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Reports of the Working Group on Relations between States and International Organizations

Topic:
Representation of States in their relations with international organizations

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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).]

DOCUMENT A/CN.4/L.174/Add.1-2

Second report

[Original text: English, French, Spanish]
[5 and 2 July 1971]

FOREWORD

1. Following the submission of its first (interim) report¹ the Working Group on Relations between States and International Organizations has held six meetings on 22, 23, 24, 25 and 29 June and 2 July 1971.

2. As already indicated in the previous report, at this second stage of its work the Working Group considered the question whether the provisions concerning delegations to organs and to conferences could be consolidated with those concerning missions of a permanent character to international organizations, as they emerged from its initial work. With this in view the Working Group, when it found it appropriate and practicable, applied to the provisions of part IV of the Commission's draft (delegations of States to organs and to conferences) techniques similar to those described in the first report. This involved, in particular, the inclusion of three new terms in article 1: "delegation", "delegate", and "head of delegation". The results of this work to date are submitted herewith, for the consideration of the Commission, in the form of a set of consolidated draft articles, renumbered 1 to 81, covering missions to international organizations (permanent missions and permanent observer missions—originally parts II and III of the Commission's draft) and delegations to organs and to conferences, as well as the general provisions of part I of the Commission's draft.

3. The present set of consolidated draft articles is divided into four parts: part I, entitled "Introduction", concerns the introductory provisions of the Commission's draft included mainly in part I of that draft, which are intended to apply to the draft articles as a whole; part IV, entitled "General provisions", contains those further provisions which, in the opinion of the Working Group, are generally applicable to missions to international organizations and to delegations to organs and to conferences; part II, entitled "Missions to international organizations", contains provisions dealing specifically with missions as they emerged from the process of consolidating the rules on permanent missions with those on permanent observer missions, explained in the Working Group's first report; part III, entitled "Delegations to organs and to conferences", contains provisions dealing specifically with delegations to organs and to conferences.

4. Except as regards the provisions contained in part I which have not yet been considered by the Commission and article 50, for which the Working Group intends to prepare additional paragraphs concerning conciliation procedures, the texts of the articles included in the consolidated set reflect the decisions thereon taken by the Commission at the present session on the basis of the reports of the Drafting Committee. In some instan-

ces, however, the Working Group has introduced drafting changes which it considered necessary or advisable in the light of the consolidating process.

5. The approach taken by the Working Group has permitted the reduction of the number of articles from the one hundred and twenty-one originally before the Commission to eighty-one, while avoiding the technique of drafting by reference.

6. The question of observer delegations remains under consideration by the Working Group.

CONSOLIDATED DRAFT ARTICLES

Articles 1-80

[Texts reproduced in the summary records of the 1130th to 1135th meetings (see *Yearbook of the International Law Commission, 1971*, vol. I, pp. 287 *et seq.*.)]

Article 81

[Not examined by the Commission. Replaced by the text contained in the third report below (A/CN.4/L.174/Add.3).]

DOCUMENT A/CN.4/L.174/Add.3

Third report

[Original text: English, French, Spanish]
[13 July 1971]

FOREWORD

1. Following the submission of its second report,¹ the Working Group on Relations between States and International Organizations has held two meetings on 7 and 9 July 1971. Those meetings were mainly devoted to the preparation of texts concerning the question of consultations between the host State, the sending State and the organization and the question of conciliation. As had been already indicated, the Working Group had provisionally included in its two previous reports a provision concerning consultations which reproduced the text of article 50 as originally adopted by the Commission at its twenty-first session.²

2. The Working Group submits herewith, for the consideration of the Commission, the texts established for articles 81 and 82 on consultations and conciliation. It must be understood that the present text of article 81 is intended to replace that included in the first and second reports of the Working Group. Also, in view of the language used in article 82, the Working Group deemed it necessary to prepare the text of a new provision concerning the meaning of the term "executive head", to be inserted in article 1.

3. The question of observer delegations remains under consideration by the Working Group.

¹ See above, document A/CN.4/L.174/Add.1-2.

² See *Yearbook of the International Law Commission, 1969*, vol. II, p. 221, document A/7610/Rev.1, chap. II, B.

¹ See above, p. 107, document A/CN.4/L.174.

*Article 81**Article 82**New sub-paragraph 3 bis of article 1, paragraph 1*

[Texts reproduced in the summary record of the 1136th meeting (see *Yearbook of the International Law Commission, 1971*, vol. I, pp. 332-333).]

DOCUMENT A/CN.4/L.174/Add.4-5

Fourth report

[Original text: *English, French, Spanish*
[15 July 1971]]

FOREWORD

1. Following the submission of its third report¹ the Working Group held one meeting on 13 July 1971, devoted mainly to the consideration of the question of observer delegations to organs and conferences. At that meeting, the Working Group established the texts of twenty-three new draft articles on the subject (articles A to W) which it submits herewith for the consideration of the Commission. The Working Group decided to present those articles in a separate set, to be annexed to the set of consolidated draft articles, in view of the fact that, being new texts, Governments and secretariats of international organizations have not as yet had the opportunity to express their view thereon. Nevertheless, the articles have been drafted in a manner such as to facilitate their eventual integration into the consolidated draft if that is the decision of the General Assembly or of a future plenipotentiary conference. Apart from the text of article A, which is susceptible of insertion in article 1, such integration could be made in a number of ways, including in particular: the insertion of articles B to W as a separate part, between parts III and IV of the consolidated draft articles; where appropriate, the inclusion as additional paragraphs, in the texts of the articles presently constituting part III, of the corresponding provisions of the new set, under suitable headings or making the present texts of part III generally applicable to delegations and to observer delegations by introducing the necessary drafting changes.

2. Article A (use of terms), which corresponds to article 1 of the consolidated draft, contains provisions concerning the meaning of three new terms: "observer delegation to an organ"; "observer delegation to a conference", and "observer delegate", as well as a complementary provision regarding the meaning of the term "sending State" as this is defined in sub-paragraph 13 of paragraph 1 of article 1. Articles B to W contain provisions corresponding to those of articles included in part III of the consolidated draft (Delegations to organs and to conferences). In some instances, the new texts reflect changes which the Working Group deemed necessary or advisable to make in view of the difference in nature and tasks between delegations and

observer delegations. The Working Group did not establish texts corresponding to those included in part IV of the consolidated draft (General provisions) as it is of the opinion that, if it is so desired by the General Assembly or the future plenipotentiary conference, those provisions can be made generally applicable as well to observer delegations, with minor drafting changes.

3. The present articles have been prepared taking into account the Commission's latest decisions on the texts of the consolidated draft.

4. As a result of the establishment of the new texts concerning observer delegations, the Working Group found it necessary to redraft sub-paragraphs 9 and 10 of paragraph 1 of article 1 (use of terms) of the consolidated draft. The texts of the new provisions concerning the meaning of the terms "delegation to an organ" and "delegation to a conference" are included following those of the draft articles on observer delegations.

5. The Working Group decided to propose that the set of final draft articles which the Commission is to submit to the General Assembly be entitled "Draft articles on the representation of States in their relations with international organizations". Such language was already included in the texts of articles 2 and 4 as submitted by the Working Group on second reading² and has received the endorsement of the Commission in the context of those two articles.

OBSERVER DELEGATIONS TO ORGANS AND CONFERENCES

Articles A to E and T

[Texts reproduced in the summary record of the 1139th meeting (see *Yearbook of the International Law Commission, 1971*, vol. I, pp. 351 *et seq.*.)]

Articles F to S and U to W

[Not examined by the Commission. Replaced by the texts contained in the fifth report below (A/CN.4/L.174/Add.6).]

Sub-paragraphs 9 and 10 of article 1, paragraph 1

[Text reproduced in the summary record of the 1139th meeting (see *Yearbook of the International Law Commission, 1971*, vol. I, p. 352).]

TITLE OF DRAFT

"Draft articles on the representation of States in their relations with international organizations."

DOCUMENT A/CN.4/L.174/Add.6

Fifth report

[Original text: *English, French, Spanish*
[21 July 1971]]

¹ See above, p. 109, document A/CN.4/L.174/Add.3.

² See *Yearbook of the International Law Commission, 1971*, vol. I, p. 324, 1134th meeting, para. 75; and p. 327, 1135th meeting, para. 2.

FOREWORD

In its fourth report¹ the Working Group submitted to the Commission a new set of twenty-three draft articles (articles A to W) on observer delegations to organs and to conferences. Following the submission of that report, the Working Group held two meetings on 20 and 21 July 1971. During those meetings, it considered on second reading the texts of articles E (Composition of the observer delegation) and T (Privileges

and immunities of other persons) of the new set. As a result of such consideration, the Working Group decided to establish a revised set of twenty-four draft articles (articles A to X), which it submits herewith for the consideration of the Commission.

OBSERVER DELEGATIONS TO ORGANS AND TO CONFERENCES*Articles A to X*

[Texts reproduced in the summary record of the 1142nd meeting (see *Yearbook of the International Law Commission, 1971*, vol. I, pp. 365 *et seq.*.)]

¹ See above, p. 109, document A/CN.4/L.174/Add.4-5.