

HUNDRED AND FORTY-FOURTH MEETING

Held at Lake Success, New York, on Wednesday, 28 September 1949, at 10.45 a.m.

Chairman: Mr. LACHS (Poland).

Methods and procedures of the General Assembly (A/937) (continued)

1. Mr. NASS (Venezuela) recalled that the Yugoslav amendment, which was submitted at the 143rd meeting and proposed the deletion of the words "of two-thirds" in the first sentence of the amended text of rule 14 proposed by the Special Committee (A/937), had been supported by a number of delegations. He asked if the Yugoslav amendment would be put to the vote.
2. The CHAIRMAN replied that the Committee had voted on the Special Committee's text and had rejected it; no amendments to that text could therefore be entertained. Members were free, however, to submit new proposals.
3. Mr. GRAFSTRÖM (Sweden) said that in that case he wished to introduce, as a new proposal, the Special Committee's text for rule 14, omitting, however, the words "of two-thirds" in the first sentence.
4. Mr. BARTOS (Yugoslavia) reminded the Committee that his proposal to delete those very words had been neither voted on nor withdrawn, and consequently still stood. As the Swedish representative's proposal, though made in another form, was identical with his own, he would associate himself with what might best be called the Swedish-Yugoslav proposal.
5. Mr. GLASHEEN (Australia) supported the Swedish-Yugoslav proposal, and suggested that the words "two-thirds" in the second sentence of the rule might also be deleted.
6. Mr. KORETSKY (Union of Soviet Socialist Republics) remarked that changes in the rules of procedure of the General Assembly were justified only if they affected the substance of the rules. The Special Committee had proposed amendments to the existing rule 14 precisely because it had wished to alter the substance of that rule and to provide for a two-thirds majority for the inclusion in the agenda of additional items of an important and urgent character proposed less than thirty days before the opening of a session of the General Assembly. Because a two-thirds majority was proposed for such cases, it had been necessary to separate the reference to the amendment or deletion of items from the agenda—which required a simple majority—and to incorporate it in a new rule 19 (a).
7. If, however, the provision for a two-thirds majority were deleted, the only real difference between the existing rule 14 and the new version would be removed, and there would consequently be no need to amend the existing rule, which covered adequately the provisions contained in both the text of rule 14 proposed by the Swedish representative and the Special Committee's text of rule 19 (a).
8. If any member wished to make a real change in the meaning of the existing rule 14, he was free to propose amendments to it. There was little sense, however, in breaking up that rule into two unless some such change was made. He consequently urged the Committee to retain the existing rule 14 and to pass on to the consideration of other rules.
9. Mr. BARTOS (Yugoslavia) pointed out that a substantive change was, in fact, involved: the Special Committee had noticed that the General Assembly's power to amend or delete agenda items was laid down only for regular sessions; the Swedish-Yugoslav proposal dealt with regular sessions of the General Assembly, while the proposed rule 19 (a) would be applicable to both regular and special sessions.
10. Mr. NASS (Venezuela) agreed with the Yugoslav representative and pointed out further that the Swedish-Yugoslav proposal covered the period of thirty days immediately preceding the opening of a session, which the existing rules 13 and 14 failed to do. Thus, two substantive changes were being proposed; they represented an improvement on the current practice and were therefore worth adopting.
11. The CHAIRMAN stated that there was, in effect, a new proposal before the Committee and that it was open for discussion.
12. Mr. FITZMAURICE (United Kingdom) said that, in his understanding, when the Committee at its 143rd meeting had rejected the Special Committee's text of rule 14, it had voted against introducing a provision requiring a two-thirds majority but had not thereby indicated any intention of maintaining the existing rule 14. He felt sure the Committee would agree that certain points still remained to be considered. Whether they were dealt with at the drafting stage or in connexion with the Swedish-Yugoslav proposal, however, was of secondary importance.
13. Mr. GLASHEEN (Australia) shared the view of the United Kingdom representative. The substantive changes involved were important and deserved serious consideration, particularly in view of the fact that they had been recommended by the Special Committee. He therefore asked for a vote on the Swedish-Yugoslav proposal.
14. Mr. ROLING (Netherlands) asked whether the Australian suggestion to delete the words "two-thirds" also from the second sentence of rule 14 was before the Committee.
15. Mr. RODRÍGUEZ FABREGAT (Uruguay) stated that, when the vote on the Special Committee's text of rule 14 had been taken, two points had been involved, one being the provision for a two-thirds majority and the other a question of drafting. He had voted against the amended text because he preferred to retain a simple majority. As the Committee had rejected the text, it was his opinion that the original rule 14 remained in force.
16. With reference to the point raised by the Venezuelan representative, he thought it was covered in the general structure of rules 11 to 14 of the existing rules of procedure.
17. Mr. RUDZINSKI (Poland) remarked that the new proposal before the Committee contained several changes of substance which could not be described as mere drafting changes. The first was a provision expressly covering the thirty days preceding the opening of each session; the second

was the provision included in the proposed rule 19 (a) for the amendment and deletion of items on the agenda of special as well as regular sessions; the third was the Australian representative's suggestion that a simple majority should also suffice in decisions to consider additional items less than seven days after they had been placed on the agenda. He asked that those three points might be put to the vote separately.

18. Mr. MAÚRTUA (Peru) said that, inasmuch as the Swedish-Yugoslav proposal was in fact the same as the Special Committee's text of rule 14, rejected the previous day, a decision by a two-thirds majority, as provided for in rule 112 of the rules of procedure, was required before it could be reconsidered.

19. Mr. GRAFSTRÖM (Sweden) remarked that the Chairman had ruled that the Swedish-Yugoslav proposal was to be regarded as a new proposal.

20. After consultation with the Australian representative, he read aloud the text of the proposal, which omitted the words "of two-thirds" from the first sentence only.

21. Mr. FERRER VIEYRA (Argentina) considered that the procedural position was clear: the proposal furthest removed from the text of the original rules should be put to the vote first. The text submitted by the Special Committee for rule 14 had been put to the vote, as being furthest removed from the existing rule 14, and had been rejected. The Committee should therefore vote next on the Swedish-Yugoslav proposal, which was closer to the original text, in that it did not include a provision for a two-thirds majority in placing additional items on the agenda. The Committee would not thereby be reconsidering a previous decision, and rule 112 of the rules of procedure consequently did not apply.

22. Mr. KORETSKY (Union of Soviet Socialist Republics) asked that, in accordance with rule 109 of the rules of procedure, the proposal made orally by the Swedish representative might be submitted in writing and considered the following day.

23. Mr. NASS (Venezuela) remarked that rule 109 permitted the Chairman to waive the procedure referred to by the USSR representative, and that the Chairman had in fact done so at the 143rd meeting with respect to what had then been the Yugoslav amendment. The rule could hardly be enforced retroactively.

24. He fully agreed with the Rapporteur's suggestion regarding the procedure to be followed.

25. Mr. GRAFSTRÖM (Sweden) moved the closure of the debate on the Swedish-Yugoslav proposal, under rule 106 of the rules of procedure.

26. As there were no speakers to oppose the motion, the CHAIRMAN put it to the vote.

The motion for the closure of the debate was adopted by 39 votes to none, with 6 abstentions.

27. Mr. KORETSKY (Union of Soviet Socialist Republics) requested that the vote on the joint proposal might, in accordance with rule 109 of the rules of procedure, be postponed until the following day.

28. The CHAIRMAN granted the request. As rule 19 (a) proposed by the Special Committee was closely linked with rule 14, he remarked that it would be better to consider it after a decision had been taken on the latter. He invited the Com-

mittee to examine the Special Committee's text for rule 19 (b).

29. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) explained what had been the Special Committee's considerations in proposing the rule. In order to shorten debate in the General Assembly, the Special Committee had proposed that when an item had been recommended for inclusion by the General Committee, the number of speakers should be limited to three in favour and three against, thus providing an equal number of speakers to state in the General Assembly the minority and majority views. When the General Committee did not, however, recommend the inclusion of an item, no limitation of the number of speakers was provided, so as to permit all Members to state their views fully before the General Assembly.

30. Mr. RUDZINSKI (Poland) had no objection to the first provision of the proposed rule 19 (b) relating to the limitation in the General Assembly of the number of speakers on an item recommended for inclusion by the General Committee, but he was opposed to the second provision permitting the President to limit the time of speakers. To grant such latitude to the President without ensuring the right of representatives to appeal from his ruling would give him dictatorial powers over representatives in that instance. Moreover, the provision did not set a minimum beyond which the time of speakers could not be curtailed. There was a risk that such power might be used by the President arbitrarily and thus become dangerous. The President of the General Assembly and the Chairmen of Committees were the servants of those bodies, whose duty it was to conduct the debates; they must not be a final authority against which no appeal was possible.

31. He therefore suggested that the following sentence should be added at the end of the proposed paragraph 19 (b): "Any representative may appeal against the ruling of the President".

32. Mr. RODRÍGUEZ FABREGAT (Uruguay) pointed out that the proposed rule 19 (b) established two new principles with regard to the debates of the General Assembly: first, the limitation of the number of speakers for and against an item proposed by the General Committee for inclusion in the agenda; and secondly, a provision giving the President of the General Assembly almost discretionary powers to limit the time of the speakers on the matter.

33. While the first provision would doubtless serve to save much of the General Assembly's time, the second was open to question, especially if viewed in conjunction with other similar provisions extending the powers of the President, as proposed by the Special Committee in rules 67, 68, 69, 105, 106 and 107, as well as in rules 80 and 117. While expediency might require the General Assembly's debates to be limited on certain occasions, the General Assembly, being the master of its own decisions, was always free itself to establish such limitations. Consequently, careful consideration was required before granting discretionary powers to the President on as many occasions as had been proposed by the Special Committee. In any case the second provision of rule 19 (b) should be considered together with the similar provisions in other rules of procedure proposed by the Special Committee, and if it were

included at all, it should be so formulated as to expedite the General Assembly's work without violating the rights of Members of the United Nations. In principle, however, Mr. Rodríguez Fabregat was opposed to extending the President's powers over representatives of Members of the United Nations who had to state the views of their Governments.

34. The CHAIRMAN noted the Uruguayan representative's proposal that the second provision of the proposed rule 19 (b) should be considered together with other similar provisions recommended in the Special Committee's report.

35. Mr. KERN (Assistant Secretary-General in charge of the Legal Department) stated, with reference to the remarks made by the representative of Uruguay, that the question of the President's powers had been discussed at length by the Special Committee. The conclusion of the majority had been that, in order to limit the debates in the General Assembly, the President's powers must be broadened, as had been suggested in rule 19 (b) and in other rules. It should be pointed out, however, that the President of the General Assembly was always subject to the authority of the General Assembly, which could reverse his ruling if it so desired.

36. With regard to the Polish proposal, he pointed out that if such a clause was incorporated in rule 19 (b), it should also be added to the other proposed rules providing for special powers of the President, since otherwise the implication would be that representatives had no right to appeal from the President's ruling if that right were not specifically provided.

37. Mr. WENDELEN (Belgium) recalled that the report on methods and procedures of the General Assembly (A/937) had stated explicitly that the Special Committee had considered that the power of the Chair to expedite proceedings by proposing the limitation of speeches should be mentioned in the rules of procedure and had suggested inserting provisions to that effect in rules 31 and 97. Paragraph 39 of the report had explained that the General Assembly or the Committee was "master of the conduct of its own proceedings". The purpose of rule 19 (b) was to give the Chair the power to shorten debates.

38. He did not agree with the representative of Poland that there was any danger of that power being abused. He believed that rule 64 of the rules of procedure, which provided that a representative might appeal against the ruling of the Chair and that a ruling which had been challenged could be overruled by a vote of a majority of the Members, made it unnecessary to state in rule 19 (b) that an appeal was possible. If such a statement were added to rule 19 (b), it would have to be added to every rule mentioning the Chair's power to limit debates.

39. Mr. BARTOS (Yugoslavia) pointed out that rule 64 was not a sufficient safeguard. It related to points of order raised by representatives and appeals against rulings of the Chair on such points of order, but not to decisions made by the Chair under powers given it in the rules. His delegation could not vote in favour of the new rule 19 (b) if the text remained as it had been proposed by the Special Committee, or in favour of the other rules concerning the President's power to limit debates, unless some mention of an appeal were included.

40. Mr. ABDOH (Iran) suggested that the two parts of rule 19 (b) should be considered separately. The difference of opinion seemed to concern only the second part. He proposed that further consideration of that part of the rule should be postponed until the rules concerning similar powers of the Chairmen of Committees were taken up for discussion.

41. Mr. LOUFI (Egypt) pointed out that rule 19 (b) dealt with a particular procedure, namely, for the inclusion of items in the agenda. He did not believe that all the rules mentioning the power of the President or Chairmen to limit debates should be considered together, as the representative of Iran had suggested. A separate decision should be taken in regard to each of those rules.

42. Mr. FERRER VIEYRA (Argentina) explained that the Special Committee had not intended to give the President a power which might become arbitrary. Rule 65 stated that the General Assembly might limit the time to be allowed to each speaker. If such a power were given to the President in rule 19 (b), it would be a delegation of power by the General Assembly. It was the General Assembly that made the final decision. That was stated once for all and did not need to be repeated each time the President's powers were mentioned. It would suffice if the report stated that it would always be possible to appeal from the decision of the Chair.

43. Mr. JORDAAN (Union of South Africa) considered that it was evident that the Committee wished the General Assembly itself to have the power to limit speeches. Rule 19 (b) could be further clarified, however, by replacing the second sentence by the following:

44. "Subject to the overriding provisions of rule 64, the President may limit the time to be allowed to speakers."

45. Rule 64 or 65 might be cited in such an addition.

46. Mr. CHAUDHURI (India) supported that suggestion.

47. The CHAIRMAN, summing up the various amendments which had been proposed to the last sentence of rule 19 (b), stated that he considered the suggestion made by the representative of Iran to be a departure from the decision taken by the Sixth Committee at the preceding meeting that the discussion should follow the order of the rules.

48. Mr. ABDOH (Iran) explained that he had made no formal proposal but had merely suggested a measure which he thought would eliminate any confusion in the rules concerning the powers of the President and of Chairmen of Committees. If the majority of the members considered that a vote on rule 19 (b) should not be postponed, he would withdraw his suggestion.

49. The CHAIRMAN explained that, in that case, only two amendments were before the Committee, that of the representative of the Union of South Africa proposing a substitute for the second sentence of rule 19 (b); and that of the representative of Poland, to add to the text of rule 19 (b) proposed by the Special Committee the following sentence:

50. "Any representative may appeal against the ruling of the President."

51. Mr. FITZMAURICE (United Kingdom) stated that his delegation supported the substance of the Polish and South African amendments. He thought, however, that if such a statement were added to rule 19 (b), it would have to be added to each rule which referred to the power of the presiding officer. It was generally understood that the Chair's ruling could always be appealed against and voted on by the whole Assembly or Committee. There was no need to make special mention of the fact in the rule under consideration or in any other rule.

52. If the majority of the members considered that the rule should be clarified, mention of the possibility of appeal could be made in the records of the meeting.

53. Mr. WENDELEN (Belgium) stated that his delegation would support the amendment, if it were considered necessary. In view, however, of the explanation contained in paragraph 37 of the report (A/937), in which the Special Committee had defined points of order and the power of the President or Chairman, he did not believe that the proposed restriction was necessary in rule 19 (b). If the suggestion of the representative of the United Kingdom or that of the Rapporteur were followed, no mention of an appeal need be made in the rule.

54. Mr. RUDZINSKI (Poland) emphasized that the rules of procedure must be self-explanatory. Neither rule 64 nor the record of the meeting could be relied upon to clarify or interpret rule 19 (b). The rules mentioning the power of the President to limit debates were exceptional, and must therefore be very clear. Moreover, he doubted whether rule 64 could cover the situation referred to in rule 19 (b). The former governed points of order; it dealt with a representative's challenge of the Chair's ruling. Rule 19 (b) however, dealt with cases in which the presiding officer, on his own initiative, chose to limit the time allowed to speakers. Such a provision, as proposed by the Special Committee, must be construed to refer to an exceptional power. It was therefore not subject to rule 64.

55. The explanation of the meaning of the rule could, of course, be noted in a report or in the official records of the meeting, but such interpretations would not help those who simply read the rule to understand it. The rules of procedure must be self-explanatory.

56. Mr. RODRÍGUEZ FABREGAT (Uruguay) supported the view of the representative of the United Kingdom. There were many rules mentioning the power of the Chair to limit debates. Mention of the right of an appeal against that power should not be necessary in each of those rules. Moreover, experience had shown that, in practice, the right of appeal was not very effective. Only rarely in

cases in which the Chair had exercised similar discretionary power and members had appealed against a ruling had the Chair's decision been reversed.

57. The Polish amendment was therefore unnecessary.

58. Most of the objections to rule 19 (b) were based on the fear of limitation of a Member's right to express his views freely. He himself did not consider the case referred to in rule 19 (b) to be of primary importance. The same right of representatives to express their views would be set forth in rules of much more importance than that under consideration.

59. He would abstain from voting on rule 19 (b) until he learned what decision was taken on the other rules mentioning the power of the Chair to limit debates.

60. Mr. TATE (United States of America) supported the view of the representatives of the United Kingdom and Belgium. It was unnecessary to repeat the substance of rule 64 in each rule governing limitation of debates.

61. Mr. AMADO (Brazil) stated that he saw no need for an amendment, and would vote in favour of the new rule proposed by the Special Committee.

62. Mr. ABDOH (Iran) thought that mention of an appeal against the Chair's ruling should be made in rule 19 (b). Whether or not other rules should also mention appeal should be decided when those rules were discussed.

63. He doubted whether rule 64, which concerned points of order, could be applied to the case under consideration. It would therefore be preferable to amend rule 64 so as to stipulate that an appeal against the Chair's ruling was always possible, not only in connexion with points of order, but in connexion with decisions of the Chair in cases where the rules of procedure granted it special powers.

64. The CHAIRMAN recalled that two amendments were before the Committee: that of South Africa and that of Poland. As the two were very similar, he suggested that a single proposal on the subject should be prepared and submitted to the Committee for a vote at the following meeting.

65. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) requested the members of the Committee to reflect on the matter and decide whether or not a statement to the effect that an appeal against the ruling of the Chair was always possible should be included in rule 64 or in rule 31. He was of the opinion that such a statement could be more appropriately inserted in the latter rule.

The meeting rose at 1.05 p.m.