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**Draft articles on observer delegations of States to organs and to conferences: Working paper
prepared by Mr. Abdullah El-Erian, Special Rapporteur**

Topic:
Representation of States in their relations with international organizations

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provide for a conciliation machinery to be utilized if the consultations envisaged in that article did not result in a satisfactory solution.

5. In preparing a text as requested by the Commission, the Special Rapporteur has taken into account the divergent views expressed in the Commission and the need to produce a provision which may reconcile these views. It is the submission of the Special Rapporteur that, given the multiplicity and variety of international organizations to which these articles would apply, it would be difficult to provide for a standing uniform machinery for a rigid procedure of settlement. He therefore thought that a solution could be sought through providing for the principle of submitting the question of an impartial procedure like conciliation, while leaving it to every organization to establish the conciliation machinery or any other related machinery which it may consider appropriate.

6. In the light of the above, the Special Rapporteur wishes to submit the following text:

[For the text of article 50, see *Yearbook of the International Law Commission, 1971*, vol. I, p. 222, 1119th meeting, para. 81.]

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[14 June 1971]

PART V. OBSERVER DELEGATIONS OF STATES TO ORGANS AND TO CONFERENCES

SECTION 1. OBSERVER DELEGATIONS IN GENERAL

Article 117. Use of terms

For the purposes of the present part:

(a) An "organ" means a principal or subsidiary organ of an international organization and any commission, committee or sub-group of any such organ, in which States are members;

(b) A "conference" means a conference of States convened by or under the auspices of an international organization, other than a meeting of an organ;

(c) An "observer delegation to an organ" means the delegation designated by a State not member of the organ to represent it therein;

(d) An "observer delegation to a conference" means the delegation sent by a State not participating in the conference to represent it therein;

(e) An "observer delegation" means an observer delegation to an organ or to a conference;

(f) An "observer representative" means any person designated by a State not member of an organ or not

participating in a conference to represent it in that organ or at that conference.

Article 118. Sending of observer delegations

[For the text of article 118, see *Yearbook of the International Law Commission, 1971*, vol. I, p. 235, 1121st meeting, para. 66.]

Article 119. Composition of the observer delegation

An observer delegation to an organ or to a conference shall consist of one or more observer representatives of the sending State from among whom the sending State may appoint a head. It may also include diplomatic staff, administrative and technical staff and service staff.

Article 120. Size of the observer delegation

The size of an observer delegation to an organ or to a conference shall not exceed what is reasonable or normal, having regard to the functions of the organ, or, as the case may be, the tasks of the conference, as well as the needs of the particular delegation and the circumstances and conditions in the host State.

Article 121. Appointment of the members of the observer delegation

Subject to the provisions of articles 120 and 122, the sending State may freely appoint the members of its observer delegation to an organ or to a conference.

Article 122. Nationality of the members of the observer delegation

The observer representatives and members of the diplomatic staff of an observer delegation to an organ or to a conference should in principle be of the nationality of the sending State. They may not be appointed from among persons having the nationality of the host State, except with the consent of that State which may be withdrawn at any time.

Article 123. Letters of appointment of observer representatives¹

1. The letters of appointment of an observer representative to an organ shall be issued either by the Head of State or by the Head of Government or by the Minister for Foreign Affairs or by another competent authority if that is allowed by the practice followed in the Organization, and shall be transmitted to the Organization.

2. The letters of appointment of an observer representative in the delegation to a conference shall be issued either by the Head of State or by the Head of Government or by the Minister for Foreign Affairs or by another competent authority if that is allowed in relation to the conference in question, and shall be transmitted to the conference.

¹ The Special Rapporteur is requesting the United Nations Secretariat to let him know whether in practice observer representatives submit letters of appointment or credentials and by what authorities of the sending State the documents in question are issued. He will review article 123 in the light of the information he will receive from the Secretariat.

Article 124. Notifications

The provisions of article 89 shall apply also in the case of an observer delegation to an organ or to a conference.

SECTION 2. FACILITIES, PRIVILEGES AND IMMUNITIES OF OBSERVER DELEGATIONS

Article 125. Facilities, privileges and immunities of observer delegations

The provisions of articles 91 to 111 shall apply also in the case of an observer delegation to an organ or to a conference.

SECTION 3. CONDUCT OF THE OBSERVER DELEGATION AND ITS MEMBERS

Article 126. Conduct of the observer delegation and its members

The provisions of articles 112 and 113 shall apply also in the case of an observer delegation to an organ or to a conference.

SECTION 4. END OF FUNCTIONS

Article 127. End of functions

The provisions of articles 114 to 116 shall apply also in the case of an observer delegation to an organ or to a conference.

DOCUMENT A/CN.4/L.174 and ADD.1-6**Reports of the Working Group on Relations between States and International Organizations**

DOCUMENT A/CN.4/L.174

First report

[Original text: English, French, Spanish]
[22 June 1971]

FOREWORD

1. The Working Group on Relations between States and International Organizations, established by the Commission on 25 May 1971, has so far held three meetings on 10, 11 and 14 June 1971 under the chairmanship of Mr. Richard D. Kearney. In addition to its Chairman, the Working Group consists of the following members: Mr. Roberto Ago, Chairman of the Drafting Committee, Mr. Nikolai Ushakov and Sir Humphrey Waldock.

2. The Working Group submits herewith, for the consideration of the Drafting Committee, the results of its work to date, in the form of a provisional set of consolidated draft articles, renumbered 1 to 50, covering parts II and III of the Commission's draft (permanent missions and permanent observer missions to international organizations) as well as the provisions of part I, made generally applicable for the time being to both kinds of missions.

3. The Working Group decided to consider initially the question of the consolidation of the provisions concerning missions of a permanent character (permanent missions and permanent observer missions) and to defer to a subsequent stage its consideration of the question whether the provisions concerning delegations of States to organs and to conferences (part IV of the Commission's draft) can be consolidated with those emerging from its initial work.

4. The basis for the consolidation of the provisions of parts II and III was the inclusion in article 1 on the use of terms two new definitions. The terms "mission" and "head of mission", which amalgamate, respectively, the specific terms "permanent mission" and "permanent observer mission", and "permanent representative" and "permanent observer" were added as sub-paragraphs. In all cases where, apart from minor drafting differences, the only difference from part II and part III was the use of the word "observer", the new generic terms were used—thus facilitating the merger of the two parts. In the few cases where the substantive differences between the corresponding provisions of parts II and III did not allow for such consolidation, a single article was established, including in separate paragraphs, under a common heading, the provisions particular to each kind of mission. In these instances, the original terminology ("permanent mission", "permanent observer mission", "permanent representative", "permanent observer") was maintained. Only in the case of the functions of each kind of mission did the Working Group preserve the format of the original provisions in two separate, though consecutive, articles.

5. The approach taken by the Working Group has permitted the reduction of the number of articles covering parts I, II and III from the original seventy-seven to fifty, while avoiding the technique of drafting by reference, originally employed by the Commission.

6. The Working Group will consider whether techniques similar to those described above can be applied to the provisions of part IV.

7. The text of the consolidated draft articles reflects the decisions thereon taken by the Commission and the Drafting Committee as of the date of submission of the present report. It must be understood that the present text is provisional, as it is subject both to the Commission's final decision on the texts of specific articles and the decision with respect to whether part IV is susceptible to the consolidation process.

8. The Working Group wishes to commend highly its Secretary, Mr. Eduardo Valencia-Ospina, whose intelligence, inventiveness and hard work have made a very substantial contribution to the work that has been and is being carried out.

CONSOLIDATED DRAFT ARTICLES

[Texts not examined by the Commission. Replaced by the draft articles contained in the second report below (A/CN.4/L.174/Add.1-2).]