

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

Vienna, Austria
18 February – 21 March 1986

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A/CONF.129/SR.4

4th plenary meeting

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)*

be acceptable from the methodological point of view, it raised difficulties for his delegation. France had expressed its disagreement with some important provisions in the 1969 Convention, in particular those relating to *ius cogens*. That concept was still as nebulous as it had been in 1969, and his delegation therefore maintained the reservations and objections it had made with respect to those provisions at the 1968/1969 Conference,² and which had been the reason why France had not become party to that Convention. If similar provisions were to be included in the draft Convention now before the Conference, the outcome would be the same. Even if that were to be the case, the French delegation was nevertheless prepared to participate actively and constructively in the work of the Conference and, even though it might not become party to the Convention, it would not fail to take into account those provisions to which it could agree, as it and many other States had done in respect of the provisions of the 1969 Convention relating to customary international law.

12. The French delegation, in that spirit, could accept the principle underlying the preparation of the list in annex II of General Assembly resolution 40/76, and had not requested the inclusion in it of certain provisions to which it had serious objections. The direct referral of a large number of articles to the Drafting Committee could not therefore be construed as implying his delegation's approval of all the rules laid down in those articles.

13. The PRESIDENT said that the intention was that the articles in the list would be submitted for consideration to the Committee of the Whole and the other articles would be referred direct to the Drafting Committee. However, it would be up to the latter to refer any articles to the Committee of the Whole if, in the course of its work, it felt that more substantive consideration was justified.

14. In cases where only certain paragraphs of articles were referred to the Committee of the Whole and the

remainder of the article was referred directly to the Drafting Committee, there would be nothing to prevent delegates from using the remaining paragraphs in making points in respect of paragraphs under consideration in the Committee of the Whole. Furthermore, the Drafting Committee would not deal with any article until the Committee of the Whole had completed its consideration of the paragraphs referred to it. If there was no objection, he would take it that the Conference approved the list of articles and the working arrangements proposed by the General Committee.

It was so decided.

Consideration of the question of the law of treaties between States and international organizations or between international organizations, in accordance with General Assembly resolutions 37/112 of 16 December 1982, 38/139 of 19 December 1983, 39/86 of 13 December 1984 and 40/76 of 11 December 1985 (A/CONF.129/4)

[Agenda item 11]

15. The PRESIDENT said that the only decision to be taken by the Conference at the present stage was to request the Committee of the Whole to consider the articles on the list on the understanding embodied in the working arrangements, and to refer the other articles to the Drafting Committee for consideration.

It was so decided.

16. The PRESIDENT said that he had received a letter from the Secretary-General drawing attention to the seriousness of the Organization's financial problems and asking for co-operation in the matter of holding down expenditure, first, by limiting the costs of meetings by restricting their number and duration to the greatest extent possible and reasonable, and second, by limiting documentation costs by restricting to the greatest extent possible and reasonable the documentation to be produced at the Conference. He was confident that everyone would co-operate fully in an effort to comply with those requests.

The meeting rose at 5.05 p.m.

² *Ibid.* (United Nations publication, Sales No. E.70.V.6), 19th plenary meeting, paras. 7 to 18.

4th plenary meeting

Thursday, 13 March 1986, at 3.20 p.m.

President: Mr. ZEMANEK (Austria)

Organization of work

[Agenda item 10]

1. The PRESIDENT said that when the Conference had allocated various provisions of the draft articles to the Committee of the Whole and others to the Drafting Committee, the question of the preamble and the final clauses had remained in abeyance. In the absence of any objections, he would take it that the Conference

agreed to entrust the preparation of the preamble and the final clauses to the Committee of the Whole.

It was so decided.

2. The PRESIDENT said that the Conference had also to adopt a final act. In the absence of any objections, he would take it that the Conference entrusted its preparation to the Drafting Committee.

It was so decided.

3. The PRESIDENT invited those delegations who wished to have specific points or ideas reflected in the preamble to submit their proposals in writing to the Committee of the Whole. Two such proposals had already been submitted and were reproduced in documents A/CONF.129/C.1/L.71 and L.72.

4. He wished to consult the Conference on the manner in which the Drafting Committee should report on the results of its work. The Chairman of the Committee of the Whole and the Chairman of the Drafting Commit-

tee agreed with him that the Drafting Committee should report directly to the Conference, both on the provisions which had been referred to the Drafting Committee directly and on those referred to it by the Committee of the Whole. That would make for an orderly procedure. In the absence of any objection, he would take it that the Conference agreed to that arrangement.

It was so decided.

The meeting rose at 3.25 p.m.

5th plenary meeting

Tuesday, 18 March 1986, at 3.50 p.m.

President: Mr. ZEMANEK (Austria)

Consideration of the question of the law of treaties between States and international organizations or between international organizations, in accordance with General Assembly resolutions 37/112 of 16 December 1982, 38/139 of 19 December 1983, 39/86 of 13 December 1984 and 40/76 of 11 December 1985 (A/CONF.129/4)

[Agenda item 11] (*continued*)*

Adoption of a convention and other instruments deemed appropriate and of the Final Act of the Conference
[Agenda item 12]

TEXTS PROPOSED BY THE DRAFTING COMMITTEE

1. The PRESIDENT recalled that the articles proposed by the International Law Commission (A/CONF.129/4) for the new convention fell into two categories: first, those articles which the Conference had referred directly to the Drafting Committee, and secondly, the articles which it had referred to the Committee of the Whole for consideration and which that Committee had referred to the Drafting Committee after considering them. He further recalled that the Conference, in order to expedite its work, had decided that the Drafting Committee should report directly to the plenary of the Conference (4th plenary meeting, para. 4).

2. The Conference had before it the initial report of the Drafting Committee (A/CONF.129/11), setting out the titles of parts I to VII and sections thereof and the titles and texts of articles 1, 2, 4 to 34, 38, 40 to 44, 46 to 61, 63, 64, 67 to 72 and 74 to 81, which had been adopted by the Drafting Committee. He pointed out that draft article 66, the draft annex and the draft final provisions were still under consideration in the Committee of the Whole.

3. In the absence of objection, he would take it that the Conference agreed that after the Chairman of the Drafting Committee had completed his presentation of each article—or group of articles, where articles could

conveniently be grouped together—the Conference should proceed to consider and adopt the article or group of articles in question, it being understood that delegations would be entitled to make statements in connection with each article.

It was so decided.

4. Mr. AL-KHASAWNEH, Chairman of the Drafting Committee, introduced document A/CONF.129/11, which contained the titles and texts of the articles so far adopted by the Drafting Committee. He drew attention to the fact that the finalized texts of the preamble and a number of further articles were not yet submitted to the Conference, either because they had not yet been referred to the Drafting Committee or because they were still under consideration in that Committee. Should any decisions be taken by the Conference which affected the numbering of the articles, the Drafting Committee would make an appropriate recommendation in that regard.

5. At its previous meeting, the Conference had decided that the Drafting Committee should report on the results of its work directly to the Conference. He would accordingly report on the results of the Drafting Committee's work on those articles which had been referred directly to it as well as on those which had been referred to the Drafting Committee by the Committee of the Whole.

6. He wished to make at the outset a few general remarks. As was well known, the convention being elaborated at the present Conference contained many provisions parallel to those contained in the 1969 Vienna Convention on the Law of Treaties.¹ In the Drafting Committee's work on the articles referred to it, some of its members had felt that certain terminological inconsistencies existed between the texts of the 1969 Convention in the various languages, or they had found some inaccuracies in the text in particular languages. The Drafting Committee had agreed, how-

* Resumed from the 3rd plenary meeting.

¹ *Official Records of the United Nations Conference on the Law of Treaties* (United Nations publication, Sales No. E.70.V.5), p. 287.