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PREPARATORY CONFERENCE FOR THE UNITED NATIONS CONFERENCE ON
PROHIBITIONS OR RESTRICTIONS OF USE OF
CERTAIN CONVENTIONAL WEAPONS WHICH MAY
BE DEEMED TO BE EXCESSIVELY INJURIOUS
OR TO HAVE INDISCRIMINATE EFFECTS

PROVISIONAL RULES OF PROCEDURE

Note by the Secretariat

1. In order to assist the Preparatory Conference in establishing the rules relating to the making of decisions, and in particular rules 33 and 48 (c), which were left blank in the draft prepared by the Secretary-General (A/CONF. /2, paragraph 5 and Annex), the secretariat is annexing hereto comparable rules from the following recent conferences, five of which were convened by the United Nations and three by other authorities:

- | | |
|--|--------------------|
| (1) Third United Nations Conference on the Law of the Sea | A/CONF.62/30/Rev.2 |
| (2) United Nations World Population Conference (Bucharest, 1974) | E/CONF.60/2 |
| (3) United Nations Conference on the Establishment of UNIDO as a Specialized Agency (New York, 1978) | A/CONF.90/8 |
| (4) United Nations Conference on the Carriage of Goods by Sea (Hamburg, 1978) | A/CONF.89/3 |
| (5) United Nations Conference on Succession of States in Respect of Treaties (Vienna, 1977-1978) | A/CONF.30/2 |
| (6) Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (Geneva, 1975) | INPT/CONF/2 |
| (7) Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts | CDDH/2/Rev.1 |
| (8) Conference on Security and Co-operation in Europe (Helsinki, 1975) | |

2. Also attached is the recommendation of the Preparatory Committee for the special session of the General Assembly devoted to disarmament concerning the adoption of decisions by the Assembly at the special session, which was endorsed by General Assembly resolution 32/88 B of 12 December 1977.

3. The rules reproduced in the annex correspond generally to the subject matter to be covered by proposed rules 33-35 and 48 (d) of the Preparatory Conference, though in some of the extracts certain other subjects related to voting procedures are also covered.

1. Third United Nations Conference on the Law of the Sea

CHAPTER VI*/

DECISION-MAKING

Requirements for voting

Rule 37

1. Before a matter of substance is put to the vote, a determination that all efforts at reaching general agreement have been exhausted shall be made by the majority specified in paragraph 1 of rule 39.

2. Prior to making such a determination the following procedures may be invoked:

(a) When a matter of substance comes up for voting for the first time, the President may, and shall if requested by at least 15 representatives, defer the question of taking a vote on such matter for a period not exceeding 10 calendar days. The provisions of this sub-paragraph may be applied only once on the matter.

(b) At any time the Conference, upon a proposal by the President or upon motion by any representative, may decide, by a majority of the representatives present and voting, to defer the question of taking a vote on any matter of substance for a specified period of time.

(c) During any period of deferment, the President shall make every effort, with the assistance as appropriate of the General Committee, to facilitate the achievement of general agreement, having regard to the over-all progress made on all matters of substance which are closely related, and a report shall be made to the Conference by the President prior to the end of the period.

(d) If by the end of a specified period of deferment the Conference has not reached agreement and if the question of taking a vote is not further deferred in accordance with sub-paragraph (b) of this paragraph, the determination that all efforts at reaching general agreement have been exhausted shall be made in accordance with paragraph 1 of this rule.

(e) If the Conference has not determined that all efforts at reaching agreement had been exhausted, the President may propose or any representative may move, notwithstanding rule 36, after the end of a period of no less than five calendar days from the last prior vote on such a determination, that such a determination be made in accordance with paragraph 1 of this rule; the requirement of five days' delay shall not apply during the last two weeks of a session.

3. No vote shall be taken on any matter of substance less than two working days after an announcement that the Conference is to proceed to vote on the matter has been made, during which period the announcement shall be published in the Journal at the first opportunity.

*/ See Rules of Procedure of the Third United Nations Conference on the Law of the Sea (A/CONF.62/30/Rev.2).

Third United Nations Conference on the Law of the Sea (cont'd,)

Voting rights

Rule 38

Each State represented at the Conference shall have one vote.

Required majority

Rule 39

1. Decisions of the Conference on all matters of substance, including the adoption of the text of the Convention on the Law of the Sea as a whole, shall be taken by a two-thirds majority of the representatives present and voting, provided that such majority shall include at least a majority of the States participating in that session of the Conference.

2. Rule 37 shall not apply to the adoption of the text of the Convention as a whole. However, the Convention shall not be put to the vote less than four working days after the adoption of its last article.

3. Except as otherwise specified in these rules, decisions of the Conference on all matters of procedure shall be taken by a majority of the representatives present and voting.

4. 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 immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a majority of the representatives present and voting.

Meaning of the phrase "representatives present and voting"
and of the term "States participating"

Rule 40

1. For the purpose 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.

2. Subject to the provisions of rules 1 to 5 and without prejudice to the powers and functions of the Credentials Committee, the term "States participating" in relation to any particular session of the Conference means any State whose representatives have registered with the Secretariat of the Conference as participating in that session and which has not subsequently notified the Secretariat of its withdrawal from that session or a part of it. The Secretariat shall keep a Register for this purpose.

Equally divided votes

Rule 49

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

Third United Nations Conference on the Law of the Sea (cont'd.)

Officers, conduct of business and voting

Rule 55

The rules relating to officers, conduct of business and voting of the Conference (contained in chapters II (rules 6-13), V (rules 22-36) and VI (rules 37-49) above) shall be applicable, mutatis mutandis, to the proceedings of committees and subsidiary bodies, except that:

.....

(b) The presence of representatives of a majority of the States participating in that session of the Conference shall be required for any decision to be taken on any matter in a Main Committee; a majority of the representatives on the General, Drafting or Credentials Committee or any subsidiary organ shall constitute a quorum:

(c) Decisions of committees and subsidiary organs shall be taken by a majority of the representatives present and voting, except in the case of a reconsideration of a proposal for which the majority required shall be that established by rule 36;

(d) Rule 37 shall be applied to the Main Committees, provided that a determination pursuant to paragraph 1 shall require a majority of the representatives present and voting, the deferment of the question of taking a vote by the Chairman of the Committee in conformity with sub-paragraph 2 (a) shall not exceed five calendar days and the assistance specified in sub-paragraph 2 (c) shall be rendered the Chairman by the officers of the Committee.

APPENDIX

Declaration incorporating the "Gentleman's Agreement" */ made by the President and endorsed by the Conference at its 19th meeting on 27 June 1974

Bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance.

The Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted.

*/ Approved by the United Nations General Assembly at its 2169th meeting on 16 November 1973.

2. United Nations World Population Conference

CHAPTER V. VOTING^{*/}

Voting rights

Rule 29

Each State represented at the Conference shall have one vote.

Required majority

Rule 30

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 of the Conference shall rule on the question. An appeal against this ruling shall immediately be put to the vote, and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.

Meaning of the expression "representatives present and voting"

Rule 31

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

Equally divided votes

Rule 40

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

^{*/} See Rules of Procedure of the United Nations World Population Conference (E/CONF.60/2).

United Nations World Population Conference (cont'd)

Officers, conduct of business and voting
in committees and other sessional bodies

... Rule 44

The rules contained in chapters II, IV and V above shall be applicable mutatis mutandis, to the proceedings of committees and other sessional bodies, except that decisions of committees or other sessional bodies shall be taken by a simple majority of the representatives present and voting. In the case of reconsideration of proposals or amendments, however, the majority required shall be that established by rule 28.

Annex

RECOMMENDATION OF THE POPULATION COMMISSION^{*/}

The Population Commission considers that it is highly desirable for the World Population Conference, 1974 to reach decisions on the basis of consensus, which is understood to mean, according to United Nations practice, general agreement without a vote, but not necessarily unanimity.

^{*/} When adopting this recommendation, the Commission recorded its understanding that the statement on consensus in the annex "... could not be considered to constitute a legal precedent and that, when consensus could not be achieved on an important matter of substance, a vote should be taken according to the rules" (see E/5462, para. 67).

3. United Nations Conference on Succession of States in Respect of Treaties

CHAPTER VI */

VOTING

Voting rights

Rule 33

Each State represented at the Conference shall have one vote.

Majority required

Rule 34

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 of the Conference 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 expression "representatives present and voting"

Rule 35

For the purpose 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.

Equally divided votes

Rule 45

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

*/ See Rules of Procedure of the United Nations Conference on Succession of States in Respect of Treaties (A/CONF.80/2).

United Nations Conference on Succession of States in Respect of Treaties (cont'd)

Officers, conduct of business and voting

Rule 50

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

.....

(b) Decisions of committees, sub-committees and working groups shall be taken by a majority of the representatives present and voting, except that the reconsideration of a proposal or an amendment shall require the majority established by rule 31.

4. United Nations Conference on the Establishment of UNIDO as a
Specialized Agency

CHAPTER VI^{*/}

VOTING

Voting rights

Rule 33

Each State represented at the Conference shall have one vote.

Majority required

Rule 34

1. The adoption by the Conference of the Constitution of the United Nations Industrial Development Organization and of any related instruments, including resolutions relating thereto to be annexed to the Final Act or to be proposed to the General Assembly, shall require a two-thirds majority of the representatives present and voting.

2. Unless the Conference decides otherwise and except as otherwise provided in these rules, decisions of the Conference on all other matters shall be taken by a simple majority of the representatives present and voting. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

3. For the purpose 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.

^{*/} See Rules of Procedure of the United Nations Conference on the Establishment of UNIDO as a Specialized Agency (A/CONF.90/8).

5. United Nations Conference on the Carriage of Goods by Sea

CHAPTER VI^{*/}

VOTING

Voting rights

Rule 32

Each State represented at the Conference shall have one vote.

Majority required

Rule 33

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 thereon. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless over-ruled by a majority of the representatives present and voting.
4. For the purpose 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.
5. If the vote is equally divided on a decision requiring a majority of the representatives present and voting, the proposal or motion shall be regarded as rejected.

Applicable rules

Rule 46

The rules contained in chapters II, IV, V and VI above shall be applicable, mutatis mutandis, to the proceedings of subsidiary organs, except that:

.....

(d) Decisions of subsidiary organs shall be taken by a majority of the representatives present and voting, except that a motion to reconsider a proposal shall require the majority established by rule 31.

*/ See Rules of Procedure of the United Nations Conference on the Carriage of Goods by Sea (A/CONF.89/3).

6. Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts

CHAPTE . VI^{*/}

VOTING

Voting rights

Rule 34

Each State represented at the Conference shall have one vote.

Required majority

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 of the Conference shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a majority of the representatives present and voting.

4. Any decision relating to invitations to participate in the Conference shall be adopted by a simple majority of votes of the representatives present and voting.

Equally divided votes

Rule 45

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

Officers, conduct of business and voting in committees

Rule 50

The rules contained in chapters II, V and VI shall be applicable, mutatis mutandis, to the proceedings of committees, sub-committees and working groups, except that ... decisions of committees and sub-committees shall be taken by a majority of the representatives present and voting, but not in the case of a reconsideration of proposals or amendments, in which the majority required shall be that established by rule 32.

^{*/} See Rules of Procedure of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (CDDH/2/Rev.1)

7. Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

VI. VOTING AND ELECTIONS*

Adoption of decisions

Rule 28

1. Decisions on matters of procedure and in elections shall be taken by a majority of representatives present and voting.
2. The task of the Review Conference being to review the operation of the Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized, and thus to strengthen its effectiveness, every effort should be made to reach agreement on substantive matters by means of consensus. There should be no voting on such matters until all efforts to achieve consensus have been exhausted.
3. If, notwithstanding the best efforts of delegates to achieve consensus, a matter of substance comes up for voting, the President shall defer the vote for 48 hours and during this period of deferment shall make every effort, with the assistance of the General Committee, to facilitate the achievement of general agreement, and shall report to the Conference prior to the end of the period.
4. If by the end of the period of deferment the Conference has not reached agreement, voting shall take place and decisions shall be taken by a two-thirds majority of the representatives present and voting, providing that such majority shall include at least a majority of the States participating in the Conference.
5. If the question arises whether a matter is one of procedure or of substance, the President of the Conference shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a majority of the representatives present and voting.
6. In cases where a vote is taken in accordance with paragraphs 1 and 4 above, the relevant rules of procedure relating to voting of the General Assembly of the United Nations shall apply, except as otherwise specifically provided herein.

Voting rights

Rule 29

Every State Party to the Treaty shall have one vote.

* See Rules of Procedure of the Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT/CONF/2).

8. Conference on Security and Co-operation in Europe

6. Rules of Procedure*

.....

(69) 4. Decisions of the Conference shall be taken by consensus. Consensus shall be understood to mean the absence of any objection expressed by a Representative and submitted by him as constituting an obstacle to the taking of the decision in question.

* See Final Recommendations of the Helsinki Consultations (Helsinki, 1973), p.22.

9. Special session of the General Assembly devoted to disarmament

8. Rules of procedure*

26. The rules of procedure of the General Assembly should apply in the special session without amendments, on the understanding that, regarding the adoption of decisions by the Assembly at the special session, every effort should be made to ensure that, in so far as possible, decisions on matters of substance will be adopted by consensus.

* See Official Records of the General Assembly, Report of the Preparatory Committee for the Special Session of the General Assembly devoted to disarmament, Supplement No. 1 (A/S-10/1), Volume I, p. 9. By resolution 32/38 B of 12 December 1977, the General Assembly endorsed this recommendation of the Preparatory Committee.