

Taking account of the fact that, although the *Ad Hoc* Committee has made some progress, it has not yet fulfilled its mandate,

Reaffirming the need for the elaboration, at the earliest possible date, of an international convention against the recruitment, use, financing and training of mercenaries,

1. Takes note of the report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the progress made by the *Ad Hoc* Committee, especially during its fifth session;
2. Decides to renew the mandate of the *Ad Hoc* Committee to enable it to continue its work on the drafting of an international convention against the recruitment, use, financing and training of mercenaries;
3. Requests the *Ad Hoc* Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter V of its report,<sup>40</sup> entitled "Consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries" as a basis for future negotiation on the text of the proposed international convention;
4. Invites the *Ad Hoc* Committee to take into account the suggestions and proposals of Member States submitted to the Secretary-General on the subject and the views and comments expressed at the current session of the General Assembly;<sup>41</sup>
5. Decides that the *Ad Hoc* Committee shall accept the participation of observers of Member States, including participation in the meetings of its working groups;
6. Requests the Secretary-General to provide the *Ad Hoc* Committee with any assistance and facilities it may require for the performance of its work;
7. Decides that the *Ad Hoc* Committee shall hold its sixth session for four weeks, from 16 June to 11 July 1986;
8. Requests the *Ad Hoc* Committee to make every effort to complete its mandate at its sixth session and to submit a draft convention to the General Assembly at its forty-first session;
9. Decides to include in the provisional agenda of its forty-first session the item entitled "Report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries".

*112th plenary meeting  
11 December 1985*

#### 40/75. Report of the International Law Commission

*The General Assembly.*

Having considered the report of the International Law Commission on the work of its thirty-seventh session,<sup>24</sup>

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations<sup>2</sup> and to give increasing importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics which might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contributions to the

progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the contemporary international community, may be suitable for progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

1. Takes note of the report of the International Law Commission on the work of its thirty-seventh session;
2. Expresses its appreciation to the International Law Commission for the work accomplished at that session;
3. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme, bearing in mind the clear desirability of achieving as much progress as possible in the preparation of draft articles on specific topics before the conclusion of the term of office of the present membership;
4. Expresses its satisfaction with the conclusions and intentions of the International Law Commission concerning its procedures and methods of work, as reflected in paragraphs 297 to 306 of its report;<sup>24</sup>
5. Reaffirms its previous decisions concerning the increased role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the documentation of the International Law Commission;
6. Appeals to Governments and, as appropriate, to international organizations to respond as fully and expeditiously as possible to the requests of the International Law Commission for comments, observations and replies to questionnaires and for materials on topics in its programme of work;
7. Reaffirms its wish that the International Law Commission continue to enhance its co-operation with inter-governmental legal bodies whose work is of interest for the progressive development of international law and its codification;
8. Expresses the wish that seminars will continue to be held in conjunction with sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars and appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars;
9. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fortieth session of the General Assembly<sup>42</sup> and to prepare and distribute a topical summary of the debate.

*112th plenary meeting  
11 December 1985*

#### 40/76. Preparation for the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

*The General Assembly.*

Recalling its resolution 37/112 of 16 December 1982, by which it decided that an international convention should be concluded on the basis of the draft articles on

<sup>41</sup> *Ibid.*, Fortieth Session, Sixth Committee, 13th to 17th, 44th and 48th meetings.

<sup>42</sup> *Ibid.*, Sixth Committee, 23rd to 36th, 46th and 47th meetings; and *ibid.*, Sixth Committee, Sessional Fascicle, corrigendum.

the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session,<sup>43</sup>

*Recalling also* its resolution 39/86 of 13 December 1984, by which it decided that the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations should be held at Vienna from 18 February to 21 March 1986, and referred to the Conference, as the basic proposal for its consideration, the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session,

*Recalling further* its appeal, in paragraph 8 of resolution 39/86, to participants in the Conference to organize consultations, primarily on the organization and methods of work of the Conference, including rules of procedure, and on major issues of substance, including final clauses and settlement of disputes, prior to the convening of the Conference in order to facilitate a successful conclusion of its work through the promotion of general agreement,

*Reiterating* the importance of enhancing the process of codification and progressive development of international law at a universal level,

1. *Considers* that the informal consultations held pursuant to paragraph 8 of resolution 39/86 have proved to be useful in enabling thorough preparation for successful conduct of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations;

2. *Expresses its satisfaction* with the successful outcome of the work of the informal consultations conducted by the co-Chairmen;

3. *Decides* that, in addition to the organizations referred to in paragraph 2 (e) of resolution 39/86, the United Nations should participate in the Conference;

4. *Decides* to transmit to the Conference and to recommend that it adopt the draft rules of procedure for the Conference, worked out during the informal consultations and annexed to the present resolution as annex I, taking into account that those draft rules were drafted for the specific use of that Conference in view of its particular nature and the subject-matter to be considered by it;

5. *Decides further* to transmit to the Conference for its consideration and action, as appropriate, a list of draft articles of the basic proposal, for which substantive consideration is deemed necessary and which are annexed to the present resolution as annex II;

6. *Refers* to the Conference for its consideration the draft final clauses presented by the co-Chairmen on which an exchange of views was held and which are annexed to the present resolution as annex III.

*112th plenary meeting  
11 December 1985*

#### ANNEX I

United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 18 February-21 March 1986)

##### *Draft rules of procedure*

#### I. REPRESENTATION AND CREDENTIALS

##### *Composition of delegations*

##### *Rule 1*

The delegation of each State, Namibia, represented by the United Nations Council for Namibia and each organization referred to in rule 60

participating in the Conference shall consist of a head of delegation and such other representatives, alternate representatives and advisers as may be required.

##### *Alternates and advisers*

##### *Rule 2*

The head of delegation may designate an alternate representative or an adviser to act as a representative.

##### *Credentials, corresponding documents and notifications of delegations*

##### *Rule 3*

1. The credentials of representatives of States, the corresponding documents of the organizations mentioned in rule 60 as well as appropriate notifications, containing the names and titles of the members of each delegation referred to in rule 1 authorizing them to participate in the Conference shall be submitted early to the Executive Secretary of the Conference, and if possible not later than 24 hours after the opening of the Conference. Any subsequent change in the composition of delegations shall also be submitted to the Executive Secretary.

2. The credentials of representatives of States shall be issued by the head of State or Government or by the minister for foreign affairs.

3. The corresponding documents of organizations referred to in rule 60 shall be submitted to the Executive Secretary of the Conference together with a statement on behalf of the organization confirming that such document is issued in accordance with the internal rules and practices of the organization concerned.

##### *Credentials Committee*

##### *Rule 4*

A Credentials Committee shall be appointed at the beginning of the Conference. It shall consist of nine members from among the representatives of participating States who shall be appointed by the Conference on the proposal of the President. It shall examine the credentials of representatives of States and report to the Conference without delay. The Credentials Committee shall also verify the corresponding documents submitted by representatives of the organizations referred to in rule 60 in accordance with rule 3 and report to the Conference on those documents.

##### *Provisional participation in the Conference*

##### *Rule 5*

Pending a decision of the Conference on their credentials, representatives of States shall be entitled to participate provisionally in the Conference. Representatives of the organizations referred to in rule 60 shall likewise be entitled to participate provisionally in the Conference pending its decision on whether the documents submitted by them are in conformity with the requirements provided in rule 3.

## II. OFFICERS

### *Elections*

##### *Rule 6*

The Conference shall elect from among the representatives of participating States the following officers: a President and twenty-two Vice-Presidents, as well as the Chairman of the Committee of the Whole provided for in rule 47 and the Chairman of the Drafting Committee provided for in rule 48. These officers shall be elected on the basis of ensuring the representative character of the General Committee. The Conference may also elect such other officers as it deems necessary for the performance of its functions.

### *General powers of the President*

##### *Rule 7*

1. In addition to exercising the powers conferred upon him elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each meeting, direct the discussion, ensure observance of these rules, accord the right to speak, promote the achievement of general agreement, put questions to the vote and announce decisions reached by general agreement or taken by vote. The President shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjourn-

<sup>43</sup> *Ibid.*, Thirty-seventh Session, Supplement No. 10 (A/37/10), chap. II, sect. D.

ment or the closure of the debate and the suspension or the adjournment of a meeting.

2. The President, in the exercise of his functions, remains under the authority of the Conference.

*Acting President*

**Rule 8**

1. If the President finds it necessary to be absent from a meeting or any part thereof, he shall designate a Vice-President to take his place.

2. A Vice-President acting as President shall have the powers and duties of the President.

*Replacement of the President*

**Rule 9**

If the President is unable to perform his functions, a new President shall be elected.

*The President shall not vote*

**Rule 10**

The President, or a Vice-President acting as President, shall not vote in the Conference, but may designate another member of his delegation to vote in his place.

III. GENERAL COMMITTEE

*Composition*

**Rule 11**

There shall be a General Committee consisting of twenty-five members which shall comprise the President and Vice-Presidents of the Conference, the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee. The President of the Conference, or in his absence one of the Vice-Presidents designated by him, shall serve as Chairman of the General Committee.

*Substitute members*

**Rule 12**

If the President or a Vice-President of the Conference is to be absent during a meeting of the General Committee, he may designate a member of his delegation to sit and vote in the Committee. In case of absence, the Chairman of the Committee of the Whole shall designate the Vice-Chairman of that Committee as his substitute and the Chairman of the Drafting Committee shall designate a member of the Drafting Committee. When serving on the General Committee, the Vice-Chairman of the Committee of the Whole or member of the Drafting Committee shall not have the right to vote if he is of the same delegation as another member of the General Committee.

*Functions*

**Rule 13**

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the co-ordination of its work. It shall also exercise powers conferred upon it by rule 63.

IV. SECRETARIAT

*Duties of the Secretary-General*

**Rule 14**

1. The Secretary-General of the United Nations shall be the Secretary-General of the Conference. He, or his representative, shall act in that capacity in all meetings of the Conference and its committees.

2. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference and its committees.

*Duties of the secretariat*

**Rule 15**

The secretariat of the Conference shall, in accordance with these rules:

- (a) Interpret speeches made at meetings;
- (b) Receive, translate, reproduce and distribute the documents of the Conference;
- (c) Publish and circulate the official documents of the Conference;
- (d) Prepare and circulate records of public meetings;
- (e) Make and arrange for the keeping of sound recordings of meetings;

(f) Arrange for the custody and preservation of the documents of the Conference in the archives of the United Nations;

(g) Generally perform all other work that the Conference may require.

*Statements by the secretariat*

**Rule 16**

In the exercise of the duties referred to in rules 14 and 15, the Secretary-General or any other member of the staff designated for that purpose may, at any time, make either oral or written statements concerning any question under consideration.

V. CONDUCT OF BUSINESS

*Quorum*

**Rule 17**

The President may declare a meeting open and permit the debate to proceed when representatives of at least one third of the States participating in the Conference are present. The presence of representatives of two thirds of the States so participating shall be required for any decision to be taken.

*Speeches*

**Rule 18**

1. No one may address the Conference without having previously obtained the permission of the President. Subject to rules 19, 20 and 23 to 25, the President shall call upon speakers in the order in which they signify their desire to speak. The secretariat shall be in charge of drawing up a list of such speakers. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

2. The Conference may limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call him to order without delay.

*Precedence*

**Rule 19**

The chairman or rapporteur of a committee, or the representative of a sub-committee or working group, may be accorded precedence for the purpose of explaining the conclusions arrived at by his committee, sub-committee or working group.

*Points of order*

**Rule 20**

During the discussion of any matter, a representative of a participating State may at any time raise a point of order, which shall be decided immediately by the President in accordance with these rules. A representative of a participating State may appeal against the ruling of the President. The appeal shall be put to the vote immediately, and the President's ruling shall stand unless overruled by a majority of such representatives present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

*Closing of the list of speakers*

**Rule 21**

During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed.

*Right of reply*

**Rule 22**

1. Notwithstanding rule 21, the President shall accord the right of reply to any delegation that requests it.

2. Replies made pursuant to the present rule shall be made at the end of the last meeting of the day, or at the conclusion of the consideration of the relevant issue if that is sooner.

3. The number of interventions in exercise of the right of reply for any delegation at a given meeting should be limited to two per issue.

4. The first intervention in the exercise of the right of reply, for any delegation on any issue at a given meeting, shall be limited to five minutes and the second intervention shall be limited to three minutes.

*Adjournment of debate*

**Rule 23**

During the discussion of any matter, a representative may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of,

and two against, the adjournment, after which the motion shall be put immediately to the vote.

*Closure of debate*

**Rule 24**

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the closure of the debate shall be accorded only to two speakers opposing the closure, after which the motion shall be put immediately to the vote.

*Suspension or adjournment of the meeting*

**Rule 25**

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be put immediately to the vote.

*Order of motions*

**Rule 26**

Subject to rule 20, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the question under discussion;
- (d) To close the debate on the question under discussion.

*Basic proposal*

**Rule 27**

The draft articles on the law of treaties between States and international organizations or between international organizations, adopted by the International Law Commission,<sup>43</sup> shall constitute the basic proposal for consideration by the Conference.

*Articles of the basic proposal requiring substantive consideration*

**Rule 28**

1. The Conference shall decide which of the draft articles of the basic proposal referred to in rule 27 require substantive consideration. These draft articles shall be referred to the Committee of the Whole and all other draft articles shall be referred directly to the Drafting Committee.

2. After such a decision is taken by the Conference:

- (a) The Committee of the Whole may decide, at the request of a representative, to give substantive consideration to a particular article of the basic proposal that was referred directly to the Drafting Committee;
- (b) The Drafting Committee itself may decide, where necessary, to transfer particular draft articles of the basic proposal to the Committee of the Whole for substantive consideration.

*Other proposals and amendments*

**Rule 29**

Other proposals and amendments thereto shall normally be submitted in writing to the Executive Secretary of the Conference, who shall circulate copies to all delegations. As a general rule, no proposal shall be considered at any meeting of the Conference unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The President may, however, permit the consideration of amendments, even though these amendments have not been circulated or have only been circulated on the same day.

*Decisions on competence*

**Rule 30**

Subject to rule 20, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal submitted to it shall be put to the vote before the matter is discussed or a decision is taken as to the proposal in question.

*Withdrawal of proposals and motions*

**Rule 31**

A proposal may be withdrawn by its proposer at any time before voting on it has commenced, provided that it has not been amended. A proposal or a motion that has thus been withdrawn may be reintroduced.

*Reconsideration of proposals*

**Rule 32**

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives of participating States present and voting, so decides. Permission to speak on the motion to reconsider shall be accorded only to two speakers from representatives of participating States opposing the motion, after which it shall be put immediately to the vote.

*Invitations to technical advisers*

**Rule 33**

The Conference may invite to one or more of its meetings any person whose technical advice it may consider useful for its work.

VI. DECISION-TAKING

*Decision-taking rights*

**Rule 34**

Decision-taking rights shall be exercised only by States participating in the Conference. In decision-taking by vote each State represented at the Conference shall have one vote.

*Majority required*

**Rule 35**

1. Decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the representatives present and voting.

2. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting.

3. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.

*Meaning of the phrase "representatives present and voting"*

**Rule 36**

For the purposes of these rules, the phrase "representatives present and voting" means representatives present and casting an affirmative or negative vote. Representatives who abstain from voting shall be considered as not voting.

*Method of voting*

**Rule 37**

Except as provided in rule 43, the Conference shall normally vote by show of hands or by standing, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the delegation whose name is drawn by lot by the President.

*Conduct during voting*

**Rule 38**

The President shall announce the commencement of voting, after which no representative shall be permitted to intervene until the result of the vote has been announced, except on a point of order in connection with the process of voting.

*Explanation of vote*

**Rule 39**

Representatives may make brief statements consisting solely of explanation of their votes, before the voting has commenced or after the voting has been completed. The representative of a State sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

*Division of proposals*

**Rule 40**

A representative of a participating State may move that parts of a proposal shall be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. If the motion for division is carried, those parts of the proposal that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal have been rejected, the proposal shall be considered to have been rejected as a whole.

*Voting on amendments***Rule 41**

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal. Unless specified otherwise, the word "proposal" in these rules shall be considered as including amendments.

*Voting on proposals***Rule 42**

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

*Elections***Rule 43**

All elections shall be held by secret ballot unless otherwise decided by the Conference.

**Rule 44**

1. If, when one person or one delegation of a participating State is to be elected, no candidate obtains in the first ballot a majority of the votes of the representatives present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

**Rule 45**

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot a majority of the votes of the representatives present and voting shall be elected. If the number of candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

*Equally divided votes***Rule 46**

If a vote is equally divided on matters other than elections, the proposal or motion shall be regarded as rejected.

## VII. COMMITTEES

*Committee of the Whole***Rule 47**

The Conference shall establish a Committee of the Whole, which may set up sub-committees or working groups. The Committee of the Whole shall have as its officers a Chairman, a Vice-Chairman and a Rapporteur.

*Drafting Committee***Rule 48**

1. The Conference shall establish a Drafting Committee consisting of 15 members representing participating States, including its Chairman who shall be elected by the Conference in accordance with rule 6. The other 14 members of the Committee shall be appointed by the Conference on the proposal of the General Committee. The Rapporteur of the Committee of

the Whole participates *ex officio*, without a vote, in the work of the Drafting Committee.

2. The Drafting Committee shall consider draft articles of the basic proposal referred to it directly pursuant to paragraph 1 of rule 28. It shall also consider any draft articles referred to it by the Committee of the Whole after initial consideration by that Committee. The Drafting Committee shall furthermore prepare drafts and give advice on drafting as requested by the Conference or by the Committee of the Whole. It shall also co-ordinate and review the drafting of all texts adopted and shall report, as appropriate, either to the Conference or to the Committee of the Whole.

*Officers***Rule 49**

Except as otherwise provided in rule 6, each committee, sub-committee and working group shall elect its own officers from among representatives of participating States.

*Quorum***Rule 50**

1. The Chairman of the Committee of the Whole may declare a meeting open and permit the debate to proceed when representatives of at least one quarter of the States participating in the Conference are present. The presence of representatives of a majority of the States so participating shall be required for any decision to be taken.

2. A majority of the representatives on the General, Drafting or Credentials Committees or any sub-committee or working group shall constitute a quorum.

*Officers, conduct of business and decision-taking***Rule 51**

The rules contained in chapters II, V (except rule 17) and VI above shall be applicable, *mutatis mutandis*, to the proceedings of committees, sub-committees and working groups, except that:

(a) The Chairmen of the General, Drafting and Credentials Committees and the chairman of any sub-committee or working group may exercise the right to vote;

(b) Decisions of committees, sub-committees and working groups shall be taken by a majority of the representatives of States present and voting, except that the reconsideration of a proposal or an amendment shall require the majority established by rule 32.

## VIII. LANGUAGES AND RECORDS

*Languages of the Conference***Rule 52**

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Conference.

*Interpretation***Rule 53**

1. Speeches made in a language of the Conference shall be interpreted into the other such languages.

2. A representative may speak in a language other than a language of the Conference if the delegation concerned provides for interpretation into one such language.

*Records and sound recordings of meetings***Rule 54**

1. Summary records of the plenary meetings of the Conference and of the meetings of the Committee of the Whole shall be kept in the languages of the Conference. As a general rule, they shall be circulated as soon as possible, simultaneously in all the languages of the Conference, to all representatives, who shall inform the secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The secretariat shall make sound recordings of meetings of the Conference, the Committee of the Whole and the Drafting Committee. Such recordings shall be made of meetings of other committees, sub-committees or working groups when the body concerned so decides.

*Languages of official documents***Rule 55**

Official documents shall be made available in the languages of the Conference.

## IX. PUBLIC AND PRIVATE MEETINGS

*Plenary meetings and meetings of committees**Rule 56*

The plenary meetings of the Conference and the meetings of committees shall be held in public unless the body concerned decides otherwise. All decisions taken by the plenary of the Conference at a private meeting shall be announced at an early public meeting of the plenary.

*Meetings of sub-committees or working groups**Rule 57*

As a general rule meetings of a sub-committee or working group shall be held in private.

*Communiqués on private meetings**Rule 58*

At the close of a private meeting, the chairman of the organ concerned may issue a communiqué to the press through the Executive Secretary.

## X. OTHER PARTICIPANTS AND OBSERVERS

*Representatives of the United Nations Council for Namibia**Rule 59*

Representatives designated by the United Nations Council for Namibia may participate in the deliberations of the Conference, the Committee of the Whole and other committees, sub-committees or working groups, in accordance with the relevant resolutions and decisions of the General Assembly.

*Representatives of the United Nations and of the organizations that have received an invitation from the General Assembly in subparagraph 2 (e) of its resolution 39/86*

*Rule 60*

1. Except as otherwise provided in the present rules, representatives designated by the United Nations or by organizations referred to in subparagraph 2 (e) of General Assembly resolution 39/86, that have traditionally been invited to participate as observers at legal codification conferences convened under the auspices of the United Nations, shall participate in the Conference in the following capacity:

(a) To participate in public and private meetings of the Conference, the Committee of the Whole, sub-committees and working groups, as well as in the process leading to general agreement;

(b) To submit documents for circulation;

(c) To intervene in the debates;

—To exercise the right of reply in accordance with rule 22;

—To explain their positions on any matter on which a decision has been or is to be taken;

(d) To submit substantive proposals, which as such may only be put to the vote subject to rule 63 if a formal request is made by a State to that effect. If the proposal has been circulated in writing, the formal request shall be circulated in the same manner;

(e) To submit procedural motions, including those referred to in rules 23, 24 and 25, which may not be put to the vote unless supported by a State.

2. Representatives of the organizations participating in the Conference in accordance with paragraph 1 of this rule may not:

(a) Object to any procedural motion put forward by a representative of a participating State;

(b) Prevent on their own the achievement of general agreement or participate in any vote.

3. Delegations of the organizations referred to in paragraph 1 shall be seated in alphabetical order following the seating of delegations of States.

*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) and 31/152*

*Rule 61*

Representatives designated by organizations that have received a standing invitation from the General Assembly in accordance with General

<sup>44</sup> It is understood that if certain changes to the articles listed were approved by the Conference, consequential changes might have to be introduced in other draft articles.

Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976 to participate in the sessions and the work of all international conferences convened under its auspices have the right to participate as observers, without the right to vote, in the deliberations of the Conference, the Committee of the Whole and, as appropriate, other committees, sub-committees or working groups.

*Representatives of national liberation movements**Rule 62*

Representatives designated by national liberation movements invited to the Conference may participate as observers, without the right to vote, in the deliberations of the Conference, the Committee of the Whole and, as appropriate, other committees, sub-committees or working groups.

## XI. PROMOTION OF GENERAL AGREEMENT

*Promotion of general agreement**Rule 63*

1. The Conference shall, both at the plenary and at the Committee of the Whole stages, make every effort to reach general agreement on matters of substance, particularly on the final results of the work of the Conference, and there shall be no voting on such matters until all efforts to that end have been exhausted.

2. In endeavouring to reach general agreement, all possible means shall be used. The officers of the Conference shall chair as appropriate, co-ordinate and supervise meetings with a view to enhancing the prospects of reaching general agreement.

3. If, in the consideration of any matter of substance, no general agreement appears to be attainable, the President of the Conference shall inform the General Committee that efforts to reach general agreement have failed. The General Committee shall thereupon consider the matter and may recommend that it be decided by a vote, indicating the date of the vote, and place the question before the plenary or the Committee of the Whole as the case may be.

## XII. AMENDMENTS TO THE RULES OF PROCEDURE

*Method of amendment**Rule 64*

These rules of procedure may be amended by a decision of the Conference taken by a two-thirds majority of the representatives of participating States present and voting.

## ANNEX II

**List of draft articles of the basic proposal, for which substantive consideration is deemed necessary<sup>44</sup>**

1. Article 2<sup>45</sup> "Use of terms"
2. Article 3 "International agreements not within the scope of the present articles"
3. Article 5 "Treaties constituting international organizations and treaties adopted within an international organization"
4. Article 6 "Capacity of international organizations to conclude treaties"
5. Article 7 "Full powers and powers"
6. Article 9 "Adoption of the text"  
—paragraph 2
7. Article 11 "Means of expressing consent to be bound by a treaty"  
—paragraph 2 (arts. 14.3, 16, 18 and 19.2 are closely related to this paragraph)
8. Article 19 "Formulation of reservations"
9. Article 20 "Acceptance of and objection to reservations"
10. Article 27 "Internal law of States, rules of international organizations and observance of treaties"
11. Article 30 "Application of successive treaties relating to the same subject-matter"  
—paragraph 6
12. Article 36 *bis* "Obligations and rights arising for States members of an international organization from a treaty to which it is a party"
13. Article 38 "Rules in a treaty becoming binding on third States or third organizations through international custom"

<sup>45</sup> It is noted that since draft article 2 sets out definitions, its provisions should not be considered separately but in conjunction with the substantive consideration of other articles to which those definitions are closely related.

14. Article 45 "Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty"
15. Article 46 "Provisions of internal law of a State and rules of an international organization regarding competence to conclude treaties"  
—paragraph 2  
—paragraph 3  
—paragraph 4
16. Article 56 "Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal"
17. Article 61 "Supervening impossibility of performance"
18. Article 62 "Fundamental change of circumstances"
19. Article 65 "Procedure to be followed with respect to invalidity, termination, withdrawal from or suspensions of the operation of a treaty"  
—paragraph 3
20. Article 66 "Procedures for arbitration and conciliation"
21. Article 73 "Cases of succession of States, responsibility of a State or of an international organization, outbreak of hostilities, termination of the existence of an organization and termination of participation by a State in the membership of an organization"
22. Article 75 "Case of an aggressor State"
23. Article 77 "Functions of depositaries"
24. Annex "Arbitration and conciliation procedures established in application of article 66"

## ANNEX III

## Draft final clauses

(Based on those of the 1969 Vienna Convention on the Law of Treaties<sup>46</sup>)

## FINAL PROVISIONS

## Article 81

## SIGNATURE

The present Convention shall be open for signature until . . . (date, month, year) at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until . . . (date, month, year), at the United Nations Headquarters, New York by:

- (a) All States;
- (b) Namibia, represented by the United Nations Council for Namibia;
- (c) International organizations invited to participate in the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations.

## Article 82

## RATIFICATION OR ACT OF FORMAL CONFIRMATION

The present Convention is subject to ratification by States and by Namibia, represented by the United Nations Council for Namibia, and to acts of formal confirmation by international organizations. The instruments of ratification and those relating to acts of formal confirmation shall be deposited with the Secretary-General of the United Nations.

## Article 83

## ACCESSION

1. The present Convention shall remain open for accession by any State, by Namibia, represented by the United Nations Council for Namibia, and by any international organization which has the capacity to conclude treaties.
2. An instrument of accession of an international organization shall contain a declaration that it has the capacity to conclude treaties.
3. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

<sup>46</sup> Official Records of the United Nations Conference on the Law of Treaties, First and Second Sessions, Vienna, 26 March-24 May 1968 and 9 April-22 May 1969, Documents of the Conference (United Nations publication, Sales No. E.70 V.5), p. 287.

## Article 84

## ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the . . . instrument of ratification or accession by States or by Namibia, represented by the United Nations Council for Namibia.
2. For each State or for Namibia, represented by the United Nations Council for Namibia, ratifying or acceding to the Convention after the condition specified in paragraph 1 has been fulfilled, the Convention shall enter into force on the thirtieth day after deposit by such State or by Namibia of its instrument of ratification or accession.
3. For each international organization depositing an instrument relating to an act of formal confirmation or an instrument of accession, the Convention shall enter into force on the thirtieth day after such deposit, provided that it shall not so enter into force before the Convention enters into force pursuant to paragraph 1.

## Article 85

## 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 by their respective Governments, and duly authorized representatives of the United Nations Council for Namibia and of international organizations have signed the present Convention.

DONE AT VIENNA this . . . day of . . . one thousand nine hundred and eighty-six.

## 40/77. Report of the Committee on Relations with the Host Country

*The General Assembly,*

*Having considered* the report of the Committee on Relations with the Host Country,<sup>47</sup>

*Recalling* Article 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations,<sup>48</sup>

*Recalling further* that the problems related to the privileges and immunities of all missions accredited to the United Nations, the security of the missions and the safety of their personnel are of great importance and concern to Member States, as well as the primary responsibility of the host country,

*Noting with deep concern* the continued acts violating the security and the safety of the personnel of those missions accredited to the United Nations,

*Recognizing* that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

*Having considered* the concerns regarding recent legislation of the host country pertaining to the travel of certain members of the Secretariat,

*Taking note* of the positions of the Secretary-General of the United Nations and the host country with regard to the application by the host country of the above-mentioned legislation,

1. *Endorses* the recommendations of the Committee on Relations with the Host Country contained in paragraph 56 of its report;<sup>47</sup>
2. *Strongly condemns* any terrorist and criminal acts violating the security of missions accredited to the United Nations and the safety of their personnel;
3. *Urges* the host country to continue to take all necessary measures to ensure effectively the protection, security

<sup>47</sup> Official Records of the General Assembly, Fortieth Session, Supplement No. 26 (A/40/26).

<sup>48</sup> Resolution 22 A (1).