



Seventeenth session  
Agenda item 76

REPORT OF THE INTERNATIONAL LAW COMMISSION  
ON THE WORK OF ITS FOURTEENTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. José María Ruda (Argentina)

I. INTRODUCTION

1. At its 1129th plenary meeting held on 24 September 1962, the General Assembly decided to include the item entitled "Report of the International Law Commission on the work of its fourteenth session" in the agenda of its seventeenth session, and to allocate the item to the Sixth Committee.
2. The Sixth Committee considered this agenda item from its 734th to its 752nd meetings from 1 October to 2 November 1962.
3. At the 734th meeting, the Chairman welcomed Mr. Radhabinod Pal, Chairman of the International Law Commission on behalf of the Sixth Committee and invited him to present the Commission's report.<sup>1/</sup> At the 740th meeting, held on 12 October, Mr. Pal replied to the comments and suggestions 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, future work in the field of codification and progressive development of

<sup>1/</sup> Official Records of the General Assembly, Seventeenth Session, Supplement No. 9 (A/5209). Mr. Pal's statement was reproduced in document A/C.6/L.497.

international law, the planning of the work of the Commission for the next session, and other decisions and conclusions of the Commission.

## II. PROPOSALS AND AMENDMENTS

5. Japan, Turkey and the United States of America submitted a draft resolution (A/C.6/L.500) under which the General Assembly would (1) take note of the report of the International Law Commission and (2) express its appreciation of the work done by the Commission.

6. Another draft resolution (A/C.5/L.501) was submitted by Ghana, Indonesia and the Ukrainian Soviet Socialist Republic, under which the General Assembly would (1) take note of the report of the International Law Commission; (2) express its appreciation to that Commission for the work accomplished by it, especially in regard to the topic of the Law of Treaties; (3) recommend the International Law Commission: (a) to continue the codification work in the field of the law of treaties taking into account the views expressed during the discussion in the Committee during the seventeenth session of the General Assembly as well as comments which might be submitted by Governments and the recent developments in this field, in order that the Law of Treaties might be placed upon the widest and most secure foundations based on strict respect for principles of the sovereign equality of States; (b) to adopt a broader approach to the codification of rules of State responsibility, including in its study those governing the responsibility consequent upon the violation of the basic principles of international law relating to the maintenance of international peace and security; (c) to take into account when elaborating on the subject of State succession the views of new States which have recently become members of the international community; and (4) request the Secretary-General to provide the necessary technical services to the Commission, as referred to in paragraphs 84 and 85 of its report.

7. These draft resolutions were later withdrawn by their sponsors who, together with other representatives, submitted a new draft resolution.

8. This draft resolution (A/C.6/L.503) was submitted by the following fifteen Powers: Australia, Czechoslovakia, Ghana, Hungary, India, Indonesia, Israel,

Japan, Mongolia, the Netherlands, Poland, Turkey, the Ukrainian Soviet Socialist Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Austria subsequently added its name to the list of sponsors. Under this draft resolution, the General Assembly would (1) take note of the report of the International Law Commission covering the work of its fourteenth session; (2) express its appreciation to the Commission for the work accomplished at its fourteenth session, especially with regard to the Law of Treaties; (3) recommend that the Commission: (a) continue the work of codification and progressive development of the Law of Treaties, taking into account the views expressed at the seventeenth 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 seventeenth session of the General Assembly and the report of the sub-committee; and giving due consideration to the purposes and principles enshrined in the Charter of the United Nations; and (c) continue its work on Succession of States and Governments, taking into account the views expressed at the seventeenth session of the General Assembly and the report of the sub-committee with appropriate reference to the views of States which have achieved independence since the Second World War; (4) request the Secretary-General to forward to the International Law Commission the records of the discussions at the seventeenth session of the General Assembly on the report of the Commission; and (5) further request the Secretary-General to provide the necessary technical services to the Commission, referred to in paragraphs 84 and 85 of its report.

9. The Secretariat submitted a report (A/C.6/L.502) on the financial implications of the draft resolutions (A/C.6/L.500 and A/C.6/L.501). With the withdrawal of those drafts, that report became applicable to the draft resolution (A/C.6/L.503) which replaced them.

10. As requested by the 734th meeting of the Committee held on 1 October 1962, relating to paragraph 10 of the Commentary on articles 8 and 9 of the draft articles on the Law of Treaties contained in the report of the International Law Commission, the Secretariat prepared and presented to the Committee a working paper containing a "List of multilateral agreements concluded under the auspices of the League of Nations in respect of which the Secretary-General of the United Nations acts as depositary and which are not open to new States by virtue of their terms or of the demise of the League" (A/C.6/L.498).

11. The representatives of Australia, Ghana and Israel submitted a draft resolution (A/C.6/L.504) on the problem of the accession of new States to general multilateral treaties concluded in the past, under the first revised text of which (A/C.6/L.504/Rev.1) the General Assembly would: (1) request the Secretary-General to ask the Parties to the conventions enumerated in the List of multilateral agreements concluded under the auspices of the League of Nations prepared by the Secretariat (A/C.6/L.498) to state, within a period of twelve months from the date of the inquiry, whether they object to the opening of those of the conventions to which they are Parties, for accession by any State Member of the United Nations or member of any specialized agency; (2) authorize the Secretary-General, if the majority of the Parties to a convention have not within the period referred to in paragraph 1 objected to opening that convention to accession, to receive in deposit instruments of accession thereto which are submitted by any State Member of the United Nations or member of any specialized agency; (3) recommend that all States Parties to the conventions listed recognize the legal effect of instruments of accession deposited in accordance with paragraph 2.

12. The co-authors of the draft resolution (A/C.6/L.504/Rev.1) later submitted a second revised text (A/C.6/L.504/Rev.2) which (1) substituted in paragraphs 1, 2 and 3 the word "acceptance" for the word "accession"; (2) added at the end of paragraph 3 "and communicate to the Secretary-General as depositary their consent to participation in the conventions of States so depositing instruments of acceptance"; and (3) added a new paragraph 4 whereby the General Assembly would "request the Secretary-General to inform Members of communications received by him under this resolution".

13. Another draft resolution (A/C.6/L.508) on the same question was submitted by India and Indonesia. According to its operative part, the General Assembly would: (1) request the International Law Commission to study the question of the participation of new States in general multilateral treaties concluded under the auspices of the League of Nations, with special reference to the proposal made in the Sixth Committee (A/C.6/L.504/Rev.2) and to the views expressed in the discussions at the seventeenth session of the General Assembly, and to include the results of the study in the report covering the work of the fifteenth session

of the Commission; (2) request the Secretary-General to place on the provisional agenda of the eighteenth regular session of the General Assembly the question of the participation of new States in general multilateral treaties concluded under the auspices of the League of Nations.

14. The co-authors of the draft resolution (A/C.6/L.508) and Ghana later submitted a revised text of that draft (A/C.6/L.508/Rev.1) under which the General Assembly would: (1) request 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 covering the work of the fifteenth session of the Commission; (2) decide to place on the provisional agenda of its eighteenth session the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations.

15. Pursuant to a request made at the 748th meeting, which took place on 29 October 1962, the Secretariat prepared a note (A/C.6/L.506) reproducing -

- (a) a resolution adopted by the General Assembly of INTERPOL at its thirty-first session held in Madrid from 19 to 26 September 1962 and transmitted to the Secretary-General by the Secretary-General of INTERPOL;
- (b) a statement made by the Legal Counsel at the 748th meeting regarding the majority contemplated in paragraph 2 of the draft resolution submitted by Australia, Ghana and Israel (A/C.6/L.504/Rev.1).

### III. DEBATE

16. The representatives who spoke in the debate on this subject congratulated the International Law Commission on the work it had done at its fourteenth session. Many expressed the conviction that the quality of the first report submitted by the Commission after the increase in its membership, which was approved by the General Assembly in 1961, showed that the increase in membership had benefited the codification and progressive development of international law by making it possible for the various existing legal systems to be better represented in the Commission.

## 1. LAW OF TREATIES

### (a) Draft articles respecting the conclusion, entry into force and registration of treaties

17. As the draft articles respecting the conclusion, entry into force and registration of treaties had been submitted to the various Governments so that they could make such written observations as they considered relevant, most of the representatives pointed out that they would confine themselves to general remarks on the text of the draft articles in question.

18. In the first place all the representatives who spoke on the subject agreed with the International Law Commission that the draft articles made provision both for the progressive development and for the codification of the Law of Treaties.

19. The great majority of the representatives approved the decision adopted by the International Law Commission at its thirteenth session to give the codification of the Law of Treaties in conventional form. It was emphasized that the drafting of one or more conventions would enable the new States to participate directly in drawing up the Law of Treaties so that the Law would be placed on a wider and firmer foundation. It was also added that conventions, as a principle source of contemporary international law, were of greater value in the codification and progressive development of the law of treaties than mere expository codes. A number of representatives pointed out that the question whether the law of treaties should be codified in a single convention or in a series of conventions should be left over for decision to the future conference of plenipotentiaries that would be convened for that purpose. Nevertheless, some representatives maintained that for practical reasons based partly on considerations of an internal constitutional nature and partly on the need for accelerating codification of the law in question it would be preferable to keep the convention form for the provisions of the law of treaties that were of a substantive character and to give the procedural provisions the form of a model code approved by the General Assembly. The General Assembly's approval of the model code would also give all States an opportunity to participate in the formulation of the procedural rules contained in the code.

20. Some representatives felt that the Commission should reconsider the wording of some of the definitions, specially the generic definitions of "treaty",

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"treaty in simplified form", and "signature", "ratification", "accession", "acceptance" and "approval".

21. It was considered right that the International Law Commission had abandoned the notion of "multilateral treaty" thus simplifying the general economy of the draft. On the contrary the expression "treaties concluded between a small group of States", which appeared in a number of articles, was criticized by some representatives on the ground that the vagueness and lack of precision of the expression would only lead to difficulties.

22. A number of representatives doubted whether it was advisable to use the expression "other subjects of international law" with reference to the capacity to conclude treaties side by side with the term "States". On the assumption that jus contrahendi was derived from the sovereignty of the State, it was felt that the use of an expression which was wide enough to include groups such as "insurgents" or "recognized insurgents", might lead to serious disputes and was furthermore not justified as the draft articles submitted by the International Law Commission was only intended to regulate treaties between States. It was also pointed out that a federal State must not be allowed to claim the right to evade its international conventional obligations by alleging the incompatibility of such obligations with its internal constitution.

23. The perspective in which the International Law Commission had placed the question of participation in general multilateral treaties was approved almost unanimously. Nevertheless, certain differences of opinion arose with regard to the wording of the corresponding articles of the draft. A considerable number of representatives favoured the deletion of any term having the effect of restricting the general rule that any State may be a party to general multilateral treaties. Those representatives considered that such treaties were concluded on behalf and in the interest of the international community as a whole; to restrict participation in them would amount to discrimination in conflict with the principle of the universal character of modern international law and would be prejudicial to its codification and progressive development. Some of those representatives proposed that an amendment be accordingly made to article 8 of the draft. Other representatives, on the other hand, maintained that the fact of participation in a treaty was intimately bound up with the aims and object

of the treaty and that consequently the question of whether participation in a treaty should be open to other States could only be answered by the parties that had had a share in drawing it up, or by the organs of the international Organization under whose auspices the treaty had been drafted. It was suggested also that it might be more prudent to recommend that treaties drawn up on the occasion of an international conference should contain a provision specifying the conditions in which other States might take part in them. Finally, some representatives reserved their attitude with regard to the wording of the provisions of the draft regarding participation in a treaty.

24. The system adopted by the International Law Commission with regard to the formulation, consent or objection to and effects of reservations to multilateral treaties was generally approved by those representatives who spoke in connexion with that part of the draft. All of them expressed their satisfaction that a flexible and well-balanced method had been adopted which facilitated the participation in general multilateral treaties of the largest possible number of States wishing to accede to them. Emphasis was laid on the fact that the Commission had eschewed sterile dogmatism and had adopted a progressive approach in harmony with the current requirements of international society and with the guiding ideas found in the precedents of the International Court of Justice as well as the Pan-American standards. Some representatives suggested or proposed amendments to certain provisions of the system outlined in the draft. In the first place they queried the propriety of introducing the notion of the incompatibility of the reservation with the object and purpose of the treaty into the draft articles, and asked who would be responsible for deciding whether a reservation was incompatible. Other representatives considered that the effects of objections to a reservation should be minimized rather than emphasized, it being presumed that the objection would operate to invalidate only those treaty provisions to which the reservation referred, as between the State that had made it and the objecting State, while the contractual relationship between both States with respect to the rest of the treaty would be preserved. The provision that when the treaty expressly authorized the making of a specified category of reservations, all other reservations were "by implication excluded", also evoked criticism. Lastly, reference was made to the advisability of retaining the criterion of unanimity in the case of treaties concluded between "a small group of States".



25. With regard to consent, seen as one of the cornerstones of treaty law, it was suggested that the International Law Commission should devote its most careful attention to that question, since the general scheme that had been adopted for the draft seemed to suggest that the necessary distinction had not been made between procedures for obtaining the consent of the State, which were governed by domestic constitutional law, and the manner in which that consent was expressed in international conduct, which was governed by international law.

26. Incorporation in the draft of a rule regarding the majority required for the adoption of the text of a treaty drawn up at an international conference drew a measure of criticism. Representatives said that the question should be more appropriately left to be decided individually at each conference. Others questioned whether the requirement of a two-thirds majority, which applied to the adoption of the text of a treaty, should also apply in deciding what voting rule should be adopted, which was a procedural question.

27. The provisions concerning signature, ratification and accession and their legal effects brought forth hardly any comments. Some representatives favoured including in the draft, as a consideration affecting the progressive development of international law, the requirement of good faith that a signatory State must submit the instrument it had signed for ratification. Other representatives considered it correct that the retroactive effect of ratification had been discarded and thought that it would be appropriate to provide that ratification should be unconditional. Some representatives also were in agreement that accession might antedate the entry into force of the treaty, and that accession subject to ratification should be considered merely as a notification of participation. In connexion with the provisions relating to the rights and obligations of States prior to the entry into force of the treaty, some doubts were expressed regarding the propriety of extending the obligation to refrain from acts calculated to frustrate the objects of the treaty to all States that had had a share in the general business of drawing up the treaty, instead of restricting that obligation to States that had actually signed it.

28. Lastly, certain suggestions were also made regarding the provisions relating to the functions of a depositary, the registration and publication of treaties and the correction of errors.

(b) Participation of new States in the general multilateral treaties mentioned in paragraph 10 of the Commentary on articles 8 and 9 of the draft articles on the conclusion, entry into force and registration of treaties

29. During the debate on the International Law Commission's draft articles on the conclusion, entry into force and registration of treaties, the question arose of the participation of new States in general multilateral treaties concluded in the past, the provisions of which limited participation to specific categories of States.

30. In accordance with the suggestion made by the International Law Commission in paragraph 10 of the Commentary on draft articles 8 and 9, it was agreed that, since the sole purpose of the draft articles is to establish a general system for the future, it would be desirable to study separately the problems arising from treaties concluded in the past, and more particularly those concluded under the auspices of the League of Nations, since they constitute an important part of the contemporary international law of treaties.

31. A number of representatives submitted a draft resolution (A/C.6/L.504) which was not discussed in its original form, since a revised text (A/C.6/L.504/Rev.1) was submitted before the debate on the question had started. This latter text proposed that the General Assembly should adopt, at its present session, a resolution authorizing certain measures so that the Secretary-General of the United Nations could receive in deposit such instruments of acceptance to the conventions still in force and concluded under the auspices of the League of Nations as might be handed to him by any State Member of the United Nations or member of a specialized agency.

32. The draft resolution authorized the Secretary-General to receive in deposit the instruments of acceptance of new States Members of the United Nations or members of a specialized agency, if the majority of the States Parties to those conventions had not objected, within a period of twelve months, to opening the conventions in question to accession.

33. The representatives who presented the proposal pointed out that the question was of interest to more than half of the States Members of the United Nations. Many representatives recognized the practical and immediate importance of the question, but expressed doubts regarding the proposed procedure as well as concerning some of the rules contained in it.

34. It was pointed out, for example, that the drafting of a formal protocol on the opening to accession of the aforementioned conventions, which would enter into effect when it had been accepted by the number of parties regarded as necessary by the protocol itself, would be more in accordance with international practice and the domestic constitutional laws of many States.

35. It was also pointed out that the consent of the Parties should be expressed and not, as proposed, in the form of a mere assumed tacit acquiescence. That suggestion was taken up by the sponsors of the proposal in a further revised version (A/C.6/L.504/Rev.2), in the part relating to the legal effects of the instruments of acceptance deposited.

36. Several representatives were against any restriction of the principle of universality by reserving the procedure to be followed to specific categories of States, while excluding others. It was pointed out that the use of the term "all States" in the subsequent revision of the draft resolution [A/C.6/L.504/Rev.2] would affirm the principle of universality and would raise no difficulties for anyone - the draft providing for the express consent of the parties to the convention - in the matter of the legal effects of the instruments of acceptance deposited. Every contracting State would thus be completely free to establish, or not to establish, treaty relations with any State wishing to accede to the convention or conventions in question.

37. The relationship between this proposal [C.6/L.504/Rev.2] and the question of the succession of States aroused the concern of a number of representatives. In their view, the determination of the States now parties to the conventions in question involves a problem of the succession of States, since new States have been able to accede to old conventions under agreements made on their behalf by the States which formerly represented them in the international field.

38. With regard to the nature of the acceptance, some representatives felt that it should be made clear that such acceptances could not be accompanied by "reservations", since that was a practice which had been introduced since the conclusion of conventions under the auspices of the League of Nations.

39. Finally, most representatives considered that a more thorough study was needed of the possible implications of the question. A number of representatives

submitted a draft resolution (A/C.6/L.508), which was subsequently revised (A/C.6/L.508/Rev.1), requesting the International Law Commission to study the problem further - with special reference to the debate in the General Assembly - and to inform the General Assembly of the result of its studies in the report on the work of its fifteenth session, and requesting the inclusion of the question on the agenda of the next session of the General Assembly. Although some representatives considered that the problem involved in the participation of new States in treaties concluded under the auspices of the League of Nations would be more appropriately resolved by the General Assembly and had doubts regarding the suitability of referring the question to the International Law Commission, the Sixth Committee adopted the proposal contained in the draft resolution (A/C.6/L.508/Rev.1).

## 2. FUTURE WORK OF THE INTERNATIONAL LAW COMMISSION AND PLANNING OF ITS WORK

### (a) Programme of work of the Commission

40. All representatives who spoke in the debate endorsed the programme of work and order of priorities adopted by the Commission, and remarked on the skill with which the Committee of eight members established by the Commission had performed its task. There was also general agreement that it would be inadvisable for the time being to add any new topics which might overload the Commission's work programme, since the three main subjects in its programme - the law of treaties, State responsibility, and the succession of States and governments - were so wide, complex and important that they would occupy it for a number of years to come.

41. A great many representatives expressed satisfaction that in preparing its work programme the Commission had followed the directives and recommendations of the General Assembly, particularly those set forth in resolution 1505 (XV) of 12 December 1960 and resolution 1686 (XVI) of 18 December 1961. Several representatives declared that the Sixth Committee should continue to assist the Commission through its debates and recommendations. Others, without questioning the competence of the General Assembly to give directives to the Commission, expressed the view that the Commission should not have excessively rigid or

redundant recommendations pressed upon it but that the organization of its work should be left to its own discretion. Some representatives stated that it was important for the Commission, in carrying out its work programme, to bear in mind recent developments in international law, in order that its progressive evolution might be guided in the direction indicated by the United Nations Charter and by the changes which the international community had undergone in the past few years.

(b) Law of treaties

42. Speaking of the Commission's future work on the law of treaties, a number of representatives hoped that the Commission would adopt a progressive attitude towards the validity and duration of unjust or inequitable treaties. They held that instruments which disregarded the principle of the sovereign equality of States, which had been obtained through extortion, violence or bad faith, or which contained provisions contrary to the fundamental principles of modern international law, were illegal and could not enjoy or continue to enjoy the protection of the principle pacta sunt servanda. They added that the Commission should place the law of treaties on the broadest and firmest foundation, paying due regard to current realities and to existing provisions of international law, such as the United Nations Charter, which proclaimed the sovereign equality of States and condemned the threat or use of force against the territorial integrity or political independence of any State.

43. Other representatives, while agreeing that the law of treaties should be built on the broadest and firmest possible foundation, maintained that emphasis should not be placed on only a few of its principles, such as the sovereign equality of States, while other equally important principles, like that of strict compliance with the obligations arising out of treaties, were disregarded. To stress some principles to the detriment of others would place matters in the wrong perspective, for the Commission must eventually consider all pertinent principles. Several representatives noted that the problem of adapting old treaties to modern circumstances went beyond the strict limits of the law of treaties, since it was intimately bound up with the construction of an international regime allowing for peaceful changes in the existing legal order.

It was also said that the invalidation of inherently unjust treaties should be studied objectively and carefully, for their general invalidation would merely endanger international peace and security, seeing that most peace and armistice treaties and agreements on the cessation of hostilities were preceded by the use of force and might consequently be regarded as unjust.

(c) State responsibility

44. The majority of representatives expressed approval of the Commission's new approach to the codification of State responsibility beginning with a study of the general aspects of the topic. Nevertheless, views had differed in the Sixth Committee on the scope of those general aspects of State responsibility and doubts had been expressed about whether it was suitable or possible at the present time to proceed with the codification of certain possible concrete aspects.

45. A fairly large number of representatives felt that the Commission should take into account recent changes in international life when codifying this topic. They saw no further reason to restrict codification to the traditional concept of responsibility for damages caused to aliens and their compensation, since that would evade the substance of the question and substitute matters of secondary for matters of primary importance. For example, it was said that modern international law should define the legal principles which should govern responsibility for acts endangering international peace and security in violation of the Purposes and Principles laid down in the United Nations Charter. Such acts included aggression, the threat or use of force, denial of the right to self-determination, violation of the principle of peaceful coexistence, and violation of human rights. A study should be made of responsibility for damages caused to aliens, but that should not be the main or only aspect of State responsibility. Some representatives, referring to the problem of expropriation and nationalization, questioned the legality of rights acquired under the protection of the occupation of a colonized country.

46. Other representatives, on the contrary, insisted that in determining the scope to be given to the codification of State responsibility the Commission should first take into account those aspects of the question which are already

ripe for codification. It was stressed that the essentially limited and technical classic concept of State responsibility hinges on the obligation to make reparation, its most highly developed aspect being responsibility and compensation for damages caused to aliens. If the Commission is to consider the aspects of State responsibility calling for legislation, it ought to avoid those which are not yet sufficiently systematized or generally accepted and which therefore might considerably delay its work on the topic. While the legal aspects of the concept should be codified, codification of its predominantly political aspects should be postponed.

47. Lastly, some representatives stated that, although the concept of State responsibility should be extended beyond the limits set for it in the traditional conception and raised to the level of general principles, an effort should be made not to extend it too far, lest it become linked with every branch of international law.

(d) Succession of States and governments

48. The importance of codification of the rules of international law concerning the succession of States and governments was acknowledged by all representatives who spoke on the subject. The majority emphasized the special importance which the topic now had for the new States which had attained independence since the Second World War as a result of the abolition of colonialism, and held that the Commission should pay particular attention to the practice followed and the experience acquired by these new States. Other representatives pointed out that the topic concerns all States, including third States opposed to the elimination of the colonial system.

49. During the debate some views were advanced on the way in which the Commission should approach the codification of rules governing the succession of States and governments. For example, it was said that, although a distinction between the succession of States and the succession of governments is not always easy to draw, rules concerning the two should not be confused, and that to avoid this the Commission should take care not to consider the concepts of State and of government identical. With respect to the priority to be given to the codification of these rules, some representatives said that if that question should arise, codification of the succession of governments is just as urgent as

codification of the succession of States. In that event, however, the majority seemed to prefer to avoid any delay in the codification of rules governing the succession of States. It was also said that in the codification of this topic the Commission should be guided by the idea that it is necessary to protect the sovereignty of the new States, especially over their natural resources. Lastly, reference was made to the peaceful revision of treaties concluded before the attainment of independence by new States and involving them in obligations.

(e) Establishment by the Commission of two sub-committees on State responsibility and on the succession of States and governments

50. The establishment by the Commission of sub-committees to undertake the necessary work preparatory to codification of State responsibility and of the succession of States and governments was generally welcomed. Many representatives thought that their establishment was called for by the complexity and scope of the subjects they were to study, and would be bound to speed up the codification of the important questions entrusted to them. On the question whether this method of work should be used more generally, some representatives thought that a decision would be premature and they should wait until experience showed whether the innovation was justified.

(f) Relations between States and inter-governmental organizations

51. Most of the representatives welcomed the Commission's appointment of Mr. El-Erian as Special Rapporteur on relations between States and inter-governmental organizations. A number of representatives stressed the importance that the question had acquired in international relations; some thought that a very valuable study could be made within the topic of such questions as the international personality of international organizations, their capacity to enter into treaties, their international responsibility, and the privileges and immunities of the staffs of international organizations.



(g) Special missions

52. Certain representatives thought that codification of the topic "special missions" would supplement the codification of the rules governing diplomatic relations, and so contribute to the advancement of international law and the strengthening of international co-operation.

(h) Suggestions for accelerating the Commission's work

53. Some representatives expressed the opinion that, to avoid waste of time, the Commission should give its special Rapporteurs clear and precise instructions on the range and scope of the topics, following the criterion adopted in 1961 for the codification of the law of treaties.

54. During the debate the Austrian representative referred to the need to quicken the Commission's preparatory work. He recalled the list of organizations concerned with international law prepared by the Secretariat in 1949 (A/CN.4/14), the information and studies sent by those organizations to the Commission at that time, and the resolve expressed in the Commission's Report on the work of its third session<sup>2/</sup> to rely to a greater extent on the contributions of unofficial groups, and proposed that: (1) the Secretariat should prepare a new list of international and national organizations, official or unofficial, concerned with questions of international law; (2) steps should be taken to encourage contributions by unofficial organizations of jurists to the codification of topics included in the Commission's work programme; (3) the United Nations should from time to time organize seminars on international law to facilitate the Commission's preparatory work.

3. OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

(a) Co-operation of the Commission with other bodies

55. A number of representatives welcomed the Commission's continued co-operation with the Inter-American Council of Jurists and the Asian-African Legal

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<sup>2/</sup> Official Records of the General Assembly, Sixth Session, Supplement No. 9 (A/1858, paragraph 90).

Consultative Committee, and hoped that it would continue to develop and its foundations to become ever firmer and more durable. Some representatives thought that the Commission's report should state its results more clearly. The Commission's decision to send observers to the forthcoming meetings of the Inter-American Council of Jurists and the Asian-African Legal Consultative Committee was also welcomed, particularly since some of the topics in its work programme appeared on the agenda of those meetings.

(b) Date and place of the next session

56. The suggestion in paragraph 83 of the Commission's report that its session should begin on the first Monday in May was approved by all the representatives who spoke on the subject. They emphasized that it would be most desirable if the General Assembly, when it discussed the "pattern of conferences" established by its resolution 1202 (XII), altered the rule obliging the Commission to begin its sessions at the end of April. In a letter sent to the Chairman of the Fifth Committee on 9 November 1962, the Chairman of the Sixth Committee had drawn attention on his Committee's behalf to the suggestion in paragraph 83 of the Commission's report in order that, for the reasons given in the paragraph, it might be considered when item 65 of the General Assembly's agenda, entitled "Review of the Pattern of Conferences", came up for discussion.

(c) Production of documents, summary records and translation facilities

57. Several representatives hoped that the inadequacies of the technical services placed at the Commission's disposal for the production of documents, summary records and translations would be remedied, and supported the proposal that the Secretary-General be requested to do so (A/C.6/L.503, paragraph 5).

#### IV. VOTING

58. At its 747th meeting, held on 26 October 1962, the Sixth Committee unanimously adopted the sixteen-Power draft resolution (A/C.6/L.503).

59. The revised draft resolution submitted by Ghana, India and Indonesia (A/C.6/L.508/Rev.1) was also adopted unanimously at the 752nd meeting of the Sixth Committee, held on 2 November 1962.

V. RECOMMENDATIONS OF THE SIXTH COMMITTEE

60. The Sixth Committee recommends that the General Assembly should adopt the following draft resolutions:

A

Report of the International Law Commission on the work of  
its fourteenth session

The General Assembly,

Having considered the report of the International Law Commission covering the work of its fourteenth session,<sup>3/</sup>

Recalling resolution 1686 (XVI) of 18 December 1961 by which the General Assembly recommended that the International Law Commission consider its programme of future work and report its conclusions to the General Assembly,

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, as regards State Responsibility and Succession of States and Governments, the Commission, in order to expedite its work, has established two sub-committees, to meet in Geneva in January 1963, and to report to the Commission at its next session,

Bearing in mind that the sub-committees are to study the scope of and approach to these topics, and that the work of the Sub-Committee on State Responsibility is to be devoted primarily to the general aspects of that topic,

1. Takes note of the report of the International Law Commission covering the work of its fourteenth session;

2. Expresses its appreciation to the Commission for the work accomplished at its fourteenth session, especially with regard to the Law of Treaties;

3. Recommends that the Commission:

Desiring to give further consideration to this question,

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 covering the work of the fifteenth session of the Commission;

2. Decides to place on the provisional agenda of its eighteenth session the question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations.

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(a) Continue the work of codification and progressive development of the Law of Treaties, taking into account the views expressed at the seventeenth 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 seventeenth session of the General Assembly and the report of the Sub-Committee, and giving due consideration to the purposes and principles enshrined in the Charter of the United Nations;

(c) Continue its work on Succession of States and Governments, taking into account the views expressed at the seventeenth session of the General Assembly and the report of the Sub-Committee with appropriate reference to the views of States which have achieved independence since the Second World War;

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

5. Further requests the Secretary-General to provide the necessary technical services to the Commission, referred to in paragraphs 84 and 85 of its report.

B

Question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations

The General Assembly,

Taking note of paragraph 10 of the commentary to articles 8 and 9 of the draft articles on the Law of Treaties contained in the report of the International Law Commission covering the work of its fourteenth session,<sup>4/</sup>

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<sup>4/</sup> Official Records of the General Assembly, Seventeenth Session, Supplement No. 9 (A/5209).