

# United Nations GENERAL ASSEMBLY

TWENTY-SECOND SESSION

Official Records



SIXTH COMMITTEE, 970th  
MEETING

Thursday, 12 October 1967,  
at 3.15 p.m.

NEW YORK

## CONTENTS

	Page
<i>Agenda item 85:</i>	
<i>Report of the International Law Commission on the work of its nineteenth session (continued) . . . . .</i>	71

*Chairman:* Mr. Edvard HAMBRO (Norway).

## AGENDA ITEM 85

Report of the International Law Commission on the work of its nineteenth session (continued)\* (A/6709/Rev.1 and Corr.1, A/C.6/L.617/Rev.2, A/C.6/L.618 and A/C.6/L.620)

1. Mr. OGUNDERE (Nigeria), speaking on behalf of the sponsors of the draft resolution submitted by Argentina, Cameroon, Canada, Ecuador, Guatemala and Nigeria (A/C.6/L.618), said he understood that all the text, except operative paragraph 4, was acceptable to most delegations. Informal consultations had been held with a view to determining whether paragraph 4 could be so amended that the draft resolution could be adopted unanimously, but it appeared that that might not be possible. Some amendments agreed upon by the African Group were therefore to be introduced shortly, and Nigeria, as a gesture of African solidarity, would naturally support them.

2. Mr. GOTLIEB (Canada) said that his delegation's views were fully in accord with those reflected in the draft resolution submitted by Bulgaria, Colombia, Ecuador, Guatemala and Nigeria (A/C.6/L.617/Rev.2), which Canada would support.

3. As for draft resolution A/C.6/L.618, he assured the members of the Committee that the sponsors in no way wished to delay the final codification of the law relating to special missions. Indeed, they wished the work to proceed expeditiously and effectively, having due regard to the different views held by delegations as to the procedure for such codification. There were two schools of thought about the procedure for the adoption of a convention. Canada saw merit in both of the courses suggested, and was by no means opposed to the notion that the General Assembly should undertake the task. However, his delegation felt that a decision on that point might be premature at the current session. The draft articles (A/6709/Rev.1 and Corr.1, chap. II, D) had only been received by Governments shortly before the opening of the session, and there were differences of opinion concerning their scope and application. If Governments

were allowed further time to study the draft, they would be in a better position to determine the best procedure for obtaining agreement on the substance. His delegation therefore saw the draft resolution, first, as a means of avoiding a confrontation on the subject of procedure and, second, as a means of allowing all Member States time to consider the most effective method of achieving an international convention which would command wide support. Since it was unlikely that the negotiation of a convention could be completed before 1969 at the earliest, the resolution was not likely to occasion unnecessary delay. Moreover, if the Committee adopted the draft resolution, there need be no further general debate on special missions at the twenty-third session. The General Assembly would simply have to decide whether to convene a conference or to assign the negotiations to the Sixth Committee or a sub-committee.

4. Mr. SOLHEIM (Norway) said that draft resolution A/C.6/L.617/Rev.2 was a compromise text resulting from informal consultations in which his delegation had taken an active part. In connexion with the last preambular paragraph, his delegation noted with great satisfaction that additional scholarships had been made available in 1967 to nationals of developing countries wishing to participate in the Seminar on International Law, and it hoped that that trend would continue. There seemed to be a slight incongruity between paragraph 4 (c) and paragraph 3, and he agreed with the representative of Australia (968th meeting) that paragraph 4 (c) should be interpreted as simply underlining the importance of the topic of State responsibility. In any case, Norway would join the majority of delegations in voting for the consensus text contained in the draft resolution.

5. As for draft resolution A/C.6/L.618, all delegations seemed to agree that the draft articles on special missions should be submitted to Governments for their comments. Most members of the Committee also seemed to have an open mind on the question when the final adoption of a convention should take place, but there was a difference of opinion concerning the body that should be assigned the task of concluding the convention. Norway, together with the other Scandinavian countries, wished to appeal to delegations to allow more time before demanding any decision other than to submit the draft articles to Governments for their comments. By the twenty-third session of the General Assembly there might be far less disagreement on the subject. It had been said that the Sixth Committee had acquired a reputation for procrastination, but in adopting the course advocated by the Scandinavian and certain other delegations it would not be procrastinating, but simply taking one step at a time.

\*Resumed from the 968th meeting.

6. Mr. ELGHARBI (Morocco) remarked that the different viewpoints emerging from the discussions seemed to fall into three categories. The first reflected a pessimism which cast doubt on the very need for any codification of a subject already regulated by customary law; the second reflected a fear that undue haste in the preparation of a convention would rob such an instrument of the unanimous support it should command; the third seemed to reflect a belief that the Sixth Committee was less productive than other Main Committees of the Assembly in the preparation of multilateral conventions. For his part, he acknowledged that the remarks made by the representative of the USSR (968th meeting) had been quite justified and had given expression to a widely shared concern over the Committee's all too evident inactivity. The International Law Commission was certainly not to be blamed for the continual postponement of a task that was becoming increasingly urgent. Indeed, it had set an admirable example in fulfilling its commitments.

7. Of course, the adoption of a convention on even a topic of lesser urgency such as special missions, should be undertaken with sufficient precaution to ensure unanimous support. However, the topic had already been under consideration for seven years and, however complex the competent administrative machinery of different countries might be, such a period must have afforded ample time for consideration of the draft articles. The subject was relatively simple and should not require endless study. What was most disturbing, however, was the degree of stubborn reluctance in the Committee to agree to the adoption of a convention by the General Assembly. That procedural question was far more important than the question of the date for the final codification of the topic. Not only was the General Assembly a perfectly natural forum, but it had already been successful in concluding other conventions. Moreover, most of the smaller countries lacked the means of participating in two parallel forms of multilateral diplomacy. For that reason, and because of the need to maintain the vitality of United Nations organs, the Sixth Committee would be the best forum for the adoption of a convention.

8. His delegation had no difficulty in supporting draft resolution A/C.6/L.617/Rev.2, but with Dahomey, Ethiopia, Ghana, Kenya, Mali, Senegal, United Republic of Tanzania and Zambia it had co-sponsored an amendment (A/C.6/L.620) to draft resolution A/C.6/L.618, whereby operative paragraph 4 would read: "Decides to include an item entitled 'Draft Convention on Special Missions' in the provisional agenda of its twenty-third session, with a view to the adoption of such a convention by the General Assembly."

9. Although the question of special missions was not of vital importance in international relations, the way in which the Sixth Committee handled it would be a test of its capacity to deal with even more complex and delicate subjects in the future.

10. Mr. MWENDWA (Kenya) said that his delegation supported the amendment (A/C.6/L.620) introduced by the representative of Morocco, considering it the most expeditious method of dealing with the topic of special missions. He saw no insuperable difficulties that would prevent the General Assembly from adopting

a convention; moreover, to refer the matter to an international conference would mean delaying codification until 1970. Lastly, since the draft articles had been so well prepared, there was no need to incur the expense of a conference of plenipotentiaries.

11. Mr. YANKOV (Bulgaria) said that his delegation would vote in favour of draft resolution A/C.6/L.617/Rev.2. He saw no reason why draft resolution A/C.6/L.618 should not also meet with general, if not unanimous, acceptance, since almost all delegations regarded the draft articles as a good basis for the elaboration of a convention on special missions. The only controversial part of the draft resolution was paragraph 4. While the time-table for the adoption of a convention need not be rigidly laid down, he believed that the time had come to decide on the procedure to be followed. It would be unfortunate if, at the twenty-third session of the General Assembly, the Committee were merely to repeat its current debate on the subject of procedure. The practical considerations in favour of assigning the task of final codification to the Sixth Committee had been very clearly stated by the representative of the USSR (968th meeting) and by the representatives of other countries. As for the argument that a conference of plenipotentiaries would allow more expert consideration of the subject, he saw no reason why competent experts should not participate in the discussions in the Sixth Committee, which could, if necessary, establish a working group for an article-by-article discussion. In any case, the careful preparation of the draft articles, and the fact that they were modelled on the 1961 and 1963 Vienna Conventions on Diplomatic Relations and on Consular Relations, respectively,<sup>1/</sup> and had been exhaustively studied over the years, afforded the necessary assurance that the Committee need lose no time in at least deciding on the question of procedure. A substantive discussion of the draft articles could be undertaken at the twenty-third session of the Assembly, and if the deliberations showed that further work was needed a decision to that effect could easily be taken. The Sixth Committee had proved to be an appropriate law-promoting body in the past, and there was no reason why it should prove any less successful in that task than other Committees of the Assembly that had produced international conventions. In fact, the elaboration of the International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX), Annex, of 21 December 1965) had been a far more complex task than the drafting of a convention on special missions would be. In view of all those considerations, his delegation would support the amendment introduced on behalf of the sponsors by the representative of Morocco (A/C.6/L.620).

12. Mr. NITTI (Italy) said that, as his delegation had not participated in the general debate on the report of the International Law Commission (A/6709/Rev.1 and Corr.1), he would like now to express its apprecia-

<sup>1/</sup> See United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, vol. II (United Nations publication, Sales No.: 62.X.I), Vienna Convention on Diplomatic Relations, p. 82; see also United Nations Conference on Consular Relations, Official Records, vol. II (United Nations publication, Sales No.: 64.X.I), Vienna Convention on Consular Relations, p. 175.

tion of the report and of the Special Rapporteur's excellent work in preparing the draft articles on special missions, which had been the main achievement of the Commission at its nineteenth session.

13. His delegation supported draft resolution A/C.6/L.617/Rev.2, which adequately reflected the views expressed so far in the Committee; in particular it endorsed the recommendations in the draft resolution concerning the Commission's future programme of work insofar as they reflected the scale of priorities set by the Commission at its nineteenth session for its future work on the topics of succession of States and Governments, relations between States and inter-governmental organizations and most favoured nation clauses. As for the topic of State responsibility, his delegation shared the interest expressed for the continuation of the study on this subject, taking into account the report that the Special Rapporteur would submit at the twenty first session of the Commission.

14. His delegation was in general agreement with draft resolution A/C.6/L.618, but might wish to comment later on the amendment (A/C.6/L.620) and any other that might be submitted.

15. Mr. ENGO (Cameroon) said it seemed from the informal consultations which had taken place on draft resolution A/C.6/L.618 that States had now had time to form final opinions on the procedure to be followed in the preparation of a convention on special missions and that further delay in taking a decision was unlikely to result in the elimination of the existing divergence of views. In principle, his delegation favoured the General Assembly's assuming the task; consequently, like the Nigerian delegation, it would support the amendment (A/C.6/L.620) to the draft resolution of which it was a sponsor.

16. Mr. SYLLA (Mali) said that his delegation had taken part in the informal consultations and had been so impressed by the arguments advanced by African delegations in support of the amendment (A/C.6/L.620) that it had become a co-sponsor.

17. Mr. BENJAMIN (United States of America) said that the text now arrived at in document A/C.6/L.617/Rev.2 seemed to be acceptable to all delegations. He expressed appreciation to those States—Denmark, Federal Republic of Germany, Israel, Norway, Sweden—which had given scholarships to participants in the Seminar on International Law and hoped that that example would be more widely followed. He also hoped that further consultations would make it possible for the Committee to reach agreement on draft resolution A/C.6/L.618.

18. Mr. DARGAM CRUZ (Dominican Republic) said that his delegation supported draft resolution A/C.6/L.617/Rev.2 and would vote in favour of it. He might wish to speak on draft resolution A/C.6/L.618 later.

19. The CHAIRMAN invited the Committee to vote on draft resolution A/C.6/L.617/Rev.2.

*The draft resolution was adopted unanimously.*

20. Mr. KOOIJMANS (Netherlands), speaking in explanation of this vote, said that his delegation had whole-heartedly supported, in particular, the fifth preambular paragraph of the draft resolution. In that connexion, he announced that the Netherlands Government had decided to grant a scholarship in the sum of \$1,000 to a junior jurist from a developing country, in accordance with the criteria laid down by the International Law Commission.

*The meeting rose at 4.10 p.m.*