

# **United Nations Conference on Succession of States in Respect of Treaties**

Vienna, Austria  
First session  
4 April – 6 May 1977

Document:-  
**A/CONF.80/SR.7**

**7th plenary meeting**

Extract from Volume I of the *Official Records of the United Nations Conference on Succession of States in Respect of Treaties (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

**Tribute to the memory of  
Ambassador Edvard Hambro**

3. The PRESIDENT, paying a tribute to the memory of the late Ambassador Edvard Hambro, said that his international career had begun by participation, as a member of the Norwegian delegation, in the San Francisco Conference on International Organization which had adopted the Charter of the United Nations. Subsequently, he had held the posts of Chief of the Legal Section in the United Nations Secretariat and Registrar of the International Court of Justice. As Permanent Representative of Norway to the United Nations, he had served as President of the General Assembly in 1970. He was widely known as a legal scholar, who had written several standard works of reference. His combination of diplomatic experience and legal knowledge had made him a valuable member of the International Law Commission.

*On the proposal of the President, the members of the Conference observed one minute's silence in tribute to the memory of Ambassador Edvard Hambro.*

4. Mr. AMLIE (Norway) thanked the President and the participants in the Conference for their tribute to his fellow countryman.

*The meeting rose at 5.20 p.m.*

## **7th PLENARY MEETING**

*Friday, 6 May 1977, at 10.45 a.m.*

*President: Mr. ZEMANEK (Austria)*

### **Report of the Credentials Committee (A/CONF.80/12)**

1. Mr. SETTE CÂMARA (Brazil), Chairman of the Credentials Committee, said that the report of the Credentials Committee (A/CONF.80/12) required no introduction. He wished to point out, however, that after the meeting of the Credentials Committee on 3 May 1977, the Secretariat had received credentials in good and due form for the delegations of the following countries: Chile, Libyan Arab Jamahiriya, Mongolia, Romania and Sri Lanka.

2. Mr. NATHAN (Israel) pointed out that the Credentials Committee had accepted his delegation's credentials after finding them to be in due form and in conformity with rule 3 of the rules of procedure. His delegation therefore objected to the reservations made by the representatives of Qatar and the Sudan, which were recorded in paragraph 5 of the report under consideration. Such reservations were inadmissi-

ble; they were not relevant and were intended only to introduce political elements into the work of the Conference.

3. Under rule 4 of the rules of procedure, the Credentials Committee was required to examine the credentials of representatives and report to the Conference. The purpose of that examination was to ensure that the credentials satisfied the procedural requirements stated in rule 3 of the rules of procedure. Consequently, reservations of a political nature, such as those contained in paragraph 5 of the report, had absolutely nothing to do with the Credentials Committee's terms of reference and had no place in its report.

4. The delegation of Israel was participating as of right in the Conference, by virtue of the invitation which the Secretary-General of the United Nations had sent to the State of Israel in accordance with General Assembly resolution 31/18, in which the Secretary-General had been requested to invite all States to participate in the Conference. Consequently, his delegation's right to take part in the work of the Conference could not be called in question.

5. Referring in particular to the reservations made by the representative of Qatar, he said that his delegation did not claim to represent "Palestine". It represented the State of Israel and the Jewish, Arab and other inhabitants of that State. His delegation also rejected all the other allegations contained in the reservations made in the Credentials Committee. The Government of Israel had already stated its views on those matters in the General Assembly, the Security Council and other bodies. Moreover, the Conference was not competent to discuss them.

6. Although his delegation would not request that a separate vote be taken on paragraph 5 of the report, it nevertheless categorically rejected the reservations recorded in that paragraph.

7. Mr. AL-WITRI (Iraq) supported the reservations made on behalf of the delegations of the Arab countries and the Palestine Liberation Organization. His Government did not recognize the entity called Israel, which had been created in defiance of the right to self-determination of the Palestinian people, which had thus been prevented from exercising a right recognized by the Charter of the United Nations and by contemporary international law.

8. Mr. NATHAN (Israel), speaking on a point of order, said that, since the State of Israel was a Member of the United Nations, it could not be described as "an entity called Israel". He asked that the representative of Iraq be invited to withdraw his remark.

9. The PRESIDENT, referring to rule 18 of the rules of procedure, said that he could call a speaker to order only if his remarks were not relevant to the subject under discussion. In the present instance that

was not true of the remarks made by the representative of Iraq.

10. Mr. ZAKI (Sudan) said that he shared the view of the representative of Iraq. In paragraph 5 of its report, the Credentials Committee had merely recorded the point of view of the delegations of the Arab countries which had taken part in its work.

11. Mr. SAHRAOUI (Algeria) fully supported the reservations made in the Credentials Committee by the representatives of Qatar and the Sudan concerning the entity called Israel.

12. Mr. OSMAN (Somalia) associated himself with the views expressed by the representatives of Algeria, Iraq and the Sudan. The statements of the representative of Israel were out of place because the Conference had before it the report of a committee, which recorded what had occurred during that committee's discussions. The reservations which two delegations had made in the Credentials Committee could not be called in question.

13. Mr. AL-SERKAL (United Arab Emirates) endorsed the comments of the Arab delegations which had expressed their views on the reservations made in the Credentials Committee by the representatives of Qatar and the Sudan.

14. Mr. KEARNEY (United States of America) said he regretted that a political discussion had developed, when the Conference's specific task was to develop universally applicable legal standards, observing rules of law, including the rules of procedure. Israel was a Member of the United Nations which had been duly invited to take part in the Conference, and the Credentials Committee had only to determine whether the Israeli delegation's credentials were in good and due form. The question raised by the representatives of Qatar and the Sudan had no connexion with the terms of reference of the Credentials Committee.

15. Mr. SATTAR (Pakistan) said he thought the discussion was pointless, since the report under consideration must certainly reflect what had happened in the Credentials Committee. Moreover, he shared the view expressed by the representative of the Sudan in the Credentials Committee that the participation of a State in a conference should not be considered as implying its recognition by countries which had not recognized that State.

16. The PRESIDENT put the report of the Credentials Committee (A/CONF.80/12) to the vote.

*The report was adopted by 79 votes to none, with 2 abstentions.*

#### Draft recommendation by the Conference

17. The PRESIDENT said that, after consultations with the chairmen of the regional groups and inter-

ested delegations, it had been possible to prepare a draft recommendation for transmission to the General Assembly. The text had only been drafted in English, however, and since delegations had not yet had time to study it, he suggested that the meeting should be suspended to enable them to do so.

*The meeting was suspended at 11.10 a.m. and resumed at 11.20 a.m.*

18. Mr. HERNDL (Austria) observed that, in resolution 31/18 of 24 November 1976, the General Assembly had accepted the Austrian Government's offer to accommodate the present Conference at Vienna. As a matter of course, that invitation extended to a resumed session. Austria, which had a long tradition of acting as host to codification conferences, would be happy if the Conference would continue its work at Vienna, and he hoped that the Austrian Government's invitation would be mentioned in the report of the Conference.

19. Mr. SNEGIREV (Union of Soviet Socialist Republics) said he regretted that the Conference had not been able to complete its work within the time allotted by the General Assembly and thought it essential to organize the next session in such a way as to entail only minimal expenditure from the United Nations budget.

20. Mr. SEPÚLVEDA (Mexico) said that he was satisfied with the draft recommendation, which reflected the spirit of co-operation of all delegations.

21. The PRESIDENT said that, if there were no objections, he would take it that the Conference adopted the draft recommendation, which read as follows:

*The United Nations Conference on Succession of States in respect of Treaties,*

*Bearing in mind* General Assembly resolution 3496 (XXX) of 15 December 1975 by which the General Assembly decided to convene a conference of plenipotentiaries in 1977 to consider the draft articles on succession of States in respect of treaties, adopted by the International Law Commission at its twenty-sixth session, and to embody the results of its work in an international convention and such other instruments as it might deem appropriate,

*Having met* in Vienna from 4 April to 6 May 1977, in accordance with General Assembly resolution 31/18 of 24 November 1976,

*Expressing its deep appreciation and gratitude* to the Government of Austria for making possible the holding of the Conference in the capital of Austria,

*Noting* that due to the intrinsic complexity of the subject-matter it has not been possible for the Conference in the time available to conclude its work and to adopt an international convention and other appropriate instruments, as requested by the General Assembly in the above-mentioned resolution,

*Taking note* of the statement of the representative of Austria that the invitation of the Government of Austria referred to in General Assembly resolution 31/18 would extend to a resumed session of the Conference, which would make it possible for the Conference to continue its work in Vienna in 1978,

*Convinced* that one more session would enable it to conclude its work as envisaged by the General Assembly,

1. *Adopts* the report on its work for the period 4 April to 6 May 1977;

2. *Requests* the Secretary-General to transmit that report to the General Assembly at its thirty-second session;

3. *Recommends* that the General Assembly decide to reconvene the Conference in the first half of 1978, preferably in April in Vienna, for a final session of four weeks.

*The draft recommendation was adopted.*

**Draft report of the United Nations Conference on Succession of States in respect of Treaties (A/CONF.80/13)**

22. Mr. BRECKENRIDGE (Sri Lanka), referring to paragraph 19 of the draft report (A/CONF.80/13), said that his delegation had been absent when article 11 had been put to the vote at the fifth meeting of the Conference; had it been present, it would have voted in favour of that article.

23. With regard to paragraph 14 of the report, relating to the agenda of the Conference, he considered that the decision taken by the Conference at its third plenary meeting, to add to its agenda a supplementary item concerning the request of the United Nations Council for Namibia, should be recorded in a separate paragraph. He was not satisfied with the wording of that item and thought that the word "active" should be replaced by the word "full", since the United Nations Council for Namibia, in its letters to the United Nations Legal Counsel and to the President of the Conference, had requested "full" participation in the Conference. He was not satisfied, either, with the way in which the report reflected the decisions the Conference had taken on that matter and thought that the text of paragraph 14 should be amended.

24. Mr. YACOUBA (Niger) said he agreed with the representative of Sri Lanka that the part of the report dealing with the United Nations Council for Namibia did not accurately describe the Council's status and the decision the Conference had taken on it. He therefore proposed that the word "active" should be replaced by the word "full" in the agenda item relating to consideration of the request made by the United Nations Council for Namibia. He also proposed that the last two sentences of paragraph 14 should be replaced by the following text:

"Under that item, the Conference, upon the request of the United Nations Council for Namibia, decided, at its third plenary meeting held on 14 April 1977, that the delegation of the United Nations Council for Namibia would be allowed to take part in the Conference. At its fourth plenary meeting, held on 27 April 1977, the Conference, in the context of the implementation of the decision adopted at the third plenary meeting, took the view that that decision also meant that the United

Nations Council for Namibia had the right to submit proposals and amendments."

25. Mr. KATEKA (United Republic of Tanzania) supported the proposal by the representative of the Niger.

26. Sir Ian SINCLAIR (United Kingdom) said he thought that the report faithfully reflected decisions taken by the Conference. It was therefore difficult for him to accept the proposed amendment.

27. Mr. SAHRAOUI (Algeria) agreed with the representatives of Sri Lanka, the Niger and Tanzania. He thought that, in the last sentence of paragraph 14 of the French text, the word "*aurait*" was inappropriate, because the United Nations Council for Namibia had already had the right to submit proposals and amendments and the decision taken by the Conference on 14 April 1977 had merely confirmed a pre-existing situation.

28. The PRESIDENT observed that the first amendment proposed by the representative of Niger, which would change the wording of an agenda item adopted by the Conference, involved reconsideration of a decision already taken by the Conference and therefore required a two-thirds majority.

29. Sir Ian SINCLAIR (United Kingdom) said that the report merely reproduced the wording which had in fact been adopted by the Conference at its third plenary meeting. It would therefore be necessary to add, after paragraph 14, a new paragraph indicating that, at its seventh plenary meeting, the Conference had decided to amend that wording.

30. Mr. SCOTLAND (Guyana) said that the wording had been incorrect from the outset, since the United Nations Council for Namibia had requested "full" participation in the Conference. Hence it was only a matter of correcting an error which had been made at the outset.

31. The PRESIDENT read out the following letter, dated 1 April 1977, which had been sent to the Secretary-General of the Conference by the President of the United Nations Council for Namibia:

At its 250th plenary meeting, the United Nations Council for Namibia decided to accept the invitation to participate in the United Nations Conference on Succession of States in respect of Treaties to be held from 4 April to 6 May in Vienna, Austria.

The delegation of the Council will consist of: Mr. Abdelhamid Semichi, representative of Algeria, and Mr. Leslie Robinson, representative of Guyana. The delegation of the Council will be accompanied by Mr. Ernest Tjiriange, representative of SWAPO.

In accepting the invitation, I should also like to draw your attention to [...] paragraph 3 of General Assembly resolution 31/149, which runs as follows:

"The General Assembly,

"Requests all specialized agencies and other organizations and conferences within the United Nations system to consider

granting full membership to the United Nations Council for Namibia so that it may participate in that capacity as the Administering Authority for Namibia in the work of those agencies, organizations and conferences."

Observance of this paragraph would facilitate the participation of the Council in the United Nations Conference on Succession of States in respect of Treaties.

...

32. He then read out the following extract from the letter sent to him on 6 April 1977 by the delegation of the United Nations Council for Namibia:

... the delegation of the United Nations Council for Namibia would like to bring to your attention the contents of the attached copy of a letter dated April 1st, 1977, from the President of the United Nations Council for Namibia addressed to Mr. Erik Suy, the Secretary-General for the United Nations Conference on Succession of States in respect of Treaties.

It is within the context of the vital importance of this Conference to the future status of an independent Namibia that our delegation seeks to be accorded such status as would permit our full participation in the deliberations of this Conference. The delegation of the United Nations Council for Namibia would be grateful if, in accordance with [...] paragraph 3 of General Assembly resolution 31/149 of February 10th, 1977, arrangements could be made to ensure the active participation of the United Nations Council for Namibia in the work of the Conference on Succession of States in respect of Treaties. It is perhaps apposite to observe that the United Nations Council for Namibia participated as a full member in the work of the recently concluded United Nations Water Conference held at Mar del Plata, Argentina.

...

33. Mr. KATEKA (United Republic of Tanzania) asked that, if a vote was taken on the amendment proposed by Niger, the vote should be by roll-call.

34. Mr. MUDHO (Kenya) endorsed that request. In his opinion, the words "active participation", which appeared in the letter sent to the President of the Conference by the United Nations Council for Namibia referred to administrative arrangements, and it was quite clear that the Council had asked for "full" participation in the Conference.

35. Mr. BRECKENRIDGE (Sri Lanka) was also of the opinion that the two letters which the President had read out clearly showed that the United Nations Council for Namibia had requested full participation in the Conference.

36. Mr. YACOUBA (Niger) said he thought those two letters did indeed reflect the position of the United Nations Council for Namibia. Since the Conference had agreed that the Council should participate, its participation must be full and complete.

37. Mr. MBACKE (Senegal) said he thought the competence of the United Nations Council for Namibia in conferences organized by the United Nations was not clearly defined, for the words "full member" were open to different interpretations. Thus, in the present case, the United Nations Council for Namibia had the right to submit proposals and amendments,

but the question of its right to vote had not been settled. General Assembly resolution 31/149 suggested that the Council had the same rights and obligations as States at conferences organized by the United Nations; in his opinion the General Assembly should take a clear position on the meaning of the words "full member".

38. He also noted a certain lack of objectivity in the draft report. Paragraph 5 listed first the States which had taken part in the Conference, and then the States represented by observers; the United Nations Council for Namibia, which had participated fully in the work of the Conference, was only mentioned afterwards. Moreover, the word "further" in the antepenultimate line of paragraph 14 gave the impression that, after having granted certain rights to the United Nations Council for Namibia, the Conference had generously granted it other favours. Lastly, the word "*aurait*", in the penultimate line of the French text, left some doubt about the right of the United Nations Council for Namibia "to submit proposals and amendments".

39. Mr. YIMER (Ethiopia) stressed that the Conference should not overlook the importance of United Nations resolutions, in particular, General Assembly resolution 31/149, which referred to the status of the United Nations Council for Namibia as a full member of conferences held within the United Nations system. It was clear that, by virtue of that resolution, the Council took part in such conferences on the same footing as States.

40. Mr. KEARNEY (United States of America) said he thought the question at issue was how the item considered at the third meeting of the Conference had been worded. He believed that the wording on which the Conference had based its decision was indeed that reproduced in paragraph 14 of the draft report, and whatever was done now would not change what had happened in any way. Moreover, at its third meeting, the Conference had taken decisions only on the seating of the delegation of the United Nations Council for Namibia in the conference room and on the right of that delegation to submit proposals and amendments.

41. Mr. MUSEUX (France) agreed with the representative of the United States and observed that the Conference should adopt a simple report which faithfully recorded what had happened during its meetings. It might be an extremely serious matter to amend the wording of the item which the Conference had been called upon to add to its agenda, for the decision to include that item had been taken advisedly, after long consultations between the participants. His delegation was surprised at such methods of work. How could the Conference seek to amend, at that stage in its work, the wording of an item which had already been on its agenda for a long time? It was at the third or fourth meeting that the question should have been raised. Of course, the

Conference could now take any decision it deemed appropriate, by a two-thirds majority of the participants, but his delegation could not approve of that procedure.

42. Referring to the statement by the representative of Niger that the Conference had granted the right to vote to the United Nations Council for Namibia, he said that he could not agree, because States alone enjoyed the right to vote as was shown by rule 33 of the rules of procedure, which read: "Each State represented at the Conference shall have one vote". It would not be appropriate to grant a body such as the Council a right which was the prerogative of States.

43. Mr. KATEKA (United Republic of Tanzania) said that even if the draft report accurately reflected what had happened at the meetings of the Conference, as some delegations believed, it was still necessary to correct a mistake. He therefore suggested the addition, at the end of paragraph 14, of a sentence indicating that, at its seventh plenary meeting, the Conference had decided to correct the error in the wording of the supplementary item on its agenda.

44. Mr. SCOTLAND (Guyana) said that the arguments advanced against the proposal to amend the draft report were certainly logical, but other important elements should also be taken into account. The last sentence of paragraph 14 reproduced the substance of the statement made by the President at the fourth meeting of the Conference, but neither that paragraph nor the summary record of that meeting made it clear that the President's statement had been an interpretation of the decision taken at the third meeting of the Conference, which, besides other rights granted to the United Nations Council for Namibia, had concerned its right to submit proposals and amendments. His delegation therefore doubted whether it was advisable to enumerate the Council's rights, at the risk of not faithfully reflecting what had happened, and thought it might be better simply to indicate that the United Nations Council for Namibia had been allowed to take part in the work of the Conference.

45. The PRESIDENT said that, in the hope of facilitating the discussion, he would read out the statement he had made at the fourth meeting, which ran:

The PRESIDENT recalled that under the agenda item under consideration and upon the request of the delegation of the United Nations Council for Namibia referring to General Assembly resolution 31/149, the Conference had taken a decision concerning that delegation's participation in the Conference. In the context of the implementation of that decision, the delegation of the United Nations Council for Namibia had requested that the Conference should state explicitly that it had the right to submit proposals and amendments.

He suggested that the full text of that statement, and of the statement he had made at the third meeting of the Conference, should be reproduced in the report.

46. Mr. SNEGIREV (Union of Soviet Socialist Republics) said that his delegation had been entirely in favour of the implementation of General Assembly resolution 31/149 and, consequently, of the full participation of the delegation of the United Nations Council for Namibia in the Conference within the context of the application of that resolution. He noted that the letters from the United Nations Council for Namibia, which the President had read out, referred both to "full" and to "active" participation by the Council and that no delegation had raised any objections when the Conference had decided by consensus to place on its agenda the question of "Consideration of the request of the United Nations Council for Namibia for active participation in the United Nations Conference on Succession of States in respect of Treaties (General Assembly resolution 31/149)." His delegation thought that, if some delegations considered it necessary, it might be possible, not to reconsider a decision already taken, but to adopt a new decision.

47. Mr. KATEKA (United Republic of Tanzania) said he did not think the President's suggestion would solve the problem raised by the inaccurate wording of the supplementary item on the agenda of the Conference. It was the duty of the Conference to correct the error which had crept in.

48. The PRESIDENT pointed out that the statements to which he had referred related not to the wording of the agenda item, but to the decisions taken by the Conference. He suggested that consideration of that matter should be continued at the next meeting.

*The meeting rose at 12.50 p.m.*

## 8th PLENARY MEETING

*Friday, 6 May 1977, at 5.10 p.m.*

*President: Mr. ZEMANEK (Austria)*

### Draft report of the United Nations Conference on Succession of States in respect of Treaties (A/CONF.80/13) (concluded)

1. The PRESIDENT said that, following consultations between the regional groups, it had been agreed that the latter part of paragraph 14 of the draft report (A/CONF.80/13), starting with the words "At its third plenary meeting...", should be recast to form two new paragraphs reading:

15. At its third plenary meeting, held on 14 April 1977, the Conference decided to add a supplementary item to its agenda entitled "Consideration of request of the United Nations Council for Namibia for active participation in the United Nations Conference