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DRAFT DECLARATION ON RIGHTS AND DUTIES OF STATES

Report of the Sixth Committee

Rapporteur: Mr. D. ABDOH (Iran)

1. The General Assembly on 6 December 1949 adopted resolution 375 (IV), by which it resolved, inter alia, to transmit the draft Declaration on the rights and duties of States prepared by the International Law Commission to all Member States, and requested them to furnish their comments and suggestions thereon at the latest by 1 July 1950. It also requested comments on the questions whether any further action should be taken by the General Assembly, and if so, what should be the nature of the document to be aimed at and the future procedure to be adopted in relation to it. The replies received by 15 September 1950 were reproduced in documents A/1338 and A/1338/Add.1.
2. During its fifth session, the General Assembly on 26 September 1950 decided to defer consideration of the draft Declaration until the sixth session. Comments from the Government of Australia on the draft Declaration, received after the decision was taken, were annexed to the Secretary-General's report to the sixth session on this subject (A/1850).
3. On 13 November 1951, the General Assembly at its 341st plenary meeting decided to include the subject of the draft Declaration in the agenda of its sixth session and at its 342nd plenary meeting on the same date the item was referred to the Sixth Committee for consideration.
4. The Sixth Committee discussed the matter at its 253rd to 256th meetings from 17 to 21 November 1951. At the 253rd meeting, the Chairman invited the members of the Committee, before discussing the substance of the draft Declaration, to express their views on the preliminary question of what further action should be taken regarding it.

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5. During the discussion, the Committee had before it a draft resolution by the Ukrainian Soviet Socialist Republic (A/C.6/L.170), a draft resolution by Yugoslavia (A/C.6/L.171), an Egyptian amendment thereto (A/C.6/L.174), a joint draft resolution by Belgium, Luxembourg and the Netherlands (A/C.6/L.172 and Corr.1), and a French amendment thereto (A/C.6/L.173). Oral amendments were proposed during the course of the discussion.

6. The Ukrainian draft resolution proposed that the General Assembly should decide to postpone consideration of the draft Declaration and to transmit any comments thereon to the International Law Commission for consideration and for submission to a subsequent session of the General Assembly of recommendations on the draft Declaration.

7. The Yugoslav draft resolution, on the other hand, proposed that the Sixth Committee should open a general discussion on the matter. The Egyptian amendment thereto proposed (a) to add a paragraph to the preamble declaring that a general discussion would enable States which had not yet sent in comments to make known their points of view, and (b) to modify the operative part to specify that the object of the general discussion would be to make such recommendations to the General Assembly as might appear necessary, including, if appropriate, the communication of the records of the discussion to the International Law Commission.

8. Under the terms of the joint draft resolution proposed by Belgium, Luxembourg and the Netherlands, the General Assembly would decide to postpone consideration of the draft Declaration until a sufficient number of States had transmitted their comments and suggestions and would request the Secretary-General to publish the suggestions and comments for such use as the Assembly might find desirable at a later stage.

9. The sponsors of the above joint draft resolution accepted the French amendment (A/C.6/L.173), urging States Members which had not yet done so to reply as soon as possible to the questions put by the Assembly in paragraph 4 of resolution 375 (IV). An Iranian oral amendment to substitute the word "majority" for the words "sufficient number" in the first operative paragraph of the joint draft resolution was later withdrawn in favour of an Egyptian oral amendment to add at the end of the paragraph the phrase "and in any case to undertake consideration as soon as a majority of the Member States have transmitted such replies".

This amendment was accepted by the sponsors of the joint draft resolution.

10. In the course of the discussion, some delegations expressed the view that the Sixth Committee should immediately open a debate on the substance of the draft Declaration. They argued that a formulation of the rights and duties of States would be of the greatest use in present world conditions, particularly for the protection of the interests of small and medium-size States.

11. In their view, the General Assembly had a legal or moral duty to do its utmost toward the completion of a Declaration at the current session. The fact that only twelve States had replied to the Assembly's request for comments and suggestions was no objection, in their opinion, to such a course; many other States had commented on other occasions and would further define their positions in the course of a debate on the substance of the draft.

12. Other delegations, while in general sharing the view that a Declaration would be of the highest importance and desirability, were of the opinion that it was not opportune for the Sixth Committee to undertake a definitive formulation of a text at the current session. The very importance of a Declaration and the formidable complexity of its preparation made it necessary to proceed slowly and cautiously, with the assistance of fully considered written opinions from governments on the contents of the draft and on the questions asked in resolution 375 (IV). Since only a small number of governments had furnished such opinions, it was, in the view of these delegations, impossible for the Sixth Committee to proceed at the current session with the consideration of the text of the draft Declaration. Further, some of these delegations thought that present world conditions were unpropitious to the task. Some feared that a discussion of the substance of the draft would destroy what value it had by a revelation of profound differences of opinion, which would make it impossible to arrive at any concrete result.

13. Some of the delegations which were opposed to the consideration of the substance of the draft Declaration at the present session contemplated that the question should be taken up again by the General Assembly at a future session without consideration of the substance of the draft Declaration in the interval by any other body.

14. Others were of the opinion that the draft Declaration, together with any comments of governments on it, should first be referred to the International Law

Commission, on the ground either that such a procedure was required by the Commission's Statute, or that consideration of the comments of Member States by the Commission would be of practical advantage.

15. The first draft resolution to be voted on was that proposed by the Ukrainian Soviet Socialist Republic (A/C.6/L.170), which was rejected by 30 votes to 7, with 13 abstentions.

16. The Committee then rejected, by 21 votes to 19, with 10 abstentions, the first paragraph of the Egyptian amendment (A/C.6/L.174) to the Yugoslav draft resolution (A/C.6/L.171)

17. The second paragraph of the Egyptian amendment was rejected by a roll-call vote of 20 to 18, with 13 abstentions. The voting was as follows:

In favour: Bolivia, Chile, China, Costa Rica, Cuba, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Iran, Iraq, Lebanon, Panama, Saudi Arabia, Syria, Yemen, Yugoslavia,

Against: Australia, Belgium, Brazil, Canada, Denmark, Dominican Republic, Ecuador, India, Indonesia, Israel, Luxembourg, Netherlands, Norway, Peru, Sweden, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Argentina, Burma, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, France, Greece, Mexico, Pakistan, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

18. The Yugoslav draft resolution itself was then rejected by a roll-call vote of 26 to 19, with 6 abstentions. The voting was as follows:

In favour: Argentina, Bolivia, Chile, China, Cuba, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Iran, Iraq, Lebanon, Mexico, Panama, Saudi Arabia, Syria, Yemen, Yugoslavia,

Against: Australia, Belgium, Brazil, Burma, Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, Denmark, Dominican Republic, Ecuador, India, Indonesia, Israel, Luxembourg, Netherlands, Norway, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Colombia, Costa Rica, France, Greece, Pakistan, Philippines.

19. The Committee then took up the joint draft resolution of Belgium, Luxembourg and the Netherlands (A/C.6/L.172 and Corr.1) as modified by a French amendment (A/C.6/L.173) and an Egyptian oral amendment, both of which had been accepted by the sponsors.

20. The first five paragraphs of the draft resolution as thus modified were adopted by 40 votes to 4, with 8 abstentions.
21. The sixth paragraph, which had been proposed by France, was adopted by 34 votes to none, with 17 abstentions.
22. The last paragraph of the joint draft resolution was adopted by 48 votes to none, with 4 abstentions.
23. The joint draft resolution as a whole was then adopted by 39 votes to 4, with 9 abstentions.
24. The Committee therefore recommends to the General Assembly the adoption of the following resolution:

DRAFT DECLARATION ON RIGHTS AND DUTIES OF STATES

The General Assembly,
Bearing in mind

That the General Assembly by resolution 375 (IV) took note of the draft Declaration on Rights and duties of States prepared by the International Law Commission, and expressed to the Commission its appreciation for its work on the draft Declaration,

That by the same resolution the General Assembly resolved to transmit to Member States, for consideration, the draft Declaration together with the documentation relating thereto, and to request them to furnish their comments and suggestions,

That, furthermore, Member States were requested to furnish at the same time comments on the questions whether any further action should be taken by the General Assembly on the draft Declaration, and if so, what should be the nature of the document to be aimed at, and what procedure should be adopted in relation to it,

Considering that the number of States which in pursuance of the said resolution have given their comments and suggestions is too small to base thereon any definite decision,

1. Decides to postpone for the time being consideration of the draft Declaration on Rights and Duties of States, until a sufficient number of States have transmitted their comments and suggestions, and in any case to undertake consideration as soon as a majority of the Member States have transmitted such replies;

/2. Urges

2. Urges the Member States which have not yet done so to reply as soon as possible to the questions put by the General Assembly in paragraph 4 of resolution 375 (IV) of 6 December 1949;
3. Requests the Secretary-General to publish the comments and suggestions which will be furnished by Member States, for such use as the General Assembly may find desirable at any later stage.
