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Chairman: Mr. Juliusz KATZ-SUCHY (Poland).

Publication of documents concerning the drafting and application of the Charter (A/2415, A/C.6/343, A/C.6/306/Rev.2) (*continued*)

[Item 58]*

Preparatory work with regard to the possible holding of a General Conference of the Members of the United Nations in accordance with Article 109 of the Charter (A/2442, A/C.6/343, A/C.6/L.306/Rev.2) (*continued*)

[Item 70]*

Amendment of the Charter: election of a technical committee to study and report on the amendment of the Charter on the basis of proposals to be submitted by Member States (A/2466 and Add.1) (*continued*)

[Item 72]*

GENERAL DEBATE (*continued*)

1. Mr. SANSON TERAN (Nicaragua) sketched the history of the various collective security alliances that had been formed since the time of the ancient Greeks, and the history of thought on the subject of collective security from Dante to Kant, laying special stress on the development of the idea of the independence and equality of participating States and describing the gradual emergence of the concept of a world community.

2. The experience of the eight years which had elapsed since the establishment of the United Nations had given rise in many quarters to a desire to revise the Charter. A collective security system ought to be based on justice, equity and universality. Accordingly any States which complied with the requirements laid down in the Charter ought to be admitted to the United Nations on a favourable recommendation by any seven members

of the Security Council. Admissions had, however, been obstructed by an obstinate use of the veto.

3. After the General Assembly's appeal to the Security Council to come to a gentleman's agreement on the question of admission had gone unheeded, the International Court of Justice had been asked for an advisory opinion. The Court's ruling was that applicants for admission had to comply with the Charter's requirements; that there should be no bargaining between Member States over admissions; that the veto applied to admissions; and that a favourable recommendation of the Security Council was required. The small Powers had insisted, in debates in United Nations organs, that disagreement between the great Powers ought not to be permitted to block admissions. Abuse of their veto privilege on the part of the great Powers was preventing the most fundamental principle of the Charter from being implemented: that of universality, which required the maximum extension of the Organization's membership. Spain and Italy, for all their glorious histories and invaluable contributions to the world's heritage, were, with many others, still excluded and would continue to be excluded until the Charter, and with it Article 4, was amended. The Nicaraguan delegation strongly supported the Argentine argument, expounded at various sessions of the General Assembly, that the Security Council's recommendation, whether favourable or unfavourable, should have no effect on decisions taken by the General Assembly in respect of admittance to membership.

4. In many other respects the Charter stood in need of amendment. It belonged to the pre-atomic era and had to be adapted to the development of history. Compromise provisions should be worked out whereby the use of atomic weapons and other means of mass destruction would be prohibited; ingenuity should be taxed to the utmost to bring about disarmament and restore the world's lost sense of security. Other changes were required to take into account the dynamic development of the principle of self-determination of peoples.

5. Revision of the Charter was imperative. No human institution could be perfect. Even the Constitution of the United States of America had required repeated amendment with the passage of time.

6. The history of the Organization of American States had been one of constant striving for improvement, and that process was still continuing. The early diplomatic struggles had culminated in the Convention of Rights and Duties of States, of Montevideo, and its recognition of the principle of non-intervention; three years later, at the Buenos Aires Conference, the States had signed the Additional Protocol relative to Non-intervention, recognizing the fundamental right of member States to independence; and, finally, the Declaration of Lima (Declaration of the Principles of the Solidarity of America) had added the final crown to the American States' consultative system.

*Indicates the item number on the agenda of the General Assembly.

7. The Organization of American States allowed for the maximum equality between its member States. All members of the Council were permanent members, and each, large and small, possessed an equal vote. Nicaragua's vote had the same value as that of the largest member. The United States possessed no special privileges, and had on many occasions been voted down. The United States, indeed, provided an example to the world of a great Power living in harmony with other States. The American States were opposed to the idea of certain States possessing special privileges.

Mr. Tabibi (Afghanistan), Vice-Chairman, took the Chair.

8. Mr. MENDEZ (Philippines) said that the Charter had served its purpose well and that nothing had happened to suggest that it had outlived its usefulness, or would do so in the foreseeable future. By making it possible for the nations to remain in continuing negotiations and helping them to compose their differences by legal means, it had carried them through the perils of the post-war years.

9. It was, however, neither perfect nor immutable nor sacrosanct, and after the trials of those years certain of its provisions appeared to be in need of review. For example, the unanimity rule might be re-examined with a view to making it apply only in the event of a decision concerning a threat to the peace, a breach of the peace, or an act of aggression, not in the case of decisions concerning the pacific settlements of disputes; it was particularly undesirable in connexion with the admission of new Members, where it had led to regrettable bargaining between Powers. Secondly, Article 2, paragraph 7, had acted as an obstacle to the endeavour to preserve peace, and provided a legal subterfuge for the continuance of man's inhumanity to man. Thirdly, in Chapter XI the apparently deliberate omission of any direct reference to the actual attainment of independence by the Non-Self-Governing Territories lent itself to subterfuges on the part of the Administering Powers, which could frustrate the chapter's aims, and tended to increase the non-self-governing peoples' suspicions. Chapter XI was also insufficiently explicit on the subject of the General Assembly's competence, concerning which there had been a long-standing dispute. The chapter ought to state that the ultimate goal was the Territories' independence, and that it was for the General Assembly, not the Administering Power, to decide whether or not a people had attained a full measure of self-government. Furthermore, Article 73 e of that chapter ought to be brought into line with the preceding sub-paragraphs and to require the transmission of political as well as other information to the Secretary-General, since otherwise political self-government would be unlikely to be attained.

10. His Government was not committed one way or the other to Charter revision, but it would be unlikely to object to any preparatory work inasmuch as such work was clearly permitted by Article 109. The proposed legislative history should include every appropriate reference in order to ensure impeccable objectivity. Such a task, however, would take more than the time allotted to it to complete. It would also be preferable for the Secretariat to prepare an index of all relevant documents rather than the proposed repertory, since any selection or condensation of documents by the Secretariat, such as would be required to prevent the repertory being excessively expensive, would

leave it open to accusations of partiality. The propriety of the preparatory work being undertaken could hardly be questioned, in view of the fact that the Secretariat might very well have undertaken it unprompted in the normal course of its duties.

11. It hardly seemed justifiable to impute sinister motives to those who were in favour of preparations for the Charter's possible revision, for the Organization would be failing in its duty if it omitted to make such preparations.

12. Mr. GOMEZ PADILLA (Guatemala) said that in any discussion concerning a revision of the Charter it should be remembered that the United Nations was the expression of the hopes of the peoples of the world for the strengthening of peace, the improvement of relations among States and the well-being of mankind. Such an approach would preclude any possibility that the Charter might be amended in a manner that would be contrary to its lofty original purposes and that might shake its foundation of international balance and co-operation.

13. The Guatemalan delegation did not object in principle to the revision of the Charter, but such a revision must not be inspired by preconceived notions and prejudice; while not interested in revision in the immediate future, his delegation would not object to it, so long as it was effected by legal process, in accordance with Article 109 of the Charter.

14. The experience of the United Nations might be turned to good account immediately, for which purpose the history and practice of the international institutions should be studied. In that respect, paragraph 1 of the operative part of the six-Power draft resolution (A/C.6/L.306/Rev.2) was satisfactory.

15. His delegation did not consider it legally possible or desirable to ask Member States for their preliminary views on the possible revision of the Charter; such action would lead to infringement of the General Conference's competence, as laid down in Article 109 of the Charter, which precluded any intervention by the General Assembly. Moreover, States would hesitate greatly before expressing preliminary views.

16. For those reasons his delegation would vote in favour of the six-Power draft resolution, with the amendment to it submitted by Belgium, Colombia, France and Mexico (A/C.6/L.307).

17. Mr. KHOMAN (Thailand) said that the preparatory work which the Committee had been discussing was intended not directly for the revision of the Charter, but for the decision which under Article 109 of the Charter the General Assembly would have to take at its tenth session with regard to calling a General Conference. It was only logical that before taking that decision the General Assembly should know whether the Conference would serve a useful purpose, and in order to determine that it would need the information called for in the six-Power draft resolution (A/C.6/L.306/Rev.2).

18. In supporting that draft resolution his Government did not commit itself on the question of calling a General Conference. That decision would be taken in the light of the material to be prepared by the Secretariat and after further discussion at the Assembly's tenth session. Similarly, any decision with regard to preparatory work would not commit the United Nations in regard to the revision of the Charter. His delegation supported paragraphs 2 and 3 of the six-

Power draft resolution, on the understanding that they were not compulsory.

19. In view of those considerations, his delegation would vote in favour of the six-Power draft resolution, and abstain on the four-Power amendment to it (A/C.6/L.307). It also supported the Panamanian (A/C.6/L.310) and Salvadorian (A/C.6/L.309) amendments, which it considered to be purely of a drafting nature, and the United Kingdom amendment (A/C.6/L.308) which would facilitate the Secretariat's task. Even if the General Assembly decided against calling a General Conference, the proposed work would have served a useful purpose in making essential documentation of the United Nations generally available.

20. Mr. HERGEL (Denmark) said that his delegation agreed with other delegations which had pointed out that the Charter was a political, rather than a legal, document which represented a compromise between conflicting points of view. Difficulties in its interpretation or in the application of some of its provisions had a political explanation and could not be overcome by a legalistic revision of the Charter. His delegation fully shared in that respect the views expressed by the Swedish delegation in the General Assembly.¹ His Government, which was considering appointing an advisory committee, was keeping an open mind on the question of revision, and hoped that if—as seemed likely from the current debate—a General Conference was convened, it would produce some positive results.

21. His delegation had not been convinced by the argument that the General Conference alone would be competent to deal with questions relating to the revision of the Charter; the General Assembly was fully entitled to ask the Secretary-General to prepare relevant documentation and to give an opportunity to any governments that wished to do so to exchange preliminary views on the matter. In so doing, it would in no way prejudice the work of the General Conference. At the same time his delegation believed that the scope of the work requested in the six-Power draft resolution might perhaps be reduced somewhat so that the Secretary-General might be able to complete it in time.

22. In conclusion, he regretted that the items under consideration should have given rise to so much controversy; they have certainly not been introduced for ulterior motives, as suggested by some speakers, since the possibility of the revision of the Charter was provided for in the Charter itself.

23. The Danish delegation would be guided in its voting solely by a sincere desire to promote efforts to ascertain whether in due course some modifications of the Charter might be introduced which would make it a more useful instrument of the United Nations for the benefit of all the Member States.

24. Mr. MORGAN (Liberia) said that it would be clearly premature and contrary to the provisions of Article 109 to consider the calling of the General Conference or possible revision of the Charter at the current session. On the other hand, since revision might well prove necessary, the documentation called for in the six-Power draft resolution might help the General Assembly to come to a decision when faced with the question at its tenth session. His delegation therefore supported paragraph 1 of the operative part of the

six-Power draft resolution. It could not, however, agree with the provision of paragraphs 2 and 3, as any interchange of governments' views on the subject before the tenth session of the General Assembly would be premature, if not harmful.

25. Accordingly, he would vote for the six-Power draft resolution (A/C.6/L.306/Rev.2), subject to the deletion of paragraphs 2 and 3, as proposed in the four-Power amendment (A/C.6/L.307).

26. Ato Addimou TESEMMA (Ethiopia) said that he would vote in favour of the six-Power draft resolution (A/C.6/L.306/Rev.2).

27. The San Francisco Conference had realized that the Charter was not a perfect instrument and had included in it a provision for its revision. The experience of the past years showed that that action had been a wise one.

28. The proposal for preparatory work, as contained in paragraph 1 of the six-Power draft resolution, was reasonable, and provided for no more than the Secretariat would do in any case in preparation for the General Assembly's discussion of the question at its tenth session. On the other hand, the Secretariat would not have been able to publish the documentation one year in advance, and it was appropriate that a date for publication should be set in the draft resolution.

29. As regards paragraphs 2 and 3 of the six-Power draft, while some governments might conceivably find it difficult or inadvisable, for parliamentary reasons, to take a stand in advance, the proposed exchange of views, where possible, would be most useful. His delegation therefore supported those paragraphs which, as their authors had pointed out, were not obligatory.

30. In conclusion he noted that, just as goodwill was necessary for the proper application of an instrument, so it would be necessary for its improvement.

31. Mr. CHAUMONT (France) said that the four-Power amendment (A/C.6/L.307), which had been thoroughly analysed by the Colombian representative at the previous meeting, was a faithful reflection of the position of principle taken by several delegations, including his own, on the six-Power draft resolution (A/C.6/L.306/Rev.2). Those delegations were in favour of carrying out technical and historical research which would facilitate a decision on the question of revision in 1955 but which would in no way prejudice the position of governments on that question; they were opposed to political surveys which might easily give an incorrect picture of the situation and prejudice the issue and which would be in order only after the decision to hold a General Conference had been taken. Accordingly, the four-Power amendment proposed the deletion of paragraphs 2 and 3 of the operative part of the six-Power draft resolution, and the replacement of the preamble by a text in keeping with what would then remain of the operative part.

32. He had not been convinced by the argument advanced at the previous meeting by the Argentine and Netherlands representatives that, since under Article 10 the General Assembly could discuss any questions within the scope of the Charter, it was also free to discuss revision of the Charter. It was not legally sound to isolate the text of a single article and to consider it without reference to its context. Article 10 had to be interpreted and applied in the light of all the other provisions of the Charter and it was clear

¹ See *Official Records of the General Assembly, Eighth Session, Plenary Meetings*, 443rd meeting.

that Article 109, which stipulated that revision of the Charter was to be undertaken by a body other than the General Assembly, constituted an exception to the blanket provision of Article 10. Furthermore, Article 10 referred to the competence of the General Assembly under the Charter at its stood—as might be inferred even from the use of the words “the present Charter”, which occurred twice—and not to its role in amending that instrument. The authors of the Charter had expressly indicated that, while the Charter could be revised, that would have to be done in accordance with a certain definite procedure which was described in Article 109.

33. The Netherlands representative had also mentioned a political consideration: that the purpose of asking governments for their views was to stimulate their interest in the subject of revision. But it would be ill-advised to do so at the moment, for inevitably an incomplete and therefore misleading picture of the state of international opinion would be given, since only the governments which had already made up their minds on the matter—and which, besides, might easily change their views in the three years to come—would be heard from. Furthermore, it was illogical to ask the Secretariat to carry out a long and difficult work of documentation on the grounds that the material was needed to enable governments to form considered opinions, and then to ask for their opinions before the material had become available.

34. The representative of Thailand had pointed out that in order to reach a considered decision under Article 109, the General Assembly should, at its tenth session, be in possession of the views of governments and be able to judge whether convening a General Conference would serve a useful purpose. No government could, however, commit itself in 1953 on what its views might be in 1955. Even governments which thought that they were sure of their position might, as a result of unforeseen events, reverse their opinion of the usefulness of any given provision of the Charter, while other governments were not yet certain which, if any, provisions they would wish to see amended. Revision was not an abstract matter; it would involve definite decisions on the part of governments concerning the precise wording of specific articles. Those decisions should not be taken prematurely.

35. On the other hand, he felt that any addition to the knowledge of how the Charter had been prepared and interpreted would be distinctly helpful to governments, as well as to the United Nations as a whole, and he was therefore entirely in favour of the documentation called for in paragraph 1 of the operative part of the six Power draft resolution (A/C.6/L.306/Rev.2).

36. He would vote in favour of the United Kingdom amendment (A/C.6/L.308), which was in line with the suggestions in the Secretary-General's memorandum (A/C.6/343) and which would lighten the Secretariat's task of preparing that documentation.

37. Mr. RIVERA REYES (Panama) recalled that the six-Power draft resolution (A/C.6/L.306/Rev.2) represented a fusion of the agenda items originally introduced by the Argentine and Netherlands delegations. Adoption of the four-Power amendment (A/C.6/L.307) would in fact mean that item 70 of the agenda, as proposed by the Netherlands, would be disposed of without even a vote, and that not so much as a men-

tion of the procedure provided for in Article 109 of the Charter would remain in the six-Power draft resolution. The other amendments to the draft resolution, with the exception of his own delegation's amendment (A/C.6/L.310), applied to form only.

38. It was deplorable that after eight years of existence the United Nations should still be suffering from that timorousness which had been the keynote at San Francisco. Too many Member States failed to realize that by continuing to submit to the domination of great Powers with conflicting and aggressive ideologies they were perpetuating the cold war.

39. Of the five permanent members of the Security Council, only the United States had spoken in favour of revision. China, understandably enough, had not committed itself, while France and the United Kingdom had taken a passive attitude. It was quite true that no revision of the Charter would serve a useful purpose unless it was accompanied by a radical change in the policy of the great Powers and by willingness on their part to make concessions. Both the democracies and the communist States should give up any idea of dominating the world—a world which was weary of ideologies and which clamoured for a revision of the Charter as a remedy for its many ills.

40. His delegation would vote against the four-Power amendment (A/C.6/L.307), as to adopt it would be to sound the death knell of the United Nations.

41. The purpose of his own delegation's amendment (A/C.6/L.310) was to state clearly the true aims of the original Netherlands proposal and thereby to give item 70 of the agenda the importance it deserved. The Panamanian text was an undisguised statement of the truth, in keeping with the principle of open diplomacy. He would vote for the six-Power draft resolution as amended by his delegation.

42. The maxim *pacta sunt servanda* did not apply to such constitutional instruments as the Charter, which were drawn up to correspond to a certain set of conditions and were meant to be changed when those conditions changed. The French representative's argument that governments could not give their views in advance amounted in effect to saying that governments would never, in a changing world, be able to take a definite position on any question. It was clear from Articles 108 and 109 of the Charter that the General Assembly was entitled to deal with the revision of the Charter, and he had not been convinced by arguments to the contrary.

43. He had heard with surprise the statement that the rule of unanimity had been adopted because a great Power had not wished to be placed in a position where it would have to accept the decision of a majority which could be mustered by another great Power. That would mean that, at San Francisco, the tyranny of a single Power had been chosen in preference to democratic majority rule—a choice which unhappily was still being defended by some members of the Committee. The principle of the unanimity rule was unacceptable in an Organization which was the defender of democracy.

44. At the 372nd meeting the United States representative had spoken in favour of requesting governments for their preliminary views on the subject of revision, and the Panamanian delegation wished to associate itself with those remarks.

The meeting rose at 12.55 p.m.