

## HUNDRED AND EIGHTY-EIGHTH MEETING

*Held at Lake Success, New York, on Wednesday, 9 November 1949, at 3.15 p.m.*

*Chairman: Mr. LACHS (Poland).*

### **Draft rules for the calling of international conferences: report of the Secretary-General (A/943) (continued)**

#### DRAFT RULE 1 (continued)

1. The CHAIRMAN asked the Committee to continue its discussion of rule 1 of the draft rules for the calling of international conferences (A/943).

2. Mr. WENDELEN (Belgium) recalled that his delegation had been among those which had expressed the opinion<sup>1</sup>, in the Economic and Social Council, that the establishment of a set of rules of that kind would be very useful. So many legal difficulties had emerged from the discussion which had taken place during the Committee's 187th meeting, however, that it was unlikely, as matters stood, that it would be possible to prepare any really effective set of rules. The draft rules (A/943) approved by the Economic and Social Council were worded in terms that were too general and were liable to misinterpretation. The Council made no distinction between the three possible categories of conferences: conferences of States, conferences of experts or of non-governmental organizations, and conferences of States in which experts or representatives of non-governmental organizations took part.

<sup>1</sup> See paragraph 25 above.

<sup>2</sup> See paragraph 37 above.

3. It was not possible to adopt one single set of rules for all three categories of conferences, and it was necessary to specify in particular the conditions on which experts or representatives of non-governmental organizations would be called upon to participate in conferences of States. Consequently, the distinction between those three types of conference should be made not only in rule 1, but also in the other important rules in the draft, such as rules 3 and 5.

4. Therefore, although the Belgian delegation did not in principle favour the idea of referring a question back to another organ, it considered that in the case in point, where considerable alterations were essential to cover the points just indicated and where only the Economic and Social Council would really be in a position to make the desired changes in order to draw up a final draft providing for all eventualities and fulfilling all the practical requirements, it would be advisable to lay the matter before the Council once again. The legal difficulties raised by the present draft should be pointed out to the Council and it should be advised that it would be desirable to amend the draft in such a way as to provide separate rules for the calling of the three types of conference which the Council might need to convene. The resulting de-

<sup>3</sup> See document E/AC.28/SR.29.

lay would in no way paralyse the Economic and Social Council, which would be able to continue its work and convene any international conferences it thought necessary in the meantime, as it had been able to do heretofore.

5. Mr. GUERREIRO (Brazil) said that, having voted for draft rule 1 in the Economic and Social Council, his delegation was ready to support it in the General Assembly. In his opinion, Article 62, paragraph 4, of the Charter should not be interpreted in a restrictive sense; the expression "international conferences" should be understood in the usual connotation, as meaning not only conferences of States but all other conferences on an international scale.

6. The objection based on Article 71<sup>1</sup> carried little weight, since that Article did not refer to the Economic and Social Council's power to call conferences. There was nothing in the Charter or in any principle of international law to prevent Article 62, paragraph 4, from being interpreted in the widest possible sense, a sense which would also be the most favourable for the Economic and Social Council's work. Since the Council had to deal with many extremely varied and complex problems, it should be allowed the greatest possible latitude to apply whatever methods seemed to it to be the most suitable for the solution of each particular case. In practice, the Council would of course be called upon mainly to convene conferences of States, but it should also be empowered to call conferences of experts or of non-governmental organizations, if the need arose, as it had already done in the case of the United Nations Scientific Conference on the Conservation and Utilization of Resources.

7. Mr. Guerreiro recognized that the Belgian representative's suggestion<sup>2</sup> was not without value, but it seemed to him that the Economic and Social Council had been fully aware of the facts when it had drafted the rules in very general terms; realizing that it would be difficult in a set of rules of that kind to provide for every contingency and all the problems which might arise, the Council had tried to guarantee itself the greatest possible freedom of action in every case. It might perhaps be preferable to settle a certain number of important points in a more specific and systematic manner, and particularly to draw up separate rules for the three categories of conferences mentioned by the representative of Belgium. However, those adjustments could be made later, in the light of experience. Despite the imperfections in the draft, therefore, the Brazilian delegation would not oppose the adoption of rule 1. If, however, the Sixth Committee decided to adopt the Belgian delegation's suggestion, he saw no serious objection to such a decision.

8. Mr. KRAJEWSKI (Poland) thought that the text of draft rule 1, which raised not only a problem of the definition of international conferences but also a question of substance, was both obscure and contrary to the Charter. It was under Article 62, paragraph 4, that the General Assembly in resolution 173 (II) had invited the Secretary-General to prepare, in consultation with the Economic and Social Council, draft rules for the calling of international conferences. The draft rules could

not therefore go beyond the provisions of that Article of the Charter, which authorized the Economic and Social Council to call international conferences on matters falling within its competence. Those draft rules could not, for example, be extended to Article 71, which, as the representative of France had correctly emphasized, referred only to consultation with non-governmental organizations. The two Articles were therefore entirely separate, since each dealt with a different question entailing a special procedure. It was, moreover, normal that the procedure should be different, since experts and non-governmental organizations could only give advisory opinions without binding force, whereas conferences of States could take decisions mandatory on the participants, namely, the United Nations. The link between those conferences and the Organization was therefore of an entirely different nature from the relationship which might be established between the latter and experts or non-governmental organizations. He therefore considered that Article 62 applied only to conferences of States similar to those mentioned in Article 109 of the Charter, in which only Governments could participate.

9. For those reasons, the Polish delegation would vote against draft rule 1, which in reality contained an internal contradiction. On the one hand, the text stated that international conferences could be called provided that the Economic and Social Council was "satisfied that the work to be done by the conference cannot be done satisfactorily by any organ of the United Nations or by any specialized agency" and, on the other hand, that conferences of experts or non-governmental organizations, which were purely consultative organs, might be called to carry out the same work, in other words, work which came within the competence of the United Nations itself. It was therefore clear that rule 1 had no sound legal basis; in that respect, he shared the opinion expressed by the delegations of France and the USSR<sup>3</sup>.

10. Finally, he pointed out that, even if a conference of States was to be called, the States should first be consulted; for if they considered such a conference unnecessary, on the grounds that the work might be done in some other way, their opinion might make it possible to avoid the considerable expense which would be entailed by the holding of the projected conference.

11. Mr. ABDOH (Iran) stated that, in reply to the question he had asked the Secretariat, Mr. Feller had pointed out that the only differences between the commissions of experts established under Article 68 of the Charter and the conferences of experts envisaged in draft rule 1 which would be called under Article 62 of the Charter, lay in the number of experts and in the scope of their terms of reference: the commissions established under Article 68 were generally composed of a small number of experts, whereas the conferences envisaged in Article 62, paragraph 4, might have more members and be given more extensive powers than the commissions.

12. He considered that the difference in membership and terms of reference did not justify a distinction being made between those two types of meeting. Consequently, any conference of ex-

<sup>1</sup> See the Summary Record of the 187th meeting, paragraph 31.

<sup>2</sup> See paragraph 4 above.

<sup>3</sup> See the Summary Record of the 187th meeting, paragraphs 25 to 32.

perts, whatever it might be, could be organized under Article 68. In those circumstances, the Iranian delegation came to the same conclusion as had the French delegation: paragraph 4 of Article 62 concerned only conferences of States. The authors of the Charter had deliberately used separate Articles to deal with (a) the calling of conferences of States (Article 62), (b) the establishment of commissions of experts (Article 68), and (c) consultation with non-governmental organizations (Article 71). The corresponding three categories of conferences could not therefore be included in one and the same rule of the draft rules, nor could the same rules be applied for calling them.

13. There was no reason, however, why experts and representatives of non-governmental organizations should not take part in conferences of States, on condition, naturally, that they were not given the same status as representatives of States.

14. The Iranian delegation therefore thought that draft rule 1 should be so amended as to provide, in one paragraph, that the Economic and Social Council could call conferences of States, and, in a second paragraph, that the Council would have the right to invite experts or non-governmental organizations to attend, if their presence would facilitate the comprehension or solution of the problems submitted to those conferences.

15. Mr. ROBINSON (Israel) wished to speak only on a question of terminology. The expression "international conferences of States" was simply a pleonasm. None of the conferences of States which had been held during the war, before the establishment of the United Nations, at Yalta, Teheran and Potsdam, had been termed international, any more than had the San Francisco Conference or the conferences which had been called later under the auspices of the United Nations, whether on freedom of information and of the Press, on maritime questions, on the conservation and utilization of natural resources, or on statistics, with the sole exception of the International Health Conference. Nor was that term found in the case of the Congresses of Vienna and Berlin, which had been held during the nineteenth century.

16. It was true that an International Conference of National Red Cross Societies had been held in Stockholm in 1948; but that conference had been of a purely private nature and it was at the Diplomatic Conference held in Geneva that the representatives of States had officially discussed the questions on the agenda of the former conference.

17. Consequently, the expression "international conferences" had no meaning unless it designated international conferences of experts or of non-governmental organizations. Used in conjunction with the word "States", that expression was redundant.

18. If those facts were taken into account, the result of the introduction of the adjective "international" in the text of draft rule 1 would be to limit the power of the Economic and Social Council to the convening of conferences of experts and non-governmental organizations at the international level. The use of that adjective would consequently deprive the Council of the right to call organizations of a given country.

19. Mr. BARTOS (Yugoslavia) thought that, in examining the draft rules, the Committee should bear in mind the fact that the situation at the moment was the purely temporary one brought about by the supplementary rule which had been added to the rules of procedure, since the rules envisaged in paragraph 4 of Article 62 had not yet been established. At the moment, therefore, the Economic and Social Council had the power to call international conferences on any question within its competence.

20. When the General Assembly had invited the Secretary-General and the Economic and Social Council to prepare draft rules for the calling of international conferences, the Assembly's intention had not been to confer on the Economic and Social Council a general authorization which already existed, but to establish detailed rules for the calling of conferences, to be applicable in every case which might arise. The General Assembly had obviously been thinking of conferences of States; such, at least, was the opinion of the Yugoslav delegation, which in that respect shared the opinion of the French representative. It was in that sense that the expression "international conferences" was understood in diplomatic language, in international law and in most international documents, such as the Charter.

21. The Economic and Social Council had judged it necessary to try to allow in those rules for every eventuality with respect to conferences which might arise in practice. Thus, draft rule 1 referred, in fact, to various categories of international or quasi-international conferences as follows: conferences of States; conferences of experts; conferences of non-governmental organizations, no mention having been made of the fact that only international organizations or national organizations envisaged in Article 71 of the Charter were intended; and, finally, as the representative of the Secretary-General had pointed out, to those joint conferences in which both representatives of States and experts or non-governmental organization participated.

22. It was generally agreed that the Economic and Social Council should be allowed to call conferences of States.

23. With respect to conferences of experts, the Yugoslav delegation considered that it might be desirable from time to time to call conferences of that type to settle questions of international law or policy. There was nothing in the Charter to prevent it from doing so; and if the Economic and Social Council was allowed to establish commissions of experts for an extended period of time, it was *a fortiori* able to convene temporary conferences of experts.

24. The same was true where non-governmental organizations were concerned. Since Article 71 stated that those organizations could be consulted by the Economic and Social Council, there seemed no reason why such consultation should not be collective consultation at a conference.

25. As for mixed conferences, they certainly existed in practice and could be of value. Where they were concerned, however, there was an important question regarding the status of experts and non-governmental organizations participating in those conferences, the question whether they would have the same rights as representatives of

States or would attend in an advisory capacity only. The draft rules did not touch on that point and no definite answer had been given. That deficiency resulted from the fact that those rules were too general in nature and, more particularly, that draft rule 1, instead of dealing exclusively with the conferences of States mentioned in General Assembly resolution 173 (II) and Article 62 of the Charter, dealt with several possibilities which were, it was true, envisaged in the Charter, but which should be dealt with in separate rules.

26. It was evident that the Sixth Committee was not in possession of the details necessary for drawing up the various rules which would answer all the practical requirements for which the Economic and Social Council had wished to provide. For that reason, the Belgian suggestion<sup>1</sup> should be examined with interest. The General Assembly could perhaps adopt a new resolution, so that every case in which the calling of conferences at the international level — whether diplomatic conferences, conferences of experts or of non-governmental organizations, or mixed conferences — might arise, could be provided for in a detailed set of rules.

27. In the meantime, the Economic and Social Council could continue to call conferences which it deemed necessary, under the provisional system established by the supplementary rule of the rules of procedure, which it had obviously found adequate, since it had shown no haste in drawing up the draft rules, which should have been submitted to the third session of the General Assembly.

28. In view of the defects to which it had just called attention, the Yugoslav delegation would not be able to vote for draft rule 1.

29. Mr. STABELL (Norway) thought that in studying draft rule 1 care should be taken not to lose sight of the general structure of the draft rules.

30. The basis for that draft was to be found in Article 62, paragraph 4, of the Charter, in which it seemed that the authors had wished the Economic and Social Council's power to convene international conferences to be limited by rules prescribed by the United Nations. The impression gained from a perusal of draft rule 1 and some of those following, however, was that the Economic and Social Council would be granted the most extensive powers both in selecting the type of conference to be convened and in issuing invitations, in determining the extent to which those invited should take part in the conference, in making all the financial arrangements and in laying down its rules of procedure. It seemed, therefore, that the draft was not drawn up strictly in the spirit of Article 62.

31. With regard to the meaning of the expression "international conferences" which figured in that Article, the representative of Norway had been greatly struck by the assertion of the French delegation<sup>2</sup> that only conferences of States were covered by Article 62. There was an unquestionable link between paragraphs 3 and 4 of that Article. The intention of its authors seemed to

have been that, if the Economic and Social Council was not itself able to draw up a draft convention on a question within its competence, it should be able to convene an international conference for that purpose. In that case, the conference would obviously be a conference of States convened to draw up a draft convention.

32. There was, however, some ground for the contention that the expression "international conferences" could be interpreted in a broader sense.

33. The real problem, however, was not only legal in nature. It could be questioned whether, in practice, it was advisable to grant the Economic and Social Council such broad powers as those provided in the draft. The convening of joint conferences raised very delicate questions, such as the exercise of the right to vote in those conferences, and their financing. The responsibility for solving those problems could not be left to the Council; provision for their settlement should be made in the rules themselves.

34. The representative of Yugoslavia had drawn attention<sup>3</sup> to Article 71 of the Charter, the last sentence of which provided that national organizations could not be consulted by the Economic and Social Council except after consultation with the Member of the United Nations concerned. It would be illogical for the Council to enjoy greater powers when the matter was one of inviting the same organizations to a conference at which they would be placed on the same footing as States, that is, where they would be able not only to give opinions but also to take part in the decisions of the conference. It was doubtful whether draft rule 1 was in conformity with the provisions of the Charter in that respect.

35. That was the difficulty which the Argentine delegation had wished to eliminate by means of its amendment (A/C.6/L.76)<sup>4</sup> which provided that conferences of experts and non-governmental organizations could only be convened after consultation with Member States. In Mr. Stabell's opinion, that amendment was not sufficiently clear. It did not specify which States should be consulted, that is, whether they were the Members concerned referred to in Article 71 of the Charter, namely, the States in which the organizations to be invited had their headquarters. The Argentine amendment should therefore be clarified on that point.

36. As the matter stood, the Norwegian delegation was inclined to vote against the adoption of rule 1, and would modify its position only if convincing arguments were presented in support of that draft.

37. Mr. FELLER (Secretariat) while emphasizing that he was not qualified to speak on behalf of the Economic and Social Council, wished to make it clear that the Secretary-General, in his consultations with the Council, had proposed several versions<sup>5</sup> for the various draft rules and that the Council had made the final selection from among those texts.

38. The solution proposed by the Belgian delegation<sup>6</sup> would delay the adoption of rules con-

<sup>1</sup> See paragraph 4 above.

<sup>2</sup> See the Summary Record of the 187th meeting, paragraph 29.

<sup>3</sup> See paragraphs 21 and 24.

<sup>4</sup> See the Summary Record of the 187th meeting, paragraph 43.

<sup>5</sup> See document E/836 and E/836/Add.1 and E/AC.28/W.32.

<sup>6</sup> See paragraph 4 above.



cerning the convening of international conferences. Mr. Feller suggested that the Committee should decide to restrict the scope of the draft rules to conferences of States and that it should indicate in its report to the General Assembly that the omission of any reference to conferences of experts and non-governmental organizations in no way prejudged any decision which might later be reached with respect to such conferences. The Committee might also request the Economic and Social Council to study the question of convening conferences of experts and non-governmental organizations and to submit new proposals in that respect if it thought fit.

39. That solution, which had many advantages from the practical point of view, would, he thought, satisfy the Belgian delegation.

40. Mr. DUYNSTEE (Netherlands) wished to draw the Committee's attention to the fact that in Chapter X of the Charter, which was devoted to the Economic and Social Council, Article 62 was entitled "Functions and Powers", whereas Articles 68 onwards came under the heading of "Procedure". In view of that fact, it could be assumed that Article 68 and those following in that Chapter did not grant the Council any powers distinct from those conferred on it by Article 62 but only indicated the methods by which the Council could exercise some of the functions enumerated in Article 62. It was not correct to say that Articles 68 onwards, and in particular Article 71, limited the Economic and Social Council's power to convene international conferences. Article 71 dealt with the arrangements which the Council could make for consulting non-governmental organizations concerned with matters within its competence. The convening of an international conference in which those organizations would take part did not come within the framework of the arrangements provided for in Article 71, since such a conference could not be likened to consultation with non-governmental organizations.

41. The Netherlands delegation considered that Article 71 of the Charter did not apply in the case in point and that the adoption of the draft rules would not raise any legal difficulties. The delegation was, however, prepared to agree to the suggestion of the Belgian delegation but it reserved its position.

42. Mr. ABDON (Iran) fully supported Mr. Feller's suggestion that the scope of the draft rules should be limited to conferences of States. He urged the Committee to adopt that solution.

43. Mr. FERRER VIEYRA (Argentina) pointed out that, in the English text of the amendment submitted by his delegation (A/C.6/L.76), the words "Member States" meant States Members of the United Nations.<sup>1</sup>

44. Turning to draft rule 1, he declared that two trends had been manifested in the Committee: certain representatives were inclined to give the Economic and Social Council wider powers, while others wanted the Council to consult Governments before deciding to convene any kind of international conference. The Argentine delegation considered that neither of those extreme views was in keeping with the provisions of the Charter. It would be contrary to the intentions of the authors of Article 62, paragraph 4, of the Charter

to impose upon the Council the obligation to consult Governments before convening an international conference of States; on the other hand, to give the Council the power to convene an international conference in which experts or non-governmental organizations were to take part, without previously asking the views of Governments, would be contrary to the express provisions of Article 71.

45. The Argentine delegation considered that the solution to the problem was to be found in a middle course, and that preliminary consultation with Governments need only be required in the case of international conferences of experts or of non-governmental organizations. That delegation had therefore submitted an amendment (A/C.6/L.76) to draft rule 1 to that effect. It was ready, however, to accept the solution recommended by the Secretary-General. The Committee could, during the current session, submit to the General Assembly draft rules for the calling of international conferences of States and could request the Economic and Social Council to prepare for the next session a draft relating to the other two categories of international conferences.

46. Mr. KORETSKY (Union of Soviet Socialist Republics) said that all the evidence went to show that the international conferences mentioned in paragraph 4 of Article 62 of the Charter were solely conferences of States, since it was impossible to imagine that experts or non-governmental organizations would take part on an equal footing with representatives of sovereign States.

47. The USSR delegation did not share the views of the representative of Israel on the meaning to be given to the word "international" in the expression "international conferences".<sup>2</sup> In its opinion, the authors of the Charter could not have intended those conferences to be any other than those in which representatives of States took part. The classic example of such conferences was that described in article 23, paragraph 1 (d), of the Statute of the International Law Commission, that was to say, a conference convoked to conclude a convention, which could obviously be composed only of States. That was the type of conference the Committee should have in mind in drawing up draft rules.

48. The delegation of Argentina was proposing that the Economic and Social Council should not consult Member States before convoking an international conference except in the case of a conference of experts or of non-governmental organizations. According to that delegation, the Council would be empowered to call an inter-governmental conference and to determine the number of participants in that conference, without previous consultation with Member States. Mr. Koretsky drew the attention of the representative of Argentina to the provisions of Article 62, paragraph 4, of the Charter, which did not allow the interpretation that the Economic and Social Council could call conferences in which all Member States of the United Nations would not participate. Furthermore, the only possible conclusion to be drawn from the fact that the Council could call international conferences only "in accordance with the rules prescribed by the United Nations" was that the authors of the Charter had not wished to give the Council discretionary power to call inter-

<sup>1</sup> See paragraph 35 above.

<sup>2</sup> See paragraphs 15 to 18 above.

national conferences whenever it thought necessary. It should be remembered that the Economic and Social Council was made up of eighteen Member States and that therefore the agreement of ten of those Members sufficed for the taking of a decision. The calling of an international conference entailed a considerable sacrifice of time and money for Member States; that sacrifice could not be forced upon them by a decision taken by a simple majority in the Economic and Social Council, but only after a substantial number of States had recognized the necessity for such a conference. For those reasons the USSR delegation had proposed an amendment to draft rule 1 (A/C.6/L.72),<sup>1</sup> to the effect that only after due consultation with the States Members of the United Nations should the Economic and Social Council be empowered to call conferences of States on any matter within its competence. He pointed out that the amendment did not specify how many favourable opinions would be required before a conference of States could be called. The delegation of the USSR would be satisfied so long as the Council was required to consult Member States and then make its decision in full knowledge of the facts.

49. If Mr. Feller's suggestion that the scope of the draft rules should be limited to inter-governmental conferences were adopted, as he hoped it would be, there would be no point in deciding on the Argentine amendment (A/C.6/L.76), since it related only to the calling of conferences of experts or of non-governmental organizations. Only if the Committee were to decide that the rules should relate to those two categories of conferences as well as to conferences of States would it be necessary to study that amendment more thoroughly.

50. Mr. MAKTOS (United States of America) did not agree with the solution suggested by the Belgian delegation or with that proposed by the Secretariat and the Iranian delegation.<sup>2</sup> Both solutions were based on the consideration that it would be desirable to have a set of highly-detailed rules for the calling of international conferences of experts or non-governmental organizations. The representative of Belgium had not, however, been able to give convincing proof of the need for *a priori* rules for the calling of such conferences. The United States delegation believed that the rules should have all the flexibility necessary to enable the Economic and Social Council to apply the rules it deemed most appropriate in each specific case.

51. Mr. Maktos reviewed the various rules of the draft in order to show that they were for the most part equally applicable to conferences of experts or non-governmental organizations or to conferences of States. It was therefore unnecessary to refer the draft to the Economic and Social Council. He believed that the Committee had sufficient information at its disposal to enable it to adopt rules for the calling of conferences of experts or non-governmental organizations.

52. The Norwegian representative had come to the conclusion from the wording of Article 62, paragraph 4, of the Charter, that those responsible for the Charter had intended to limit the powers of the Economic and Social Council with respect

to the calling of international conferences.<sup>3</sup> That conclusion of the Norwegian representative would have been correct if the rules foreseen in that paragraph were to be strictly rigid and devoid of all flexibility. It was essential, however, that the rules should allow the Council a certain freedom of action in each particular case; it could be assumed that the Council would avail itself of that freedom with moderation and that it would not apply the rules, particularly the provisions of rules 3, 7 and 8, in an arbitrary way.

53. Finally, the United States representative supported the view expressed by the Netherlands representative,<sup>4</sup> who had maintained that the provisions of Article 68 and subsequent Articles in that Chapter of the Charter defining the methods whereby the Council should carry out its functions under Article 62, could not be held to limit the powers enjoyed by the Council by virtue of that Article.

54. Mr. GARCÍA AMADOR (Cuba) asked the representative of the Secretary-General whether the discussions which had taken place in the Technical Committee at the San Francisco Conference had been taken into account when the draft rules had been drawn up and whether a study of the official records of that Committee's debates on Chapters IX and X of the Charter had made it possible to assess clearly what had been intended by those responsible for the Charter with regard to the extent of the powers conferred on the Economic and Social Council in connexion with the calling of international conferences.

55. Mr. LOUTFI (Egypt) supported the remarks made by the representatives of Belgium and Yugoslavia.<sup>5</sup>

56. The Egyptian delegation believed that the draft rules were not sufficiently complete and that they were not of a nature which would make it possible to solve all the difficulties which might arise in connexion with the calling of international conferences. The Sixth Committee was not in a position to amplify and improve upon the draft rules since it did not have the necessary material at its disposal. The Committee in fact had no information concerning the views of the Economic and Social Council on the various draft rules. It would not serve any useful purpose to read the summary records of the Council meetings in which the draft had been studied since it had been adopted after a comparatively brief discussion. It would therefore be desirable to refer the draft rules to the Economic and Social Council with the request that it should redraft them in the light of the discussion which had taken place in the Sixth Committee.

57. Mr. Loutfi stressed the fact that his delegation preferred the solution suggested by the Belgian delegation<sup>6</sup> to the one proposed by the Secretary-General and the Iranian delegation<sup>7</sup> since the delegation of Egypt considered that the whole draft, and not merely the provisions referring to the conferences of experts or of non-governmental organizations, should be revised by the Council.

58. The Egyptian delegation agreed with the French and USSR delegations that the international conferences referred to in Article 62, para-

<sup>3</sup> See paragraph 31 above.

<sup>4</sup> See paragraph 40 above.

<sup>5</sup> See paragraphs 2 to 4, and 19 to 28 above.

<sup>6</sup> See paragraph 4 above.

<sup>7</sup> See paragraphs 38 and 42 above.

<sup>1</sup> See the Summary Record of the 187th meeting, paragraph 22.

<sup>2</sup> See paragraphs 4, 38 and 42 above.

graph 4, of the Charter were conferences of States and not conferences of experts or of non-governmental organizations. It would therefore vote against draft rule 1 if it were put to the vote.

59. Mr. WENDELEN (Belgium) agreed with the United States representative that the draft rules should be flexible and that most of them should apply not only to inter-governmental conferences but to other categories of international conferences as well. He also wished to point out that certain parts of the draft, especially rules 3 and 5, did not fulfil the main requirement that draft rules be as explicit as possible, and raised procedural questions which would not fail to cause serious difficulties of interpretation. Thus, for example, the question of the financing of a conference would cause considerable difficulties, as it would not be easy to decide what portion of the expenses was chargeable to each participant. That had been the case with the Havana Conference on Trade and Employment, which currently showed a deficit.

60. Mr. Wendelen hoped that the Committee would bear those facts in mind and adopt either the solution proposed by the Belgian delegation or that recommended by Mr. Feller.

61. Mr. CHAUMONT (France), after emphasizing the prime importance of correctly interpreting and of observing the provisions of the Charter, stated that, in his opinion, the Norwegian representative had correctly interpreted<sup>1</sup> paragraphs 3 and 4 of Article 62.

62. He recalled that in the Co-ordination Committee of the Preparatory Commission at San Francisco a question had arisen concerning the order in which those two paragraphs should appear in Article 62. There had been two hypotheses: the Economic and Social Council could either undertake to draw up a draft convention itself or it could call an international conference for that purpose. The legal position was the same, except that, under the first hypothesis, the Council would participate directly in the drawing up of a convention. The Co-ordination Committee had finally decided to leave paragraphs 3 and 4 in the order in which they now appear. The international conferences referred to in paragraph 4 could only be international conferences of States, since they were the only ones competent to draw up draft international conventions.

63. Furthermore, contrary to the assertions of the United States representative, Mr. Chaumont did not see how some of the draft rules could apply to a conference in which only experts or organizations participated. Draft rule 3 was contrary to the very idea of any set rules for an international conference, for it gave the Council full latitude to decide which States, experts and organizations should be invited to the conference and also to determine the extent of their participation. No mention was made, for example, of the difficulties to which the question of voting would give rise in such conferences. That was a basic problem which could not be disregarded.

64. Draft rule 7 provided that, "at conferences of States called under these rules, specialized agencies . . . and non-governmental organizations . . . shall be entitled to the same rights and privileges as at sessions of the Council itself. . ." It therefore followed *a contrario* that, in conferences which were not conferences of States, those agen-

cies and organizations would have greater privileges than they possessed at sessions of the Council. Such a rule could scarcely be accepted.

65. Mr. Chaumont wished to emphasize that the French delegation's sole concern was to see that the Charter was strictly applied. That delegation was in no way opposed to non-governmental organizations; it wished, on the contrary, to encourage their participation in the United Nations. It was advisable, however, in the very interests of those organizations, not to confuse their status, based on Article 71 of the Charter, with that of States.

66. Finally, Mr. Chaumont stated that under General Assembly resolution 173 (II) the Council had been formally instructed to prepare, in consultation with the Secretary-General, draft rules for the calling of international conferences, as laid down in Article 62, paragraph 4, of the Charter, namely draft rules for the calling of international conferences of States. That did not mean that it was not advisable to provide rules for the calling of conferences of experts or organizations; but in including the last two categories in the draft rules under consideration, the Council had gone beyond its terms of reference.

67. Mr. FERRER VIEYRA (Argentina) did not share the views of the USSR representative<sup>2</sup> that, under paragraph 4 of Article 62 of the Charter, the Council could not call an international conference without first consulting States. That had not been the practice followed thus far by the Council, which had in fact called such conferences, among which was the one held at Denver, Colorado.<sup>3</sup> The Argentine amendment (A/C.6/L.76),<sup>4</sup> therefore, was merely intended to sanction the practice actually followed by the Council.

68. Mr. KORETSKY (Union of Soviet Socialist Republics) then asked Mr. Feller whether the Secretary-General, during his consultations with the Council, had claimed the right to call international conferences of States without any prior consultation.

69. Mr. FAWCETT (United Kingdom) pointed out that, by virtue of a well-established principle which had been confirmed by the Permanent Court of International Justice and the International Court of Justice, too much importance should not be attached, when interpreting a text, to the work carried out preparatory to its drafting unless there were serious doubts about that text. In the case in question, there existed no such doubt, but merely differences of opinion. An attempt should not be made, therefore, to deduce from the preparatory work at San Francisco arguments which would allow an interpretation of the Charter favourable to the standpoint of any particular delegation.

70. Mr. Fawcett recalled that the Council had already called international conferences of experts, such as the Conference on Freedom of Information and the United States Scientific Conference on the Conservation and Utilization of Natural Resources, and that the Council could only have done so by virtue of the powers granted it under Article 62 of the Charter. Mr. Fawcett considered that too much emphasis had been placed on the phrase "in accordance with the rules pre-

<sup>2</sup> The reference was to the Inter-American Conference on the Conservation of Renewable Natural Resources, held in September 1948.

<sup>4</sup> See the Summary Record of the 187th meeting, paragraph 43.

<sup>1</sup> See paragraph 31 above.

<sup>3</sup> See paragraph 48 above.

scribed by the United Nations" which figured in that Article. The real question was whether those words gave the Organization the power to interpret as it wished the words "international conference".

71. The real point to decide was whether or not, the Council's powers should be limited, since such a restrictive interpretation of the Charter would tend to limit those powers. The United Kingdom delegation was of the opinion that the Charter should be interpreted as broadly as possible if United Nations organs were to function normally.

72. Mr. GARCÍA AMADOR (Cuba) explained that, when he had asked<sup>1</sup> Mr. Feller whether the Secretary-General, in drawing up the draft rules, had taken into account the preparatory work at San Francisco, he had had no intention of seeking an argument in that work in support of the point of view of the Cuban delegation.

73. Mr. FELLER (Secretariat), in reply to the above-mentioned question put by the representative of Cuba, stated that the Secretariat had found no indication, in the summary records of the preparatory work at San Francisco, of the meaning which the authors of the Charter wished to give to the expression "international conferences".

74. As regards the question of the USSR representative,<sup>2</sup> Mr. Feller pointed out that no question had arisen during the preparation of draft rule 1 concerning any provision for prior consultation with Member States; one might draw from that fact whatever conclusions seemed appropriate. He added that the question had not been discussed at length during the consultations between the Secretary-General and the Council.

75. Mr. ORIBE (Uruguay) asked Mr. Feller whether anything had developed during the preparatory work at San Francisco to justify the interpretation given to Article 62 by the representatives of the Netherlands and France.

76. The Uruguayan delegation thought that the text of that Article was perfectly clear and that, in the absence of contrary indications in the course of the preparatory work, there was no reason for interpreting it restrictively. Mr. Oribe interpreted the term "international conferences" in its broadest sense, that is, as meaning conferences in which people of different nationalities took part, as opposed to "national conferences", which were attended by nationals of a single State. The expression "international conferences" had, under the Charter, a very definite meaning, broader than that of conferences of States. Mr. Oribe con-

sidered that the "international organizations" mentioned in Article 71 of the Charter were intended to cover both governmental and non-governmental organizations, and that it was thus that the word "international" should be understood.

77. The representative of Uruguay finally asked whether there existed among the works of codification of the League of Nations any project classification on international conferences which might throw some light on the matter.

78. Mr. FELLER (Secretariat) again stated that the Secretariat had found nothing among the preparatory work at San Francisco to indicate the intentions of the authors of the Charter.

79. Mr. PÉREZ PEROZO (Venezuela) stated that, in the opinion of his delegation, Article 62 of the Charter authorized the Council to call both international conferences of States and international conferences of experts or organizations. That was a logical consequence of the functions conferred on the Council by Chapter X of the Charter. It was hardly likely that, after having entrusted the Council with so many delicate tasks, the authors of the Charter would have wished to authorize them to convene conferences of States only, when, by reason of the very nature of its functions, the Council might find it advisable to call conferences of experts or others.

80. The delegation of Venezuela, although in favour of the present draft article I, would nevertheless, in accordance with the wishes of several delegations, agree to the question being studied more thoroughly. It could not, however, support the Belgian proposal to refer the matter back to the Council, since it was primarily the Sixth Committee which should take decisions on questions which were in essence legal.

81. The delegation of Venezuela considered, therefore, that it might be advisable to set up a committee to study the matter and to prepare a new text calculated to satisfy the majority of the Committee.

82. The CHAIRMAN ruled that, since the Belgian representative had not submitted a formal proposal, the Committee should first come to a decision on the Iranian proposal, based on Mr. Feller's suggestion.<sup>3</sup>

83. Mr. LOUTFI (Egypt) asked that the meeting be adjourned so as to allow the Belgian representative to submit his proposal at the next meeting.

*The Egyptian motion of adjournment was adopted by 26 votes to one, with 17 abstentions.*

The meeting rose at 5.40 p.m.

<sup>1</sup> See paragraph 54 above.

<sup>2</sup> See paragraph 68 above.

<sup>3</sup> See paragraphs 38 and 42 above.

<sup>4</sup> See the Summary Record of the 188th meeting, paragraphs 54 and 75.