

Session of Nice – 1967

Termination of Treaties

(Eleventh Commission, Rapporteur : Mr Shabtai Rosenne)

(The French text is authoritative. The English text is a translation.)

Convinced of the importance of the codification and the progressive development of the law of treaties for the security of international legal relationships, indispensable for the maintenance of peace and co-operation among States ;

Recognizing the value of the work accomplished by the International Law Commission of the law of treaties ;

Nothing that the General Assembly of the United Nations, in its Resolution 2166 (XXI), adopted on 5 December 1966, has decided to convene a conference of plenipotentiaries to consider the law of treaties and to embody the results of its work in an international convention and such other instruments as it deems appropriate, taking as the basic proposal the draft articles submitted by the International Law Commission ;

Having examined certain aspects of the general problem of the termination of treaties ;

I

The Institute of International Law *expresses* its desire :

1. That there should be included in an appropriate form in the codification of the law of treaties the obligation for a party claiming that a treaty has terminated, or intending to terminate it or withdraw from it, to notify, in accordance with the prescribed forms, the other parties of its position and the grounds therefore ; in the event of disagreement between the parties they should have recourse to the methods for the pacific settlement of disputes ;
2. That the codification should reaffirm the principle according to which, when an obligation embodied in a treaty is binding also by virtue of another rule of international law, the fact that a State has not become a party to that treaty, that the treaty has lawfully terminated or that a party has lawfully withdrawn from that treaty does not as such affect the existence of that obligation.

II

Having regard to the difficulties which can arise when a treaty contains no provisions regarding its termination or does not provide that a party may denounce it or withdrawn from it,

The Institute *recommends* that whenever States parties to a treaty intend to admit the possibility of denunciation or withdrawal, a provision regulating that right and laying down the conditions for its exercise should be included in the treaty or set forth in some other appropriate form.

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(14 September 1967)