



Report of the Special Committee on Admission of New Members

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I. Introduction

1. On 21 December 1952, the General Assembly adopted resolution 620A (VII) concerning the admission of new Members whereby it resolved:

(1) To establish a Special Committee composed of a representative of each of the following Member States: Argentina, Belgium, Canada, China, Colombia, Cuba, Egypt, El Salvador, France, Greece, Lebanon, the Netherlands, New Zealand, Norway, Peru, the Philippines, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland and the United States of America;

(2) To instruct the Special Committee to make a detailed study of the question of the admission of States to membership in the United Nations, examining the proposals and suggestions which had been made in the General Assembly and its Committees or which might be submitted to the Special Committee by any Members of the United Nations, such study to be conducted in the light of the relevant provisions of the Charter of the United Nations, the discussions in the General Assembly and its Committees, the debates in the Security Council, the advisory opinions of the International Court of Justice, the other antecedents of the question and the principles of international law;

(3) To request the Special Committee to submit a report on its work and its conclusions to the General Assembly at its eighth session and to transmit that report to the Secretary-General in time for distribution to Member States at least two months before the opening of the eighth session (see annex 1).

2. The Special Committee held eleven meetings¹ at the Headquarters of the United Nations from 31 March to 15 June 1953. At its eleventh and last meeting it unanimously approved the present report.

3. The members appointed by the General Assembly to the Special Committee were represented during the meetings as follows:

Argentina: Mr. Enrique Ferrer Vieyra (representative);

Belgium: Mr. Joseph Nisot (representative);

Canada: Mr. D. M. Johnson (representative);

China: Mr. Tingfu F. Tsiang (representative); Mr. Shuhsi Hsu, Mr. H. C. Kiang (alternates);

Colombia: Mr. Carlos Echeverri Cortes (representative);

Cuba: Mr. José Miguel Ribas (representative);

Egypt: Mr. Aly Kamel Fahmy (representative);

El Salvador: Mr. Miguel Rafael Urquía (representative); Mr. Carlos Serrano García (alternate);

France: Mr. Pierre Ordonneau (representative);

Greece: Mr. Alexis Kyrou (representative);

Lebanon: Mr. Edward Rizk (representative);

Netherlands: Mr. D. J. Von Balluseck (representative); Baron D. W. Van Lynden, Mr. H. Scheltema (alternates);

New Zealand: Mr. Leslie Knox Munro (representative); Mr. A. R. Perry, Mr. J. V. Scott (alternates);

Norway: Mr. Hans Engen (representative); Mr. Erik Dons (alternate);

Peru: Mr. Carlos Holguin de Laval (representative);

Philippines: Mr. Salvador P. López (representative);

Union of South Africa: Mr. J. R. Jordaan (representative); Mr. M. I. Botha, Mr. J. J. Theron (alternates);

United Kingdom of Great Britain and Northern Ireland: Sir Gladwyn Jebb (representative); Mr. P. M. Crosthwaite, Mr. P. S. Laskey (alternates);

United States of America: Mr. Henry Cabot Lodge, Jr. (representative); Mr. James J. Wadsworth, Mr. Paul Taylor, Mr. Milton K. Wells (alternates).

4. Mr. Miguel Rafael Urquía (El Salvador) was elected Chairman, Mr. Salvador P. López (Philippines) was elected Vice-Chairman and Mr. Hans Engen (Norway) was elected Rapporteur.

5. At the first meeting, the Secretary-General was requested to submit a memorandum on the historical background of the question of the admission of new Members in order to assist the Committee in its work. The memorandum was distributed on 22 April 1953.²

6. At its second meeting on 12 May, the Committee decided to hold a brief general discussion prior to discussing the proposals referred to it and any proposals or suggestions which might be made in the course of its work.

7. After the general debate, the Special Committee, at its fifth meeting on 22 May, agreed that, for convenience of discussion, the various proposals and suggestions referred to the Committee by the Assembly or made in the Committee itself should be separated into two groups.

II. Proposals and suggestions

A. FIRST GROUP

8. The first group consisted of the following proposals and suggestions:

(1) The draft resolution submitted by Peru in the *Ad Hoc* Political Committee during the seventh session (see annex 2).

The resolution provided, *inter alia*, that the General Assembly should consider (i) that it appeared from the proceedings in the Security Council that vetoes had been pronounced on applicant States, which had been

recognized unanimously as fulfilling the conditions governing admission, under the influence of motives outside the scope of Article 4 of the Charter and hence in conflict with the advisory opinion of the International Court of Justice of 28 May 1948; (ii) that the principle of universality which underlay the Charter might not be restricted by such arbitrary application of the unanimity rule as indefinitely to exclude from membership qualified applicant States; (iii) that there were sound reasons for claiming that that rule, being an exception, should only be applied restrictively and hence only in

¹ A/AC.64/SR.1-11.

² A/AC.64/L.1.

the cases involving the functions exclusively vested in the Security Council; (iv) that, in the matter of the admission of new Members, as shown by the records of the San Francisco Conference, the final decision lay with the Assembly, and that accordingly the Council's recommendation, though necessary, was a previous step or a procedural stage which did not require the application of the unanimity rule; (v) that, even if that rule were applicable to the Council's recommendation, it would be inadmissible in cases involving a violation of the Charter, such as would be constituted by accepting a veto to the admission of new Members acknowledged, by the Power exercising the veto, as eligible within the meaning of Article 4; and (vi) that the General Assembly resolution entitled "Uniting for Peace", approved almost unanimously by the General Assembly, had laid down the doctrine that the exercise of the veto by a Power could not paralyse the Organization or relieve the General Assembly of its responsibilities under the Charter. Accordingly, the General Assembly would resolve to note that the opinions, votes and proposals laid before the Council concerning the admission of new Members signified that the States concerned were unanimously recognized as fulfilling the conditions required for membership under Article 4, and to consider each of the applications of those States in the light of the Purposes and Principles of the Charter and of the above circumstances.

(2) The joint draft resolution submitted by Costa Rica, El Salvador, Honduras and Nicaragua in the *Ad Hoc* Political Committee (see annex 3).

The joint draft resolution provided, *inter alia*, that the General Assembly, (i) considering that it was essential for the purposes of the United Nations to facilitate the admission of new Members which fulfilled the conditions laid down by the Charter; (ii) deducing from the San Francisco Statement of 7 June 1945 that the admission of new Members was not subject to the veto but was to be dealt with by procedural vote of any seven members of the Council because, although it might be connected with the maintenance of international peace and security, it did not involve taking direct measures relating thereto; (iii) considering that the expression "a procedural vote" was itself proof that the subjects to which it referred might not be procedural matters in the strict sense of the term; and (iv) considering that the General Assembly, as the organ chiefly responsible for deciding on applications for membership, had the right and also the duty to decide on the pending applications in accordance with that criterion; (v) would consider separately each pending application and decide in favour of or against admission in accordance with the merits of each case and the results of a vote taken in the Security Council in conformity with Article 27, paragraph 2, of the Charter.

(3) An amendment by Argentina to the joint draft resolution, also submitted in the *Ad Hoc* Political Committee (see annex 4).

The amendment provided, *inter alia*, for a reference to the interpretation by the Advisory Committee of Jurists at the San Francisco Conference, an interpretation subsequently approved by Committee II and the Conference itself, to the effect that the powers of the Assembly to "reject a recommendation to the effect that a given State should not be admitted to the United Nations" and accordingly to decide favourably on its

admission to membership, were expressly recognized. The amendment also provided that the General Assembly should resolve to consider each application on its merits and decide on it accordingly.

(4) An explanatory memorandum submitted by Cuba (see annex 5).

The memorandum expressed the view that the question of admission of new Members should be governed by a procedural vote in accordance with the Statement by the four sponsoring Powers at San Francisco on 7 June 1945. The recommendation of the Interim Committee on 15 July 1948 and the resolution of the General Assembly of 14 April 1949 supported that view. The Security Council had to decide the previous question whether the question of admission of new Members was subject to a procedural vote. The practice of the Security Council had not been consistent in regard to that previous question. On one occasion, the Security Council had concluded that the previous question should be decided by a procedural vote on the basis of a presidential ruling under rule 30 of the provisional rules of procedure. Following that precedent, the Council could thus take a decision in respect of admission of new Members by an affirmative vote of any seven of the members.

B. SECOND GROUP

9. The second group consisted of the following proposals and suggestions:

(1) A proposal submitted by Argentina as a working document (see annex 6).

Taking note of the general feeling in favour of the universality of the United Nations, and stating that in admitting new Members "the particular circumstances of each applicant State should be considered," the proposal called for a recommendation by the General Assembly that the Security Council should re-examine the applications for admission submitted by Albania, the People's Republic of Mongolia, Bulgaria, Romania, Hungary, Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon, Nepal and Libya and make recommendations on each of them to the General Assembly.

(2) An explanatory memorandum submitted by Egypt and the Philippines (see annex 7).

The memorandum stated the belief that, since long and detailed discussion of the juridical aspects of the question had yielded no fruitful results, the Special Committee should consider proposals aiming at resolving the political impasse which had prevented the admission of new Members. It was not possible to circumvent the rule of unanimity which had been observed in the Security Council in respect to voting procedure on membership questions. In the circumstances, the only possibility of effecting the admission of a number of qualified States was offered by the so-called "package proposal" under which the Security Council would reconsider the simultaneous admission of fourteen applicant States: Albania, the People's Republic of Mongolia, Bulgaria, Romania, Hungary, Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon, Nepal and Libya. The fourteen States would have to fulfil the requirements of Article 4 of the Charter and in the General Assembly any Member could oppose the inclusion of certain States in the package and present concrete evidence that they

did not fulfil those requirements. The admission of two or more States at the same time was forbidden by no

provision of the Charter, provided they were all deemed to be qualified.

III. Discussion of the first group of proposals and suggestions

A. VIEWS EXPRESSED IN SUPPORT

10. The representative of PERU declared that his Government's attitude, as stated in the General Assembly and *Ad Hoc* Political Committee, remained unchanged. It was based on the provisions of the Charter and on the advisory opinion of the International Court of Justice of 28 May 1948 to the effect that the admission of a State should be based only on the conditions explicitly laid down in Article 4 of the Charter. His delegation opposed the application of the unanimity rule in the Security Council in any case where it was relied on for the purpose of preventing a candidate State's admission for reasons other than the criteria set forth in the Charter. It supported the principle of the universality of the Organization, and considered that it was for the General Assembly alone to take the final decision on the admission of new Members.

11. He did not think that the arguments advanced against the Latin-American proposals had detracted from the value of the ideas upon which they were based. The Argentine and Cuban representatives' statements³ had added force to the Central American delegations' attempt to deal with the problem in a manner that would be both practical and in keeping with the dignity of the United Nations.

12. Finally, the Peruvian representative, bearing in mind the terms of reference of resolution 620 (VII) of the General Assembly as well as the general trend of the debate, maintained the view that no vote need be taken on the proposals presented by Peru and by the Central American States.

13. The representative of EL SALVADOR believed that it would be possible to find a practical juridical solution, and explained that the Central American draft resolution was wholly in accordance with the advisory opinions of the International Court of Justice, and was an attempt to solve the problem of the admission of new Members, in conformity with Article 4 of the Charter, on the basis of a more liberal interpretation of Article 27.

14. The Central American delegations recognized that, under Article 4, it was incumbent on the Security Council and on the General Assembly to decide in turn on the ability of a candidate to fulfil the Charter obligations; it was for the Council to make a favourable recommendation and for the Assembly to take the final decision.

15. The present deadlock had resulted from the interpretation given by the Security Council to Article 27: namely, that the admission of new Members was not a procedural but a substantive question subject to the veto under Article 27, paragraph 3. The Central American countries were striving to obtain a more practical interpretation of the provisions of part I of the San Francisco Statement which would indicate clearly the cases to which the veto could apply and those to which it could not. He did not agree with those representatives

who objected that Article 27 clearly established that decisions of the Security Council on all but procedural matters should be made by an affirmative vote of seven members, including the concurring votes of the permanent members. Nor could he agree with the representative of the Union of South Africa that the lists in both paragraphs 1 and 2 of part I of the San Francisco Statement were not restrictive. Paragraph 1, in his opinion, contained an exhaustive list of questions of substance to which the veto was applicable.

It was so drafted as to make clear that the veto was only applicable to decisions which involved the Council's taking direct measures in connexion with the settlement of disputes, the adjustment of situations likely to lead to disputes, the determination of threats to the peace, the removal of threats to the peace and the suppression of breaches of the peace. The veto was applicable only to decisions directly involving the essential function of the Security Council: to maintain international peace and security. The great Powers had indicated that fact clearly in part I, paragraph 9, of their Statement, which read: "9. In view of the primary responsibilities of the permanent members they could not be expected, in the present condition of the world, to assume the obligation to act in so serious a matter as the maintenance of international peace and security in consequence of a decision in which they had not concurred". The admission of new Members did not belong to the category established by paragraph 1. Paragraph 2, on the other hand, contained a list of questions of procedure or questions submitted to a procedural vote, given as examples only; it was not restrictive. His delegation did not contend that the admission of new Members should be considered as a purely procedural question. But the San Francisco Statement made a distinction between procedural questions and questions governed by a procedural vote. The question of the admission of new Members could fall in the second category.

16. In support of a liberal interpretation of Article 27, the representative of El Salvador also drew attention to the fact that the Security Council and the General Assembly, contrary to the literal meaning of Article 27, paragraph 3, had admitted that the absence or abstention of permanent members did not invalidate decisions which included the affirmative votes of at least seven other members of the Council. He cited as examples of that practice decisions regarding the Spanish question in 1946, the Kashmir question in 1948 and the June 1950 decisions concerning the aggression in Korea. The practice had been hailed as a step forward in the procedure of the Organization. A development of that kind would be legitimate in the case of the voting procedure followed by the Security Council in regard to the admission of new Members.

17. In view of the fact that the representative of France had stated⁴ that the provisions of Article 27, paragraph 3, of the Charter were very clear, the representative of El Salvador wished to ask him whether, in

³ See paragraphs 20-36 below.

⁴ See paragraph 58 below.

the case of any substantive vote in the Security Council during which one of the permanent members abstained or was absent, the provision calling for "the concurring votes of the permanent members" was really fulfilled. In the Security Council — the speaker added — an abstention of a permanent member was not held to be a veto; and a police action had actually been undertaken in the absence of a permanent member.

18. It had been argued, he said, that, under Article 18 of the Charter, the admission of new Members was an important question requiring a majority vote of two-thirds of the members of the General Assembly, and that, consequently, the Security Council could not consider it as a simple question of procedure. That argument would be valid if the two organs concerned had the same function in the admission process. That was not, however, the case; the Council recommended, the Assembly decided. The Assembly could reject the recommendation by the Council, but the Council could not reverse the decision of the Assembly. Moreover, as the Argentine delegation had pointed out,⁵ the intention of the majority at San Francisco had been that the Assembly should be entitled not only to reject a favourable recommendation by the Council, but also to admit an applicant in spite of an unfavourable recommendation. That fact showed that the functions entrusted to the Assembly had been much more important than those assigned to the Security Council. It also proved that it was impossible, in practice, to proceed by analogy with other questions, as for example, the expulsion of a Member State, as certain members of the Special Committee had sought to do. There were, indeed, cases in which the participation of the Council and the participation of the Assembly had the same importance, such as the election of judges of the International Court of Justice.

19. The representative of El Salvador noted with disappointment that the four permanent members of the Security Council represented on the Special Committee seemed to take a less liberal position in regard to the application of the veto to the admission of new Members than they had done in the Interim Committee in 1948. The United States representative had recently said in the *Ad Hoc* Political Committee that the five great Powers had thought at the San Francisco Conference that the veto would be used only in exceptional cases, but that the Union of Soviet Socialist Republics had made that exception the rule. The representative of El Salvador wondered whether the admission of new Members had come to be considered an exceptional case, since all the permanent members of the Council plainly wished the veto to apply to it.

20. The representative of ARGENTINA explained that his delegation's position was basically the same as in 1946. The admission of new Members was a corporate act in which the Security Council's function was to recommend admission, whereas the General Assembly was responsible for the final decision. The recommendation could be favourable or unfavourable. On the basis of the records of Committee II/1 at San Francisco, it was clear that Article 4, paragraph 2, of the Charter referred only to the procedure for the admission of new Members; the substantive provisions concerning admission were contained in paragraph 1, with which Committee I/2 had dealt. The only legally valid interpretation of Article 4, paragraph 2, was that given by the

Advisory Committee of Jurists on 16 June 1945, incorporated in the report of Committee II/1 and later approved by the San Francisco Conference, namely, that the General Assembly could accept or reject a recommendation advising the admission of a new Member, or a recommendation advising against admission. Abundant documentary material of the San Francisco Conference sustained this interpretation. No document of the Conference showed that the Council's recommendation had to be favourable and that it required the unanimous vote of the five great Powers. Nor had the case of the admission of new Members been mentioned in connexion with the discussion of specific cases to which the veto would apply.

21. The only Conference record referring to the Council's powers with regard to the admission of new Members stated that various representatives had stressed that the Council had the initial responsibility for proposing the participation of new States. It clearly followed that the final decision must rest with the General Assembly.

22. In reply to the Argentine delegation's opinions on the role of the General Assembly, the South African representative had drawn an analogy between Articles 18 and 27 of the Charter, saying that since the admission of new Members was an important question for the General Assembly requiring a two-thirds majority vote, it must also be an important question for the Security Council and must require the affirmative votes of all five permanent members.⁶ That argument was to some extent logical, but it assumed that the Charter provided a specific procedure for voting on important questions in both organs. In fact, however, it provided several distinct systems for voting on matters of importance. The first of those systems, set forth in Article 6, required the affirmative votes of the five permanent members in the Security Council and a two-thirds majority in the General Assembly; the second, under Article 109, paragraph 1, required a two-thirds majority in the General Assembly and the affirmative votes of any seven members in the Security Council; the third, which applied to questions such as the election of the Secretary-General, required a simple majority in the General Assembly and the affirmative votes of the five permanent members in the Security Council. Another system was set forth in Article 10 of the Statute of the International Court of Justice which required only an absolute majority of votes in the General Assembly and in the Security Council. The veto did not apply to a number of important questions.

23. The San Francisco Statement supported the argument that there was no single criterion for establishing a relationship between the importance of the question and the system of voting. In its list of procedural questions which could be settled by a simple majority, the Statement included important issues.

24. The representative of Argentina also pointed out the difference between the provisions of Article 4 of the Charter and those of Articles 5 and 6. Suspension and expulsion were questions directly concerned with international peace and security; they came under the heading — as stated in San Francisco — of "enforcement measures", in connexion with which the Security Council was necessarily called upon to take action.

⁵ See paragraph 20 below.

⁶ See paragraph 41 below.

25. On the basis of Kelsen's work on the United Nations, the representative of Egypt had put forward an important and interesting argument⁷ criticizing the Argentine delegation's position on the role of the General Assembly. Kelsen had said that the word "recommendation" as used in the Charter had two separate meanings. In Articles 10, 11, 14, 36, 37 and 38 it meant "advice", and implied no obligation of acceptance upon those to whom the advice was addressed. In its other context the word meant a decision, and implied that that decision would have the same legal effect as a decision of the General Assembly. Kelsen had in fact argued that the recommendation of the Security Council referred to in Article 4, paragraph 2, had the same legal force as the decision of the General Assembly to which that paragraph also referred. He had, however, gone on to say that the Assembly was not bound to accept the Council's recommendation to admit an applicant State, thereby apparently destroying his first argument. Kelsen's interpretation, said the representative of Argentina, had, perhaps, rested on political rather than juridical factors, and relied upon the same material cited by the representative of China⁸ in connection with the rules of procedure of the General Assembly and the Council on the admission of new Members.

26. The representative of Argentina declared that the Council had the power to interpret those provisions of the Charter which applied to it alone; its power was, however, restricted in the case of the admission of new Members, where the General Assembly also had competence. It could not make an interpretation that would lead to a clear violation of the Charter. It could only recommend: the Assembly alone could decide.

27. The records of the San Francisco Conference showed that it had been in favour of endowing the General Assembly with the power to admit new Members. In none of the records was it stated that the Council could veto the admission of a new Member; all documents recognized the power of the General Assembly in the matter, and while the veto had been discussed in connexion with specific cases to which it would apply, the case of the admission of new Members had not been mentioned.

28. The only way to defend the power of the Security Council to veto the admission of a new Member was to deny the validity of the Conference's records, as the International Court of Justice had had to do in its advisory opinion of 1950. It might be of interest to note that four members of the majority of the Court had also participated in the work of the Advisory Committee of Jurists, where they had taken a different view.

29. There could be a technical or a political solution to the problem of the admission of new Members. He would not oppose a political solution, if the majority of the Special Committee agreed on such a settlement. The Committee's main function was to find a way out of the present deadlock.

30. The representative of CUBA held that, under the terms of the San Francisco Statement of 7 June 1945, the admission of new Members was not one of the questions to which the rule of the unanimity of the permanent members of the Security Council should

apply. On certain occasions, for example, during the discussion of the Spanish question and the Greek frontier incidents, the Security Council had not applied the rule of unanimity. Again, when the question of inviting a representative of the People's Republic of China to participate in a certain discussion had arisen in 1950, the President of the Security Council, applying rule 30 of the provisional rules of procedure, had ruled, notwithstanding the objection of a permanent member, that the vote which the Council had taken was procedural.⁹

31. In regard to the arguments in favour of the unanimity rule based on the advisory opinion of the International Court of 3 March 1950, the Cuban representative pointed out that the Court had expressly stated that it was not required to answer the question whether the veto was applicable to the admission of new Members, but merely to state whether the Assembly should admit a State in the absence of a Council recommendation. In practice, whenever a permanent member of the Council had voted against admission, the President had interpreted the vote as a veto. That was why, in its explanatory memorandum, the Cuban delegation had drawn the conclusion that the only way out of the impasse would be to adopt the principle that a majority of seven members of the Council was sufficient.

32. As to the argument based on the San Francisco Statement that, under Article 27, the veto applied to all except procedural questions and that the admission of new Members should not be classed in that category, he declared that the examples of procedural questions listed in part I, paragraph 2, of the San Francisco Statement were not exhaustive. An analysis of the list showed that not one example could be regarded as being purely procedural; yet the decisions on them were taken by the procedural vote of seven affirmative votes. The words "procedural matters" should not be interpreted in a strictly technical sense. The drafters of the Charter had simply wished to indicate that there were a number of questions that were not subject to the veto, as opposed to some other questions to which it applied.

33. In view of the nature of the privilege conferred by the right of veto, the words "procedural matters" and "matters of substance" should be given a restrictive interpretation where the use of the veto was involved. Part I, paragraph 4, of the San Francisco Statement bore out the view that the permanent members had clearly anticipated that the use of the veto would be limited to cases in which enforcement measures would be applicable and to cases likely to make such measures necessary. From that interpretation by the Sponsoring Powers it could be concluded that any decision of the Council which did not involve serious political consequences and enforcement measures should be regarded as a procedural matter, and could be settled by a majority vote of any seven members. That was true in the case of the admission of new Members.

34. In support of the view that the veto should not apply to the admission of new Members, the Cuban representative cited the 1948 report of the Interim Committee of the General Assembly and the conclusions of Judge Alvarez in his dissent to the advisory opinion of the Court of 3 March 1950. He stated that the veto power had been created to apply exclusively to ques-

⁷ See paragraph 45 below.

⁸ See paragraphs 65 and 67 below.

⁹ See paragraphs 55-56 below.

tions concerning the maintenance of international peace and security and should be kept within proper bounds.

35. The Cuban representative also argued that, in its resolution on "Uniting for Peace"¹⁰ (resolution 377(V) of 3 November 1950) the General Assembly had gone much further than in its resolution 267 (III) concerning the recommendation of the Interim Committee. The former was based on the premise that in cases in which the Assembly and the Council exercised concurrent powers, the Assembly had the right and duty to take action if the Council, because of the exercise of the veto power by one of its permanent members, was unable to function effectively. If the Assembly had, in spite of Article 12 of the Charter, gone so far as to take up a question involving international peace and security while it was still under consideration by the Council, it could surely deal with a matter within its competence when there was no provision in the Charter precluding it from doing so.

36. As to the observation of the Philippines representative¹¹ that in a question, like the choice of a Secretary-General, within the common competence of the Council and the Assembly, the authority of the former prevailed, the Cuban representative pointed out that the General Assembly had managed to extend the term of office of the former Secretary-General, despite the opposition exerted in the Security Council by one of its permanent members. Therefore the authority of the Council did not invariably prevail.

37. The representative of LEBANON said that his delegation was convinced that the problem before the Special Committee was primarily political, arising from the political tension existing between the two major blocs of Powers. However, while believing firmly that the best solution would be a political one, he nevertheless saw in the Peruvian and Central American draft proposals a possible solution to the problem.

Those proposals raised three principal issues: (1) the question of the use of the veto in the Security Council in connexion with the admission of new Members; (2) the question whether the General Assembly had the right to admit an applicant State in the absence of a favourable recommendation by the Security Council; and (3) the question whether the negative vote of a permanent member, cast in contravention of the provisions of the Charter, could preclude admission.

38. As to the first and third issues, the considered opinion of the Lebanese delegation was that the admission of a State could not be, and had never been intended by the Charter to be, subject to the veto. It was not surprising that the permanent members of the Council present in the Special Committee appeared not to have been convinced, since they were thereby enabled to wield more power than the Organization itself. The "judgment of the Organization" referred to in Article 4, paragraph 1, of the Charter obviously meant in the judgment of both the Security Council and the General Assembly. Had the Charter meant to reserve to the permanent members the right to pass judgment on the ability and the willingness of an applicant State to carry out the obligations of membership, it would have said so expressly. By its arbitrary exercise of the power of the veto, a permanent member was infringing a right

conferred by the Charter upon the Organization as a whole and was assuming a power superior to that of the Security Council and the General Assembly together. The fact that the Security Council and the General Assembly had accepted the situation did not provide any legal justification for that abuse of the right of the veto. It was the Special Committee's duty to remind the General Assembly of its paramount right of decision under Article 4.

39. With regard to the second issue arising from the Argentine amendment to the joint Central American proposal, the Lebanese delegation supported the advisory opinion of the International Court of Justice to the effect that a recommendation had to be made by the Council before the General Assembly could admit an applicant State and that Article 4, paragraph 2, envisaged a favourable recommendation.

B. OTHER VIEWS

40. The representative of the UNION OF SOUTH AFRICA considered the problem to be twofold: Did the principle of the unanimity of the permanent members of the Security Council apply to the question of admission and, if so, was it possible to bypass the veto? He noted that the Council had always applied that principle in the past, and that, while it was true that the four permanent members had declared that they would forego their right of the veto in the matter, they had done so voluntarily.

41. Dealing with the four-Power Central American draft resolution, he stated that the lists contained in paragraphs 1 and 2 of the Statement by the four Sponsoring Powers at San Francisco on 7 June 1945 were in no way exhaustive. The admission of new Members had been mentioned in neither list. The Council had decided, when the matter had first come up, that admission fell into the category of matters to which the unanimity rule applied. Since the Council and the Assembly were not subordinate to one another, the General Assembly had no power to overrule a decision of the Council. Pointing out that Article 18, paragraph 2, of the Charter specified that the admission of new Members was an important question for the General Assembly, he stated that the same must be true for the Security Council, which, in consequence, must apply the unanimity rule. A comparison of the provisions of Articles 4, 5 and 6 led to the obvious conclusion that the same procedure must apply to the admission, suspension and expulsion of Members, all of which questions were specified as important questions by Article 18, paragraph 2, and thus could not be treated as a procedural matter by the Council. If the Council could recommend suspension by a mere procedural vote, it would follow that it could restore a Member's rights by the same voting procedure; if that were so, it could quash by a procedural decision a decision of the General Assembly adopted by a two-thirds majority; and that would be completely illogical. The Charter could not be amended by interpretation, but should rather be searched for provisions which, if applied, might put a stop to the use of the veto.

42. Regarding the Argentine amendment to the joint Central American draft resolution, he recalled that the International Court of Justice had stated its belief, in the advisory opinion of 3 March 1950, that since it had found no difficulty in ascertaining the natural and

¹⁰ See paragraphs 43, 54 and 73 below.

¹¹ See paragraph 62 below.

ordinary meaning of the words used in Article 4, and since there was no difficulty in giving effect to them, it was not permissible to go to the San Francisco documents for an interpretation. The Court had considered that Article 4, paragraph 2, envisaged only a favourable recommendation by the Security Council. It was impossible to admit that the General Assembly had the power to attribute to a vote of the Security Council the character of a recommendation when the Council itself had considered that no recommendation had been adopted. Moreover, the Security Council had never made an adverse recommendation on the admission of an applicant State.

43. The representative of EGYPT, while reserving the position which his Government might take at the eighth session of the General Assembly with regard to the proposals submitted by Peru and the four Central American States, said that the "Uniting for Peace" resolution had not exceeded the limits of the Assembly's competence as defined in Articles 10 and 11 of the Charter.¹² On the other hand, the Peruvian proposal sought to give the Assembly powers which the Charter had not provided, since Article 10 did not empower it to make decisions.

44. The General Assembly was not entitled to interfere with the voting procedure of the Security Council which, pursuant to the decision taken at San Francisco, interpreted those provisions of the Charter the application of which lay within its competence. The Egyptian delegation believed, nevertheless, that the Security Council's interpretation of the Charter should not be liberal or arbitrary, but should respect the limitations and restrictions imposed by honest interpretation. One example of liberal interpretation by the Council of its procedure concerned Article 27, paragraph 3, which had been interpreted as meaning that the abstention of a permanent member did not prevent the Council from adopting a decision on a substantive question. Unfortunately, the permanent members of the Council had been given great freedom of action, with the right to use the veto and the double veto. That state of affairs could not be remedied until the Charter was amended.

45. The mere enumeration in the Charter of the undisputed functions of the Security Council made it abundantly clear that the Council was the principal political organ of the United Nations. The admission of new Members was certainly a political question of the very highest order, to which the unanimity rule of the Council should apply as in similar political questions and substantive matters falling within the jurisdiction of the Council. He cited interpretations by two recognized authorities, Professors Kelsen and Hambro, to the effect that the admission of a State into the United Nations was a matter within the joint jurisdiction of the General Assembly and the Security Council.¹³ The wording of Article 4, paragraph 2, of the Charter did not preclude the interpretation that the General Assembly should make its decision on a recommendation, favourable or unfavourable, of the Security Council, but there was little likelihood that the drafters of the Charter had intended the Security Council to play such a minor role in matters of such great political importance. The admission of new Members should be effected by a favourable decision of the Security Council followed by

a concurring decision of the General Assembly and, since the question of admission was one of the important questions to be decided by a two-thirds majority of the Assembly, the Council's decision was subject to Article 27, paragraph 3.

46. Concerning the Argentine amendment to the Joint Central American proposal, the representative of Egypt expressed the view that there was no question but that the General Assembly could accept or reject a recommendation for the admission of a new Member or a recommendation to the effect that a given State should not be admitted. However, the matter should be left there, as the Advisory Committee of Jurists had decided. The Assembly could not decide to admit a State in the absence of a favourable recommendation by the Security Council.

47. The representative of the UNITED STATES OF AMERICA considered that the various proposals and memoranda submitted to the Special Committee by Latin American delegations involved three main questions. First, could the General Assembly decide to admit an applicant in the absence of a favourable recommendation by the Security Council? Second, could the admission of a State be the subject of a veto in the Security Council? Third, could the negative vote of a permanent member of the Council, cast contrary to the provisions of the Charter, prevent a State from being admitted?

48. Regarding the first question, he believed that the Special Committee should be guided by the advisory opinion of the International Court of Justice of 3 March 1950. The Court had stated that Article 4, paragraph 2, referred only to a favourable recommendation and that an unfavourable recommendation would not correspond to that provision. Both the General Assembly and the Security Council had always given that interpretation to Article 4, paragraph 2, as evidenced by rules 135 and 136 of the rules of procedure of the General Assembly and the fact that the Security Council had never forwarded a negative recommendation to the General Assembly. Dealing with the Argentine amendment to the joint Central American proposal, he recalled that the discussions in Committee II/1 of the San Francisco Conference had clearly reflected the understanding that, under the Dumbarton Oaks proposal, the assent of the Council was required before the Assembly could admit a State into the Organization. That Committee had rejected certain amendments designed to limit the role of the Security Council and had adopted a text similar to the Dumbarton Oaks proposal. The changes suggested in that text by the Co-ordination Committee and the Advisory Committee of Jurists had been made for drafting purposes only, and the interpretation by the latter Committee of the new text and its acceptance by Committee II/1 and the Conference could not be taken as showing a design to make the Council's function purely consultative, since such a design would have granted the Assembly powers which Committee II/1 had already decided it should not have. Furthermore, it should be noted that the interpretation of the Advisory Committee of Jurists had not suggested that the Assembly's right to reject an unfavourable recommendation constituted a power to admit a State which the Security Council had rejected.

49. As for the second question which he had set forth, the United States representative said that his Govern-

¹² See paragraphs 35, 54 and 73 of the present report.

¹³ See paragraph 25 above.

ment shared the general agreement that the permanent members of the Council should not exercise their right of veto to block the admission of a candidate which had received seven or more votes in the Security Council.¹⁴ Had the USSR taken the same attitude as the other permanent members, the question would have been solved long before. However, the issue under consideration was not whether the veto right should be used but whether it existed in the case of applications for admission. The Council and the Assembly had always proceeded on the understanding that it did exist, and the Council had never interpreted the negative votes of the USSR as anything other than a veto. Dealing with the Interim Committee's studies of the veto in 1948, he noted that it had not decided that the recommendation for the admission of a State was a procedural decision for the Council. The General Assembly, on the basis of that study, had adopted a resolution implying that membership recommendations were substantive, not procedural. In another resolution in 1949, the Assembly, while asking the permanent members to refrain from using the veto right, had evidently recognized that the right existed. In connexion with the joint Central American proposal, he observed that it should be borne in mind that the Statement of the Sponsoring Powers at San Francisco had been made in answer to a questionnaire which referred mainly to chapter VIII of the Dumbarton Oaks proposals and did not even mention the question of admission to the United Nations. It could not therefore be assumed that the Sponsoring Powers had been addressing themselves to that question or that they had agreed in their Statement that it should be governed by a procedural vote. The United States delegation was not at all sure that the responsibility for interpreting the voting procedures of the Security Council could rest outside that body. As regards the Cuban working paper, it was far from certain that sufficient support would be obtainable in the Security Council for a determination that a recommendation to admit a State was a procedural decision.

50. Turning to the third question involved in the proposals and suggestions under discussion, the United States representative said that there was no doubt that the negative votes of a permanent member had been cast on illegal grounds and, in that connexion, he observed that the USSR policy was contrary to the Charter and to the 1948 advisory opinion of the International Court of Justice. Whether the USSR votes were, in effect, null and void, as was maintained in the Peruvian draft resolution was, however, another matter. The International Court had not gone so far as to suggest that, and the Council had considered those negative votes to be effective, since it had not submitted to the Assembly favourable recommendations on applications which the USSR delegation had voted against on grounds contrary to the Charter. He was not sure whether the General Assembly could reach a conclusion contrary to that of the Council, since such a contention might give the Assembly authority which the Charter did not recognize.

51. The representative of BELGIUM agreed with the advisory opinions given by the International Court of Justice on 28 May 1948 and 3 March 1950. He contested the idea that the admission of new Members, a matter characterized by Article 18 of the Charter as an "important question", could be settled by a procedural

vote. It was a substantive question, both in the Security Council and in the General Assembly. The fact that the Charter gave the negative vote of the permanent members the effect of a veto did not deprive them of their right to vote against the admission of a State. Such a vote was legitimate, when exercised under a *bona fide* conviction that the applicant State did not fulfil the conditions laid down in Article 4. The representative of Belgium none the less shared the view that the veto had in fact been exercised in a manner contrary to the Charter and that such abuse was the main cause of the deadlock.

52. The representative of the UNITED KINGDOM recognized the need to make the United Nations as universal as possible, but held that it could not justify the adoption of decisions which would undermine the provisions of the Charter. The proposals of Peru and of the Central American countries and the Argentine amendment to the latter were clearly contrary to Article 4. Two fundamental questions were involved: whether the Security Council was justified in applying the principle of unanimity to the admission of new Members and, if that were the case, whether the General Assembly could use other methods for the admission of new Members. He pointed out that the Security Council had always considered that decisions on the admission of new Members were subject to the veto rule and that the General Assembly had never contested that interpretation although the veto power had been abused by the USSR, it did not automatically follow that the veto exercised under those conditions was invalid, still less that the unanimity rule did not apply to the question of admission.

53. Regarding the second question, the representative of the United Kingdom observed that according to the Charter the Security Council and the General Assembly were both principal organs of the United Nations and the Council was not subordinate to the Assembly. The argument that the General Assembly had the right to decide what constituted a recommendation by the Council, because it had the power to decide on admission, had already been refuted by the International Court of Justice in its opinion of 3 March 1950. It had been argued that, since the General Assembly had the power to reject a favourable recommendation, it should also be entitled to reject a negative one. The Court had also dealt with that argument by ruling that an unfavourable recommendation did not fall within the scope of Article 4, paragraph 2. In any case, no such contingency had ever arisen, nor was it likely to arise since, whenever agreement could not be reached in the Council on an application, the result was not an unfavourable recommendation, but no recommendation at all.

54. There was no analogy between the cases provided for in the "Uniting for Peace" resolution, under which the General Assembly could only make recommendations which Member States could adopt or reject, and the problem of admission.¹⁵ Decisions in connexion with the latter would have binding force on all the Members of the Organization, and the Assembly consequently could not, without violating the Charter, take such decisions in the absence of a recommendation by the Council.

¹⁴ See paragraphs 58, 63, 66, 72 and 92 of the present report.

¹⁵ See paragraphs 35, 43 and 72 of the present report.

55. In connexion with the Cuban memorandum, the United Kingdom representative explained that, in the 1950 decision to which the memorandum referred, the Council had had to decide whether the question of inviting a representative of the People's Government of China to participate in the discussion regarding Formosa was procedural or substantive.¹⁶ One of the examples of procedural questions in part I of the San Francisco Statement was the very case of the invitation to be sent to any party to a dispute submitted to the Council. The analogy had been quite clear: the question had incontestably been a procedural one and part II of the Statement could not be used to override part I. The United Kingdom representative noted that it was acknowledged that the question of admission of new Members could not be likened to any of the cases mentioned as examples in paragraph 2 of part I of the Statement. It could not, therefore, be said that, according to that paragraph of the Statement, the question of admission was one of procedure. Nor could it be maintained that the question of admission was declared to be procedural by the provisions of paragraph 1. That paragraph dealt only with chapters VI and VII of the Charter and was no more exhaustive than paragraph 2.

56. The representative of GREECE, while sympathizing with the reaction against the abuse of the right of veto by one great Power, pointed out that a twist in the interpretation of Article 4 might later be invoked as a precedent for the violation of other provisions of the Charter. Two incontrovertible principles emerged from the wording of the Charter, the Dumbarton Oaks and San Francisco documents, and the explicit provisions of Article 108 and of Article 109, paragraph 2, of the Charter: (1) that the Security Council and the General Assembly had equal jurisdiction in the question of admission of new Members; and (2) that the Security Council's recommendations for admission must be voted upon in accordance with Article 27, paragraph 3. Apart from the arguments adduced by other members of the Special Committee regarding the political nature of the question of admission, which was to be inferred from the clearly expressed will of the drafters of the Charter, he noted that, whereas the Covenant of the League of Nations had called for no action on the part of the League Council in the matter of admission to membership, the wording of Article 4 of the Charter was quite different. There was nothing in the San Francisco documents to indicate that it had not been intended to make a favourable recommendation by the Security Council a necessary prerequisite condition for admission by vote of the General Assembly. Since the participation of the Security Council in the process of admission was required by the Charter immediately after the enumeration of the qualifications for admission, it was logical to conclude that the intention of the authors of the Charter had been to place the main political organ of the United Nations, the Security Council, on a par with the General Assembly in such matters, and that the whole spirit of the Charter was that the Security Council should consequently treat the question as a substantive matter. In that connexion, the representative of Greece noted that it would be difficult to explain why the members of the Council should have been given the privilege of pronouncing

themselves twice on the same matter — in the Council and in the Assembly — but for that difference in the voting procedure of the two bodies. The Council participated in the voting in the Assembly on the admission of new Members because the votes of its members were weighed on the basis of the political inequality of Members, whereas in the General Assembly all the Members entitled to vote were juridically equal.

57. The representative of Greece suggested that among the conclusions which the Committee could draw from examination of the proposals and suggestions submitted by the Latin-American countries were the following: (1) Whenever it failed to recommend admission of a State, the Security Council should be required to explain in detail the reasons why each of its members, and particularly each of its permanent members, had cast a negative vote or had abstained. The only valid reason should be that the applicant State failed to satisfy the requirements for admission as set up by Article 4 of the Charter and as analysed by the 1948 advisory opinion of the International Court of Justice. In response to a question put by the representative of Belgium, who observed that the document containing a statement of those reasons would presumably be the responsibility of the Council as a whole and wondered whether it would be adopted by a procedural vote or by a vote of substance, the representative of Greece believed that a procedural vote would be sufficient, that being the present practice of the Security Council with regard to its reports. (2) Another conclusion was that the Committee should remind the General Assembly of the suggestion made in 1948 by the Interim Committee to the effect that those permanent members of the Security Council which for reasons of their own could not support an application for admission should be urged to abstain.

58. The representative of FRANCE said that, despite the importance which it attached to the principle of universality, his Government was not ready to sacrifice the Charter to it. The two proposals of principle to which the proposals before the Committee could be reduced were that the General Assembly could admit an applicant State without a favourable recommendation by the Council and that the unanimity rule should not apply. His delegation considered that the General Assembly could admit only applicants in regard to which a positive recommendation had been made by the Security Council and that the question was one of substance and required unanimity on the part of the permanent members of the Council. In reply to a question put by the representative of El Salvador,¹⁷ he agreed that the present practice in the Security Council with regard to abstention by permanent members represented an interpretation which might appear as not totally consistent with the letter of Article 27, paragraph 3; but this practice had been established by the general agreement of the five permanent members and the general consent of the other Members of the United Nations, and not by the five permanent members acting in disregard of the wishes of the majority. The possibility of some such arrangement with regard to the admission of new Members was not excluded; it was in fact what the General Assembly had urged upon the Council. In response to observations made in the course of the debate, he explained

¹⁶ See paragraphs 30 and 66 of the present report.

¹⁷ See paragraph 17 above.

that, in 1948, the representative of France in the Council had stated that his Government did not intend to exercise its right of veto with regard to the applications then pending.¹⁸

59. Dealing with the Argentine amendment to the Central American proposal, the representative of France stated that the meaning of Article 4 of the Charter was very clear and that it would be contrary to normal legal practice to use the *travaux préparatoires* of the San Francisco Conference in order radically to reverse the meaning of a clear text. Moreover, a study of the *travaux préparatoires* revealed nothing which might invalidate the meaning of Article 4.

60. With regard to the draft resolutions submitted by Peru and by the Central American countries, the representative of France said that the question of admission of new Members, by its very nature, concerned international peace and security. It could not, therefore, be claimed that it was a procedural question which would not require the application of the unanimity rule. While appreciating the motives of the sponsors, he could not support those proposals.

61. The representative of CANADA said that his delegation, which supported the principle of universality, would welcome any procedure which, while respecting the provisions of the Charter, would enable new Members to take part in the work of the United Nations. He opposed any formula which would solve the problem of admission by circumventing the provisions of the Charter, however, and was therefore unable to support any of the three proposals before the Committee.

62. The representative of the PHILIPPINES noted that, while in theory the General Assembly had decided upon the appointment of the new Secretary-General, in practice it had been forced to wait for the Security Council to reach agreement.¹⁹ That was a striking illustration of the fact that, in any question within the common competence of the Security Council and the General Assembly, it was in reality the authority of the Council that prevailed.

63. He agreed that the Council's practice of the broad interpretation of Article 27, paragraph 3, had had satisfactory results, but only the goodwill of the five permanent members had made those results possible. In the present case, three of the four permanent members represented on the Special Committee had already indicated that they did not consider that the veto could be disregarded in the admission of new Members.²⁰ There consequently appeared to be no point in continuing to seek a solution along those lines. As for the fact that the Charter used the word "decide" rather than "recommend" to describe the function of the General Assembly in the admission of new Members, he said that in practice the favourable recommendation of the Security Council was a prerequisite to any further action by the Assembly. The powers of the Council and of the Assembly were equal and concurrent in that question, and it followed that the same voting procedure was required in both. Pointing out that the Assembly itself had once decided that a recommendation to the Council to reconsider certain

applications required a two-thirds majority for adoption, he said that surely the act of reconsideration itself, which was far more momentous, would require a substantive vote on the part of the Security Council.

64. The representative of CHINA considered that most of the proposals under discussion were related to two questions: (1) did the rule of unanimity of the permanent members of the Security Council apply to the Council's recommendation on applications for membership?; and (2) could the General Assembly decide to admit an applicant State without a recommendation from the Council?

65. On the first question, the Chinese delegation considered that a recommendation for admission must be governed by Article 27, paragraph 3. In connexion with the joint Central American proposal, the representative of China noted that the Security Council had never expressed any doubt that such a recommendation was a question of substance subject to the unanimity rule. Article 18, paragraph 2, of the Charter and rules 84 and 135 of the General Assembly's rules of procedure also recognized that the admission of new Members was an important question which had to be decided by a two-thirds majority in the General Assembly. Furthermore, both Article 18, paragraph 2, and rule 84 ascribed equal importance to the admission of new Members and to the maintenance of international peace and security.

66. Dealing with the Cuban memorandum, he doubted whether the procedure envisaged would obtain general support in the Council. He also doubted the value of the argument referring to a ruling of the President of the Security Council under rule 30, of the Council's provisional rules of procedure since his delegation considered that ruling to have been illegal and consequently invalid.²¹ The use of the veto was one thing and its existence another. The existing state of affairs was due to abuse of the right of veto by the USSR, in flagrant violation of the Charter. He noted that, owing to obstruction by the USSR, it had not been possible for the permanent members to reach an agreement to refrain from exercising the right of veto in connexion with applications for membership, in accordance with the General Assembly recommendation which China had supported.²²

67. The second question was a logical consequence of the USSR veto, but both the Charter and the rules of procedure made an affirmative answer impossible. In that connexion, the representative of China referred to the 1950 advisory opinion of the International Court of Justice and to rules 134, 135 and 136 of the rules of procedure of the General Assembly. On two occasions, in 1946 and in 1947, the Security Council had categorically rejected the argument that the General Assembly should be the organ mainly responsible for the admission of new Members independently of the Council.

68. The Charter did not fully recognize the objective of universality. The primary purpose of the Organization was to maintain international peace and security, and Articles 4, 5 and 6 all pointed to such a natural limitation of the notion of universality. The Charter did not permit achievement of mechanical universality

¹⁸ See paragraphs 49, 63, 66, 72 and 92 of the present report.

¹⁹ See paragraph 36 above.

²⁰ See paragraphs 49, 58, 66, 72 and 92 of the present report.

²¹ See paragraphs 30 and 55 of the present report.

²² See paragraphs 49, 58, 63, 72 and 92 of the present report.

at the expense of the essential qualifications for membership.

69. The representative of NORWAY said that, despite the fact that universality was one of the basic purposes of the Organization, the Charter itself, being a political document, laid down express conditions which seriously hampered the development towards universal membership in the United Nations. His Government would have had matters otherwise, but the fact remained that the Charter clearly provided that no new Members could be admitted against the will of a permanent member of the Council. In that connexion, he shared the views of other speakers.

70. While he sympathized with the efforts of the Latin American delegations, he was unable to accept their proposals, which were inconsistent with the Charter and might defeat their own purpose by reducing the present membership of the United Nations. The solution lay in the political field and might perhaps be achieved by negotiations between the permanent members of the Security Council. Pending such action, nothing should be done by any other means that might block the way to an agreement.

71. The representative of the NETHERLANDS said that the history of the problem, including the two advisory opinions of the International Court of Justice, supported his delegation's view that any attempt to break the existing deadlock by way of any new juridical interpretation was bound to result in a violation of the original meaning of the relevant provisions of the Charter. The only possible solution lay in a change of the political climate, to which the Special Committee could contribute little, if only because of the absence of one of the permanent members of the Security Council.

72. The proposals before the Special Committee raised three basic questions. The first was whether the question of a recommendation for admission was subject to a veto in the Council. In his opinion, it definitely was and always had been, and he concurred with the interpretation by other members of the Committee of the San Francisco Statement to that effect, although noting that at the time that Statement had failed to give satisfaction to many delegations, including his own. The representative of the Netherlands also cited the provisions of Article 18, paragraph 2, and General Assembly resolution 267 (III). Moreover, the declaration made by four of the five permanent members of the Council that they would voluntarily refrain from using the veto in matters of admission left no doubt that in their opinion such a right existed.²³

73. The second question was whether the negative vote of a permanent member, when based upon considerations other than those of Article 4, paragraph 1, and therefore contrary to the Charter, could prevent the admission of a State. He could not accept the

answer embodied in the Peruvian proposal. The Charter did not provide for a Court which could invalidate the Council's decisions on the grounds of illegal use of the veto, nor did it grant the General Assembly the right to take substantive action in such cases. Comparison with General Assembly resolution 377 (V) on "Uniting for Peace" was inappropriate, since that resolution dealt with an entirely different problem, and under it the Assembly could only make recommendations concerning action to be taken by individual Members.²⁴ The General Assembly was equally entitled to make recommendations on the admission of new Members to the Security Council, but it could not take action without the Council's recommendation. That resolution had not by-passed Article 12, paragraph 1, since it had clearly stated that the Assembly could act only if the Security Council, because of lack of unanimity of the permanent members, failed to exercise its primary responsibility for the maintenance of international peace and security. It was clear that, in matters relating to the maintenance of international peace and security, no chronological order was laid down, since some problems involving the maintenance of international peace and security, including for instance the recent complaint of Burma, had been submitted directly to the General Assembly. In the case of the admission of new Members, however, Article 4, paragraph 2, established a specific chronological order by stipulating that a recommendation of the Security Council was required before the General Assembly could act.

74. The third question was whether the General Assembly could decide to admit an applicant State in the absence of a favourable recommendation by the Security Council. The Netherlands delegation believed that it could not, and that the text of Article 4, paragraph 2, was perfectly clear in that respect. Referring to the Argentine amendment to the four-Power resolution, the representative of the Netherlands pointed out that, whenever the Council could not agree on a favourable recommendation, it considered that there was no recommendation. It was very doubtful whether the General Assembly had the right, acting upon its own judgment, to declare that the absence of such a positive recommendation constituted a negative recommendation.

75. The representative of NEW ZEALAND pointed out that, from the very beginning, the Security Council had chosen to regard recommendations for membership as substantive questions subject under Article 27 to the concurrence of the permanent members who participated in the voting upon them. Though the International Court of Justice had expressed certain opinions on the considerations which a Member State was entitled to apply in determining its vote, the fact remained that the procedure to be followed was within the jurisdiction of the Council. As had been confirmed by the International Court of Justice, action by the Council was an essential condition precedent to final action by the Assembly.

²³ See paragraphs 49, 58, 63, 66 and 92 of the present report.

²⁴ See paragraphs 35, 43 and 54 of the present report.

IV. Discussion of the second group of proposals and suggestions

A. VIEWS EXPRESSED IN SUPPORT

76. The representative of ARGENTINA said that there could be a technical or a political solution to the problem of the admission of new Members. After explaining his Government's view that, under the Charter, the General Assembly was responsible for the final decision on applications for membership and could accept or reject a favourable or unfavourable recommendation from the Security Council, he pointed out that the Committee's main function was to find a way out of the present deadlock. The salient point was that twenty-one States had been unable to secure admission, partly owing to the self-interest of some of the great Powers. The Argentine proposal represented an attempt to solve the problem on the political plane, since all attempts to solve it by technical means had failed. It was self-explanatory. It did not propose *en bloc* admission of the fourteen States listed, as not politically practicable, but asked the Security Council to re-examine the case of each applicant and to make a recommendation on each. If even three or four of the applicant States were admitted to membership as a result of the Committee's work, that would be a positive achievement. In reply to a question, the Argentine representative agreed that the last phrase of his delegation's proposal, beginning with the words "and to make recommendation . . .", might be clearer if replaced by some such words as "and to pronounce on each of them".

77. The representative of EGYPT stated that all juridical possibilities for solving the problem had been exhausted. The problem, he said, had to be dealt with mainly on the political plane if a practical and reasonable solution was to be found, one which would safeguard the interest of all the parties concerned as well as respect the provisions of the Charter and help to achieve its aims.

78. Any solution must, in the opinion of his delegation, take the following considerations into account.

79. Firstly, no State could be admitted to the United Nations without a favourable recommendation by the Security Council, though the final decision rested with the Assembly. Secondly, the Council's recommendation was a substantive decision which required, unfortunately perhaps but undeniably, the unanimous vote of its five permanent members.

80. Thirdly, no provision of the Charter prevented the Council from considering simultaneously several applications and from submitting a recommendation favouring the collective admission of all the applicants. There was no doubt that the Assembly had the power to reject the Council's joint recommendation as a whole or to adopt certain parts of it and to reject others. Fourthly, the principle of universality as proclaimed unequivocally by the Charter — that principle, he stated, constituted one of the cardinal points of the Egyptian Government's policy in the United Nations, but he stressed that his Government in no way advocated the wholesale admission of all applicants; it requested that all applicants qualified under Article 4 should be admitted and held that the criteria should be those of the Charter and not the result of bargaining or power politics.

81. It was unfair to say that the current deadlock was due to certain ambiguities in the Charter or to the difficulty of its interpretation. The unfortunate current situation was certainly the result of a regrettable display of power politics, a clash over spheres of influence of great Powers. It was not entirely due to the obstructionism of only one of the permanent members of the Council but was also due to the fact that other permanent members pursued a policy of discrimination against some applicants and of favouritism towards others. It was worth noting, the representative of Egypt said, that two important permanent members of the Security Council had adopted, in regard to the particular problem before the Committee, two diametrically opposed attitudes depending on the circumstances, sympathies and interests of the moment and in utter disregard of the principles proclaimed by the United Nations.

82. The Egyptian delegation did not pretend that the solution contemplated in the Egyptian-Philippine memorandum was ideal, but it was the best practical solution for breaking the deadlock. It was designed to assist the Security Council to discharge a responsibility which it had repeatedly failed to discharge and to ensure that no qualified State was denied admission because of extraneous considerations. It was the only means whereby the five permanent members of the Council could prove that they had no intention of hampering the admission of applicant States of which they disapproved, while favouring others. The Egyptian delegation had no desire to see qualifications for admission to the Organization governed by North Atlantic Treaty Organization conceptions and alliances or by Soviet ideologies and "satellitism". Nor did it wish international politics and friction to bar the way to the admission of worthy applicant States.

83. The Egyptian-Philippine proposal respected the authority and the competence of the General Assembly and the Security Council and left the final decision to the Assembly, which had the unchallenged right and duty to decide on the merits of each application separately. The affirmative vote of the permanent members of the Security Council would in no way prejudice the final position of their delegations in the Assembly.

84. To the criticism that it would be immoral to recommend the admission of applicants *en bloc* on the understanding that the Assembly would later abide by Article 4 of the Charter and examine each application separately,²⁵ the representative of Egypt replied that what was really immoral was to keep applicants waiting, not because they were unqualified but because of ideological differences between two groups of States. His delegation did not suggest admission without an examination under Article 4, paragraph 1, but it wanted that examination strictly limited to the provisions of the Charter. It favoured an *en bloc* recommendation in the Council because it believed that all fourteen States qualified for membership and because it was the only way to break the impasse.

85. Regarding the criticism that the proposal might lead to an ambiguous situation in which some States would vote in one way in the Council and in another

²⁵ See paragraph 98 below.

in the Assembly,²⁶ he noted that delegations had frequently in the past voted in the Assembly against proposals which they had supported in Committee. In so doing they had merely exercised the privilege of every Member State.

86. Regarding the doubt expressed that the Assembly would have the right to take separate votes in connexion with an *en bloc* Council recommendation, the representative of Egypt emphasized that the Council could not impose any procedure on the Assembly or deny its right to reject or accept the whole or any part of a recommendation from the Council. In respect of the proposal submitted by Argentina, he considered that it was objective and constructive and his delegation was ready to support it if it were put to the vote. He would have preferred that the word "favourable" should be inserted before "recommendations" in the penultimate line of the Argentine proposal.

87. Finally, the Egyptian representative twice appealed to the permanent members to help to solve a problem the existence of which had undoubtedly shaken his delegation's faith in their good will and good intentions.

88. The representative of the PHILIPPINES said that he did not agree that the unanimity rule in the Security Council on the membership question could be circumvented. He accepted the practice of the Security Council which had, in effect, been upheld by the International Court of Justice. Some compromise had to be found within the limits of that rule.

89. To the argument that principles should not be sacrificed to expediency, he answered that the principle of universality would be better served by a proposal, which might not be vetoed, to admit some States, including some that one might not like, than by a proposal, which would certainly be vetoed, to admit only the States that one liked.

90. The proposal in the joint Egyptian-Philippine memorandum under which the Security Council would recommend the simultaneous admission of fourteen applicant States offered the only possibility of securing the admission of some States and should be regarded as the basis of any practical solution to the problem.

91. Of the fourteen States included in the "package proposal", nine had in the past received the requisite majority of seven votes in the Security Council, while the other five, all Communist States, had not. His delegation supported those five applicants because it believed that they too were qualified. That support was based not on political considerations but on the fact that those States fulfilled the two general conditions of membership, namely, that a State must be peace-loving and that it must accept and be willing and able to carry out Charter obligations. An applicant State should, he declared, be deemed to be peace-loving so long as it was not actually engaged in aggression against another State. No such finding had been made regarding any of the fourteen States. In addition, a State's formal declaration that it accepted the obligations of the Charter should be considered *prima facie* evidence of its ability and willingness to carry them out. No proof had been advanced that the fourteen States did not fulfil that condition.

92. Four of the permanent members of the Council had earned the gratitude of the United Nations by agreeing in the past to refrain from exercising their veto on applicant States. The French representative's statement that his Government had not relinquished for all time the right to veto an application had destroyed his illusion that four of the permanent members had made a firm pledge.²⁷

93. The Philippine delegation agreed that the USSR should also refrain from exercising the veto. Since seven years had seen no change, it would be realistic to attempt to understand why the USSR had not followed the example of the other permanent members. He believed that it was because the USSR veto on certain applicants had been used to offset the abstentions of the United Kingdom, the United States, France and China on other applicants, abstentions which had, for all practical purposes, prevented their admission by making a majority of seven improbable.

94. Shifts from year to year in the voting of permanent members of the Council on applications for membership had been so striking that it was difficult to believe them due to a change in qualifications; a more plausible explanation would be changes in the political atmosphere. The problem being political, his delegation's proposal was not only realistic but eminently logical, and there was no reason why recommendations of that nature concerning the admission of a group of States should be contrary to the Charter or to the principles of morality. The proposal offered a way out of the dilemma and would open the doors of the United Nations to fourteen applicants. It could be used as the basis of a compromise—for instance, a counter-proposal including, in an enlarged "package", other States regarded as qualified for admission.

B. OTHER VIEWS

95. The representative of the NETHERLANDS said that his Government agreed with the view expressed in the advisory opinion delivered by the International Court of Justice on 28 May 1948, from which it followed that a vote in favour of the admission of an applicant State could not be made contingent on the additional condition that other States should be admitted at the same time. Article 4, paragraph 2, of the Charter spoke of "any such State" and not of groups of States. Each applicant therefore should be examined on its merits and separately, both by the Security Council and by the General Assembly. The affirmation that the proposal in the memorandum submitted by Egypt and the Philippines did not advocate wholesale admission did not seem to be borne out by the memorandum itself, at least in the case of the Security Council. If based on paragraph 9 of the memorandum, that assertion could only strengthen the doubt as to whether a recommendation by the Security Council for admission of a number of States *en bloc* could be disregarded by the General Assembly and taken apart again by that body. Moreover, the representative of the Netherlands wondered if the sponsors of the memorandum had reflected on the influence which such an escape clause might have on the position of certain delegations which played an important role in the Security Council.

96. Regarding the Argentine proposal, he did not think that it offered anything new, nor that it was the

²⁶ See paragraph 101 below.

²⁷ See paragraphs 49, 58, 63, 66 and 72 of the present report.

task of the Special Committee to recommend the reconsideration of specific applications. He asked why, if the intention was that the Council should make favourable recommendations not on all the fourteen applications listed, but on each of those which the Council deemed fit for admission, mention was not made of all pending applications.

97. The representative of CHINA, citing the advisory opinion of the International Court of Justice of 28 May 1948, said that the conditions enumerated in Article 4 obviously implied that every application should be considered and decided separately on its own merits. Although the Charter did not provide against the admission of several States simultaneously, it did not permit admission of one State on condition of admission of another at the same time. He doubted the usefulness of asking the Security Council under the present circumstances to reconsider *en bloc* applications which had already been considered more than once. Whatever influence the General Assembly might attempt to exercise on the Security Council must remain within the bounds of the Charter.

98. The representative of GREECE, referring to the advisory opinion delivered by the International Court of Justice on 28 May 1948, said that any proposal for the admission of applicants *en bloc* was contrary to the principle of universality, which implied equal treatment for all, and was not only incompatible with Article 4, but would actually apply more lenient conditions to candidates than were applied to non-Members under Article 2, paragraph 6, and to existing Members under Article 6. The General Assembly could not morally ask the Security Council to contravene Article 4 by recommending wholesale admission, on the understanding that the Assembly would subsequently abide by that Article and examine each application separately.²⁸ It was most inconsistent first to criticize the permanent members of the Security Council for not being sufficiently objective and then to ask them to strike a political bargain.

99. The representative of CUBA, citing the advisory opinion delivered by the International Court of Justice on 28 May 1948, considered that admission *en bloc* would be contrary to the spirit and letter of the Charter and to that opinion. Furthermore, admission *en bloc* through a compromise could not be a permanent solution since the problem might arise again in connexion with any future application. For that reason, his delegation had always been opposed to that compromise solution.

100. In connexion with paragraph 10 of the memorandum submitted by Egypt and the Philippines, he pointed out that, although the Security Council had found it convenient to adopt a single resolution on the admission of Afghanistan, Iceland and Sweden, it had in fact taken separate votes on those applications.

101. The representative of the UNITED KINGDOM felt that the joint Egyptian-Philippine memorandum placed too much emphasis on the part played by the permanent members of the Security Council. It was noteworthy that the five Communist States had not secured the approval of the General Assembly. The USSR package proposal had not been approved, chiefly because the majority considered some of the applicants unqualified under the Charter. While he agreed that the

manner in which the applicant States were admitted to membership did not matter provided that they were all qualified, admission by one resolution might give the impression that a bargain had been struck, which would be contrary to the Charter and to the advisory opinion of the Court. Hence, if and when the permanent members of the Council agreed on the admission of any of the candidates, it would be wiser for them to vote on each separately. It would be most irresponsible for the permanent members of the Security Council to vote differently in different organs of the United Nations in such an important matter, and he did not think that they would do so.²⁹ The joint memorandum stated that the yardstick of the Charter should be strictly applied, but went on to give criteria for admission which would be anything but a rigorous application. The ideal might be universality, but States must be admitted, not indiscriminately, but on the basis of their qualifications, and each member of the Security Council and of the General Assembly must decide for itself whether an applicant was qualified. In connexion with the Argentine proposal, he agreed with other speakers in considering that it should apply to all pending cases rather than be limited to the fourteen applications listed in it.

102. The representative of the UNITED STATES OF AMERICA noted that there seemed to be general agreement in the Special Committee that the 1948 advisory opinion of the International Court of Justice, which had established the elementary principle that each applicant was entitled to separate consideration on its merits as measured solely by the criteria of Article 4, precluded the omnibus proposals made by the USSR since 1947 which represented barter rather than an application of Charter principles. The purpose had clearly been to force Members to agree against their better judgment to the admission of several applicants as the sole condition on which the USSR would agree to admit certain other States which the majority believed should be admitted. Some had been inclined to support those proposals in order to make some progress towards a universal membership. It should not be overlooked, however, that the USSR had excluded—and thus in effect rejected—five States which had been found qualified by the Assembly. The proposals were evidently not put forward even as a step towards universal membership, and their adoption would amount to acceptance of bargaining terms imposed by the Member State with the most intransigent record in the membership problem. It was fair to ask whether those in favour of those proposals felt that they could, after their adoption, prevail upon the USSR to withdraw its vetoes against the applicants which it refused to include in its "package" deal. It seemed neither fair nor consistent with Charter principles to try to resolve the stalemate by asking the majority, contrary to their convictions, to accept conditions laid down by the intransigent minority. It was quite illogical to equate the policies of the four permanent members of the Council which had not placed their will above that of the majority with those of the one permanent member that had ignored the will of the majority.

103. Both the proposals under discussion were concerned with only fourteen applicants, whose selection did not seem to have been made on the basis of qualifications under Article 4. If that were the case, the only

²⁸ See paragraph 84 above.

²⁹ See paragraph 85.

conclusion to be drawn would be that the included applicants were considered qualified and the excluded ones were considered unqualified. Further, under the Charter, Member States should take the qualifications of applicants into account when voting, whether in the Security Council or in the Assembly. The United States had always held it proper to consider whether applicants really were able to carry out Charter obligations and to examine their international behaviour to ascertain whether they were willing to do so. At the same time, it had always indicated its willingness to reconsider applications should changes occur which affected the qualifications of applicants.

104. The representative of BELGIUM said that the authors of the explanatory memorandum presented by Egypt and the Philippines not only objected to permanent members of the Security Council exercising the veto, but even questioned that they could legitimately abstain. Therefore, the only right left to them would be to vote in favour of admission, which they could hardly be expected to do if, in their view, the applicant State did not meet the requirements of the Charter. The representative of Belgium declared that he doubted the moral and legal validity of an undertaking to refrain from ever casting a negative vote in the matter of admission, as contemplated in paragraph 6 of the memorandum, since applications for admission might be submitted by candidates which did not fulfil the requirements stipulated in Article 4 of the Charter.

105. The representative of NEW ZEALAND, referring to the memorandum submitted by Egypt and the Philippines, said that the view of his Government was that applications for membership should be considered on their merits in accordance with the conditions laid down in the Charter and that Members of the United Nations should act in accordance with the May 1948 advisory opinion of the International Court of Justice. He was unable to find any way forward by applying those policy considerations to the proposals contained in the memorandum, which appeared to imply, and might even be based upon, the remote possibility that even if each member of the Security Council and each Member of the Assembly applied Article 4 most rigorously, a majority of the Assembly might reach a conclusion different from that reached by the majority in the Security Council. The memorandum could point the way forward only if the Council regarded its role as somewhat more formal than that of the Assembly, but it would be a retrograde step for the Assembly to make any recommendation in that direction. The March 1950 advisory opinion of the International Court of Justice confirmed that action by the Council was an essential condition precedent to final action by the Assembly.

106. All members of the Council had an equal responsibility in determining their votes on recommendations for admission. The deadlock arose from the attitude of one member of the Council, and it was not right to place the responsibility for it on the other four permanent members. The joint memorandum referred only to fourteen States, but there were other pending applications and other entities which, if the principle of a "package deal" were once established, might find it of advantage to submit an application.

107. While in sympathy with certain provisions of the Argentine proposal, the New Zealand delegation

would find some difficulty in approving the precise words proposed and doubted the desirability of recommending a particular text to the General Assembly at that stage.

108. The representative of FRANCE recalled that a "package deal" such as proposed by Egypt and the Philippines had been repeatedly considered in the United Nations, and then abandoned as impracticable. The USSR would agree to refrain from exercising its veto against candidates supported by the other permanent members only if it had full assurance that its own candidates would be accepted not only by the Council, but also by the General Assembly, for which the other permanent members of the Council were of course unable to vouch. With regard to the Argentine proposal, he noted that the General Assembly had repeatedly made recommendations for reconsideration without any practical results. The solution would only come with the passage of time, which he hoped would bring about a change in the international situation.

109. The representative of the UNION OF SOUTH AFRICA pointed out that the practicability of the proposal implicit in the joint memorandum depended upon the attitude of the permanent members of the Security Council represented on the Special Committee. The United States, United Kingdom and French representatives had already indicated that the package deal was not acceptable to them. His delegation opposed it on the same grounds as had been given by the United Kingdom and Netherlands representatives. The General Assembly should refrain from making futile recommendations, and should therefore not recommend to the four permanent members a proposal which any one of them might choose to veto. He also concurred with the views of the United Kingdom and Netherlands representatives on the Argentine proposal.

110. The representative of EL SALVADOR said that, although the Argentine proposal did not propose *en bloc* admission, it listed the very fourteen States on the admission of which the USSR had been insisting for some time and omitted the names of several other applicant States which the General Assembly, in resolution 620 (VII), had declared to be worthy of admission. The proposal was therefore open to the charge of partiality. It would be preferable, in any such proposals, not to name any specific States. On the other hand, earlier recommendations of the same type by the General Assembly had been vetoed in the Security Council.

111. Dealing with the joint memorandum submitted by Egypt and the Philippines, the representative of El Salvador noted that, in its advisory opinions, the International Court of Justice had neither sustained nor denied the validity of the application of the veto with regard to the admission of new Members. He failed to follow the reasoning which would equate the abstentions of four permanent members with a veto, since there were eleven members of the Security Council, and in the case of four abstentions it was possible for the Council to take a decision with the positive votes of seven members. The proposal for *en bloc* admission favoured by the USSR was not new; the idea had been discussed since 1946 and had failed to be accepted. Moreover, such admission would be illogical, since it was obvious that each case had to be decided on its own merits. The presumption advocated in the memorandum for judging whether an applicant was "peace-

loving" was virtually an amendment of the Charter, which should be amended only by constitutional means. The United Nations could accept only a constitutional political solution; failing that, it would have to wait for

the five permanent members of the Security Council to come to an agreement among themselves. Until there was real understanding between those five Powers, no proposal for *en bloc* admission could be successful.

V. Conclusion

112. As indicated above, the various proposals and suggestions advanced were discussed by the Special Committee in two main groups. Generally speaking, the proposals and suggestions in the first group envisaged a solution of the problem along the lines of interpretation of the Charter based on the views that the voting procedure of Article 27, paragraph 3, of the Charter did not apply to the admission of new Members and that under Article 4, paragraph 2, it was for the Council to make recommendations but for the General Assembly to decide. The discussion of that first group of proposals and suggestions made it apparent, however, that such an approach was not generally acceptable, principally on the grounds that the unanimity rule in the Security Council applied to the admission of new Members and that the provisions of Article 4 did not allow the General Assembly to admit new Members in the absence of a favourable recommendation by the Council.

113. The proposals and suggestions in the second group aimed mainly at a political solution of the question, starting from the view that the largest possible number of applicants qualified under Article 4 should be admitted. Although the importance of the political aspects of the problem was recognized, the specific methods suggested did not secure general acceptance. It was felt that the courses proposed either would not be in strict accordance with Article 4, or, if they were, were no more likely to lead to practical results than earlier recommendations for reconsideration by the Security Council.

114. In the light of the view expressed by many representatives that the Special Committee should limit itself to giving a comprehensive account of its deliberations for the consideration of the General Assembly, it was agreed that no vote would be taken on the various proposals and suggestions and that no specific recommendation would be submitted to the General Assembly.

ANNEXES

Annex 1

For the text of General Assembly resolution 620 A (VII) see "Resolutions adopted by the General Assembly at its seventh session during the period from 14 October to 21 December 1952", *Official Records of the General Assembly, Seventh Session, Supplement No. 20*, page 10.

Annex 2

For the text of the draft resolution submitted by Peru, see document A/AC.61/L.30, *Official Records of the General Assembly, Seventh Session, Annexes*, Agenda item 19, page 2.

Annex 3

For the text of the joint draft resolution submitted by Costa Rica, El Salvador, Honduras and Nicaragua, see document A/AC.61/L.31, *Official Records of the General Assembly, Seventh Session, Annexes*, Agenda item 19, page 3.

Annex 4

For the text of the amendment proposed by Argentina to the joint draft resolution submitted by Costa Rica, El Salvador, Honduras and Nicaragua, see document A/AC.61/L.36, *Official Records of the General Assembly, Seventh Session, Annexes*, Agenda item 19, page 5.

Annex 5

Explanatory memorandum regarding voting in the Security Council concerning the admission of new Members

(WORKING DOCUMENT SUBMITTED BY THE DELEGATION OF CUBA)

1. In order to ensure the adoption at the San Francisco Conference of the rule of unanimity of the permanent members of the Security Council, the sponsoring Powers had to agree to clarify certain doubts felt by various delegations regarding the implications of the rule, and accordingly issued the "Statement by the delegations of the four sponsoring Governments on the

voting procedure in the Security Council" (San Francisco Statement), dated 7 June 1945, in which they referred specifically to the cases relating to the maintenance of international peace and security, in which the permanent members may exercise their right of veto, and which, according to the Statement, are confined to cases in which the Security Council has to

take decisions involving the adoption of direct measures in connexion with the settlement of disputes, the determination of threats to the peace, the removal of threats to the peace and the suppression of breaches of the peace; in consequence all other decisions, which do not involve the adoption of such measures, are governed by a procedural vote, that is the vote of any seven members of the Security Council.

2. Under resolution 117 (II) of 21 November 1947, the General Assembly requested the Interim Committee to consider and report on the question of the voting procedure in the Security Council.

3. The Interim Committee submitted its report to the General Assembly on 15 July 1948.¹ Its conclusions included the recommendation that the General Assembly should recommend to the permanent members of the Security Council that they agree that a recommendation to the General Assembly on the admission of a State to membership in the United Nations should be adopted by the vote of any seven members, whether the decisions were considered procedural or non-procedural.

4. Following consideration of the question of voting procedure in the Security Council by the *Ad Hoc* Political Committee, the General Assembly, at its plenary meeting held on 14 April 1949, adopted resolution 267 (III), paragraph 2 of which reads as follows:

"Recommends to the permanent members of the Security Council that they seek agreement among themselves upon what possible decisions by the Security Council they might forebear to exercise their veto, when seven affirmative votes have already been cast in the Council, giving favourable consideration to the list of such decisions contained in conclusion 2 of part IV of the report of the Interim Committee".

5. The Interim Committee's conclusions and the General Assembly's recommendation were supported by four permanent members of the Security Council: China, France, the United Kingdom of Great Britain and Northern Ireland and the United States of America; in other words, they would refrain from exercising the privilege of the veto in connexion with the admission of new Members. In referring to previous discussions of this question, it should also be noted that one permanent member, the representative of the United States of America, stated in the First Committee (99th meeting) that the United States Government would not exercise its right of veto to exclude any of the applicant States which the General Assembly considered to be qualified for membership and that it was prepared to accept the complete elimination, in the future, of the use of the veto right in the Security Council in connexion with the admission of new Members. That position was reaffirmed in the First Committee at its 497th meeting.

6. The Cuban delegation's position was clearly stated at the 495th meeting of the First Committee, held on 21 January 1952, at the 44th meeting of the *Ad Hoc* Political Committee, held on 15 December 1952, and at the third meeting of the Special Committee. Its position can be summarized in the following words:

¹ See document A/578, *Official Records of the General Assembly, Third Session, Supplement No. 10*.

As the admission of new Members is not subject to the veto of the permanent members of the Security Council, any application for admission which obtains the favourable votes of seven or more of its members, even though they do not include the votes of all the permanent members, may serve the General Assembly as a basis for admitting the applicant, if it deems such admission advisable.

7. With regard to the problem whether, if the Security Council were to vote on whether the admission of new States was a procedural matter, the question of the double veto, referred to in the last paragraph of part II of the San Francisco Statement, would arise, the Cuban delegation stated that it was necessary to consider the interpretation by the President of the Security Council of a vote taken to determine whether a question was procedural or non-procedural.

STATEMENT OF THE PROBLEM

8. On occasion, the members of the Security Council disagree on the nature of a proposal or draft resolution submitted to them for consideration and decision. In such cases the Council has to decide whether the matter is or is not procedural in order to determine the form in which its decision on the matter, that is on the proposal or draft resolution in question should be taken. Part II of the "Statement by the delegations of the four sponsoring Governments on voting procedure in the Security Council" (San Francisco Statement) refers to the so-called "previous question" laying down that decisions on the latter should be taken in accordance with the unanimity rule.

It must be borne in mind that the Security Council has never explicitly recognized that this is in any way legally binding, and it should therefore be noted that part II of the Statement, which refers to the "previous question", clearly does not commit the Council, which, never having formally recognized it, may at any time refuse to comply with any part of it, as the Council so decided on one occasion.

PRACTICE OF THE SECURITY COUNCIL

9. The practice followed by the Security Council in deciding whether a particular question is procedural or non-procedural may be summarized as follows:

(a) *When the Council decides this question*

The Council has not determined when it is required to decide this question. Its practice has been inconsistent: on some occasions, a decision has first been taken on the nature of the question, followed by a decision on the proposal or draft resolution submitted, and on others the order has been reversed. In neither case has the Council accepted any criterion explaining or justifying the reason for this dual practice.

(b) *Application of the unanimity rule to decisions on the "previous question"*

Although part II of the San Francisco Statement has never been formally adopted, in practice the Council has applied the unanimity rule to decisions on

the "previous question", tacitly endorsing the criterion established in this connexion in the last paragraph of part II. On three different occasions, the Security Council, as a result of the negative vote of one or more permanent members, decided to consider as substantive questions proposals or draft resolutions which a majority of seven or more members had considered to be procedural (Spanish question, Greek frontier incidents and Czechoslovak question).

(c) *Effects of the President of the Council's interpretation of a vote on the "previous question"*

When a vote has been taken on whether a particular question is procedural or non-procedural, the President interprets the result of the vote in the form of a ruling or in the form of a simple interpretation. When the President's interpretation (or ruling) is challenged, he "shall submit his ruling to the Security Council for immediate decision and it shall stand unless overruled" (rule 30 of the provisional rules of procedure of the Security Council).

On three separate occasions (Spanish, Greek and Czechoslovak questions), mainly because of the attitude adopted by the President, the Council *did not apply rule 30* in interpreting the result of the vote on his ruling but applied the unanimity rule referred to in part II of the San Francisco Statement.

On another occasion, during the discussion of the

invitation of a representative of the authorities of the Peking régime in connexion with the consideration of the "Complaint of armed invasion of Taiwan (Formosa)", the permanent representative of China raised the "previous question" whether the question under consideration was substantive and subject to the veto, and in so doing referred specifically to part II of the San Francisco Statement.

In the vote the majority decided that it was a procedural question and, as the permanent representative of China vetoed the decision, the President of the Security Council (the United Kingdom representative) ruled that the veto of that permanent member was invalid; he applied rule 30 of the rules of procedure and his ruling was upheld by the Council.

CONCLUSIONS

10. The problem arising in connexion with the Security Council's decisions on "previous questions", the practice established by the Council and the position taken by four of the permanent members in regard to the question of the admission of new Members hold out considerable hope of success in eliminating the veto in connexion with the admission of new Members if, in accordance with its provisional rules of procedure, the Council takes decisions in this respect by the affirmative vote of any seven of its members.

Annex 6

First draft of resolution concerning the admission of new members

(WORKING DOCUMENT SUBMITTED BY ARGENTINA)

The General Assembly,

Noting the growing general feeling in favour of the universality of the United Nations, membership of which is open to all peace-loving States which in the judgment of the United Nations are able and willing to carry out the prescribed obligations, and

Considering that, in admitting new Members to the United Nations, the particular circumstances of each applicant State should be considered,

Recommends the Security Council to re-examine the applications for admission submitted by Albania, the People's Republic of Mongolia, Bulgaria, Romania, Hungary, Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon, Nepal and Libya and to make recommendations on each of them to the General Assembly.

Annex 7

Explanatory memorandum on the admission of new Members

(WORKING DOCUMENT SUBMITTED BY EGYPT AND THE PHILIPPINES)

THE PROBLEM

1. In view of the antecedents of the question of the admission of new Members, particularly the fact that long and detailed discussions of the purely *juridical* aspect of the problem by various United Nations bodies have yielded no fruitful results, it is believed that the terms of reference of the Special Committee fully justify consideration of proposals aimed at resolving the political impasse which has prevented the admission of new Members.

2. The problem, in short, is: Having regard to the provisions of the Charter relating to the admission of new Members, as well as to the political situation in the Security Council which has so far effectively pre-

vented the admission of all qualified applicant States, by what means can the admission of a number of such States be effected meanwhile?

PROCEDURE OF ADMISSION

3. It is not believed possible to circumvent the rule of unanimity which has been observed in the Security Council in respect to the voting procedure on membership questions. This rule requires that an applicant State must obtain seven affirmative votes, including all the permanent members of the Security Council, before such an application can be favourably recommended by the Council to the General Assembly.

4. The validity of this practice has been sustained by the Advisory Opinion of the International Court of Justice. While the Court did hold that no member State is juridically entitled to make its consent to the admission of any State dependent on conditions not expressly provided by Article 4, paragraph 1, of the Charter, there is no means whereby the negative vote of any member State, which is admitted or known to be juridically unjustified, can be rendered null and void. The injunction, therefore, is merely a moral precept and not a legal prohibition.

THE VETO AS "EQUALIZER"

5. In the political situation obtaining in the Security Council, the admission of new Members has been effectively prevented by the simple equation of one vote equals four abstentions. There the veto has become, for all purposes, the great "equalizer". Since the abstention of four of the permanent members of the Council on the applicant Communist States has, for all practical purposes, prevented the admission of these States, the veto has been resorted to by the fifth permanent member in voting on the applications of the non-Communist States, for the same purpose and with the same effect.

6. Barring a common pledge by *all* the permanent members of the Council not to use the veto on the question of admission, the admission of any new members *via* this route of voluntary self-denial may be said to be entirely closed for the time being.

RE-EXAMINATION OF THE "PACKAGE PROPOSAL"

7. In the circumstances, the only possibility of effecting the admission of a number of qualified States is offered by the so-called "package proposal" under which the Security Council would reconsider the simultaneous admission of fourteen applicant States: Albania, the People's Republic of Mongolia, Bulgaria, Romania, Hungary, Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon, Nepal and Libya.

8. Naturally, this proposal would be valid only if all the above-mentioned fourteen States fulfil the requirements for admission set forth in Article 4 of the Charter. To arrive at a proper decision on this point, the yardstick of the Charter should be rigorously applied regardless of political or ideological considerations. Accordingly, States should be considered as peace-loving unless they are actually found by an appropriate organ of the United Nations to be guilty of a threat to the peace, a breach of the peace or an act of aggression. And they should be deemed to be

willing and able to carry out the obligations of the Charter on the basis of their formal declaration that they accept those obligations, unless clear evidence, which goes beyond mere suspicion or accusation, is presented to the contrary.

9. It will thus be open to anyone in the General Assembly to oppose the inclusion of certain States in the package and to present concrete evidence that such States do not fulfil the requirements of the Charter.

10. As for the argument that the admission of various States *en bloc* is contrary to the Charter, it is not clear what provision of the Charter can be invoked in support of the argument. The admission of two or more States at the same time is forbidden by no provision of the Charter, provided they are all deemed to be qualified. Moreover, there is precedent for the procedure of admitting a group of States in the case of the technically simultaneous admission in 1946 of Afghanistan, Iceland, and Sweden by resolution S/177 of the Security Council and resolution 34 (I) of the General Assembly.

11. It is true that the International Court of Justice has given the opinion that every application for admission should be examined and voted on separately on its merits. However, the Court dealt only with the juridical aspect of the problem, where its competence is beyond question, and did not, as indeed it could not, attempt to resolve any political difficulty of the type that has developed on this problem. Such political difficulty can only be resolved by the United Nations organ concerned. Moreover, the injunction of the Court will, in fact, be observed since, as stated in paragraph 9, above, the General Assembly may, if it wishes, subsequently examine and vote separately on the merits of each application.

12. The possibility exists that an improvement in the international situation and the consequent easing of tensions might ultimately resolve the controversy on the membership question. But even short of this possibility, there is the alternative possibility of a realistic re-examination of this problem on the basis of the principle set forth by Mr. John Foster Dulles in his book "War and Peace" (1950):

"I have now come to believe that the United Nations will best serve the cause of peace if its Assembly is representative of what the world actually is, and not merely representative of the parts which we like. Therefore, we ought to be willing that all the nations should be Members without attempting to appraise closely those which are 'good' and those which are 'bad'. Already the distinction is obliterated by the present membership of the United Nations."