

**United Nations Conference on the Law of Treaties between States
and International Organizations or between International Organizations**

Vienna, Austria
18 February – 21 March 1986

General Assembly resolutions relative to the Conference

Extract from Volume I of the *Official Records of the United Nations Conference on the Law of
Treaties between States and International Organizations or between International Organizations*
(*Summary records of the plenary meetings and of the meetings of the Committee of the Whole*)

GENERAL ASSEMBLY RESOLUTIONS RELATIVE TO THE CONFERENCE

37/112. Convention on the Law of Treaties between States and International Organizations or between International Organizations

The General Assembly,

Recalling that, following consideration of a recommendation adopted by the United Nations Conference on the Law of Treaties, held at Vienna in 1968 and 1969, the General Assembly, by its resolution 2501 (XXIV) of 12 November 1969, recommended that the International Law Commission should study, in consultation with the principal international organizations, as it may consider appropriate in accordance with its practice, the question of treaties concluded between States and international organizations or between two or more international organizations, as an important question,

Noting that, pursuant to General Assembly resolution 36/114 of 10 December 1981, the International Law Commission, taking into account the written comments of Governments and of principal international organizations as well as views expressed in debates in the Assembly, completed at its thirty-fourth session the second reading of the draft articles on the said question,¹

Noting that, as reflected in paragraph 57 of the report of the International Law Commission on the work of its thirty-fourth session, the Commission decided to recommend that the General Assembly should convoke a conference to study the draft articles on the law of treaties between States and international organizations or between international organizations prepared by the Commission and to conclude a convention.

Recalling the adoption of the Vienna Convention on the Law of Treaties² of 23 May 1969, the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character³ of 14 March 1975 and the Vienna Convention on Succession of States in respect of Treaties⁴ of 23 August 1978,

Mindful of Article 13, paragraph 1 a, of the Charter of the United Nations, which provides that the General

Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Believing that the successful codification and progressive development of the rules of international law governing treaties between States and international organizations or between international organizations would contribute to the development of friendly relations and co-operation among States, irrespective of their differing constitutional and social systems, and would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter,

1. *Expresses its appreciation* to the International Law Commission for its valuable work on the law of treaties between States and international organizations or between international organizations and to the Special Rapporteur on the topic for his contribution to this work;

2. *Invites* States to submit, not later than 1 July 1983, their written comments and observations on the final draft articles on the law of treaties between States and international organizations or between international organizations, prepared by the International Law Commission, as well as on the questions referred to in paragraph 60 of the report of the Commission on the work of its thirty-fourth session;

3. *Invites also* the principal international intergovernmental organizations to submit within the same period their written comments and observations on the subject;

4. *Requests* the Secretary-General to circulate such comments so as to facilitate the discussion on the subject at the thirty-eighth session of the General Assembly;

5. *Decides* that an international convention shall be concluded on the basis of the draft articles adopted by the International Law Commission;

6. *Takes note* of the recommendation of the International Law Commission on the subject and agrees to decide at its thirty-eighth session upon the appropriate forum for the adoption of the convention in the light of the comments received in accordance with the present resolution;

7. *Decides* to include in the provisional agenda of its thirty-eighth session an item entitled "Convention on the Law of Treaties between States and International Organizations or between International Organizations".

¹ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 10 (A/37/10) chap. II, sect. D.

² Official Records of the United Nations Conference on the Law of Treaties (United Nations publication, Sales No. E.70.V.5), p. 287.

³ Official Records of the United Nations Conference on the Representation of States in Their Relations with International Organizations, vol. II (United Nations publication, Sales No. E.75.V.12), p. 207.

⁴ Official Records of the United Nations Conference on Succession of States in Respect of Treaties, vol. III (United Nations publication, Sales No. E.79.V.10), p. 185.

107th plenary meeting
16 December 1982

38/139. United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

The General Assembly,

Recalling its resolution 37/112 of 16 December 1982, by which it decided that an international convention should be concluded on the basis of the draft articles on the law of treaties between States and international organizations or between international organizations, adopted by the International Law Commission at its thirty-fourth session,

Recalling further that, by its resolutions 37/112, it agreed to decide at its thirty-eighth session upon the appropriate forum for the adoption of the convention in the light of the comments received in accordance with that resolution,⁵

Having received the report of the Secretary-General which contains the comments and observations submitted by a number of States and principal international intergovernmental organizations, in accordance with General Assembly resolution 37/112, and having further received the statement adopted by the Administrative Committee on Co-ordination,⁶

1. *Decides* that the appropriate forum for the final consideration of the draft articles on the law of treaties between States and international organizations or between international organizations, adopted by the International Law Commission at its thirty-fourth session, shall be a conference of plenipotentiaries to be convened not earlier than 1985;

2. *Agrees* to decide at its thirty-ninth session upon the question of the date and place for the convening of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations, as well as upon the question of participation in the Conference;

3. *Invites* States that have not already done so to submit, not later than 1 July 1984, their written comments and observations on the final draft articles on the law of treaties between States and international organizations or between international organizations prepared by the International Law Commission, as well as on the questions referred to in paragraph 60 of the report of the Commission on the work of its thirty-fourth session;

4. *Invites also* the principal international intergovernmental organizations that have not already done so to submit, within the same period, their written comments and observations on the subject;

5. *Requests* the Secretary-General to circulate such comments so as to facilitate the discussion on the subject at the thirty-ninth session of the General Assembly;

6. *Appeals* to potential participants in the Conference to undertake consultations on the draft articles concerned and other related questions prior to the thirty-ninth session of the General Assembly, in order

to facilitate the successful conclusion of the work of the Conference;

7. *Decides* to include in the provisional agenda of its thirty-ninth session an item entitled "United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations".

*101st plenary meeting
19 December 1983*

39/86. United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

The General Assembly,

Recalling its resolution 37/112 of 16 December 1982, by which it decided that an international convention should be concluded on the basis of the draft articles on the law of treaties between States and international organizations or between international organizations, adopted by the International Law Commission at its thirty-fourth session,¹

Recalling also its resolution 38/139 of 19 December 1983, by which it decided that the appropriate forum for the final consideration of the draft articles should be a conference of plenipotentiaries to be convened not earlier than 1985 and agreed to decide at its thirty-ninth session upon the question of the date and place for the convening of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations, as well as upon the question of participation in the Conference,

Having received the report of the Secretary-General,² which contains comments and observations submitted by States and principal international intergovernmental organizations, in accordance with General Assembly resolution 38/139,

Recognizing the importance of achieving a successful conclusion of the work of the Conference through the promotion of general agreement,

Bearing in mind the relationship between the law of treaties between States and the subject-matter to be dealt with by the Conference,

Noting with appreciation that an invitation has been extended by the Government of Austria to hold the Conference at Vienna,

1. *Decides* that the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations shall be held at Vienna from 18 February to 21 March 1986;

2. *Requests* the Secretary-General to invite:

(a) All States to participate in the Conference;

(b) Namibia, represented by the United Nations Council for Namibia, to participate in the Conference,

⁵ A/38/145 and Corr.1 and Add.1.

⁶ A/C.6/38/4, annex.

⁷ A/39/491.

in accordance with paragraph 6 of General Assembly resolution 37/233 C of 20 December 1982;

(c) Representatives of organizations that have received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under its auspices in the capacity of observers to participate in the Conference in that capacity, in accordance with General Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976;

(d) Representatives of the national liberation movements recognized in its region by the Organization of African Unity to participate in the Conference as observers, in accordance with General Assembly resolution 3280 (XXIX) of 10 December 1974;

(e) Representatives of international intergovernmental organizations that have traditionally been invited to participate as observers at legal codification conferences convened under the auspices of the United Nations to participate in the Conference in a capacity to be considered during the consultations referred to in paragraph 8 below and to be decided upon by the General Assembly at its fortieth session;

3. *Invites* the participants referred to in paragraph 2 above to include as far as possible among their representatives experts competent in the field to be considered;

4. *Decides* that the languages of the Conference shall be the official and working languages of the General Assembly, its committees and its sub-committees;

5. *Refers* to the Conference, as the basic proposal for its consideration, the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session;

6. *Requests* the Secretary-General to submit to the Conference all relevant documentation and recommendations relating to the rules of procedure and methods of work, taking into account the importance of promoting general agreement on the final results of the work of the Conference, and to arrange for the necessary staff, facilities and services which it will require, including the provision of summary records;

7. *Also requests* the Secretary-General to arrange for the presence at the Conference, as an expert, of the International Law Commission's Special Rapporteur on the question of treaties concluded between States and international organizations or between two or more international organizations;

8. *Appeals* to participants in the Conference to organize consultations, primarily on the organization and methods of work of the Conference, including rules of procedure, and on major issues of substance, including final clauses and settlement of disputes, prior to the convening of the Conference in order to facilitate a successful conclusion of its work through the promotion of general agreement;

9. *Decides* to include in the provisional agenda of its fortieth session an item entitled "Preparation for the United Nations Conference on the Law of Treaties

between States and International Organizations or between International Organizations".

*99th plenary meeting
13 December 1984*

40/76. Preparation for the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

The General Assembly,

Recalling its resolution 37/112 of 16 December 1982, by which it decided that an international convention should be concluded on the basis of the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session,¹

Recalling also its resolution 39/86 of 13 December 1984, by which it decided that the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations should be held at Vienna from 18 February to 21 March 1986, and referred to the Conference, as the basic proposal for its consideration, the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session,

Recalling further its appeal, in paragraph 8 of resolution 39/86, to participants in the Conference to organize consultations, primarily on the organization and methods of work of the Conference, including rules of procedure, and on major issues of substance, including final clauses and settlement of disputes, prior to the convening of the Conference in order to facilitate a successful conclusion of its work through the promotion of general agreement,

Reiterating the importance of enhancing the process of codification and progressive development of international law at a universal level,

1. *Considers* that the informal consultations held pursuant to paragraph 8 of resolution 39/86 have proved to be useful in enabling thorough preparation for successful conduct of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations;

2. *Expresses its satisfaction* with the successful outcome of the work of the informal consultations conducted by the co-Chairmen;

3. *Decides* that, in addition to the organization referred to in paragraph 2 (e) of resolution 39/86, the United Nations should participate in the Conference;

4. *Decides* to transmit to the Conference and to recommend that it adopt the draft rules of procedure for the Conference, worked out during the informal consultations and annexed to the present resolution as annex I, taking into account that those draft rules were drafted for the specific use of that Conference in view of its particular nature and the subject-matter to be considered by it;

5. *Decides further* to transmit to the Conference for its consideration and action, as appropriate, a list of draft articles of the basic proposal, for which substantive consideration is deemed necessary and which are annexed to the present resolution as annex II;

6. *Refers* to the Conference for its consideration the draft final clauses presented by the co-Chairmen on which an exchange of views was held and which are annexed to the present resolution as annex III.

*112th plenary meeting
11 December 1985*

ANNEX I

United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations
(Vienna, 18 February-21 March 1986)

Draft rules of procedure

[For the text, see A/CONF.129/7 below.]

ANNEX II

List of draft articles of the basic proposal, for which substantive consideration is deemed necessary^a

1. Article 2⁹ "Use of terms"
2. Article 3 "International agreements not within the scope of the present articles"
3. Article 5 "Treaties constituting international organizations and treaties adopted within an international organization"
4. Article 6 "Capacity of international organizations to conclude treaties"
5. Article 7 "Full powers and powers"
6. Article 9 "Adoption of the text"
—paragraph 2
7. Article 11 "Means of expressing consent to be bound by a treaty"
—paragraph 2 (arts. 14.3, 16, 18 and 19.2 are closely related to this paragraph)
8. Article 19 "Formulation of reservations"
9. Article 20 "Acceptance of and objection to reservations"
10. Article 27 "Internal law of States, rules of international organizations and observance of treaties"
11. Article 30 "Application of successive treaties relating to the same subject-matter"
—paragraph 6
12. Article 36 *bis* "Obligations and rights arising for States members of an international organization from a treaty to which it is a party"
13. Article 38 "Rules in a treaty becoming binding on third States or third organizations through international custom"
14. Article 45 "Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty"

^a It is understood that if certain changes to the articles listed were approved by the Conference, consequential changes might have to be introduced in other draft articles.

⁹ It is noted that since draft article 2 sets out definitions, its provisions should not be considered separately but in conjunction with the substantive consideration of other articles to which those definitions are closely related.

15. Article 46 "Provisions of internal law of a State and rules of an international organization regarding competence to conclude treaties"
—paragraph 2
—paragraph 3
—paragraph 4
16. Article 56 "Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal"
17. Article 61 "Supervening impossibility of performance"
18. Article 62 "Fundamental change of circumstances"
19. Article 65 "Procedure to be followed with respect to invalidity, termination, withdrawal from or suspensions of the operation of a treaty"
—paragraph 3
20. Article 66 "Procedures for arbitration and conciliation"
21. Article 73 "Cases of succession of States, responsibility of a State or of an international organization, outbreak of hostilities, termination of the existence of an organization and termination of participation by a State in the membership of an organization"
22. Article 75 "Case of an aggressor State"
23. Article 77 "Functions of depositaries"
24. Annex "Arbitration and conciliation procedures established in application of article 66"

ANNEX III

Draft final clauses

(Based on those of the 1969 Vienna Convention on the Law of Treaties²)

FINAL PROVISIONS

Article 81

SIGNATURE

The present Convention shall be open for signature . . . (date, month, year) at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until . . . (date, month, year), at the United Nations Headquarters, New York by:

- (a) All States;
- (b) Namibia, represented by the United Nations Council for Namibia;
- (c) International organizations invited to participate in the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations.

Article 82

RATIFICATION OR ACT OF FORMAL CONFIRMATION

The present Convention is subject to ratification by States and by Namibia, represented by the United Nations Council for Namibia, and to acts of formal confirmation by international organizations. The instruments of ratification and those relating to acts of formal confirmation shall be deposited with the Secretary-General of the United Nations.

Article 83

ACCESSION

1. The present Convention shall remain open for accession by any State, by Namibia, represented by the United Nations Council for Namibia, and by any international organization which has the capacity to conclude treaties.

2. An instrument of accession of an international organization shall contain a declaration that it has the capacity to conclude treaties.

3. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 84

ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the . . . instrument of ratification or accession by States or by Namibia, represented by the United Nations Council for Namibia.

2. For each State or for Namibia, represented by the United Nations Council for Namibia, ratifying or acceding to the Convention after the condition specified in paragraph 1 has been fulfilled, the Convention shall enter into force on the thirtieth day after deposit by such State or by Namibia of its instrument of ratification or accession.

3. For each international organization depositing an instrument relating to an act of formal confirmation or an instrument of accession, the Convention shall enter into force on the thirtieth day after such deposit, provided that it shall not so enter into force before the Convention enters into force pursuant to paragraph 1.

Article 85

AUTHENTIC TEXTS

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized by their respective Governments, and duly authorized representatives of the United Nations Council for Namibia and of international organizations have signed the present Convention.

DONE AT VIENNA this . . . day of . . . one thousand nine hundred and eighty-six.