

**United Nations Conference on the Representation of States
in Their Relations with International Organizations**

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5th plenary meeting

Extract from Volume I of the *Official Records of the United Nations Conference on the Representation of States in Their Relations with International Organizations (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

4th plenary meeting

Wednesday, 5 February 1975, at 6.30 p.m.

President: Mr. SETTE CÂMARA (Brazil).

Appointment of other members of the Drafting Committee

[Agenda item 9]

1. The PRESIDENT said that the Conference was now called upon to appoint the members of the Drafting Committee, in addition to the Chairman of that Committee who had already been elected by the Conference at its 1st meeting, and the Rapporteur of the Committee of the Whole, who had been elected by the Committee of the Whole at its 1st meeting and who, in accordance with rule 48 of the rules of procedure, was also a member of the Drafting Committee.

2. The General Committee had decided at its 1st meeting to propose that the following countries be appointed: Argentina, France, Iraq, Morocco, Netherlands, Pakistan, Peru, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and United States of America. If there were no objection, he would consider that the Conference agreed to adopt that proposal.

It was so decided.

Organization of Work

[Agenda item 10]

3. The PRESIDENT said that the General Commit-

tee, at its 1st meeting, had also considered the question of methods of work and procedures of the Conference on the basis of a Secretariat memorandum on the subject (A/CONF.67/3). After an interesting exchange of views and following a number of suggestions made during the discussion, the General Committee had decided to recommend that the Conference should adopt the method of discussing article by article the draft articles on the representation of States in their relations with international organizations (A/CONF.67/11 and Add. 1 to 5) which constituted the basic proposal before the Conference. At the same time, the General Committee had recommended that the Secretariat suggestions on the groupings of articles contained in the memorandum could serve as useful guidance in the conduct of the Conference's work whenever feasible. It was hoped that the flexible approach thus proposed would facilitate the speedy progress of the work of the Conference.

4. If there were no comments, he would consider that the Conference agreed to adopt those recommendations of the General Committee.

It was so decided.

The meeting rose at 6.35 p.m.

5th plenary meeting

Thursday, 20 February 1975, at 12.10 p.m.

President: Mr. SETTE CÂMARA (Brazil).

Organization of work (A/CONF.67/C.1/L.76)

[Agenda item 10]

1. The PRESIDENT recalled that, at its 4th plenary meeting the Conference had adopted a recommendation by the General Committee concerning the methods of work and procedures of the Conference. The General Committee had recommended that the Conference should adopt the method of discussing the draft articles on the representation of States in their relations with international organizations (A/CONF.67/11 and Add. 1 to 5) article by article, and that the Secretariat's suggestions on the grouping of articles contained in the memorandum in document A/CONF.67/3 could serve as useful guidance, whenever feasible, in the conduct of the Conference's work. In its opinion, that flexible approach would facilitate the speedy progress of the work of the Conference.

2. Prior to the present meeting, the General Committee had met to consider a proposal (A/CONF.67/C.1/L.76) submitted by 10 countries: Bulgaria, Byelorussian SSR, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Mongolia, Poland, Ukrainian SSR and the Union of Soviet Socialist Republics to the effect that part III (Delegations to organs and to conferences) of the draft articles should be considered jointly with the annex (Observer delegations to organs and to conferences). The General Committee had held a detailed exchange of views from which the following positions had emerged: some members had supported the proposal that part III of the draft articles should be considered jointly with the annex; others had been opposed to any change in the method of work so far followed; others, again, had suggested that the Committee of the Whole should continue to discuss the draft on an article-by-article basis for one week more and should then re-examine the question.

3. As the General Committee had been unable to reach a consensus on the 10-Power proposal the Conference was invited to consider that proposal.

4. Mr. KUZNETSOV (Union of Soviet Socialist Republics) pointed out that the method proposed in document A/CONF.67/C.1/L.76 was merely the one which the Secretariat had advocated from the outset in order to speed up the work of the Conference. As the President had recalled, the Conference, while adopting the method of discussing the draft on an article-by-article basis, had decided that the Committee of the Whole could, whenever feasible, consider several articles together with a view to expediting its work. By considering the articles in part III of the draft jointly with the corresponding articles of the annex, the Committee would save valuable time. Some members of the General Committee had pointed out that, in the case of articles 42 to 58, the time-limit for the submission of amendments had already expired and that delegations would not have time to submit amendments to the corresponding articles of the annex. But, to give delegations which so desired the time to submit amendments, he suggested that the Committee of the Whole should discuss article 1 immediately after it had completed its consideration of part II of the draft.

5. Sir Vincent EVANS (United Kingdom) recalled that, at the beginning of its work, the Conference had been called upon to choose between two methods—either to consider the articles one by one or to group them—and that, in accordance with the General Committee's recommendation, it had decided to adopt, in principle, the former method. In his view, the method so far followed had produced excellent results, which proved that the Conference had taken a wise decision. It would be unwise to change that method.

6. The adoption of the 10-Power proposal would enormously complicate the work of the Committee of the Whole. A comparison of the articles contained in part III of the draft with those contained in the annex showed that there were a number of difficulties. It was thus clear that the International Law Commission had thought that observer delegations to organs and to conferences should not benefit from the same treatment as the other delegations, and that different considerations applied in the two cases. He was therefore convinced that, far from speeding up the work of the Conference, the method proposed in the 10-Power amendment would merely create fresh difficulties, thereby impeding the progress of its work. In his opinion, the Conference should keep to the method of work it had followed so far.

7. Mrs. SLÁMOVÁ (Czechoslovakia) said that the sponsors of the proposal in document A/CONF.67/C.1/L.76 considered it essential that the provisions concerning observer delegations to organs and to conferences should be included in the actual text of the future convention, so as to avoid a serious lacuna in the latter. The International Law Commission itself had been in favour of including those provisions in the text of the convention, as was shown by the general comments preceding the articles contained in the annex to the draft articles on the representation of States (see

A/CONF.67/4) and, in particular, by paragraph 4. As those provisions had not been submitted to Governments and international organizations, which had consequently been unable to formulate any comments thereon, the International Law Commission had been obliged to present them in the form of an annex, but had stated, in paragraph 49 of its report on its twenty-third session¹ that "Should any international conference which might be convened to consider the draft articles decide in favour of including provisions on observer delegations, that set of provisions could conveniently be integrated into the set of draft articles". The 10-Power proposal thus met the International Law Commission's wishes. Its sponsors had also thought that the articles contained in the annex offered many similarities with the articles contained in part III of the draft, and that there was therefore no reason why they should not be considered jointly.

8. Mr. SURENA (United States of America) said that the argument that there were practically no substantive differences between the provisions contained in part III of the draft and those contained in the annex was countered by the very presentation of an annex and by the explanations provided by the International Law Commission in its report on its twenty-third session to which the Czechoslovak representative had precisely referred. Those explanations demonstrated that the Commission was aware that there were considerable substantive differences between the two sets of articles.

9. He was convinced that, far from speeding up the work of the Conference, adoption of the proposal in document A/CONF.67/C.1/L.76 would merely give rise to fresh difficulties which would impede the progress of work. As the Commission had pointed out in paragraph 49 of its report and in its introduction to the annex, Governments and international organizations had not had an opportunity to comment on the provisions in the annex, and the Commission had, therefore, been unable to examine those provisions in the light of such comments, in accordance with its customary working procedure. Hence, those provisions would probably give rise to longer debates than the provisions contained in part III, and much more time would have to be spent on considering them. Consequently, discussion of the two sets of articles together was liable considerably to delay the work of the Conference. Moreover, most delegations had not yet had time to consult their Governments concerning the provisions in the annex and to receive the relevant instructions. Accordingly, it was not possible for them to consider those provisions immediately.

10. He pointed out further that the time-limit laid down for the submission of amendments to articles 42 to 58 had expired. If the 10-Power proposal were adopted, those delegations which had submitted amendments to articles 42 to 58 would probably also wish to submit amendments to the corresponding articles in the annex; such a procedure would be time-consuming and would delay consideration of part III. The course sug-

¹ *Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 10, chap. II, sect. D.*

gested by the representative of the Soviet Union, whereby article 1 would be examined immediately after consideration of part II had been completed, would delay the Conference's work even more. For all those reasons, he regarded the 10-Power proposal as unacceptable.

11. Mr. MEISSNER (German Democratic Republic) recalled that in its written comments on the draft articles, his Government had said that permanent missions of Member States and permanent observer missions of non-member States should be subject to the same legal régime since both types of mission were representative in character. Accordingly, his delegation welcomed the merger in part II of the provisions concerning the two categories of missions. Proceeding from the idea that delegations and observer delegations to organs and conferences also represented sovereign States, it considered that the two categories of delegation should, as far as possible, be subject to the same legal régime. The fact that the provisions concerning observer delegations appeared in an annex might give the impression that those delegations were in an inferior position. It was for the foregoing reasons that the German Democratic Republic had sponsored the proposal in document A/CONF.67/C.1/L.76.

12. Mr. MAAS GEESTERANUS (Netherlands) said that it was difficult to choose, without having tried them, between the two methods of work available to the Committee of the Whole. He wished to emphasize, however, the difficulties that small delegations would encounter if part III and the annex were examined together. Hitherto, those delegations had experienced great difficulty in submitting their amendments within the established time-limits. If part III and the annex were examined together, they might be led to submit two sets of amendments unnecessarily. On the other hand, if the Committee began by examining part III, it was probable that when it came to examine the annex it would occasionally merely request the Drafting Committee to redraft certain of the provisions in accordance with the text of the corresponding provisions in part III.

13. Mr. MOLINA LANDAETA (Venezuela) said that his delegation would have great difficulty in taking part in a discussion bearing at the same time on part III and on the annex, since it had not received instructions from its Government concerning the annex. It was unquestionable that some provisions in part III were similar to provisions in the annex, but those similarities could be identified later. In any case, the Conference would have to consider the annex at some stage, and it would not be reasonable to convene a new Conference for the purpose. The Venezuelan delegation would favour a compromise solution.

14. Mr. JELIĆ (Yugoslavia) pointed out that the sponsors of document A/CONF.67/C.1/L.76 were in fact proposing the adoption of a method—the comparative method—which had always been considered excellent, and which could certainly not be detrimental to the Committee's work. On the contrary, it would make it possible to determine, in each case, whether corresponding provisions in part III and in the annex demanded identical or different solutions.

15. Mrs. MIRANDA (Cuba) said that her delegation was one of the sponsors of the proposal under consideration. That proposal would enable the Committee of the Whole to speed up its work and to get a better grasp of the problems posed by delegations and observer delegations to organs and conferences. In document A/CONF.67/C.1/L.12, the United States delegation was proposing some amendments to article 1, aimed at deleting or modifying the definitions of the different categories of delegations. If they were adopted, those amendments might have serious repercussions on the future convention.

16. Further, she observed that her Government had received the text of the draft articles and of the Annex, in November 1974, and that her delegation had had ample time to study it.

17. Mr. TAKEUCHI (Japan) said he wished to emphasize the fact that many delegations had doubtless told their Governments that the annex to the convention would not be considered until later. In the absence of instructions, it would therefore be difficult for them to take part in a discussion of that text in the near future. Regard should be had, in particular, to the delegations of States other than those of western Europe, since in their case problems were entailed by communication with their Government.

18. Mr. EL-ERIAN (Expert Consultant), in reply to a question from Mr. KABUAYE (United Republic of Tanzania), said that the changes made in some parts of the draft would undoubtedly affect other parts. He recalled that in its commentary, the International Law Commission explained the origin of the Annex. It was obvious that there were relationships between the various articles of the draft. He pointed out, moreover, that the General Assembly had instructed the Conference to study the draft articles as a whole, including the Annex. The provisions relating to the observer delegations to organs and to conferences were contained in an annex solely because they had been drafted too late to be the subject of written comments by Governments and of consideration at second reading by the International Law Commission.

19. Mr. KUZNETSOV (Union of Soviet Socialist Republics) noted that two diametrically opposed trends were emerging from the discussion. He thought, therefore, that it would be more reasonable to seek a compromise solution which would be acceptable to a large majority. Speaking on behalf of the sponsors of the proposal in document A/CONF.67/C.1/L.76, and taking over a suggestion made by the Chairman of the General Committee at its 2nd meeting, that very morning, he proposed that the Committee of the Whole should begin its consideration article by article, so that in all the cases, whenever possible, each article in part III should be considered jointly with the corresponding article in the annex.

20. The PRESIDENT asked the representative of the USSR whether he was to consider that the Soviet Union delegation, on behalf of the sponsors, had withdrawn the proposal in document A/CONF.67/C.1/L.76 and had submitted a new proposal.

21. Mr. KUZNETSOV (Union of Soviet Socialist Republics) explained that the sponsors had not withdrawn the proposal in document A/CONF.67/C.1/L.76, but had merely revised it. If that proposal were put to the vote, the Conference should vote on the text as revised orally, which was to the following effect: "Consider, whenever possible, part III (delegations to organs and to conferences) jointly with the annex (observer delegations to organs and to conferences)". He reminded the Conference, moreover, that the sole aim of that proposal was to speed up the work of the Conference.

22. Mr. SURENA (United States of America) said that the views of his delegation with regard to the revised proposal were much the same as those he had previously stated with regard to the proposal in document A/CONF.67/C.1/L.76. In fact, the Committee would, of necessity, have to study carefully some questions concerning the annex as a whole before it could study any specific part of it. Moreover, the new proposal did not solve the problem of how the Committee was to deal with each of the provisions of the annex. As the new proposal raised the same problems as the initial proposal, the United States delegation did not think that it could facilitate the work of the Conference.

23. Sir Vincent EVANS (United Kingdom) said he fully appreciated the efforts made by the Soviet Union representative to find a compromise, but he thought that, by adopting the 10-Power proposal as revised, the Conference would be giving up the simple and convenient procedure it had adopted at the beginning of its work and replacing it by an imprecise procedure that was difficult to apply. How would the Committee know whether it was to consider an article in part III separately or jointly with the relevant provision in the annex? Who would decide on the advisability of a separate or a joint consideration? If the Committee had to take a procedural decision on every occasion, it would waste valuable time. The United Kingdom delegation would therefore prefer the Committee to keep to the procedure which it had followed so far and which had proved efficacious.

24. Mr. RICHARDS (Liberia) suggested that the sponsors of the proposal in document A/CONF.67/C.1/L.76 should withdraw their text or that the President should declare the debate closed.

25. Mr. MOLINA LANDAETA (Venezuela) welcomed the fact that several delegations were trying to find a compromise. He suggested that the Conference should wait for a week before taking a decision on the subject under discussion, since it would then be in a better position to do so.

26. Mr. GÜNEY (Turkey) said that he, too, was prepared to seek a compromise solution, since he wondered who would have the responsibility of deciding that a given article in part III was similar to a provision in the annex. He thought, however, that the Committee could perhaps leave it to the experience of its Chairman.

27. Mr. WERSHOF (Canada) said that if the revised 10-Power proposal were adopted, the Committee would have to hold a long procedural debate on most of the articles in part III. For his part, he did not think it possible to make the Chairman of the Committee responsible for deciding which articles in part III should be considered jointly with provisions in the annex.

28. Mr. RICHARDS (Liberia) formally moved the closure of the debate on the question under discussion in accordance with rule 26 of the rules of procedure.

29. The PRESIDENT said that, in the absence of objection, he would propose that the debate be closed.

It was so decided.

30. The PRESIDENT invited the Conference to vote on the 10-Power proposal (A/CONF.67/C.1/L.76), as orally amended by the Soviet Union representative on behalf of the sponsors.

The proposal as orally revised, was adopted by 32 votes to 22, with 10 abstentions.

31. The PRESIDENT, in informing the Conference of the results of the discussion which had taken place at the 2nd meeting of the General Committee, said that the General Committee recommended that the Conference instruct the Drafting Committee to prepare the draft title for and the draft preamble of the convention, and to consider, in addition to the draft final clauses, the draft final act prepared by the Secretariat, for reference back direct to the Conference. For that purpose, the Chairman of the Drafting Committee, if he thought it necessary, could set up a small working group which would have technical help from the Secretariat.

32. He also informed the Conference that the Committee might have to hold night meetings twice a week, starting the following week; the Chairman of the Committee should invite delegations to speak only on matters of substance and to do so as briefly as possible.

33. In the absence of any objection, he would consider that the Conference decided to approve the recommendations of the General Committee.

It was so decided.

The meeting rose at 1.20 p.m.