

# ARTICLE 9

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## TEXT OF ARTICLE 9

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

### INTRODUCTORY NOTE

1. Article 9 of the Charter determines the composition of the General Assembly and provides for the representation of its Members.
2. The study of the Assembly's practice in the application of the Article consists of two sections. The first relates to paragraph 1 -- the membership of the Assembly. It touches briefly on the original and present membership of the General Assembly and on the reference, in terms of the Assembly's composition, which has been made to Article 9 in connexion with the constitutional aspects of the representation of one Member State. <sup>1/</sup>
3. The second section deals with matters arising out of paragraph 2 -- representatives of Members in the Assembly. Two types of questions are involved: on the one hand, those relating to the action taken by Members to implement the provisions of the Article, such as the composition of delegations and the accreditation of representatives; on the other, questions relating to the action taken by the Assembly itself, such as the procedure for the examination of credentials and the admission of representatives to a session.

### I. GENERAL SURVEY

4. Article 9 deals with matters essentially organizational. Its application has taken place largely as a matter of course. It has given rise to little discussion of its terms.
5. The right of a State Member of the United Nations to membership in the General Assembly has never been disputed. The only question which has arisen thus far in regard to paragraph 1 relates to matters concerned with the composition of the Assembly. During the last four sessions of the General Assembly, certain Members have objected to the presence of the representatives of another Member who, it has been alleged, were not entitled to speak for that Member or to exercise its rights of membership.

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<sup>1/</sup> The general question of the representation of a Member has been dealt with, as appropriate and relevant, in the study of Article 10 in connexion with discussions on the agenda item "Recognition by the United Nations of the representation of a Member State".

6. With respect to the representatives of a Member in the Assembly, such questions as have arisen relate not to the substance of the provision of Article 9, which limits their number to a maximum of five, but rather to the representation of a Member State in connexion with the method for the examination of credentials. Rule 27 of the rules of procedure of the General Assembly deals with the submission by Members of the credentials of their representatives. Rule 28 requires that a Credentials Committee be appointed at the beginning of each session to examine and report on these credentials. Rule 29 provides for provisional admission of representatives to a session.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. Practice relating to Article 9 (1)

7. Article 9 (1) provides that:

"The General Assembly shall consist of all the Members of the United Nations."

8. The first part of the first session of the General Assembly opened with fifty-one States as Members of the United Nations. <sup>2/</sup> Since that time, nine other States have been admitted to membership in the United Nations. <sup>3/</sup> In accordance with rules 137 and 139 of the rules of procedure, membership becomes effective on the date on which the Assembly decides to approve the application of a State. <sup>4/</sup>

9. While no question has arisen with respect to the provision that a Member of the United Nations is, automatically, a member of the General Assembly, objections of a constitutional nature have been made at several sessions regarding the composition of the Assembly in connexion with the representation of China. Article 9 was specifically referred to in the same connexion, for example, during the fifth session when this matter was first discussed (see para. 25 below) and the question of who has the right to occupy the seat of China in the General Assembly has been argued in the context of the rights and obligations of membership in the Assembly whenever the representation of this country has been discussed (see also paras. 41 and 43 below).

### B. Practice relating to Article 9 (2)

#### 1. *Composition of delegations to the General Assembly*

##### a. NUMBER OF REPRESENTATIVES

10. Article 9 (2) provides that:

"Each Member shall have not more than five representatives in the General Assembly."

The application of this provision is reflected and supplemented in rules 25 and 26 of the rules of procedure of the General Assembly which speak of "the delegation" of a Member.

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<sup>2/</sup> See also in this Repertory under Article 3.

<sup>3/</sup> See also in this Repertory under Article 4.

<sup>4/</sup> Ibid.

11. Rule 25 stipulates that a delegation shall consist of "not more than five representatives and five alternate representatives, and as many advisers, technical advisers, experts and persons of similar status as may be required by the delegation". Rule 26 further provides that an alternate representative may act as a representative upon designation by the Chairman of the delegation.

12. There has been no discussion regarding the application of the Charter provision whereby the number of representatives of each Member is limited to five, but in practice there has been a growing tendency among Members to appoint more than five representatives to a session. It would appear that in the majority of cases this tendency has developed as a consequence of the length of the sessions and the difficulties which Members find in maintaining the same representatives throughout an entire session. The provisions of Article 9 have, however, been safeguarded in that the necessary adjustments have been made within the delegations in each instance so that no Member has had more than five representatives acting simultaneously in that capacity at any session.

**b. ACCREDITATION BY GOVERNMENTS OF THEIR REPRESENTATIVES:  
ISSUANCE OF CREDENTIALS**

13. The question of the issuance of credentials for representatives to the General Assembly -- by whom they might be signed and in what form they should be "issued" -- arose during the first special session of the General Assembly.

14. The Credentials Committee appointed for that session reported that credentials conferred upon representatives of twenty-two Governments fully satisfied the requirements of the rules of procedure and that provisional credentials had been submitted for representatives of the then remaining thirty-three States. The original credentials for these representatives, it was stated, would be examined at a later meeting of the Committee and, in the meantime, it was proposed that the representatives concerned should be seated provisionally with the same rights as other representatives. 5/

15. At that time, the rules of procedure provided that:

"The credentials of representatives, and the names of members of a Delegation shall be submitted to the Secretary-General if possible not less than one week before the date fixed for the opening of the session. The credentials shall be issued either by the Head of the State or by the Minister for Foreign Affairs."

16. The powers of diplomatic representatives who had been accredited as permanent representatives to the United Nations were referred to during the consideration of the Committee's report in plenary meeting in connexion with the Committee's finding on "provisional credentials". At that time it was maintained, as it had been in the Credentials Committee itself, that representatives permanently accredited to the Organization were legally qualified to represent their respective countries at all times at any meeting of any United Nations' organ. The rules of procedure dealing with credentials could not invalidate international usage with respect to national representation nor should they be so applied. This was particularly true in the case

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5/ G A (S-1), Plen., 69th mtg., pp. 13 and 14.

of special sessions of the General Assembly which caused certain difficulties for some Governments because of the time element and the great distances involved. 6/

17. The general question of Permanent Missions to the United Nations was discussed during the first part of the third session. 7/ The Assembly adopted unanimously a resolution, 8/ paragraph 4 of which referred to the credentials of permanent representatives as follows:

"That Member States desiring their permanent representatives to represent them on one or more of the organs of the United Nations should specify the organs in the credentials transmitted to the Secretary-General,".

18. During the second session, the Assembly had before it the report of the Committee on Procedures and Organization 9/ which was referred to the Sixth Committee for consideration. Among the amendments proposed to the rules of procedure, the Committee on Procedures and Organization suggested a redrafting under which the second sentence of the rule relating to credentials (see para. 15 above) would be modified as follows:

"The credentials may take the form of a document signed by the Head of the State or of a note signed by the Minister for Foreign Affairs or the principal resident representative to the United Nations."

19. The amendments were considered in a sub-committee of the Sixth Committee which recommended that the proposed rule governing credentials should not be adopted but that the original rule should be retained with the addition of the words "or Government" after the word "State" in the second sentence. 10/

20. The recommendation of the sub-committee was approved without discussion in the Sixth Committee and, also without discussion, was subsequently adopted in plenary meeting. 11/

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6/ G A (S-1), Plen., 69th mtg., see statements on pp. 14 and 15. The term "issued" was also mentioned, it being held that the rules of procedure did not require that the credentials should actually bear a signature; a cablegram sent by the Minister for Foreign Affairs to the Secretary-General was undoubtedly a document that had been issued in full compliance with the rule in question.

N.B. In practice, cablegrams are considered as provisional credentials and are followed by full credentials submitted by Governments in accordance with the rules of procedure.

7/ G A (III/1), Plen., 169th mtg., pp. 680-682; 6th Com., 124th-127th mtgs., pp. 619-651. See also in this Repertory under Article 104 and Article 105.

8/ G A resolution 257 A (III).

9/ G A (II), Plen., vol. II, pp. 1455-1483, annex 4 (A/388).

10/ Reference to this amendment and the sub-committee's recommendation have been omitted from the relevant annex (G A (II), 6th Com., pp. 260-271, annex 4c). They are to be found in the mimeographed document A/C.6/182, pp. 14 and 15.

11/ G A (II), Plen., vol. II, 113th mtg., pp. 1098-1100; 6th Com., 56th and 57th mtgs., pp. 129-147.

C. REPRESENTATION OF A MEMBER STATE IN THE  
GENERAL ASSEMBLY

21. The question of the representation of a Member State has been raised in the General Assembly in connexion with the representation of China. In discussing the question, references have been made to the constitution of the General Assembly, to the exercise of the right of membership and to the procedure for the examination of credentials.

22. On the first occasion, 12/ immediately following the opening of the fifth session, a draft resolution was submitted by India, the operative paragraphs of which were as follows:

"Decides that the aforesaid Central Government of the People's Republic of China through its Head, or its Minister for Foreign Affairs, or its accredited representatives, as the case may be, shall be entitled to represent the Republic of China in the General Assembly and

"Recommends that the other organs of the United Nations adopt similar resolutions."

23. In presenting his proposal, 13/ the sponsor recognized that it was unusual for the Assembly to deal with a draft resolution at so early a stage but pointed out that the circumstances were also unprecedented since two sets of credentials had been received from two different authorities in respect of the representation of China and this would have to go before the Credentials Committee which was required to report without delay. Which of the two governments claiming to represent China was the Government entitled to issue credentials, was a question of unusual and unprecedented difficulty and had engaged the attention of other United Nations organs for several months without receiving a final answer. It was not to be expected that the Credentials Committee would be able to furnish this answer. It would be well for the Assembly itself to decide it at once or at least when the report of the Credentials Committee had been received because it was necessary to resolve as soon as possible whether the credentials emanated from the proper source. As to procedure, the sponsor of the draft resolution left it to the President to decide whether the draft resolution should be discussed and voted upon at once, in advance of the report of the Credentials Committee, or whether it should be disposed of in connexion with that report.

24. Following the submission of the draft resolution, the temporary President observed 14/ that the question bore a certain relationship to the organizational steps which were required of the Assembly at the beginning of each session and, while proper, the submission of the draft resolution at that stage raised a procedural problem not specifically covered in the rules of procedure. He thought that it would be desirable for the Assembly itself to resolve this.

25. During the debate, 15/ some representatives expressed the view, in support of an immediate decision by the Assembly and of the draft resolution itself, that it was indisputably in the interest of all Members that the Assembly should be correctly and

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12/ G A (V), Plen., vol. I, 277th mtg., para. 8, A/1365.

13/ Ibid., paras. 9-12.

14/ Ibid., para. 13.

15/ Ibid., pp. 2-15.

legally constituted and that the plenary should consist of persons rightfully entitled to represent their respective countries in accordance with the provisions both of rule 27 of the rules of procedure and of Article 9 of the Charter. In the course of the discussions two additional draft resolutions 16/ were submitted by the USSR, as follows:

(1) "The General Assembly

"Decides that the representatives of the Kuomintang group cannot take part in the work of the General Assembly and its organs because they are not the representatives of China."

(2) "The General Assembly

"Decides to invite the representatives of the People's Government to take part in the work of the General Assembly and its organs."

26. As regards the first draft resolution, its sponsor maintained that it dealt with a question which should be settled before any other. With respect to procedure, the fact that no precedent existed in this regard should not impede the solution of the question. The Assembly was master of the situation and if the rules were silent on a particular point this could not, under any circumstances, serve as a reason for leaving this matter unconsidered.

27. Also in support of immediate action, but in opposition to this draft resolution, it was maintained that the Assembly should take a prompt decision in the interest of orderly procedure and of the necessity of proceeding to the organization of the session and the transaction of the business before it.

28. Reservations were, however, expressed to the proposed procedure on the grounds that many representatives had not been aware that such an important question would be raised at the opening of the session. The organization of the session did not require an immediate vote on the matter since the Assembly could take a final and definite decision after the credentials had been presented and all representatives had been recognized as presumptive representatives to participate in the session. The next item on the agenda was the appointment of a Credentials Committee and the proposals under consideration dealt with a new question which was not on the Assembly's agenda.

29. Supporting the view that a final decision should not be taken on the first day of the session, it was proposed that, in order to afford an opportunity for the careful consideration which was required, a special committee should be established to make recommendations to the plenary meeting and a draft resolution was submitted by Canada to this effect; 17/ while it might be felt that the Credentials Committee should deal with the question, the sponsor of this draft resolution believed that in view of the particular importance of the question its reference to a special committee appeared wiser in this case. The same view was held by another representative who argued that, if the Assembly were to decide that a more thorough examination be made of the question, it should not be undertaken by the Credentials Committee which, in his opinion, was not the competent body. It was true that the Credentials Committee could often give an opinion on a matter of substance; however, normally, the Committee confined itself to a statement to the effect that the credentials were in order and it could not give an

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16/ Ibid., p. 3, A/1369, and p. 9, A/1370.

17/ Ibid., p. 10, A/1368.

opinion on such an important question as the one which was being discussed. Moreover, the advantage of a study by a special committee would be that the Assembly could base its decision on technical rather than on political considerations, as was right and proper.

30. The Assembly rejected the two draft resolutions which called for a decision on the substance of the matter. It adopted instead the draft resolution 18/ establishing a special committee "to consider the question of Chinese representation" and, pending its decision on the Committee's report, the Assembly decided to seat "the representatives of the National Government of China" with the same rights as other representatives. 19/

31. The Committee subsequently submitted a report 20/ which contained no recommendations on the question. The Assembly's action was, therefore, limited to taking note of that report. 21/

32. At the opening meeting of the eighth session, 22/ the Assembly adopted a resolution 23/ on the question of the representation of China by which it decided:

"to postpone for the duration of its eighth regular session in the current year consideration of all proposals to exclude the representatives of the Government of the Republic of China and to seat representatives of the Central People's Government of the People's Republic of China".

33. In the discussion which preceded the adoption of the resolution, the temporary President stated that he had expected that "questions of this kind" would have been considered and decided in the Credentials Committee but that the list of speakers indicated that there was a desire on the part of many delegations to discuss and possibly dispose of the matter at once.

34. No objections were raised to this procedure at that time. However, during the general debate, 24/ and also when the first report of the Credentials Committee was considered in plenary meeting, 25/ a representative expressed regret that the question of the credentials of the representatives of China had been the subject of controversy at the beginning of the session. He felt that the issue should properly be debated at the time of the submission of the report on credentials and expressed doubts concerning not only the wisdom but also the propriety of raising the question at the early stage because that was anticipating the findings of the Credentials Committee.

## **2. Consideration by the General Assembly of credentials of representatives**

### **a. PROCEDURE FOR EXAMINATION AND APPROVAL**

#### **1. At the opening of a session**

35. Rule 28 of the rules of procedure of the General Assembly governs the method by which the Assembly examines the credentials of representatives at each session. This

18/ G A resolution 490 (V).

19/ G A (V), Plen., vol. I, 277th mtg., paras. 176-186.

20/ A/1923.

21/ G A (V), Plen., vol. II, 332nd mtg., p. 747, para. 5.

22/ G A (VIII), Plen., 432nd mtg., p. 10, para. 111.

23/ G A resolution 800 (VIII).

24/ G A (VIII), Plen., 448th mtg., p. 205, para. 158.

25/ Ibid., 449th mtg., p. 216, para. 53.

rule provides for the establishment of a Credentials Committee at the beginning of the session, consisting of nine members appointed by the Assembly on the proposal of the President. The Committee is charged, under the rules, with the examination of all credentials and is instructed to report to the Assembly without delay.

36. It has been the normal practice throughout the regular and special sessions for the Assembly to observe the procedure envisaged in rule 28. However, the question whether it is proper for the Assembly to entertain and take action on any proposal regarding the credentials of the representatives of a Member State in plenary meeting, before the Credentials Committee has submitted its report, was raised at the fifth session 26/ and even more explicitly at the eighth session 27/ when objections were raised with regard to the propriety of this procedure.

ii. At the reconvening of a divided session

37. When a session of the General Assembly has been divided into two parts, as in the case of the first and third sessions, or has recessed and reconvened at a later date, as in the case of the seventh, the Credentials Committee appointed at the beginning of each session has continued to serve for the examination of credentials.

38. The Committee appointed at the opening of the third session, for example, reported at the second part of that session that it recognized that the credentials of representatives remained in effect and that new credentials were necessary only when new representatives were appointed for the second part of a session. It further reported on which Governments had not changed the list of their representatives and, as regards those which had modified the composition of their delegations, it noted which of them had submitted credentials fully meeting the requirements of rule 27 of the rules of procedure. Pending a subsequent examination of final credentials, the Committee proposed that the representatives of those States which had submitted "temporary" credentials should be considered "as on the same footing as the other representatives". 28/

**b. PROVISIONAL ADMISSION OF REPRESENTATIVES TO A SESSION**

39. Rule 29 of the rules of procedure states that:

"Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives, until the Credentials Committee has reported and the General Assembly has given its decision."

40. Representatives have been admitted provisionally to a session in the following two circumstances:

i. Owing to objections made by a Member

41. The first occasion on which objections were made to the credentials of the representatives of a Member State in the General Assembly was at the opening meeting of the fifth session when the question arose in connexion with the representation of China in the Assembly and its organs. At that time, it was proposed that the Assembly should

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26/ See paras. 23, 24, 27 and 28 above.

27/ See para. 34 above.

28/ G A (III/2), Plen., 196th mtg., pp. 140-141.

decide that the Central Government of the People's Republic of China should be entitled to represent China in the Assembly; that the representatives of the "Kuomintang group" could not take part in the work of the Assembly and its organs because they were not the representatives of China; and that the representatives of the People's Government should be invited.

42. As outlined in paragraphs 22 to 30 above, the Assembly rejected these proposals and, pending a decision on the report of the Special Committee which it established, decided that the representatives of the National Government of China should be seated with the same rights as other representatives. 29/

43. During the sixth, seventh and eighth sessions, similar objections regarding the "validity" and "legality" of the credentials of the representatives of the National Government of China were made. 30/ The matter was disposed of on each occasion by the adoption of a decision which would postpone consideration for the duration of the session of proposals to exclude the representatives of the Government of the Republic of China and to seat the representatives of the Central People's Government of the People's Republic of China. 31/ In view of these decisions, the question of seating provisionally the representatives to whose admission objection had been made did not arise.

ii. Owing to a lack of full credentials

44. While the rules of procedure do not specifically distinguish between provisional and full powers of representatives, it appears that rule 29 (see para. 39) has been applied not only with respect to objections regarding admission but also in connexion with the seating of representatives whose credentials have not fully met the requirements of rule 27 (see paras. 18 and 19), in that their credentials, signed by the Head of State or Government or by the Minister for Foreign Affairs, have not been received when the Credentials Committee submits its first report.

45. In practice, the Credentials Committee has normally had to meet at least twice during each session, the first meeting being held within ten days to two weeks after the opening of the session for the purpose of reporting to the Assembly on the status of the credentials received, and the second to examine and report on the original credentials from the Governments which had issued "provisional" powers.

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29/ G A (S-2), Plen., 130th mtg., p. 5.

30/ G A (VI), Plen., 351st mtg., pp. 211-212, paras. 6-10;

G A (VII), Plen., 389th mtg., pp. 163-167;

G A (VIII), Plen., 449th mtg., pp. 215-216, paras. 45-47.

31/ G A (VI), Plen., 342nd mtg., p. 104, para. 155;

G A (VII), Plen., 389th mtg., pp. 167-168, para. 46;

G A (VIII), Plen., 432nd mtg., p. 10, para. 111.

