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Fifth session

QUESTION OF THE MAJORITY REQUIRED FOR THE ADOPTION BY
THE GENERAL ASSEMBLY OF AMENDMENTS TO AND PARTS OF
PROPOSALS RELATING TO IMPORTANT QUESTIONS

Report of the Secretary-General

A. INTRODUCTION

1. In paragraph 34 of its report to the fourth session of the General Assembly the Special Committee on Methods and Procedures* drew the Assembly's attention to the question of the majority needed in plenary meetings for the adoption of amendments relating to proposals on questions which, by virtue of Article 18 of the Charter, are to be decided upon by a two-thirds majority of the members present and voting. The question was also raised of the majority required in cases where the General Assembly, before voting on proposals requiring a two-thirds majority as a whole, proceeds to separate votes on parts of these proposals.

2. The Special Committee noted that "existing rules of procedure do not indicate whether amendments to proposals requiring a two-thirds majority for adoption also have to satisfy the same requirement. Nor do they state whether or not, when proposals are voted in parts, each part requires a two-thirds majority for adoption." In view of "the difficulties which arose in the past in this connexion and the particular importance of this question, which relates to the application and the interpretation of Article 18, paragraphs 2 and 3, of the Charter", the Special Committee recommended that this problem should be examined by the General Assembly with particular care and a final decision reached only on the basis of a thorough legal analysis. The report of the

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* The Special Committee was established by General Assembly resolution 271 (III) of 29 April 1949. Its report is contained in document A/937 (see Official Records of the Fourth session of the General Assembly, Supplement No. 12).
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Special Committee also mentioned a suggestion of the representative of Belgium that a request to the International Court of Justice for an advisory opinion might be envisaged.

3. The question was examined at the 156th and 157th meetings of the Sixth Committee.* By 28 votes to 7, with 14 abstentions, the Sixth Committee recommended to the General Assembly the adoption of a new rule of procedure (rule 76(a)), originally proposed by the representative of Belgium, worded as follows:**

"Decisions of the General Assembly on amendments bearing on proposals relating to important questions, and on parts of such proposals put to the vote separately, shall be made by a two-thirds majority of the Members present and voting".

In view of this decision, a proposal by the representative of France to request the International Court of Justice to give an advisory opinion was not put to the vote.

4. The report of the Sixth Committee on matters arising out of the report of the Special Committee on Methods and Procedures was examined by the General Assembly at its 235th and 236th plenary meetings. The representative of Australia introduced an amendment*** (a) to delete new rule 76(a); and (b) to add a paragraph to the draft resolution proposed by the Sixth Committee requesting the Secretary-General "to make the 'thorough legal analysis' suggested by the Special Committee on Methods and Procedures of the questions raised in paragraph 34 of its report, taking into account the proposal submitted to the Sixth Committee by the Belgian delegation and the discussions in the Sixth Committee and in plenary meetings and to submit a report to the fifth regular session of the General Assembly." The two parts of the Australian amendment were adopted by 27 votes to 23, with 3 abstentions, and by 37 votes to 6, with 9 abstentions respectively.****

* See Official Records of the fourth session of the General Assembly, Sixth Committee, pages 85-93.

** A/C.5/L.22: incorporated in the summary record of the 156th meeting, paragraph 65, (Ibid., Sixth Committee, page 86). See also report of the Sixth Committee, A/1026 (Ibid., Plenary meetings, Annexes).

*** A/1036 (Ibid., Plenary meetings, Annexes).

**** Ibid., Plenary meetings, pages 151-166.

B. PRECEDENTS

5. The question of the majority required for the adoption by the General Assembly of amendments to proposals relating to important questions and for the adoption of parts of such proposals was not discussed at the San Francisco Conference. Nor was it examined by the Preparatory Commission of the United Nations, its Executive Committee or the various committees of the General Assembly which were responsible for the drafting of the Assembly's rules of procedure. The Assembly's rules on voting in plenary meetings reproduce textually the three paragraphs of Article 18 of the Charter.

6. The question was raised, however, at some of the plenary meetings of the Assembly when the issue arose in connexion with the examination of specific draft resolutions. A careful examination of the Official Records of the General Assembly shows that these precedents are not numerous, as presidential rulings and Assembly decisions were made only in the infrequent cases when contested amendments or parts of proposals were likely to obtain a simple majority, while it was doubtful whether they would receive a majority of two-thirds.

7. At its 52nd plenary meeting, held during the second part of the first session, the General Assembly examined the question whether a draft resolution on the treatment of Indians in the Union of South Africa, submitted by the Joint First and Sixth Committee,* and an amendment to this resolution requesting the International Court of Justice for an advisory opinion, proposed by the delegation of the Union of South Africa,** required a two-thirds majority for adoption. Various representatives presented their views as to the correct application of paragraphs 2 and 3 of Article 18 of the Charter. The President asked the Assembly to decide by a vote whether it considered the question under consideration as an important matter requiring a decision by a two-thirds majority. The Assembly expressed itself in the affirmative by 29 votes to 24 votes, with one abstention. The President had stated prior to this vote that, if the Assembly decided that the question was an important one in the sense of Article 18, paragraph 2, of the Charter, then all questions relating to it would require a two-thirds majority. At the request of the representative of France, the President also declared that he thought that the manner in which the question had been put could not create any

* A/205.

** A/205/Add.1

precedent. The President then ruled that the amendment proposed by the delegation of the Union of South Africa required a two-thirds majority for adoption, but he implied that while this text would be put to the vote first, it was doubtful whether although called an amendment, it could be considered as such as its object was to replace entirely the draft resolution submitted by the Committee.*

8. At the 64th plenary meeting held during the second part of the first session, the Assembly examined a draft resolution on regional conferences of representatives of non-self-governing territories which was presented by the Fourth Committee. The President's ruling that the draft resolution required a two-thirds majority for adoption was upheld by the Assembly. Several amendments were submitted and before voting took place, the President stated that "amendments do not require a two-thirds majority; they are adopted if they obtain a simple majority". A Cuban amendment which obtained 23 votes to 14, with 17 abstentions, was considered as adopted. The amended resolution was adopted by 31 votes to 1, with 21 abstentions.

9. At the 118th plenary meeting, held during the second session, the General Assembly voted paragraph by paragraph on a draft resolution presented by the First Committee on the relations of Members of the United Nations with Spain.** The second paragraph of the proposed resolution stated that: "The General Assembly reaffirms its resolution adopted on 12 December 1946 concerning the relations of Members of the United Nations with Spain". The President ruled that a two-thirds majority was required for the adoption of this paragraph and it was declared rejected, with 29 votes cast in favour, 16 against, and 8 abstentions.***

10. During the same session, at the 123rd plenary meeting, in the course of the voting on an amendment to a draft resolution presented by the Sixth Committee on the question of genocide,**** the President stated that he had been advised by the Secretariat that in the absence of any demand to the contrary, decisions of the General Assembly were taken by the usual simple majority unless that were contested. In this case, a vote of 29 in favour, 15 against, with 8 abstentions, was considered sufficient to carry the amendment. This declaration was contested

* Official Records of the second part of the first session of the General Assembly, Plenary meetings, pages 1046-1047.

** Official Records of the second session of the General Assembly, Plenary meetings, Vol. II, page 1612.

*** Ibid., Plenary meetings, Vol. II, pages 1095-1096.

**** Ibid., Plenary meetings, Vol. II, Annexes, pages 1627-1628.

from the floor by the representative of the Union of Soviet Socialist Republics. The President stated that he was ready to consult the Assembly whether it wished to vote on the amendment by a two-thirds majority, but the representative of the USSR did not insist.*

11. At the 135th plenary meeting, held during the second special session of the General Assembly, in the course of the consideration of a draft resolution on the temporary administration of Jerusalem,** various amendments were considered as adopted although they had obtained only a simple majority. The resolution as a whole was not adopted, having failed to obtain a majority of two-thirds. (The vote was 20 in favour, 15 against, with 19 abstentions).***

12. At the 160th plenary meeting, held during the first part of the third session, the General Assembly examined various draft resolutions proposed by the Fourth Committee**** on matters arising out of the report of the Trusteeship Council. The President declared that a two-thirds majority would be required for decisions. At the request of the representative of the United States of America, resolution II, on administrative unions affecting Trust Territories, was voted paragraph by paragraph; one paragraph in the preamble and four paragraphs in the operative part of the resolution were declared rejected, having failed to obtain a two-thirds majority.*****

13. At the 218th plenary meeting, held during the second part of the third session, various amendments were proposed to a draft resolution presented by the First Committee on the question of the disposal of the former Italian colonies.***** The draft resolution itself was voted upon in parts. Although

* Ibid., Plenary meetings, Vol. II, pages 1305-1306. No explicit determination had been made that the resolution on genocide required a two-thirds majority for adoption.

** Official Records of the second special session of the General Assembly, Annexes, page 37-42.

*** Ibid., Plenary meetings, pages 33-36.

**** Official Records of the third session of the General Assembly, Part I, Plenary meetings, Annexes, pages 352-365.

***** Ibid., Plenary meetings, pages 489-492.

***** Official Records of the third session of the General Assembly, Part II, Plenary meetings, Annexes, pages 98-99.

the Official Records contain several indications that certain amendments were "adopted, having obtained the required two-thirds majority", they also include an explanation by the President, in connexion with the voting on an Iranian amendment,* that: "it was the absolute practice of the Assembly that, if an amendment to a text did not involve any decision, a two-thirds majority was not required for its adoption.*

It was considered that each paragraph of the draft resolution on the disposal of the former Italian colonies required a two-thirds majority for adoption; and sub-paragraph (c) of paragraph 1, relating to the placing of Tripolitania under Italian Trusteeship, and paragraph 2 relating to the placing of the former Italian Somaliland under Italian Trusteeship, were rejected, having obtained only 33 votes in favour, 17 against with 8 abstentions, and 35 votes in favour, 19 against with 4 abstentions respectively.**

14. At the 240th plenary meeting, held during the fourth session, the General Assembly considered several resolutions presented by the Fourth Committee on matters arising out of the report of the Trusteeship Council. In draft resolution I on the political advancement of Trust Territories,*** the second and fourth paragraphs were not adopted, having failed to obtain a two-thirds majority.****

15. Similarly, at the 269th plenary meeting, after the first of the draft resolutions presented by the Fourth Committee on the question of South West Africa, which reiterated previous Assembly resolutions on this subject,***** had been declared by the President to require a two-thirds majority for adoption, and after confirmation of this ruling by the Assembly, a vote was taken in parts. In the second paragraph of the operative part of the resolution, the words "and expresses its regret that the Union of South Africa has decided not to take them into account" were deleted from the resolution, the vote being 27 votes in favour, 14 against, with 11 abstentions.*****

* Ibid., Plenary meetings, page 587. The amendment proposed by the representative of Iran provided for two representatives of the people of the territory, instead of one, on the proposed Advisory Council for Tripolitania.

** Ibid., Plenary meetings, pages 584-593.

*** A/1028; (Official Records of the fourth session of the General Assembly, Plenary meetings, Annexes).

**** Ibid., Plenary meetings, page 188.

***** A/1180; (Ibid., Plenary meetings, Annexes).

***** Ibid., Plenary meetings, page 535.

16. Thus, results from this study of precedents in the General Assembly that a two-thirds majority was always required in the past when parts of proposals relating to important questions were voted upon before these proposals were put to the vote as a whole. The practice of adopting amendments to important proposals by a simple majority also seems to be established, although in this respect some of the precedents are less conclusive.

17. The views expressed by representatives during the discussion of this problem at the fourth session, in the Sixth Committee and in the plenary meetings, can be summarized as follows:

(a) Some representatives, forming the majority of the Sixth Committee, considered that amendments to important proposals and parts of such proposals required a two-thirds majority for adoption.

(b) Other representatives were of the opinion that a simple majority was sufficient.

(c) Still other representatives were of the opinion that the "importance" of specific amendments or parts of proposals should be determined in each case by the General Assembly in the light of the provisions of Article 18 of the Charter, and that the two-thirds or the simple majority rule should be applied in accordance with this determination.

Arguments based on the text of Article 18 of the Charter, as well as arguments of a procedural nature, were invoked in support of these divergent points of view.

C. ARTICLE 18 OF THE CHARTER

18. Article 18 of the Charter is worded as follows:

Article 18

"1. Each Member of the General Assembly shall have one vote.

"2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the Members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 c of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

"3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting."

19. The main legal argument advanced in the Sixth Committee and in plenary meetings in favour of the view that a majority of two-thirds is required for the adoption of amendments to proposals relating to important questions, or for the adoption of parts of such proposals, is that the term "decisions" in Article 18, paragraph 2, relates to votes on amendments and parts, as well as to the final vote on the proposal. Once it has been determined that the voting on proposals on a given question is to be governed by Article 18, paragraph 2, any decision, whether on a proposal, part of a proposal or an amendment, should be considered as a decision on an important question and, consequently, as requiring a two-thirds majority. The decisive factor, then, is whether a question belongs to the categories enumerated in Article 18, paragraph 2,* or has been added to the list of these categories by application of Article 18, paragraph 3.

20. The main legal argument in favour of the point of view that a simple majority is sufficient is that the term "decisions" in Article 18, paragraph 2, of the Charter is to be construed as applying only to final decisions of the General Assembly on questions requiring a two-thirds majority under the Charter, and that the preliminary votes of a purely procedural nature, the purpose of which is to determine the form in which a draft resolution is to be submitted for final approval by the Assembly, cannot be considered as important decisions. It was also argued that decisions by simple majority are the rule in the Assembly, and that Article 18, paragraph 2, providing for a two-thirds majority vote, establishes an exception and should, therefore, be subject to a restrictive interpretation. Such a restrictive interpretation would lead to the conclusion that a two-thirds majority requirement would only apply to final decisions on important questions. As mentioned earlier, certain representatives were of the opinion that a majority of two-thirds should be required only for amendments to, or parts of, proposals which are themselves considered by the General Assembly as important.

21. The records of the San Francisco Conference are of little assistance in ascertaining the validity of these opinions. No specific support, however, is to be found in these records for the view that the simple majority is the rule in the General Assembly and the two-thirds majority the exception. The prevailing opinion of the authors of the Charter appears to have been that certain decisions of the General Assembly, because they bear on certain types of questions, are of

* See also Articles 108 and 109 of the Charter.

such gravity that they need a particularly wide support from Members, while other decisions require only a simple majority of votes.

22. As to the text of the Charter itself, it may be of some interest to note the manner in which the expression "decisions" is used in the various articles regarding voting in the Assembly and in the Councils.

With respect to the General Assembly, the term "decisions", as used in Article 18, refers to all types of action which the General Assembly takes by a vote while performing its functions under the Charter, whether it makes "recommendations" under Articles 10, 11, 13, 14 and others, or takes "decisions" to admit a State to membership in the United Nations under Article 4 or to expel a Member from the Organization under Article 6, or acts on reports from the Councils, or gives its "approval" to the budget of the Organization under Article 17, etc.

23. Similarly the term "decisions of the Security Council" in Article 27 of the Charter refers to all types of action which the Security Council may take, whether it does so under Chapter V on the procedure and organization of work of the Council, or under Chapter VI in relation to the pacific settlement of disputes, or whether it makes "recommendations" or "decisions" under Chapter VII.

The same remarks apply to "decisions of the Economic and Social Council", referred to in Article 67, and to "decisions of the Trusteeship Council", referred to in Article 89 of the Charter.

24. These observations show that the term "decisions" in the Charter Articles relating to voting is used in a broad sense to cover all types of action by United Nations organs. The text of the Charter, however, furnishes no specific answer to the question whether these "decisions" are only the final decisions of these organs on matters submitted to them, or whether this term also applies to procedural decisions of these organs made prior to the adoption of final resolutions.

25. The conclusion which can be drawn from the examination of the Charter and the absence of all discussion of the problem at the San Francisco Conference is that the matter is essentially a procedural one, and that the applicable provision is Article 21 of the Charter, which entitles the General Assembly to adopt such rules of procedure as it may consider appropriate for the efficient conduct of its business. Were this conclusion accepted, the Assembly would be free to decide on the required majority for amendments to and parts of important proposals with the

sole limitation that the rules so adopted should not produce results inconsistent with the principles and purposes of Article 18 of the Charter.

26. It may be added to these observations on Article 18 of the Charter in its relation to Article 21 that the General Assembly is fully entitled to interpret these provisions. Should it be considered that the question of voting on amendments and parts of proposals relating to important questions is not included among the questions covered by Article 18, paragraph 2, the Assembly would still be entitled, by application of Article 18, paragraph 3, to add, by a simple majority, this question to the categories which require a two-thirds majority.

D. PROCEDURE OF THE GENERAL ASSEMBLY

27. During the debate in the Sixth Committee and in plenary meetings, the proponents of a two-thirds majority rule drew attention to certain inconsistencies in the procedure as at present applied, the opportunities it provides for procedural manoeuvring and the risks it creates of arriving at final texts of resolutions which are not acceptable to a two-thirds majority of the Members. The proponents of a simple majority rule, and those representatives who expressed themselves in favour of a simple majority for "non-important" amendments to important proposals and for "non-important" parts of such proposals, stressed that this would be a more flexible procedure in plenary meetings and would have the advantage of widening the scope of agreement among delegations. They insisted on the harmful effects which would result in this respect from making the adoption of amendments more difficult.

28. By virtue of rule 89 of its rules of procedure, the Assembly may, upon the request of a representative, vote separately on parts of a proposal or of an amendment. The parts of the proposal or of an amendment which have been approved are then put to the vote as a whole.

29. Requests for a separate vote on parts of an important proposal were made in the past mainly by delegations which (a) were willing to accept a proposal as a whole, but desired to indicate by a negative vote or by an abstention their opposition to or their reservation on certain specific parts of the proposal; or (b) wished to eliminate from a draft resolution some of the parts which they considered as not acceptable, in order that they might be in a position to vote for the remainder of the proposal. The possibility of eliminating parts of

proposals relating to important questions by the method of separate voting would disappear if a simple majority were declared sufficient for their adoption. It is doubtful whether the Assembly would wish to abandon this procedure, which has proved useful in the past. Moreover this change in the existing practice would not have the effect of facilitating the passage of draft resolutions, as the retention in the final draft of parts of proposals to which there are strong objections would oblige the delegations concerned to vote against the draft resolution as a whole when it is presented to the vote of the Assembly.

30. Rule 90 of the Assembly's rules of procedure states that a motion is considered an amendment to a proposal if it merely adds to, deletes from, or revises part of a proposal. When amendments are moved to a proposal they are voted upon first. If one or more amendments are adopted, the amended proposal is then voted upon.

31. An amendment to delete part of a proposal has the same purpose as a motion to vote on that part separately, indicated above. Recent practice in the General Assembly with respect to proposals requiring a two-thirds majority for adoption shows, however, that use is more frequently made of the procedure of "voting in parts", as one third plus one of the Members present and voting are sufficient according to this procedure to eliminate parts of a proposal, while a majority plus one is necessary to carry an amendment to delete.

32. The purpose of an amendment to add to or revise part of a proposal is to alter the form or, as is more frequently the case in the plenary meeting of the Assembly, the substance, of a proposal. It was pointed out in the General Assembly that a simple majority rule for the adoption of such amendments enables a majority plus one of the representatives to add a new part to the final text of a draft resolution or to revise part of a draft resolution, while, when a proposal relating to an important question is voted in parts, a two-thirds majority is necessary to retain each of its component parts.

33. Moreover, when amendments to "add to" a proposal or "to revise" a proposal obtain a simple majority, but not a two-thirds majority, and are considered as carried, it is the proposal as amended which is put to the final vote of the Assembly. It may happen that, in some cases, a majority of two-thirds may be found for the amended proposal, although the history of the debates in the General Assembly does not furnish many examples in this respect. There is, however, a greater risk that, if the amendment is adopted by a simple majority only, the

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proposal as amended will also fail to receive a two-thirds majority, in which case the Assembly will find itself with no resolution on the question under consideration unless new draft resolutions are moved from the floor or the matter is referred back to a committee.

34. It is assumed that the General Assembly will wish to be guided by the following considerations in reaching a decision on the problem:

(a) The necessity of adopting an orderly procedure permitting the arrival, by successive stages, at the final text of a draft resolution on which the Assembly may vote without any risk of ambiguity.

It would appear that the most effective method in this respect would be a procedure by which all decisions pertaining to proposals on important questions would be subject to a two-thirds majority requirement.

(b) The importance of enabling Members of the General Assembly forming a two-thirds majority on a certain question to express, without being hindered by procedural obstacles, their views and their will as to the action to be taken by the Assembly.

It would seem important in this connexion to prevent the alteration of a draft resolution by a simple majority of the Members in a manner which, when the final vote is taken, would make its acceptance by a majority of two-thirds more difficult.

(c) The need to protect the rights of the Members forming the minority on the question considered by the General Assembly.

The best interests of the minority would seem to lie in a fixed and clear rule which does not make the adoption of amendments on parts of proposals on a particular issue dependent on the will of the majority.

35. The conclusions of the Secretary-General are, therefore, that (a) the majority requirement for amendments to proposals relating to important questions should be the same as for parts of such proposals; and (b) that a two-thirds majority should be required for both amendments to and parts of proposals relating to important questions.

Should the Assembly share these views, the adoption of a new rule of procedure

85 (a) worded as follows might be envisaged:

New rule 85 (a)

"Decisions of the General Assembly on amendments to proposals relating to important questions and on parts of such proposals shall be taken by a two-thirds majority of the Members present and voting."