



Sixteenth session  
Agenda item 69

## REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS THIRTEENTH SESSION

### Report of the Sixth Committee

Rapporteur: M.E. USTOR (Hungary)

#### I. INTRODUCTION

1. At its 1014th plenary meeting on 25 September 1961, the General Assembly included in the agenda of its sixteenth session the item "Report of the International Law Commission on the work of its thirteenth session", and at its 1018th plenary meeting on 27 September, it decided to refer it to the Sixth Committee.
2. The Sixth Committee considered this agenda item from its 700th to its 713th meeting, from 20 October to 14 November 1961, and at its 725th meeting on 6 December 1961.
3. At its 700th meeting, the Chairman, on behalf of the Sixth Committee, welcomed Mr. Grigory Tunkin, Chairman of the International Law Commission, and invited him to present the Commission's report.<sup>1/</sup> During the debate, Mr. Tunkin answered questions put to him by certain representatives.
4. The report of the International Law Commission comprised three chapters, which dealt respectively with the organization of the session, consular intercourse and immunities, and other decisions and conclusions of the Commission, in particular those concerning the planning of the future work of the Commission.

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<sup>1/</sup> Official Records of the General Assembly, Sixteenth Session, Supplement No.9 (A/4843). Mr. Tunkin's statement was reproduced in document A/C.6/L.484.

## II. CONSULAR RELATIONS

5. Chapter II of the report of the International Law Commission contained a draft of seventy-one articles on consular relations, accompanied by commentaries, which the Commission had submitted to the General Assembly with the proposal that it should convene an international conference of plenipotentiaries to study that draft and conclude one or more conventions.

### Proposals and amendments

6. The Sixth Committee had before it a draft resolution (A/C.6/L.485 and Add.1) submitted by Denmark, Mexico, Pakistan, Philippines, Somalia, United States of America, Uruguay and Venezuela, proposing, inter alia, that the Assembly (1) include the item entitled "Consular relations" on the provisional agenda of its seventeenth session; (2) convene a conference of plenipotentiaries in 1963 to consider the question of consular relations and to embody the results of its work in an international convention; and (3) invite States Members of the United Nations, States members of the specialized agencies and States parties to the Statute of the International Court of Justice to participate in the conference.

7. Another draft resolution (A/C.6/L.486), submitted by Ceylon, Czechoslovakia, Guinea, India, Indonesia and Poland provided, inter alia, that the General Assembly should convene an international conference of plenipotentiaries at Geneva in the spring of 1963 to consider the question of consular relations and to embody the results of its work in an international convention. According to that draft, all States were to be invited to participate in the conference.

8. That draft was subsequently withdrawn by its sponsors, who submitted amendments (A/C.6/L.488) to the eight-Power draft resolution (A/C.6/L.485 and Add.1).

9. The eight Powers, incorporating some of the amendments proposed by the six Powers (A/C.6/L.488), later submitted the following revision of their draft resolution (A/C.6/L.485/Rev.1):

"The General Assembly,

"Having considered chapter II of the report of the International Law Commission covering the work of its thirteenth session (A/4843), which contains draft articles and commentaries on consular relations,

"Recalling that, according to paragraph 27 of that report, the International Law Commission decided to recommend that the General Assembly convene an international conference of plenipotentiaries to study the Commission's draft on consular relations and conclude one or more conventions on the subject.

"Expressing its firm belief that the successful codification and progressive development of the rules governing consular relations would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

"Noting with satisfaction that the draft articles on consular relations prepared by the International Law Commission constitute a good basis for the preparation of a convention on that subject,

"Desiring to provide an opportunity for completing the preparatory work by further expressions and exchanges of views concerning the draft articles at the seventeenth session of the General Assembly,

"1. Expresses its appreciation to the International Law Commission for its work on consular relations,

"2. Requests Member States to submit to the Secretary-General written comments concerning the draft articles by 1 July 1962, in order that they may be circulated to Governments prior to the beginning of the seventeenth session of the General Assembly,

"3. Decides that an international conference of plenipotentiaries be convened to consider the question of consular relations and to embody the results of its work in an international convention and such other instruments as it may deem appropriate,

"4. Requests the Secretary-General to convoke the conference at \_\_\_\_\_ at an appropriate time in 1963,

"5. Invites States Members of the United Nations, States members of the specialized agencies and States parties to the Statute of the International Court of Justice to participate in the conference and to include among their representatives experts competent in the field to be considered,

"6. Invites the specialized agencies and the interested inter-governmental organizations to send observers to the conference,

"7. Requests the Secretary-General to present to the conference documentation and recommendations concerning its methods of work and procedures,

"8. Requests the Secretary-General to arrange for the necessary staff and facilities which will be required for the conference,

"9. Refers to the conference chapter II of the report of the International Law Commission covering the work of its thirteenth session, together with the records of the relevant debates in the General Assembly, as the basis for its consideration of the question of consular relations,

"10. Expresses the hope that the conference will be fully attended,

"11. Decides to include the item entitled "Consular relations" on the provisional agenda of its seventeenth session to allow further expressions and exchanges of views concerning the draft articles on consular relations."

10. This revised draft resolution (A/C.6/L.485/Rev.1) incorporated the following amendments proposed by the six Powers (A/C.6/L.488):

- (1) the first amendment, which became the third preambular paragraph;
- (2) the second amendment, which became the fourth preambular paragraph;
- (3) the fourth amendment, concerning the final date for submitting comments, which was incorporated in operative paragraph 2;
- (4) the sixth amendment, which became operative paragraph 3;
- (5) the eighth amendment, concerning the phrase "together with the records of the relevant debates in the General Assembly", which was incorporated in operative paragraph 9;
- (6) the ninth amendment, which became operative paragraph 10.

11. The amendments to the eight-Power draft resolution (A/C.6/L.485 and Add.1) which were not incorporated in the revised draft resolution were the following:

- (1) The third amendment, providing for the deletion of the third preambular paragraph;
- (2) The fifth amendment, providing for the deletion of operative paragraph 3;
- (3) The seventh amendment, according to which operative paragraph 6 would have read:

"Invites all States to participate in the conference and to include among their representatives experts competent in the field to be considered";

12. Since most of their amendments had been incorporated in the revised draft resolution (A/C.6/L.485/Rev.1), the sponsors of the amendments (A/C.6/L.488) withdrew those which had not been incorporated, with the exception of the seventh amendment, which henceforth related to paragraph 5 of the revised draft resolution.

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13. The United Arab Republic submitted an amendment (A/C.6/L.489) to the eight-Power draft resolution (A/C.6/L.485 and Add.1) and that amendment was incorporated in the revised draft as the final paragraph of the operative part.
14. As a result, the representative of the United Arab Republic withdrew his amendment.
15. The representative of Ceylon suggested orally that, in operative paragraph 4 of the revised draft resolution (A/C.6/L.485/Rev.1), the words "at an appropriate time in 1963" be replaced by "in February 1963". That amendment was accepted by the sponsors of the revised draft resolution.
16. A statement showing the financial implications of the revised draft resolution was submitted by the Secretariat (A/C.6/L.490).

#### Debate

17. The representatives who spoke on this point congratulated the International Law Commission on its work in the matter of consular relations. They said in particular that the draft prepared by the Commission took the codification and development of consular law duly into account and could serve as a satisfactory basis for an international convention.
18. They took a favourable view of the recommendation, made by the International Law Commission in paragraph 27 of its report, that an international conference of plenipotentiaries should be convened in order to conclude one or more conventions on consular relations.
19. Most representatives pointed out that the draft had been made available only a short time before the beginning of the session, a fact which prevented them from discussing its substance. They also considered that Member States had not been given sufficient time in which to study it and that it was necessary to ask them to submit written observations on the draft articles.
20. Some of those representatives suggested that the question should be inserted on the provisional agenda of the next session of the General Assembly, in order to allow a new exchange of views to pave the way for the proposed conference.
21. Other representatives considered, by contrast, that a new debate on consular relations at the seventeenth session would be superfluous since the

Sixth Committee had already discussed the International Law Commission's provisional draft at its previous session. Moreover, Governments could send their observations directly to the conference, which would take them into account in discussing the draft. However, those representatives did not press the point in the light of the explanation given in the revised eight-Power draft resolution (A/C.6/L.485/Rev.1) that it was merely a question of providing Governments with an opportunity of completing the preparatory work.

22. The Committee was almost unanimous in considering that the conference should be convened in 1963.

23. With regard to the place where the conference was to be held, the general consensus of opinion tended to favour the European Office of the United Nations at Geneva, although some representatives stated that United Nations Headquarters should be chosen for both budgetary and practical reasons. In the course of the discussion, the Spanish representative suggested in the name of his Government that the conference be held in Barcelona, on account of the historical part played by that city in the development of consular institutions. He pointed out that, by agreeing that Vienna should be the venue of the United Nations Conference on Diplomatic Relations in 1961, the General Assembly had recognized the historical role of that city in the development of diplomatic law and had thus established a precedent. That offer was made purely in order to help ensure the success of the conference. However, some difficulties arose and, in order not to hamper the convening of the conference, the Spanish Government, out of courtesy, withdrew its invitation.

24. After this invitation was withdrawn, the Austrian representative extended an invitation on behalf of his Government, in accordance with General Assembly resolution 1202 (XII), for the conference to be held at Vienna at the beginning of March 1963. A number of representatives expressed their pleasure and gratitude to the Spanish and Austrian Governments.

25. Two points of view emerged on the question of which States should be invited to the conference. Some representatives were in favour of inviting all States and asserted that discrimination against particular States was intolerable and contrary to the aims of the United Nations as well as to the letter and spirit of the Charter. Other representatives, recommending that past United Nations

practice should be followed, were in favour of inviting only States Members of the United Nations and of the specialized agencies and States parties to the Statute of the International Court of Justice; they felt that a decision to invite all States would place the Secretary-General in a difficult position in deciding to whom the invitations should be sent.

26. Several representatives expressed the wish that Mr. Jaroslav Zourek, the International Law Commission's Special Rapporteur on consular intercourse, should take part in the projected conference as a Secretariat expert.

### Voting

27. At its 712th meeting, on 13 November 1961, the Sixth Committee voted on the revised eight-Power draft resolution (A/C.6/L.485/Rev.1), as orally amended by the Ceylonese representative (see paragraph 15 above), and on the seventh of the six-Power amendments (A/C.6/L.488), the only one that had not been withdrawn.

28. The seventh six-Power amendment (A/C.6/L.488) was rejected by 45 votes to 26, with 13 abstentions, on a roll-call vote. The results of the vote were as follows:

In favour: Afghanistan, Albania, Bulgaria, Burma, Byelorussian Soviet Soviet Socialist Republic, Cambodia, Ceylon, Cuba, Czechoslovakia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Mali, Mongolia, Morocco, Nepal, Poland, Romania, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Against: Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, El Salvador, France, Greece, Guatemala, Haiti, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Lebanon, Luxembourg, Madagascar, Mauritania,, Mexico, Netherlands, New Zealand, Norway, Pakistan, Panama, Philippines, South Africa, Spain, Sweden, Thailand, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Cameroun, Federation of Malaya, Finland, Iran, Liberia, Libya, Nigeria, Peru, Saudi Arabia, Senegal, Sierra Leone, Somalia, Yemen.

29. The revised eight-Power draft resolution (A/C.6/L.485/Rev.1), as amended, was adopted unanimously.

30. At its 725th meeting, on 6 December 1961, the Sixth Committee unanimously decided to accept the Austrian Government's invitation to hold the conference at Vienna at the beginning of March 1963. That date was chosen by the Committee because technical difficulties stood in the way of convening the conference at Vienna in February, the date adopted at the 712th meeting.

31. The Sixth Committee therefore recommends that the General Assembly should adopt the draft resolution contained in paragraph 33 of this report.

### III. OTHER DECISIONS AND CONCLUSIONS OF THE INTERNATIONAL LAW COMMISSION

32. Chapter III of the report of the International Law Commission, entitled "Other decisions and conclusions of the Commission", dealt, particularly in section II, with the planning of the future work of the Commission. That item was considered by the Sixth Committee at the same time as agenda item 70, entitled "Future work in the field of the codification and progressive development of international law".

### IV. RECOMMENDATION OF THE SIXTH COMMITTEE

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

#### International Conference of Plenipotentiaries on Consular Relations

The General Assembly,

Having considered chapter II of the report of the International Law Commission covering the work of its thirteenth session,<sup>2/</sup> which contains draft articles and commentaries on consular relations,

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2/ Official Records of the General Assembly, Sixteenth Session, Supplement No. 9 (A/4843).



Recalling that, according to paragraph 27 of that report, the International Law Commission decided to recommend that the General Assembly convene an international conference of plenipotentiaries to study the Commission's draft on consular relations and conclude one or more conventions on the subject,

Expressing its firm belief that the successful codification and progressive development of the rules governing consular relations would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Noting with satisfaction that the draft articles on consular relations prepared by the International Law Commission constitute a good basis for the preparation of a convention on that subject,

Desiring to provide an opportunity for completing the preparatory work by further expressions and exchanges of views concerning the draft articles at the seventeenth session of the General Assembly,

1. Expresses its appreciation to the International Law Commission for its work on consular relations;

2. Requests Member States to submit to the Secretary-General written comments concerning the draft articles by 1 July 1962, in order that they may be circulated to Governments prior to the beginning of the seventeenth session of the General Assembly;

3. Decides that an international conference of plenipotentiaries be convened to consider the question of consular relations and to embody the results of its work in an international convention and such other instruments as it may deem appropriate;

4. Requests the Secretary-General to convoke the conference at Vienna, at the beginning of March 1963;

5. Invites States Members of the United Nations, States members of the specialized agencies and States parties to the Statute of the International Court of Justice to participate in the conference and to include among their representatives experts competent in the field to be considered;

6. Invites the specialized agencies and the interested inter-governmental organizations to send observers to the conference;

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7. Requests the Secretary-General to present to the conference documentation and recommendations concerning its methods of work and procedures;

8. Requests the Secretary-General to arrange for the necessary staff and facilities which will be required for the conference;

9. Refers to the conference chapter II of the report of the International Law Commission covering the work of its thirteenth session, together with the records of the relevant debates in the General Assembly, as the basis for its consideration of the question of consular relations;

10. Expresses the hope that the conference will be fully attended;

11. Decides to include the item entitled "Consular relations" on the provisional agenda of its seventeenth session to allow further expressions and exchanges of views concerning the draft articles on consular relations.

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