

## 1513th meeting

Tuesday, 3 December 1974, at 3.20 p.m.

*Chairman:* Mr. ŠAHOVĆ (Yugoslavia).

A/C.6/SR.1513 and Corr.1

### AGENDA ITEM 94

#### **Report of the Committee on Relations with the Host Country (continued) (A/9626, A/C.6/429, A/C.6/432)**

1. Mr. M'BODJ (Senegal) commended the Committee on Relations with the Host Country on the work accomplished in 1974. As the Committee had made clear in its report (A/9626), the situation with regard to the security of missions and the safety of their personnel was still far from satisfactory. His own Mission had been obliged to submit a complaint to the Committee and to the competent host country authorities on 20 August 1974 concerning an incident in which a diplomatic bag addressed the Mission of Senegal had been unlawfully opened on the way from Dakar to New York. That was a flagrant violation of the inviolability of diplomatic correspondence, which was one of the privileges essential to the functioning of diplomatic missions. The host country had not given a satisfactory reply to the letter from the Permanent Representative of Senegal to the United Nations concerning that incident, and

since then another bag had been received which had obviously been opened in transit.

2. Proper implementation of the Act for the Protection of Foreign Officials and Official Guests of the United States of 1972 would go a long way towards solving many of the problems confronting the diplomatic community in New York. He hoped that the United States Government would do its utmost to bring the provision of local law into line with its federal legislation so that diplomats could receive the protection to which they were entitled. If necessary, local legislation should be changed to conform to that federal Act. His observations should not be taken as an attack on the host country but rather as a constructive criticism of the situation affecting the diplomatic community in New York.

3. Mr. BAULIN (Byelorussian Soviet Socialist Republic) said that during 1974 the Committee on Relations with the Host Country had studied a number of important problems which affected the interests of the overwhelming majority

of diplomatic missions accredited to the United Nations. During the past year that Committee had considered a number of specific cases brought to its attention by Member States, as well as several general problems concerning relations with the host country. His delegation agreed that the Committee on Relations with the Host Country was a useful forum for the consideration of problems affecting the diplomatic community.

4. The recommendations of that Committee objectively reflected the existing state of affairs and the inadequacy of the measures taken by the host country authorities to put an end to acts of violence and dangerous attacks on the premises of a number of missions accredited to the United Nations. Stress was rightly laid on the need to adopt more effective measures in respect of organizations and individuals engaging in hostile actions or making threats directed at certain missions and their personnel.

5. The question of the security of missions and the safety of their personnel had become a perennial item on the agenda of the Committee on Relations with the Host Country. As the report indicated, the existing situation was far from satisfactory. His delegation shared the view expressed by many members of that Committee that that body should not confine itself to considering complaints by various missions and the replies of the host country; rather it should give greater attention to a systematic review of the problem. In its discussion of note A/AC.154/23 prepared by the Secretariat on the security of missions and the safety of their personnel, the view had been expressed that although the host country had taken some legislative measures to implement its international obligations it had neglected to adopt the corresponding administrative and judicial measures necessary to discharge its obligation to provide missions and their personnel with adequate protection. Among the measures which could be endorsed were those which lent themselves to a more active investigation of criminal activities and the imposition of stricter sentences. Judicial proceedings should be speeded up and missions fully informed of the progress of investigations. Demonstrations and picketing which were in violation of the federal laws could not be validly supported on the grounds of freedom of speech or on any other ground. His delegation endorsed the proposal that such activities should be prohibited altogether in front of missions and permitted, if at all, only in the immediate vicinity of the Headquarters buildings.

6. Commenting on the memorandum prepared by the New York City Corporation Counsel and entitled "Aspects of the American legal system in the context of security of diplomats accredited to the United Nations" circulated as document A/AC.154/36, he expressed disappointment and dissatisfaction with the interpretation given to the provisions of the federal Law of 1972 concerning the prohibition of picketing or other demonstrations within 100 feet of any diplomatic premises. The memorandum attempted to limit the scope of that Law of 1972 and to legitimize the practice of picketing and demonstrating in the immediate vicinity of diplomatic premises. It was argued that if picketing was orderly, did not prevent ingress and egress, was not abusive and did not aim at intimidation, harassment, coercion or obstruction of official duties, it fell within the area of freedom of speech protected by the First

Amendment of the United States Constitution. The memorandum further stated that the mere presence of demonstrators within 100 feet of a protected building was not in violation of that Law. As an example of what went on at such "permitted demonstrations" he drew attention to the hostile gathering organized by a large group of demonstrators on 26 December 1973 outside the building which housed the Missions of the USSR, Byelorussian SSR and Ukrainian SSR. That demonstration had been described in two notes verbales addressed by the Mission of the Union of Soviet Socialist Republics to the Mission of the United States and circulated to the Committee in document A/AC.154/10. The incident had been the subject of the twenty-fourth meeting of the Committee, held on 28 December 1973. Many other instances could be given of such demonstrations and picketing in the immediate vicinity of the Mission of the Byelorussian SSR, all of which had been accompanied by insults and abusive language directed at members of the staff of the Mission. In referring to the lawful nature of certain types of demonstrations and picketing, the host country was attempting to justify its failure to adopt the measures necessary to implement the federal Law of 1972. The argument that the basic obstacle to enforcement of the laws to protect diplomats was the conflict between rules concerning United States citizens and the host country's obligations under international law concerning the protection of diplomats was unfounded. The host country should comply with its promise to adjust the federal and municipal laws so as to make the protection of the security of missions and mission personnel more effective. Document A/AC.154/36 had not made any positive contribution towards solving the problem of the security of missions and the safety of their personnel. In connexion with the requirement that a complaint must be made in writing and the complainant must be prepared to appear as a witness in court, he observed that to impose the burden of prosecution upon the diplomat was not in accordance with the Vienna Convention on Diplomatic Relations.<sup>1</sup>

7. With regard to the parking situation, his delegation was of the view that the removal of reserved parking signs, the towing away of diplomatic vehicles and the continuous issuance of summonses were violations of article 22, paragraph 3, of the Vienna Convention on Diplomatic Relations and represented a failure on the part of the host country to fulfil its international obligations. The campaign being conducted by the authorities of the city of New York to ticket diplomatic vehicles was an administrative measure that was contrary to the provisions of international law concerning diplomatic immunities. In many cases the police of the city of New York discriminated against diplomatic vehicles, singling them out as targets for parking tickets. The publicizing by the mass media of statistics concerning the ticketing of diplomatic vehicles did not help to improve relations between the diplomatic community and the general public. The attempts by the representatives of the host country to prove the premise that the main reasons for crimes against diplomats was misunderstanding by them of the intricacies of the United States legal system rather than the ineffectiveness of the existing legislation or the absence of measures to prevent violations of the law would not contribute to a positive solution of the problem of

<sup>1</sup> United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

protecting missions and their personnel. It was the duty and obligation of the host country to prevent crimes against diplomats and missions.

8. The host country authorities should take steps, through the mass media, to establish a more normal atmosphere for the work of the United Nations and the missions accredited to it by explaining their functions and importance for the strengthening of international peace and security and for the promotion of co-operation among States with different social systems. If the Organization as a whole was to function effectively, the staff of missions to the United Nations must have normal working and living conditions. It was unacceptable that diplomats should have to live and work with a constant feeling of lack of security.

9. His delegation endorsed the recommendations of the Committee set out in chapter VII of its report and hoped that they would be reflected in the resolution on the item. A speedy and effective solution of the problems being dealt with by that Committee, and above all the question of the security of missions and the safety of their personnel, would have a positive effect on the work of missions and would be of benefit to the host country by eliminating unnecessary friction. Moreover, such a solution would further the cause of détente and the promotion of friendly relations among all States.

10. Mr. PARRY (United Kingdom) said that his country had always been an active member of the Committee on Relations with the Host Country and was directly concerned with the problem of the security of missions, since there had been a number of occasions when the premises of the United Kingdom Mission had been the target of demonstrations or threats or other unpleasant incidents. His Mission also shared the inconvenience and vexations which other missions had experienced as a result of the difficulties of parking in New York. Finally, the fact that the United Kingdom served as a host country to a number of international organizations as well as ordinary diplomatic missions gave his delegation a perspective that others might lack.

11. The problem of the security of missions and the safety of their personnel appeared to loom largest among the various problems on the agenda of the Committee on Relations with the Host Country. While not as active as it had been a year or two ago, the problem was still there and from time to time it came to the surface in a particularly distressing way. The report of the Committee contained a catalogue of illustrative incidents. While all of the incidents were regrettable, not all of them were serious. Some might well have been aggravated, if not actually provoked, by the unwise or tactless attitude of the diplomat concerned. Not every affront or discourtesy to a diplomat was necessarily to be construed as an attack upon him in his official status or as an attack upon the dignity or security of his mission, still less as a deliberate affront to his country. Even when dealing with serious incidents involving real violence or the threat of violence, a sense of proportion must be maintained. The problem of violence was not confined to diplomats accredited to the United Nations or to diplomats in general but was rather a distressingly common aspect of modern life. Nor was the problem confined to New York or the United States alone. Nevertheless, the phenomenon of

violence against diplomatic missions and their personnel, and of illegal harassment, was a particularly dangerous manifestation of that aspect of public life, striking as it did at the very machinery of international intercourse. Since attacks against diplomatic missions and their personnel were often related to concern about a particular international problem, it was ironic that the effect of such attacks might be to impair the attainment of a solution to that problem. His Government had consistently defended the right of individuals to free expression, one of the basic freedoms set out in the Universal Declaration of Human Rights and all related instruments. It condemned violent action which claimed to be in exercise of that freedom but which was actually designed to impose the views of one group on another. The view that violence was a legitimate means of attaining just ends was highly dangerous, and particularly dangerous when used to justify attacks on diplomatic missions and their personnel.

12. It was easy enough to point to actual cases where the security of missions and their personnel had been infringed or imperilled. It was also easy to say that it was the duty of the host country under international law to take all reasonable steps to prevent the commission of such acts against missions and to secure the arrest and prosecution of those who perpetrated them. But to describe the problem and to define the duty of the host country in abstract terms was of little avail. In considering concrete measures that could be taken by the United States authorities, there were two factors which should not be overlooked. The first was that the problem of offences against diplomatic missions in New York was merely one facet of the larger problem of crime in New York, and that in turn was merely one aspect of the world-wide problem of crime in modern cities. It was unreasonable to demand that the United States authorities should immediately solve that problem for the benefit of the diplomatic community when they could not solve it for their own benefit and when no other Government, in comparable circumstances, had yet found a solution to it. The most that could be asked was that, in so far as crime against diplomatic missions presented special features, the host country should take special measures to deal with them. In the view of his delegation, the United States authorities were aware of their duty in that respect and discharged it to the best of their ability, and at least as well as any other Government could do in the circumstances. The second factor to bear in mind was that United Nations Headquarters was situated in a country which honoured and observed the rule of law, where the judicial process was followed and the rights of an accused person were respected, and where people could not be deprived of their liberty, or punished in other ways, on the basis of an administrative fiat or at the will of an official or politician or on the mere assertion of an accuser. That might be less convenient than the situation which would obtain if United Nations Headquarters were situated in a totalitarian country. But it seemed to his delegation to be more consistent with both the letter and the spirit of the Charter of the United Nations, under which delegations operated and which they were here to serve. If there was indeed a price to be paid in terms of inconvenience, it was a price which his delegation was willing to continue to pay. Nevertheless, the United States authorities could be required to be alert to the changing conditions of the situation and to carry out their duty with the utmost vigour. His delegation had no

occasion to complain of any lack of interest or vigour on the part of those authorities in any case in which it had been involved or in any case that had come to its attention through the Committee on Relations with the Host Country. On no occasion could the host country authorities have been charged with lack of good faith or proper diligence in discharging their responsibility. But there was no room for complacency. The institutionalized dialogue with the host country provided by that Committee clearly played a most useful role, for the host country could not be expected to meet a problem presented by changing circumstances unless it had an opportunity to discuss that problem with representatives of the diplomatic community.

13. In that connexion, considerable concern had been expressed over the handling of demonstrations and picketing, particularly in relation to the implementation of the federal Law of 1972. Paragraph 88, recommendation 3, of the report of the Committee on Relations with the Host Country constituted a reasonable and carefully phrased recommendation on that subject. That recommendation, which his delegation had helped to formulate, had been accepted as fair and appropriate by the delegation of the host country as well as by other delegations, such as that of the USSR. His delegation had no reason to doubt that the recommendation would be fully implemented, and that would go a long way towards resolving the difficulties.

14. His delegation noted with interest the Secretariat studies on the problem, contained in documents A/AC.154/20 and A/AC.154/23. One of the conclusions that his delegation drew from those papers and from the discussions to which they had given rise was that the diplomatic community perhaps underestimated the difficulties inherent in balancing freedom of speech against the requirements of security precautions; another conclusion which it drew but which some delegations seemed unready to acknowledge was that the host country could not be expected to pursue prosecutions without the co-operation of the diplomatic community. Unless members of missions were prepared to lodge complaints and to give evidence, the administration of justice was rendered much more difficult, or even impossible. The voluntary giving of evidence in a criminal case did not necessarily involve a waiver of diplomatic privileges and immunities. Nor, to the extent that a waiver might be involved in certain cases, would his delegation regard that as in any way improper or unreasonable or inconsistent with the status and special position of the mission concerned or its personnel. Delegations perhaps stood a little too much on their supposed dignity on those matters and seemed to overlook the provisions of section 14 of the Convention on the Privileges and Immunities of the United Nations (General Assembly resolution 22 A (I)), which stated, with regard to the status of the representatives of Member States, that privileges and immunities were accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the United Nations and that, consequently, a Member not only had the right but was under a duty to waive the immunity of its representative in any case where, in the opinion of the Member, the immunity would impede the course of justice and could be waived without prejudice to the purpose for which the immunity was accorded. In his delegation's view,

if there was more attention to the letter and spirit of that provision and less tendency to make demands on the host country authorities without offering co-operation in return, the number of cases of unpunished offences against diplomatic missions might well be drastically reduced.

15. It was the standing policy of the United Kingdom Mission to be willing to make formal complaints and to give evidence in the local courts whenever that was reasonably required in the interests of justice—which of course included the prosecution of criminals—and where the real interests of Her Majesty's Government were not likely to be prejudiced by such action. In the exceptional cases where that was not possible, his delegation recognized that it could not complain if, as a result, the United States authorities were unable to initiate and proceed with prosecution.

16. His delegation also welcomed the two documents submitted to the Committee on Relations with the Host Country by the host country itself. Document A/AC.154/36 gave a detailed exposition of the law and procedures of the host country relating to the security of diplomatic missions and their personnel. That exposition was of great utility and interest and gave all a better understanding of the legal and practical framework within which the problem had to be tackled. In the last analysis, however, the laws and procedures of the host country were its own concern. The primary concern of delegations—perhaps their sole concern—was to ascertain whether those laws and procedures in fact enabled the United States, as host country, to comply with its obligations under international law. In his delegation's view, the laws and procedures described in document A/AC.154/36 did enable the host country to comply with its international obligations, and in their practical execution the host country was undoubtedly doing its best under admittedly difficult circumstances. In particular, it was encouraging that the facilities of the Executive Protective Service had now been made available to certain missions that were especially in need of them. That reassuring move illustrated the host country's constructive approach.

17. With regard to the parking situation, there seemed to be a general feeling that further concrete measures were needed in order to enable the diplomatic community to carry out its functions efficiently. The report contained a number of suggestions which should be given consideration. Nevertheless, the difficulties of the situation could not justify deliberate violation of the laws of the host country by the diplomatic community. However inconvenient it might be, it was their duty to respect those laws. On the other hand, the host country authorities must also respect the diplomatic community's special status in international law, however wrong its behaviour might be. The parking of a DPL vehicle outside the permitted parking zones did not justify the towing away of that vehicle, except in the infrequent case where it might be stolen, involved in a wreck, completely obstructing traffic or otherwise creating a serious public hazard. His delegation was gratified to learn of the new arrangement worked out by the United States Mission with the Police Department of the city of New York whereby diplomatic cars would be towed away only when they presented a danger to public safety.

18. A further aspect of the parking problem in New York which had emerged from the consideration given to it by the Committee on Relations with the Host Country was a striking illustration of the existence of a certain constructive tension between the just claims of the diplomatic community and the just claims of the host country which was present in almost all the topics with which that Committee had to concern itself. In the case of parking, a balance had to be established between, on the one hand, the requirements of the diplomatic community to have its business facilitated and, on the other, the very proper needs of the inhabitants of the city of New York in respect of the free flow of traffic and the diminution of pollution. His delegation did not agree with those who claimed that diplomats were exempt from making their contribution to satisfying the needs of the city in which they lived and worked. If New York had a traffic problem and a pollution problem, diplomats must share them; if the inhabitants were called upon to make sacrifices to help solve those problems, diplomats must bear their part of the burden. If diplomats asked for and were accorded special parking facilities, those were not a right but a privilege and a courtesy. They were nevertheless a very necessary privilege and courtesy in New York, and their absence would undoubtedly impair the functioning of missions. For that reason, diplomats were entitled to ask the authorities of the city, through the United States Government if necessary, to make such special arrangements to the greatest extent that was reasonably possible. His delegation was not convinced that the right balance had yet been struck by the host country authorities or that the needs of the diplomatic community had been properly accommodated. It therefore proposed to continue to press the host country authorities to see what more could be done in that connexion. However, his delegation proposed to do so in a spirit of friendly co-operation and not in a spirit of angry and petulant confrontation. Quite apart from that being a more effective negotiating technique, it was just as important a part of the public relations of the United Nations community in the host city as were the proposed measures discussed in chapter VI of the report of the Committee.

19. As the report pointed out, the public relations problem was, undoubtedly, a two-way affair; paragraph 88, recommendations 6, 7 and 8, of the report reflected that. On the one hand, the various information exercises would undoubtedly serve to promote a better understanding of the problems of the diplomatic community, while, on the other, the elimination of specific issues between individual missions and the host country, such as long-standing indebtedness incurred by individual diplomats or missions and complaints of discourtesy not satisfactorily cleared up, would no doubt serve to prepare the soil. So also would compliance generally with the laws and regulations of the host country.

20. With regard to the energy situation in relation to the needs of the diplomatic community, his delegation noted that consultations were continuing on arrangements for providing a petrol station in the vicinity of the Headquarters building to service official mission and United Nations vehicles. Although the energy situation had improved, it would, in his delegation's view, be sensible not to lose sight of that problem altogether.

21. His delegation was generally satisfied with chapter V of the report, dealing with comments and suggestions on the organization of the work of the Committee on Relations with the Host Country. It agreed that it was not advisable for that Committee to hold an annual session as a matter of routine; it was preferable to deal with problems as they arose and to make greater use of its Working Group. Given the continuing nature of the problems before the Committee, it was appropriate that the work of the Committee should continue in 1975.

22. Mr. OMAR (Libyan Arab Republic) said that the report of the Committee on Relations with the Host Country dealt with a number of important topics, the most important being the security of missions and the safety of their personnel. Paragraphs 32 to 47 of the report described a series of lamentable events which had occurred in respect of missions, such as hostile demonstrations, vandalism and other criminal acts, all of which did not help to create the calm atmosphere essential for the functioning of those missions. The report showed clearly the extent of the sincere efforts made by the members of the Committee and by the public security authorities and the lengthy dialogue undertaken with the host country with a view to finding positive solutions to ensure the security of missions and the safety of their personnel. Nevertheless, his delegation wished to express extreme concern that no positive solutions had been found to put an end to the problems faced by missions, which constituted a daily increasing danger. The events of the current session of the General Assembly were ample proof of the tense atmosphere which currently prevailed.

23. In that connexion, he drew attention to the acts perpetrated by elements motivated by Zionist organizations against the New York office of the Palestine Liberation Organization and the aggression committed against one official of that office, who had been wounded and hospitalized as a result. He drew attention also to the rabid campaign and hostile demonstrations organized by Zionist elements in New York in a futile attempt to disrupt the session of the General Assembly before and during its consideration of the question of Palestine. That senseless mob had increased its unruly behaviour when the General Assembly had decided to invite the Palestine Liberation Organization to participate in the debate on that issue.

24. His delegation fully appreciated the efforts made during that period by the host country police to ensure protection and security for both the United Nations Headquarters building and the Arab missions. However, the prevailing atmosphere had not been appropriate to the nature of the work of the United Nations. His delegation noted with regret that certain individuals in the State of New York who had a responsibility to assist in the creation of an appropriate atmosphere for the work of the United Nations had co-operated with the irresponsible elements in their hostile campaign against the United Nations. In that connexion, he drew attention to the press campaign led and financed by the Governor of New York himself, who had devoted a whole page of *The New York Times* of 4 November 1974 to a so-called protest against terrorism, stating therein that he, as Governor of New York, totally disapproved of the United Nations decision to allow the Palestine Liberation Organization to be represented in the

General Assembly. The Governor had stated further that he was proud that his country stood side by side with another three countries in protesting what he referred to as an unjustified and extremist act on the part of the United Nations. That was surely a distortion of the truth; his delegation was convinced that the people of the United States was not opposed to the right of peoples to self-determination. Pressure from Zionist groups and the opportunistic attitude of certain authorities had given that impression. His delegation felt pity for such individuals; despite their rabid campaign, their efforts had failed.

25. The security of missions and the safety of their personnel and the creation of an atmosphere that would enable them to perform their functions in the best possible manner was a most urgent issue, and the necessary steps should be taken to ensure such safety and security. That could only be achieved by sincere co-operation between the host country, United Nations security personnel and the Committee on Relations with the Host Country and by the host country's full commitment to implement the obligations set forth in the Headquarters Agreement (General Assembly resolution 169 (II)).

#### AGENDA ITEM 95

Need to consider suggestions regarding the review of the Charter of the United Nations: report of the Secretary-General (*continued*) (A/9739, A/C.6/L.1001, L.1002)

26. Mr. YOKOTA (Japan) said that his delegation wished to express sincere appreciation to the Minister for Foreign Affairs of the Philippines for his highly comprehensive, impartial and articulate statement at the previous meeting on the item under consideration. That forceful statement by one of the founding fathers of the United Nations had added fresh momentum to the debate on the extremely important question of Charter review. Members would be doing a disservice to the Committee if they failed to heed the voice of reason coming from a statesman whose deep attachment to the original Charter was second to none. All knew the great part he had played in drafting that historic document as well as in building up the United Nations. It was the foresight of the founding fathers that was responsible for the inclusion of Articles 108 and 109, which foresaw the necessity of Charter review.

27. The basic position of the Japanese Government on the question was well known. His delegation had been among those which had raised the question at the twenty-fourth session of the General Assembly. At that session (1756th plenary meeting), the Minister for Foreign Affairs of Japan had expounded in detail the basic thinking of his Government on the question when speaking on the twenty-fifth anniversary of the United Nations, then about to take place, and had put forward a number of concrete suggestions. Furthermore, his Government's views had been submitted to the Secretary-General in accordance with General Assembly resolution 2697 (XXV).<sup>2</sup> At the twenty-seventh session of the General Assembly, his delegation had again in the Sixth Committee (1375th meeting) dwelt at length on the question of Charter review.

28. It was the carefully studied view of his delegation that the desire of a number of delegations to consider the question of Charter review remained undiminished, despite repeated attempts to keep the item off the agenda of the General Assembly. That was demonstrated by the number of delegations which had set forth their views on the question at the twenty-seventh and at the current session of the General Assembly and which had submitted views and suggestions in accordance with General Assembly resolutions 2697 (XXV) and 2968 (XXVII). The General Assembly's renewed endorsement of a debate on the item had provided additional evidence that the majority of Member States continued to take a lively interest in the topic.

29. His delegation was convinced that the time had come for all responsible Members of the United Nations, advocates and opponents of Charter review alike, to face that supremely important issue squarely, in order to reflect on the achievements of the 29 years that the Organization had been functioning. Critics of Charter review had used arguments that were familiar to all: that there was nothing wrong with the Charter if only all Member States would comply with it; that a review of the Charter would inevitably give rise to an endless debate and possible polemics; that it would magnify the frustrations of some Member States; that it would discredit the present provisions of the Charter and that, as a result, the function and prestige of the United Nations would be undermined. His delegation respectfully took issue with those views, although it, too, fully recognized that if the international community embarked on a review of the Charter, it should proceed at an orderly pace and carefully explore the merits and demerits of each proposal. His delegation considered the criticisms made over-cautious, because it was precisely as a result of the growing frustration of a considerable number of Member States, and the increasing danger to the future of the United Nations which that had engendered, that his delegation had long stressed the need for Charter review.

30. To avoid any misunderstanding, however, he wished to reassure the Committee concerning the unchanging and unconditional commitment of his Government to the purposes and principles of the United Nations, as evidenced by the statement made by the Minister for Foreign Affairs of Japan in the general debate at the current session (2241st plenary meeting). Because of that commitment, Japan felt deeply concerned about the dissatisfaction with the performance of the Organization which was increasingly evident not only within the United Nations but outside also. Although, from its inception, the United Nations had made significant contributions to the maintenance of international peace and security, it must be admitted that the Organization had not fully lived up to the great expectations that mankind had entertained for it when it had been founded.

31. While his delegation did not deny the need for more faithful implementation of the Charter and the resolutions of United Nations bodies, it nevertheless felt that the dissatisfaction with the performance of the Organization was attributable, at least to a considerable extent, to the failure of the Charter, nearly 30 years after its adoption, to function properly in relation to the constantly changing political, economic and social realities of the international

<sup>2</sup> See A/8746 and Corr.1.

community. Truly epoch-making changes had occurred in the world during the past three decades, and it was inevitable that the Charter, having been adopted by the 51 original signatories on the basis of the international situation prevailing at the end of the Second World War, should be adjusted to the new realities and adapted to meet adequately the challenges offered by the altered circumstances of the contemporary world.

32. His delegation fully understood the spontaneous and legitimate desire of a growing number of delegations to bring the Charter up to date in order to strengthen institutionally the functioning of the United Nations. It was high time that every Member State should apply its wisdom to try to evolve an orderly forum for initiating an in-depth study of the various issues involving Articles of the Charter. The question of Charter review could not remain unsettled much longer, and his delegation was convinced that preliminary work should begin on the problem. He stressed, however, that his delegation was by no means unaware of the extremely delicate nature of the problems involved. The position of the great Powers, the aspirations of newly emerging States, the balance of power relations and all the stark realities of the actual world must be duly taken into account. In fact, any mishandling of the question of Charter review could produce more dissatisfaction than satisfaction in the international community, weakening the support of those States which wished to preserve the Charter in its original entirety and creating major damage to the existing framework of international co-operation. A study of the question must, therefore, be conducted with the exclusive aim of achieving long-term benefits for the entire family of nations and with the utmost unselfishness, so that no Member State or group of Member States would seek short-term gains for themselves at the cost of potential long-term damage to the indispensable world organization.

33. All Member States, both advocates and opponents of Charter review, should further study the implications and ramifications of their arguments and scrutinize their positions more closely in the light of contemporary realities and prospective future developments. No useful purpose would be served if radical changes in the Charter gave rise to serious disillusionment on the part of a considerable number of Member States, thus giving them occasion to bypass the Organization and produce a serious setback for existing efforts to promote international co-operation. On the other hand, it would be equally unfortunate if some Member States flatly rejected the sincere desires of a considerable number of Member States to promote consideration of that question, for that might lead them to despair of the future of the United Nations and to break away from the purposes and principles of the Charter.

34. The Members of the Organization should not seek hasty conclusions on the substance of that important question. Priority should be given to developing an appropriate method for carrying out a revision of the Charter when, after careful thought, the conclusion was reached that that revision was desirable. Careful attention should be paid to the procedure adopted in dealing with specific amendments considered necessary in the past. In view of the harm that might be caused by further delay in consideration of the question of Charter review and in view also of the number of difficult problems involved, the most

realistic first step would be to embark on a preliminary study of the views of Member States on the question through machinery to be established by the General Assembly. The views set forth in documents A/8746 and Corr.1 and Add.1-3 and A/9739, as well as the relevant statements by various delegations, would certainly provide sufficient material for the initiation of such a study. Even a cursory study of those views would make it clear that there was general agreement among the advocates of Charter review regarding the possible breadth and scope of that highly delicate task. Not one of those delegations saw a need to review the provisions setting forth the purposes and principles of the Charter. As they envisaged the proposed review, it would include solely the provisions for the implementation of the purposes and principles. Moreover, most of the advocates of Charter review seemed to prefer a step-by-step approach, limiting the review to specific provisions requiring urgent attention for up-dating, rather than embarking on a general and comprehensive re-examination of the entire Charter. Many of the delegations which had expressed their views on that question had rightly recognized the importance of securing widespread support among Member States if meaningful results were to be obtained from the study.

35. His delegation warmly commended to all members of the Committee draft resolution A/C.6/L.1002. As a sponsor of the draft resolution, it wished to support the request made by the Minister for Foreign Affairs of the Philippines at the previous meeting that the draft resolution be given priority so that it would be put to the vote before any other draft resolution on the item under consideration. While stressing the need to take a concrete step on the question of Charter review, he stressed that that difficult task should be tackled with the solemn reaffirmation that all were profoundly dedicated to the noble ideals and principles embodied in the Charter.

36. Mr. AN Chih-yuan (China) said that profound changes had taken place in the world situation since the signing of the Charter of the United Nations. In particular, the vigorous emergence of the third world was a great event in contemporary international relations. Suffering greatly from colonialist, imperialist and hegemonic aggression, oppression and exploitation over a long period, the numerous Asian, African and Latin American countries and peoples had found themselves in a powerless position in international affairs. Now the third world countries had become increasingly awakened and stronger. They had become the main force in the struggle of the peoples of the world against imperialism and colonialism, and particularly against super-Power hegemony, and were playing an ever greater role in international affairs. That profound change in the world could not but affect the United Nations.

37. When the United Nations had been founded, there had been on 51 Members. There were currently 138, with the third world countries comprising some three fourths of them. They were mostly countries which had obtained independence after prolonged and arduous struggles. In the United Nations, the voices of the Asian, African and Latin American countries had become increasingly articulate and their influence was being increasingly felt on major international issues. Their strong demands for the defence of State sovereignty, independence and national economic rights

and interests against super-Power hegemony and power politics had broken the dull atmosphere prevailing in the United Nations over a long period, thus leading to certain changes in the situations in the United Nations. In particular, the sixth special session of the General Assembly and the Third United Nations Conference on the Law of the Sea had given expression to the strong desire of the numerous small and medium countries for the establishment of a new international relationship based on equality. The current session of the General Assembly had also achieved successes in opposing big-Power hegemony, colonialism, racism and zionism. All that testified to the great strength of the united struggle of the third world countries and would exert a far-reaching influence on the future work of the United Nations. Nevertheless, his delegation could not but note that to date the United Nations had not yet completely got rid of super-Power control and had remained weak and impotent on a number of major international issues. Sometimes it had even done the wrong thing. A great number of legitimate demands and proposals of the numerous small and medium countries had failed to be duly reflected in the United Nations. A number of draft resolutions upholding justice had not been adopted owing to obstruction and sabotage by the super-Powers. Even if some were adopted, they had not been implemented, for the same reason. In short, the United Nations in its current state fell far short of the needs of the contemporary world. Such a state of affairs was most unsatisfactory to the numerous small and medium-sized countries, particularly the third world countries. The United Nations must be reformed, and an important aspect of that reform was the review of the Charter.

38. The Charter, which had been drawn up near the end of the Second World War, contained quite a few provisions which were irrational or outmoded in the light of the current situation. It was only natural that quite a number of countries should have requested a review of the Charter so as to make it fully reflect the current world state of affairs.

39. However, the Committee had also heard a super-Power which categorically opposed the review and amendment of the Charter. The Soviet representative had asserted that, despite the change in the world situation, no amendments in the Charter were admissible. He had openly accused those States which favoured a review of the Charter of undermining it and destroying the very basis of the existence of the United Nations. He had even resorted to threats and intimidation with the preposterous assertion that the review of the Charter might lead to a nuclear war. The Charter had been formulated by man and was by no means immutable and infallible. Now that almost three decades had elapsed since the Charter had become effective, why was it not permissible to ask for a review of the Charter and amendments thereto? Apparently there were still people who wanted to monopolize the floor in the United Nations and attempt to continue their hegemonic policies there. That would be of no avail. There was a rising demand for reform of the United Nations and a review of the Charter. Yet some people were mortally afraid of changing the irrational and outmoded provisions and of losing their privileged status. That unravelled the mystery of their obstinate opposition to the review of the Charter.

40. His delegation had consistently held that all countries, big or small, should be equal. The affairs of the United Nations should be managed jointly by all States Members of the Organization. His delegation was resolutely opposed to the United Nations being controlled and manipulated by one or two super-Powers. The Chinese Government and people had always maintained that the review and amendment of the Charter was an important and serious problem. Now a number of States had proposed in a draft resolution (A/C.6/L.1002) the establishment of an *ad hoc* committee on the Charter to present some constructive recommendations in a report to the next session of the General Assembly on the basis of a study of the views of various countries. That was a positive and feasible proposal which his delegation supported and hoped would be adopted by the Committee.

41. The Soviet Union had submitted a draft resolution (A/C.6/L.1001) opposing any action on the review of the Charter. In its draft, the Soviet Union had put forth some untenable arguments in a deliberate attempt to obliterate the fact that in recent years many small and medium countries had made known on different occasions their just demand for the review and amendment of the Charter. Everyone could see that it was the Soviet Union which had been particularly desperate in opposing a review of the Charter. His delegation firmly opposed the persistent Soviet attempt to obstruct the review of the Charter and was firmly opposed to the Soviet draft resolution.

42. The whole world situation was now developing increasingly in favour of the peoples of the world. The United Nations should defend the sovereignty and independence of various countries, in support of the just cause of the peoples of all countries and the maintenance of international peace and security. It should not continue to be used by the super-Powers as a tool for pushing their power politics and hegemony. His delegation was ready to work with all the peace-loving and justice-upholding countries to enable the United Nations to play a useful role in opposing imperialism and colonialism, particularly hegemony, and in promoting the cause of human progress.

43. Mr. OGBU (Nigeria) said that draft resolution A/C.6/L.1002, of which his delegation was a sponsor, was modest and non-controversial and intended to permit further consideration of the observations already submitted by Governments in response to General Assembly resolutions 2697 (XXV) and 2968 (XXVII) and also of the views expressed by Member States at various sessions of the General Assembly.

44. His delegation strongly believed that if there was nothing wrong with the Charter of the United Nations, all well-meaning Member States should support the idea of considering its review without any hesitation. It had been said that some of the delegations who resisted the idea of a review did so because they feared the veto might be denied to permanent members of the Security Council. While his delegation did not necessarily say that that was the major or only intention of a review, it likened the situation of the Charter to the individual who had survived for the past 29 years and yet was afraid to go to a physician for a check-up. If, as some delegations said, there was nothing wrong with the Charter, then Members would be further reinforced in



their commitment to the Organization and its Charter if they received a clean bill of health after the review of the Charter. The fact that the rival draft resolution before the Committee (A/C.6/L.1001) made reference to changing conditions suggested that there was room for improvement in the Charter. The Organization should not be deprived of the benefit of 29 years of experience. He wished to point out that, although in many languages the terms "review" and "revision" were interpreted as having the same meaning, his delegation understood them as having different meanings; a review did not necessarily lead to revision. If it did, however, he saw nothing wrong with that.

45. Turning to draft resolution A/C.6/L.1002, he pointed out that the first four preambular paragraphs contained the necessary background information for an understanding of the operative paragraphs. He saw no problem in the last preambular paragraph, since it was conventional to use such wording in a draft resolution dealing with the Charter of the United Nations.

46. The core of the draft resolution was operative paragraph 1, which provided for the establishment of an *ad hoc* committee on the Charter of the United Nations which would serve as machinery for the thorough examination of any action already taken in conformity with General Assembly resolutions 2697 (XXV) and 2968 (XXVII). The paragraph had been couched in simple and straightforward language and had been so drafted as to avoid any controversy which might prevent its adoption by consensus. Operative paragraph 2 was merely a follow-up to General Assembly resolution 2697 (XXV).

47. The sponsors of the draft resolution were mindful of the important role of the Secretariat as one of the principal organs of the United Nations. Under Article 99 of the Charter the Secretary-General could bring to the attention of the Security Council any matter which in his opinion might threaten the maintenance of international peace and security. It therefore seemed to his delegation inevitable that the Secretary-General should make available to the *ad hoc* committee his views on the experience acquired in the application of the provisions of the Charter with regard to the Secretariat. Operative paragraph 3 was intended to serve that purpose. The remaining operative paragraphs dealt exclusively with administrative and procedural matters. His delegation hoped the Committee would adopt the draft resolution by consensus.

48. Mr. GALINDO-POHL (El Salvador) remarked that efforts to embark on a careful study of possible amendments to the Charter had been consistently put off, year after year. Some delegations had advocated postponement in order to wait for more propitious circumstances; others had done so as a means of rejecting review efforts outright. However, the subject was still alive, not so much because of the tenacity of those favouring review as because it reflected real problems within the international community and its highest organization, the United Nations. During the Charter's 30 years of existence the world had moved more rapidly than during the previous two centuries.

49. None of the advocates of review was suggesting that efficiency should be sacrificed in the name of urgency or that a majority vote should be replaced by consultation and

broad-based agreement. Any amendment to the Charter would have to be the result of a lengthy process; it was precisely for that reason that a definite and timely start must be made.

50. The best works, both national and international, required adjustment over the course of time, in the light of social and political developments. Legal bodies had to be periodically modified as a result of inevitable social evolution and the need to take reasonable account of experience.

51. The Charter of the United Nations was far from having become a social fossil. But circumstances in 1945 had been quite different from circumstances in 1974. That was a result of the normal, ongoing process of history, which could not be contained within a legal instrument. In domestic legal systems, judicial and administrative practice made it possible to up-date codes and political constitutions. Such a method was not very effective in the case of international organizations. The up-dating of an instrument adopted by contracting parties with equal rights and duties had to be carried out through a procedure consistent with the procedure used for its formulation. Structural questions could not be solved through application and interpretation, but had to be dealt with through constituent norms.

52. The time had come to study the structure of the United Nations, without prejudging the conclusions that might be reached. Any refusal to undertake such a study reflected defeatism or prejudice. In recent years, tensions between the great Powers, particularly those having the veto, had lessened considerably. The atmosphere was therefore more favourable for such an exercise.

53. The effectiveness of the United Nations, particularly in the economic and social fields, was constantly being questioned, not only by the public but by those responsible for directing the Organization. The body which had been conceived as an instrument of peace and security following the Second World War would acquire a new dimension once international distributive justice was ensured, the system for protecting human rights strengthened and development programmes conceived from a global viewpoint.

54. The establishment of an *ad hoc* committee to consider the possibility of amending the Charter would ensure proper reflection and caution. It was wise to study national or international legal instruments at the appropriate time, before institutional or constitutional crises arose.

55. His delegation had found ample reason to sponsor draft resolution A/C.6/L.1002, and requested that it be given priority in the voting.

56. Mr. MIGLIUOLO (Italy), noting that the item on Charter review had been on the agenda of the General Assembly for quite a few years, said it was unfortunate that a subject which undoubtedly could have a fundamental and positive impact on the life of the Organization should have come up so late in the current session. It was also regrettable that such a limited amount of time should have been allowed for its consideration in the Committee. Nevertheless, positive results could be achieved because draft resolution A/C.6/L.1002, of which his country was

one of the sponsors, did not require a lengthy discussion, as the proposals it contained were purely procedural.

57. In that respect, his task at the current meeting had been made much easier by the lucid and convincing presentation of the draft resolution by the Minister for Foreign Affairs of the Philippines, who had spoken with the authority of a signatory of the Charter, a former President of the General Assembly and a statesman whose prestige was soundly established in the international community.

58. In the 30 years that had elapsed since the approval of the Charter, dramatic changes had taken place in the international community. While endorsing the opinions expressed by other sponsors of the draft resolution, he wished to stress that 87 of the present Members of the United Nations, including Italy, i.e. the overwhelming majority of the membership, had been unable to attend the San Francisco Conference, that the tasks entrusted to the Organization had expanded enormously since then and that the practice followed in its daily activity had developed into totally new patterns of work.

59. Nobody could deny that there was a rising wave of criticism of the United Nations. It was necessary to see how the United Nations could cope more efficiently with its new responsibilities and whether every rule of the Charter was still consistent with the reality, the structure and the expectations of the contemporary international community. That was the meaning and aim of the exercise that a number of delegations, including his own, were submitting for the approval of the Committee. Concern over the possible outcome of a Charter review was unwarranted. Nobody wanted to do away with the principles and purposes of the Charter. Nor were the sponsors suggesting taking the path indicated by Article 109 and embarking on a conference for a general review of the Charter. They were not even proposing actual changes or amendments. They were only pressing for the establishment of appropriate machinery to examine the views that many Governments had expressed since 1969. That, in his opinion, would be feasible only within a highly qualified *ad hoc* committee.

60. Some delegations had maintained that there was widespread opposition to the idea of reviewing the Charter. However, only one geographical group had solidly voiced such a preclusive attitude; that group was composed of far less than 10 per cent of the United Nations membership. Moreover, even the members of that group, by approving paragraph 5 (c) of General Assembly resolution 2499 A (XXIV), had recognized the necessity of considering proposals and suggestions for increasing the effectiveness of the United Nations. Subsequently, by endorsing paragraph 12 of the Declaration on the Strengthening of International Security (resolution 2734 (XXV)), those same countries had acknowledged the need to enhance by all possible means the authority and effectiveness of the Security Council and of its decisions.

61. It had not yet been possible to examine the proposals and suggestions submitted by Governments pursuant to General Assembly resolutions 2499 A (XXIV), 2697 (XXV) and 2968 (XXVII). His delegation considered that it would be undemocratic, indeed, contrary to the principle of sovereign equality of States, to deny such Governments the

possibility not only of making their views known but also of having them carefully considered by the Organization. If, after such a thorough examination, a consensus emerged that no review of the Charter was necessary, his delegation would comply with the wish of the majority. But it believed that it was of paramount importance that a soul-searching exercise should be carried out. If Members did not take stock of the changes that had taken place since 1945, the Organization might face a real danger of being doomed to irrelevance, a danger which certain trends, including the tendency of some great Powers to bypass it, clearly portended.

62. He strongly urged, therefore, that the opportunity for an in-depth discussion of all the views expressed on the subject by Member States should be ensured through the establishment of the *ad hoc* committee proposed by the sponsors of draft resolution A/C.6/L.1002. He strongly supported the plea of the Minister for Foreign Affairs of the Philippines that the draft resolution, which had been submitted by a widely representative number of countries, should be given priority.

63. Mr. SA'DI (Jordan) said the subject of the review of the Charter must be approached with great caution. The approval of the Charter in San Francisco, had been preceded by intensive regional and international deliberations and compromises which had culminated in a consensus. That consensus had been the result of a decision to strike a balance between theory and reality and had been guided by the position that while all Member States were equal, there were still some States which were more equal than others, as reflected in the Security Council.

64. If the Member States believed that it was high time for a general review of the Charter in order to take into consideration the new world reality, his delegation contended that such an endeavour required an international conference at the highest level. It would be in essence a constitutional conference. An *ad hoc* committee was not the correct forum for such a gigantic and profound task. Also, deliberations at the regional and international levels must be initiated in preparation for any such conference.

65. In view of the complexity of the subject, his delegation believed that it would be more functional to approach it on a limited rather than on a general basis. If there was a particular aspect of the Charter that Member States felt needed review, as had been the case in the past with the Economic and Social Council and the Security Council, then the correct course was to focus on that particular matter.

66. The CHAIRMAN announced that the delegations of the Congo, Jamaica, Spain, and the United Republic of Tanzania had asked to be included among the sponsors of draft resolution A/C.6/L.1002.

67. Mr. FEDOROV (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said the representative of China had expressed certain fantastic ideas about the USSR and its foreign policy. Everyone present knew that that line of conduct had been followed by the Chinese delegation from the outset of the restoration of the

lawful rights of the People's Republic of China in the United Nations. That slanderous attack was aimed at diverting the attention of members to an unnecessary polemic that had nothing to do with the United Nations. He reserved the right to expose that slanderous attack at a forthcoming meeting.

68. Mr. AN Chih-yuan (China) said that, in view of the lateness of the hour, he would reserve the right of his delegation to exercise its right of reply to the Soviet delegation's attack at a forthcoming meeting.

*The meeting rose at 5.55 p.m.*