



CONTENTS

Agenda item 15:

Elections to fill vacancies in principal organs (*continued*):

(a) Election of five non-permanent members of the Security Council 2073

President: Mr. Salim Ahmed SALIM
(United Republic of Tanzania)

AGENDA ITEM 15

Elections to fill vacancies in principal organs (*continued*):

(a) Election of five non-permanent members of the Security Council

1. The PRESIDENT: In conformity with the position at the end of this morning's meeting [114th meeting], this afternoon the General Assembly will continue its consideration of the proposal made at that meeting by the delegation of Austria [A/34/L.66].

2. I should like to reiterate my expectation and hope that our discussion of the proposals that may be put before the Assembly, and more specifically of the proposal made by the delegation of Austria, will be conducted in such a manner as to help the Assembly and its members to arrive subsequently at a decision which will ensure the fulfilment by the General Assembly of its responsibilities under the Charter of the Organization. I believe that all of us understand full well the responsibilities facing us. I also believe that, whatever discussion may take place on this particular item, in view of the complexity and the sensitive nature of the issue it is necessary—as experience has demonstrated—for me to appeal for calm and for a constructive atmosphere and above all for the avoidance of an unnecessarily partisan or polemical discussion in the Assembly.

3. I would humbly appeal to all those representatives who may wish to address themselves to the proposal, or to make suggestions, to take these factors into consideration and to contribute in whatever manner they can to ensuring that we all assume and fulfil our responsibilities under the Charter of our Organization.

4. Mr. KAMANDA wa KAMANDA (Zaire) (*interpretation from French*): In the opinion of the delegation of Zaire the thirty-fourth session of the General Assembly is today facing a problem which may be fraught with extremely grave consequences for the future of the United Nations.

5. Draft resolution A/34/L.66, which has been submitted by Austria and concerns the election of one non-permanent member of the Security Council, is obviously motivated by a constructive spirit and a desire to make a valid contribution, and that should be regarded as laudable.

6. Quite correctly, this draft resolution recalls the continuous efforts made and the appropriate and judicious intensive contacts and consultations carried out by the President and the General Assembly to find a solution to this unprecedented problem, in order to avoid an institutional crisis within the United Nations which, as I have said, could have extremely grave consequences.

7. The draft resolution recalls in the best way possible the true nature of the problem facing us, namely, that, on the one hand, after 139 secret ballots neither of the two candidates has obtained the two-thirds majority required to become a member of the Security Council and, on the other hand, a seat allocated to a non-permanent member of the Security Council from the Latin American region or the group of Latin American States will be vacant at the end of this month of December 1979.

8. The General Assembly has to date not seen fit to endorse either of the two candidacies submitted. As we see it, this is the true nature of the problem facing us. It is obvious to all that the continuation of this unproductive balloting under the present circumstances may erode the authority, credibility and prestige of this important body of the United Nations, the General Assembly.

9. The crucial problem at the present time is not whether the Security Council can or cannot meet with 14 members and take decisions. That is why I shall not engage in a juridical discussion that would certainly be inappropriate at this stage—although we are greatly concerned when we think about all the possible consequences of an institutional crisis, without precedent in the history of the United Nations. The question facing us in fact is whether the General Assembly, during this session, can fail to fulfil its responsibilities and obligations under the Charter of the United Nations as far as the election of a non-permanent member of the Security Council is concerned.

10. But there are important aspects of the problem which draft resolution A/34/L.66 fails to take into account. We consider that this draft resolution can be improved, as it is deficient in the sense that it does not reflect what is prescribed in Article 23, paragraph 1, of the Charter, nor the desire or spirit of that Article. Indeed, Article 23, paragraph 1, states:

“The General Assembly shall elect ten other Members of the United Nations to be non-permanent

members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.”

The particular part of the Article which concerns us is “equitable geographical distribution”.

11. We believe that the two candidates do not in themselves constitute a geographical region. In order to represent on the Security Council the geographical region to which they belong, or the group of Latin American States to which they belong, both candidates need to be endorsed by the Latin American region or the group of Latin American States. It is this unanimous endorsement by the geographical region concerned that both candidates have not yet obtained and that we hope they will obtain, and that is why we have been called upon to deal at the General Assembly level with the problem as it now faces us.

12. The draft resolution submitted by Austria—rather than placing the emphasis as it should do on the Latin American region and the group of Latin American States, to which the vacant seat belongs and which should be able to make all the efforts necessary to overcome internal conflicts and make it possible for the General Assembly to get out of this deadlock in the interests of the world in general, and of the third world in particular—makes this problem a bilateral one. In our view, that approach is not to be recommended in any respect.

13. The delegation of Zaire feels that the Latin American region or the group of Latin American States—whichever expression is used—should be asked to enter immediately into consultations, with the cooperation, if possible, of the two candidates concerned, and to go into the whole range of possibilities and ways and means which are available—and I think that ways and means are available—to reach an appropriate solution that would enable the General Assembly to fulfil in time its responsibility under the Charter concerning the election of non-permanent members of the Security Council.

14. Therefore, we believe, it is the group of Latin American States that should be urged to inform the General Assembly no later than 31 December 1979 of the outcome of its consultations. And if, after such consultations, that group were to find it impossible to propose a solution to us, the General Assembly would take note of that extremely regrettable situation and, in the interest of the international community, consider other steps, to avoid an institutional crisis in the United Nations.

15. The delegation of Zaire hopes that the sponsor of the draft resolution will be flexible and not oppose any improvements to its text, if, as I believe, its intention is to help the General Assembly get out of this deadlock.

16. We request therefore that in operative paragraphs 1 and 2 of draft resolution A/34/L.66 the words “Member States concerned” be replaced by “Latin

American States” or “group of Latin American States”. Only in this way would it be possible for the delegation of Zaire to vote in favour of the draft resolution if it were put to a vote.

17. We have just received other amendments, which we have not had time to consider. The delegation of Zaire would therefore like to reserve its right to speak again in due course to express its views on other aspects of this problem when they are taken up.

18. Mr. de PINIÉS (Spain) (*interpretation from Spanish*): After 139 ballots, frequently interrupted to allow time for thought and for a number of delegations to use their good offices, we are now at the close of the year and the General Assembly has still not succeeded in electing the fifteenth member of the Security Council, as required by the Charter, at the current regular session. We are confronted with an institutional crisis in the United Nations which, in our opinion, is a matter of the utmost gravity.

19. According to Article 23 of the Charter, “The Security Council shall consist of 15 Members of the United Nations . . .”. Thus far the two final candidates have failed to secure the requisite number of votes, that is, the votes of two thirds of the members present and voting.

20. How can we extricate ourselves from this situation and ensure that the General Assembly fulfils its responsibilities under the Charter of the United Nations in electing the fifteenth member? This is what our Assembly has to decide, and consequently my delegation particularly appreciates the initiative taken by the delegation of Austria in submitting draft resolution A/34/L.66.

21. The two candidates maintain that no compromise can resolve this deadlock because they represent blocs of opinion encompassing all segments of the Assembly, so that the deadlock does not only affect these two candidates individually but affects equally all the members of the General Assembly. We therefore share a collective responsibility for this failure to elect the fifteenth member of the Security Council.

22. What will happen in the early hours of 1 January 1980? Will the Security Council be able to operate with 14 members? Could it function with 14 members or less, or even with 9, when 9 votes are needed in order to take decisions? My delegation sincerely believes, as it has stated before, that institutionally the Security Council would not be properly constituted.

23. We hear that there are many legal opinions to the effect that the Council could function with 14 members and that it actually happened—when, under General Assembly resolution 1991 A (XVIII) of 17 December 1963, amending the Charter, the amendments were ratified by two thirds of the membership of the United Nations, including the permanent members—that the Security Council continued to function with 11 members when it should have had 15.

24. In our opinion this view fails to take account of the rules laid down in Article 21 of the Charter, which states that the General Assembly shall adopt its own

rules of procedure, and in rule 142 of the rules of procedure of the General Assembly, which states:

“The General Assembly shall each year, in the course of its regular session, elect five non-permanent members of the Security Council for a term of two years.”

This means that if the General Assembly was meeting at its regular session when the necessary ratification took place, it would have had to elect the four additional members, but if it was not meeting the matter would logically have had to wait until the following session.

25. But, in any event, the argument that it is possible to function with 14 or fewer members is irrelevant since the decisions of the Security Council could still be challenged by Member States. Furthermore, there can be no denying that our pretensions could seem incongruous, to say the least, in the light of Article 24, paragraph 1, of the Charter, which states that:

“In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.”

That is to say, the Security Council has this important responsibility of acting on our behalf, but it would be acting without one member, and there would really be no sense in our claiming to settle the problems most directly affecting the maintenance of international peace and security when we are not even capable of extricating ourselves from our present difficulty due to our inability to elect the fifteenth member.

26. We therefore feel that until the General Assembly elects the fifteenth member of the Security Council this year, and at this session, that principal organ will not be legally constituted. In this connexion we would be very interested to know the views held by Members of the United Nations on this subject, based not only on legal considerations but also on political considerations, which must inevitably carry weight if the Assembly is to break out of this deadlock and if the Security Council is to be legally constituted.

27. Let us now consider the circumstances in which the election of the non-permanent members of the Security Council are held. Article 23 of the Charter lays down the following conditions for the election of these non-permanent members: first, the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization; secondly, equitable geographical distribution; and thirdly, the non-permanent members shall not be eligible for immediate reelection. There are no other conditions.

28. How has the election of the non-permanent members of the Security Council been handled so far? First of all we would say that the criterion has been the so-called London “gentlemen’s agreement” of 1946, whereby the six non-permanent seats were allocated as follows: two seats to Latin America, one

to the British Commonwealth, one to the Near East, one to Western Europe and one to Eastern Europe. This system continued to operate until, upon the admission of a large number of States, a crisis developed because the number of States joining the Organization made the geographical distribution formula unrealistic, and secondly because it became necessary to enlarge the Security Council.

29. As a result there were a number of cases of term-splitting, and there was even a time when one regional group did not have a single representative as a non-permanent member of the Security Council. This situation was untenable and the General Assembly accordingly adopted resolution 1991 A (XVIII) expanding the Council. It put an end to term-splitting—a practice which might have been a mistake and even contrary to the Charter’s requirement concerning a two-year term.

30. However, we must not forget that when the Council was enlarged it was understood, as had already been agreed at the founding of the United Nations, that some members would have to be elected for only one year to provide *a posteriori* for the necessary rotation. Consequently, if we find ourselves in this critical situation, we would by no means be at fault if, at this juncture and owing to special circumstances, we had to have a split term, whereby one of the two countries would be elected normally and would yield its seat to the other country at the end of the next year.

31. Why do we find ourselves in this situation? Clearly for the same reasons which led to the breakdown of the London “gentlemen’s agreement”. That agreement was replaced by resolution 1991 A (XVIII), as we said before. What are the circumstances confronting us at present? I should say that we are in a very similar situation.

32. The Assembly recently decided to include a new item in the agenda entitled “Question of equitable representation on and increase in the membership of the Security Council” [item 128]. Why do we need to resort to this enlargement? Precisely because the present number of seats is not sufficient to meet the present needs. This item, the discussion of which has been postponed until the next session of the General Assembly, will be discussed in due course. We recently stated that the enlargement which took place in 1965 was a wise move and that the Security Council functioned satisfactorily for 16 years. Let us therefore proceed now as if we were in the same situation that confronted our Assembly in the 1960s, when the London “gentlemen’s agreement” had become obsolete. Let us face up to current realities in order to save our Organization which is undergoing a serious institutional crisis and in which the geographical distribution should continue to follow the formula prescribed in resolution 1991 A (XVIII) pending a further enlargement, and let us ask the group of Latin American States, along with the candidates, to resolve this impasse.

33. Mr. PETREE (United States of America): I think there is no need once again to recapitulate the history of the problem as it has developed in this Assembly

this year. I should like to state that my delegation stands with all those others that have spoken or will speak in a sincere desire that we bring this problem to a fair solution within the terms of the Charter and the rules of procedure which guide us in this hall.

34. We have before us two documents: the Austrian draft resolution [A/34/L.66] and amendments just now submitted by Algeria [A/34/L.67]. The representative of Austria has submitted a draft resolution as an attempt to move the General Assembly towards a solution of the current impasse in the voting. It does not prescribe any set formulae for such a solution but, rather, seeks to have the General Assembly state its desire to see the voting deadlock overcome in a spirit of compromise and goodwill. It recognizes that any such solution must come about through the consensus of all parties concerned with this problem, including the two principal contenders, the regional group in question, and all Member States that wish to see the issue resolved.

35. The Algerian amendments, however, in our view, appear to run contrary to the intent of the draft resolution itself. While we should seek to broaden the basis upon which a solution might be found, the Algerian amendments would have us limit the options available. I am speaking particularly about the first amendment, which would have us only look to General Assembly practice after the adoption of resolution 1991 A (XVIII). Although its implication is not clear, it seems to eliminate the possibility of the Assembly drawing on precedents and practice established to resolve such a conflict in earlier but quite similar circumstances.

36. Perhaps the situation that most closely parallels the present one was the impasse that occurred in the Security Council elections in 1959 between Turkey and Poland. At that time the only solution to the protracted voting was a term split between the two parties. A similar solution was found the following year in the race between the Philippines and Yugoslavia.

37. While my delegation would not at this time propose any specific solution to our current problem, we believe that any amendment limiting the options open to those who would enter into consultations on this matter would merely make it more difficult to solve the current deadlock and should be rejected.

38. I wish to comment on another aspect of our proceeding today. The United States delegation holds strongly the view that any decision taken by the General Assembly on the subject of the election of members to the Security Council requires a two-thirds majority. The Charter plainly states in Article 18, paragraph 2, that:

“Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to . . . the election of the non-permanent members of the Security Council. . .”.

I have quoted exactly the above terms, as they pertain to these proceedings today.

39. The General Assembly is thus bound by the Charter to make any recommendation on this subject by a

two-thirds majority of the members present and voting. Thus the draft resolution introduced by Austria, as well as the amendments just now proposed by Algeria, and any other proposals or amendments, can be adopted only if they obtain this required two-thirds majority. The Charter requires this result even though on the surface a decision by the Assembly might seem to be merely procedural. The rule of the Charter requiring a two-thirds majority is plain and any other result would destroy the Charter requirement of a two-thirds majority for election to the Security Council. We believe that members of the General Assembly will understand the point we are making.

40. Mr. B. C. MISHRA (India): It gives me no great pleasure to speak in this debate this afternoon. The Assembly and the entire Organization are faced with a crisis which has grave constitutional, legal and political implications. No matter what the legal opinion—and the opinion varies from delegation to delegation—it is obvious that any State could ignore the decision of the Security Council on the plea that it was not legally constituted, and this would be the case if the Assembly were to fail to elect the fifteenth member of the Council. Thus the deadlock we are facing is not a deadlock merely for the two countries directly involved in the 139 ballots that we have held so far; it is a deadlock for the whole Organization, and it arises from the failure of the Assembly to fulfil its obligations.

41. It is therefore within the competence of the Austrian delegation to try to provide a way out of the critical situation. It is equally within the right of other delegations to express their opinions through amendments to the Austrian draft resolution. We have some amendments in printed form available to us. The representative of Zaire proposed another amendment verbally when he spoke a few minutes ago. Other ideas also have been provided by previous speakers. All have merit. Unfortunately, my delegation does not see that either the draft resolution as it is or the draft resolution with the amendments proposed to it would provide a way out of this grave situation.

42. In fact, there are five possibilities for the resolution of the crisis that we are facing: first, one of the two candidates withdraws to facilitate the task of the General Assembly; secondly, one of the two candidates withdraws on the promise of the regional group concerned that it will endorse that candidate for election to the Council at a future date; thirdly, both candidates withdraw and a third candidate is endorsed by the regional group concerned for election to the Council at this session of the General Assembly; fourthly, the two candidates agree to share the seat in the Council, with each occupying it for one year only; and, fifthly, the Assembly decides to suspend the operation for this session alone of paragraph 3 of its resolution 1991 A (XVIII), which provided for a regional pattern of election of the non-permanent members of the Council. A decision by the Assembly in conformity with the fifth of the options I have just set forth would mean that any State Member of the United Nations, regardless of the region of that State's origin, could be elected to the Council—barring, of course, those that are already serving in the Council or are to retire from it on 31 December this year.

43. The first four options depend on the agreement of the candidates and of the regional group concerned. It is not possible for the Assembly to take a decision on those options. It is for the two countries to get together to try to find a solution.

44. The fifth option is, of course, open to the Assembly if everything else fails. But it is the opinion of my delegation that we have not yet reached the stage at which the Assembly should consider the suspension of paragraph 3 of resolution 1991 A (XVIII).

45. It is the opinion of my delegation that the Assembly should continue with the balloting as long as is necessary to provide the fifteenth member of the Security Council. In the meantime, we shall hope—and we are entitled to hope—that not only the two countries directly concerned, not only the regional group directly concerned, but all Member States and delegations present here will continue to have informal consultations in order to come up with a solution, which might be necessary if the deadlock were to persist.

46. The adoption of the draft resolution before us, as it is or with the proposed amendments, would be, in the view of my delegation, a bad precedent. The Charter provides for a secret ballot for the election of the non-permanent members of the Security Council. The Charter and the Assembly together have come up with rules and regulations for such elections and in the view of my delegation it would be dangerous to resort to resolutions to settle this matter.

47. I must of course admit that the draft resolution put forward by the representative of Austria does not say that such and such methods should be adopted for the resolution of the crisis. But as the representative of Austria will himself have seen, there are amendments to his proposal—amendments which it is very likely that a two-thirds majority of this Assembly might support. If that were to happen, would it be possible to resolve the crisis? I think not, because when we go back to secret balloting after the adoption of this draft resolution we shall still face the same situation we are facing at this moment.

48. I would appeal to my good friend the representative of Austria not to press his draft resolution to a vote. He has, I think, provided us with an opportunity to express views on this serious situation. His draft resolution has served to focus the attention of all delegations on the gravity of the crisis which we are facing and I think that the representative of Austria should be satisfied with that result.

49. My proposal, if our friend from Austria were to withdraw his draft resolution, would be that we continue with the balloting as we have been doing for so many days and weeks now.

50. Mr. PIZA ESCALANTE (Costa Rica) (*interpretation from Spanish*): I should like to state that my delegation welcomed the proposal submitted by the Austrian delegation [A/34/L.66], which we regard as a constructive effort to enable the General Assembly to get out of the stalemate in which it finds itself as a result of having been unable to elect a member of the Security Council after 139 ballots. One representative

calculated having walked 6.950 kilometres to the ballot-box and back.

51. However, we believe that the draft resolution requires some modifications in order to ensure that it will result in effective action. Our reasoning is based on certain facts which are known to all representatives and which I shall try to summarize as they were stated this morning in the General Committee. First of all, it is a fact that there is not and will not be any solution through voting in the General Assembly. Throughout 139 ballots, there was hardly any change in percentages, despite all the efforts that were made through this subtle means of voting, especially when unrestricted, to indicate the need for a compromise. Nor is it possible or acceptable here in the General Assembly to impose on the parties concerned a solution outside the terms of the Charter.

52. Moreover, suspending our meetings and resuming them in January or February 1980, which would be the only alternative available to the General Assembly itself at this time, would lead, at the least, to a difficult and serious legal and political controversy concerning the validity of any resolutions which the Security Council may adopt.

53. Although there are some respectable opinions in favour of the argument that the Council could indeed function validly so long as it had a quorum, the fact is that the majority opinion of experts in public law is to the contrary; they feel that the quorum argument would set an unfortunate precedent, especially damaging to the non-permanent members of the Security Council, and that, in any event, the doubts about its legality would be sufficiently serious to cast a grave shadow over the Security Council at a time when that principal organ of the United Nations is confronted with very grave international crises.

54. In any event, neither the continuation nor the suspension of our meetings seems to offer any possibility of a solution. Accordingly, in my view, there would be no point in continuing the efforts of the General Assembly, either now or later, unless at the same time some machinery is established offering at least the possibility of a solution.

55. We consider that the only natural, logical and effective forum for finding such a solution is the group of Latin American States. That group has found itself unable to act effectively, mainly because the group as such has no specific mandate in the matter and has already discharged its responsibility by reporting to the General Assembly that it had three candidates from the region, without endorsing any of them.

56. In these circumstances, a group of countries represented here felt that, if the General Assembly were to resolve to give the group of Latin American States a mandate to decide the question or to exert every effort with a view to proposing a solution to the Assembly, this would enable us to take up the problem again in the group and try to contribute to the work of the General Assembly by adopting some kind of resolution, which thus far has not been possible. Even so, we cannot guarantee a favourable outcome, but it seems to us to be the only possibility left for the Assembly.

57. Accordingly, my delegation, together with the delegations of Bolivia, the Dominican Republic, El Salvador, Guatemala, Honduras, Venezuela and Zaire, respectfully submits to the Assembly for its consideration and amendment to the draft resolution submitted by Austria. The amendment, which I am submitting orally for reasons of time,¹ is that a specific mention of the group of Latin American States should be inserted in operative paragraphs 1 and 2. More precisely, it is proposed that those paragraphs should read as follows:

“1. *Calls upon* the two Member States concerned and the relevant regional group to enter immediately into consultations with a view to proposing to the General Assembly an appropriate solution which would enable it to fulfil in time its responsibility under the Charter of the United Nations concerning the election of non-permanent members of the Security Council;

“2. *Urges* them to inform the President of the General Assembly of the outcome of the consultations carried out in accordance with paragraph 1 above no later than 31 December 1979.”

58. As representatives can see, the changes are very minor. They are intended solely to reiterate the responsibility which we believe rests with the group of Latin American States to continue making efforts of every kind with a view to proposing to the General Assembly a solution to this problem which the Assembly has been and will be unable to settle. I say propose to the Assembly because I must make it clear that in our minds there is no thought of the regional groups' taking over or obstructing the powers which belong to the General Assembly. However, we believe that the group should, by specific mandate from the General Assembly, resume a responsibility which has been interpreted in different ways, so as to help the Assembly itself to settle the problem by making a concrete proposal on this difficult question of the election of a non-permanent member of the Security Council.

59. This, then, is our position. As regards the amendment submitted by Algeria [A/34/L.67], I should merely like to say that my delegation reserves the right to state, speaking for itself alone, its fundamental opposition for legal and institutional reasons.

60. Mr. LIÉVANO (Colombia) (*interpretation from Spanish*): I should like to begin by saying that I welcome the opportunity which the Austrian delegation has given the Assembly to pause in the voting routine, to stop and consider calmly, as we are doing and as I hope we shall continue to do, the problems which have arisen with regard to the election of a member of the Security Council.

61. It would be vanity on my part to suppose that 139 ballots have been taken, and that we are meeting here in this holiday season which is precious to all of us, simply because there are two ambitions, or two ambitious aspirations, to obtain a seat in the Security Council. It is not without reason that 139 ballots have

been taken on this question of the election of a member of the Security Council. I believe that Colombia, and also Cuba, can feel somewhat moved at this time by the valiant loyalty and support given to them by such large numbers in the Assembly, considering that both countries represent something which is of concern not only to them but also to the international community. That is why there have been 139 ballots; that is why we are meeting today and are confronted with a difficult problem the solution of which cannot, of course, ignore the fundamental reasons which made it necessary to hold 139 ballots and which led some of the entire body of States represented here to vote for Cuba and the others for Colombia, in different percentages.

62. My delegation, being aware of the responsibility which rests on our country to facilitate in some way the achievement of a solution in this difficult impasse, stated this morning in the consultations we had with the President of the Assembly, with friendly countries, with the Chairman of the group of Latin American States, with the group itself and with the heads of the various regional groups that, in view of the continued support given by the Assembly as a whole to the two countries throughout 139 ballots, we consider that perhaps the most appropriate solution is an alternative which Colombia had previously suggested and is prepared to accept now and in the coming days, namely, the splitting of the term, leaving the Assembly completely free to choose how the term should be divided.

63. In view of the fact that the Assembly in its different proportions, throughout many ballots, has persisted in the belief that both Cuba and Colombia have something and represent something of interest to the international community, it is hardly rash for me to assume that it would be a good thing if both countries, by splitting the term, were to represent the Assembly in the Security Council.

64. I cannot refrain from explaining today how I feel about the gravity of the problem confronting us and the importance of this historic moment in the United Nations; historic not because there is an institutional crisis, but because it offers an opportunity for the Assembly to try to find a solution allowing the joint representation of aspirations which are not simply those of individual countries but to some extent involve questions and issues of concern to the whole international community. Consequently, the position of Colombia, which I wish to express very clearly at this point, is that we would be willing to accept, as a way out of the impasse in which we find ourselves, a splitting of the term, leaving the Assembly completely free to indicate how the split should be effected.

65. Mr. MALMIERCA PEOLI (Cuba) (*interpretation from Spanish*): The General Assembly now faces a situation unprecedented in its 34-year history. First, there has never before been the need to hold so many ballots to elect a non-permanent member of the Security Council. Secondly, never since the adoption of General Assembly resolution 1991 A (XVIII) of 17 December 1963, which established a more appropriate geographical representation in the Security Council, have two members of the same regional group presented their candidatures without the candidate with

¹ Subsequently circulated as document A/34/L.68.

fewer votes deciding to withdraw after a certain number of ballots, when it realized that it could not be elected. Thirdly, never before has a permanent member of the Security Council publicly stated that the election of a State Member of the United Nations to the Security Council, as a non-permanent member, was unacceptable to its Government. Fourthly, never before has the General Assembly been prevented from complying with the mandate of the Charter of electing five non-permanent members of the Security Council every year before the end of its session and, consequently, never before has our Organization confronted the possibility that, at the beginning of the new year, the Security Council might not have 15 members, as laid down in Article 23 of the Charter.

66. As early as October 1977 Cuba informed the group of Latin American States of its decision to present at the thirty-fourth session of the General Assembly its candidature for a non-permanent seat on the Security Council. In March 1978 the Cuban delegation made its application formal in a note verbale addressed to all the Latin American States and subsequently to all the other States Members of the United Nations. Until May 1979, that is to say midway through this year, Cuba's candidature for a seat in the Security Council was the only one submitted to the members of our regional group for consideration. In other words, our candidature was not an obstacle to the ambition of any other State.

67. When at that time the candidatures of other Latin American States were presented to the group, the group, as had happened before in all the other regional groups, was unable to endorse the candidature of any State and, in accordance with the normal rules and practices, reported to the President of the General Assembly the names of the Latin American States which had presented their candidatures for the Security Council seat to be vacated by Bolivia on 31 December of this year.

68. When the candidature of Guatemala was withdrawn on the very day on which balloting in the General Assembly began, only the candidatures of Cuba and Colombia remained. In the course of 139 ballots, in all of which Cuba obtained a substantial majority of votes compared with those received by the other Latin American candidate, the Assembly was unable to elect the fifth non-permanent member of the Security Council. I would draw to the attention of representatives the steps taken by my Government to avoid an electoral confrontation with another country of the continent in the General Assembly.

69. First, Cuba expressed to the President of the Conciliation Commission of the regional group its willingness to withdraw its candidature if in the first ballot there should be a tie or we should obtain fewer votes than our opponent; similarly, to provide a way out to that State, we expressed our willingness to withdraw our candidature for the Economic and Social Council in favour of our opponent, if that country agreed in return to support our candidature for the Security Council.

70. Secondly, both these proposals were renewed in the regional group and Cuba did indeed withdraw its

candidature for the Economic and Social Council, as a gesture that could provide a compromise solution.

71. Unfortunately, the Cuban proposals were not accepted by the other candidate, which persisted in its candidature, despite 139 unfavourable ballots and despite moves by Cuba both at the governmental level and at the level of permanent representatives.

72. In the past few weeks there have been various initiatives aimed at finding a way out of the impasse created because the General Assembly had been prevented from fulfilling its mandate. The most favoured of these has been the initiative urging us to share the term of office, although it has also been recalled that since 1965 and after the adoption of resolution 1991 A (XVIII) the candidate receiving fewer votes has always withdrawn in order to assist the Assembly to discharge its important task of electing the non-permanent members of the Security Council.

73. We have had an opportunity to explain in great detail the position of Cuba at the meetings held with all the regional groups and with numerous representatives of Member States, but we consider it essential to explain our position again here in the plenary Assembly.

74. First, the solution that consists in sharing the term of office is not in fact a solution but a return to a detrimental practice which was unknown between 1945 and 1955 and which has not been followed since the expansion of the Council in 1965, because it directly conflicts with the spirit and letter of Article 23 of the Charter which, as we know, unmistakably provides that the non-permanent members of the Council are elected for a term of two years.

75. Secondly, if Cuba were to accept that proposal, not only would it be contravening the provisions of the Charter, but it would also be setting a most undesirable precedent for all Member States. Sharing the term of office now would mean that any country that obtained a majority of votes in the future might be obliged to share its term also, to the obvious impairment of the provisions of the Charter; and furthermore, it would mean that a State which failed to obtain a simple majority of votes would be rewarded by membership in the Security Council for one year.

76. Thirdly, by maintaining its candidature and not agreeing to share the term of office, Cuba is not obeying a narrow national interest; it is in fact upholding the right of all Member States to be elected to the principal organs of the United Nations in accordance with the Charter and the democratic practices and traditions of the General Assembly.

77. Some speakers have suggested in the Assembly that the group of Latin American States should be asked to find, together with the two candidates, a way out of this impasse.

78. On many previous occasions the regional groups have all had to present to the General Assembly a situation in which more than one Member State has submitted its candidature for a non-permanent seat in the Security Council. The General Assembly has un-

failingly decided, by balloting, which State should occupy the seat in the Security Council. On many occasions the State which received fewer votes, even though its candidature may have been endorsed by the regional group, withdrew when the other candidate obtained a majority of the votes cast by Member States.

79. The election is the duty of the General Assembly. The role of the regional groups is confined to helping the Assembly carry out its responsibility of electing, in accordance with the mandate laid down in Article 23 of the Charter, the non-permanent members of the Security Council.

80. The group of Latin American States, as we explained before, cannot take the place of the General Assembly: first, because it is an informal group whose only basis is its regional character—that is to say, it is made up of States located in the same geographical area; secondly, because the group is not supranational and cannot adopt decisions that in any way affect the sovereign right of Member States; and thirdly, because the General Assembly cannot delegate its specific functions to any State or group of States.

81. Thus, Cuba cannot accept the proposal to delegate what, under the Charter, constitutes a responsibility of the Assembly that cannot be delegated, to a regional group which, by definition, lacks specific legal personality in the matter.

82. What is at stake is not the election of one State or another to a non-permanent seat in the Security Council. What is at stake is nothing less than respect for the Charter of the United Nations and the democratic principles governing the sovereign body of all Members, the General Assembly. For this reason, Cuba cannot—nor could it—accept sharing the seat as a valid solution. Those responsible for this situation should ponder for a moment the grave consequences for the future of our Organization which may result from their attitude.

83. In this same context, I would refer to an inevitable result of the present impasse: the fact that if the General Assembly fails to elect the fifteenth non-permanent member of the Security Council by 31 December, on 1 January the membership of the Council will not be constituted in accordance with the mandate of Article 23 of the Charter.

84. We have heard various opinions as to whether the Council can or cannot function with fewer members than the 15 provided for by that Article. Irrespective of the legal interpretation that may be accepted. Article 23, paragraph 1, unmistakably reads: "The Security Council shall consist of fifteen Members of the United Nations . . ."; that seems to leave no room for interpretations from the constitutional standpoint.

85. Even if that were not the case, however, we have no doubt that the decisions of the Council, if the Council consisted of fewer than 15 members, could be impugned by any member State of the United Nations, to the serious detriment of its political and moral authority as the organ to which has been entrusted

primary responsibility for the maintenance of international peace and security.

86. Even though some will claim that there is no constitutional crisis, there would, without a doubt, be a crisis of prestige, authority and efficacy. Those responsible for such a situation would not of course be Cuba and the States supporting the candidature of Cuba; it would be the other Member States. We invite them anew to reflect on the dangerous consequences of their position.

87. Cuba has great confidence in the seriousness and sense of responsibility of the members of the General Assembly. We are convinced that they will not fail to make a just appraisal of the implications of the present situation and the reasons of principle which we have put forward in upholding our position. Cuba is confident that the Assembly will carry out its mandate, in accordance with the Charter and the democratic traditions that guide its work.

88. Mr. MUWAMBA (Malawi): I do not have a written speech simply because my mind boggles at the whole problem that has been created here. But I think it is important to accept the fact that the two "bulls" that have been fighting in the kraal are not making any headway one way or the other with us as honourable spectators.

89. I am inclined, on behalf of my delegation, to accept the suggestion made by the representative of India that it might not be a good thing for this Assembly to consider at this stage the possibility of passing through this Assembly a draft resolution aimed at solving the problem. My delegation has also taken note of the very valuable suggestion made by another representative, this time from Africa, the representative of the Republic of Zaire. Unfortunately, that suggestion seems to run into an immediate problem in the sense that the group of Latin American States, which initially considered this problem, has already "thrown in the towel" and referred it to the Assembly. And already we are being told that these regional groups, to which we attach a lot of informal importance, are not, in fact, legal groupings, although they have a tremendous amount of influence in the organization of our work here.

90. A few other delegations have stated that because our regional groups do not have the legal force behind them it would be unwise for the Assembly to send this problem back to the regional group that sent it over to us. My delegation believes that after we have listened to a number of valid and pertinent suggestions, somewhere along the line lies the answer. The only problem lies in the fact that as yet we have not agreed on when, where and how to start in order to achieve our goal of finding a representative of the group of Latin American States for the non-permanent seat in the Security Council with effect from 1 January 1980.

91. Having due regard to the brilliant thoughts that have been expressed and the recommendations that have been made, I would make the plea through you, Mr. President, that perhaps the time might be ripe for the Assembly to consider not sending the problem back to the group of Latin American States but, rather,

setting up a totally different group—if you like, appointed by this Assembly—with the specific instruction that positive attempts be made to narrow the differences between Colombia and Cuba and thereby arrive at an agreed settlement. This is possible if we agree that the five suggestions made by the representative of India might in fact form part of the agenda for the committee I have suggested establishing—which, if you like, could be called “the international committee of wise men” appointed by this Assembly, and possibly could be presided over by your good self, Mr. President, or one of the Vice-Presidents. If that was agreed to, then Malawi would not hesitate to make a further suggestion that perhaps this Assembly might consider it advisable that in the allocation of members to that committee we might think in terms of at least two members—two “wise men”—from each region; thus it would cease to be the group of Latin American States and would become an “international committee of wise men”.

92. If the two suggestions—or some other number—were accepted, then it would be up to this Assembly to decide how the President—or some other person—might be guided in appointing the members of the committee. Possibly the regional groupings themselves would wish to make recommendations to the President so that the President would not appear to be a dictator amongst socialists, progressives, conservatives, democrats and what have you. The President must remain, as he has always been, a true democrat—a liberal, if you like—who should ensure that our aspirations are articulated in the best way possible.

93. So, Mr. President, on behalf of my delegation I should like to make a proposal, which could, if you like, be debated here. If the Assembly should want to adopt it without discussion, I should be delighted. But if the suggestion to establish an international committee were accepted, Malawi would then wish to see an appeal made by this Assembly to the group of Latin American States to make every effort to ensure that whatever committee we might establish here would be

given the maximum support possible. The reason I am saying this is that, rightly or wrongly, I have discerned an element of resignation on the part of some members of the group of Latin American States in that they do not seem willing to accept their responsibility. If my observation is wrong, I should like to apologize in advance because I have no intention of treading on the toes of any of the independent, sovereign States in the Latin American area.

94. Therefore, I repeat that if the idea of establishing an international committee of wise men—and women, I might add—should be acceptable to this Assembly, then perhaps two representatives from each region might be considered adequate for the purposes of that committee. Furthermore, the group of Latin American States itself should give maximum support to facilitate the activities or work of the suggested committee.

95. The PRESIDENT: There are no further speakers for the moment. A number of constructive suggestions have been made. It seems to me that for the time being the best course of action would be for this meeting to be suspended to enable consultations to take place to determine how we should proceed.

The meeting was suspended at 5.55 p.m. and resumed at 6.55 p.m.

96. The PRESIDENT: It seems to me, from the consultations I have held during the suspension with the delegations which have made various proposals, that there is a real need for further consultations before the Assembly can pronounce itself in one way or another on those proposals. Consequently, to facilitate such consultations—which I hope will be undertaken in the course of this evening and tonight—I propose to adjourn this meeting and convene a plenary meeting tomorrow at 11 a.m. In the meantime, I request in particular those delegations which have made various proposals and with which I have held some consultations to continue their consultations actively.

The meeting rose at 7 p.m.