



ECONOMIC AND SOCIAL COUNCIL

Fiftieth Session

OFFICIAL RECORDS

1750th meeting

Wednesday, 5 May 1971,
at 10.50 a.m.

NEW YORK

President: Mr. Rachid DRISS (Tunisia).

AGENDA ITEM 10

Public administration and development (continued)
(E/4959, E/4986, chap. VI, sect. B; E/L.1392)

1. Mr. NDUNG'U (Kenya) said that he would announce some changes to be made in the draft resolution introduced by his delegation (E/L.1392). The words "and other organizations in the United Nations system" in the fourth preambular paragraph was to be deleted and the words "are" and "their" replaced by "is" and "its". The phrase "constituting a basis" in operative paragraph 2 should be replaced by "constituting the basis", and the phrase "shall have the necessary staff ... administration" in operative paragraph 5 should be replaced by the words "shall have the necessary staff to implement fully their work programmes". His delegation hoped that the draft resolution would be adopted unanimously.

2. Mr. McCARTHY (United Kingdom) said that his delegation supported the draft resolution; it had reservations, however, about operative paragraphs 2, 3 and 5. Since the staff and resources of the units dealing with public administration programmes at Headquarters and in the regions were limited, priorities would have to be determined. That part of the recommendations of the Second Meeting of Experts which was quoted in paragraph 33 (f) of the Secretary-General's report (E/4950) should not be put into effect until the Secretariat had revised the programme in the way recommended in paragraph 33 (c).

3. Mr. AYOUB (Tunisia) said that his delegation attached great importance to questions of public administration. He was gratified by the quality of the report of the Second Meeting of Experts and by the fact that the sponsors of the draft resolution had explicitly mentioned the Secretary-General's summary of that report (E/4950). The guidelines and recommendations of the Meeting of Experts would help developing countries to improve their public administration. The Public Administration Division was also to be commended on its work. His delegation supported draft resolution E/L.1392. It was pleased to note that CPC had agreed (see E/4989, para. 54) with the Experts' recommendation that public administration experts should be included in the interdisciplinary planning advisory teams of the United Nations.

4. In view of the fact that the draft resolution stated that the Council approved the work programme of the Public Administration Division, the request in operative paragraph 5 that the Division should be given the necessary staff to implement the projects contained in that programme

seemed logical. Of the major projects directed at improving public administration structures, his delegation considered projects A.2 (c) (Substantive support of the Division for public administration units in the regional economic commissions and UNESOB) and A.7 (b) (Contribution to mid-term review of progress in implementing administrative aspects of the International Development Strategy) to be deserving of mention.

5. Mr. PRAGUE (France) said that the sponsors' proposal was consistent with the thinking of his delegation, which would support the draft resolution. However, the wording of the draft could probably be made clearer in two instances.

6. Greater attention should be paid to public administration in country programming. As public administration had such a great influence on the success or failure of national economic and social development work, the United Nations interdisciplinary planning advisory teams should include public administration experts and the resident directors should make more use of them. The sponsors should take that recommendation into account in the draft resolution.

7. His delegation had been surprised to find that the Meeting of Experts had not been able to appraise the Secretary-General's proposals in the light of the work programme of the other agencies, all of which properly dealt with public administration matters. It was his delegation's hope that, in order to avoid duplication, the Meeting of Experts, to be held in 1975, would have before it not only the Secretary-General's proposals on the work programme of the Division, but also the work programmes of the other agencies concerned. For that reason it was proposing that operative paragraph 4 of the draft resolution should be amended by adding after the words "public administration programme" the phrase "taking due account of the work of other United Nations bodies in this field."

8. Mr. LENNON (United States of America) supported the amendment proposed by the French representative and the comments of the United Kingdom representative on the order of priorities. His delegation was prepared to support the draft resolution, but would like operative paragraph 5 to be amended in such a way as to make it consistent with paragraph 58 of the report of CPC (E/4989). To do that, the words "taking into account the findings of the manpower utilization survey," should be added after "Requests the Secretary-General". There should be an indication, for every United Nations programme, of the degree of priority that was assigned to it. It was to be hoped that the Division would classify its activities by order of priority and periodically review that order, altering it, if necessary, as circumstances changed. His delegation whole-

heartedly supported the entire programme of the Division, but trusted that the sponsors' addition of the word "fully" in operative paragraph 5 would not be taken to mean that any review of the order of priorities was excluded.

9. Mr. FAROOQ (Pakistan) thanked the sponsors of the draft resolution for taking account of his delegation's comments; he supported the French amendment.

10. It should be borne in mind that if the United States amendment was adopted, the resulting provision should not adversely affect the required expansion of the activities of the United Nations system, a point made by the CPC in paragraph 25 of its report.

11. Mr. LISOV (Union of Soviet Socialist Republics) said that, before making its decision, the Council should have before it the final text of the draft resolution, including the revisions announced by the Kenyan delegation. The adoption of the draft resolution would help to improve United Nations public administration activities. His delegation was prepared to support the useful amendment proposed by France to operative paragraph 4.

12. Operative paragraph 5 of the draft was an improvement on the version introduced orally by the Kenyan representative at the 1748th meeting. Nevertheless, the fact that the revised text made no reference to the conclusions of the Meeting of Experts had not altered the general thrust of the draft resolution. The Secretary-General was still requested, in operative paragraph 5, to ensure that the Public Administration Division and the public administration units of the regional economic commissions and of UNESOB had the necessary staff. The Meeting of Experts had had the current and future programmes of public administration work in mind when it had expressed the hope that the staff of the public administration units at Headquarters and in the regions would be strengthened; its recommendation was in no way binding, however, and the opinion it had expressed had been and still was subject to review.

13. Moreover, the Meeting of Experts had not had before it all the public administration programmes of the agencies of the United Nations system. If that had been the case, the experts would have concluded that there was duplication and that if that duplication could be eliminated, there would be no need for staff increases. The Meeting of Experts had not sought the opinion of any intergovernmental organ, a procedure which was incorrect and could well lead to wrong decisions. The sponsors would therefore be well advised to accept the amendment proposed by the United States delegation.

14. His delegation asked the sponsors to consider making the following amendment to operative paragraph 5: to add, after the words "to ensure", the words "by staff redistribution within the present over-all manning table".

15. Mr. SKATARETIKO (Yugoslavia) said that his delegation could not decide on the proposed amendments without consulting the other sponsors and having the revised text available.

16. He pointed out that the recommendations in paragraph 58 of the CPC report (E/4989), on which the United

States amendment was based, would not necessarily have a salutary effect on the work of the United Nations system. The purpose of operative paragraph 5 might well be to overcome the staff shortage in the Public Administration Division at Headquarters and the public administration units of the regional economic commissions and UNESOB, but it was none the less clear that a resolution alone was not going to dispose of the difficult problem of shortage of staff. He hoped that the delegations which had submitted amendments would co-operate in finding an acceptable solution.

17. The PRESIDENT said that, if there were no objections, he would take it that the Council had decided to defer a decision until the representative of Kenya has submitted the revised text in writing and the sponsors and other delegations concerned had had consultations.

It was so decided.

Other matters

18. The PRESIDENT invited the Director of the General Legal Division to speak on the question of whether observers had the right to sponsor draft resolutions under rule 75 of the rules of procedure, which had been raised at the 1749th meeting.

19. Mr. SLOAN (Director, General Legal Division), speaking on behalf of the Legal Counsel, said that the question was whether a Member State of the United Nations which was not a member of the Economic and Social Council and which had been invited under Article 69 of the Charter and rule 75 of the Council's rules of procedure to participate in the deliberations of the Council on a matter of particular concern to that Member could be one of the sponsors of a draft resolution submitted on the matter.

✓20. Article 69 of the Charter did not define the meaning of participation, except to provide that the non-member of the Council was not entitled to vote. Rule 75, however, provided, *inter alia*, that any Member thus invited might submit proposals which might be put to the vote by request of any member of the Council. It was therefore clear that a Member of the United Nations which was not a member of the Council and was participating in accordance with an invitation under rule 75 might itself submit a draft resolution. Since the non-member of the Council might itself submit a draft resolution, it was the opinion of the Office of Legal Affairs that it might join in co-sponsoring a draft resolution submitted by a member or members of the Council, provided, of course, that the other sponsors so agreed.

21. Mr. LISOV (Union of Soviet Socialist Republics) said that he was in some doubt about the grounds for the opinion given by the representative of the Office of Legal Affairs. Did it mean that a Member State which was not a member of the Council could in any circumstances whatsoever join in co-sponsoring a draft resolution or even submit a draft resolution itself?

22. Mr. SLOAN (Director, General Legal Division) said that rule 75 of the rules of procedure answered that question explicitly; the word "proposal" in that rule

covered draft resolutions and substantive amendments or motions, as rules 56 and 57 of the rules of procedure indicated. In the rules of procedure of the General Assembly, in fact, draft resolutions were described only by the word "proposals".

23. Mr. CARANICAS (Greece) said that the effect of the new interpretation of rule 75 which the representative of the Office of Legal Affairs had just given was to increase the membership of the Economic and Social Council, which was the sole prerogative of the Security Council and the General Assembly. A Member of the United Nations which was invited to participate in the Council's deliberations and co-sponsored a draft resolution became, for all practical purposes, a member of the Council. The representative of Brazil had said at the 1749th meeting that at the forty-ninth session Malta, which had not then been a member of the Council, had submitted a draft resolution which had later been adopted. That event should not, however, be considered to have created a precedent, since that would in practice mean accepting an increase in the membership of the Council.

24. Mr. SLOAN (Director, General Legal Division) explained that he had not said that the situation would in effect increase the membership of the Council. Rule 75 of the Council's rules of procedure stipulated the circumstances in which the Council could invite a Member of the United Nations to participate in its deliberations.

25. Mr. AKWEI (Ghana) said that he did not agree with the representative of Greece that the Director's interpretation of rule 75 of the Council's rules of procedure was a new one. In his view, the word "proposals" was clearly synonymous, in practice, with draft resolutions. The fact that a Member of the United Nations which was not a member of the Council could submit proposals on a specific matter did not mean that it was deemed to be a member of the Council.

26. Mr. LISOV (Union of Soviet Socialist Republics) said that his delegation was inclined to agree with the reservations expressed by the Greek representative on the entirely new interpretation which the representative of the Office of Legal Affairs had given of rule 75 of the rules of procedure.

27. Rule 56 of the rules of procedure of the Council distinguished clearly between draft resolutions and substantive amendments or motions. In his delegation's view, rule 75 could be interpreted only as meaning that a Member State could submit proposals, but not amendments or draft resolutions.

28. Mr. ANTOINE (Haiti) said he welcomed the explanations given by the Office of Legal Affairs.

29. In the specific case of the draft resolution on the preparation for the Conference on International Container Traffic (E/L.1391), it was proper that any Member State which could accede to the proposed Convention should be able to give its views on the subject. Furthermore, the rules of procedure of the Security Council provided an interesting precedent: when a Member State was called on to plead its cause before the Council, it could not itself submit a draft resolution but had to call upon another Member State to do so.

30. Mr. DE AZEVEDO BRITO (Brazil) said that he found rule 75 of the rules of procedure of the Economic and Social Council perfectly clear. The word "proposals" could mean amendments, draft resolutions or substantive proposals. If no one disputed the right of an "invited" Member State, to submit proposals or draft resolutions, that Member State obviously also had the right to co-sponsor a draft resolution. Some might fear the Council would have to deal with many proposals from States not members of the Council, but his delegation would greatly welcome such a development.

31. Mr. AYOUB (Tunisia) said the Council was sovereign within its terms of reference under the Charter and within the limits of its rules of procedure. Rule 75 of the rules of procedure seemed to him to mean that once the Council had invited a State Member of the United Nations which was not a member of the Council to participate in its deliberations, that State did not have the right to vote but it could submit proposals. It could, therefore, with even more justification, co-sponsor a proposal submitted by a member State of the Council.

32. The PRESIDENT said that, at the stage which the discussion had reached, it would not be advisable to embark on a long legal debate. He accordingly suggested the compromise solution of adding a foot-note to draft resolution E/L.1391 stating that the delegations of India and Chile supported the draft resolution. The delegations concerned would not then be listed as co-sponsors but their position would be placed on record.

33. Mr. DE AZEVEDO BRITO (Brazil) pointed out that a question of principle was involved. Whatever decision was taken, he would consider the delegations of India and Chile, together with his own, to be sponsors of draft resolution E/L.1391.

34. Mr. LISOV (Union of Soviet Socialist Republics) pointed out that no one was trying to detract from the extremely important institution of observers. Rule 75 of the Council's rules of procedure entitled them to participate in deliberations on matters of concern to them. Under the same rule, they were permitted to submit proposals which might be put to the vote by request of any member of the Council. Nevertheless, his delegation firmly believed that the rights of observers went no further than that and that only members of the Council could request that a proposal should be put to the vote. In the case in point, the rules of procedure should be strictly observed.

35. Mr. AKWEI (Ghana) said that he was tempted to accept a compromise solution but that, in his opinion, the one suggested by the President would not be in accordance with the rules of procedure; to record the fact that an observer supported a proposal would amount to giving him a vote. The rules of procedure stated very clearly that observers should not have the right to vote. Therefore, should the President's solution be accepted, his delegation would like the summary record to state that, in its opinion, the delegations of Brazil, India and Chile were all co-sponsors of draft resolution E/L.1391.

36. Mr. AYOUB (Tunisia) said he was in favour of abiding by the letter of the rules of procedure. The Council should

first take a decision with regard to the participation of an observer in the debate on a matter which the Council considered to be of particular concern to that country. Only on that condition was a Member of the United Nations which was not a member of the Council entitled to enjoy the right conferred by article 75. Once the Council decided to invite observers to participate in the deliberations on a matter, it should act in accordance with rule 75 of the rules of procedure and give them all the rights provided for in that rule.

37. Mr. CARANICAS (Greece) said that the President's proposal was entirely appropriate in that it made it possible not to settle the issue immediately. The issue was certainly an extremely important one, but before taking a decision on it, the Council should be familiar with all its aspects and ramifications.

38. In his view, it would be dangerous to give too broad an interpretation to rule 75 of the rules of procedure. If, for example, the delegations of India and Chile, which were not members of the Council, had been the only ones wishing to submit draft resolution E/L.1391, would the Council have invited them to take a seat at the Council table, to introduce their draft resolution formally and to accept or reject amendments? To do so would amount to increasing the membership of the Council, an action which could only be taken by the Security Council and the General Assembly.

39. The PRESIDENT said that to take account of the objections raised by the representative of Ghana, draft resolution E/L.1391 might have a foot-note stating that Chile and India had expressed the desire to be co-sponsors. If that were done, a decision on the substantive issue could be avoided.

40. Mr. FAROOQ (Pakistan) said that before the Council took a decision the Secretariat might provide it with a document on all the aspects of the matter. Members should not lightly commit themselves, since any decision, even the one suggested by the President, would create a precedent.

41. Mr. VIAUD (France) agreed with the President that it would be best to defer prolonged discussion on a legal question of the type under consideration. The Council might revert to it when it took up the item on measures to improve the organization of its work.

42. It might be dangerous to adhere too strictly to the rules of procedure. For example, rule 75 provided that the Council should invite any Member of the United Nations which was not a member of the Council to participate in its deliberations on any matter which the Council considered was of particular concern to that Member. There might be difficulties in requiring the Council to decide whether a specific question was of particular concern to a given Member. On the other hand, too loose an interpretation would only create disorder and confusion. A practical solution should therefore be sought which would take account of the fact that since States not members of the Council had not the right to vote their participation should be limited. His delegation supported the President's suggestion.

43. Mr. DE AZEVEDO BRITO (Brazil) said that if the Council accepted the President's suggestion, it would in effect be exercising discrimination against two Members of the United Nations which wished to be co-sponsors of a draft resolution. He proposed that the Council should decide by vote whether Chile and India were to be permitted to sponsor draft resolution E/L.1391.

44. Mr. ANTOINE (Haiti) pointed out that what the Council was required to do at the moment was to act on a draft resolution submitted to it and not to settle a legal question. Unlike the representative of Brazil, he did not think the Council should take in haste a decision which would create a precedent. He therefore asked the representative of Brazil to give delegations time to think about the matter or to let the Council defer consideration of it until the item on measures to improve the organization of work came up for discussion.

45. Mr. McCARTHY (United Kingdom) asked the representative of Brazil to withdraw his proposal. His own delegation was prepared to accept the President's suggestion. In any event, the Secretariat might, as had been suggested, prepare a document dealing with all the aspects of the question.

46. Mr. FAROOQ (Pakistan) and Mr. LENNON (United States of America) asked the representative of Brazil to withdraw his proposal.

47. Mr. SKATARETIKO (Yugoslavia) said that he thought the issue was very clear and that it was obvious that the delegations of India and Chile could be listed as co-sponsors of a draft resolution. If consideration of the question was postponed or a special study requested, the Council might become involved in an endless discussion.

48. Mr. TARDOS (Hungary) moved the adjournment of the debate on the item under discussion under rule 50 of the Council's rules of procedure.

49. Mr. LISOV (Union of Soviet Socialist Republics) supported that motion. He urged the Secretariat to continue to be guided by the interpretation that had always been given to rule 75 and to accept only draft resolutions submitted by members of the Council.

✓ 50. Mr. DE AZEVEDO BRITO (Brazil) said he opposed the Hungarian motion on the grounds that the only effect of adjourning of the debate would be to prolong unnecessarily the discussion of the item on the preparation for the Conference.

The motion to adjourn the debate was adopted by 19 votes to 3, with 1 abstention.

51. The PRESIDENT said that two non-governmental organizations had requested a hearing on agenda items 2 and 5. If there were no objections, he would assume that their requests (E/5008) were accepted.

It was so decided.

The meeting rose at 1 p.m.