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Agenda item 119

CONSIDERATION OF THE DRAFT ARTICLES ON MOST-FAVOURED-NATION CLAUSES

Report of the Sixth Committee

Rapporteur: Mr. Antonio VIÑAL (Spain)

1. The item "Consideration of the draft articles on most-favoured-nation clauses: report of the Secretary-General" was included in the provisional agenda of the thirty-sixth session of the General Assembly pursuant to paragraph 5 of General Assembly resolution 35/161 of 15 December 1980.
2. On the recommendation of the General Committee, the General Assembly decided, at its 4th plenary meeting, on 18 September 1981, to include the item in the agenda of its thirty-sixth session and to allocate it to the Sixth Committee.
3. For its consideration of the item, the Committee had before it the following documents:
 - (a) The draft articles on most-favoured-nation clauses adopted by the International Law Commission at its thirtieth session in 1978; 1/
 - (b) Report of the Secretary-General (A/36/145) containing the comments and observations submitted by Governments, organs of the United Nations and intergovernmental organizations pursuant to paragraph 2 of General Assembly resolution;

1/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 10 (A/33/10), chap. II.

(c) An updated analytical compilation of those comments and observations (A/36/146). 2/

4. The Committee considered this item at its 54th to 56th, 58th to 60th, 63rd and 64th meetings, on 19, 20, 23 to 25 and 27 November, and on 1 December. The summary records of those meetings (see A/C.6/36/SR.54-56, 58-60, 63 and 64) reflect the views expressed by the representatives who participated in the debate on the item.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/36/L.20/Rev.1

5. At the 63rd meeting, on 1 December, the representative of Hungary introduced a draft resolution (A/C.6/36/L.20/Rev.1) sponsored by Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Mongolia and the Union of Soviet Socialist Republics. 3/

6. At its 64th meeting, on 1 December, the Committee adopted draft resolution A/C.6/36/L.20/Rev.1 by consensus (see para. 8).

7. The representatives of the United States of America and of the United Kingdom of Great Britain and Northern Ireland (on behalf of the 10 States members of the European Community) made statements in explanation of their position on the Committee's decision.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

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

Consideration of the draft articles on most-favoured-nation clauses

The General Assembly,

Recalling its resolution 33/139 of 19 December 1978 relating to the report of the International Law Commission on the work of its thirtieth session, 4/ in particular section II of the resolution,

2/ At the thirty-fifth session of the General Assembly, the written comments and observations received and the analytical compilation thereof were issued, respectively, under the symbols A/35/203 and Add.1-3 and A/35/443.

3/ The revision of the document initially submitted by the sponsors (A/C.6/36/L.20) consisted in replacing the original phrase "their written comments and observations" in paragraph 1 by the phrase "any written comments and observations which they deem appropriate".

4/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 10 (A/33/10).

Recalling also its resolution 35/161 of 15 December 1980, entitled "Consideration of the draft articles on most-favoured-nation clauses",

Reaffirming its appreciation of the high quality of the work done by the International Law Commission in elaborating a series of draft articles on most-favoured-nation clauses,

Bearing in mind the importance of facilitating international trade and development of economic co-operation among all States on the basis of equality, mutual advantage and non-discrimination in the establishment of the new international economic order,

Having considered the item entitled "Consideration of the draft articles on most-favoured-nation clauses", including the report of the Secretary-General and the analytical compilation of comments and observations from Governments, organs of the United Nations which have competence in the subject-matter and interested intergovernmental organizations, submitted pursuant to paragraphs 3 and 4 of General Assembly resolution 35/161, 5/

Taking note of the comments and observations submitted, in particular those relating to outstanding issues,

Aware of the fact that more replies from States and interested intergovernmental agencies are needed,

1. Requests the Secretary-General to reiterate his invitation to Member States, interested organs of the United Nations, such as the regional commissions and the United Nations Commission on International Trade Law, as well as interested intergovernmental organizations, to submit or bring up to date, not later than 30 June 1983, any written comments and observations which they deem appropriate on chapter II of the report of the International Law Commission on the work of its thirtieth session, in particular on:

(a) The draft articles on most-favoured-nation clauses adopted by the International Law Commission;

(b) Those provisions relating to such clauses on which the International Law Commission was unable to take a decision;

and also requests States to comment on the recommendation of the International Law Commission that those draft articles should be recommended to Member States with a view to the conclusion of the convention on the subject;

2. Decides to consider the substance of the draft articles on most-favoured-nation clauses, together with any amendments thereto, at its thirty-eighth session with a view to taking a decision thereon;

5/ A/36/145 and A/36/146.

3. Decides to include in the provisional agenda of its thirty-eighth session the item entitled "Consideration of the draft articles on most-favoured-nation clauses" and to consider it as a matter of priority.
