



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/7797
27 November 1969

ORIGINAL: ENGLISH

Twenty-fourth session
Agenda item 94 (a) and (c)

DECLARATION AND RESOLUTIONS ADOPTED BY THE UNITED NATIONS
CONFERENCE ON THE LAW OF TREATIES:

DECLARATION ON UNIVERSAL PARTICIPATION
IN THE VIENNA CONVENTION ON THE
LAW OF TREATIES

RESOLUTION RELATING TO ARTICLE 66 OF THE VIENNA CONVENTION
ON THE LAW OF TREATIES AND THE ANNEX THERETO

Report of the Sixth Committee

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I. INTRODUCTION

1. By a note dated 20 June 1969 (A/7592), accompanied by an explanatory memorandum, the Secretary-General proposed the inclusion in the agenda of the twenty-fourth regular session of the General Assembly of an item entitled:

"Declaration and resolutions adopted by the United Nations Conference on the Law of Treaties;

- (a) Declaration on Universal Participation in the Vienna Convention on the Law of Treaties;
- (b) Resolution relating to article 1 of the Vienna Convention on the Law of Treaties;
- (c) Resolution relating to article 66 of the Vienna Convention on the Law of Treaties and the annex thereto."

2. At its 1758th plenary meeting, on 20 September 1969, the General Assembly accepted the recommendations of the General Committee (A/7700, paras. 12 and 16) that this item should be included in the agenda of its twenty-fourth session (item 94) and allocated to the Sixth Committee.

3. At its 1102nd meeting, on 24 September 1969, the Sixth Committee decided to consider sub-heading (b) of item 94, entitled "Resolution relating to article 1 of the Vienna Convention on the Law of Treaties", together with the report of the International Law Commission on the work of its twenty-first session (item 86). An account of the consideration of item 94 (b) by the Sixth Committee, and its recommendation thereon, will be found in its report on agenda items 86 and 94 (b) (A/7746). The present report consequently deals only with the Sixth Committee's proceedings on sub-headings (a) and (c) of item 94.

II. DECLARATION ON UNIVERSAL PARTICIPATION IN THE VIENNA CONVENTION ON THE LAW OF TREATIES (item 94 (a))

A. Text of the Declaration

4. The text of the Declaration on Universal Participation in the Vienna Convention on the Law of Treaties reads as follows:

...

"The United Nations Conference on the Law of Treaties,

"Convinced that multilateral treaties which deal with the codification and progressive development of international law, or the object and purpose of which are of interest to the international community as a whole, should be open to universal participation,

"Noting that articles 81 and 83^{1/} of the Vienna Convention on the Law of Treaties enable the General Assembly to issue special invitations to States which are not Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency, or parties to the Statute of the International Court of Justice, to become parties to the Convention,

"1. Invites the General Assembly to give consideration, at its twenty-fourth session, to the matter of issuing invitations in order to ensure the widest possible participation in the Vienna Convention on the Law of Treaties;

"2. Expresses the hope that the States Members of the United Nations will endeavour to achieve the object of this Declaration;

"3. Requests the Secretary-General of the United Nations to bring this Declaration to the notice of the General Assembly;

"4. Decides that the present Declaration shall form part of the Final Act of the United Nations Conference on the Law of Treaties."

B. Documentation, proposals and amendments

5. In connexion with the above Declaration, the Sixth Committee had the following documentation before it: the note and explanatory memorandum by the Secretary-General (A/7592) referred to in paragraph 1 of this report, a further note by the Secretary-General (A/C.6/L.743) and a letter dated 10 October 1969 from the Permanent Representative of Bulgaria to the President of the twenty-fourth session of the General Assembly (A/C.6/396).

6. On 4 November 1969, a draft resolution concerning the Declaration was submitted by: Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia,

1/ The full text of articles 81 and 83 will be found in paragraph 4 of the Secretary-General's note and explanatory memorandum (A/7592) referred to in paragraph 1 above.

Hungary, Mali, Mongolia, Poland, Romania, Southern Yemen, Sudan, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic and Zambia (A/C.6/L.768). This draft resolution provides as follows:

"The General Assembly,

"Noting the Declaration on Universal Participation in the Vienna Convention on the Law of Treaties adopted by the United Nations Conference on the Law of Treaties,

"Recalling that treaties have always been an important instrument for establishing and shaping relations between States,

"Taking into consideration that general multilateral treaties promote peaceful co-operation among States, irrespective of their political, economic and social systems,

"Reaffirming that every State, in accordance with the principle of sovereign equality, has the right to conclude treaties,

"Being convinced that it is in the interest of the rule of law that the Vienna Convention on the Law of Treaties should be open to all States,

"Noting that articles 81 and 83 of the Vienna Convention on the Law of Treaties enable the General Assembly to issue special invitations to States which are not Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency, or parties to the Statute of the International Court of Justice, to become parties to the Convention,

"1. Reaffirms its conviction that multilateral treaties which deal with the codification and progressive development of international law, or the object and purpose of which are of interest to the international community as a whole, should be open to universal participation;

"2. Invites all States which are not Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency, or parties to the Statute of the International Court of Justice, to become parties to the Vienna Convention on the Law of Treaties;

"3. Requests the Secretary-General of the United Nations to issue appropriate invitations on behalf of the General Assembly to the States referred to in paragraph 2 of the present resolution."

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7. An amendment to the foregoing draft resolution was submitted by Uganda (A/C.6/L.770) on 10 November 1969, providing that:

"After operative paragraph 3, add a new paragraph 4 to read as follows:

"4. Further requests the United Nations Council for Namibia to take appropriate steps to extend the application of the Vienna Convention on the Law of Treaties to the United Nations Territory of Namibia."

8. On 11 November 1969, a further draft resolution was submitted by Ghana and India (A/C.6/L.772). This draft resolution reads as follows:

"The General Assembly,

"Having considered the Declaration on Universal Participation in the Vienna Convention on the Law of Treaties which was adopted by the United Nations Conference on the Law of Treaties,

"Noting that in the aforementioned Declaration the Conference invited the General Assembly to give consideration, at its twenty-fourth session, to the matter of issuing invitations in order to ensure the widest possible participation in the Vienna Convention on the Law of Treaties,

"Recalling that articles 81 and 83 of the Vienna Convention on the Law of Treaties enable the General Assembly to issue special invitations to States which are not Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency, or parties to the Statute of the International Court of Justice, to become parties to the Convention,

"1. Invites any of the Parties to one or more of the following treaties:

- (i) Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water;
- (ii) Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies;

who are not otherwise eligible under articles 81 and 83 of the Vienna Convention on the Law of Treaties to become parties to the Convention;

"2. Requests the depositaries of the aforementioned treaties to keep the Secretary-General currently informed of the Parties to those Treaties."

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C. Decision of the Sixth Committee

9. At its 1153rd meeting, on 18 November 1969, on the proposal of the representative of Mexico, and prior to the introduction in the Committee of either of the draft resolutions and the amendment set out in paragraphs 6 to 8 above, the Sixth Committee decided, without objection, to recommend to the General Assembly to defer until its twenty-fifth regular session consideration of agenda item 94 (a): "Declaration on Universal Participation in the Vienna Convention on the Law of Treaties" (see paragraph 18 below).

III. RESOLUTION RELATING TO ARTICLE 66 OF THE VIENNA CONVENTION
ON THE LAW OF TREATIES AND THE ANNEX THERETO (item 94 (c))

A. Text of the resolution

10. The text of the resolution relating to article 66 of the Vienna Convention on the Law of Treaties reads as follows:

"The United Nations Conference on the Law of Treaties,

"Considering that under the terms of paragraph 7 of the annex to the Vienna Convention on the Law of Treaties, the expenses of any conciliation commission that may be set up under article 66 of the Convention shall be borne by the United Nations,

"Requests the General Assembly of the United Nations to take note of and approve the provisions of paragraph 7 of this annex."

Paragraph 7 of the annex to the Convention stipulates that:

"7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations."

The full text of the annex is appended to the Secretary-General's note and explanatory memorandum (A/7592) referred to in paragraph 1 above. Paragraph 10 of that memorandum also sets out the texts of articles 65 and 66 of the Convention.

B. Documentation and proposal

11. In connexion with the above resolution, the Sixth Committee had the following documentation before it: the note and explanatory memorandum by the

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Secretary-General (A/7592), and two further notes by the Secretary-General (A/C.6/L.743 and A/C.6/397), the second of which contained a statement of the financial and administrative implications of the conciliation procedure provided in the Vienna Convention on the Law of Treaties.

12. On 13 November 1969, a draft resolution concerning item 94 (c) was submitted by: Argentina, Ceylon, Chile, Congo (Democratic Republic of), Cyprus, Ivory Coast, Japan, Kenya, Morocco, Netherlands, Nigeria, Sweden and Togo (A/C.6/L.774). On 19 November, a revision of this draft resolution (A/C.6/L.774/Rev.1) was submitted by the sponsors, together with a passage proposed for inclusion in the Sixth Committee's report on this item. The draft resolution reads as follows:^{2/}

"The General Assembly,

"Taking note of the Vienna Convention on the Law of Treaties, adopted by the United Nations Conference on the Law of Treaties, and in particular paragraph 7 of the annex thereto,

"Taking note of the resolution adopted by the Conference relating to article 66 of the Vienna Convention on the Law of Treaties and the annex thereto,

"Considering that, under the terms of paragraph 7 of the annex to the Convention, the expenses of any conciliation commission that may be set up under article 66 of the Convention shall be borne by the United Nations,

"Noting the arrangements suggested in the note by the Secretary-General (A/C.6/397) on financial and administrative implications of the conciliation procedure provided in the Convention,

"1. Approves the provisions of paragraph 7 of the annex;

"2. Requests the Secretary-General to take action accordingly."

13. The passage for inclusion in the Sixth Committee's report (A/C.6/L.374/Rev.1, note 2/) provided that:

^{2/} In its original form (A/C.6/L.774) this draft resolution did not contain the last preambular paragraph and the passage for inclusion in the Sixth Committee's report.

"Note 1/ The sponsors also propose that, in connexion with the adoption of the above-mentioned resolution, the Sixth Committee will endorse the following for inclusion in its report:

'The Sixth Committee recommends that the General Assembly, in addition to the general approval given to the note by the Secretary-General (A/C.6/397), should take the following decisions:

(a) The Commissioners appointed to a Conciliation Commission shall receive, in addition to payments for travel and subsistence, honoraria as follows: the Chairman of a Conciliation Commission shall receive a sum equal to twice the annual remuneration of the individual members of the International Law Commission and the other members of a Commission shall receive a sum equal to the annual remuneration of the individual members of the International Law Commission.

(b) In particular, on the specific points raised in paragraphs 8, 12 and 13 for decision by the General Assembly, the Secretary-General is authorized:

- (i) To hold meetings of a Conciliation Commission in Geneva;
- (ii) To provide verbatim records exceptionally at the request of a Commission;
- (iii) To incur necessary expenses under the terms of resolutions relating to unforeseen and extraordinary expenses.'

On 21 November 1969, paragraph (a) of the passage for inclusion in the report was orally revised on behalf of the sponsors to read:

"(a) The Commissioners appointed to a Conciliation Commission shall receive, in addition to payments for travel and subsistence, honoraria as follows: the Chairman of a Conciliation Commission shall receive a sum equal to that received by a Judge ad hoc of the International Court of Justice and the other members of a Commission shall receive a sum equal to half of that received by a Judge ad hoc of the International Court of Justice."

C. Proceedings and decisions of the Sixth Committee

14. The Sixth Committee considered agenda item 94 (c) at its 1154th to 1158th meetings inclusive, between 19 and 24 November 1969.

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15. At its 1157th meeting, the Sixth Committee decided, without objection, to vote separately upon the draft resolution (A/C.6/L.774/Rev.1, see para. 12 above), and the passage, as orally revised, to be included in its report (A/C.6/L.774/Rev.1, note 1/, see para. 13 above). A roll-call vote was requested in both instances.

16. The voting on the draft resolution (A/C.6/L.774/Rev.1) was as follows:

In favour: Argentina, Austria, Barbados, Belgium, Bolivia, Cambodia, Canada, Ceylon, Chile, Colombia, Congo (Democratic Republic of), Cyprus, Dahomey, Denmark, Ecuador, Finland, Ghana, Greece, Guatemala, Guyana, Iceland, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Lebanon, Liberia, Libya, Malaysia, Mauritius, Mexico, Morocco, Netherlands, New Zealand, Niger, Norway, Panama, Philippines, Senegal, Sierra Leone, Spain, Sudan, Sweden, Togo, Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia, Zambia.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, Gabon, Hungary, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Afghanistan, Algeria, Australia, Brazil, Burma, Cameroon, Central African Republic, Chad, China, Congo (Brazzaville), Ethiopia, India, Indonesia, Mali, Nepal, Rwanda, South Africa, Southern Yemen, Syria, Thailand, Tunisia, Turkey, United Arab Republic, United Republic of Tanzania, Venezuela.

Consequently, the draft resolution was adopted by 57 votes to 12, with 25 abstentions (see para. 19 below).

17. The results of the voting on the passage, as orally revised (A/C.6/L.774/Rev.1, note 1 /), to be included in the Sixth Committee's report, were as follows:

In favour: Argentina, Austria, Ceylon, Chile, Congo (Democratic Republic of), Cyprus, Dahomey, Denmark, Ecuador, Finland, Guatemala, Iceland, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Kuwait, Malaysia, Mauritius, Morocco, Nepal, Netherlands, New Zealand, Niger, Norway, Panama, Senegal, Sierra Leone, Sweden, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America.

/...

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, Gabon, Hungary, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Afghanistan, Algeria, Australia, Barbados, Belgium, Bolivia, Brazil, Burma, Cambodia, Cameroon, Canada, Central African Republic, Chad, China, Colombia, Congo (Brazzaville), Ethiopia, Ghana, Greece, Guyana, India, Indonesia, Iraq, Jamaica, Lebanon, Liberia, Libya, Mali, Mexico, Philippines, Rwanda, South Africa, Southern Yemen, Spain, Sudan, Syria, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia.

Consequently, the passage, as orally revised, for inclusion in the report was adopted by 36 votes to 12, with 46 abstentions (see para. 20 below).

IV. RECOMMENDATIONS OF THE SIXTH COMMITTEE

Item 94 (a)

18. The Sixth Committee recommends to the General Assembly the adoption of the following decision:

"The General Assembly decides to defer until its twenty-fifth regular session consideration of agenda item 94 (a) (Declaration on Universal Participation in the Vienna Convention on the Law of Treaties)."

Item 94 (c)

19. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Resolution relating to article 66 of the Vienna Convention on the Law of Treaties and the annex thereto adopted by the United Nations Conference on the Law of Treaties

The General Assembly,

Taking note of the Vienna Convention on the Law of Treaties, 3/ adopted by the United Nations Conference on the Law of Treaties, and in particular paragraph 7 of the annex thereto,

Taking note of the resolution relating to article 66 of the Vienna Convention on the Law of Treaties and the annex thereto adopted by the United Nations Conference on the Law of Treaties, 4/

3/ A/CONF.39/27 and Corr.1.

4/ A/7592, para. 12.

Considering that, under the terms of paragraph 7 of the annex to the Convention, the expenses of any conciliation commission that may be set up under article 66 of the Convention shall be borne by the United Nations,

Noting the arrangements suggested in the note by the Secretary-General Secretary-General 5/ on the financial and administrative implications of the conciliation procedure provided in the Convention,

1. Approves the provisions of paragraph 7 of the annex to the Vienna Convention on the Law of Treaties;

2. Requests the Secretary-General to take action accordingly.

20. The Sixth Committee also recommends to the General Assembly the adoption of the following decision:

"The General Assembly, in addition to the general approval given to the note by the Secretary-General on the financial and administrative implications of the conciliation procedure provided in the Vienna Convention on the Law of Treaties, 6/ decides that:

(a) The commissioners appointed to a conciliation commission shall receive, in addition to payments for travel and subsistence, honoraria as follows: the chairman of a conciliation commission shall receive a sum equal to that received by a Judge ad hoc of the International Court of Justice and the other members of a commission shall receive a sum equal to half of that received by a Judge ad hoc of the International Court of Justice;

(b) In particular, on the specific points raised in paragraphs 8, 12 and 13 for decision by the General Assembly, the Secretary-General is authorized:

- (i) To hold meetings of a conciliation commission in Geneva;
- (ii) To provide verbatim records exceptionally at the request of a commission;
- (iii) To incur necessary expenses under the terms of resolutions relating to unforeseen and extraordinary expenses."

5/ A/C.6/397.

6/ Ibid.