

VIENNA CONVENTION ON SUCCESSION OF STATES IN RESPECT OF STATE PROPERTY, ARCHIVES AND DEBTS

At its first session, in 1949, the Commission selected the subject of succession of States and Governments as one of the topics for codification without, however, including it in the list of topics to which it gave priority. At its fourteenth session, in 1962, the Commission was apprised of General Assembly resolution 1686 (XVI) of 18 December 1961, recommending that the Commission include on its priority list the topic of succession of States and Governments. The Commission decided to set up a Subcommittee on the Succession of States and Governments whose task was to submit to the Commission a preliminary report containing suggestions on the scope of the subject, the method of approach to the study and the means of providing the necessary documentation (A/CN.4/149 and Add.1, A/CN.4/150 and A/CN.4/151). At its fifteenth session, in 1963, the Commission considered and unanimously approved the report of the Subcommittee (A/5509).

The Commission expressed its agreement with the broad outline, the order of priority of the headings and the detailed division of the topic recommended by the Subcommittee: succession in respect of treaties; succession in respect of rights and duties resulting from other sources than treaties (revised in 1968 to read “succession of States in respect of matters other than treaties”) and succession in respect of membership of international organizations. The Commission approved the Subcommittee’s recommendations concerning the relationship between the topic of State succession and other topics on the Commission’s agenda.

At its nineteenth session, in 1967, the Commission appointed Mr. Mohammed Bedjaoui as Special Rapporteur for the sub-topic of succession in respect of rights and duties resulting from sources other than treaties (A/6709/Rev.1 and Corr.1). The Commission considered this sub-topic at its twentieth, twenty-first, twenty-fifth and from its twenty-seventh to thirty-third sessions, in 1968, 1969, 1973 and from 1975 to 1981, respectively. In connection with its consideration of this topic, the Commission had before it the reports of the Special Rapporteur, information provided by Governments (A/CN.4/338 and Add.1–4) as well as documents prepared by the Secretariat (A/CN.4/232).

At its twenty-fifth session, in 1973, the Commission decided to limit its study for the time being to only one category of public property, namely property of the State. At the same session, it began the first reading of the draft articles. The Commission completed the first reading of the draft articles on succession of States in respect of State property and State debts at its thirty-first session, in 1979, and on succession in respect of State archives, at its following session, in 1980. In accordance with its Statute, the draft articles adopted by the Commission on first reading were transmitted, through the Secretary-General, to Governments of Member States for their observations.

At its thirty-fifth session, the General Assembly adopted resolution 35/163 of 15 December 1980 by which, taking into account the written comments of Governments and views expressed in debates in the General Assembly, it recommended that the Commission should, at its thirty-third session, complete the second reading of the draft articles on succession of States in respect of matters other than treaties adopted at its thirty-first and thirty-second sessions.

At its thirty-third session, in 1981, the Commission re-examined the draft articles in the light of the comments of Governments and adopted the final text of its draft articles on succession of States in respect of State property, archives and debts, as

a whole, with commentaries (A/36/10). In accordance with its Statute, the Commission submitted the final draft articles to the General Assembly with a recommendation that the Assembly should convene a conference of plenipotentiaries to study the draft articles and conclude a convention on the subject (A/36/10).

At its thirty-sixth session, the General Assembly adopted resolution 36/113 of 10 December 1981 by which it decided to convene an international conference of plenipotentiaries to consider the draft articles on succession of States in respect of State property, archives and debts, and to embody the results of its work in an international convention and such other instruments as it might deem appropriate. By the same resolution, the General Assembly also invited Member States to submit their written comments and observations on the final draft articles. The General Assembly further adopted resolution 37/11 of 15 November 1982 by which it decided that the United Nations Conference on Succession of States in respect of State Property, Archives and Debts would be held at Vienna from 1 March to 8 April 1983.

The delegations of ninety States participated in the Conference. It had before it written comments of Governments on the final draft articles on succession of States in respect of State property, archives and debts pursuant to General Assembly resolution 36/113 of 10 December 1981, as well as comments made orally on the draft articles in the Sixth Committee of the General Assembly at the thirty-sixth and thirty-seventh sessions of the Assembly (A/CONF.117/5 and Add.1).

The Conference assigned to the Committee of the Whole the consideration of the draft articles on succession of States in respect of State property, archives and debts adopted by the International Law Commission. It entrusted to the Drafting Committee, in addition to the responsibility of drafting, coordinating and reviewing all the texts adopted, the preparation of the title, preamble and final clauses of the Convention, as well as the preparation of the Final Act of the Conference. On 7 April 1983, the Conference adopted the Vienna Convention on Succession of States in respect of State Property, Archives and Debts (A/CONF/117/14), consisting of a preamble, fifty-one articles and an annex.

The Final Act of the Conference, of which six resolutions adopted by the Conference form an integral part, was open for signature at United Nations Headquarters in New York from 8 April 1983 to 30 June 1984. The Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.