



VERBATIM RECORD OF THE 48TH MEETING

Chairman: Mr. NAIK (Pakistan)

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AGENDA ITEM 34 (continued)

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ENGLISH

The meeting was called to order at 11.30 a.m.

AGENDA ITEM 34 (continued)

The CHAIRMAN: Members will recall that when we adjourned on Friday the Committee was in the process of voting on draft resolution A/C.1/35/L.43/Rev.2 and the amendments to that draft resolution contained in document A/C.1/35/L.61. With the agreement of the Committee, the amendments in paragraphs 1 to 5 of document A/C.1/35/L.61 were put to the vote and were adopted. The amendments contained in paragraphs 6 to 9 of that document were then put to the vote and were not adopted. I then stated that the Committee would proceed to the vote on draft resolution A/C.1/35/L.43/Rev.2 and that I would first call on those representatives who wished to explain their vote before the voting. A number of delegations had done so when the representative of France raised a point about the possible applicability of rule 129 (89) of the rules of procedure with regard to the amendments adopted previously.

I called on the representative of France on a point of clarification relating to rule 129 of the rules of procedure. I also permitted a number of other members to make comments on the rule invoked by the representative of France, stating, at the same time, that it was my feeling that the rule applied to a specific proposal or amendment, and that since document A/C.1/35/L.61 contained a series of amendments which stood on their own as separate amendments, the rejection of one or two of them did not fall within the provisions of rule 129 (89) of the rules of procedure.

In the course of subsequent discussion the representative of France made a proposal that we consult Mr. Erik Suy, the Legal Counsel, on this matter. I am very glad to welcome the Legal Counsel to the First Committee this morning, and I shall now call on him to respond to the inquiry made by the representative of France.

Mr. SUY (Under-Secretary-General, The Legal Counsel): This problem is rather difficult for two reasons. The first is that the origin of the rule as it stands, and especially of the words "or of an amendment", is extremely obscure. The rule was established in 1949 by General Assembly resolution 362 (IV). At the end of the discussions in the Sixth Committee, the words "or of an amendment" were added out of the blue, and we could not find any explanation except that the addition may have been made mainly for editorial reasons.

The second reason why I think the question is a difficult one is that in the 31 years of practice of this rule since 1949 there has not been one single precedent.

The purpose of rule 129, obviously, is to avoid a situation in which a committee would end up with a text that would have no operative part. But I do not see how rule 129 could be applicable to a series of amendments. From a theoretical point of view one could say that it is possible that rule 129 applies to an amendment, but I cannot see how it could apply to a whole series of amendments. The fact that document A/C.1/35/L.61 groups the amendments under a preambular part and an operative part, and the fact also that this Committee has decided that a collective vote should be taken on the amendments concerning the preambular part, on the one hand, and the amendments concerning the operative part, on the other hand, do not change the basic underlying fact that we have here a series of individual, separate amendments.

As I have said, and as I think the Chairman stated last Friday and also this morning, we have here a series of amendments, and therefore rule 129 does not apply.

I may perhaps add that it happens not infrequently that a series of amendments are proposed and that sometimes amendments to the preambular part of a draft resolution are adopted and amendments to the operative part are not adopted, but there has never been a case when rule 129 has been invoked in those circumstances.

Therefore, I should like to conclude by repeating my point of view that rule 129 does not apply in the case which is now before the Committee, because we have here not one amendment but a whole series of amendments.

The CHAIRMAN: I thank the Legal Counsel for his statement on the point that was raised by the representative of France at our Friday afternoon meeting. I hope that we can now proceed to take a decision on the draft resolution.

Mr. MISHRA (India): I have heard the opinion of the Legal Counsel and I am glad that he has given the opinion that he has.

The situation which we are now facing is the following: in supersession of rule 128 of the rules of procedure the process of voting was interrupted on Friday. Of course, since that happened with the agreement of the Committee we cannot say it was a violation; it was a supersession of that rule.

But we are facing a somewhat unprecedented situation, in which we are having difficulty in voting upon the proposal as it has been amended. In some ways the proposed draft resolution is neither fish nor fowl. I would therefore move formally that the Committee decide not to vote on the draft resolution as it has been amended.

Mr. PFEIFFER (Federal Republic of Germany): I understood you to say when you opened the meeting, Mr. Chairman, that we were then in the process of voting on draft resolution A/C.1/35/L.43/Rev.2. Now the representative of India appears not to share that view; he spoke of an interruption.

For me the position is pretty clear. We had asked, through you, Sir, for the opinion of the Legal Counsel. We got it this morning. In my view, we have heard the advice, we accept it, and I should now like to propose that we continue the voting on draft resolution A/C.1/35/L.43/Rev.2 as amended.

Mr. de la GORCE (France) (interpretation from French): The representative of the Federal Republic of Germany has stated very well what I myself had intended to say. I think that the proposal that was made, not only by my delegation but also by three other delegations, to ask for an opinion from the Legal Counsel of the Organization, comes under rule 88 of the rules of procedure, which concerns the settlement of a question relating to the manner in which a vote is to proceed. We feel that we acted quite in keeping with the rules of procedure.

We consider that the voting procedure was not interrupted, except by the time required for consultations. Consultations were held. My delegation takes note of that and we feel that we should now continue with the voting procedure and conclude the vote.

The CHAIRMAN: It seems to the Chair that the position is that a formal proposal has been made by the representative of India that the Committee decide not to vote on the amended draft resolution contained in A/C.1/35/L.43/Rev.2. On the other hand the representatives of the Federal Republic of Germany and of France have proposed that the Committee accept the opinion given by the Legal Counsel and they wish the Committee to proceed to a vote, since the voting procedure on the draft resolution had already started.

The Chair is in the hands of the Committee, although the Chair feels that the voting procedure on draft resolution A/C.1/35/L.43/Rev.2 had started and that we had in fact disposed of the amendments. But in view of the formal proposal made by the representative of India, I think the Chair has no option but to ask and to consult the Committee as to whether it would wish to vote first on the formal proposal of India, that is, whether or not to vote on the draft resolution.

Mr. MISHRA (India): It is, of course, clear that the voting process had started but, as I said, it was interrupted, and no one in this room has said that it was not interrupted, for whatever reason that might have occurred.

We are now faced with a situation in which, as I said, the draft resolution is neither fish nor fowl. I am making a proposal, without any violation of any of the rules of procedure, that the Committee decide not to vote on the amended draft resolution.

Mr. AWANIS (Iraq) (interpretation from Arabic): My delegation has listened very carefully to what was said by the representative of India and my delegation supports his wise proposal.

Mr. PFEIFFER (Federal Republic of Germany): As the Legal Counsel is still with us, if there is any doubt regarding what is happening at the moment, we could again ask his opinion. I take it that we are in the process of voting, so the question of voting at this point on the motion made by India does not arise for my delegation. But if there is any doubt on that point in the Committee we can quite well ask the Legal Counsel to confirm your

(Mr. Pfeiffer, Federal Republic of
Germany)

statement, Mr. Chairman, that we are in fact already in the process of voting, which cannot be interrupted.

Mr. FLOWEREE (United States of America): In connexion with the point that was raised by the representative of India that we had in fact interrupted the voting on this draft resolution, it seems to my delegation that rule 128 would apply. Rule 128 states:

"After the Chairman has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connexion with the actual conduct of the voting."

Now that was indeed the case on Friday afternoon, when the representative of France interrupted on a point of order concerning the way the vote had been taken on the amendments in A/C.1/35/L.61. I therefore do not see that the procedures under rule 128 have been improperly observed.

Mr. MISHRA (India): May I say again that the interruption of the process did not occur merely so as to get the opinion of the Legal Counsel. The process was interrupted in time as well: when the matter came up for the opinion of the Legal Counsel it was Friday evening; it is now Monday morning. This is a different meeting which has begun today. It is not the same meeting. I thought I heard you, Mr. Chairman, give the number of this meeting as the 48th meeting of the Committee and on Friday we were, I believe, in the 47th meeting of the Committee.

This is a different meeting of the Committee.

Mr. de PINIES (Spain) (interpretation from Spanish): If we recall the precedents which the Assembly has already set, I really believe we could spare ourselves further discussion. The matter of the applicability of rule 128 was discussed and settled in the Fourth Committee about three weeks ago during the debate on the question of Western Sahara.

After the voting had been interrupted following the vote on the first draft resolution, the representative of Algeria requested that the second draft resolution not be voted upon. An opinion was given and it was stated that rule 128 was fully applicable and that, therefore, the second draft resolution could not be withdrawn, preventing a vote. It was voted upon, defeated, and thus rejected.

The same discussion we are having here took place in the Fourth Committee. There is no need for us to seek any further precedents. All we have to do is to follow the procedure adopted by the Fourth Committee.

Mr. MISHRA (India): I am sure that the representative of Spain, with his vast experience in the United Nations, would recognize the differing interpretations and the differing situations which have arisen in various committees in the many years of the existence of the United Nations, and I am sure he would not like me to quote precedents from other committees which may have pointed in a different direction.

Now, I have made a formal proposal that the Committee decide not to put the draft resolution as amended to a vote. I think it is quite logical for the Committee to take a decision on that proposal.

Mr. de PINIES (Spain) (interpretation from Spanish): I do not deny that the representative of India presented a formal proposal. That is what the representative of Algeria did. He presented a formal proposal that the second draft resolution not be voted upon. But that proposal was not accepted.

(Mr. de Pinies, Spain)

I know that in different bodies different criteria are followed, but in the interest of standardizing criteria, I think at least during this Assembly we should try to act consistently in all the committees. Otherwise, as someone else has already suggested, we could have the opinion of the Legal Counsel on this as well. That would be very simple. I might point out that an opinion was requested several days ago in the Fourth Committee.

The CHAIRMAN: I hope that we can really terminate this discussion and consider the formal proposal made by India by the only means which is open to us under the rules of procedure.

Mr. PFEIFFER (Federal Republic of Germany): I was just quoting your opening remarks, Mr. Chairman. You said, when you called the meeting to order that we are in the process of voting on draft resolution A/C.1/35/L.43/Rev.2.

That is just the point I am making. Your statement was not questioned by any delegation, and therefore I take it that from Friday on we have been in the process of voting on this draft resolution. There is no reason, as I have already said, for any other motion to call for a vote on whether we should vote. I think we have to vote.

Mr. ERSUN (Turkey) (interpretation from French): The representative of India has submitted a proposal on the basis of the following idea. He thinks that the voting procedure was interrupted. But on the basis of which rule in our rules of procedure does he consider that the vote was interrupted? Because an interruption in the voting procedure can take place only on a point of order in connexion with the actual conduct of the voting. I am reading from rule 128.

(Mr. Ersun, Turkey)

So the vote can only be interrupted in this case in order to request the opinion of the Legal Counsel, because without that opinion the Committee was rather perplexed about the voting procedure. In view of the fact that the preambular part had been amended and the part of the amendments concerning the operative part of the draft resolution was rejected, the meeting was suspended. I refer here to rule 119 (a).

That suspension was thus justified in order to request the opinion of the Legal Counsel, and the interruption falls under rules 128 and 119. If the representative of India has other rules in mind, I would ask him under which rules he views the interruption of the meeting.

The CHAIRMAN: As I stated in my opening remarks, the voting procedure on draft resolution A/C.1/35/L.43/Rev.2 as amended began on Friday, and I think it is beside the point whether we are in the 47th or the 48th meeting. The voting procedure is continuing.

However, in the meantime, the representative of India has submitted a formal proposal, and I think we have to deal with it, and the best way would be for me to consult the Committee.

Mr. KOH (Singapore): In the light of what we have just said, I wonder whether it would be permissible for me to ask the advice of the Legal Counsel who is with us as to whether or not it would be permissible, in view of the fact that the process of voting on draft resolution A/C.1/35/L.43/Rev.2 as amended had already commenced, for the representative of India to submit the procedural proposal which he has done.

Mr. VO ANH TUAN (Viet Nam) (interpretation from French): My delegation has asked to speak in order to express its support for the wise proposal submitted by the representative of India, because although the voting procedure had started, as the representative of India has emphasized, we have now started another meeting.

This is why we feel that the Indian proposal is well founded, and we second it.

Mr. HAYDAR (Syrian Arab Republic): Without getting more confused with the rules of procedure, I wish to state that my delegation believes that there is a formal proposal before this Committee which was submitted by the Ambassador of India. It is for this Committee to decide on that proposal. My delegation fully supports it.

Mr. MISHRA (India): Before the Legal Counsel gives his opinion, which I hope is as good as it was in the first instance, I should like to state that I never questioned the fact that the voting process had begun. What I said was that the voting process had been interrupted on Friday evening and we are now in a new meeting. Secondly, with the amendment to the preambular paragraph and the situation which we are now facing, it is the opinion of my delegation that the best course for the Committee would be not to vote on the draft resolution as amended. It is a formal proposal, and it can be put to the Committee for a decision regardless of any opinion on the legalities of the matter.

The CHAIRMAN: May I request representatives to bear with me briefly while I call on the Legal Counsel to clarify the position.

Mr. SUY (Under-Secretary-General, The Legal Counsel): My understanding of what happened in this Committee on Friday afternoon and evening is that indeed the process of voting was interrupted in order to ask for a legal opinion. This morning I had the honour of giving that legal opinion, and then there was still some discussion afterwards. I think, however, that as you stated correctly, Mr. Chairman, this Committee is still engaged in the voting procedure, and no representative may interrupt the voting except on a point of order in connexion with the actual conduct of the voting.

Now, I do not see how a request not to proceed with the voting process can be interpreted as an interruption in connexion with the conduct of the voting. It is quite the contrary, I think. The purpose of this interruption would be to stop the voting.

Accordingly, I would say, with all due respect, that the representative of India does not have a point in raising at this stage his proposal to interrupt or to stop the Committee's proceeding with the vote.

The CHAIRMAN: I call on the representative of India, who may have some comments to make on the statement just made by the Legal Counsel.

Mr. MISHRA (India): No, sir, I have no comment to make on the statement made by the Legal Counsel, except to say that I am unhappy with his opinion. But may I now say again that I have made a formal proposal, and I request that it be put to a vote.

The CHAIRMAN: But in view of the statement we have just heard, perhaps the formal proposal is not permissible under the rules of procedure at this stage, when the voting procedure is still continuing. That was the whole point. The statement made by the Legal Counsel made it very clear that it was not permissible at this stage.

(The Chairman)

I shall now call on the representatives of Bahrain and Algeria, and then we will come back to this point, and we must really decide one way or the other.

Mr. AL-DOY (Bahrain) (interpretation from Arabic): I should like to support the proposal made by the representative of India, but after having heard your opinion, Sir, in which you support the opinion given by the Legal Counsel, I shall abide by your view.

Mr. BEDJAOU (Algeria) (interpretation from French): I just wish to say that the Algerian delegation is very grateful to the Legal Counsel for what he said at the beginning of the meeting. The situation is very complex, and I do not think we should allow ourselves to be too limited by the strict terms of a rule of procedure. The rules of procedure are at the service of the Committee; it is not the Committee that is at the service of the rules of procedure. The Committee is a sovereign body, and because of that it can put to the vote the proposal made by the representative of India. That is the opinion of the Algerian delegation.

The Indian proposal is a formal proposal and it reflects reality -

The CHAIRMAN: I apologize to the representative of Algeria, but I must call on the representative of Ghana, who wishes to speak on a point of order.

Mr. GBEHO (Ghana): First of all, let me apologize very sincerely to my colleague and brother from Algeria for raising a point of order in the middle of his statement.

I think that we should be economical with our time here. We sought a legal opinion, and it was given. I also formed the impression that you, Mr. Chairman, not only accepted the legal opinion of the Legal Counsel, but put it to this Committee as your position, in which case my delegation interprets it as a ruling. If it is your ruling, Sir, then we can no longer express views on a proposal that does not exist. The rules of procedure make provision for delegations to appeal against your ruling. If there is such an

(Mr. Gbeho, Ghana)

appeal, then our meeting should take quite a different course. If not, may I insist that your ruling stands and that we should proceed with the vote.

The CHAIRMAN: The representative of Algeria may continue with his statement, and I will then comment on the situation.

Mr. BEDJAOU (Algeria) (interpretation from French): I am grateful for the opportunity to continue my statement, which I was making only because you, Mr. Chairman, had invited us to express our views, after which you were planning on taking a decision, so that I feel that I was acting entirely in accordance with your instructions.

I should simply like to offer a moral consideration, if I may so put it, after what the representative of Spain, my dear friend Jaime de Pinies, has said about a precedent which took place recently in the Fourth Committee, in connexion with the question of the Western Sahara. In that instance there were two draft resolutions, not one, and one of the two had already been adopted. Consequently, the situation no longer came under rule 129, which we are discussing now, but under rule 131, which did allow us to request that no vote should be taken on the second proposal. I offer here a clarification which is very important in my view, because the situation then was not the same as the situation facing us today.

Mr. BYKOV (Union of Soviet Socialist Republics) (interpretation from Russian): I think a rather strange situation has evolved. Delegations which on Friday acted obviously in violation of rule 128 while the Committee was voting, when they were not entitled to raise questions other than those in connexion with the actual conduct of that voting, are now by their actions virtually interrupting the vote, because even the request to the Legal Counsel was made not under rule 128 but under another rule. So, willy-nilly, the Committee has found itself in a situation where the voting procedure has been virtually interrupted. That is my first point.

(Mr. Bykov, USSR)

In this case, my delegation therefore cannot agree with the opinion given by the Legal Counsel on the second matter to which he spoke. Perhaps this can be partially explained by the fact that the Legal Counsel did not have enough time since Friday to sort this out. In this case, I think that we have to abide strictly by the procedure and relationship with the rules of procedure suggested by the representative of Algeria. The rules of procedure are reality aimed at helping the work of any organ, and everyone knows full well that each organ that implements the rules of procedure is master of those rules. Therefore, the proposal and explanation made by the representative of India are quite well founded. The representative of Spain has referred to the practices in other Committees. I work in other Committees - I have worked in the Third Committee as well - and I can say that at this session there have been precedents in which a proposal was put to the vote with severe dissent in the Committee. On the proposal of one delegation or several delegations, the Committee took a decision similar to that proposed by India.

In sum, I would say that in the situation we have now, the proposal by India is not only a wise one, but that it is also based on the rules of procedure relevant to situations in which the Committee now finds itself, and I think that the Committee has no other option but to vote on the Indian proposal.

Mr. KOH (Singapore): The purpose of my asking for the floor at this stage is to make an appeal to my good friend and brother from India, Ambassador Mishra. The first ground on which I would like to make my appeal to him is that, whatever our substantive views may be on the issue before us, I think colleagues of all persuasions should have a common commitment, and that is to defend our own ground rules. Every deliberative body has its ground rules, and it is important that those ground rules be defended. If we do not defend them when they happen to be inconvenient to our particular point of view on one occasion, there is no gainsaying that the precedent created or the exception made will later be invoked to haunt us on another occasion.

(Mr. Koh, Singapore)

Therefore, both on the grounds of justice and of convenience, I think that the best course for all of us to pursue is to try to comply with the ground rules of our own deliberative body.

I asked the Legal Counsel for his view whether or not it is consistent with rule 128 of the rules of procedure for my brother from India, Ambassador Mishra, to move at this stage that we not vote on draft resolution A/C.1/35/L.43/Rev.2, as amended. The Legal Counsel has given us his advice, which is that the procedural proposal made by India cannot be characterised as a point of order in connexion with the actual conduct of the voting. The conclusion he drew was therefore that the procedural proposal made by India is not consistent with rule 128 of the rules of procedure. I accept that advice, as I did his earlier advice, even though I found his earlier advice inconvenient.

In view of that advice, it would seem to me that the Committee has a prior question to ask itself before voting on the Indian proposal, and that prior question the Committee should ask itself is: is it permissible or not, under rule 128 of the rules of procedure, for us to accept that proposal? I should like to conclude by appealing to Ambassador Mishra, in the light of the Legal Counsel's advice, to reconsider his position.

Mr. DORR (Ireland): I should like to support what Ambassador Koh has said. It seems to me that there are two issues. One is the proposal of India not to vote on draft resolution A/C.1/35/L.43/Rev.2. The second issue is whether that proposal by India is in order.

I think it is this second question that we are discussing at the moment. If that is so, then it seems to me that rule 113 of the rules of procedure applies: that the point of order that we are discussing should be decided by the Chairman; a representative may appeal against this ruling; that appeal should be immediately put to the vote.

If I am correct in this, I would point out the fact that the Chairman's decision shall be given immediately, and that the vote, if there is an appeal against his ruling, shall be immediate.

(Mr. Dorr, Ireland)

Thus, it seems to me that the first question to be resolved is whether the Indian proposal is in order, and that that should be resolved under rule 113 of the rules of procedure. I feel that this is what Ambassador Koh of Singapore was saying, and I support his request and his appeal to the representative of India, if the representative of India is prepared to consider these remarks.

Mr. GBEHO (Ghana): Although I had asked for the floor, I have just listened to an appeal made to the Indian delegation by the Ambassador of Singapore and supported by the representative of Ireland.

I would, if I may, request the Chairman to call on the Ambassador of India to respond to the appeal. Of course, if he accepts, there will be no need for me to speak, but if he does not, then I would wish to be called on again.

Mr. MISHRA (India): I understood my friend from Singapore supported by our friend from Ireland, to be appealing to me. I do not know how to take the intervention of my good friend from Ghana - whether it is an appeal or a threat. But since he is a very good friend of mine, I am sure it is not a threat.

I take very sincerely the points made by my extremely good friend and brother, Ambassador Koh of Singapore. It is, in fact, my defence of his point that led me to make my proposal. There are certain ground rules, and we must all respect them. There are also certain substantive considerations which we must keep in mind when we look at any particular problem, and this is what most of us are doing here today.

I have no quarrel with the ground rules, nor do I have any quarrel with the substantive points which are hidden behind the procedural wrangle we are going through. My very simple point is - and here I beg to disagree with the Legal Counsel - that my proposal is in fact in relation to the conduct of the voting.

(Mr. Mishra, India)

I disagree with the Legal Counsel that it is far removed from that. It is a procedural point, that the Committee decides not to vote on the draft resolution as amended. How can it then be far removed from the conduct of the voting? It is the conduct of the voting that we are talking about.

I did not want to get into any procedural dispute with regard to the interruption of the voting. It is clear to all of us. We know what we have been doing since Friday. But as to any claim that this proposal of mine is not related to the conduct of voting, that in my view is far fetched, and I apologise to Legal Counsel for so saying. Again, I would say that I was happy with his first opinion, and I hope that this makes him happy.

What the Committee should decide, therefore, is whether my proposal is in relation to the conduct of the voting. If it does so and the answer is yes, then my proposal can be put to a vote. If not, then my proposal stands rejected on procedural grounds. So I would appeal to the Chairman to put this question to the vote and allow the Committee to take a decision.

Mr. GBEHO (Ghana): When I raised the point of order a little while ago, I tried in my humble way to assist the Chairman. I gave an interpretation of what the Chairman and the Legal Counsel had said and formulated my statement in such a way to make the Chairman decide whether or not he had made a ruling. In other words, my delegation was offering the Chairman a silver bridge on which to stand and decide this matter once and for all. I take it that the silence on the part of the Chairman and the subsequent calling on the representative of Algeria whom I had interrupted meant disagreement with my position.

May I now formally invite the Chairman to make a ruling on this matter? We have heard both sides of the case and it is necessary at this point to invite him to do so in order that our meeting may have a certain direction. I say this not because of any arrogance on the part of the Ghanaian delegation nor has it any lessons to teach the Chairman. I am merely trying to assist, and ask you, Mr. Chairman, to make a ruling.

However, should the Chairman disagree with the Ghanaian delegation and feels that a further debate is necessary, my delegation will bow to his views - in which case we reserve the right to speak again to make clear our position, including the posing of questions to the Legal Counsel on his first advice.

Mr. HAYDAR (Syrian Arab Republic): Unless the Chairman decides otherwise - a decision which we shall respect fully - then I have to make two points.

First, in my previous statement I said that the Committee should take a decision on the matter. That suggestion was formally submitted by the representative of Algeria, and we still fully support it.

Secondly, since so many delegations have embarked upon precedents, I should like to remind the Chairman, the Legal Counsel and the members of this Committee that there is a precedent on this matter. It took place during the last emergency special session of the General Assembly, held in July-August last, when the representative of Senegal

(Mr. Haydar, Syrian Arab Republic)

interrupted the voting by making a proposal. There were some objections under rule 88 to that move. The President of the General Assembly referred that motion to the Assembly for a decision, and the General Assembly took a decision on it.

I believe that we are now faced with a similar matter and that it is for the Committee to take a decision on it.

The CHAIRMAN: I have been trying for the last one and a half hours to afford the Committee every opportunity to resolve this matter within the spirit and the framework of the rules of procedure. It was my sincere hope that by making appeals and counter-appeals my colleagues in this Committee would have by this time really come up with a solution, bearing in mind the wonderful spirit of cooperation and cordiality that has prevailed in this Committee so far since the beginning of its work this session. But it seems that we are still far away from that happy solution, and the position as it appears to me is, first, we have to deal with the formal proposal by India that the Committee decides not to proceed to vote on draft resolution A/C.1/35/L.43/Rev.2, and, prior to that, whether at this stage of the voting procedure such a motion is permissible under rule 128 of the rules of procedure.

I know that quite a number of my colleagues have looked to the Chairman to give a ruling. As I said, I have avoided giving a ruling because such matters are not new; we have dealt with them in various other committees during previous years, and I thought that the Committee would by now have evolved a consensus or a solution of this problem.

We have heard the Legal Counsel twice; he has given his opinion on the first issue which was raised by the representative of France and he has also given his opinion on a specific inquiry made of him by the representative of Singapore regarding the admissibility of India's formal proposal at this stage of the voting procedure. I think that all the members of the Committee have heard both opinions, and it is now for the Committee to decide how to proceed further in this regard.

(The Chairman)

I know that according to the rules of procedure the Chairman can make a ruling. However, I have been stating my position since Friday - and I still maintain that the position as stated by me then was, in my own judgement, perhaps the most appropriate and correct with regard to the voting procedure - and I think that I have indicated that I still feel and maintain that we are in the voting process which commenced on Friday, and that irrespective of whether we are in the 47th or 48th meeting that does not in any way alter, interrupt or introduce a new element that could be viewed as an interruption of the voting procedure. In the light of that, I think my colleagues can readily conclude what my position is with regard to the procedure that we must now establish.

Mr. PFEIFFER (Federal Republic of Germany): Mr. Chairman, may I be so bold as to interpret your interpretation as an appeal to the Committee that it now continue the voting. You rightly referred to the request made of the Legal Counsel by the Committee and to the answers given by him. You referred also to your own statement at the beginning of the meeting, that we are still in the process of voting, and then you left it open to the Committee members to draw their own conclusions as to your position.

May I, then, be so bold as to draw the conclusion that it is your opinion, Mr. Chairman, that we should consider that a ruling has been made by you that the voting should take place? If I am right in my interpretation, that will be the position. If not, then I would take the liberty of making a formal request that we proceed to the voting without any further delay.

The CHAIRMAN: Before calling on the representative of India, may I conclude my statement by saying that I feel the voting procedure must now continue and that, as indicated by Legal Counsel, the formal proposal made by the delegation of India is not within the framework of rule 128 of the rules of procedure. If there is any objection to that, then, certainly, we must decide the matter by putting it to the Committee.

Mr. MISHRA (India): Mr. Chairman, I do not know if you are ruling that the voting process had started and is now continuing. If that is your ruling, I accept it. I did not hear any ruling that you were deferring to the opinion of Legal Counsel and not to your own inclination in that regard - that my proposal is not related to the conduct of the voting. Now, if you are not making a ruling in that regard - and I hope you are not - I would ask you to put the question to the Committee whether or not my proposal is related to the conduct of voting.

Mr. SUJKA (Poland): At this stage of our discussion my delegation believes that the only way out of this situation would be to consult the Committee by means of a vote.

Mr. KOH (Singapore): Mr. Chairman, like my good friend Ambassador Mishra, I too should like you to make your position clearer. As I interpreted the last part of your last statement, I thought you had said that you agreed with Legal Counsel's advice and that you were ruling that the procedural proposal made by Ambassador Mishra was not in keeping with rule 128. If I am correct, then I take it that the delegation of India would of course appeal your ruling. But I should not put words in his mouth. Let me just content myself with asking you to be good enough to clarify for the benefit of us all whether I was correct or not in understanding you to have ruled that the procedural proposal made by the delegation of India was not in keeping with rule 128?

The CHAIRMAN: If that is the intention of the Committee, then I rule that the formal proposal made by India is not covered by rule 128 of the rules of procedure. If there is any appeal to that, I will immediately put the ruling to a vote by the Committee.

Since I hear no appeal or objection to my ruling, I now declare that we shall immediately proceed to the vote on draft resolution A/C.1/35/L.43/Rev.2, as amended. Since we do not have a mechanical voting system in this room, we shall have to take a roll-call vote.

I call on the representative of the Soviet Union on a point of order.

Mr. ISSRAELYAN (Union of Soviet Socialist Republics) (interpretation from Russian): We are prepared to continue the voting procedure, which was unilaterally interrupted on Friday by the delegations of the Western countries. But the voting procedure presupposes explanations of vote, and we should like to explain our vote before the vote; we should like to do what we would normally have done on Friday if a number of delegations had not caused this unseemly fuss.

The CHAIRMAN: I have received no other request today for explanations of vote before the vote - I had received only one request on Friday, from the representative of Yugoslavia, and he was called on - so I shall now call on the representative of the Soviet Union and any other representative who wishes to explain his vote before the vote.

Mr. ISSRAELYAN (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to state our view on draft resolution A/C.1/35/L.43, to which amendments have been added, contained in document A/C.1/35/L.61. We have already stated our views on this whole question; we would merely wish to stress that the discussion which took place on Friday and the day before reaffirmed the truth of our evaluation of that proposal.

We emphasized that this whole venture was of a purely political and anti-socialist nature, and was designed to poison the atmosphere of the disarmament talks. I think that what happened on Friday and again today has reaffirmed the fact that draft resolution A/C.1/35/L.43 has again poisoned the atmosphere of the work of the First Committee, and it will be poisoning the work of this Committee in the future, as it will be poisoning the atmosphere during the disarmament talks, if this proposal is adopted.

(Mr. Issraelyan, USSR)

I must say that within the walls of the United Nations I am sure many cases of this kind have arisen, in which delegations, in pursuit of political manoeuvres, have gone in for this type of unseemly venture. I have in mind the attempts to misinterpret rules of procedure and to falsify statements made by representatives of certain countries. For example, statements are attributed to the representative of Viet Nam which he never made. I have in mind the obvious attempts to violate the rules of procedure, even by the sponsors of draft resolution A/C.1/35/L.43 when they explained their vote.

We have absolutely no doubts regarding the prospects of this draft: there are no prospects; it has no future, because it is aimed at undermining co-operation. This has been borne out by the discussion in the First Committee. Progress on disarmament issues will not be made by this method. Even if this draft resolution is adopted - and we hope it will be rejected - nobody should have any illusions: those who vote in favour of it will be voting for a continued poisoned atmosphere in the disarmament talks; I want that to be clear to everyone. We shall be voting against this draft, as we have already stated.

Mr. PFEIFFER (Federal Republic of Germany): My delegation will vote in favour of draft resolution A/C.1/35/L.43/Rev.2 as it has been amended by this Committee. We voted last Friday against the amendments contained in document A/C.1/35/L.61 because we believed that those amendments - and I mean not only those that apply to the operative part but also those that apply to the preambular part - contain elements which are extraneous to a draft resolution designed to further an impartial investigation to ascertain the facts pertaining to recent reports regarding the alleged use of chemical weapons. In particular, we have in mind the amendments proposed in paragraphs 3 and 4 of document A/C.1/35/L.61. We believe that those two items do not belong in the draft resolution. They concern part of the work which is to be continued in Geneva by the two parties negotiating on a prohibition of chemical weapons, namely, the United States of America and the Soviet Union. I believe also that those two points included in paragraphs 3 and 4 also fall within the competence of the Committee on disarmament in Geneva, which last summer set up a Working Group for the discussion and negotiation of a comprehensive ban on all chemical weapons.

Mr. de la GORCE (France) interpretation from French): Since the text which is now before us is different in its preamble from the text of which the French delegation was one of the sponsors, we feel it is necessary to state that we shall vote in favour of the amended text, despite our reservations with regard to some of the new provisions. We are convinced that, from the point of view of an objective and sober consideration of the 1925 Geneva Protocol, the vote on this draft resolution will contribute to the authority of that Protocol and to the cause of chemical disarmament.

Mr. BEDJAOU (Algeria) (interpretation from French): I should like merely to say, on behalf of my delegation, that my country had a certain number of reservations with respect to the substance of the original draft resolution.

(Mr. Bedjaoui, Algeria)

Today, after the debate that took place on Friday and this morning on procedural problems, my delegation is more perplexed than ever, and in addition to our original reservations on the substance we now have very serious reservations regarding the form. It was because of our reservations regarding substance that we were inclined on Friday to abstain, but today, because of our serious reservations regarding form, we have decided not to participate in the vote. I should like to add an explanation and say that it is with great regret that we are unable to participate in the vote. We believe that the manner in which this draft resolution is now being put to the vote raises doubts with respect to its effectiveness. In addition, over and above that, there is another disturbing aspect regarding the development of our Organization, which has to do with the very process of the drafting of a resolution by the United Nations. Unfortunately, we have sometimes had, in the past and up until now, two drafts of a resolution and two contradictory proposals have been adopted, one in a Committee and the other in the plenary Assembly. But today we have something which is even worse and which concerns the degree of consistency of our work, of our drafting process and of international legal norms, for this is a case not of two contradictory proposals but of one proposal which is contradictory in certain of its provisions when one considers, on the one hand, the preamble as amended, and, on the other hand, the operative part which was not amended.

I believe that this is an impossible situation. It is largely incoherent, and is quite unsatisfactory to us. That is why Algeria cannot participate in such a vote and will, with regret, act accordingly.

Mr. NOLAN (Australia): Australia is a sponsor of draft resolution A/C.1/35/L.43/Rev.1. My delegation voted against both the preambular and operative amendments contained in document A/C.1/35/L.61 because we considered them to change the thrust of the draft resolution of which we were a sponsor. The difficulties that we had with the draft preambular paragraphs as amended remain. However, we consider the operative paragraphs of the draft resolution to be of such importance that the Australian delegation will vote in favour of the draft resolution as amended. We have in mind particularly the necessity which the draft resolution still reflects for adequate verification measures in all arms control arrangements.

Mr. SHARMA (Nepal): As my delegation has not received any instructions on draft resolution A/C.1/35/L.43/Rev.2, as amended by the preambular part of document A/C.1/35/L.61, it is not in a position to participate in the voting today.

Mr. WU Zhen (China) (interpretation from Chinese): The Chinese Government has been consistently in favour of the complete prohibition of chemical weapons. China is a party to the 1925 Geneva Protocol on the prohibition of the use of toxic and bacteriological methods of warfare. In our opinion, the countries of the world are duty bound to take all effective measures to prevent any country from violating the provisions of the Geneva Protocol. Since the beginning of this year, many reports have shown that certain countries have been using chemical weapons in Afghanistan, Laos and Kampuchea. The peoples of various countries are deeply concerned about that. We are firmly in favour of carrying out an impartial international investigation of all reports regarding the use of chemical weapons. The truculent threat made by the Soviet Union in this regard is completely futile, because only by finding out the truth can we take further effective measures to prevent the criminal use of chemical weapons. By doing that it would help to strengthen the Geneva Protocol.

Basing ourselves on this position of principle, and although there are some defects in this draft resolution, since it does call for an impartial international investigation on reports of the use of chemical weapons, which is a correct position, we shall vote in favour of draft resolution A/C.1/35/L.43/Rev.2.

Mr. MAKONNEN (Ethiopia): In view of the way in which this Committee has dealt with the draft resolution in A/C.1/35/L.43/Rev.2, as amended both substantially and substantively, and in view of the fact that this text as partially amended is very confused and confusing, the Ethiopian delegation will not participate in the vote.

Mr. GRINBERG (Bulgaria): My country is very much in favour of strengthening the 1925 Protocol on the prohibition of the use of chemical and bacteriological weapons but, as I have already stated, we do not believe that this is the way to solve problems relating to this very important instrument in international relations.

What we should be doing, if this resolution were to be adopted, would be tantamount to imposing a procedure for verification of the Protocol which, under international law, is not for this Committee to undertake. It is for the parties to the Protocol, if they so desire and if they feel that it is necessary, to take the measures necessary in order to arrive at such a procedure. This is one point and a very important one because it sets a precedent which could be used in the future in similar instances. Let us say, for example, that some countries come to an agreement on an international, multilateral treaty. This Assembly may then deem it necessary to change any procedure which is provided in the treaty itself or to impose such a procedure where none is envisaged in the treaty.

The second point which we have in mind in deciding what to do about the draft resolution now before us is the fact that it is a clear East-West issue, an issue of confrontation which was introduced by certain countries in the clear knowledge that that action was bound to affect future negotiations on disarmament, more specifically in the area of chemical weapons. We believe that this action is not helpful. It will poison the atmosphere and introduce new elements which will make it more difficult to achieve success in the negotiations on these important issues.

That is why we shall vote against the draft resolution which is before us and we hope that it will not be adopted.

Mr. KERGIN (Canada): My delegation will vote in favour of draft resolution A/C.1/35/L.43/Rev.2 as amended in its preambular paragraphs by A/C.1/35/L.61.

We do not believe that the insertions proposed in points 3 and 4 of A/C.1/35/L.61 are relevant to the draft resolution. Moreover, we object to the deletion of the original preambular paragraph 7, stating:

"Noting the difficulty of ascertaining, through generally available information, the facts relating to the alleged use of chemical weapons". Nevertheless, the purpose, thrust and application of A/C.1/35/L.43/Rev.2, as set forth in its operative paragraphs, remain untouched and intact. In our view that point is paramount and permits us to cast our vote in favour of A/C.1/35/L.43/Rev.2 as amended.

Mr. FEIN (Netherlands): As a result of the vote on Friday last, the draft resolution now contains in its preambular portion some language which we consider undesirable, at least in the context of this particular draft resolution. On the other hand, the result of the vote seemed also to indicate that the majority of the members of this Committee want to see the investigation of the alleged use of chemical weapons, as proposed by us, go forward.

My delegation has reconsidered these factors and does not wish to stand in the way of the adoption of this draft resolution which, as I said, seems to be supported by the majority of the Committee.

Mr. MUSA (Somalia): My delegation is not inhibited by the red herring of branding the discussion of this draft resolution as a confrontation between the East and the West. The position of my delegation is that the draft resolution is morally right and upholds a principle in this matter. My delegation will therefore vote for the draft resolution for the simple reason that third-world countries have been the victims of chemical and bacteriological weapons.

It would be futile and hypocritical for us to refute or oppose this draft resolution and at the same time, by the same token, also complain that a particular country has been the victim of chemical and bacteriological weapons.

Mr. MARTIN (New Zealand): Though New Zealand has reservations about certain of the preambular paragraphs of the draft resolution, the nature of which have already been made clear in earlier statements, New Zealand will nevertheless vote in favour of A/C.1/35/L.43/Rev.2 as amended.

Mr. SY (Senegal) (interpretation from French): My delegation will vote in favour of draft resolution A/C.1/35/L.43/Rev.2 because we are disturbed by reports that chemical weapons have been used in certain areas of armed conflict.

In that regard, we believe that only the conclusion of a treaty banning the manufacture and use of chemical weapons can safeguard the world against the danger of the use of chemical weapons. In that connexion, it is regrettable that the negotiations undertaken on the subject have been dragging on for several years. Since we are concerned that chemical weapons may be used to impose a régime on a people, the proposal to send a mission of investigation to shed light on this subject appears to us just and reasonable. The use of weapons of mass destruction to impose a régime on a people is unacceptable, wherever that might happen.

Although the draft resolution as amended contains certain conflicting elements, it remains in keeping with the role already played by the United Nations in several cases, notably with regard to the Middle East, where the United Nations, as is well known, sent a committee to investigate Israeli practices in the occupied Arab territories.

Mr. AGUILAR (Guatemala) (interpretation from Spanish): The delegation of Guatemala would like to state that it has reservations regarding the amendments adopted on Friday, but will vote in favour of the draft resolution because we very much respect the idea contained in it.

Mr. KAMANDA wa KAMANDA (Zaire) (interpretation from French): As a matter of principle, we are opposed to the use of chemical and bacteriological weapons for obvious reasons. We believe that the operative part of draft resolution A/C.1/35/L.43/Rev.2 is designed precisely to strengthen the Geneva Protocol regarding the prohibition of those weapons. We further believe that the absence of verification machinery might encourage violations of the Geneva Convention. Consequently, the delegation of Zaire will vote in favour of the draft resolution, although it has certain shortcomings.

Mr. ERSUN (Turkey) (interpretation from French): Turkey is one of the sponsors of draft resolution A/C.1/35/L.43 and I should like to state that I reject any allusion to the effect that we were prompted by considerations extraneous to the substance of the question itself. We sponsored this draft resolution because we think that chemical weapons are hateful, and we participated actively in drafting the original text. I should like to point out to delegations that in its original form the draft resolution made no specific mention of or even allusion to any country or any régime in particular.

We do not consider this to be an East-West question. We think that the real question is the question of principle regarding the verification procedure. And I must say that we did not foresee that a simple verification machinery could give rise to such controversy within this Committee.

I should like to emphasize too that the amendments that have been submitted are longer than the original text. They are now incorporated in the preamble and, in large part, in the operative portion, thus leaving very little of the original text.

(Mr. Ersun, Turkey)

In the light of these considerations with regard to the substance of the question of the nature of chemical weapons, and although we have some reservations regarding the additions, which have no connexion with the context of the preamble, we shall vote in favour of this draft resolution.

The CHAIRMAN: I shall now put to the vote draft resolution A/C.1/35/L.43/Rev.2 as amended. A roll-call vote has been requested.

A vote was taken by roll call.

Burma, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Australia, Austria, Bahamas, Barbados, Bolivia, Burundi, Canada, Central African Republic, Chad, Chile, China, Costa Rica, Democratic Kampuchea, Denmark, Dominican Republic, Egypt, Fiji, France, Gabon, Germany, Federal Republic of, Ghana, Greece, Guatamela, Haiti, Honduras, Iceland, Ireland, Israel, Italy, Japan, Kenya, Luxembourg, Malaysia, Malta, Mauritania, Morocco, Netherlands, New Zealand, Norway, Oman, Pakistan, Paraguay, Philippines, Rwandi, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Thailand, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Zaire

Against: Afghanistan, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Democratic Yemen, German Democratic Republic, Hungary, Lao People's Democratic Republic, Mongolia, Poland, Romania, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Viet Nam

Abstaining: Argentina, Bangladesh, Bhutan, Brazil, Burma, Congo, Cyprus, Ecuador, Finland, Grenada, Guinea, Guyana, India, Indonesia, Jamaica, Madagascar, Malawi, Maldives, Mali, Mexico, Nicaragua, Nigeria, Panama, Peru, Sri Lanka, Trinidad and Tobago, Uganda, United Republic of Cameroon, Venezuela, Yemen, Yugoslavia, Zambia

Draft resolution A/C.1/35/L.43/Rev.2, as amended, was adopted by 62 votes to 17, with 32 abstentions.

The CHAIRMAN: I shall now call on those representatives wishing to explain their vote after the vote.

Mr. CABRAL (Guinea-Bissau) (interpretation from French): I do not believe it is necessary to explain my vote, because I did not participate in the voting, but I should like to point out to the Secretary of the Committee that my delegation has been present and participating in the work of this Committee since the beginning of the meeting.

Under rule 127, one can only vote "yes", "no" or "abstention". If the Secretary did not hear my delegation express itself in one of those three ways, he should not conclude that my delegation was absent when the vote was taken. He might have sought to ascertain whether my delegation was in fact in the room or not before deciding that it was absent. There are three ways of actually voting: "yes", "no" or "abstention". I did not wish to participate in the voting. That was why I remained silent.

Mr. SUMMERHAYES (United Kingdom): My delegation voted in favour of draft resolution A/C.1/35/L.43/Rev.2. It is the view of my Government that the numerous reports concerning the possible use of chemical weapons in a number of recent wars and military operations in various regions of the world warrant investigation by an impartial international body.

We believe that in order that members of this Committee and of the Committee on Disarmament in Geneva can be in full possession of the facts relating to these reports, such an investigation should be conducted thoroughly and promptly by the Secretary-General. It is our interpretation that the draft resolution applies to regions where allegations of chemical weapon use have been made and where the facts cannot be ascertained through generally available information.

I have to say that, although we voted in favour of the draft resolution, we were disappointed to see that some members of this Committee attempted to undermine the purposes of the draft resolution by the introduction of extraneous issues not related to the use of chemical weapons. The purposes of the draft resolution are to ascertain the facts relating to possible recent uses of chemical weapons, and we regret that the international community has acted so tentatively on this issue.

Mr. LIDGARD (Sweden): The reason Sweden voted in favour of this draft resolution is that we support, in principle, every request from a State Member of the United Nations for clarification of the reality behind allegations of such a serious character as to imply the violation of the Geneva Protocol.

Our position should of course not be interpreted as taking any stand on the substance behind the allegations or for or against any country or group of countries. We share the regret already expressed by others over the acrimonious character of this debate. It has, however, shown beyond any doubt how well founded is the demand of the neutral and non-aligned countries for a strengthened complaints procedure in matters of this kind, so that what we have experienced here this year can be avoided in the future.

Mr. ROSE (German Democratic Republic): My delegation voted against draft resolution A/C.1/35/L.43/Rev.2, and it did so primarily for the following reasons. First, because the motives of the authors are not rooted in the desire to implement the Geneva Protocol of 1925, but in the intention to defame other States. This becomes eloquently clear when one looks back upon the prior history of the document, which did not begin in New York, but in Geneva. It follows also from the fact that the actual initiator, only a few years ago, used poison chemical agents to a massive degree during a war against the peoples of Indochina. References to the Geneva Protocol in this document serve only as a disguise.

Secondly, the present text of the draft resolution is not acceptable because it can be used to impede the striving for a ban on chemical weapons, for the question of the use of such weapons is dealt with separately. It does not contain a clear-cut mandate for the Secretary-General and, as regards the various procedures, it is in contradiction to the provisions of the United Nations Charter, because considerable financial means are called for the sole purpose of satisfying the propaganda designs of some States. The present draft resolution is a settled matter. It can be anticipated that even its authors will cease to attend to it once their propaganda needs are stilled.

Finally, we cannot but state that the entire manoeuvre, from start to finish, has harmed the reputation of this Committee.

The CHAIRMAN: There are still a few representatives who wish to explain their votes. In view of the lateness of the hour, and as we have already requested the interpreters to remain beyond their normal duty hours, I propose, if the Committee agrees, that we should adjourn the meeting now and continue hearing explanations of vote at the next meeting, which will take place at 3 p.m.

The meeting rose at 1.25 p.m.