



VERBATIM RECORD OF THE 47TH MEETING

Chairman: Mr. NAIK (Pakistan)

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DISARMAMENT ITEMS

AGENDA ITEMS 34 AND 48 (continued)

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29 November 1980

ENGLISH

The meeting was called to order at 3.35 p.m.

AGENDA ITEMS 34 AND 48 (continued)

The CHAIRMAN: As agreed this morning, we shall now take a vote on draft resolution A/C.1/35/L.2/Rev.1. A recorded vote has been requested.

A recorded vote was taken.

In favour. Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Benin, Bolivia, Burma, Burundi, Canada, Central African Republic, Chile, China, Costa Rica, Democratic Kampuchea, Denmark, Dominican Republic, Ecuador, Fiji, Finland, France, Germany, Federal Republic of, Greece, Grenada, Honduras, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Upper Volta, Venezuela, Zaire, Zambia

Against: Afghanistan, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, German Democratic Republic, Hungary, India, Lao People's Democratic Republic,

Mongolia, Poland, Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics, Viet Nam

Abstaining: Algeria, Bahrain, Bhutan, Cape Verde, Chad, Congo, Cuba,
Egypt, Ethiopia, Ghana, Guatemala, Guinea, Guinea-Bissau,
Iran, Iraq, Jordan, Mozambique, Oman, Qatar, Sao Tome
and Principe, Saudi Arabia, United Arab Emirates, Yemen,
Yugoslavia

Draft resolution A/C.1/35/L.2/Rev.1 was adopted by 79 votes to 14, with
24 abstentions.*

The CHAIRMAN: I shall now call on those representatives who wish
to explain their votes.

Mr. ZELADA (Spain) (interpretation from Spanish): The Spanish
delegation has voted in favour of draft resolution A/C.1/35/L.2/Rev.1,
sponsored by Denmark and relating to the preparation of a study on all aspects
of the conventional arms race and on disarmament relating to conventional
weapons and armed forces.

No one will be surprised at our interest in a subject to which we have
referred on repeated occasions, and most recently, in some detail, in
my delegation's statement in the general debate on disarmament questions
on 23 October last;

* Subsequently the delegations of Guyana, Haiti and Uruguay advised the
Secretariat that they had intended to vote in favour. The delegation of the
Ivory Coast advised the Secretariat that it had intended to abstain.

(Mr. Zelada, Spain)

In fact we believe that without overlooking the priorities set in the Final Document of the first session of the General Assembly devoted to disarmament, the problem raised by the conventional-arms race has not been given the attention it merits in the United Nations.

Obviously we would have preferred a draft resolution more in keeping with the ideas contained in the statement by my delegation, to which I have just referred. In particular we still believe that it is desirable for the study to be submitted for consideration to the second special session of the General Assembly devoted to disarmament, where it could be usefully discussed and constitute a sound basis for the work of the Assembly.

Nevertheless, we trust that with the adoption of this draft resolution the study in question will be carried out and that, in any event, the Secretary-General will designate the group of experts who are to assist him in that work so as to ensure that it will begin as soon as possible.

Mr. FLEISCHER (United States of America): My delegation was pleased to vote in favour of draft resolution A/C.1/35/L.2/Rev.1. I must add, however, that in the light of the zero net growth policy adopted by the Secretary-General and the stringent financial circumstances of the United Nations, my Government believes that expenses for the study should be kept to the bare minimum and within currently authorized levels. This position in no way diminishes our support for the study, which we agree would be desirable.

Mr. Riaz KHAN (Pakistan): My delegation's affirmative vote on draft resolution A/C.1/35/L.2/Rev.1 reflects Pakistan's deep concern over the growing conventional-arms race and production on a massive scale of conventional weapons. While the arsenals of nuclear weapons pose the greatest danger to the survival of mankind, it cannot be denied that the conventional-arms race has been a primary source of untold misery to mankind through the uninterrupted chain of conflicts in different parts of the world since 1945, regional and international tensions, the perpetuation of colonial rule and attempts to suppress liberation movements and deny people their right to self-determination.

(Mr. Riaz Khan, Pakistan)

The recent increase in the use of force, military intervention and military occupation in conducting international relations has added a new grave dimension to the conventional-arms race.

The major Powers, as in other aspects of armament, are mainly responsible for the conventional-arms race. On the other hand, the small and medium-sized countries of the world are the primary target of that phenomenon. They become the victims of regional conflicts and tensions. Perpetually concerned about their security they are forced to divert their scarce resources to strengthen their defence capability, instead of utilizing them for economic development and combating poverty.

Accordingly, in the view of my delegation, it is inconceivable that global efforts for disarmament and should not place proper emphasis on conventional disarmament and should devote their attention exclusively to the nuclear aspect. At the same time we completely agree with the view that our concern over the conventional-arms race should not detract the primary focus from the complete prohibition and elimination of nuclear weapons, which imperil the very existence of human civilization. However, the study in question in our view does not disturb the priority assigned to nuclear disarmament.

We expect the proposed study to deal comprehensively with all aspects of the conventional-arms race, including the transfer of arms through sales or other channels, as well as the indigenous production of conventional arms by the major Powers and other militarily significant countries and the impact of the conventional-arms race on the regional and international security environment. Moreover, it is imperative that the study should take full account of the legitimate defence requirements of small and medium-sized States and the responsibility of the international community generously to assist people engaged in the struggle for self-determination and national liberation.

Mr. GBEHO (Ghana): The Ghana delegation abstained in the vote on draft resolution A/C.1/35/L.2/Rev.1 concerning a study on conventional disarmament.

Before I explain our reasons for our abstention allow me first of all to state that the Ghana delegation was definitely in agreement with the general thrust of the draft resolution just referred to. Like many other delegations in this Committee we also believe that a study of all aspects of the conventional-arms race and disarmament related to conventional weapons and armed forces would be useful in efforts towards the objective of general and complete disarmament. We believe therefore that the proposal made for a study was not misplaced.

However, after my delegation had studied document A/C.1/35/L.60, which detailed the administrative and financial implications of the proposed study, the Ghana delegation was impelled to reconsider its support for document A/C.1/35/L.2/Rev.1. As members are aware, the Secretariat informed this Committee that expenditures required for the study would amount to \$2,720,500. In our view, that estimate represented rather a huge expenditure and we were not sure whether the United Nations should enter into such a commitment in this field at this particular time. Let me hasten to clarify that we found no fault with the estimates themselves as they are more likely than not to represent the exact figures required for the various aspects of the study. Our reservation was purely on whether the United Nations should enter into such a commitment at this time, bearing in mind what we consider to be other more pressing and important obligations.

The Ghana delegation is of the view that the United Nations system should act in this matter as indeed in any other such matter, in accordance with a definite order of priorities. In this regard we consider that existing instruments of the General Assembly, adopted both at its regular sessions in the past and at its first special session devoted to disarmament, provide enough basis and opportunity to Member States, particularly the militarily significant ones, to exercise their political will in the matter of a substantial reduction of stockpiles and expenditures on conventional weapons, even without the study that is proposed.

(Mr. Gbeho, Ghana)

On the other hand we observe that there are other important and pressing social and economic problems facing the international community and indeed the United Nations itself, particularly in developing countries, which should receive our priority financial consideration. It was a matter of conscience for the Ghana delegation therefore to note that \$2.7 million that is now proposed for the study could have been saved for possible use in response to pressing social and economic needs.

For those reasons the Ghana delegation was compelled, on point of principle, to abstain in the vote that sought to appropriate that large amount just for a study on conventional disarmament.

Mr. MESHARRAFA (Egypt): Egypt has just abstained on draft resolution A/C.1/35/L.2/Rev.1. Our position has been clear on this subject, and we expressed it during last May's meetings of the United Nations Disarmament Commission, when views and counter-views on this issue were expressed.

Egypt considers that nuclear disarmament is a matter that should command our highest attention and priority. The ever-escalating and unabated nuclear arms race among the nuclear-weapon States and the qualitative and quantitative improvement of weapons of mass destruction among the nuclear Powers and militarily significant States are all matters that deserve the attention of the General Assembly, as well as the endorsement and enforcement of its relevant resolutions, including the Programme of Action of the first special session devoted to disarmament.

Therefore conventional disarmament should be regarded within the context of general and complete disarmament and the preservation of the undiminished security of all States, taking into account the inalienable rights to self-determination and independence of peoples under colonial or foreign domination and the attainment of just and lasting peace in different regions of the world.

It must be abundantly clear that Egypt does not oppose such a study as long as it can only - and I emphasize "only" - contribute and lead to tangible results in the field of nuclear disarmament primarily, and to the gradual reduction of conventional weapons, and does not enlarge at this stage the scope of such a study to include dealing with other elements or areas that could have an adverse impact on the security requirements and the capabilities of the States of the third world.

The CHAIRMAN: I shall now call on the Secretary of the Committee to make a statement on the financial implications, as well as on some of the observations which were made by several members on the financial implications, of the draft resolution just adopted, as well as concerning the questions which were asked of the Secretariat by the representative of the German Democratic Republic at this morning's meeting with regard to the financial implications of draft resolution A/C.1/35/L.43/Rev.2.

Mr. BERASATEGUI (Secretary of the Committee): I should like first to provide an explanation in connexion with the financial implications of draft resolution A/C.1/35/L.2/Rev.1.

In accordance with rules 153 and 154 of the rules of procedure of the General Assembly, the Secretary-General is under the obligation of keeping the Committee informed of estimated costs of all resolutions recommended for approval by the General Assembly. Specifically, rule 153 states:

"No resolution involving expenditure shall be recommended by a committee for approval by the General Assembly unless it is accompanied by an estimate of expenditures prepared by the Secretary-General".

Consequently, regardless of the time when actual expenditures might be incurred, the Secretary-General is to provide information concerning the financial implications of any proposal before it is put to the Committee for recommendation to the General Assembly.

In the case of draft resolution A/C.1/35/L.2/Rev.1, it should be noted that expenditures relate mainly to conference servicing needed to provide documentation, interpretation, translations and other facilities normally given to expert groups. As compared with other long-term studies, however, the requirements for the study referred to in draft resolution A/C.1/35/L.2/Rev.1 have been drastically curtailed to reduce costs. Reductions have been made in the number of experts and meetings as well as in the documentation to be provided to the expert group.

The financial implications submitted by the Secretariat attempt also to take into account the provisions contained in paragraph 2 of draft resolution A/C.1/35/L.2/Rev.1, according to which the Assembly would agree

"that the Disarmament Commission, at its forthcoming third substantive session, should work out the general approach to the study, its structure and scope".

In that connexion, it may be noted that no meeting of the expert group is planned before the 1981 session of the United Nations Disarmament Commission. It should also be noted that the Disarmament Commission has no authority in financial matters, which are the exclusive responsibility of the General Assembly. In view of the fact that in paragraph 4 of the draft resolution

the Secretary-General is requested to submit a progress report on the study to the second special session of the General Assembly devoted to disarmament, which presumably would be held in the spring of 1982, it would prove extremely difficult to have the progress report on time for the second special session if the financial implications are to be considered only at the next regular session of the General Assembly.

As noted by several members in their statements, the direction that the Disarmament Commission may decide to give to the study might have certain consequences which may require adjustment of the financial implications contained in document A/C.1/35/L.60. However, in submitting financial implications, the Secretary-General must take into account all possible requirements to conduct the study successfully, based on the fact that the study will have a duration of approximately two and a half years. If the Disarmament Commission decides on a general approach to the study, its structure and scope which might result in savings in the actual preparation of the study, adjustments in the financial implications contained in document A/C.1/35/L.60 will be made accordingly.

(Mr. Berasategui, Secretary
of the Committee)

It is also understood that, until the Disarmament Commission agrees on that general approach, the proposed group cannot meet.

In response to the questions of the representative of the German Democratic Republic on document A/C.1/35/L.59, I should like to refer to my previous comments in connexion with the responsibilities entrusted to the Secretary-General under rules 153 and 154 of the rules of procedure of the General Assembly. In this, as well as in other questions where financial implications are involved, the Secretariat is entirely in the hands of the Committee with regard to modalities for the implementation of proposals such as the one under consideration.

In drafting the financial implications for draft resolution A/C.1/35/L.43/Rev.2, the Secretariat has followed the standard practice for estimating the work of a group of experts, depending on the time allocated to it to perform its tasks, the need to provide interpretation as well as documentation in the official and working languages of the United Nations as well as the assistance normally needed by expert groups. In doing so, the Secretariat undertakes a technical task whose practices have been followed consistently in the past. The implementation of the proposal contained in draft resolution A/C.1/35/L.43/Rev.2 would normally depend on a number of factors beyond the control of the Secretariat, not all of which can be foreseen. The Secretariat has limited itself, in preparing its report on the financial implications of the draft resolution, to the actual servicing of an expert group which may be established under the draft resolution. Much will depend in that connexion on decisions to be taken by the expert group itself.

Those questions raised by the representative of the German Democratic Republic which deal with the activities of the group of experts go beyond the actual technical servicing of the meetings of the group, and it is not possible for the Secretariat to provide answers to them, since it is up to the proposed group of experts to establish its programme of work under the terms of reference contained in the draft resolution, if it is approved. It has, however, been the practice of expert groups conducting disarmament and arms limitation studies under the auspices of the United Nations to take into account all the views

(Mr. Berasategui, Secretary
of the Committee)

expressed by delegations in the First Committee as well as in plenary meetings of the Assembly when deciding how to proceed in the discharge of their responsibilities.

The representative of the German Democratic Republic also asked during what period the assistance of medical and technical experts would be provided. In that connexion I should like to note that, as stated in paragraph 3 (b) of document A/C.1/35/L.59, the experts will be paid travel and subsistence at the D-1 level, which is recommended on the basis of long-standing practice, only for the duration of the sessions of the group of experts described in paragraph 2 of the document.

Mr. ROSE (German Democratic Republic): My delegation listened carefully to the Secretariat's reply to the questions I asked during this morning's meeting concerning the administrative and financial implications of the draft resolution contained in document A/C.1/35/L.43/Rev.2. My delegation wishes to thank the Secretariat for the work it has done, and at the same time wishes to reserve its right to explain its position in a little detail at a later stage.

I should like to make just one preliminary remark now. My delegation is not satisfied with the answers given to us, but of course that is not the fault of the Secretariat. Now we are even more convinced that the draft resolution contained in document A/C.1/35/L.43/Rev.2 does not provide a solid basis for activities which would be in accordance with the United Nations Charter. I should like to take this opportunity to express the strong opposition of my delegation to the whole project.

Mr. SARAN (India): First of all I should like to thank the Secretary of the Committee for the explanation he has given with respect to the administrative and financial implications of draft resolution A/C.1/35/L.2/Rev.1. In response to that explanation given by the Secretary, I should like to state that, as far as my delegation is concerned, the draft resolution just adopted does not have any financial implications at this stage. It is only after the United Nations Disarmament Commission at its next session has worked

(Mr. Saran, India)

out the approach and scope of the proposed study that the question of financing that study would arise. That decision, as the Secretary rightly pointed out, will have to be taken by the General Assembly at its next regular session.

Mr. ADENIJI (Nigeria): My delegation has listened with great attention to the explanation of the financial implications of draft resolution A/C.1/35/L.2/Rev.1, which has just been adopted. We noted in particular that part of the Committee Secretary's statement which indicated that the commencement of the study is predicated on the assumption that paragraph 2 of the draft resolution will be implemented, in other words that the Disarmament Commission, at its forthcoming third substantive session, completes work on the general approach to the study, its structure and scope.

My delegation therefore believes that the indication in the statement on financial implications in document A/C.1/35/L.60 that a first meeting of the experts will take place in July 1981 is predicated on the optimistic belief by the Secretariat - a belief which, I suppose, is of course normal from the point of view of the Secretariat - that the Commission will be able to conclude its work on the approach to the study.

(Mr. Adeniji, Nigeria)

Without the completion of that work by the Commission, I take it that the question of the experts getting together will not arise, and I hope that that will be clearly reflected in our records because among the inhibitions which delegations have is the feeling that the statement of financial implications gives the impression that whether the Disarmament Commission is able to complete its work on elaborating the approaches or not the experts will still begin to meet.

From the point of view of my delegation, that is not so, particularly since operative paragraph 4 of the draft resolution has now extended the time for the completion of the study to the thirty-eighth session. That makes it possible for the study to be commenced in July, if the Disarmament Commission completes its work, or much later than that if the Disarmament Commission does not finish its work and, therefore, recommends to the General Assembly at its next session what further step should be taken in relation to this study.

From the point of view of my delegation, such an explanation is necessary for the record.

Mr. ISSRAELYAN (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to make some brief comments on the answer just given to us by the Secretary of the Committee regarding the questions put to him by the representative of the German Democratic Republic.

The Soviet delegation was also asking about the nature of the information in respect of which the study was to be conducted. It is not an idle question I am asking; it is on the substance of the draft resolution we are now discussing. And the question has arisen not be accident either; it has arisen because there is a lack of clarity on this issue, and the sponsors were unable to provide this clarity when they prepared the text of draft resolution A/C.1/35/L.43/Rev.2. Not only were they unable to introduce clarity here, but I think that they have confused the issue. I want to refer to facts; I do not want to be speaking idly.

The sixth preambular paragraph of draft resolution A/C.1/35/L.43/Rev.2 speaks about "recent reports". Hence there is a restriction in time here.

In his statement at our morning meeting today the representative of the Federal Republic of Germany said "some" reports; he did not say "recent

(Mr. Issraelyan, USSR)

reports". As representatives will note, there is a substantial difference. Finally, the representative of New Zealand said on Wednesday that

"The sponsors have not placed any specific limitation on the investigation."
(A/C.1/35/PV.45, p. 21)

So we can conclude from that that we are talking about "any reports" - reports from 1925, since the Geneva Protocol came into force, I would assume. And I would say quite bluntly that we were somewhat nonplused by the explanation given by the Secretariat regarding the nature of the reports which will be investigated. According to what Mr. Berasategui said, this falls within the competence of five experts and the decision should be taken by the group of experts itself, that is to say, it is these five experts who will be deciding which reports they are going to take into account - "recent reports", "certain reports", "any reports". They would then be taking a political decision as to what they are going to investigate and which countries are going to be placed in the dock, as it were.

So, once again I should like to draw the Committee's attention to this before, I hope, finally we come to the vote on this draft resolution. I should like to draw the Committee's attention to this confusion which has arisen regarding various interpretations provided by the sponsors of the draft resolution themselves as to exactly which reports are going to be investigated. Is it "certain reports", "recent reports", "any reports" or "those reports defined by the group of experts"?

I think that for any delegation this is no secondary matter; it is the substance and the crux of the matter. This has to be a decision of those who are actually concerned.

Mr. MARTIN (New Zealand): As the Committee knows, the sponsors of draft resolution A/C.1/35/L.43/Rev.2 were ready to enter into consultations with the sponsors of the amendments in document A/C.1/35/L.57 with a view to reaching agreement on a text we could jointly submit to the Committee. We did what we could to bring about such a result and I only regret that that has not been possible to achieve.

We now have before us the amendments in document A/C.1/35/L.61, which were introduced by the representative of the Socialist Republic of Viet Nam this morning. In effect those amendments are the ones earlier proposed by that delegation and its co-sponsors that we, the sponsors of the original draft resolution A/C.1/35/L.43, were unable to accept.

(Mr. Martin, New Zealand)

I should like to make a few comments on some of the amendments that now appear in document A/C.1/35/L.61. I refer first to the amendments dealing with the preambular part of the draft resolution.

We had difficulty with those amendments because they were not related to use, which is what the 1925 Geneva Protocol is about, and perhaps it would be useful if we were to refresh our minds as to what exactly the 1925 Geneva Protocol says. It says:

"Whereas the use in war of asphyxiating, poisonous or other gases and all analogous liquids, materials or devices has been justly condemned by the general opinion of the civilized world,

"Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers in the world are parties,

"And to the end that this prohibition shall be universally accepted as a part of international law, binding alike the conscience and the practice of nations,

"The undersigned Plenipotentiaries, in the name of their Governments, declare that the high contracting parties, so far as they are not already parties to Treaties prohibiting such use, accept their prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration".

That essentially is the 1925 Geneva Protocol. It deals solely with use and it was with the intention of reinforcing the authority of the Protocol that the draft resolution now before us was introduced.

As I said, we had difficulty with some of the amendments because they were not related to use. We had difficulty with others because they had the effect of moving the emphasis of our draft resolution away from the need for establishing the facts about reports relating to alleged use of chemical weapons. As I said earlier, we consider that the United Nations has a duty to ensure that all reasonable steps are taken to look into all such reports in order to determine whether or not they have any foundation.

There are two preambular paragraphs that deal with matters that are at present under negotiation in Geneva, matters that relate to the proposed convention on chemical weapons. That convention, of course, is not a convention relating

(Mr. Martin, New Zealand)

to use, but one relating to research, development, manufacture, stockpiling and transfer.

For those reasons it did not seem to us appropriate for the scope of the draft resolution to be so extended as to include reference to that matter.

I should like now to refer to the amendments dealing with the operative part of the draft resolution, beginning with the amendment proposed in paragraph 6 of document A/C.1/35/L.61. As I mentioned earlier, and as I would simply observe once again, the General Assembly cannot, by passing a resolution, nullify reservations stated by Governments at the time they ratified or acceded to the Protocol.

On the ensuing paragraphs, first I would observe that the effect of the amendment proposed in paragraph 7 relating to operative paragraph 4 of the draft resolution, would be to make it impossible for any impartial investigation to be carried out without the agreement of both countries concerned. Thus, if one country were to say that another had used chemical weapons against it in a military operation, there could be no investigation of that complaint unless the country accused of using chemical weapons also agreed to an investigation. Without that consent the Secretary-General could not even accept an invitation from the aggrieved country to send a team to undertake an impartial investigation. That surely would be to make a mockery of the whole idea of an impartial investigation. Clearly, given that sort of escape hatch, no country that might have used chemical weapons is going to agree that an inquiry should take place.

But that is not all. The new operative paragraph 5, to which reference is made in paragraph 8 of document A/C.1/35/L.61, would ask the Secretary-General to carry out the investigation taking into account proposals advanced by States victims of the use of chemical weapons. What that amendment does is to drop all reference to assistance from qualified medical and technical experts, and, of course, all reference to the tasks that those experts might be expected to carry out. That, of course, would make it impossible for a fact-finding inquiry to be undertaken.

I should like very briefly to refer to two comments that have just been made by the representative of the Soviet Union relating to reports. He referred

(Mr. Martin, New Zealand)

to some sort of ambiguity about the time frame intended by the sponsors in using the word "recent" and quoted part of what I said in my remarks on Wednesday, 26 November. What in fact I said then - if I may say again what I said then in full - was that the sponsors had not placed any specific limitation on the investigation but that we would not feel there would be any point in tracing the history of allegations back to 1925 and had accordingly used the word "recent" only in order to put a sensible limitation on the scope of the inquiry.

The representative of the Soviet Union also asked about who would be making the decision on investigations, what kind of reports was it that we had in mind. Again, as I said earlier, essentially the point that is made in operative paragraph 5 (b) of draft resolution A/C.1/35/L.43/Rev.2 relates to the importance of evidence. We consider it important to establish fact-finding machinery which can clear up accusations that might be made relating to the use of chemical weapons and thereby constrain those who might otherwise be tempted to make false allegations of use, and to provide a means by which a State that might be falsely accused could have that fact established by an impartial body.

(Mr. Martin, New Zealand)

If that objective is to be achieved, then clearly reports of alleged use will have to be substantiated by evidence. It is not the decision as to who should be put in the dock that would be left to the experts, but the decision as to what form of evidence is admissible, and that of course is a judgement that medical and technical experts would be well-qualified to make.

As I said in earlier comments, we believe that some way of investigating allegations of use would be a constraint and would help to reduce the frequency with which allegations of use are made for political, propaganda purposes. This would in turn uphold the authority and force of the 1925 Protocol, an objective which I am sure we all support.

It would no less contribute to an improvement in the climate of international relations and to greater confidence among States. Those are the objectives of the co-sponsors. We would urge all members of the Committee to support those objectives by rejecting the amendments proposed in document A/C.1/35/L.61 and supporting the draft resolution in document A/C.1/35/L.43/Rev.2.

Mr. RASOLONDRALBE (Madagascar) (interpretation from French): My delegation would like to speak again before the voting procedure is begun. We made a statement last Wednesday to which some delegations referred this morning and we are very flattered to find that our remarks have found some echo among delegations. However, we have felt compelled to speak again because apparently some delegations misunderstood our intention. We have not asked to be allowed to speak in order to oppose an investigation or ascertainment of the facts. As a State party to the Geneva Protocol, Madagascar remains committed to ensuring strict observance of that instrument.

However, the draft resolution before us poses serious questions for us to the extent that the ascertainment of facts raises matters of competence and method. For instance, let me put the following question. How many countries would have abstained from adhering to the Protocol had they known in advance that the question of the observance of its obligations was to be entrusted to a committee of inquiry?

I think that in the case of any treaty, and especially an important treaty relating to disarmament, adherence by States is influenced to a very large degree by the kind of machinery it itself provides to ensure that it is respected. I

(Mr. Rasolondraibe, Madagascar)

think it is rather unfair, in respect of a Protocol written in 1925, that now in 1980 we should say that as regards respect for it, the General Assembly is going to decide the method whereby the facts concerning violations are to be ascertained by means of an investigation or an inquiry. I wonder whether some countries would have acceded to that Protocol had they known that about 60 years later they would be subjected to such a method.

We have said that the draft resolution gives rise to questions of competence and method, and it is for the reasons I have outlined that we consider that any violation of the Protocol should be referred to a conference of the contracting parties.

Last Wednesday we mentioned at least one precedent established in the Convention we adopted here three years ago concerning the non-military use of environmental modification techniques. In that Convention we accorded a role to the Security Council for the verification of possible complaints or violations. Why then, here, are we simply given a choice of an impartial investigation, and why is the Security Council not given a part to play in the verification of possible complaints? One method is as good as another, and what is proposed to us in the draft resolution can be improved, or even amended. That is the second point we made last Wednesday.

The last point, of course, and I shall not dwell on it at length, concerns the independence of the functions of the Secretary-General. I very much fear that we may be setting a very bad precedent if, by an initiative such as the one we are considering, we should endanger the independence of the Secretary-General. We wanted to reiterate this position of ours in order to dispel any possible ambiguity.

Mr. FEIN (Netherlands): I do not intend to delay the vote on this draft resolution. But in the course of the discussions which we have had during the last few days on this most important resolution, doubt has on some occasions been cast on the motives of the sponsors. I will not at this moment hold up the proceedings of this Committee by explaining the motives of the Netherlands, but I would merely wish to refer to three statements which I made on behalf of my Government in official meetings.

The first of these was on 24 July 1980 in the Committee on Disarmament in Geneva in which I explained in detail why my Government and the people of my country are concerned at the repeated reports of possible but not proved use of chemical agents in warfare.

Then, in this First Committee on 17 October this year I made a statement on behalf of the nine members of the European Community in which I also referred to this problem. On 30 October I made a statement on behalf of my own delegation in which I again explained the concern of my Government that an investigation should be carried out which should be impartial, balanced and objective. It is with these considerations in mind that I would beg this Committee to appreciate the motives of my delegation in participating as a sponsor of the draft resolution.

The representative of New Zealand has stated with great clarity and eloquence why we could accept a number of the amendments proposed by Viet Nam and by a number of other countries, and we have accepted them and incorporated them in the revised version of our draft resolution and why we cannot accept the other amendments contained in document A/C.1/35/L.61. This will result, when we begin the voting, in the Netherlands voting against every amendment proposed in document A/C.1/35/L/61 and for the sake of expediency I would suggest that we put that document to the vote in its entirety. If any of the amendments proposed in document A/C.1/35/L/61 is adopted we shall vote against the resulting draft resolution in its entirety.

Mr. MARTYNOV (Byelorussian Soviet Socialist Republic) (interpretation from Russian): In the light of the statement made by our delegation this morning, and also the statements made by a number of other delegations, on the question of the status of the group of experts proposed in the draft resolution with regard to the 1925 Geneva Protocol, we should like to point out that although the representative of New Zealand has just spoken and objected to the amendments contained in document A/C.1/35/L/61 and defended the 1925 Protocol, in actual fact the proposal contained in the draft resolution A/C.1/35/L.43/Rev.2 is basically aimed at undermining and revising the provisions of the Protocol by countries which are not parties to the Protocol. Here I should like to refer to the statement made by Madagascar that we have just heard, and to note that any questions connected with the status of an international legal instrument is exclusively a matter for the parties to that instrument.

Mr. ROSE (German Democratic Republic): My delegation has reserved the right to take a position regarding this draft resolution in document A/C.1/35/L.43/Rev.2 and I wanted to touch on only one aspect. This concerns the sources of information and their impartiality, which have been much spoken about here in this Committee. Allow me to draw to the attention of Members to the relationship between draft resolution A/C.1/35/L.43/Rev.1 and certain events which took place in this Committee when the draft resolution on the denuclearization of Africa was adopted.

The two draft resolutions, A/C.1/35/L.30 and A/C.1/35/L.31 were adopted by an overwhelming majority on 21 November. The subject matter of those two draft resolutions was extraordinarily significant for international peace and security. The point at issue was to bar the aggressive racist régime of South Africa from access to nuclear weapons. Some delegations, however, withheld their support from those two draft resolutions, which are of the greatest importance. Among those who denied their consent were the actual initiators of draft resolution A/C.1/35/L.43/Rev. 1 and 2 as well as four of the seven sponsors.

(Mr. Rose, German Democratic Republic)

The motivation for their vote on draft resolutions A/C.1/35/L.30 and A/C.1/35/L.31 was based, inter alia, on doubts about facts which were stated in official reports of United Nations bodies. In contrast to that, however, so-called information of a more than dubious character would suffice for asking the Secretary-General in draft resolution A/C.1/35/L.43/Rev.2 to undertake activities which would constitute a dangerous precedent in the history of the United Nations.

I would again take this opportunity to make it clear that my delegation is strongly opposed to draft resolution A/C.1/35/L.43.

Mr. GRINBERG (Bulgaria): I should like to make a statement followed by a proposal. I have in mind mainly the statement which was made earlier today by the representative of Madagascar which, in my view, is a very important one and is basic to our discussion and the vote we are going to take on the draft resolution and the amendments.

We have noticed, of course, and many delegations have pointed them out, the many deficiencies of the draft resolution contained in document A/C.1/35/L.43, but these points made on two earlier occasions by the representative of Madagascar are fully justified. I have in mind the fact that draft resolution A/C.1/35/L.43 constitutes an attempt at imposing an ad hoc verification mechanism onto an international agreement by means of a resolution of the General Assembly. Some of the sponsors of that draft resolution tried this morning to defend the position which was adopted by the sponsors regarding this important point. A statement was made to the effect that it was not the intention of the sponsors to modify the Geneva Protocol.

Well, it is true that that contention can be maintained, but only to a certain extent - to the extent that the sponsors have not envisaged in draft resolution A/C.1/35/L.43/Rev.2 a procedure for revision of the Protocol which would be legally tenable and in conformity with international law. However, it is not difficult to see that the action which is being sought in that draft resolution represents an attempt at a de facto revision of the 1925 Geneva Protocol by a decision of the General Assembly. To justify their move the sponsors refer in the preamble to the fact that the Protocol does not provide for the establishment of any machinery for investigating reports of activities prohibited under it. They likewise try to make the idea more palatable by invoking their "relevant rules of customary international law". But nothing can remove the fact that there are States parties and States non-parties to the Protocol and that only the States parties that have assumed the relevant obligations can decide whether and how to modify that instrument. It is clear therefore that if the draft resolution in document A/C.1/35/L.43/Rev.2 is adopted a precedent will be set that could be invoked in the future in attempts to impose from without verification or other procedures concerning such international multilateral agreements which in the view of certain States or groups of States may seem deficient or lacking in one way or another.

We believe that that would be a dangerous precedent.

The obviously political and confrontational character of the initiative taken by the Western countries has not escaped the representatives in this Committee. One of the results we see is the fact that not a single non-aligned country agreed to sponsor draft resolution A/C.1/35/L.43. As the Committee knows, to put a better face on their proposal, its authors submitted two consecutive revised versions incorporating some of the amendments proposed by six delegations, including my own. The sponsors of document A/C.1/35/L.57, having carefully analysed document A/C.1/35/L.43/Rev.2, came to the conclusion that this new version continues to be based on the same premises which made it unacceptable to them in the first place.

(Mr. Grinberg, Bulgaria)

In view of this, the six delegations, together with the delegation of Hungary, which joined them, submitted their revised document, A/C.1/35/L.61, which the Committee has before it. There has been a suggestion that this should be voted as a whole, but we should like to ask for the amendments to be voted on separately, one by one.

The CHAIRMAN: We shall now begin the voting procedure on draft resolution A/C.1/35/L.43/Rev.2 and on the amendments contained in document A/C.1/35/L.61.

I shall now call on those representatives who wish to explain their vote before the vote.

Mr. GBEHO (Ghana): Thank you, Mr. Chairman, for allowing me to speak to explain before the vote Ghana's position on this extremely controversial draft resolution contained in document A/C.1/35/L.43/Rev.2.

The Ghana delegation will vote in favour of the draft resolution because we believe, in the first instance, that it has positive elements in the direction of the eventual prohibition of the use in war of this type of inhumane weapon. Secondly, we believe that it takes care of some of the inadequacies in the 1925 Geneva Protocol, namely the question of the investigation of alleged uses of such methods. Also we shall vote for the draft resolution because it seeks to strengthen the authority of the 1925 Protocol and because it seeks to broaden adherence to that Protocol.

Even though Ghana positively supports draft resolution A/C.1/35/L.43/Rev.2, we wish to point out that it has certain shortcomings to which we should like to draw the attention of the sponsors. For example, it does not call positively on Member States to prohibit the use of asphyxiating, poisonous or other gases and bacteriological warfare as the 1925 Protocol seeks to do. That omission in our view detracts from the impact that the draft resolution would otherwise have made. Operative paragraph 1 also calls upon States parties to "reaffirm their determination to strictly observe all their obligations under the Protocol".

The Ghana delegation believes that the call should have been made on States strictly to observe all their obligations under the Protocol, rather than to reaffirm their determination to do so. In that respect we consider the amendments contained in A/C.1/35/L.61 as better formulated. We would therefore exercise our preference for that formulation if the paragraph were to be submitted to a separate vote.

Another shortcoming of A/C.1/35/L.43/Rev.2 is that it does not touch upon the question of compensation for victims of the use of these inhumane weapons. We would therefore have supported any balanced amendment of the draft resolution to that effect. Even though such an amendment is not possible now, we shall still support the draft resolution on the understanding that the question of compensation for victims will be the next logical step after the investigation and establishment of allegations on the use of such weapons.

Finally we regret that the course represented by this draft resolution has been made an issue of East-West disagreement. The Ghana delegation would like to dissociate itself from any such interpretation of the various paragraphs of the draft resolution.

In spite of the shortcomings that I have just mentioned and the interpretations of the draft resolution being given by various parties to the East-West disagreement, which we do not subscribe to, the Ghana delegation will vote for the draft resolution as a whole because it represents a step forward from the 1925 Geneva Protocol in the context of our collective effort to achieve complete and general disarmament.

Mr. CAMPOS ICARDO (Mexico) (interpretation from Spanish): The position of my delegation with regard to the question referred to in draft resolution A/C.1/35/L.43/Rev.2 and the amendments contained in document A/C.1/35/L.61 is similar to that explained by the representative of Mexico at great length at the meeting of the First Committee on the morning of Wednesday, 26 November, when consideration was being given to draft resolution A/C.1/35/L.39 and the amendments submitted thereto by my delegation, which appeared in document A/C.1/35/L.52.

Therefore it is unnecessary for me to repeat the views that were expressed and which were supplemented in a further statement on Wednesday afternoon. For the reasons expressly stated in the first of the statements to which I have referred, my delegation will be compelled to abstain on any vote that may be taken on the amendments in document A/C.1/35/L.61 or on draft resolution A/C.1/35/L.43/Rev.2.

Mr. OYONO (United Republic of Cameroon) (interpretation from French): My delegation will abstain on draft resolution A/C.1/35/L.43/Rev.2 and on the amendments in document A/C.1/35/L.61.

Obviously, Cameroon, which is a party to the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, reaffirms its support for the provisions of that Protocol. We wish to stress our grave concern at the information to the effect that such weapons might have been used in certain parts of the world. We welcome the idea of establishing inquiry machinery, which might make it possible, in a completely impartial and objective manner, to throw some light on these reports and to ascertain the facts.

It would have been desirable for our Committee to welcome the initiative within the context of a broad consensus. However, such was not the case. The deliberations that have taken place here have clearly shown that certain States were not providing the co-operation necessary to ensure the success of such an inquiry. It seems to us highly desirable that there should be, at the international level, active co-operation to protect mankind from the serious threat constituted by the use of chemical and bacteriological weapons, among others.

Therefore we hope that the negotiations now being carried on will in the future - in the near future, we hope - develop more satisfactorily as regards the implementation of the 1925 Protocol and its reinforcement on the basis of a broad consensus.

Mr. RODRIGO (Sri Lanka): I wish to make a few remarks on draft resolution A/C.1/35/L.43/Rev.2 and on the proposed amendments to it in document A/C.1/35/L.61.

The Sri Lanka delegation has followed the evolution of draft resolution A/C.1/35/L.43/Rev.2, not to mention its genesis, which preceded the debate on this draft resolution in the First Committee. It was submitted, if I remember rightly, on 18 November and it has undergone two revisions. All delegations are well aware of the lacuna in the Geneva Convention of June 1925: that there is no established international machinery for investigating reports of breaches of the Protocol. Therefore we appreciated the objectives of the sponsors of the draft resolution, in view of the urgent need for hastening processes of enforcement which can be undertaken only by appropriate investigation. At the same time, we could not be oblivious of a major issue that confronts all disarmament and control negotiations, namely, the issue of verification. Against this background it was difficult to contemplate the introduction of investigative or verification measures based on "recent reports" already contested, without giving rise to some doubts and, inevitably, motives for proposing a draft resolution such as this.

Although the sponsors as well as others supporting this draft resolution have stated that the reference to what are described as "recent reports" does not exclude a wider application of the draft resolution, and although information is invited from Governments, international organizations and other sources, this has not succeeded in providing the necessary reassurances. That confidence has not been forthcoming, even with the addition of the new proviso in operative paragraph 5 (b) that on-site examination is to be with the consent of the countries concerned. This last, it should also be noted, is qualified by the phrase "to the extent relevant to the purposes of the investigation".

All this makes the task and the mandate assigned to any impartial investigating body very demanding, and the Secretary-General can hardly be envied as regards the task assigned to him in the draft resolution. When the draft resolution was introduced representatives of non-aligned

(Mr. Rodrigo, Sri Lanka)

and neutral countries were mentioned as possible participants in this exercise. However, it can hardly be said that non-aligned and neutral countries have a special abundance of qualified medical and technical experts. Chemical weapons are of such a nature that the lapse of time negates the evidence available to any investigative team. In one territory where chemical weapons were admittedly used, time has minimized, if not removed, the evidence, but the consequences have left an indelible mark on the belligerents on both sides.

Above all, in the process of the revision of the draft resolution, not to mention the debate itself, it has become clear that the draft resolution has assumed a highly charged political or polemical complexion which detracts from whatever laudable objectives the sponsors of this draft resolution may have had. We are reminded of the biblical admonition: let him who has not sinned cast the first stone. During the discussion of the draft resolution delegations have also pointed out that this Committee could hardly undertake an initiative in the area of verification, which must necessarily be an issue in itself relevant to separate disarmament agreements as and when they are negotiated. In our discussion of other draft resolutions in this Committee certain delegations have also drawn our attention to the need for greater concern regarding the use of United Nations funds. We wonder whether this cautionary note has been given thought here, even if the proposed investigation is intended primarily to clear the air and, as some might envisage, reach a finding that there has been no default or violation of the Geneva Protocol.

For all these reasons, my delegation would have preferred to see a mutual accommodation by the sponsors and those opposing this draft resolution and proposing amendments. Now that it has come to a vote and the objectives of the draft resolution and the amendments have been overwhelmed by the political controversy surrounding them, my delegation will abstain on draft resolution A/C.1/35/L.43/Rev.2 as well as on the amendments in document A/C.1/35/L.61.

Mr. ESPECHE GIL (Argentina) (interpretation from Spanish): The First Committee is called upon to take decisions on two documents presented in the form of a draft resolution, document A/C.1/35/L.43/Rev.2, and draft amendments to that draft resolution issued as document A/C.1/35/L.61.

Those documents reflect a concern to improve an international instrument of 1925 in one of its aspects which the sponsors of the draft resolution consider to be susceptible of change and improvement.

My delegation considers that this laudable undertaking calls for careful analysis by all countries, especially those which are Parties to the 1925 Geneva Protocol. Such an analysis requires better world and political conditions than the present one, conditions, for example, like those mentioned in document A/C.1/35/L.52, submitted by the delegation of Mexico.

In the absence of that requirement, which we regard as fundamental for the process of general and complete disarmament as defined in the Final Document of the first special session of the General Assembly devoted to disarmament, and without passing judgement on the merits or shortcomings in form or substance of either document, my delegation will abstain in the votes both on the amendments and on the draft resolution before us.

In the event of a separate vote on individual paragraphs, my delegation will also abstain.

Mr. HAYDAR (Syrian Arab Republic): In explaining my vote before the vote, I should like to state that my delegation regrets the fact that it is not possible for it to support draft resolution A/C.1/35/L.43/Rev.2. On two occasions, the representative of Madagascar skilfully, ably and eloquently explained his views which we fully share. Moreover, it is now our clear conviction that this draft resolution has become highly politicized and, consequently, one-sided.

For those reasons, my delegation will not support the present draft resolution. On the other hand, we shall support the amendments contained in document A/C.1/35/L.61, by means of which we hope that we may in the end have an objective and balanced draft resolution.

Mr. WILLOT (Belgium)(interpretation from French): My delegation, which supports draft resolution A/C.1/35/L.43/Rev.2, is going to vote against the amendments contained in document A/C.1/35/L.61. Those amendments, in fact, are for the most part essentially polemical in nature. Furthermore, they would provide an excuse for governments concerned to raise considerations of national sovereignty in order to avoid at will the revelation of facts unpleasant to them or to others to whom they feel a sense of obligation.

Those amendments, compared with the original text which they seek to change, are tantamount to a denial of the very principle of on-site investigation even when necessary for ascertainment of the facts.

Those considerations do not, of course, exhaust the subject, but by themselves they amply justify the wholesale rejection of the proposed amendments since, in their common context, they make up a single whole.

Mr. SEALY (Trinidad and Tobago): As a State Party to the 1925 Geneva Protocol, the Republic of Trinidad and Tobago has demonstrated its total abhorrence for the use of chemical and other such weapons of warfare as well as its support for the prohibition of the use of those weapons.

However, because of the unbalanced manner in which the subject has been treated, the delegation of Trinidad and Tobago will abstain in the vote.

Mr. SUJKA (Poland): In connexion with the vote on the draft resolution contained in document A/C.1/35/L.43/Rev.2, I should like to explain the position of my delegation. The draft resolution upon which we are going to vote regrettably has failed to respond in a positive way to other more essential suggestions for amendments. In particular, my delegation is not happy with the concept of the proposed investigations being predicated on ascertaining facts pertaining to some vague reports. As it will be recalled, my delegation had some doubts and asked some questions about the nature of such reports. We have not been given satisfactory clarification in that regard. We still do not know what reports are to be looked into: press reports, government reports or perhaps some other kind of reports.

As far as my delegation is concerned, the essential, basic problem is that an investigation of the extent of respect for the 1925 Geneva Protocol must be based on the proposal and documents provided by the Governments concerned, and

not on the ascertainment of facts on the basis of reports the origins of which are not clearly defined. This essential requirement has not been satisfied in the revised text of the draft resolution, and therefore my delegation will vote against it.

Mr. MAKONNEN (Ethiopia): Ethiopia is a Party to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare signed in June 1925 in Geneva. It might also be recalled that my country was the first victim of the violation of the Protocol prohibiting the use of these inhumane weapons.

It is therefore with keen interest and concern for the promotion of full compliance with the 1925 Protocol that we have studied the draft resolution A/C.1/35/L.43 and the subsequent revision which appears in document A/C.1/35/L.43/Rev.2 as well as the further amendments in document A/C.1/35/L.61. We have also followed the debate on the subject very attentively. It has become abundantly clear that the foundations of the draft resolution are more political than a mere concern for ensuring full compliance with the 1925 Protocol.

My own delegation would have preferred adequate consideration of all the views and proposals by this Committee, especially those offered by the representative of Madagascar.

(Mr. Makonnen, Ethiopia)

There are also several questions which have been raised but not fully explained. In the circumstances, we find ourselves left with no alternative but to support the amendments contained in document A/C.1/35/L.61, which, in our view, give the draft resolution the much needed clarity which appears to be so clearly lacking in document A/C.1/35/L.43/REV.2.

The CHAIRMAN: As no other delegation wishes to explain its vote before the vote, we shall now proceed to the vote. In accordance with rule 130 of the rules of procedure, the Committee will first vote on the amendments contained in document A/C.1/35/L.61. With regard to those amendments there are two proposals. The representative of the Netherlands earlier proposed that those amendments should be taken up in their entirety and voted upon as a whole, whereas the representative of the Byelorussian SSR had proposed that each amendment in document A/C.1/35/L.61 should be voted upon separately.

Any representative wishing to speak at this time may do so only with regard to the voting procedure on the amendments in document A/C.1/35/L.61.

Mr. TUAN VO ANH (Viet Nam) (interpretation from French): Mr. Chairman, I simply wish to remind you that, at the beginning of this afternoon's meeting, I approached the Chair with an official request on behalf of the sponsors of the amendments in document A/C.1/35/L.61 that these be put to a separate vote paragraph by paragraph.

The CHAIRMAN: I had that proposal very much in mind but, in view of the fact that the representative of the Netherlands subsequently proposed that the amendments should be taken up in their entirety, it was my duty to place the matter before the Committee.

Mr. FEIN (Netherlands): In order to save time and trouble, my delegation would still prefer that we decide on all the amendments in a single vote. Perhaps, Mr. Chairman, you might wish to put that proposal to the vote or the proposal of those who wish to have the amendments voted on separately. But I should like a vote to be taken on this procedural question.

The CHAIRMAN: I am in the hands of the Committee. Here we have two proposals - one by Viet Nam supported by the Byelorussian SSR that we take up the amendments one by one and the other by the Netherlands that we take up the amendments as a whole. The representative of the Netherlands wishes that his proposal be put to the vote immediately in order to decide on the procedure.

Mr. MULLOY: I should like to support the proposal of the representative of the Netherlands.

Mr. GRINBERG (Bulgaria): When I listened to the representative of the Netherlands when he first spoke on the matter, he did not make a formal proposal. He stated that, should the amendments be taken up as a whole, then he would act in a certain manner. I should like formally to propose that separate votes be taken on each paragraph, and I think that my motion takes precedence.

Mr. de la GORCE (France) (interpretation from French): Since it has just been stated that there was no formal proposal concerning a separate vote, I ask that we take a vote under rule 89 of the rules of procedure.

The CHAIRMAN: We have just heard the proposal of the representative of France under rule 89 of the rules of procedure. Earlier we had the proposal by the delegation of Viet Nam, followed by the proposal of the delegation of Bulgaria and now the proposal of the delegation of the Netherlands supported by the delegation of Ireland.

We could certainly take a decision on the procedure to be followed by taking a vote. However, since the beginning of the session in the First Committee we have all worked in a true spirit of friendship, mutual accommodation and compromise and I am sure that, on this last day when we are going to conclude consideration of all the draft resolutions on all the disarmament items, representatives wish to maintain the same spirit of cordiality and friendship.

Although every representative who has made procedural suggestions is correct from his own respective point of view, those suggestions do not seem in accord with the prevailing opinion of the Committee. Hence, in my capacity

(The Chairman)

as Chairman of the Committee, may I venture to make a compromise suggestion, which may perhaps meet the concerns and points of view of both sides.

I propose that we take up first the amendments in document A/C.1/35/L.61 and take separate votes first on paragraphs 1 to 5, pertaining to the preambular part of the draft resolution, and then on paragraphs 6 to 9, pertaining to the operative part of the draft resolution.

Otherwise, under the rules of procedure I think that priority belongs to Viet Nam's proposal because that was the first proposal conveyed to me in so far as the voting procedure on the amendments is concerned; if Viet Nam's proposal is challenged, I shall put it to the vote. That is the alternative I wish to avoid on the last day of the Committee's consideration of the disarmament items.

Mr. FEIN (Netherlands); Mr. Chairman, out of respect for your request, we would accept your proposal.

The CHAIRMAN: I am very grateful to the representative of the Netherlands.

Does any member of the Committee have any objection to the proposal I have just made in order to hasten our proceedings? If I hear no objection, I shall take it that the Committee agrees to my proposal and we shall proceed accordingly with regard to the voting on the amendments contained in document A/C.1/35/L.61.

It was so decided.

The CHAIRMAN: I shall now put to the vote the amendments contained in paragraphs 1 to 5 of document A/C.1/35/L.61.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Angola, Benin, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Congo, Cuba, Czechoslovakia, Democratic Yemen, Ethiopia, German Democratic Republic, Guinea, Guyana, Hungary, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mongolia, Mozambique, Nicaragua, Oman, Poland, Romania, Sao Tome and Principe, Syrian Arab Republic, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Viet Nam

Against: Australia, Belgium, Canada, China, Costa Rica, Democratic Kampuchea, Denmark, France, Germany, Federal Republic of, Greece, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Portugal, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining: Argentina, Austria, Bahamas, Bangladesh, Barbados, Bhutan, Bolivia, Brazil, Burma, Cape Verde, Central African Republic, Chad, Chile, Dominican Republic, Ecuador, Egypt, Finland, Ghana, Grenada, Guatemala, Guinea-Bissau, Haiti, Honduras, India, Indonesia, Ireland, Ivory Coast, Jamaica, Kenya, Malaysia, Maldives, Mauritania, Mexico, Morocco, Nigeria, Panama, Papua New Guinea, Peru, Philippines, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Suriname, Swaziland, Sweden, Thailand, Togo, United Republic of Cameroon, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia

Amendments 1-5 were adopted by 34 votes to 25, with 58 abstentions.

The CHAIRMAN: I shall now put to the vote the amendments contained in paragraphs 6 to 9 of document A/C.1/35/L.61.

A recorded vote ^{is} has been requested.

A recorded vote was taken.

In favour: Afghanistan, Angola, Benin, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Congo, Cuba, Czechoslovakia, Democratic Yemen, Ethiopia, German Democratic Republic, Grenada, Guinea, Guyana, Hungary, Lao People's Democratic Republic, Madagascar, Malawi, Mongolia, Mozambique, Nicaragua, Poland, Romania, Sao Tome and Principe, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Viet Nam

Against: Australia, Austria, Belgium, Canada, China, Costa Rica, Democratic Kampuchea, Denmark, Egypt, France, Germany, Federal Republic of, Ghana, Greece, Guatemala, Haiti, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Morocco, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Portugal, Senegal, Singapore, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining: Algeria, Argentina, Bahamas, Bangladesh, Barbados, Bhutan, Bolivia, Brazil, Burma, Cape Verde, Central African Republic, Chad, Chile, Dominican Republic, Ecuador, Finland, Guinea-Bissau, Honduras, India, Indonesia, Ivory Coast, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Mexico, Nigeria, Oman, Panama, Papua New Guinea, Peru, Philippines, Rwanda, Sierra Leone, Somalia, Sri Lanka, Suriname, Swaziland, Thailand, Togo, Tunisia, United Republic of Cameroon, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia

Amendments 6-9 were rejected by 35 votes to 30, with 52 abstentions.

The CHAIRMAN: The Committee will now proceed to vote on draft resolution A/C.1/35/L.43/Rev.2, as amended.

I shall now call on those representatives who wish to explain their votes before the voting.

Mr. DJOKIC (Yugoslavia): The stance of my delegation concerning the question involved in this draft resolution is well known. We have explained it repeatedly in the General Assembly of the United Nations and in the course of negotiations in the Committee on Disarmament.

Yugoslavia is a party to the Geneva Protocol, signed in 1925, which prohibits the use for military purposes of asphyxiating, poisonous and other gases and of all analogous liquid materials and devices. My country is also a party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. Consequently, our position regarding the use of such weapons is precisely defined and unequivocal. We resolutely urge the prohibition of the use and the destruction of all chemical, bacteriological (biological) and other toxin weapons. We condemn most emphatically the use of such weapons by any side whatsoever. We are in favour of an effective system of verification and control of the implementation of the international agreements on disarmament. We believe that such a system should, among other things, aim at strengthening confidence and promoting co-operation among the States parties to disarmament agreements so as to ensure the consistent implementation of the obligations assumed.

With regard to application, the system of verification and control must be universal and not selective. It must be based on authentic facts and sources. Otherwise there is a danger of its being misused and of its not being motivated by the objectives that it purports to pursue.

My delegation could support many paragraphs of draft resolution A/C.1/35/L.43/Rev.2, but in view of the fact that the draft resolution contains one-sided and selective elements we are not in a position to support it as a whole. Therefore, my delegation will abstain in the vote.

(Mr. Djokic, Yugoslavia)

Since I have the floor, I should like to explain some of the reasons that caused my delegation to abstain on the amendments to draft resolution A/C.1/35/L.43/Rev.2 submitted by a group of countries. Many of the amendments contained in document A/C.1/35/L.61, on which action was taken a few minutes ago, could also be acceptable to us. However, having in mind the whole context in which the action on draft resolution A/C.1/35/L.43 was conducted, my delegation considered that it would express its position in the most adequate way if it abstained both on the amendments and on draft resolution A/C.1/35/L.43 itself.

Mr. ADENIJI (Nigeria): My delegation feels obliged at this stage to explain its vote before the vote, if there will be a vote, on A/C.1/35/L.43/Rev.2. I say "if there will be a vote" because, if I recall correctly, one of the sponsors of that draft resolution had indicated that if any of the proposed amendments in A/C.1/35/L.61 were adopted, then that delegation would vote against A/C.1/35/L.43/Rev.2 as amended. That is why I included the proviso "if there is a vote".

Now, coming to the subject at hand, my delegation of course cannot but condemn, if proven, the use of chemical substances in warfare. We are party to the Geneva Protocol and to that extent we are quite alive to our responsibilities in abiding faithfully by the terms of the Protocol and also in hoping that others who are parties to the Protocol would abide faithfully by its terms. We think, of course, that in this connexion the best means of ensuring the avoidance of use of those weapons would be the conclusion of a convention or a treaty on chemical weapons which we have been urging for some time, an instrument which in itself would contain effective verification procedures to ensure compliance. Pending that, the question of ascertaining whether or not chemical substances have been used in warfare can in our view only arise out of a fairly wide consensus among the membership of the General Assembly and also among all the parties to the Protocol.

(Mr. Adeniji, Nigeria)

My delegation has noted that that kind of consensus does not exist because of the way in which this question has been approached. We have had the opportunity from time to time to offer our own advice to the proponents of one or the other of the draft resolutions on the subject and we have made it clear that we thought that it would be a futile exercise if we were to adopt a draft resolution which saddles the Secretary-General with responsibility as a result of a proposal adopted through the kind of polemic and divisive debate which we have had over this subject.

We had even suggested that perhaps since the intention of the draft resolution is to act more as a deterrent than anything else, that intention would have been accomplished by the attention which has been called to this subject during the course of our discussions of the various draft resolutions.

I think that the nature of the voting on the amendments contained in document A/C.1/35/L.61 did indicate the need, which we had also advised, for further consultations on that issue if we were to arrive at a decision which would be susceptible to implementation even from the point of view of the Secretary-General, who is being asked to conduct such an impartial investigation.

It is therefore, of course, the intention of my own delegation, if it is still the intention of the proponents of A/C.1/35/L.43/Rev.2 as amended to put it to the vote, to abstain on the draft resolution as a whole. But bearing in mind, of course, that there is so much confusion now as to what we are voting on, I would hope that perhaps the sponsors themselves would not press the draft resolution to a vote at this stage.

Mr. SOLA VILA (Cuba) (interpretation from Spanish): My delegation wishes to explain its vote before the vote on draft resolution A/C.1/35/L.43/Rev.2, in the event that the sponsors maintain that draft resolution.

The vote that has just been cast on the amendments clearly demonstrates the weakness of the draft resolution given the number of abstentions and we consider that it would not be an effective instrument in the search for solutions but

(Mr. Sola Vila, Cuba)

rather an element of confrontation. In addition, in the manner in which the amendments were adopted and rejected, respectively, what would remain of A/C.1/35/L.43/Rev.2 would be no more than an instrument that would be rather difficult to understand since the introductory part would not be justified vis-à-vis the operative part, and therefore the Cuban delegation will cast a negative vote if A/C.1/35/L.43 is actually voted on.

Mr. MARTIN (New Zealand): I just wish to state that the preambular section in A/C.1/35/L.61 having been adopted, it is the intention of the sponsors of A/C.1/35/L.43/Rev.2 as amended to vote against the draft resolution as amended.

Mr. LIDGARD (Sweden): With regard to the rather confused circumstances, the Swedish delegation does not intend to vote at all.

Mr. ROSE (German Democratic Republic): My delegation feels, and had the feeling from the very beginning, that this is a political manoeuvre which does not do honour to our Committee and that is why my delegation wants this manoeuvre to be ended and the draft resolution put to a vote.

Mr. KOH (Singapore): I think the Committee now finds itself in a very strange situation. Half the amendments proposed by the sponsors of A/C.1/35/L.61 have been adopted; the other half, pertaining to the operative paragraphs, have not been adopted. We just heard from New Zealand, presumably on behalf of the sponsors of A/C.1/35/L.43/Rev.2, that they intend to vote against A/C.1/35/L.43/Rev.2 as amended. I am not sure how the sponsors of the amendments in document A/C.1/35/L.61 will vote on A/C.1/35/L.43/Rev.2. It could very well be that they will join New Zealand in voting against A/C.1/35/L.43/Rev.2 and it would be very helpful if one of the sponsors of A/C.1/35/L.61 were to indicate to the Committee how they propose to vote on this marriage of inconvenience.

(Mr. Koh, Singapore)

As far as my delegation is concerned, although we could have accepted some of the amendments to the preambular paragraphs that have now been adopted and we would not have voted in favour of others, what is important is what is contained in the operative part of the draft resolution. We want an impartial investigation into the alleged use of chemical weapons. Therefore we intend to vote in favour of draft resolution A/C.1/35/L.43/Rev.2, as amended.

Mr. VO ANH TUAN (Viet Nam) (interpretation from French): On behalf of the sponsors of the draft amendments in document A/C.1/35/L.61, I should like to express our sincere thanks to the delegations which voted in favour of our amendment.

As my delegation had occasion to state at the beginning of this debate on draft resolution A/C.1/35/L.43, my delegation considers that that draft resolution and its revision are, by virtue of their anti-socialist nature, an act of provocation and can only contaminate the atmosphere of this Committee and hamper its progress.

Although the preambular part of our amendments has been adopted, the anti-socialist nature of draft resolution A/C.1/35/L.43/Rev.2 remains unchanged, because several of our substantive amendments to the operative part of the draft resolution were not adopted.

If the sponsors of draft resolution A/C.1/35/L.43/Rev.2 now insist on a vote on that draft resolution, the sponsors of the draft amendments contained in document A/C.1/35/L.61 will vote against the draft resolution.

Mr. DABO (Guinea) (interpretation from Spanish): I am wondering whether my explanation of vote does not come too late. But, even if it is too late for me to explain my vote, I should still like to pay a special tribute to you, Mr. Chairman, for the spirit of justice which you have shown at all times. Unfortunately it has not been possible for the spirit of conciliation to triumph. If a vote is taken on draft resolution A/C.1/35/L.43/Rev.2, Guinea will vote in favour.

Mr. MUSA (Somalia): I should like to associate my delegation with the remarks made by the Ambassador of Singapore. My delegation feels that the most important element in this exercise is the investigation wherever these heinous weapons are used and it strongly believes that this marriage of inconvenience may be in fact a marriage of convenience.

My delegation will therefore vote for the draft resolution if it is put to a vote.

Mr. de la GORCE (France) (interpretation from French): I should like to call the attention of the Committee -

The CHAIRMAN: I apologize to the representative of France for interrupting him. I call on the representative of the Soviet Union on a point of order.

Mr. ISSRAELYAN (Union of Soviet Socialist Republics) (interpretation from Russian): It is particularly unpleasant for me to have to interrupt my friend Ambassador de la Gorce, but I should like some clarification. We are now voting on a document the sponsors of which include the speaker on whom you have called. Is this not a departure from the rules of procedure? If not, then I should be delighted to listen to Mr. de la Gorce once more.

The CHAIRMAN: In answer to the point of order raised by the Soviet Union, I feel that the draft resolution on which we are about to vote is no longer the original draft resolution that was sponsored, inter alia, by the delegation of France, since that text has been amended now. Therefore, I think that with a slightly more flexible interpretation of the rules the representative of France can be considered to be entitled to make a statement.

I invite him to continue and I hope there will be no further interruptions.

Mr. de la GORCE (France) (interpretation from French): There are no longer any sponsors since the vote on the amendments to the preambular part of the draft resolution.

My statement concerns the rules. At the end of rule 89 it says:

"If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole."

I am wondering whether the application of this rule is not tantamount to rejection of the whole draft amendment.

The CHAIRMAN: It is my feeling that rule 89 applies to a specific proposal or amendment. Since A/C.1/35/L.61 contains a series of amendments which stood on their own as separate amendments, the rejection of one or two of them does not, I think, fall within the provisions of rule 89 of the rules of procedure.

Mr. de la GORCE (France) (interpretation from French): The provisions of rule 89 are crystal clear; let me re-read the last sentence:

"If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole."

Since every part of the operative part of the amendment of Viet Nam and others was rejected, the amendment proposed by Viet Nam and other delegations has been rejected as a whole. This is quite clear: the whole of the amendment proposed by Viet Nam and other delegations has been rejected.

Mr. ADENIJI (Nigeria): Mr. Chairman, with all due respect to my colleague from France, I think first of all that the appropriate rule of procedure here is rule 129 and not rule 89, since rule 129 refers to Committees and rule 89 to the plenary Assembly, but, that apart, it would seem to me that your interpretation is the correct one because - without being a sponsor of A/C.1/35/L.61 - nevertheless I think the truth is the truth.

Draft resolution A/C.1/35/L.61 is not meant, either in the preambular or operative paragraphs, to replace A/C.1/35/L.43/Rev.2 in toto. These are specific amendments to specific parts of the draft resolution and it was only in order to simplify our task that you, Mr. Chairman, had suggested - and it was accepted - that we could vote on them in two blocks, those referring to the preambular part on the one hand, and those referring to the operative part on the other hand. In other words, what probably would have happened if the representative of Viet Nam had insisted on his original proposal, would have been that we would have voted on each of these preambular parts one by one. The first one refers to the fourth preambular paragraph. It has nothing to do with the other three preambular paragraphs, so those would have stood on their own. The amendments to the operative section are not to all the operative paragraphs; they are to specific parts of the operative paragraphs and we would have taken them one by one. Some would have been adopted, others would have been rejected. So the mere fact that as a result of agreeing to take all the operative parts together in order to facilitate our task, those operative parts have been rejected should not in any way be deemed to have affected the preambular parts which we adopted. So I think there that in order to simplify our task and to avoid any further wasting of time, the sponsors of A/C.1/35/L.43/Rev.2 have to decide if, in the light of the adoption of the specific amendments to the preambular paragraphs, they now wish to withdraw the proposal or not. If they wish to do so, then we have nothing to vote on. If, on the other hand, they still want to press their text to a vote, as amended, please let us go on and vote and then adjourn.

Mr. SUJKA (Poland): I should like to associate myself with your interpretation of the rules of procedure, Mr. Chairman, and everything which has just been said by the representative of Nigeria. Therefore permit me to return to the formal suggestion by the delegation of the German Democratic Republic that you should put draft resolution A/C.1/35/L.43/Rev.2 to the vote.

Mr. FLOWEREE (United States of America): With reference to the remarks by the representative of Nigeria, I think it is quite clear that whether we are speaking about rule 89 or rule 129 the same provision applies. Now the question before the Committee before we began the voting was whether there should be a division of the amendment contained in document A/C.1/35/L.61. There was an objection. You, Mr. Chairman, proposed as a compromise that we vote on all the operative paragraphs together. We did that; we accepted that compromise; all of the operative paragraphs were rejected. We therefore believe that this is exactly what rule 129, as well as rule 89, intended - that if there is a vote on the operative parts of an amendment it is not that those operative parts apply to only sections of the operative part of the draft resolution. We are talking about the operative parts of the amendment. Those have been rejected. They were all voted upon together; they were all rejected; therefore we think that rule 129 certainly should apply in this case and furthermore, we have heard from the representative of Viet Nam that he considered the other aspects of his amendment to be an organic part of that amendment. So therefore, if the operative part of his amendment has been rejected, all parts of the amendment have been rejected.

Mr. de la GORCE (France) (interpretation from French): I believe that the interpretation just given by the representative of the United States is identical with that of the French delegation.

The amendments proposed by the delegation of Viet Nam and other delegations constitute a whole. They have been presented as a whole, and there is no doubt that that proposal, divided into a preambular part and an operative part constitutes an organic whole. In these circumstances, there is in our view not the slightest doubt that rule 89 or 129 of the rules of procedure of the General Assembly applies, and if there were any doubts then we could ask that the Legal Counsel of the United Nations be consulted. But as far as we are concerned there is no doubt as to the interpretation of this text. The case seems crystal clear to us.

Mr. VO ANH TUAN (Viet Nam) (interpretation from French): My delegation would like to join with the delegations of Nigeria and Poland in saying that rule 89 does not apply in the case of the vote that our Committee has just completed. Let me explain why.

Rule 89 says quite clearly:

"If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole."

The representative of France quoted only the last part of rule 89. He did not quote the first part.

The amendments contained in document A/C.1/35/L.61 were not divided but were put to the vote as a whole. Rule 89 speaks of a motion or an amendment being divided into parts and of those parts being voted upon separately, with some of them being accepted and others rejected. Then if the amendments that are approved are put to the vote as a whole a second time are rejected the operative or the preambular part shall be considered to have been rejected. It ensues from that that rule 89 does not apply in the present case.

Mr. GRINBERG (Bulgaria): I think that those who referred to the last sentence of rule 129 were not taking account of the rule as a whole. It states: "A representative may move that parts of a proposal or of an amendment should be voted on separately." There was such a vote. Then it states: "If objection is made to the request for division, the motion for division shall be voted upon." There was no such vote. Further on it states: "If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole." There was no carrying of a motion for division. It was a ruling by the Chairman in order to facilitate the work, and we agreed to that without following the procedure set forth in rule 129.

At the end there is the phrase whose meaning is that we cannot adopt a draft resolution without having an operative part, when there would be only a preambular part. This is not the case here. We have a draft resolution, which has been amended, as a result of a strange ruling which was due to your wisdom, Mr. Chairman. It really facilitated the work at the beginning but now it has brought us into a certain difficulty. I am very grateful that in the end you took the right course. In practice, these amendments were addressed to separate paragraphs of the draft resolution, and the right thing to do was to have every amendment voted upon separately.

Mr. KOH (Singapore): Mr. Chairman, when you made the procedural compromise proposal that the preambular part of document A/C.1/35/L.61 and the operative part should be voted upon separately, you were quite obviously trying to be helpful. No one could have anticipated at that time the result that has actually occurred, which is that the preambular paragraphs were adopted and the operative paragraphs were rejected.

I have listened very carefully to the arguments on the two sides concerning rule 129 and, very frankly, I find the arguments both of the representative of Nigeria and of the representative of France to have merit. I am not sure how the last sentence of rule 129 should apply in our case. If you read that last sentence literally, it says: "If all operative parts of the proposal or of the amendment have been rejected,

(Mr. Koh, Singapore)

the proposal or the amendment shall be considered to have been rejected as a whole." It seems to apply to the situation we are in, and yet we have heard the very persuasive arguments of Ambassador Adeniji of Nigeria to the contrary. I think it would be wise if, before this Committee pronounces itself on the consequences of the application of rule 129 to the vote that has taken place on document A/C.1/35/L.61, we could invite Mr. Suy, the Legal Counsel, to give us the benefit of his advice. I wonder whether this would be acceptable to all factions within this Committee.

The CHAIRMAN: Since the proposal has already been made by the representative of France to consult the legal authorities of the United Nations, efforts are being made to have a representative of the Legal Counsel present in the First Committee, while we continue to exchange views on this point.

Mr. Riaz KHAN (Pakistan): My delegation wishes to associate itself with the observations made by Ambassador Adeniji. In interpreting rule 89, it is important that we should view the rule as a whole and not take only the last sentence. The rule clearly has a linkage. It says: "If objection is made to the request for division" and "If the motion for division is carried", only then would the last sentence be relevant. Considering the rule as a whole, we are of the view that the Chairman's ruling was correct, and we associate ourselves with what the representatives of Nigeria and Singapore have said.

Mr. GBEHO (Ghana): We are in a quandary and my delegation would like to contribute to a clarification of the difficulty in which we find ourselves.

My delegation is inclined to agree with those who have stated that the operative part of the amendments having been rejected, the amendments as a whole should be rejected. We say this because we believe that, whether we apply rule 129 or rule 89, both refer to the same thing, that is, the method of determining a division and the method of coming to a conclusion

(Mr. Gbeho, Ghana)

on a particular proposal or proposals before the Committee. We believe that we should read the paragraph in its entirety in order to understand its implications. When we started we should have looked at the paragraph as a whole. It states: "A representative may move that parts of a proposal or of an amendment should be voted on separately." That was moved. Then the rule says: "If objection is made to the request for division, the motion for division shall be voted upon." This was the logical step that we should have taken, but we listened to your appeal, Mr. Chairman, in order to avoid that particular step. In accepting your proposal, I believe that those who were against the division and those who were in favour of it took a risk.

The next important aspect of this rule is as follows: "If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole." The interpretation here is that those who agreed that the parts should be put to the vote as a whole agreed that if it was rejected in each operative part that would affect the standing of the amendment as a whole. The last sentence says: "If all operative parts of the proposal or of the amendment have been rejected, the proposal for the amendment shall be considered to have been rejected as a whole." That sentence seeks to make a distinction between the operative part and the preambular part. In the opinion of the Assembly, the operative parts are more important. That is why it was provided for in the rules that, if the operative parts voted on separately and as a whole are rejected, then the amendment as a whole falls.

(Mr. Gbeho, Ghana)

In the voting we have just completed, the operative part was put to the Committee as a whole. If it has been rejected, then the entire amendment should be rejected.

I am not conceited enough to think that my interpretation is the only one. I shall therefore end my statement by lending my support to those who have called for a legal interpretation by experts in the United Nations system.

The CHAIRMAN: We have heard very valuable comments and observations on the interpretation of rule 129 which, as Ambassador Adeniji has stated, is the rule which is applicable to division of proposals and amendments in the Committees. There are one or two points which I should like to emphasize and which may stimulate members' thinking again.

In the first place, rule 129 refers to "an amendment" not "amendments": the word is used in the singular, not the plural. That means that the Committee must take every amendment or proposal individually on its own merit. Document A/C.1/35/L.61 does not contain just one amendment; it contains a series of amendments which I still maintain should have been taken up separately if we had agreed with the original proposal of the representative of Viet Nam.

The second point which representatives must consider is that in the final sentence of rule 129, the words "all operative parts of the proposal or of the amendment" do not refer to the operative paragraphs of document A/C.1/35/L.61 as a group as opposed to the preambular part of that document. Now what does that sentence actually mean? I shall illustrate it by referring to just one of the amendments which are contained in document A/C.1/35/L.61: in paragraph 4 there is an amendment which reads:

"Urging all States to refrain from the development, production and deployment of new types of chemical munitions, in particular binary and multicomponent munitions".

If you take that amendment, what is its operative part? The operative part is the words "to refrain from". Suppose that the operative part of this amendment were put to a separate vote, that the words "to refrain from" were voted on and rejected; the remainder of the amendment would read "Urging all States to the development ..." and so forth. That is the meaning of the last sentence of rule 129:

(The Chairman)

that when the operative part of a particular amendment is rejected, then whatever remains is also automatically rejected. Perhaps this is the way that members should approach the decision that the Committee has just taken on the preambular and operative paragraphs of document A/C.1/35/L.61.

Once more, I urge my colleagues to have another look at rule 129 in the light of what I have said: that it refers to "an amendment" not "amendments" and that it refers to the operative part of "the proposal or of the amendment".

Mr. PFEIFFER (Federal Republic of Germany): In fact, I ought not to have asked to speak because, following the discussion I have heard, I still regard myself as a sponsor of draft resolution A/C.1/35/L.43/Rev.2. I fully share the view of those representatives who have spoken and expressed their interpretation of rules 89 and 129 of the rules of procedure. I myself think that it is rather obvious from the text of that rule that once we have rejected the operative part of document A/C.1/35/L.61, the remainder also stands rejected.

In the view of my delegation, then, draft resolution A/C.1/35/L.43/Rev.2 still stands in its original form and ought to be put to a vote. But, of course, I am fully agreeable to the proposal made here that the Committee should ask the advice of the Legal Counsel on this question. In the meantime I should like to put on record that I very much share the interpretation that the whole of the draft amendments in document A/C.1/35/L.61 has been rejected as a result of the voting which led to the rejection of its operative part and, logically, of the remainder as well.

Mr. ISSRAELYAN (Union of Soviet Socialist Republics)(interpretation from Russian): I hope that all members of the Committee will recall that a few minutes ago, after the vote on the preambular part of the draft amendments in document A/C.1/35/L.61 when the results were announced, we found that there were 34 votes in favour to 25 against, with 58 abstentions. Then, Mr. Chairman, you, in your official capacity, made a ruling and stated that the amendment was adopted and you banged your gavel, as is appropriate.

Thus, a decision was taken by the Committee, and you, Sir, made a ruling. Now, in substance, we are talking about a challenge to that ruling and I would

invoke rule 113 of the rules of procedure, where we read that a representative - any representative of course: of France or of the Federal Republic of Germany - "may appeal against the ruling of the Chairman". You, Sir, made a ruling; it is in the record of this meeting. You banged your gavel. The representative of France heard that gavel, as did the representative of New Zealand and they immediately stated how they would be voting on the document as a whole. So the ruling stands.

But under the terms of rule 113 the Soviet delegation requests that a vote be taken on this challenge, for we are dealing with a challenge against a ruling of the Chairman. And it is in accordance with that ruling that we should proceed to a vote.

Mr. de LA GORCE (France) (interpretation from French): I should like first of all to reply to the argument of the representative of the Soviet Union.

Ambassador Issraelyan has just referred to your decision, Mr. Chairman, after the vote on the preamble. I shall not insist on the fact that it is not your decision that entails the position taken by the Committee but the vote itself. But the vote and its recording which you made is obviously conditional since, under rule 89 or rule 129, that vote could only acquire definitive value after the vote on the operative part. That is quite clear and it was precisely because of the possibility of the situation in which we find ourselves that this last sentence was introduced in rule 89 or rule 129.

In this connexion I should like to refer to the excellent analysis made a moment ago by our colleague from Ghana. He made perfectly clear the succession of operations that lead to the final sentence of rule 89 or rule 129, under which, if the operative parts are all rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

I should like to revert to the argument according to which we had a number of amendments. Actually, the representative of Viet Nam presented his proposal as an organic whole. We took note of that statement. On the other hand, it is obvious that, when the text of rule 89 or rule 129 says "all operative parts of the proposal or of the amendment", the amendment can consist of several paragraphs; and, incidentally, the text of rule 89 or rule 129 does not speak only of amendments but also of proposals. Now, it is obvious that the amendments proposed by the delegation of Viet Nam and others constitute a proposal. While one may consider that they constitute several amendments, they undeniably constitute but one proposal. Actually, the fact that reference is made to "operative parts of the proposal or of the amendment" clearly shows that this text has in view a series of provisions.

Hence, in our view, the interpretation of that rule is quite clear. If doubts should persist, I should like to recall that my delegation, like many others, has proposed that we seek an opinion from the Legal Counsel of the United Nations; and I would insist that we decide to do so.

Mr. HEPBURN (Bahamas): I am almost afraid to speak after having listened to many of those who are better informed about the rules of procedure in this First Committee.

I shall not go into rule 129 or rule 89, but I should like to point out one factor which we have perhaps somewhat overlooked in trying to support our own points of view. I merely wish to say that, in the very beginning when we were talking about draft resolution A/C.1/35/L.43/Rev.2, the representative of the Netherlands said, even before asking about how we were going to vote, that his delegation would not vote in favour of the draft resolution if any part of the amendments were adopted.

That being so, and after we had voted first on the amendments pertaining to the preambular part and then on the amendments pertaining to the operative part, the representative of New Zealand then said that the sponsors of the draft resolution would accordingly vote against it.

In turn, the representative of Viet Nam said that the sponsors of the amendments would then vote against the draft resolution.

My delegation feels that this is a very simple matter and that there is no need to call the Legal Counsel, since it is clear to my delegation that the Committee took a decision on the amendments which was based on total agreement with the Chairman to follow a certain procedure, and it only remains now for the draft resolution to be put to the vote. I do not see how the Legal Counsel can make any further interpretation of what is written in rule 129 or 89.

Mr. ADENIJI (Nigeria): I have been prompted to speak only because I thought that we were killing time until the Legal Counsel arrived and that I might as well contribute my share to the entertainment.

First of all it is possible for a delegation or a group of delegations to propose amendments to a draft resolution - which, in this case, would constitute a proposal - affecting only the preambular part. If those amendments are adopted, they form an integral part of the revised draft resolution. They have nothing to do with the operative part. So it is possible that the proponents of document A/C.1/35/L.61 could as a matter of fact have introduced amendments only to the preambular part without going into the operative part, and the vote which we took this afternoon made it clear that

(Mr. Adeniji, Nigeria)

those amendments pertaining to the preambular part as we adopted them would form an integral part of the proposal.

Secondly, I had said earlier that what is contained in document A/C.1/35/L.61 is a series of proposals and not an alternative draft resolution. It is a series of proposed amendments to an existing draft resolution, and the purport of the last sentence of rule 129 is that, if as a result of our decision on document A/C.1/35/L.61, the integrated draft resolution, which would become document A/C.1/35/L.43/Rev.2, as amended, together with the proposals we adopted in document A/C.1/35/L.61 should be put to the vote and someone were to suggest that draft resolution A/C.1/35/L.43/Rev.2, as amended, should be put to the vote part by part - the preambular paragraphs separately, the preambular part separately and the operative part separately - and we then rejected the operative part, the proposal which at that time would become an amended proposal would automatically fail because it would have no operative paragraph. That is the purport of the last sentence of rule 129.

I think that we have all been around here long enough not to waste our time by calling the Legal Counsel, because I cannot see what opinion he can give that would be different from what we have been talking about all afternoon.

The point really is that what is called the operative part in document A/C.1/35/L.61 does not constitute the operative part of any draft resolution. That is clear. It is a series of wordings, and in fact in some cases just a few words are introduced into the operative part of draft resolution A/C.1/35/L.43/Rev.2. So, in the circumstances, the last sentence refers to the integration of the texts in documents A/C.1/35/L.43/Rev.2 and A/C.1/35/L.61. If it is the operative part in the integration that is rejected, then there is no draft resolution; but as long as that is not the case my delegation maintains that the draft resolution - should the sponsors still insist on having it put to a vote - would be the text contained in document A/C.1/35/L.43/Rev.2, as amended by document A/C.1/35/L.61. In fact, we are free to decide whether we are going to put the integrated preambular paragraphs to a vote separately from the operative part, which is still intact, and a decision can perhaps still be taken in that light.

Apart from that, I am afraid that we are just entertaining each other, and, as I said, I am of course willing to contribute.

Mr. MUSA (Somalia): I do not wish to add to the entertainment, but I think we asked for the Legal Counsel in order that we might get a judgement on the different viewpoints.

I should like to direct the attention of representatives to two points. The draft resolution is, I think, a proposal, whereas the contents of document A/C.1/35/L.61 constitute an amendment, but each of them has two parts. The last sentence of rule 89 of the rules of procedure begins "If all operative parts of the proposal". In this case "amendment" is in the singular. I think that perhaps in future the Secretariat should be careful about writing "amendments" in documents, because an amendment is an amendment as a whole, although it has parts. Therefore, my delegation's view - subject, of course, to the interpretation of the Legal Counsel when he arrives - is that the operative parts of the amendment have been rejected, therefore the amendment must be considered to have been rejected as a whole.

Mr. VO ANH TUAN (Viet Nam) (interpretation from French): I have asked to be allowed to speak on a point of clarification. The representative of France in his statement referred to the statement I made in introducing the draft amendments contained in document A/C.1/35/L.61. He said that I had introduced the amendments as an organic whole, and he added that he had taken a note of that statement. I want it to be clear that I never made such a statement. Representatives present here can check what I said in the verbatim record distributed by the Secretariat.

Since as I am speaking, Mr. Chairman, and in order to facilitate your work, I should like to say that I support the very correct proposal made by the Soviet Union. Since you, Sir, have made a decision which a representative has challenged, we ask you to apply rule 113 of the rules of procedure.

Mr. ROSENSTOCK (United States of America): I think that if we look at the facts briefly and then take a look at the precise wording of the last sentence of rule 129 of the rules of procedure, the answer will become relatively clear.

We have in front of us document A/C.1/35/L.61, which is divided into a preambular part and an operative part, so we have both. We then look at the language of rule 129, which would make perfect sense without any mention of the term "amendment". It could mean that if all operative parts of the proposal have been rejected, the proposal shall be considered to have been rejected as a whole. But that is not what it says. It says "If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole". Therefore it is possible to have an amendment with an operative part and a preambular part.

We have an amendment with an operative part and a preambular part. It is inconceivable that we could have any situation more closely paralleling that described in rule 129. A given sentence cannot be both operative and preambular; it must be either one or the other. So the distinction drawn in rule 129 cannot be between a part of a phrase; it must be between two parts. An amendment cannot itself be a separate draft resolution, for if it were a separate draft resolution it would not properly be an amendment. An amendment is something that modifies part of a text. So what we have is an amendment with an operative and a preambular part.

There can be no other form of amendment with operative and preambular parts than the one we have before us, for it would either be operative or preambular or it would be a draft resolution entire unto itself and therefore not acceptable as an amendment. If then this is roughly the only form of amendment we could have with an operative and a preambular part, there can be no other meaning to the inclusion of the phrase "or of the amendment" at two points in the last sentence of rule 129; it would make no sense of that; it would drain it of all meaning. And the one thing we cannot do is to take a rule of procedure very carefully and precisely and simply delete from it the phrase "or of the amendment", for to fail to recognize that the amendment in document A/C.1/35/L.61 is an amendment within the terms of rule 129 would amount to saying that it is

(Mr. Rosenstock, United States)

improper as an amendment, cannot be taken as an amendment and must have a later priority. That is not the case. So it is an amendment; it is then an amendment within the meaning of rule 129; it does have a preambular and an operative part; and the exact circumstance described in that last sentence is precisely what has happened. It may be presumed that in their wisdom those who drafted the rules of procedure had in mind exactly what we are talking about, because it is impossible to imagine any other situation. Therefore, they addressed themselves precisely to this situation and they answered it very clearly. When the operative part is defeated, the entire amendment fails, and therefore there can be no other conclusion than that this amendment has totally failed. Anything else would be contrary to the very plain words of rule 129.

The CHAIRMAN: I have quite a number of speakers listed, but since it has been repeatedly mentioned that perhaps I have been playing for time as in a cricket match until the Legal Counsel comes here, I think I must inform representatives that despite all our efforts we have been unable to get in touch with the Legal Counsel or any of his staff who could be immediately available to the First Committee to make a pronouncement on the issue that is under discussion.

So we can either continue with our exchange of views or adjourn the meeting at this point and take up the matter again on Monday morning. In the meantime the Committee Secretary and I will be able to inform the Legal Counsel of the situation and he can arrange to be with us on Monday morning.

Mr. GBEHO (Ghana): Mr. Chairman, I was going to make a proposal along the lines that you have just explained to the Committee and if there is any doubt about the intention of the statement that you just made, it would be my privilege to formalize it into a proposal to the Committee that we adjourn the meeting and reconvene on Monday to conclude the decision-making process, in order to give the Legal Counsel time to study the matter and give us the benefit of his wisdom. I make that proposal because I think that the quandary in which we find ourselves has very important implications and no decision should be taken lightly.

The CHAIRMAN: Since the representative of Ghana has made a formal motion to adjourn the meeting, which has priority, I must immediately put it to the Committee. I call on the representative of the German Democratic Republic on a point of order.

Mr. ROSE (German Democratic Republic): I have twice suggested that we proceed with the vote on draft resolution A/C.1/35/L.43/Rev.2 as amended by the decision of the Committee on document A/C.1/35/L.61. Now I should like to refer to rule 75 -

The CHAIRMAN: I apologize to the representative of the German Democratic Republic, but the representative of France wishes to be recognized on a point of order.

Mr. de la GORCE (France) (interpretation from French): A proposal has just been made for adjournment of the meeting. Under rule 116 or 118, such motions are not discussed but immediately put to the vote. Therefore, there can be no intervention after the motion has been made. I request that this rule be applied.

The CHAIRMAN: That was my intention, and I had already indicated that the representative of Ghana had made a formal motion to adjourn the meeting, which has priority under the rules of procedure.

I shall not put to the vote the proposal of the representative of Ghana that this meeting be immediately adjourned.

A vote was taken by show of hands.

The CHAIRMAN: The motion to adjourn is adopted.

The meeting rose at 6.55 p.m.