done in the Czechoslovak draft, was a nationalist and retrograde step which limited the means set forth in Article 33 to negotiation.

71. Several representatives expressed the opinion that States should have wider recourse to the International Court of Justice for the settlement of their disputes. In their opinion, it was difficult to avoid the influence of political factors in the peaceful settlement of disputes by non-judicial means, and such a procedure was therefore imperfect from the standpoint of the rule of law; they regretted that only one-third of the States Members of the United Nations had accepted the optional clause of compulsory jurisdiction and that there were reservations which limited the Court's jurisdiction even further. Some representatives also expressed regret that execution of the Court's decisions depended entirely on the will of the parties and considered that such a situation was a fundamental defect, from the point of view of the rule of law, which should be corrected. Still other representatives wished to extend the jurisdiction of the Court to non-judicial disputes and, in that connexion, referred to the *ex aequo et bono* decisions taken under Article 38, paragraph 2, of the Statute of the Court.

72. Some representatives also stated that States should be encouraged to resort to the panel for inquiry and conciliation contemplated in General Assembly resolution 268 D (III). Certain representatives emphasized the role which the Security Council, the General Assembly, and the Secretary-General could play in the peaceful settlement of disputes.

73. Other representatives maintained that certain States were reluctant to submit their disputes to the Court because, on the one hand, geographical distribution and the representation of the world's principal legal systems in the Court were not satisfactory and, on the other hand, because the Court applied only the law of the so-called "civilized" nations in the formulation of which those States had not taken part.

74. Certain representatives contested those views, drawing attention to the recent improvement in the geographical representation of the seats in the International Court of Justice and to the fact that, furthermore, the impartiality of the judges could not be questioned since some judges had voted for rulings which were contrary to the interests of their own countries. In addition, the Court, far from being conservative, had in a large number of cases adopted a progressive and enlightened attitude.

75. A number of representatives held that it was impossible to conceive of a genuine system of peace without a treaty on the peaceful settlement of disputes for, when a dispute arose, it was not enough to apply one of the means of peaceful settlement specified in Article 33 of the Charter; the parties should know what means of recourse were available and should have reached a prior agreement on that point in a special legal instrument. Thus, at the Bogotá Conference, the American States had adopted the American Treaty on Pacific Settlement or the Pact of Bogotá, which contained provisions for the peaceful settlement of all disputes. Similarly, the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957,⁶ and the Charter of the Organization of African

⁶ United Nations, *Treaty Series*, vol. 320 (1959), No. 4646.

Unity of 1963 provided for commissions of mediation, conciliation and arbitration. A general treaty based on regional experiences could offer a solution to the problem.

76. Some representatives were of the opinion that application of the principle of the peaceful settlement of disputes could be facilitated by the establishment of a specialized fact-finding body whose functions would be complementary to the arrangements already in operation for that purpose; that body would be available to the parties to future treaties or to existing treaties which had no fact-finding provisions as well as to international organizations and would not supersede existing effective machinery. In the case of very specialized inquiries of an economic or scientific nature, for example, the fact-finding centre could call upon an individual, body, commission or organization to carry out an inquiry. Those representatives pointed out that several international agreements, namely, those which had established the three European communities⁷ and the European Convention for the Protection of Human Rights and Fundamental Freedoms,⁸ provided for such bodies.

77. Other representatives maintained that the proposal to establish a fact-finding body constituted a first step towards a judicial or quasi-judicial settlement of disputes which would be compulsory and therefore unacceptable. Moreover, that proposal was not on the Committee's agenda and it should therefore not be discussed.

78. Some representatives pointed out that all disputes were not likely to affect the maintenance of peace to the same extent and that the flexibility of the Charter was reflected in the fact that it provided in Articles 14 and 34 and in Chapter VII for different measures to be taken by different bodies, according to the seriousness of the dispute.

79. Several representatives concluded that the Charter provided adequate legal and constitutional bases for productive diplomatic action; they mentioned the practical measures taken by the United Nations since its foundation, such as the organization of truces, the dispatch of commissions of observation, inquiry or good offices, its economic and social activities; and its action under Article 81 concerning the administration of a trust territory. Accordingly, they thought that here, too, it was useless and dangerous to seek to amend the Charter by devious means.

The duty not to intervene in matters within the domestic jurisdiction of a State

80. Some representatives referred to the fact that the principle of non-intervention in matters within the domestic jurisdiction of a State had until relatively recently been a political principle often proclaimed and applied in international relations.

81. Nevertheless, the majority of representatives recalled the efforts made by many States to clarify, formulate and codify the legal principle of non-intervention in the affairs of another State. The French Revolution had first recognized that principle by proclaiming it in its Constitution of 1791. The Latin American States had since 1848 made efforts to define and codify that principle. It was contained in the Convention on the Rights and Duties of States, adopted by the Seventh International Conference of American States, held at Montevideo in 1933.⁹ It also appeared in article 15 of the Charter of the Organization of American States and had been reaffirmed at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, held at Santiago in 1959. In addition, draft articles dealing with that principle would be submitted to the Inter-American Conference to be held at Quito in 1964.

⁷ Treaty instituting the European Coal and Steel Community (United Nations, *Treaty Series*, vol. 261 (1957), No. 3729). Treaty establishing the European Economic Community (United Nations, *Treaty Series*, vol. 298 (1958), No. 4300). Treaty establishing the European Atomic Energy Community (EURATOM) (United Nations, *Treaty Series*, vol. 298 (1958), No. 4301).

⁸ United Nations, *Treaty Series*, vol. 213 (1955), No. 2889.

⁹ League of Nations, *Treaty Series*, vol. CLXV, 1936, No. 3802.

82. The principle was also found in the Pact of the League of Arab States (article 8), the Bandung Declaration of 1955 (4th principle), the Belgrade Declaration of 1961 and the Charter of the Organization of African Unity (article III), adopted at Addis Ababa in 1963, in the Vienna Convention on Diplomatic Relations (1961)¹⁰ and the Vienna Convention on Consular Relations (1963).¹¹ It was an important item on the agenda of the Conference of the International Law Association, which was to take place at Tokyo in 1964.

83. Many representatives stated that the principle of non-intervention in the domestic affairs of a State was inherent in the very spirit of the Charter and was an essential part of any system of coexistence. It derived from the principle of the sovereign equality of States and endorsed the right of self-determination of peoples.

84. Several representatives observed that two distinct questions were involved, namely, the competence of States with respect to the United Nations as set out in Article 2, paragraph 7, and the intervention of a State in the affairs of another State, which was covered more specifically in Article 2, paragraph 4.

85. Some representatives considered that the problem to be examined by the Committee related solely to the latter point.

86. Other representatives thought it necessary to recognize that what constituted interference in domestic affairs was essentially a matter of degree, since States could not be sealed off from one another or from the United Nations. The decisions of the United Nations and measures taken by States, even though they were within their rightful competence, often had implications for other States. Therefore, it seemed that the Committee's function was to determine, having regard to the interdependence of States in the modern world, those measures which were permissible and those which were not.

87. Some representatives pointed out that Article 2, paragraph 7, of the Charter contained ambiguous points which required clarification, such as which organ was competent to decide whether a question was or was not within the national competence of a State. The lack of a clear interpretation of that aspect of paragraph 7 had given rise to difficulties during the decolonization process.

88. Other representatives thought that it was not possible to give a precise meaning to Article 2, paragraph 7, for intervention was a concept which was as fluid and changing as life itself and defied all definition. They recalled that there were phenomena, such as aggression, which should preferably not be defined and that intervention in the affairs of another State was of a similar nature. Other representatives were of the opinion that the question of aggression should be re-examined in the light of possible violations of the principle of non-intervention.

89. In the view of other representatives, the doubts raised by Article 2, paragraph 7, could be dispelled only by revision of the Charter.

90. Some representatives held that the key question which remained unresolved was the precise definition of intervention. References were made to political, economic and even ideological intervention, the common feature of all three being their dictatorial effect, which deprived the State subjected to such intervention of its normal discretionary powers and could even go so far as to constitute a veritable usurpation by the interventionist State of the national powers of the State concerned. Examples of political intervention cited were attempts by a State to impose a particular constitutional or political system, armed attacks, political assassinations, seizures, violations of territorial integrity, the establishment of military bases in other States, the claiming of special privileges for nationals, and the fomenting or inciting of subversive activities. One of the most insidious forms of intervention, however,

¹⁰ United Nations publication, Sales No. : 62.X.1, vol. II.

¹¹ United Nations publication, Sales No. : 63.X.2, vol. II.

was interference in the economic affairs of States, as when the nationals of a State exerted pressure on their Government to intervene in order to protect their own private commercial or industrial interests in another State.

91. Other representatives pointed out that protection of the life and property of nationals was in keeping with international law and was an expression of the rights of sovereignty vested in every State.

92. Several representatives stressed the dangers of neo-colonialism, by means of which certain great Powers sought to violate the integrity of weaker countries through the exercise of overt or disguised economic pressure.

93. Some representatives stated that attention should also be given to the possible forms of intervention: intervention by a single State, collective intervention and intervention by an international organization.

94. Another problem to be solved, in the view of some representatives, was the definition of matters which, under Article 2, paragraph 7, "are essentially within the domestic jurisdiction of any State". The present trend seemed to be towards a broader interpretation, for States were more and more taking on, under various forms of international obligations, activities—as in matters of human rights—which would formerly have been exclusively within their domestic jurisdiction.

95. Some representatives, lastly, held that study should be given to the question of how paragraph 7 had been and should be applied by the United Nations. The United Nations, it appeared, had followed a less formal course on that question than had the League of Nations.

The principle of sovereign equality of States

96. Several representatives expressed the view that the principle of sovereign equality of States laid down in Article 2, paragraph 1, of the Charter was a factor for stability in international relations and in the peaceful coexistence of States having different economic and social systems. It was the fundamental principle of the United Nations, and was the essential basis not only of relations between the United Nations and its Members but also of relations between States. Confirmation of that could be found in Article 78 as well as Article 2 of the Charter.

97. A number of representatives pointed out that at the United Nations Conference on International Organization in San Francisco it had been held that the term sovereign equality conveyed first, that States were juridically equal, secondly, that each State enjoyed the rights inherent in full sovereignty, thirdly, that the personality of the State was respected, as well as its territorial integrity and political independence, and fourthly, that the State should, under international order, comply faithfully with its international duties and responsibilities.

98. Various representatives observed that by virtue of that principle States had not only the same rights but also the same duties as subjects of international law and as equal members of the international community. The principle in question appeared not only in the United Nations Charter but in the Charter of the Organization of American States (article 6), the Bandung Declaration (principle 3) and the Charter of the Organization of African Unity (principle 1).

99. Some representatives stressed the point that the expression "sovereign equality" had two very important elements: the concept of sovereignty and that of equality.

100. On the subject of equality, a number of representatives stated that the equality envisaged in Article 2, paragraph 1, of the Charter should be construed as relating solely to the equality applicable to the juridical relations between Members of the United Nations within the Organization itself—to the consequences flowing from the fact of their member-

ship in the United Nations. But Article 2, paragraph 1, provided for the formal juridical equality of all Member States—though the Charter admitted certain exceptions, such as the five great Powers' right of veto.

101. Those representatives considered that in dealing with equality as a principle one must not allow the positive aspects to blind one to the existence of restrictions; it was necessary to see how far equality existed among States, in the international community and in international organizations. Moreover, weighted voting systems were applied in the International Monetary Fund and in European organizations. Those exceptions to the rule, far from being harmful, had made it possible to extend friendly co-operation between States to new spheres.

102. Other representatives held that equality should be construed as signifying the right of all States, irrespective of their size and form of government, their economic or social systems or their level of development, to political and economic equality in the community of nations. All States should be able to participate on an equal footing in international life, more particularly in the creation of norms of international law, and should be given every assistance to achieve such equality, particularly in the economic field. The economic aspects of sovereignty thus acquired a particular significance in the contemporary world, and called for efforts to develop international law in that field.

103. So far as concerned sovereignty, some representatives pointed out that the content of that idea was constantly evolving, and was tending to lose some of its absoluteness as a result of the existence of international organizations. In particular, there was a trend towards a correlative approach to the articles on sovereignty and the provisions on human rights, which should be given close attention in the Committee's study.

104. Several representatives observed that attacks on the sovereign equality of States sometimes took subtle forms, as when a State was compelled to conclude an unequal treaty designed to bring it under the economic domination of another State. Such treaties were at variance with the Charter and an obstacle to friendly relations between States.

105. Certain representatives stated that in connexion with the principle of sovereign equality the Committee ought to give particular attention to the right of self-determination of peoples and the principle of the elimination of colonialism, as defined in paragraphs 14 and 15 of the draft resolution submitted by Czechoslovakia at the seventeenth session.

Discussion on the procedure to be followed in dealing with the item

Question of friendly relations in general

106. With respect to the procedure to be followed in dealing with the item several representatives said that they were in agreement with the proposals made in the Czechoslovak working paper (A/C.6/L.528).

107. Other representatives formally opposed that procedure, either because, in principle, they were against the formulation of a declaration or because they considered the proposed procedure too hasty.

108. A large number of representatives preferred the procedure suggested in the working paper submitted by Australia, Canada, Denmark, France, Malaysia and the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.531 and Corr.1) and several actually discussed seriatim the four principles referred to the Committee at the current session.

109. As the general debate progressed, it became apparent that the establishment of working groups during the current session would no longer be practicable in view of the short time remaining to the Sixth Committee in which to finish its work. The debate therefore

shifted from the question of the procedure to be followed at the current session to the question of the procedure to be followed after the Committee had finished its work at the current session.

110. Most representatives were of the opinion that the Sixth Committee, composed of representatives of States, was an organ better qualified than, for example, the International Law Commission, composed of experts, to apply Article 13 of the Charter in the present case, for the matter in hand was the formulation of the four principles enunciated in resolution 1815 (XVII), the political importance of which was such that it could not be disregarded. Those representatives thought, however, that the Sixth Committee was too large a body to undertake the codification and progressive development of international law, which, in its initial stage, would require thorough studies and extensive research. It was therefore necessary to establish one or several working groups to meet during or between sessions of the Assembly. Each group should be representative not only of the principal legal systems of the world but also of the major political and social systems.

111. During the debate a general trend ultimately emerged in favour of the establishment of a special committee, the selection of whose members would be left to the President of the General Assembly.

112. Some representatives felt that that special committee should begin its work as soon as possible.

113. Other representatives wanted the special committee to meet before the end of the current session.

114. As far as the terms of reference of the special committee were concerned, some representatives were in favour of limiting them to a continuation of the study of the four principles which had been the topic of discussion at the current session, taking into account the practice of the United Nations, the observations of Governments and the views expressed and suggestions made at the current session. They observed that the debate at the current session had been fruitful but that it had shown that the consideration of principles was still in its initial stage and that more detailed studies were necessary. In that connexion, the assistance of the Secretariat would be required in preparing documentation to facilitate the work of the special committee.

115. Other representatives considered that those terms of reference were insufficient and did not take into account the progress made at the current session. They proposed that the special committee should be instructed to draw up a draft declaration of the four principles in question.

116. A larger group of representatives, seeking a compromise solution between those two trends, thought that the special committee should formulate proposals with a view to the progressive development and codification of the four principles in question so as to secure their more effective application in the light of United Nations practice, the observations of Governments and the views expressed and suggestions made at the current session.

117. Another compromise, acceptable to a larger group, would limit the function of the special committee to the preparation of a report containing recommendations which it would submit to the General Assembly at its nineteenth session. Finally, the General Assembly should likewise study at its nineteenth session the three principles set forth in resolution 1815 (XVII) which had not been studied at the current session.

118. Finally, a compromise acceptable to the Committee as a whole was reached on wording to the effect that the special committee would be required to "draw up a report containing, for the purpose of the progressive development and codification of the four principles so as to secure their more effective application, the conclusions of its study and its recommendations".

Question of methods of fact-finding

119. With reference to the proposal in draft resolution A/C.6/L.540 and Add.1 and 2 that a study of methods of fact-finding should be undertaken, several representatives stated that the matter should neither be considered by the Committee nor voted upon for it was not on the Committee's agenda. Nor should it be considered by the special committee, since the purpose of the study was the establishment of an international centre of inquiry; such an organ would be at variance with the Charter which specified what organs were responsible for the maintenance of international peace and security. The establishment of any organ for which no provision was made in the Charter was therefore unacceptable.

120. Other representatives rejected those arguments and observed that the study proposed by the eight sponsors of draft resolution A/C.6/L.540 and Add.1 and 2 was within the scope of the item under consideration and was in keeping with the spirit, if not the letter, of resolution 1815 (XVII) as it was designed to facilitate the peaceful settlement of disputes and to prevent disputes. Moreover, it fell within the terms of reference of the special committee to be established under resolution A/C.6/L.541 and Corr.1 and Add.1 and 2.

121. Certain representatives expressed the view that, under Article 22 of the Charter, the General Assembly was fully entitled to establish such subsidiary organs as it deemed necessary for the performance of its functions. They stated that the members of the international fact-finding body might well be chosen *ad hoc* from a panel of experts similar to that constituted by the Permanent Court of Arbitration.

122. Some representatives expressed the fear that the study which the special committee was being asked to undertake might distract it from its proper tasks, or, at least, might delay the latter, since attention was being focused on a specific point at the expense of the more general responsibilities with which the special committee was being entrusted.

123. The sponsors of draft resolution A/C.6/L.540 and Add.1 and 2 stated in reply that they were not seeking priority for the study of the problem by the special committee.

VOTING

124. At its 833rd meeting, on 11 December 1963, the Sixth Committee voted on draft resolution A/C.6/L.541 and Corr.1 and Add.1 and 2, as orally amended by Lebanon, and adopted it unanimously (see paragraph 126, draft resolution I).

125. At its 834th meeting, on 11 December 1963, the Sixth Committee voted on the draft resolution A/C.6/L.540 and Add.1 and 2. The results of the voting were as follows:

(a) The Committee adopted, by 40 votes to 25, with 10 abstentions, the phrase "and to any subsidiary organ that may be established at the eighteenth session in pursuance of the item 'Consideration of principles of international law concerning friendly relations among States in accordance with the Charter of the United Nations'", in operative paragraph 2 of the draft resolution;

(b) The Committee adopted operative paragraph 3 of the draft resolution by 40 votes to 26, with 13 abstentions. The vote was taken by roll-call and the voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Costa Rica, Cyprus, Denmark, Ecuador, Finland, France, Greece, Guatemala, Haiti, Honduras, Iran, Ireland, Israel, Italy, Jamaica, Japan, Liberia, Luxembourg, Madagascar, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Philippines, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Against: Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Chile, Cuba, Czechoslovakia, Ghana, Hungary, India, Indonesia, Iraq, Lebanon,

Mongolia, Morocco, Nigeria, Poland, Romania, Syria, Tanganyika, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Abstaining: Burma, Cameroon, Central African Republic, Colombia, Ethiopia, Ivory Coast, Kuwait, Libya, Mali, Mauritania, Niger, Saudi Arabia, Tunisia.

(c) The Committee adopted draft resolution A/C.6/L.540 and Add.1 and 2 as a whole by 45 votes to 14, with 21 abstentions¹² (see below, paragraph 126, draft resolution II). The vote was taken by roll-call and the voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cyprus, Denmark, Ecuador, Finland, France, Greece, Guatemala, Haiti, Honduras, Iran, Ireland, Israel, Italy, Jamaica, Japan, Lebanon, Liberia, Luxembourg, Madagascar, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Philippines, Sweden, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Cuba, Czechoslovakia, Hungary, India, Indonesia, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Abstaining: Afghanistan, Algeria, Burma, Cameroon, Central African Republic, Ethiopia, Ghana, Iraq, Ivory Coast, Kuwait, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Saudi Arabia, Syria, Tanganyika, Togo, United Arab Republic.

Recommendation of the Sixth Committee

126. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

[*Text adopted by the General Assembly without change. See "Resolutions adopted by the General Assembly" below.*]

Draft resolution II

QUESTION OF METHODS OF FACT-FINDING

[*Text adopted by the General Assembly without change. See "Resolutions adopted by the General Assembly" below.*]

(b) Resolutions adopted by the General Assembly

At its 1281st plenary meeting, on 16 December 1963, the General Assembly adopted draft resolutions I and II submitted by the Sixth Committee (para. 126 above). For the final texts, see resolutions 1966 (XVIII) and 1967 (XVIII), respectively, below.

1966 (XVIII). Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

The General Assembly,

Bearing in mind Article 13, paragraph 1a, of the Charter of the United Nations,

¹² The delegation of Morocco subsequently informed the Secretariat that Morocco wished to be included among the countries which had voted for the draft resolution.

Recalling its resolutions 1505 (XV) of 12 December 1960, 1686 (XVI) of 18 December 1961 and 1815 (XVII) of 18 December 1962, which affirm the importance of encouraging the progressive development of international law and its codification and making it a more effective means of furthering the purposes and principles set forth in Articles 1 and 2 of the Charter,

Having decided in paragraph 2 of resolution 1815 (XVII) to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application, and, accordingly, to study at the eighteenth session the four principles enumerated in paragraph 3 thereof,

1. *Decides* to establish a Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States—composed of Member States to be appointed by the President of the General Assembly, taking into consideration the principle of equitable geographical representation and the necessity that the principal legal systems of the world should be represented—which would draw a report containing, for the purpose of the progressive development and codification of the four principles so as to secure their more effective application, the conclusions of its study and its recommendations, taking into account in particular:

(a) The practice of the United Nations and of States in the application of the principles established in the Charter of the United Nations;

(b) The comments submitted by Governments on this subject in accordance with paragraph 4 of resolution 1815 (XVII);

(c) The views and suggestions advanced by the representatives of Member States during the seventeenth and eighteenth sessions of the General Assembly;

2. *Recommends* the Governments of the States designated members of the Special Committee, in view of the general importance and the technical aspect of the item, to appoint jurists as their representatives on the Special Committee;

3. *Requests* the Special Committee to start its work as soon as possible and to submit its report to the General Assembly at its nineteenth session;

4. *Requests* the Secretary-General to co-operate with the Special Committee in its work, and to provide all the services and facilities necessary for its meetings, including:

(a) A systematic summary of the comments, statements, proposals and suggestions of Member States on this item;

(b) A systematic summary of the practice of the United Nations and views expressed in the United Nations by Member States in respect of the four principles;

(c) Such other material as he deems relevant;

5. *Decides* to place an item entitled “Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations” on the provisional agenda of its nineteenth session in order to consider the report of the Special Committee and to study, in accordance with operative paragraphs 2 and 3 (d) of resolution 1815 (XVII), the following principles:

(a) The duty of States to co-operate with one another in accordance with the Charter;

(b) The principle of equal rights and self-determination of peoples;

(c) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

6. *Invites* Member States to submit in writing to the Secretary-General, before 1 July 1964, any views or suggestions they may have regarding the principles enumerated in paragraph 5 above, and further urges those Member States which have not already done so to submit by that date their views in accordance with paragraph 4 of resolution 1815 (XVII);

7. *Requests* the Secretary-General to communicate to Member States, before the beginning of the nineteenth session, the comments requested in paragraph 6 above.

*1281st plenary meeting
16 December 1963*

* * *

The President of the General Assembly, in pursuance of paragraph 1 of the above resolution, appointed the members of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (see A/5689).

The Special Committee will be composed of the following Member States: AFGHANISTAN, ARGENTINA, AUSTRALIA, CAMEROON, CANADA, CZECHOSLOVAKIA, DAHOMEY, FRANCE, GHANA, GUATEMALA, INDIA, ITALY, JAPAN, LEBANON, MADAGASCAR, MEXICO, NETHERLANDS, NIGERIA, POLAND, ROMANIA, SWEDEN, UNION OF SOVIET SOCIALIST REPUBLICS, UNITED ARAB REPUBLIC, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, UNITED STATES OF AMERICA, VENEZUELA and YUGOSLAVIA.

1967 (XVIII). Question of methods of fact-finding

The General Assembly,

Recalling that in its resolution 1815 (XVII) of 18 December 1962 the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered is mentioned as one of the principles to be studied at the eighteenth session of the General Assembly,

Recognizing the need to promote further development and strengthening of various means of settling disputes, as described in Article 33 of the Charter of the United Nations,

Considering that, in Article 33 of the Charter, inquiry is mentioned as one of the peaceful means by which the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall seek a solution,

Considering further that inquiry, investigation and other methods of fact-finding are also referred to in other instruments of a general or regional nature,

Believing that an important contribution to the peaceful settlement of disputes and to the prevention of such disputes could be made by providing for impartial fact-finding within the framework of international organizations and in bilateral and multilateral conventions,

Taking into account that, with regard to methods of fact-finding in international relations, a considerable practice is available to be studied for the purpose of the progressive development of such methods,

Believing that such a study might include the feasibility and desirability of establishing a special international body for fact-finding or of entrusting to an existing organization fact-finding responsibilities complementary to existing arrangements and without prejudice to the right of parties to any dispute to seek other peaceful means of settlement of their own choice,

1. *Invites* Member States to submit in writing to the Secretary-General, before 1 June 1964, any views they may have on this subject and requests the Secretary-General to communicate these comments to Member States before the beginning of the nineteenth session;

2. *Requests* the Secretary-General to study the relevant aspects of the problem under consideration and to report on the results of such study to the General Assembly at its nineteenth session and to the Special Committee on Principles of International Law concerning

Friendly Relations and Co-operation among States established under General Assembly resolution 1966 (XVIII) of 16 December 1963;

3. *Requests* the Special Committee to include in its deliberations the subject-matter mentioned in the last preambular paragraph of the present resolution.

*1281st plenary meeting
16 December 1963*

7. TECHNICAL ASSISTANCE TO PROMOTE THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW: REPORT OF THE SECRETARY-GENERAL WITH A VIEW TO THE STRENGTHENING OF THE PRACTICAL APPLICATION OF INTERNATIONAL LAW (AGENDA ITEM 72)

(a) Report of the Sixth Committee¹

*[Original text: English and Russian]
[13 December 1963]*

INTRODUCTION

1. At the seventeenth session of the General Assembly, during the debate in the Sixth Committee on the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations", the question of technical assistance to promote the teaching, study, dissemination and wider appreciation of international law was raised as a related question.² Subsequently, the General Assembly, at its seventeenth session, adopted resolution 1816 (XVII) on 18 December 1962, entitled "Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law". The operative part of that resolution stated the following:

"1. *Urges* Member States to undertake broad programmes of training, including seminars, grants and exchanges of teachers, students and fellows, as well as exchanges of publications in the field of international law;

"2. *Requests* the Secretary-General, together with the Director-General of the United Nations Educational, Scientific and Cultural Organization and in consultation with Member States, to study ways in which Members could be aided, through the United Nations system and other channels, in establishing and developing such programmes, including in this context the possibility of proclaiming a United Nations Decade of International Law dedicated to the dissemination of international law, and to report on the results of such study to the General Assembly at its eighteenth session;

"3. *Decides* to include in the provisional agenda of its eighteenth session an item entitled "Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Secretary-General with a view to the strengthening of the practical application of international law".

¹ Document A/5672, reproduced from *Official Records of the General Assembly, Eighteenth Session, Annexes*, agenda item 72.

² *Official Records of the General Assembly, Seventeenth Session, Annexes*, agenda item 75, document A/5356.

2. Pursuant to this resolution the Secretary-General, by a letter and attached questionnaire of 30 March 1963, invited Member States to supply information and comment on various points relevant to paragraphs 1 and 2 of the resolution. A similar invitation was addressed to fourteen international organizations and institutions active in the field of international law. Thirty-eight Governments and ten international organizations and institutions replied to these communications (see A/5455 and Add.1-6).

3. On the basis of these consultations and in conjunction with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Secretary-General made the study requested in operative paragraph 2 of the above resolution and reported the results of it to the eighteenth session of the General Assembly (A/5585 and Corr.1).

4. At its 1210th plenary meeting, held on 20 September 1963, the General Assembly decided to include the item entitled "Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Secretary-General with a view to the strengthening of the practical application of international law" in the agenda of its eighteenth session and to allocate that item to the Sixth Committee.

5. The Sixth Committee considered the item at its 826th to 828th, 830th and 834th to 836th meetings, held from 5 to 7 December and from 11 to 12 December 1963.

6. At its 828th meeting, the Committee established a Working Group constituted of the representatives of States which sponsored last year's resolution on this item and amendments thereto, namely, Afghanistan, Belgium, Ghana and Ireland. The Working Group was requested to prepare a draft resolution based on the views expressed in the general debate on this item.

PROPOSALS AND AMENDMENTS

7. The Working Group submitted a report with a draft resolution annexed thereto (A/C.6/L.544). The operative paragraphs of part A read as follows:

"1. *Decides* to establish a special committee... for the purpose of drawing up a practical plan and proposals, taking into account:

"(a) The suggestions made by the Secretary-General in his report (A/5585 and Corr.1),

"(b) Proposals, suggestions and information submitted by Member States and international organizations and institutions,

"(c) The views and suggestions made by the representatives of Member States during the seventeenth and eighteenth sessions of the General Assembly;

"2. *Requests* the Special Committee to complete its report in sufficient time so that it may submit the report to the Technical Assistance Committee at its session to be held in June 1964;

"3. *Requests* the Secretary-General to provide the Special Committee with such facilities and assistance as may be made available within existing resources;

"4. *Decides* to place an item entitled Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law on the provisional agenda of its nineteenth session to be discussed by the Sixth Committee as early as possible at its next session."

The operative paragraphs of part B read as follows:

"1. *Requests* the Technical Assistance Committee to consider the report of the Secretary-General (A/5585 and Corr.1) and the report of the Special Committee as envisaged in part A of this resolution, and to advise, in the light of these reports, the extent to which

technical assistance programmes for the purpose of strengthening the practical application of international law could be implemented within the Expanded Programme of Technical Assistance, with particular attention to the kinds of technical assistance which would be acceptable under existing objects and principles of the Expanded Programme;

“2. *Invites* the Technical Assistance Committee, to the extent that revision in the existing principles and objects would be required in order to make country requests in the field of international law acceptable for Expanded Programme financing, to suggest to the Economic and Social Council and to the General Assembly any necessary changes in the legislation governing the Expanded Programme of Technical Assistance;

“3. *Further invites* the Technical Assistance Committee, in the light of General Assembly resolutions 1797 (XVII) and 1768 (XVII), at a suitable time in its consideration of the annual levels of the Secretary-General’s initial estimates for part V of the regular budget, to include in its recommendations such views as it may deem necessary on the question of the possible provision of funds under part V for programmes of technical assistance in the field of international law.”

The operative paragraphs of part C read as follows:

“1. *Requests* UNESCO to collect from Member States on a periodic basis detailed information on training in international law offered by their universities and institutions of higher education and to transmit it to the Secretary-General for circulation to Member States;

“2. *Invites* Member States to offer fellowships in the field of international law for foreign students at their universities and institutions of higher education;

“3. *Calls upon* Member States to consider the inclusion, in their programme of cultural exchanges, of provision for the exchange of teachers, students, experts, books and other publications in the field of international law;

“4. *Requests* the Secretary-General to inform organizations or institutions in the field of international law of topics which are before the Sixth Committee, the International Law Commission or other organs of the United Nations dealing with legal problems so that such organizations or institutions might consider including these topics in their own programmes of work;

“5. *Invites* Member States, interested international or national organizations and institutions or individuals to make voluntary contributions to the United Nations programmes of technical assistance to promote the teaching, study, dissemination and wider appreciation of international law and authorizes the Secretary-General to accept contributions made specifically for this purpose.”

8. At the 835th meeting the representative of Ghana informed the Committee orally that the Working Group had made the following changes in its draft resolutions.

(a) Operative paragraph 2 in part A was amended to read as follows:

“*Requests* the Special Committee to report to the General Assembly at its nineteenth session;”

(b) The beginning of operative paragraph 1 in part B was amended to read as follows:

“*Requests* the Technical Assistance Committee to consider the report of the Secretary-General (A/5585) and to advise the Special Committee and the General Assembly, in the light of this report, on the extent to which technical assistance programmes. . .”;

(c) Paragraph 2 in part B was deleted;

(d) Paragraph 3 was renumbered and the word “*Further*” deleted.

9. The representative of the United Arab Republic orally submitted at the same meeting two amendments:

(a) To add a new sub-paragraph (d) to operative paragraph 1 in part A reading as follows:

“(d) Any other proposals or views which Member States may submit to the Secretary-General for transmission to the Special Committee, before 15 February 1964;”

(b) To add the words “and the international regional organizations” at the end of paragraph 1 in part C.

10. The first amendment of the representative of the United Arab Republic was accepted by the Working Group. The second amendment was withdrawn.

11. At the same meeting the representative of Afghanistan orally submitted three amendments:

(a) To replace the words “thorough knowledge” in the fifth preambular paragraph of part A by the words “wider appreciation”;

(b) To add a new sub-paragraph to operative paragraph 1 of part A, reading as follows:

“(d) The views and suggestions of the Technical Assistance Committee on the possibility of rendering assistance”;

(c) To replace operative paragraph 5 in part C by the following three new paragraphs:

“5. *Invites* Member States, interested international or national organizations and institutions or individuals to make voluntary contributions to the United Nations programmes of technical assistance to promote the teaching, study, dissemination and wider appreciation of international law;

“6. *Authorizes* the Secretary-General to accept on behalf of the United Nations contributions made specifically for this purpose;

“7. *Further requests* the Secretary-General to inform the General Assembly accordingly.”

12. The second amendment of Afghanistan was later withdrawn.

13. The representative of Afghanistan proposed orally at the Committee’s 836th meeting that, in order to accommodate a point raised by the representative of the Union of Soviet Socialist Republics, parts A, B and C of the draft resolution should be considered as three separate draft resolutions. Consequently, the first three preambular paragraphs of part A were added to parts B and C of the original draft resolution.

DEBATE

14. The representatives who intervened in the debate stressed the positive role which international law had to play in governing international relations and expressed the view that this role might be strengthened through improved teaching and study and wider dissemination of international law.

15. Certain representatives expressed the view that a programme of assistance and exchange in the field of international law might contribute to the promotion of the law itself.

16. Many representatives considered that broader dissemination of international law was necessary and that education in international law should be generally directed on the basis of principles of the United Nations Charter, with the view to strengthening peaceful co-operation and understanding among nations.

17. Representatives were in general agreement that a programme of assistance and exchange in the field of international law should be initiated, covering certain of the elements contained in paragraphs 52-93 of the report of the Secretary-General. Some stressed, however, that no United Nations programme should duplicate or compete with programmes carried out by Governments or by other organizations and institutions and that this should be a selective programme, satisfying the needs of developing Member States. Some of the representatives stated that a comprehensive study of those needs would be necessary.

18. Representatives attached particular importance to various elements which might comprise part of the programme to be initiated, including the organization of regional training courses and centres, organization of seminars, universal and regional, and granting of fellowships for study and research abroad. They also stressed the need for exchange of teachers and students, advisory services to countries requesting this assistance, exchange of books and assistance to libraries of new States, training of Foreign Service officials, one of the possibilities being the advanced training provided directly by the United Nations, training of teachers, etc. Some representatives showed interest in obtaining assistance for their countries from abroad, others offered assistance and expressed the wish to participate in international exchange. It was pointed out that only some of these projects would be suitable for United Nations action, for financial and other reasons; others might better be left to Governments and other institutions.

19. Czechoslovakia offered five fellowships for training in international law at its universities for candidates from developing countries. Some representatives offered facilities for holding seminars and other meetings or the establishment of regional centres in their respective countries. The view was expressed that United Nations publications should get the widest possible circulation, that they should be developed and brought up-to-date, that appropriate United Nations documentation should be provided to new Member States, and that States should publish digests of their practice in international law. Some representatives thought that institutions like The Hague Academy of International Law should be encouraged. One delegation proposed the establishment of a United Nations university for the study of international law.

20. Several representatives provided the Committee with information on the teaching and dissemination of international law in their respective countries.

21. Most of the representatives who intervened in the debate supported the idea of a Decade of International Law, including, among others, the suggestions expressed by Member States and summarized in the Secretary-General's report (A/5585 and Corr.1, para. 47). Some representatives stressed, however, that the idea of a decade required further study. One representative considered that the idea might give rise to undue expectations, being a programme of relatively short duration and with modest means, and was therefore unprofitable.

22. Some of the representatives drew attention to the fact that financial resources available would at present limit any ambitious programme. Some of them suggested therefore that the United Nations should now undertake only activities not requiring additional finance and that other forms of assistance and exchange in this field be further studied.

23. Certain representatives suggested, in this respect, extending the present technical assistance programmes to the field of international law and stated that full use should be made of existing resources, both Governmental and private. Some representatives suggested that economically developed States should make special contributions to this programme. One representative stated that the regular budget should not be used for the financing of technical assistance and that the Expanded Programme of Technical Assistance should be used mainly for the industrial and economic development of the recipient countries. Another representative considered that social and legal development was closely connected with economic development, that assistance in international law did not differ very much from that

provided in the social and human rights fields and that all financial resources should be explored and used.

24. During the debate on the report of the Working Group (A/C.6/L.544) and on the draft resolution annexed to it, certain representatives stated that they would support the draft resolution as a first step in the right direction. Some representatives strongly opposed the proposal that the General Assembly should consult the Technical Assistance Committee before the Assembly had the opportunity to consider the results of the work of the Special Committee.

25. At the 834th meeting of the Committee, the representative of the Secretary-General stated, in compliance with rule 154 of the rules of procedure of the General Assembly, that no additional expenditures would arise if the Assembly were to adopt the draft resolution as contained and as elaborated upon in the Working Group's report. At the 836th meeting of the Committee he further explained that this previous statement was based upon the understanding that the Special Committee would either meet in Geneva and work in only one language, or at Headquarters in August 1964 when it could be serviced within existing appropriations.

26. The representative of UNESCO stated that the Director-General of UNESCO would be prepared to undertake the function conferred on that organization in draft resolution C, provided that this did not involve any new expenditure for the agency during 1965 and 1966.

27. At the 836th meeting the Chairman informed the Committee that the Special Committee would consist of the representatives of Afghanistan, Belgium, Ecuador, Ghana, Hungary and Ireland and that it would hold its meeting at United Nations Headquarters in August 1964.

VOTING

28. At its 836th meeting, on 12 December 1963, the Sixth Committee adopted the three draft resolutions. The results of the voting were as follows:

(a) The oral amendment of Afghanistan to consider parts A, B and C of the draft resolution, submitted by the Working Group as three separate draft resolutions and to add to parts B and C, as a preamble, the first three paragraphs of the preamble to part A, was adopted by the Committee by 65 votes to none, with 6 abstentions;

(b) Draft resolution A, as amended, was adopted unanimously;

(c) At the request of the representative of the Union of Soviet Socialist Republics a separate vote was taken on operative paragraph 2 of draft resolution B. This paragraph was retained in the resolution by a vote of 58 to 10 and 4 abstentions. Draft resolution B as a whole, as amended, was adopted by a vote of 61 to 10, with 1 abstention;

(d) Draft resolution C, as amended, was adopted unanimously.

Recommendation of the Sixth Committee

29. The Sixth Committee, therefore, recommends to the General Assembly the adoption of the following draft resolutions:

[Texts adopted by the General Assembly without change. See "Resolution adopted by the General Assembly" below.]

(b) Resolution adopted by the General Assembly

At its 1281st plenary meeting, on 16 December 1963, the General Assembly adopted draft resolutions A, B and C, submitted by the Sixth Committee (para. 29 above). For the final texts, see resolution 1968 (XVIII) below.

1968 (XVIII). Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law

A

The General Assembly,

Recalling its resolution 1816 (XVII) of 18 December 1962 on technical assistance to promote the teaching, study, dissemination and wider appreciation of international law,

Recalling that the General Assembly, as early as 1947, by its resolution 176 (II) of 21 November 1947, requested the Governments of Member States to take appropriate measures to extend the teaching of international law in all its phases, including its development and codification, in universities and institutions of higher education,

Having considered the report of the Secretary-General (A/5585) which contains certain practical suggestions relating to the proclamation of a United Nations decade of international law and to an initial programme of assistance and exchange in the field of international law,

Taking into account the valuable proposals, suggestions and information submitted by Member States and international organizations and institutions,

Believing that the promotion, dissemination and wider appreciation of international law and its teaching in universities and institutions of higher education contribute to the progressive development of international law and to friendly relations and co-operation among States,

Believing further that, for the practical implementation of the provisions of resolution 1816 (XVII), a comprehensive study of the suggestions and proposals made by Member States, international organizations and institutions as well as by the Secretary-General is required,

1. *Decides* to establish a Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law—composed of Afghanistan, Belgium, Ecuador, Ghana, Hungary and Ireland—for the purpose of drawing up a practical plan and proposals, taking into account:

(a) The suggestions made by the Secretary-General in his report;

(b) The proposals, suggestions and information submitted by Member States and by international organizations and institutions;

(c) The views and suggestions made by the representatives of Member States during the seventeenth and eighteenth sessions of the General Assembly;

(d) Any other proposals or views which Member States may submit to the Secretary-General for transmission to the Special Committee before 15 February 1964;

2. *Requests* the Special Committee to report to the General Assembly at its nineteenth session;

3. *Requests* the Secretary-General to provide the Special Committee with such facilities and assistance as may be made available within existing resources;

4. *Decides* to include an item entitled "Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law" in the provisional agenda of its nineteenth session, to be discussed by the Sixth Committee as early as possible at that session.

*1281st plenary meeting
16 December 1963*

B

The General Assembly,

Recalling its resolution 1816 (XVII) of 18 December 1962 on technical assistance to promote the teaching, study, dissemination and wider appreciation of international law,

Recalling that the General Assembly, as early as 1947, by its resolution 176 (II) of 21 November 1947, requested the Governments of Member States to take appropriate measures to extend the teaching of international law in all its phases, including its development and codification, in universities and institutions of higher education,

Having considered the report of the Secretary-General (A/5585), which contains certain practical suggestions relating to the proclamation of a United Nations decade of international law and to an initial programme of assistance and exchange in the field of international law,

1. *Requests* the Technical Assistance Committee to consider the report of the Secretary-General and to advise the Special Committee, established under resolution 1968 A (XVIII) above, and the General Assembly, in the light of this report, on the extent to which technical assistance programmes for the purpose of strengthening the practical application of international law could be implemented within the Expanded Programme of Technical Assistance, with particular attention to the kinds of technical assistance which would be acceptable under existing objects and principles of the Expanded Programme;

2. *Invites* the Technical Assistance Committee, in the light of General Assembly resolutions 1768 (XVII) of 23 November 1962 and 1797 (XVII) of 11 December 1962, at a suitable time in its consideration of the annual levels of the Secretary-General's initial estimates for part V of the regular budget, to include in its recommendations such views as it may deem necessary on the question of the possible provision of funds under part V for programmes of technical assistance in the field of international law.

*1281st plenary meeting
16 December 1963*

C

The General Assembly,

Recalling its resolution 1816 (XVII) of 18 December 1962 on technical assistance to promote the teaching, study, dissemination and wider appreciation of international law,

Recalling that the General Assembly, as early as 1947, by its resolution 176 (II) of 21 November 1947, requested the Governments of Member States to take appropriate measures to extend the teaching of international law in all its phases, including its development and codification, in universities and institutions of higher education,

Having considered the report of the Secretary-General (A/5585), which contains certain practical suggestions relating to the proclamation of a United Nations decade of international law and to an initial programme of assistance and exchange in the field of international law,

1. *Requests* the United Nations Educational, Scientific and Cultural Organization to collect from Member States on a periodic basis detailed information on training in international law offered by their universities and institutions of higher education and to transmit it to the Secretary-General for circulation to Member States;
2. *Invites* Member States to offer foreign students fellowships in the field of international law at their universities and institutions of higher education;
3. *Calls upon* Member States to consider the inclusion, in their programmes of cultural exchange, of provision for the exchange of teachers, students and experts, as well as books and other publications in the field of international law;
4. *Requests* the Secretary-General to inform organizations or institutions in the field of international law of topics which are before the Sixth Committee, the International Law Commission or other organs of the United Nations dealing with legal problems, so that such organizations or institutions might consider including these topics in their own programmes of work;
5. *Invites* Member States, interested international or national organizations and institutions or individuals to make voluntary contributions to the United Nations programmes of technical assistance to promote the teaching, study, dissemination and wider appreciation of international law;
6. *Authorizes* the Secretary-General to accept on behalf of the United Nations contributions made specifically for this purpose;
7. *Further requests* the Secretary-General to inform the General Assembly accordingly.

*1281st plenary meeting
16 December 1963*

8. URGENT NEED FOR SUSPENSION OF NUCLEAR AND THERMO-NUCLEAR TESTS (AGENDA ITEM 73)

Resolution adopted by the General Assembly

1910 (XVIII). Urgent need for suspension of nuclear and thermo-nuclear tests

The General Assembly,

Fully aware of its responsibility with regard to the question of nuclear weapon testing and of the views of world public opinion on this matter,

Noting with approval the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water,¹ signed on 5 August 1963 by the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, and subsequently by a great number of other countries

Noting further with satisfaction that in the preamble of that Treaty the parties state that they are seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time and are determined to continue negotiations to this end,

1. *Calls upon* all States to become parties to the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, and to abide by its spirit and provisions;

¹ Text reproduced in this *Yearbook*, pp. 107.

2. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament to continue with a sense of urgency its negotiations to achieve the objectives set forth in the preamble of the Treaty;

3. *Requests* the Eighteen-Nation Committee to report to the General Assembly at the earliest possible date and, in any event, not later than at the nineteenth session;

4. *Requests* the Secretary-General to make available to the Eighteen-Nation Committee the documents and records of the plenary meetings of the General Assembly and the meetings of the First Committee at which the item relating to nuclear testing was discussed.

*1265th plenary meeting
27 November 1963*