

# GENERAL ASSEMBLY

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Chairman: Mr. Thanat KHOMAN (Thailand).

## AGENDA ITEM 35

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (A/3601 and Corr.1, A/3602, A/3603, A/3606/Rev.1, A/3607, A/3608, A/3609, A/3647 and Corr.1, A/C.4/360, A/C.4/L.497/Rev.1) (continued):

- (a) Information on economic conditions;
- (b) Information on other conditions;
- (c) General questions relating to the transmission and examination of information (A/C.4/357/Rev.1, A/C.4/359);
- (d) Offers of study and training facilities under resolutions 845 (IX) of 22 November 1954 and 931 (X) of 8 November 1955 (A/3618 and Add.1);
- (e) Methods of reproducing summaries of information concerning Non-Self-Governing Territories: report of the Secretary-General (A/3619)

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.497/Rev.1) (continued)

1. Mr. BOZOVIC (Yugoslavia) said that the representatives of Brazil and Portugal had been mistaken in asserting at the previous meeting that the Yugoslav delegation denied the General Assembly's right to determine its own procedure. On the contrary, his delegation upheld that right. He agreed with the Brazilian representative that the General Assembly could decide to what categories of questions a given voting procedure should apply but he did not agree that it could do so with regard to a single question.

2. He endorsed the view expressed by the Belgian representative at the previous meeting that it was for the General Assembly to decide which were important

questions. He pointed out, however, that when Mr. Spaak had been President of the General Assembly he had expressed the opinion that Article 18, paragraph 3, of the Charter applied to categories of questions and not to individual questions and that what the General Assembly had to decide was whether or not a given question belonged to the categories listed in Article 18, paragraph 2.

3. To sum up, his delegation had never disputed the General Assembly's right to decide that any category of questions should be settled by a two-thirds majority, but it did dispute the thesis that the General Assembly could decide that a question which did not belong to any of the categories listed in Article 18, paragraph 2, should be settled by a two-thirds majority.

4. Certain representatives had quoted statements he had made at earlier sessions on the subject of voting procedure in connexion with the question of South West Africa. That, however, was quite another matter; the question of South West Africa properly came under the heading of questions relating to the operation of the Trusteeship System, referred to in Article 18, paragraph 2, and in that connexion the General Assembly was not only entitled but bound to apply the two-thirds majority rule. Moreover, those representatives had not added that the Yugoslav delegation did not oppose requesting an advisory opinion from the International Court of Justice and would abstain on the proposal in a spirit of conciliation.

5. Mr. PRADO (Ecuador) said that in the opinion of his delegation questions relating to Non-Self-Governing Territories should be settled by a simple majority vote. He did not feel there could be any doubt on that point since questions relating to Non-Self-Governing Territories were not among those listed in Article 18, paragraph 2, of the Charter.

6. With regard to sub-paragraph (b) of the operative part of the joint draft resolution (A/C.4/L.497/Rev.1), his delegation was convinced that any delegation was entitled to request the General Assembly to determine by a simple majority whether a matter was or was not important and hence a question to which the two-thirds majority rule applied. The importance of any question must be determined in the light of all the circumstances and that was why, in his delegation's opinion, the General Assembly had the right to decide the point.

7. His delegation did not consider that any steps should be taken to restrict the General Assembly's freedom of action, which was essential if it was to function properly. The joint draft resolution was therefore unnecessary, since the provisions of the Charter were clear.

8. In his view, moreover, it would be unwise to have recourse to the International Court of Justice for an advisory opinion on questions of a procedural nature.

If the General Assembly decided by a simple majority that a matter was important it would be automatically determining, on the basis of the merits of the particular case, an additional category of questions to be decided by a two-thirds majority. Such additional categories would, however, vary according to circumstances and the factors on which the General Assembly based its judgement might vary. Hence the provisions of Article 18, paragraph 3, were sufficient to enable the General Assembly to do its work.

9. He regretted that he would be obliged to vote against the joint draft resolution.

10. Mr. KADRY (Iraq) had understood the Brazilian representative to say at the previous meeting that he felt the adoption of the draft resolution might affect the validity of past General Assembly resolutions. In his view the advisory opinion it was proposed to request of the International Court of Justice could not affect past decisions in substance: its scope would be limited to clarifying a legal question which had given rise to a certain amount of confusion.

11. At previous sessions of the General Assembly his delegation had taken a definite stand on the voting procedure concerning Non-Self-Governing Territories. The advisory opinion of the Court could not alter the fact that at the Assembly's eleventh session (657th plenary meeting) a draft resolution on a question concerning Non-Self-Governing Territories had not been subjected to the simple majority rule. The decision of the General Assembly to subject that or any other draft resolution on matters connected with Non-Self-Governing Territories to the two-thirds majority rule must be examined in a legal context.

12. Mr. CARREÑO MALLARINO (Colombia) recalled that at the previous meeting he had suggested that the question might be referred to the Sixth Committee. He drew attention to General Assembly resolution 684 (VII), paragraph 1 (d), which recommended that legal questions should be either referred for advice to the Sixth Committee or considered by a joint committee of the referring Committee and the Sixth Committee. He therefore proposed that that procedure should be followed in the present instance.

13. Mr. ESPINOSA Y PRIETO (Mexico) said he could not comment on the Colombian representative's proposal until he had consulted the other sponsors of the draft resolution. For that purpose he requested that the meeting might be suspended for a short time. First, however, he would like to hear the views of other delegations on the question.

14. Sir Andrew COHEN (United Kingdom) said that he had studied the draft resolution with great interest but felt that it gave rise to a number of questions which needed elucidation. In the first place, the draft resolution concerned voting procedure at plenary meetings of the General Assembly and raised the question of the interpretation of Article 18 of the Charter. Since Article 18 applied to the business of the General Assembly in general and not merely to matters discussed in the Fourth Committee, the issues were considerably broader than they appeared, particularly in regard to sub-paragraph (b) of the draft resolution. Moreover, according to an established practice the General Assembly decided in each case *ad hoc* whether to treat questions not fully within the scope of Article 18, paragraph 2, as sufficiently important to be decided

by a two-thirds majority. He felt that the draft resolution might have the effect of limiting or reversing that practice, since any advisory opinion given by the Court might affect voting procedures on questions other than those comprised in Chapter XI. In his delegation's view the draft resolution fell neither within the scope of the agenda item under discussion nor, for that matter, within the purview of the Fourth Committee.

15. Before any decision was taken, however, it would be of considerable help if the Secretariat could provide the Committee with advice concerning the procedural issues involved.

16. Mr. BENSON (Secretariat) said that an immediate answer to the questions of the United Kingdom representative had been provided by the representative of Colombia in his reference to General Assembly resolution 684 (VII). He was aware that it did not answer all the points raised by the United Kingdom representative but if sufficient time were allowed the more complex questions might be referred to other departments of the Secretariat.

17. Sir Andrew COHEN (United Kingdom) thanked Mr. Benson for his reply and expressed the hope that a detailed study could be made by the Secretariat.

18. Mr. DE MARCHENA (Dominican Republic) appreciated the motives that had prompted the sponsors of the draft resolution and considered the revised text now before the Committee to be an improvement on the original draft (A/C.4/L.497). It was clear from the Charter, however, that the question was a procedural rather than a legal one. Since Article 21 of the Charter explicitly provided that the General Assembly should adopt its own rules of procedure, it would be not only useless but ill-advised to seek an advisory opinion on the questions raised in either sub-paragraph (a) or (b) of the draft resolution.

19. Moreover it was quite apparent from Article 18 of the Charter that while questions relating to trusteeship were of sufficient importance to require a decision by a two-thirds majority, questions concerning Non-Self-Governing Territories did not fall within that category. It was therefore paragraph 3 of the Article, stating that decisions on other questions should be made by a simple majority, that applied unless a new category of questions designed to cover the Non-Self-Governing Territories were added to paragraph 2. If that became necessary, the decision to create a new category would be made by a simple majority of the General Assembly.

20. It seemed to him, therefore, that in the light of Articles 18 and 21 of the Charter and rule 85 of the rules of procedure there was no need for an opinion from the International Court of Justice.

21. Mrs. SINHA (India) said that her delegation had no objection in principle to the Colombian representative's proposal, which was permissible under the terms of General Assembly resolution 684 (VII), but it saw no necessity for a joint meeting of the Fourth and Sixth Committees.

22. Miss BROOKS (Liberia) observed that in order to have a full understanding of the matter the Sixth Committee would be obliged to study the relevant debates held not only during the previous session of the General Assembly but also at the time when differences of opinion on procedure applicable to resolutions concerning Non-Self-Governing Territories had first been

expressed. She therefore doubted whether the Sixth Committee would be in a position to give an opinion before the end of the present session.

23. Mrs. FLOURET (Argentina) said that she would abstain from voting on the joint draft resolution because her delegation considered it unnecessary to consult the International Court of Justice with regard to a procedural matter. It was for the General Assembly, which was master of its own procedure, to decide in each case and according to the importance of each, the majority to be applied when voting on a subject not specifically listed in Article 18, paragraph 2, of the Charter. For the same reason, her delegation could not support the Colombian representative's proposal.

24. Mr. KHAN (Pakistan) said that the draft resolution had been considerably strengthened by the changes appearing in sub-paragraph (b) of the revised text.

25. When the matter had been discussed during the General Assembly's eighth session (459th plenary meeting) the Mexican representative had stated that as questions relating to Chapters XII and XIII of the Charter were expressly included in the category of important questions established under Article 18, paragraph 2, those relating to Chapter XI were in effect excluded. He agreed with the Mexican representative's view that as long as the General Assembly, which alone was competent to make a decision in the matter, did not determine that a particular matter came within an additional category of questions to be decided by a two-thirds majority, it was obvious that a simple majority was applicable. There was no ambiguity in the Charter on that score. He therefore saw no need for an advisory opinion from the International Court of Justice in the present instance.

26. If, however, the sponsors of the draft resolution pressed for the question to be submitted to the Sixth Committee, his delegation, in a spirit of accommodation, might be willing to refrain from opposing such a step, since that Committee was part of the General Assembly and its consideration of the matter would in no way derogate from the authority of the Fourth Committee or of the General Assembly as a whole.

The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.

27. Mr. MCGREGOR (United States of America), speaking on a point of order, said that his delegation attached great importance to the answers to be given to the questions put to the Secretariat by the United Kingdom representative. He therefore proposed that the Committee should wait until it had received that information before voting on any aspect of the question before it.

28. Mr. CARREÑO MALLARINO (Colombia) said that after conferring with the sponsors of the joint draft resolution he wished to submit his proposal in the form of an amendment (A/C.4/L.499) to that resolution. The words "The General Assembly" at the beginning of the draft resolution should be changed to "The Fourth Committee", the words "Requests the International Court of Justice to give an advisory opinion on" in the operative paragraph should be changed to "Requests the Sixth Committee to consider" and the words "included

in the questions" in sub-paragraph (b) should be deleted.

29. Mr. ESPINOSA Y PRIETO (Mexico), speaking on behalf of all the sponsors of the draft resolution, said that they accepted the Colombian representative's amendments. He agreed with the United States representative that a vote should not be taken until all the information desired by certain delegations had been received.

30. Mr. DE MARCHENA (Dominican Republic) said that now that it was proposed to seek an opinion from the Sixth Committee rather than from the International Court of Justice there was even less need for the draft resolution than before. It was clear from the Charter that the question at issue was a procedural and not a legal matter and the Sixth Committee could do no more than confirm that questions not specifically referred to in Article 18, paragraph 2, were subject to a simple majority vote unless the General Assembly declared them to be within an additional category of questions to be decided by a majority of two-thirds.

31. Mr. CARREÑO MALLARINO (Colombia) noted that, although a number of delegations were convinced that the matter was unequivocally disposed of by the Charter, others still entertained doubts concerning the correct procedure to be followed. It was only in the desire to help find a means of resolving those doubts that his delegation had proposed that the advice of the Sixth Committee should be sought.

32. Mr. GRINBERG (Bulgaria), supported by Mr. JELEN (Poland) and Mr. MAKSIMOVICH (Ukrainian Soviet Socialist Republic), requested that the full text of the important statements made by the representatives of the Union of Soviet Socialist Republics (675th meeting) and of Czechoslovakia (672nd meeting) might be circulated, in addition to those made by the United Kingdom and French representatives (678th meeting), which the Committee had decided at its previous meeting to circulate as official documents. That was especially desirable in view of the fact that the French and United Kingdom statements included references to differences of views with the USSR which could not be fully understood except in the light of the Soviet representative's reply.

33. Mr. COHEN (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) stated that the Department of Conference Services found it extremely difficult to comply with so many requests for the full text of statements to be reproduced.

34. Mr. RYCKMANS (Belgium) asked for a vote on the subject. He would vote against the reproduction of the Soviet and Czechoslovakian statements, not because he objected to their circulation but because he thought it would create a dangerous precedent. The case of the United Kingdom and France was different: they were Administering Members and their statements contained information that could be of great assistance to the Committee.

35. The CHAIRMAN said that the matter was one for the Committee to decide and that it would be put to the vote at the following meeting.

The meeting rose at 5.15 p.m.