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UNITED NATIONS CONFERENCE  
ON THE LAW OF TREATIES

METHODS OF WORK AND PROCEDURES OF THE  
FIRST SESSION OF THE CONFERENCE

Memorandum by the Secretary-General

1. The Secretary-General has drawn up the present memorandum, relating to the methods of work and procedures of the Conference at its first session, in accordance with operative paragraph 8 of General Assembly resolution 2166 (XXI), adopted on 5 December 1966. Another memorandum will be prepared for the second session in 1969. The provisional agenda and provisional rules of procedure referred to in this memorandum have been distributed under different symbols (A/CONF.39/1 and 2).

I. Provisional agenda of Conference

2. The provisional agenda (A/CONF.39/1) covers both sessions of the Conference. Items 1 to 10 refer to the organization of the Conference, and will be dealt with at the first session. Item 11, the title of which is based on operative paragraph 2 of resolution 2166 (XXI), covers the substance of the work of the Conference. It is envisaged that that item will be dealt with by the Committee of the whole at the first session of the Conference, and by the plenary at the second session. Item 12 refers to the adoption of appropriate instruments to embody the results of the Conference, and of the Final Act. Item 13 refers to the signature of the instruments adopted.

## II. Provisional rules of procedure

3. The provisional rules of procedure (A/CONF.39/2) are modelled on those adopted by the United Nations Conference on Diplomatic Intercourse and Immunities (A/CONF.3/1) and by the United Nations Conference on Consular Relations (A/CONF.5/1). They are intended to apply at both sessions of the Conference, unless amended. In accordance with the outcome of the discussions at the twenty-first session of the General Assembly, they provide for the establishment of a Committee of the Whole.<sup>1/</sup> That Committee may set up sub-committees or working groups (rule 47).

4. The officers of the Conference and the members of the General Committee, Drafting Committee and Credentials Committee will remain the same at both sessions of the Conference.

5. In accordance with the outcome of information discussions held among delegations during the twenty-second session of the General Assembly, the provisional rules provide that it will have twenty-six members, one more than the General Committee of the General Assembly. Its geographical composition should generally conform to that given to the latter Committee by General Assembly resolution 1720 (XVIII) of 17 December 1963.

6. The provisional rules of procedure provide for the appointment of a Drafting Committee of fifteen members, including the Rapporteur of the Committee of the Whole (rule 48). The functions of this Committee are to prepare drafts and give advice on drafting as requested by the Conference and by the Committee of the Whole, and to co-ordinate and review the drafting of all texts adopted. It should be balanced for the various official languages and different legal systems adequately represented in the Committee.

## III. Submission of proposals and amendments

7. The provisional rules of procedure provide, in accordance with operative paragraph 7 of resolution 184 (XXI), that the draft articles adopted by the International Law Commission at its eighteenth session shall constitute the basis for discussion by the Conference (rule 29).

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<sup>1/</sup> See report of the Sixth Committee, Official Records of the General Assembly, Twenty-First Session, Annex, agenda item 84, document A/6516, para. 113.

8. In order to facilitate the work of the Conference, the General Assembly decided in resolution 2287 (XXII) of 6 December 1967 to invite "participating States to submit to the Secretary-General not later than 15 February 1968, for circulation to Governments, any additional comments and draft amendments to the draft articles prepared by the International Law Commission which they may wish to propose in advance of the Conference".

9. In this connexion it was made clear in the debates of the Sixth Committee that comments and amendments submitted before 15 February 1968 would be circulated to Governments, while those received after that date would be communicated directly to the Conference. The possibility of submitting amendments in advance in no way detracts from the right of a participating State to propose amendments during the Conference.

10. The question will arise whether amendments submitted in advance will be considered as automatically before the Conference, or whether such amendments will have to be formally introduced by their sponsors at the Conference before being regarded as officially submitted. In this connexion it may be recalled that when the General Assembly, by resolution 1813 (XVII) of 18 December 1962, invited States to propose amendments in advance of the United Nations Conference on Consular Relations, it was understood that such amendments would be presented for information purposes and would not be formally before the Conference.<sup>2/</sup> As some of the Governments that suggest amendments in advance may not be represented at the Conference and as it would be difficult to discuss or vote on an amendment in the absence of its author, the Conference may choose to follow this precedent, and to require formal introduction of amendments.

11. It is suggested that amendments proposed during the Conference should be submitted as soon as possible and at all events before the beginning of the debate on the article to which they refer.

12. "Amendments" will include all changes, including new articles, proposed in respect to the basic proposal, i.e. the draft articles adopted by the International Law Commission. "Proposals" will be texts relating to matters not considered by

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<sup>2/</sup> See report of the Sixth Committee, Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 74, document A/5343, para. 29.

the International Law Commission, such as the preamble, the final clauses, any additional protocols, resolutions and the Final Act of the Conference.

#### IV. Meetings of the Conference

13. The facilities available to the Conference permit the holding of both morning and afternoon meetings. Meetings of the Drafting Committee or of a working group for which interpretation is required may be held simultaneously with meetings of the Committee of the Whole between 22 April and the close of the Conference on 24 May 1968. As regards working hours, there will normally be two meetings of the Committee of the Whole a day, from Monday to Friday inclusive, from 10.30 a.m. to 1.00 p.m. and from 3.00 p.m. to 6.00 p.m. Possibilities for additional meetings are described in paragraph 16 below.

#### V. Schedule of work

14. The schedule of work envisaged by the General Assembly in convening the Conference calls for the completion of the examination by the Committee of the Whole of the seventy-five draft articles prepared by the International Law Commission, as well as amendments thereto, at the first session in 1968. At the first session the plenary Conference will meet only to deal with questions of organization. At the second session in 1969, on the other hand, the plenary Conference will examine the results of the first session as embodied in reports of the Committee of the Whole and the Drafting Committee, and will adopt a convention, a Final Act and any other instruments considered appropriate; the Committee of the Whole is not expected to meet during the second session. If the Committee of the Whole were not to complete its work during the first session, there would be very serious administrative and financial consequences from the need of lengthening the second session, and possibly even a third session would have to be contemplated.

15. In view of the large number of articles to be discussed, the limited time available to the Conference and the detailed discussions on the law of treaties which took place at the twenty-first and twenty-second sessions of the General Assembly, there should be no general debate either in the plenary Conference or in the Committee of the Whole, but the discussion should proceed at once to a

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discussion of the draft articles one by one (it being of course understood that in the debate on a particular article representatives are free to comment on its relationship with any other articles and with the draft articles as a whole). This procedure would follow the precedents of the Vienna Conferences in 1961 and 1963. The only exception to the rule of article-by-article discussion might be where the Committee of the Whole encounters a portion of the draft which presents particular difficulties, and therefore decides to hold a debate on that portion as a whole before referring it to a sub-committee or working group for consideration and report back to the Committee; one part for which such treatment has been suggested is part V on invalidity, termination and suspension of the operation of treaties.

16. The Conference has available to it at its first session a total of forty-two working days. With only one meeting being held on the opening day, this makes a total of eighty-three meetings of the Plenary or the Committee of the Whole, counting two meetings a day on regular working days. If during the last four weeks of the Conference from 29 April to 24 May, three extra meetings a week are held in the evening or on Saturday, twelve additional meetings can be added to this total, making ninety-five meetings in all (not counting the additional meetings of the Drafting Committee or working groups which can be held as explained in the preceding paragraph).

17. The first meeting of the plenary Conference on the afternoon of Tuesday, 26 March 1968 may be expected to deal with at least the first four items on the provisional agenda (opening of the Conference, election of the President, adoption of the agenda and adoption of the rules of procedure). Items 5 to 10, dealing with elections of other officers who are members of the General Committee, with the composition of the Credentials Committee and of the Drafting Committee, and with organization of work, should be disposed of on Wednesday, 27 March. Under the provisional rules of procedure, the General Committee is given the functions of assisting the President in the general conduct of the business of the Conference (rule 15), and of proposing the composition of the Drafting Committee (rule 48). On the analogy of the procedure of the General Assembly, it is suggested that this memorandum be submitted in the first instance to the General Committee, which would hold a short meeting on 27 March, would consider the

suggestions herein and would report at once to the Conference through the President. At the same time and by the same means, the General Committee would propose the composition of the Drafting Committee.

18. The Committee of the Whole may be expected to begin its consideration of the draft articles on Thursday, 28 March, and to continue for the rest of the first session of the Conference. It is not anticipated that the plenary Conference will meet again during the first session.

19. On the basis of the figures given above, the Committee of the Whole will have a maximum of ninety-two meetings to deal with the seventy-five draft articles prepared by the International Law Commission. A table indicating the rate at which work should proceed is annexed hereto. Addenda will be issued at the beginning of every week of the first session, in the form of progress reports, indicating the extent to which the Committee of the Whole has been able to fulfil the programme of work outlined in this table.

20. During the discussions of the Committee of the Whole, representatives may wish to bear in mind the possibility of reference to the Drafting Committee of articles or groups of articles for redrafting in the light of directives given or of the debates, and report back to the Committee of the Whole. In special cases, there is also the possibility of forming working groups to deal with articles on which there is a divergence of views, but it seems possible to find a widely acceptable solution. Working groups or sub-committees should be kept as small as possible in order to promote rapid and efficient work.

21. In addition to preparing the body of a convention on the basis of the draft articles elaborated by the International Law Commission, the Conference will also have to prepare a preamble and final clauses, and possibly the preparation of other texts such as protocols will be proposed as well. The preamble and final clauses are, in the case of a Convention on the Law of Treaties, intimately linked with the substantive provisions of the Convention, and thus it would seem that their drafting cannot usefully be undertaken until at least the broad outlines of those provisions are settled by the Committee of the Whole. Therefore, toward the end of the first session, that Committee should consider whether the preparation of a draft preamble and draft final clauses should be entrusted to the Drafting Committee or to a working group. The preparation of the draft Final Act can be left to the second session of the Conference.

TABLE

Date	No. of working days	Matters to be considered		
		Plenary	Committee of the Whole	Drafting Committee
26-29 March	4	Organization of the Conference (March 26-27)	Articles 1 to 4 (March 28-29)	Election of officers (29 March)
1-5 April	5		Articles 5 to 14	Articles 1 to 4
8-11 April	4		Articles 15 to 22	Articles 5 to 14
12-15 April EASTER RECESS				
16-19 April	4		Articles 23 to 30	Articles 15 to 22
22-26 April	5		Articles 31 to 40	Articles 23 to 30
29 April-3 May	5		Articles 41 to 50	Articles 31 to 40
6-10 May	5		Articles 51 to 60	Articles 41 to 50
13-17 May	5		Articles 61 to 70	Articles 51 to 60
20-24 May	5		Articles 71 to 75	Articles 61 to 75

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