

(10) Belgium v. Spain (Case concerning the Barcelona Traction, Light and Power Company).

On September 23, 1958 Belgium began proceedings against Spain, alleging that the measures under which Barcelona Traction was declared bankrupt in Spain and its property liquidated are contrary to international law and claiming restitution or compensation.

International Law Commission

The International Law Commission held its tenth session at Geneva from April 28 to July 4, 1958. The Commission dealt with the subjects of arbitral procedure and diplomatic intercourse and immunities, both of which were later discussed in the Sixth (Legal) Committee at the thirteenth session of the General Assembly.

Arbitral Procedure

In 1949 the International Law Commission agreed that it would be desirable to codify the Law of arbitral procedure. It produced a draft of 32 articles which represented a considerable advance on existing treaties of arbitration in that it contained provisions designed to prevent any frustration of the agreement to arbitrate. However, at the 1955 session of the Assembly, this draft was criticized by a number of states on the ground that it provided for compulsory resort to the International Court of Justice. These states thought that the draft would make arbitration a jurisdictional procedure whereas traditionally it has been based on the complete autonomy of the parties and their freedom to conduct arbitrations as they see fit. In an attempt to meet these objections the Commission amended the draft and re-submitted it in the form of a model set of rules designed to serve only as a guide to states. (Agenda item 57). At the 1958 session of the Assembly it was soon evident that the draft, even in the form of a model guide, was still unacceptable to those states which objected, in principle, to the vesting of powers in the International Court. Since no general support could be found for adoption of the draft articles the resolution finally adopted by the General Assembly merely notes the Law Commission's Report on Arbitral Procedure and brings the draft articles to the attention of members states for consideration and use, to such extent as they may consider appropriate, in drawing up arbitration agreements. This resolution was adopted by a vote of 46 in favour (including Canada), 17 against, with 11 abstentions.

Diplomatic Intercourse and Immunities

The International Law Commission began work in 1954 on the codification of the international law governing diplomatic intercourse and immunities. In 1958 the Commission produced a final draft of 45 articles which deal with the immunities and privileges of members of permanent diplomatic missions and propose a number of significant changes in the existing law and practice. Since the draft became available for study only a month before the opening of the Assembly's thirteenth session the representatives of many countries, including Canada, considered that a further period of study was needed. Other states argued that the draft as it stood constituted an adequate basis for a convention. Ultimately a compromise resolution was evolved which provides an opportunity for member states to submit comments on the draft articles and places the item on the agenda of the 1959 session of the