

**United Nations Conference on Succession of States
in respect of State Property, Archives and Debts**

Vienna, Austria
1 March - 8 April 1983

Document:-
A/CONF.117/SR.1

1st plenary meeting

Extract from Volume I of the *Official Records of the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

SUMMARY RECORDS OF THE PLENARY MEETINGS

1st plenary meeting

Tuesday, 1 March 1983, at 10.20 a.m.

Acting President: Mr. FLEISCHHAUER
(Legal Counsel of the United Nations,
representing the Secretary-General)

President: Mr. SEIDL-HOHENFELDERN (Austria)

Opening of the Conference by the representative of the Secretary-General

[Item 1 of the provisional agenda]

1. The ACTING PRESIDENT, speaking as the representative of the Secretary-General, extended a warm welcome to the Federal President of the Republic of Austria. The Federal Government of Austria, in keeping with its long tradition, had once again offered to host the latest in a series of legal codification conferences convened under the auspices of the United Nations. The Organization greatly appreciated that invitation, as had been expressly recognized by the General Assembly in its resolution 37/11 of 15 November 1982, and it was grateful for all the facilities and assistance provided again by the host Government in Vienna, a city which had already lent its name to five codification conventions in the field of public international law. The presence at the Conference of the Federal President of Austria, who had long been actively involved in the process of codification of international law, was itself proof of Austria's attachment to the cause of the United Nations and the promotion of international law.

2. He also welcomed the other distinguished officials and special guests who were present and wished the participants in the Conference success in the important and delicate task ahead of them.

3. On behalf of the Secretary-General, he declared open the United Nations Conference on Succession of States in Respect of State Property, Archives and Debts and invited the Conference to observe a minute of silence for prayer or meditation.

The Conference observed a minute of silence.

4. The ACTING PRESIDENT, speaking as the representative of the Secretary-General, observed that the Conference was in a sense a sister conference to the United Nations Conference on Succession of States in Respect of Treaties, which had been held in Vienna in 1977 and 1978. The present Conference had been convened by the General Assembly for the purpose of concluding, on the basis of a draft prepared by the International Law Commission,¹ a convention again

reflecting the progressive development and codification in the field of State succession, but on the present occasion in respect of property, archives and debts. That future convention would be part of the *corpus juris gentium* in written form which the United Nations had produced over the years. The existence of such a *corpus* bore witness to the foresight of those who had devised the flexible mechanism, with the International Law Commission in the pivotal role that had facilitated the effective fulfilment by the General Assembly of the obligation laid down in Article 13, paragraph 1(a) of the Charter, to encourage the progressive development of international law and its codification.

5. Codification and progressive development were two inseparable and indispensable components in the process undertaken in furtherance of that provision of the Charter, and the element linking both components in the kind of conventional codification undertaken under the auspices of the United Nations was the democratic necessity of consent. Conventional codification answered a need of the rapidly growing international community, but consent to conventional codification could not be achieved without a sometimes considerable amount of progressive development.

6. The necessity of consent among sovereign States afforded a guarantee that the rules adopted in the process of conventional codification as undertaken under the auspices of the United Nations would be attuned to the realities of today's international community, realities marked not only by the expanding membership of that community, but also by the increase in the variety of cultural and legal traditions and backgrounds represented in it. The set of codification conventions already adopted under the auspices of the United Nations proved that the Organization had achieved tangible and far-reaching results in the task entrusted to it by Article 13 of the Charter.

7. The draft submitted for consideration by the Conference was again the result of long and careful study by the International Law Commission, extending over a decade. The learned guidance and determined efforts of the Commission's Special Rapporteur on the topic, Judge Mohamed Bedjaoui, who would be participating in the Conference in the capacity of expert consultant, had greatly contributed to the excellence of that draft.

¹ See sect. B of vol. II.

8. He invited the Federal President of the Republic of Austria to address the Conference.

**Address by the Federal President of
the Republic of Austria**

9. H.E. Dr. Rudolf KIRCHSCHLAEGER (Federal President of the Republic of Austria) said that the holding of the Conference in the capital of Austria continued a long-standing tradition of United Nations conferences devoted to the codification of international law. He warmly welcomed all the participants and expressed the hope that the working conditions and conference environment in Vienna would contribute to a successful outcome of their work. He also hoped that the reputation of Austria as an international meeting place, based not only on its permanent neutrality but also on its history and geographical situation, would be maintained.

10. He recalled that 22 years previously, in his capacity as Legal Adviser to the Austrian Foreign Ministry, he had been responsible for organizing, and had served as acting Head of the Austrian delegation at the United Nations Conference on Diplomatic Intercourse and Immunities, the so-called Second Congress of Vienna. Again in 1963 he had served in the same capacity at the Vienna Conference on Consular Relations. Conferences on the codification of international law had therefore come to have a special value in his thoughts and political considerations. He was convinced that the initiation of studies and the adoption of recommendations aimed at encouraging the progressive development of international law and its codification was not only one of the main functions of the General Assembly of the United Nations but was also one of the means of making the world more peaceful. The endeavours of the Conference in the coming weeks to codify a further important segment of international relations fell into that domain and would contribute effectively to the maintenance and strengthening of international peace and security.

11. Since 1961, large and important sectors of international law had undergone the process of codification and had thereby become cornerstones for the bilateral and multilateral conduct of international affairs.

12. As Head of State of the host country he believed he should abstain from commenting on the draft articles before the Conference. He was confident, however, that the valuable experience and outstanding knowledge of all those present would ensure success in the elaboration of an international convention and such other instruments as might be necessary. As in all other international conferences, mutual understanding and readiness to make fair compromises where necessary would be required in the coming weeks if the work undertaken was to reach the successful conclusion he wished for all concerned.

Election of the President

[Item 2 of the provisional agenda]

13. The ACTING PRESIDENT said that there had been a large number of requests from many quarters for the nomination of Mr. Ignaz Seidl-Hohenveldern, Head of the Austrian delegation, as President of the

Conference. He noted the absence of any other nominations.

Mr. Seidl-Hohenveldern (Austria) was elected President by acclamation and took the chair.

14. The PRESIDENT said that he was most grateful for the signal honour the Conference had done him in electing him President. He took the election as a tribute to Vienna, the third conference centre of the United Nations, and to his eminent Austrian predecessors whom he would endeavour to emulate on the present occasion.

15. He believed he could refer to his fellow participants in the Conference as "colleagues" and "friends". He addressed them as "colleagues" because, having spent many years in the Austrian diplomatic service and as a teacher of law, he had always appreciated the great value of the work being done by the United Nations in the area of codification. Irrespective of whether the rules codified would become part of customary law, the mere fact that certain rules of international law were codified facilitated the work of both diplomats and teachers. The draft articles submitted, which were the result of lengthy deliberations in the International Law Commission and were accompanied by detailed commentaries by Judge Bedjaoui, formed an invaluable basis for the work of the Conference. If that work culminated in the adoption of a convention, the Conference would indeed have performed a most useful task.

16. In referring to the participants in the Conference as "dear friends", he had in mind not merely friends in the sense of colleagues appointed by their respective administrations, but rather friends in a higher and less automatic sense. The number of specialists in public international law in national administrations was quite small. During discussions, those experts sometimes found that their counterparts from other countries were more attuned to their concerns than were the various other branches of their own administrations. While he certainly did not intend to conjure up visions of an unholy alliance among the jurists of the world, it was a fact that like understood like. A jurist should always be able to follow the reasoning of another jurist intellectually, even when he might not be in agreement with him. This spirit of understanding could and should lead to mutual respect. During his long career, he had experienced such respect and had subsequently established ties of friendship which transcended ideological and ethnic differences. He was thus pleased and proud to be able to greet friends among the participants in the present Conference. He trusted that a spirit of mutual understanding would prevail, even during the discussion of controversial matters, and that the joint efforts made would result in the establishment of closer relations, not only among the representatives present, but also among the States they represented. Should that be achieved, he was confident that the Conference would be a success.

Adoption of the agenda

[Item 3 of the provisional agenda]

17. The PRESIDENT invited the Conference to adopt the provisional agenda, as contained in docu-

ment A/CONF.117/1, in two stages: first, items 1 to 5 and 7 to 13, and then item 6.

Items 1 to 5 and 7 to 13 of the provisional agenda were approved.

18. The PRESIDENT invited the Conference to decide, with reference to item 6 of the provisional agenda, whether one or two committees of the whole should be established, taking into account the views expressed on that subject by the sponsors of General Assembly resolution 37/11, as reflected in the memorandum by the Secretary-General on the methods of work and procedures of the Conference (A/CONF.117/3).

19. Msgr. PERESSIN (Holy See) said that it would be preferable to have only one committee of the whole, since the duration of the Conference was sufficient to permit full discussion of all matters and the number of participants did not justify the establishment of two committees.

20. Mr. BINTOU (Zaire) considered that the establishment of two committees would unduly complicate the work of the Conference.

21. Mr. GUILLAUME (France) said that one committee of the whole would be more effective.

22. Mr. CALISTO (Ecuador) supported the views of the previous speakers.

23. The PRESIDENT said that, since all those who had spoken appeared to favour the establishment of only one committee of the whole, he took it that item 6 of the provisional agenda should remain unchanged.

Item 6 of the provisional agenda was approved.

The provisional agenda (A/CONF.117/1²) was adopted.

² The agenda as adopted by the Conference was circulated as document A/CONF.117/7.

Adoption of the rules of procedure

[Agenda item 4]

The provisional rules of procedure (A/CONF.117/2³) were adopted.

24. Mr. SULLIVAN (Canada), speaking on behalf of the Governments of Canada, France, the Federal Republic of Germany, the United Kingdom of Great Britain and Northern Ireland and the United States of America, said that, since 1977, those Governments, as members of the Contact Group concerned with the question of Namibia, had endeavoured to promote through negotiations an internationally acceptable settlement of the continuing conflict over that territory.

25. Rule 58 of the rules of procedure reflected the clear distinction made in operative paragraph 2 of General Assembly resolution 37/11 between on the one hand States, and on the other Namibia, represented by the United Nations Council for Namibia. While they had voted in favour of adoption of the rules of procedure, the Governments for which he spoke wished to reserve their position as to the seating of delegations in the conference hall, which did not reflect the distinction made in the rules of procedure and in resolution 37/11. Their acceptance of those arrangements could not therefore be construed as a change in their position concerning the legal nature of the participation of Namibia, represented by the United Nations Council for Namibia.

The meeting rose at 11.30 a.m.

³ The rules of procedure as adopted by the Conference were circulated as document A/CONF.117/8.

2nd plenary meeting

Tuesday, 1 March 1983, at 3 p.m.

President: Mr. SEIDL-HOHENFELDERN (Austria)

Election of Vice-Presidents

[Agenda item 5]

1. The PRESIDENT said that he proposed to suspend the meeting in order to give the regional groups time to complete their consultations.

The meeting was suspended at 3.05 p.m. and resumed at 3.35 p.m.

2. The PRESIDENT said that, taking into account the provisions of rule 6 of the rules of procedure, the regional groups had nominated the following States as Vice-Presidents of the Conference: Algeria, Bulgaria, Chile, Ecuador, Egypt, France, German Democratic Republic, India, Indonesia, Italy, Morocco, Nigeria, Norway, Pakistan, Suriname, Switzerland, Union of Soviet Socialist Republics, United Arab Emirates,

United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Zaire.

Those States were elected Vice-Presidents of the Conference by acclamation.

Election of the Chairman of the Committee of the Whole

[Agenda item 6]

3. Mrs. BOKOR-SZEGÖ (Hungary), speaking on behalf of the Group of Eastern European States, nominated Mr. Milan Šahović (Yugoslavia) for the office of Chairman of the Committee of the Whole.

4. Mr. do NASCIMENTO e SILVA (Brazil) and Mr. SHASH (Egypt) seconded the nomination.

Mr. Šahović was elected Chairman of the Committee of the Whole by acclamation.