

GENERAL ASSEMBLY

TWELFTH SESSION

Official Records


**SIXTH COMMITTEE 542nd
MEETING**

 Wednesday, 27 November 1957,
at 11.30 a.m.

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Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

Request by the Fourth Committee for an opinion by the Sixth Committee on the majority required for the adoption by the General Assembly of resolutions relating to matters referred to in Chapter XI of the Charter (A/C.6/355; A/C.6/L.408, A/C.6/L.410, A/C.6/L.411) (continued)

1. Mr. TABIBI (Afghanistan) said that, after due consideration, he had decided not to press the draft resolution contained in document A/C.6/L.410. Instead, his delegation and the delegation of Mexico were jointly submitting a draft resolution which constituted a fair compromise, and which they hoped would receive the unanimous support of the Committee. The draft resolution read as follows:

"The Sixth Committee,

"In view of the fact that the item concerning Non-Self-Governing Territories has been disposed of by the General Assembly at its 722nd meeting held on 26 November 1957, and the Sixth Committee is therefore not in a position at the present session to reply to the request made by the Fourth Committee in document A/C.4/L.501,

"Considers that in these circumstances the appropriate way to handle this question would be by dealing with it as an item on the agenda of the General Assembly."

2. Mr. MALOLES (Philippines) said that the text of the new draft resolution was open to serious criticism. In the first place, it conveyed the impression that the General Assembly had been at fault in disposing of the question concerning Non-Self-Governing Territories without waiting for the Sixth Committee's ruling on the voting procedure applicable. It was thus inconsistent with the Charter, which made the General Assembly the absolute master of its own procedure. Furthermore, the joint draft resolution overlooked the fact that the only body competent to recommend items for inclusion in the Assembly's agenda was the General Committee. The Sixth Committee was in no way qualified to decide, on its own initiative, that a specified item would be "appropriate".

3. Mr. TABIBI (Afghanistan) said that the Sixth Committee was not a separate body but merely the legal branch of the General Assembly. The adoption of the

joint draft resolution would in no way bind the parent body, which would remain absolutely free to take the final decision. Similarly, the Sixth Committee's suggestion would not affect the powers of the General Committee to determine the composition of the agenda at any particular session. The main purpose of the draft resolution was to inform the General Assembly that the Sixth Committee was no longer in a position to give the legal opinion requested by the Fourth Committee.

4. Mr. MALOLES (Philippines) said that the entire tone of the proposal seemed to imply criticism of the General Assembly for frustrating the Sixth Committee's debate. Such criticism being wholly improper, he thought the joint draft resolution had no justification whatsoever.

5. Mr. TABIBI (Afghanistan) said that the decision taken by the General Assembly at its 722nd meeting had only disposed of the specific point then under consideration, whereas the Fourth Committee had requested the Sixth Committee for guidance for the future. The joint draft resolution merely emphasized, therefore, that such guidance could still be given when required.

6. Mr. AHMED (India) proposed that in the preamble of the joint draft resolution the passage "and the Sixth Committee is therefore not in a position at the present session to reply to the request made by the Fourth Committee in document A/C.4/L.501," should be omitted. The Sixth Committee could not reasonably say that it was impossible to answer the Fourth Committee's questions. An answer was merely unnecessary in the circumstances.

7. Mr. MUFTI (Syria) agreed with the representative of Afghanistan that the General Assembly had only disposed of one specific point while the Fourth Committee had requested a ruling on a general question of principle. It was equally true that no decision of the Sixth Committee could ever affect the competence of the General Committee. As far as the Sixth Committee's authority to make suggestions was concerned, he said that, while its decisions were admittedly always subject to final approval by the Assembly, the fact that it was composed of representatives of all the Member States gave it the right to recommend whatever action it deemed appropriate.

8. Mr. MAURTUA (Peru) said it was strange that the Fourth Committee, without awaiting the Sixth Committee's reply to its request, should have reported on the item concerning Non-Self-Governing Territories to the General Assembly, and that the latter should have disposed of it.

9. His delegation considered the joint draft resolution acceptable, provided that it was amended as proposed by the Indian delegation.

10. Mr. GLASER (Romania) said that the item concerning Non-Self-Governing Territories, which had been disposed of by the Assembly in plenary session, was a specific item on the agenda of the current session. The Fourth Committee's request (A/C.4/L.501), on the other hand, related to a general question which called for examination irrespective of decisions on specific items. The Secretariat's excellent working paper (A/C.6/L.408) quoted many instances in which the General Assembly had taken decisions regarding the two-thirds majority rule, but all those decisions had been concerned exclusively with the specific questions involved at the time. They did not preclude the study of the general question of the voting procedure on which the Sixth Committee had been consulted.

11. Mr. ALVES MOREIRA (Portugal) said the joint draft resolution appeared to be based on the assumption that a problem relating to the voting procedure existed, and that that problem concerned exclusively the Fourth Committee. In fact, if there was a problem relating to the two-thirds majority rule, it was a general problem and not one concerned exclusively with the subjects dealt with by the Fourth Committee. That point should be clearly stated.

12. Mr. CASTAÑEDA (Mexico) said that the Fourth Committee, in making its request to the Sixth Committee, had believed that a problem existed. The reply of the Sixth Committee therefore had to refer to that problem even if in the opinion of some it had no real existence.

13. Some delegations seemed to think that the joint draft resolution might establish an undesirable precedent in that it might be taken to mean that any request for the Sixth Committee's advice on the legal aspects of a question had to be made in the form of a separate item of the agenda. In fact, no such danger existed because annex II to the rules of procedure made it abundantly clear that any one of the Main Committees could refer the legal aspects of a question for legal advice to the Sixth Committee.

14. The Indian amendment, by deleting the reference to the Fourth Committee to which the Portuguese representative had objected, would meet that objection, and would, in addition, satisfy certain other delegations. Accordingly, he would accept the Indian amendment if it satisfied the Portuguese representative.

15. Mr. CHAUMONT (France) said he was in general agreement with the joint draft resolution.

16. With reference to the Portuguese representative's statement, he said that any interpretation of paragraphs 2 and 3 of Article 18 of the Charter was bound to be a general one, and would be applicable not only to items concerning Non-Self-Governing Territories but to all questions coming before the Assembly. He hoped that the Sixth Committee's report would make that point clear.

17. Mr. MALOLES (Philippines), disagreeing with the Romanian representative, said the general question could not be dissociated from the specific issue. The Fourth Committee should not have reported on the item concerning Non-Self-Governing Territories to the Assembly before receiving the Sixth Committee's opinion.

18. Mr. ALVES MOREIRA (Portugal) said that he would not formally oppose the joint draft resolution, provided that the oral amendment proposed by the Indian representative was adopted. He was particularly anxious that the records should note his delegation's view that the question under discussion was general in scope and not limited specifically to Non-Self-Governing Territories.

19. If the joint draft resolution were put to the vote he would abstain, because in his opinion there was no real problem.

20. Mr. PERERA (Ceylon) said that there was clearly no hope of unanimity in the matter under discussion. Although he realized that the general debate was now closed, he wished none the less to make two points: first, the Sixth Committee had not been asked to come to a decision at the current session; secondly, it had never been stipulated that the Committee should act in the light of General Assembly decisions.

21. He added that, in his view, there was a very real problem, and hence, had the original draft resolution (A/C.6/L.410) not been withdrawn, he would have voted in favour of the Syrian amendment (A/C.6/L.411).

22. Mr. EL-ERIAN (Egypt) said that so many delegations had made reservations that the debate was manifestly not leading to a unanimous decision. If the Committee wished to reach a unanimous decision the members would need time for reflection. Accordingly, he moved the adjournment of the meeting.

The motion was adopted by 44 votes to 13, with 16 abstentions.

The meeting rose at 12.40 p.m.