

(b) The "codification" of international law, which would involve the more precise formulation and systematization of the law in areas where there has been extensive state practice, precedent and doctrine.

The Committee recognized, however, that the terms employed were not mutually exclusive, as, for example, in cases where the formulation and systematization of the existing law may lead to the conclusion that some new rule should be suggested for adoption by states.

The majority of the Committee agreed that the Commission should be authorized to consider projects and draft conventions for the progressive development of international law referred to it by the General Assembly as well as by governments, by other organs of the United Nations, by specialized agencies and by those official bodies established by inter-governmental agreement to further the progressive development of international law and its codification. The Committee's report indicated in detail the procedure to be followed by the Commission in preparing draft conventions.

So far as the "codification" of international law was concerned, the Committee recommended that the General Assembly should instruct the International Law Commission to survey the whole field of customary international law with a view of selecting topics for codification. If the International Law Commission found that the codification of a particular topic was desirable or necessary, it should present its recommendations to the General Assembly in the form of draft articles of multipartite conventions. These recommendations might be either (a) that no further action be taken, or (b) that the General Assembly adopt all or part of the Commission's report by resolution, or (c) that the General Assembly recommend the draft to states for the conclusion of a convention, or (d) that the General Assembly convoke a special conference to consider the conclusion of a convention.

The Committee also recommended that the Commission should consider means of encouraging the progressive development of international law by improvements in the technique of multipartite instruments in relation to such matters as uniform treaty clauses. The Commission should further consider the utility and importance of encouraging the ratification of and accession to multipartite conventions already concluded. Finally, the Commission should consider ways and means of making the evidences of customary international law more readily available by the compilation of digests of state practice and by the collection and publication

of the decisions of national and international courts on international law questions.

The Committee agreed that the Commission should be authorized to consult, if need be, any of the organs of the United Nations on any draft or projects, the subject matter of which was relevant to the particular organ, and that the Commission should further be authorized to consult any national or international organization, official or non-official, on any matter entrusted to it, if and when it believed that such a procedure might aid in the attainment of its objectives.

At its 91st plenary meeting on September 23, the General Assembly referred the report of the Committee on the Progressive Development of International Law and its Codification to the Sixth Committee.

In the course of the general debate which took place at the 37th and 38th meetings of the Sixth Committee on September 25 and 26, a number of proposals were submitted.

The representative of the United States submitted a draft resolution (A/C.6/137) for the establishment of an International Law Commission the members of which were to be elected by the General Assembly, if possible at its second session (not by the Assembly and the Security Council jointly), and were to serve on a part-time instead of a full-time basis. In the event of a vacancy occurring in the Commission, the International Court of Justice should appoint a successor for the unexpired term. The Commission was to meet periodically and was to submit an annual report to the General Assembly.

The United States proposal did not define the functions of the Commission in detail but provided that it should determine its own organization and procedures, giving due regard to the recommendations contained in the report of the Committee on the Progressive Development of International Law and its Codification.

The Secretary-General, the United States proposal provided, should make available to the Commission staff and facilities to enable the Commission to perform its functions. It was the sense of the General Assembly, the proposal concluded, that there should be developed within the Secretariat under the functional supervision of the Commission a group of specialists in international law, public and private, who would devote their full time to the consideration of international law, its development and codification, the preparation of interim drafts on specific subjects, and generally to assisting the Commission in the performance of its functions.