

United Nations Conference on Succession of States in Respect of Treaties

Vienna, Austria
4 April – 6 May 1977
31 July – 23 August 1978

Documents:-

A/CONF.80/27, A/CONF.80/21, A/CONF.80/19, A/CONF.80/26

Texts submitted directly to the Conference in plenary meeting by the Drafting Committee in accordance with the decisions taken by the Conference

Extract from Volume III of the *Official Records of the United Nations Conference on Succession of States in Respect of Treaties (Documents of the Conference)*

F. TEXTS SUBMITTED DIRECTLY TO THE CONFERENCE IN PLENARY MEETING BY THE DRAFTING COMMITTEE IN ACCORDANCE WITH THE DECISIONS TAKEN BY THE CONFERENCE

1. Title of the Convention

DOCUMENT A/CONF.80/27

[Original: Arabic/English/French/Russian/Spanish]
[21 August 1978]

The Drafting Committee, in accordance with the decision taken by the Conference at its 13th plenary meeting on 21 August 1978, submits the following title for the Convention: "*Vienna Convention on Succession of States in Respect of Treaties*"

2. Preamble of the Convention

DOCUMENT A/CONF.80/21

[Original: Arabic/English/French/Russian/Spanish]
[19 August 1978]

The Drafting Committee, in accordance with the decision taken by the Committee of the Whole at its 21st meeting on 20 April 1977, submits the following text for the preamble of the Convention:

The States Parties to the present Convention,

Considering the profound transformation of the international community brought about by the decolonization process,

Considering also that other factors may lead to cases of succession of States in the future,

Convinced, in these circumstances, of the need for the codification and progressive development of the rules relating to succession of States in respect of treaties as a means for ensuring greater juridical security in international relations,

Noting that the principles of free consent, good faith and *pacta sunt servanda* are universally recognized,

Emphasizing that the consistent observance of general multilateral treaties which deal with the codification and progressive development of international law and those the object and purpose of which are of interest to the international community as a whole is of special importance for the strengthening of peace and international co-operation,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force, and of universal respect for, and observance of, human rights and fundamental freedoms for all,

Recalling that respect for the territorial integrity and political independence of any State is required by the Charter of the United Nations,

Bearing in mind the provisions of the Vienna Convention on the Law of Treaties of 1969,

Bearing also in mind article 73 of that Convention,

Affirming that questions of the law of treaties other than those that may arise from a succession of States are governed by the relevant rules of international law, including those rules of customary international law which are embodied in the Vienna Convention on the Law of Treaties of 1969,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

3. Final clauses of the Convention

DOCUMENT A/CONF.80/19

[Original: Arabic/English/French/Russian/Spanish]
[16 August 1978]

The Drafting Committee, in accordance with the decision taken by the Committee of the Whole at its 21st meeting on 20 April 1977, submits the following text for the final clauses of the Convention:

Article [I]. Signature

The present Convention shall be open for signature by all States until 28 February 1979 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 August 1979, at United Nations Headquarters in New York.

Article [II]. Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article [III]. Accession

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article [IV]. Entry into force

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

2. For each State ratifying or acceding to the Convention after the deposit of the tenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

* A minority of the members of the Drafting Committee favoured a figure of twenty or more instruments.

Article [V]. 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 thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this . . . day of August, one thousand nine hundred and seventy-eight.

4. Final Act

DOCUMENT A/CONF.80/26

[Original: Arabic/English/French/Russian/Spanish]
[21 August 1978]

The Drafting Committee, in accordance with a decision taken by the Conference on 31 July 1978, submits the following text for the Final Act of the Conference:

FINAL ACT

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

1. The General Assembly of the United Nations, by resolution 3496 (XXX) of 15 December 1975, 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 (Report of the International Law Commission on the work of its twenty-sixth session, A/9610/Rev.1,¹ chapter II, section D), and to embody the results of its work in an international convention and such other instruments as it might deem appropriate.

2. Subsequently, by resolution 31/18 of 24 November 1976, the General Assembly, after noting, *inter alia*, that the Government of Austria had extended an invitation to hold the United Nations Conference on Succession of States in Respect of Treaties at Vienna, decided that the Conference was to be held from 4 April to 6 May 1977 in that city.

3. The United Nations Conference on Succession of States in Respect of Treaties met initially at the Neue Hofburg in Vienna from 4 April to 6 May 1977.

4. On 6 May 1977, the Conference noted that due to the intrinsic complexity of the subject-matter it had not been possible for it in the time available to conclude its work, and that, as stated by the representative of Austria, the original invitation of the Government of Austria would extend to a resumed session of the Conference, which would enable the Conference to continue its work at Vienna in 1978. It therefore recommended that the General Assembly decide to reconvene the Conference in the first half of 1978, preferably in April at Vienna, for a final session of four weeks. At the same time the Conference adopted the report on its work for the period 4 April to 6 May 1977 (A/CONF.80/15) and requested the Secretary-General to transmit that report to the General Assembly at its thirty-second session.

5. The General Assembly, by resolution 32/47 of 8 December 1977, having, *inter alia*, noted the recommendation of the Conference and having taken into account that the original invitation of the Government of Austria extended also to a resumed session of the Conference, approved the convening of a resumed session of the Conference for a period of three weeks, from 31 July to 18 August 1978, with a possible extension of up to one further week should that prove necessary in the view of the Conference.

6. The Conference held its resumed session at the Neue Hofburg in Vienna from 31 July to . . . August 1978.

7. The General Assembly, by resolution 31/18 of 24 November 1976, requested the Secretary-General to invite all States to participate in the Conference. The delegations of 100 States participated in the Conference. The delegations of 89 States participated in the 1977 session and of 94 in the resumed session, as follows: Afghanistan (1977 session only); Algeria; Angola (resumed session only); Argentina; Australia; Austria; Barbados (1977 session only); Belgium; Bolivia; Brazil; Bulgaria; Burundi (resumed session only); Byelorussian Soviet Socialist Republic; Canada; Chile; Colombia (1977 session only); Cuba; Cyprus; Czechoslovakia; Democratic Yemen; Denmark; Ecuador (1977 session only); Egypt; Ethiopia; Finland; France; German Democratic Republic; Germany, Federal Republic of; Ghana; Greece; Guyana; Holy See; Hungary; India; Indonesia; Iraq; Ireland; Israel; Ivory Coast; Japan; Jordan (resumed session only); Kenya; Kuwait; Lebanon (resumed session only); Liberia; Libyan Arab Jamahiriya; Luxembourg; Madagascar; Malaysia; Mali (resumed session only); Mauritania (resumed session only); Mexico; Mongolia (1977 session only); Morocco (1977 session only); Netherlands, New Zealand; Niger; Nigeria; Norway; Oman; Pakistan; Panama (resumed session only); Papua New Guinea; Peru; Philippines; Poland; Portugal; Qatar; Republic of Korea (resumed session only); Romania; Saudi Arabia; Senegal; Sierra Leone; Singapore; Somalia; Spain; Sri Lanka; Sudan; Suriname; Swaziland; Sweden; Switzerland; Syrian Arab Republic (resumed session only); Thailand; Trinidad and Tobago (resumed session only); Tunisia; Turkey; Uganda; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; United Arab Emirates; United Kingdom of Great Britain and Northern Ireland; United Republic of Tanzania; United States of America; Uruguay; Venezuela; Yemen (resumed session only); Yugoslavia; and Zaire.

The Republic of Korea, which participated in the resumed session, was represented by an observer at the 1977 session.

The following States were represented by observers: Guatemala (resumed session only) and Iran.

8. Also pursuant to General Assembly resolution 31/18 of 24 November 1976, the Secretary-General invited the United Nations Council for Namibia to attend the Conference. At the 1977 session, the delegation of the United Nations Council for Namibia at the Conference made a request for active participation, referring to General Assembly resolution 31/149 of 20 December 1976. The Conference considered that request and decided in favour of participation as requested by the Council.

9. By resolution 31/18 of 24 November 1976, the General Assembly also requested the Secretary-General to invite to the Conference 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. In accordance with General Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976, the following organizations having received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under its auspices were represented at the Conference by observers:

Palestine Liberation Organization

South West Africa People's Organization (1977 session only).

10. Pursuant to General Assembly resolution 31/18 of 24 November 1976, the Secretary-General invited to the Conference representatives of national liberation movements recognized in its area by the Organization of African Unity in the capacity of observers in accordance with General Assembly resolution 3280 (XXIX) of 10 December 1974. No national liberation movement was represented at the Conference.

11. The General Assembly, by resolution 31/18 of 24 November 1976, requested the Secretary-General to invite the specialized agencies and the International Atomic Energy Agency, as well as interested organs of the United Nations and interested regional intergovernmental organizations, to be represented at the Confer-

¹ Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 10.

ence by observers. The following intergovernmental organizations were represented at the Conference by observers:

Specialized and related agencies

Food and Agriculture Organization of the United Nations (1977 session only)

International Civil Aviation Organization (1977 session only)

International Monetary Fund (1977 session only)

International Atomic Energy Agency (1977 session only)

Other intergovernmental organizations

Asian-African Legal Consultative Committee (1977 session only)

Commonwealth Secretariat

Council of Europe

12. The Conference elected Mr. Karl Zemanek (Austria) as President.

13. The Conference elected as Vice-Presidents the representatives of the following States: Argentina, Barbados (1977 session), Bulgaria, Cuba, Ethiopia, France, India, Indonesia, Ireland, Italy, Ivory Coast, Malaysia, Mexico, Morocco, Pakistan, Romania, Sudan, Trinidad and Tobago (resumed session), Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Zaire.

14. The following committees were set up by the Conference:

General Committee

Chairman: The President of the Conference

Members: The President and Vice-Presidents of the Conference, the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee.

Committee of the Whole

Chairman: Mr. Fuad Riad (Egypt)

Vice-Chairman: Mr. Jean-Pierre Ritter (Switzerland)

Rapporteur: Mr. Abdul Hakim Tabibi (Afghanistan) (1977 session)

Mrs. Kuljit Thakore (India) (resumed session)

Drafting Committee

Chairman: Mr. Mustapha Kamil Yasseen (United Arab Emirates)

Members: The Chairman of the Drafting Committee, and the representatives of Australia, Cuba, Democratic Yemen, France, Guyana, Ivory Coast, Japan, Kenya, Spain, Swaziland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia.

The Rapporteur of the Committee of the Whole participated *ex officio* in the work of the Drafting Committee in accordance with rule 47 of the rules of procedure of the Conference.

Credentials Committee

Chairman: Mr. José Sette Câmara (Brazil)

Members: The representatives of Brazil; Chile; Germany, Federal Republic of; Nigeria; Philippines; Qatar; Sudan; Sweden and Union of Soviet Socialist Republics.

15. Sir Francis A. Vallat, the International Law Commission's latest Special Rapporteur on Succession of States in respect of treaties, was the Expert Consultant.

16. The Secretary-General of the United Nations was represented by Mr. Erik Suy, Under-Secretary-General, The Legal Counsel. Mr. Yuri M. Rybakov, then Director of the Codification Division of the Office of Legal Affairs of the United Nations, was the Executive Secretary of the Conference at the 1977 session. At the resumed session, Mr. Valentin A. Romanov, Director of the

Codification Division of the Office of Legal Affairs of the United Nations, was the Executive Secretary of the Conference. Mr. Santiago Torres Bernádez was the Deputy Executive Secretary of the Conference.

17. The General Assembly, by its resolution 31/18 of 24 November 1976, referred to the Conference as the basic proposal for its consideration the draft articles on succession of States in respect of treaties adopted by the International Law Commission at its twenty-sixth session.

18. The Conference also had before it written comments of Governments on the final draft articles on succession of States in respect of treaties, submitted pursuant to General Assembly resolutions 3315 (XXIX), Part II, and 3496 (XXX), as well as comments made orally on the draft articles in the Sixth Committee of the General Assembly at the General Assembly's twenty-ninth and thirtieth sessions. The comments were contained in an analytical compilation prepared by the Secretariat of the United Nations (A/CONF.80/5 and Corr.1). In addition, the Conference had before it other relevant documentation prepared by the Secretariat of the United Nations.

19. The Conference assigned to the Committee of the Whole the consideration of the draft articles on succession of States in respect of treaties adopted by the International Law Commission. The Drafting Committee, in addition to its responsibilities for drafting and for co-ordinating and reviewing all the texts adopted, was entrusted by the Conference with the preparation of the title, preamble and final clauses of the Convention, and the Final Act of the Conference.

20. On the basis of the deliberations recorded in the records of the Conference (A/CONF.80/SR.1 to SR.00), and the records (A/CONF.80/C.1/SR.1 to SR.00) and reports (A/CONF.80/14 and A/CONF.80/00) of the Committee of the Whole, the Conference drew up the following Convention:

Vienna Convention on Succession of States in Respect of Treaties

21. The foregoing Convention, which is subject to ratification, was adopted by the Conference on . . . August 1978, and opened for signature on . . . August 1978, in accordance with its provisions, until 28 February 1979 at the Federal Ministry for Foreign Affairs of the Republic of Austria and, subsequently, until 31 August 1979, at United Nations Headquarters in New York. The same instrument was also opened for accession in accordance with its provisions.

22. After 28 February 1979, the closing date for signature at the Federal Ministry for Foreign Affairs of the Republic of Austria, the Convention will be deposited with the Secretary-General of the United Nations.

23. The Conference also adopted the following resolutions, which are annexed to the Final Act:

. . .

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE at Vienna this . . . day of August, one thousand nine hundred and seventy-eight, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. By unanimous decision of the Conference, the original of this Final Act shall be deposited in the archives of the Federal Ministry for Foreign Affairs of the Republic of Austria.

The President of the Conference:

The Executive Secretary of the Conference:

ANNEX

Resolutions adopted by the United Nations Conference on Succession of States in Respect of Treaties.

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