



Chairman: Mr. Erik SUY (Belgium).

In the absence of the Chairman, Mr. Velasco Arboleda (Colombia), Vice-Chairman, took the Chair.

AGENDA ITEM 89

Need to consider suggestions regarding the review of the Charter of the United Nations: report of the Secretary-General (continued) (A/8746 and Corr.1 and Add. 1 and 2, A/C.6/L.879, A/C.6/L.881, A/C.6/L.882, A/C.6/L.886)

1. Mr. MAGENGE (Burundi) said that it appeared from General Assembly resolution 2697 (XXV), and from the Secretary-General's circular of 18 March 1971 (see A/8746 and Corr.1, para.2) inviting Member States to transmit to him their views and suggestions concerning the review of the Charter, that the actual principle of a review was accepted. That interpretation did not seem at odds with the spirit or letter of the Charter, which envisaged in Article 109 the possibility of a General Conference of the Members of the United Nations for the purpose of a review. The reason why few States had replied to the Secretary-General's circular was probably that they had felt it would be superfluous to state their views once again on the principle of a review which the Charter itself envisaged and that, in addition, the various delegations had an opportunity each year in the General Assembly to make suggestions regarding the Charter provisions which needed to be reconsidered. Since the representatives of the legal departments of the Ministries of Foreign Affairs of the various Member States spent three months each year in New York, that period should suffice to enable the Secretary-General to ascertain the views of Member States.

2. Moreover, current circumstances seemed propitious for a review of the Charter. There were no serious crises or conflicts within the Organization, there was a rapprochement between the super-Powers and, since 1971, the legitimate rights of China had been restored in the United Nations.

3. In addition, the appearance of the third world on the international scene constituted a new element which was vital for the question under consideration. When the Charter had been drawn up at the San Francisco Conference, almost two thirds of the Member States had not been represented. It therefore seemed normal that the States which had signed the Charter at San Francisco should now want to consult the new States on the question whether the Charter, to which the latter States had been required to accede in its existing form, was in fact in keeping with their domestic law, which should be the basis of international law.

4. The States of the third world rightly wanted to participate more actively in the work of the United Nations, and the need to update the Charter was particularly evident in that regard. The principle of the equality of States was in fact observed only in the General Assembly, whose resolutions were of limited effectiveness. The Security Council, on the other hand, was not representative of all the regions of the world and, even if it would not be appropriate to abolish the veto in the Council, it should at least be ensured that the veto was not the monopoly of five countries, none of which belonged to the third world. The criteria for determining which countries were permanent members of the Council were still valid, but consideration should be given to the possibility of extending that status to other countries from under-represented regions.

5. One had to admit that the effectiveness of the Economic and Social Council was extremely limited, although progress had been made as regards its membership. The countries which had become rich at the expense of the under-developed countries were continuing to exploit the world's natural resources, thanks to the considerable means at their disposal, without envisaging straightforward co-operation which would enable all human beings to improve their lot. The Economic and Social Council should endeavour to regulate international trade in a more equitable manner.

6. The Trusteeship Council was not only required to complete the process of decolonization; it must also consolidate the independence of States and protect their sovereignty against any aggression and eliminate discrimination in all its forms, racism and *apartheid*.

7. Like the other organs of the United Nations, the International Court of Justice suffered from a functional defect due to reasons of a constitutional nature. In its role of interpreting the Charter, the Court was required to preserve a system which was based on anti-democratic, outmoded and inoperative foundations. As a result, the Court was idle, because States mistrusted it.

8. With regard to a reform of the principal organs of the Organization, there were interesting ideas in the "Copenhagen" plan, prepared by the French Committee for the Reform of the United Nations, which had been intended for use at the General Conference for a review of the Charter envisaged for 1955. Under that plan, the Security Council was to be conceived as an executive organ, while the General Assembly would have played the role of the legislative branch. The Council would then have enjoyed real powers, which could be curbed only by censure on the part of the General Assembly. The Economic and Social Council would have had a larger role, because it would have

received voluntary contributions from Member States for the development of the under-developed countries.

9. Mr. GASTLI (Tunisia) said that, although the United Nations had accomplished a great deal and achieved remarkable results in widely differing areas, it was questionable whether it had really attained its primary objectives of maintaining peace and ensuring the settlement of disputes by peaceful means. Since in addition, it was undeniable that radical changes had occurred in the world since the creation of the United Nations, the question arose whether the Charter should be reviewed, in a search for ways of enhancing the role of the United Nations.

10. In his delegation's view, three basic positions had emerged in the Committee in the course of the debate. One trend was systematically opposed to any review, even partial, of the Charter. It was claimed that the Charter needed not to be reviewed but to be applied scrupulously, in order to enhance the authority and effectiveness of the United Nations. According to that view, the deficiencies attributed to the Charter were in fact the fault of Member States, which should fulfil the obligations incumbent upon them. The second, less categorical, viewpoint was that an over-all review of the Charter would not yet be appropriate but that it would be desirable to undertake a partial review with a view to removing or redrafting certain anachronistic provisions. It should be noted, however, that the proponents of that approach did not specify what matters should be dealt with in the partial review to which they did not object. According to a third view, which was supported by Tunisia, it would be appropriate to embark on a study of the updating of the Charter as a whole.

11. Tunisia had not stated its position in writing. However, in his statement at the 2056th plenary meeting, the Minister for Foreign Affairs of Tunisia had said that it was somewhat difficult for contemporary thinkers to admit that there were grown-up and minor countries and that, without actually proposing the abolition of the right of veto, consideration should be given to the number of countries which should exercise that right in the future and to the manner in which its exercise could be tempered in order better to reflect the Organization's objectives.

12. Despite the permanent crisis of confidence in the United Nations, the Organization was a centre of international activity and a forum for co-operation which nobody wanted to see disappear. In order to restore the prestige of the United Nations and to improve its functioning by better adapting it to international requirements, the Tunisian delegation believed that a number of changes could be envisaged.

13. In the first place, so far as United Nations decisions were concerned, a distinction should be drawn between two aspects of the problem. The first concerned the juridical and political basis of decision making and the second concerned the binding force of the decisions made. The decisions of the United Nations were based on the principle of the equality of States, although that principle was considerably watered down in the Security Council, because the five big

Powers had been given the status of permanent members. That principle, which was reflected in the rule giving one State one vote, was being questioned by certain countries which considered that they were poorly represented because the five permanent members and Japan paid two thirds of the contributions to the United Nations, while Member States which together contributed only 4.5 per cent of the total accounted for two thirds of the votes. So far as the effectiveness of United Nations decisions was concerned, that was a problem which was linked to the political will of States, to their conflicting interests and to the lack of cohesion of the international community, which was governed much more by moral standards than by legal rules. Yet it was in the interests of States, and of the United Nations, for their relations to be governed by a legal order. A number of declarations adopted by the General Assembly had already supplemented the text of the Charter in that regard, and there was a noticeable trend in United Nations organs to adopt by consensus the most important decisions on political subjects and particularly on legal matters. Without envisaging a situation in which decisions would no longer be adopted by a majority, an effort should be made to intensify that trend, particularly if it could be linked to a willingness to enhance the binding force of United Nations decisions, pending the slow but sure advance of international law.

14. Radical changes could be envisaged in the functions and powers of the political organs of the United Nations. The General Assembly, as the plenary organ in which all Member States were represented, should be given the most important functions. It was the decisions commanding the support of the large majority of States which were most likely to be implemented. The Security Council should perform the functions of an organ responsible for assisting the General Assembly, particularly between sessions. It would be a small organic offshoot of the Assembly, which would give it the necessary powers and resources for the performance of its functions.

15. With regard to the non-political activities of the United Nations, his delegation believed that economic and social activities should be developed. Developments in those areas had gone beyond those anticipated by the authors of the Charter. A number of bodies had been established to supplement and extend the activities of the specialized agencies, and the expansion of the role of the regional commissions required not only closer co-ordination but also systematic analysis of their activities, particularly with regard to their programmes, their financing and their relations with States. Studies made within the United Nations advocated a reorganization of the activities of the Economic and Social Council. Some people felt that that reorganization should lead to the establishment of another plenary organ, dealing only with economic and social questions, at the same level as the General Assembly, which would deal exclusively with political questions. It was also necessary to determine whether the United Nations was capable of playing a part in the settlement not only of international disputes of a political nature but also of disputes arising from economic development and scientific and technological progress. The use of outer space and the

sea-bed and environmental problems were not the only questions involved; the problems of youth, the protection of human rights and the constructive use of the results of the scientific and technological revolution also needed continuing attention. The gap between affluent and non-affluent States and peoples was indeed shocking, and the United Nations still had much to do if it was not to disappoint the hopes placed in it by the overwhelming majority of the world's people.

16. His delegation wished to pay a tribute to the Secretary-General for the very significant comment he had made in the introduction to his report on the work of the Organization (A/8701/Add.1, p.2), to the effect that "The interests, the wisdom and the importance of the vast majority of medium and smaller Powers cannot, at this point in history, be ignored in any durable system of world order."

17. Mr. ARYUBI (Afghanistan) said that the enormous body of literature on international organizations which had appeared in recent years showed that all international organizations, including the United Nations, were evolving. That evolution had manifested itself in the composition and law of the United Nations ever since the latter's establishment and there was every reason to believe that it would continue. His delegation felt that the point at issue was not so much the review or revision of the Charter as the scrupulous implementation of its provisions: there was no question that the Charter had already proved its adaptability to the changing structure of international society.

18. The debate in the Committee and the written comments received from Member States (see A/8746 and Corr.1 and Add.1 and 2) revealed a current of opinion unfavourable to a review of the Charter, and as long as that current prevailed it would be neither expedient nor desirable to embark on a review. In fact, the effectiveness of the United Nations and the strengthening of its role depended on the behaviour of Member States, all of which undoubtedly wished to see the realization of the purposes and principles enshrined in the Charter. The ineffectiveness and impotence of the United Nations were due to the fact that certain States did not comply with the Charter or pursued policies contrary to its purposes and principles. A case in point was the colonialism and alien domination which continued to exist in different parts of the world despite the relevant United Nations resolutions.

19. What was needed most at the current stage was a renewed commitment by all Member States to the purposes and principles of the Organization, for States were responsible for its proper functioning. Consequently, his delegation supported draft resolution A/C.6/L.886, but was thinking of abstaining in the votes on the other two draft resolutions.

20. Mr. DEDE (Zaire) said that the question under consideration could be summed up in the following way: should the Charter be reviewed and if so, how? The reply would be simple if a divergence of opinion had not occurred in the Committee. His delegation, which represented a State

that had not participated in the drafting of the Charter, was one of those which in principle favoured a review of the Charter but did not attach primordial importance to it. The Charter was by nature reviewable, for it was not sacrosanct. Furthermore, even an instrument such as the Charter should be adapted from time to time by the authority possessing the necessary power. However, no authority had that power in the case of the Charter. Furthermore, the constitutive instrument of the United Nations was not a code which could be interpreted by the appropriate authority, since no organ had the necessary power. Hence, the only way of adapting the Charter was to amend it, although that was not a matter of urgency.

21. In 1961 the Minister for Foreign Affairs of Zaire, speaking before the General Assembly, had criticized the composition of the Security Council. In that connexion, he himself wished to observe that the Charter, like the Covenant of the League of Nations and the Holy Alliance, had been drawn up in a climate affected by war and had sanctioned the rights of the victors. Since then, international society had undergone such radical changes that the Charter should be made an instrument for peace rather than an instrument against war. In 27 years of relative peace, many States had come into existence and been admitted to the United Nations. New big Powers were now represented in the Organization and the principal nation vanquished in the Second World War might well be admitted soon. It was important that certain States should be enabled to play an effective part in the taking of United Nations decisions, and the formation of a big-Power club should be avoided. It was therefore necessary to prepare for a review of the Charter and, in particular, for a change in the composition of the Security Council, which had been conceived with a view to reconciling the power of the victors and the principle of the equality of States.

22. Mr. SCHERMERS (Netherlands) introduced draft resolution A/C.6/L.886, which was a compromise between the two drafts submitted by a group of countries (A/C.6/L.870) and by Czechoslovakia (A/C.6/L.881). The first of those two drafts would establish a special committee and should be taken seriously, since it was sponsored by a considerable number of countries. However, a great number of States had indicated clearly that they did not want to amend the Charter, since they felt that it still reflected reality. It would be unrealistic to initiate a procedure leading to amendment of the Charter in such circumstances.

23. His delegation thought it would be difficult to bridge the gap between the supporters and opponents of the review. It felt that all delegations needed further reflection on the item and that Governments which had not yet made up their minds should be given enough time to reply to the Secretary-General. Since amendment of the Charter was of great importance to the entire Organization, it was necessary to proceed very carefully and take all views into account. His delegation therefore proposed that the item should be set aside for two years and included in the provisional agenda of the twenty-ninth session of the General Assembly. Since the Netherlands draft resolution was a compromise, his delegation hoped that it would be put to the vote before the other two resolutions.

24. Mr. FLEITAS (Uruguay) said that his country wished to become a sponsor of the Netherlands draft resolution which very wisely provided for a period of reflection. Thus far, 30 States had expressed their views in written form and about 50 others had expressed their views orally. The Committee was divided and if it now decided against the establishment of a special committee the question of the review of the Charter would be definitively shelved. It would therefore be preferable to give the matter further thought.

25. Mr. BEEBY (New Zealand) said that the inadequacies and failures of the United Nations were imputable to States rather than the Charter itself. Consequently, his delegation did not favour the establishment of the committee envisaged in draft resolution A/C.6/L.870 and could not endorse the negative attitude reflected in draft resolution A/C.6/L.881. It thought it would be desirable to learn more about the views of Governments and to continue the consultations, which might lead to generally acceptable proposals for amendment. It therefore supported the Netherlands draft resolution and requested that it should be put to the vote first.

Organization of work

26. Mr. GONZALEZ GALVEZ (Mexico) recalled that at the preceding meeting he had requested that the Committee should hold a debate on the way in which it wished to consider the three agenda items it had not yet taken up. It would be very regrettable if the Committee, through lack of organization, found itself obliged to defer an item referred to it to the next session without consideration.

27. Mr. BLIX (Sweden) supported the representative of Mexico. The Committee must deal with all the items on its agenda. Given the current situation, the first step was to request the Secretariat to explore all possibilities of holding additional meetings. The second step was to ensure that the meetings which the Committee could hold were used to the best advantage. To that end, as soon as the list of speakers on a specific item had been exhausted, the next item should be taken up immediately and if no one was ready to speak on that item debate should begin on the item that followed. The Committee would not be able to deal with all the remaining items unless it used the available time to best possible advantage.

28. Mr. ROSENSTOCK (United States of America) said that his delegation was eager to see the Committee make progress with its work and, to that end, use the available time to the best advantage. Two successive agenda items could, of course, be considered at the same meeting, but his delegation would find it difficult to accept a change in the order of the items which the Committee had established only after long and arduous debate. Furthermore, the Committee would probably gain nothing by jumping in a disorderly way from one item to another.

29. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that the representative of Mexico had been right to draw the Committee's attention to the difficult position in which it now found itself. It would be an unprecedented

situation if the Committee were unable to consider an item which had been referred to it. In that connexion, his delegation wished to state that it attached the greatest importance to the item on the report of the Committee on Relations with the Host Country. In order to complete its work, the Committee should use the remaining time to the best possible advantage; to that end, it would be wise to set a date and a number of meetings for the consideration of each item and to request the Chairman to apply strictly the decisions taken in that connexion.

30. Mr. STAVROPOULOS (The Legal Counsel) said that the Committee could hold three meetings on Thursday, 7 December, two meetings—including one night meeting—on Friday, 8 December, and two meetings on Saturday, 9 December. If that was not sufficient, the Secretariat could investigate the possibility of holding meetings on 11 and 12 December.

31. The CHAIRMAN said that, in the present circumstances, the Committee should utilize all the time made available to it. It should also, if possible, prolong its work until 12 December. The Committee obviously had to respect the agenda it adopted, but it could fix the number of meetings it would devote to each question, as the USSR representative had suggested. Since the Secretariat was not yet able to say with certainty whether it would be possible to hold meetings on 11 and 12 December, the Committee might provisionally organize its work according to the following programme: Thursday, 7 December, morning meeting: vote on the draft resolutions concerning the question of the review of the Charter; afternoon meeting: vote on the draft resolutions concerning the question of terrorism; night meeting: review of the role of the International Court of Justice; Friday, 8 December, morning meeting: review of the role of the International Court of Justice; night meeting: human rights in armed conflicts; Saturday, 9 December, morning meeting: human rights in armed conflicts; afternoon meeting: report of the Committee on Relations with the Host Country.

32. Mr. ROSENSTOCK (United States of America) stressed that, although it was important to deal with all the questions, it was no less important to bring them to their conclusion. Thus, his delegation interpreted the programme suggested by the Chairman as a statement of intent with which delegations were invited to comply and not as an inviolable rule that would be applied strictly.

33. Mr. BLIX (Sweden) supported the Chairman's suggestion but agreed with the United States representative that a flexible approach should be taken. He stressed that the act of going on from one item to the following one during a single meeting was not an abandonment of the agenda. If, because of the consultations being held, it appeared that the time had not come to vote on the draft resolutions concerning terrorism at the afternoon meeting on Thursday, he hoped that no one would object to the Committee's taking up the following item.

34. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that he had thought at the beginning of the session

that the question of the report of the Committee on Relations with the Host Country could be settled easily and be the subject of a decision based on the recommendations contained in the report of the Committee. He now feared, however, that the intervention of new elements might complicate the debate. That was why he requested that two meetings should be devoted to that item.

35. Mr. JACOVIDES (Cyprus) suggested that, in order to make the best use of the time it had, the Committee might consider taking up more than one item at each meeting. That would not interfere with the agenda but would introduce a certain amount of flexibility into the work. It was possible, for example, that the vote on the draft resolutions concerning the review of the Charter might not take up the whole meeting set aside for that purpose. It would be regrettable if the meeting was cut short because the *Journal* did not provide for consideration of another item.

36. Mr. GONZALEZ GALVEZ (Mexico) said that he was in favour of the programme suggested by the Chairman. The United States representative had rightly stressed the need to apply it flexibly. He would not like to see a decision on the organization of work be an obstacle to the adoption of a well thought out decision on a question of substance, particularly the question of terrorism. That being said, there was nothing to prevent the Committee from taking up two consecutive agenda items during the same meeting. Moreover, the Secretariat should be requested to give a prompt and definite answer concerning the possibilities for holding meetings on 11 and 12 December and, in the light of that answer, the Committee should immediately readjust the programme that had been suggested.

37. Mr. FREELAND (United Kingdom) was convinced that the best possible use should be made of the remaining time but found it difficult to agree that several items should

be taken up during the same meeting. If certain items had been allocated to the Sixth Committee, it was not so they would be dealt with in a piecemeal and hasty manner. If it held several debates on different agenda items at virtually the same time, the Committee might jeopardize the quality of its work.

38. Mr. FLEITAS (Uruguay) said that he fully agreed with the views expressed by the United Kingdom representative.

39. Mr. BLIX (Sweden) pointed out that it was quite normal for several items to be listed in the *Journal* for a single meeting; some other Committees of the General Assembly did it regularly. If the Chairman was in agreement, the *Journal* of 7 December could list items 89 and 90 for the morning meeting, items 92 and 90 for the afternoon meeting and items 92, 90 and 49 for the evening meeting.

40. The CHAIRMAN said that he would follow the Committee's agenda, but with a certain amount of flexibility. For the following day, he intended to have General Assembly agenda items 89, 92 and 90 inscribed in the *Journal* for each of the meetings, which would make it possible to achieve the most within the framework of the decisions taken by the Committee. If there was no objection, he would take it that the programme he had suggested earlier and his suggestions concerning the meetings for the following day were adopted by the Committee, on the understanding that the programme for the meetings would be readjusted in the light of the answer given by the Secretariat concerning the possibility of holding meetings on 11 and 12 December.

It was so decided.

The meeting rose at 1 p.m.