

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

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Proposals and amendments submitted to the Conference in plenary meeting

Extract from Volume II of the *Official Records of the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Documents of the Conference)*

F. PROPOSALS AND AMENDMENTS SUBMITTED TO THE CONFERENCE IN PLENARY MEETING¹

1

DOCUMENT A/CONF.117/L.1

Syrian Arab Republic: draft resolution

[Original: French]
[6 April 1983]

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

Recalling the principles of international law, and in particular the principle of equal rights and self-determination of peoples embodied in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,²

Emphasizing that the present Convention applies exclusively to the effects of a succession of States arising in accordance with international law and, more particularly, with the principles of international law embodied in the Charter of the United Nations,

1. Recognizes that the provisions of this Convention may not in any circumstances impair the exercise of the lawful right to self-determination and independence, in accordance with the Purposes and Principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, for peoples struggling against colonialism, alien domination, alien occupation, racial discrimination and apartheid;

2. Recognizes also that the peoples in question possess permanent sovereignty over their resources and natural wealth and their rights to development, information concerning their history and to the conservation of their cultural heritage;

3. Declares that the implementation of the Convention of Vienna on Succession of States in respect of State Property, Archives and Debts by States acceding to independence subsequent to its adoption will be facilitated by the observance of the principle and the rights mentioned in paragraph 2 by administering Powers and other States.

¹ The texts of proposals and amendments submitted in the Committee of the Whole will be found in the report of that Committee (A/CONF.117/11 and Add.1 to 12) under the title concerned (see sect. C of this volume).

² General Assembly resolution 2625 (XXV), annex

2

DOCUMENT A/CONF.117/L.2

Austria and Switzerland: amendment

[Original: French]
[6 April 1983]

Replace the annex concerning conciliation in document A/CONF.117/10/Add.2 by the following:

ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a Party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article B, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

(a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within thirty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within thirty days following the date of the appointment of the last of them, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within thirty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Party to the present Convention to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. If within six months of its constitution the Commission does not succeed in bringing about an agreement between the parties for a settlement of the dispute, it shall draw up a report on its work as soon as possible. The report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. It shall contain the Commission's conclusions regarding points of facts and of law and the recommendations that it has submitted to the parties in order to facilitate a settlement of the dispute. The time limit of six months may be extended by a decision of the Commission. The recommendations in the Commission's report, unless they have been accepted by all the parties to the dispute, shall not be binding upon them. Nevertheless, any party to the dispute has the option of unilaterally declaring that it will abide by the recommendations in the report as far as concerns it. The parties to the dispute may also agree in advance that they will abide by the recommendations in the report.

7. A party to the dispute which considers that it cannot accept the recommendations of the report shall so inform the Secretary-General and shall communicate the reasons for its refusal to the other party.

8. The Secretary-General shall publish the recommendations in the report, at the request of one of the parties to the dispute, three months after the deposit of the report.

9. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

3

DOCUMENT A/CONF.117/L.3

Egypt (on behalf of the Group of 77): draft resolution

[Original: French]
[6 April 1983]

The United Nations Conference on Succession of States in Respect of State Property, Archives and Debts,

Bearing in mind General Assembly resolution 2145 (XXI) of 27 October 1966 by which the Assembly decided to end South Africa's mandate over Namibia and by which the United Nations assumed direct responsibility for the Territory until it achieved independence, as well as General Assembly resolution 2248 (S-V) of 19 May 1967 by which the United Nations Council for

Namibia was established and given responsibility for administering the Territory until it achieved independence,

Recalling the advisory opinion of the International Court of Justice of 21 June 1971,¹ which declared that, since the continued presence of South Africa in Namibia was illegal, South Africa had an obligation to withdraw its administration from the Territory and thus end its occupation of the Territory,

Recalling also the relevant United Nations resolutions, in particular Security Council resolution 385 (1976), which reaffirmed the territorial integrity and unity of Namibia, and resolution 432 (1978), in which the Security Council took note of paragraph 7 of General Assembly resolution 32/9 D declaring that Walvis Bay constituted an integral part of Namibia,

1. *Decides* that the relevant articles of the Vienna Convention on the Succession of States in Respect of State Property, Archives and Debts should, in the case of Namibia, be interpreted in accordance with the United Nations resolutions on the question of Namibia;

2. *Reserves*, in consequence, all the rights of the future independent State of Namibia.

4

DOCUMENT A/CONF.117/L.4

Netherlands: amendment to article D (Entry into force)

[Original: English]
[6 April 1983]

Redraft paragraph 1 of article D to read as follows:

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.

¹ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 58.*