Article 91 - Reference to the International Court of Justice

2. Any resolution of the Conference under paragraph 3 of Article 90 or decision of the Conference under any other Article of this Charter may be referred to the International Court of Justice by any interested Member, in accordance with a procedure to be determined by agreement between the Organization and the International Court of Justice. The only grounds for such reference shall be legal considerations regarding competence, action ultra vires, or the interpretation of this Charter.

3. Replace by the following:

"The procedure before the International Court of Justice shall be the summary procedure defined in Article 29 of the Statute of the Court."

4. Replace the word "opinion" by the word "judgment".

5. The resolution or decision of the Organization referred to the International Court of Justice shall be modified insofar as it does not accord with the judgment of the International Court of Justice.

The principle that the decisions of the Conference are subject to review, contained in paragraph 2, when taken in conjunction with the binding character of the decision of the International Court of Justice laid down in paragraph 5, is incompatible with the idea of an advisory opinion. The Court's decision, which is to be limited to legal considerations regarding competence, action ultra vires or the interpretation of the Charter, must be in the nature of a judgment.

Moreover, it is normal practice that the Member seeking review of a decision of the Conference should appear before the International Court of Justice as a litigant and should have an opportunity to put its case, while the Organization must be able to defend its decision in the same way.

The only difficulty is that, under the present Statute of the International Court of Justice, public international organizations may not be parties in cases before the Court. The present amendment must therefore be supplemented by the adoption of a resolution in favour of a suitable modification of the Statute of the International Court of Justice.

/RESOLUTION
RESOLUTION

Considering that, under the present text, an international organization may not be a party in a case before the International Court of Justice,

Considering that a useful purpose would be served if decisions taken by an international body could be brought before the International Court of Justice by any Member of the Organization in accordance with a simple and speedy procedure, so that the Court could rule on the legality of the contested decision,

The Conference expresses its wish that the International Court of Justice should consider whether its Statute could be amended so as to permit such procedure.