



Thursday, 17 November 1955,
at 3 p.m.

New York

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Président: Mr. José MAZA (Chile).

AGENDA ITEM 55

**Proposal to call a General Conference of the
Members of the United Nations for the purpose
of reviewing the Charter (Article 109 of the
Charter) (continued)**

1. Mr. AL-JAMALI (Iraq): My delegation has the honour of co-sponsoring the draft resolution which is now before the Assembly. We have always been in favour of reviewing the Charter. Each year for the past five years we have been promoting this idea in the general debate.
2. Those of us who were at San Francisco at the time the Charter was drafted will recall at least three facts. First, the conditions under which the Charter was being written were those of war-time. At the time of the San Francisco Conference neither Germany nor Japan had yet surrendered. No one knew what would be the status of the free world following the war. Thus, there is no doubt that when we were engaged in writing the Charter we were under unusual psychological circumstances and in a situation in which the political future was unknown.
3. At that time, there were slightly more than forty members at San Francisco; today, we are sixty Members and we hope to be almost eighty Members. Thus, the Charter represents the views of those of us who were at San Francisco, but not the views of many who were not Members at the time.
4. Those of us who were engaged in writing the Charter at San Francisco realized that it contained many imperfections. Many of us were not satisfied with some of the provisions. We thought, however, that we should give these provisions on which some of us had not agreed, a chance to operate for some years.
5. The United Nations is a living organism and, like all living organisms, it has to change and to grow and to learn from experience. Moreover, it is an Organization founded on democratic principles — and democratic principles, unlike those of authoritarian dictatorships, always recognize change, development, progress.
6. It seems to us only natural that, after ten years of experience in the United Nations, we should have the opportunity to review the Charter. There are several reasons why the Charter should be reviewed. I have just alluded to the first reason — the increase in mem-

bership. Our Councils need enlargement or reconsideration of the number of their members. The number of members of the Security Council has to be reconsidered. We have to consider whether war-time conditions, which dictated the having of only five permanent members, have not changed sufficiently so that we may have to think again about the number of permanent members and the qualifications of those States entitled to be permanent members. Thus, the mere increase in size of the United Nations demands a review and a reconsideration of the structure of our Councils and their membership.

7. The second reason why the Charter should be reviewed is the growth in international conscience. International conscience is more alive today than ever to the cause of freedom, to the cause of the liberation of peoples. The Chapters of the Charter dealing with the dependent peoples have to be reviewed. The basic principle of the Charter must find better expression in those Chapters — namely, that there shall be no subject people remaining in the world and that all peoples shall have the opportunity to exercise freedom and liberty. In this respect, certainly, the Charter needs improvement.

8. I remember very well that we worked hard in San Francisco to insert the word "independence" for dependent peoples, the idea that they were entitled to have the opportunity of becoming independent some day. But the colonies still do not have that stated as an aim in the Charter. In other words, the progress of humanity along the road to freedom and democracy must lead us to decide, once and for all, that we are not going to have subject races in the future, that subject races will be freed and will enjoy the right of self-determination sooner or later. This is a very vital issue which needs to be dealt with in the Charter with greater clarity and emphasis.

9. In the third place, we have discovered, through our experience with the Charter during the last ten years, that there are certain weak points, certain points that need clarification, certain points that probably need amendment — and that there are some points that need to be added in order that we may be more specific about certain situations.

10. As an example, I may mention the use of the veto. In San Francisco, we were sharply divided on the issue of the veto, and I must say that the majority were opposed to the veto. But when we were confronted with a dilemma — either the veto or no United Nations — we had to accept the idea of the United Nations with the veto. However, what most of us wanted was a United Nations without a veto. If the veto is to continue — and there may be some strong arguments for retaining it — there is certainly need for definition of the use of the veto. For example, is an abstention by a permanent member of the Security Council to be considered a veto or not? The Charter is clear in speaking of "the concurring votes of the permanent members". Now, if a permanent

member abstains, is that a concurring vote? There is no clarity there. In the vote on the admission of Israel [207th meeting] to the United Nations, one permanent member abstained. From our point of view, that abstention was not a concurring vote.

11. This matter certainly requires definition. When is an abstention to be considered a concurring vote? When is it to be considered as constituting a veto, and when is it not to be so considered?

12. Furthermore, it is necessary to define and clarify Article 2, paragraph 7, of the Charter. That provision has caused considerable difficulty here in the United Nations. Many of us believe that the colonial issue does not fall within domestic jurisdiction: others, however, believe that it does. Hence, as I have said, there is need of clarification in this respect. What is meant by "domestic jurisdiction"? Let us assume that a State decided to persecute within its own boundaries the people belonging to a certain race or religion. Would that persecution be regarded as a matter of domestic jurisdiction? Or is it not true to state that such a policy would have repercussions in other countries, where persons of the same race or religion would sympathize and suffer with the persecuted people? This is an issue that must be clearly faced. The international community today is so closely knit that no State is free to persecute certain elements of the population within its borders, merely because those elements have a certain colour, race or religion.

13. Article 2, paragraph 7 must be defined. Are we going to admit that human problems are involved? Are we going to realize that the sovereignty of humanity is greater than the sovereignty of the State? Are we going to decide that no State is entitled to violate human rights in the name of domestic jurisdiction? Or are we going to say that no one may interfere with a State's legislation or practices, no matter what they are?

14. This is a question of great importance in world politics today. The world will be much happier and safer if we meet together as friends and brothers, discuss this problem, and agree that human rights are above the rights of States and domestic jurisdiction. That is one good reason for reviewing the Charter and recognizing that all peoples are entitled to human rights and freedom. These rights are sublime and paramount.

15. During the ten years of its existence, the United Nations has been accused of sins of omission and commission. The partition of Palestine is one of the glaring examples of a sin of commission by the United Nations. There, the Charter was not responsible at all, despite the fact that it was invoked. In 1947, my delegation insisted that the Charter did not entitle the United Nations to partition any country. Does anyone contend that the United Nations is entitled to partition any country that it wishes to partition? Fortunately, a great Jewish scholar, Professor Hans Kelsen, in his book entitled *The Law of the United Nations*, clearly supports¹ the position maintained by Iraq, Syria and Cuba in 1947 — that is, the position that the Charter of the United Nations does not legally entitle the United Nations to partition any country.

16. Thus, we must learn from our experience; we must see to it that the wording of the Charter is made clearer in the light of that experience.

17. Experience has also shown us that the term "self-determination and independence of peoples" must be de-

finied. I know that the Third Committee has already spent a number of weeks in discussing the question of self-determination. It seems to me that some States well known for their traditions of freedom and liberty are afraid of the principle of self-determination. Why should that be the case? Certainly, we need a clear definition and understanding of the term "self-determination".

18. When we speak of reviewing the Charter, we are not speaking of reviewing the principles and purposes of the Charter. We unanimously support the principles and purposes of the Charter. We believe, however, that the letter of the Charter must be made to serve the aims of the Charter. If, as regards certain provisions, the letter of the Charter does not convey the spirit, we must change the wording of those provisions. It is the letter, not the spirit, of the Charter that must be reviewed. We must ask ourselves what can be done to make the letter of the Charter convey the spirit, what can be done to help us to implement the Charter.

19. We agree with those who have stated that the Charter cannot be blamed for the fact that peace and harmony have not so far been achieved in the world today. World tension is not caused by the Charter; certainly it is not. World tension is caused by certain policies, trends of thought and ideologies which do not conform with the letter and spirit of the Charter. We recognize that, and we recognize that world tension must be resolved by means of peaceful and friendly negotiations. But the fact still remains that the instrument needs to be perfected; the Charter needs to be reviewed.

20. For the reasons which I have stated, my delegation believes that there is an urgent need to review the Charter. We feel that the sooner peoples of various ideologies and opinions meet together, frankly expose their points of view, and agree on where the Charter may be improved, the better.

21. From what I have said it can be seen that I belong to one of the extremes referred to this morning by the United Kingdom representative; that is, the extreme represented by those who are anxious that the Charter should be reviewed, as opposed to the extreme represented by those who are against any review. Faced with those two extremes, it seems to me that the draft resolution [A/L.197/Rev.1] which we have submitted is a moderate one. It recognizes that the Charter, which we think urgently requires a review, cannot be reviewed in present circumstances, that more auspicious conditions are needed. That is why the draft resolution contains the proposal to appoint a committee to consider the question of the time and place of a Charter review conference. We think that that proposal is very fortunate and sound.

22. I sincerely hope that the draft resolution, which makes a very moderate proposal concerning a review of the Charter, will obtain the support of the overwhelming majority of the General Assembly.

23. Mr. ANDERSEN (Denmark): Statesmen, private organizations and interested citizens in all countries have for some time been discussing the possible revision of the Charter of the United Nations. The starting point for everybody — irrespective of viewpoint — is no doubt the common interest in making the United Nations the best possible instrument for the maintenance of world peace and for collaboration between nations. This goal has been kept in view by the

¹ Hans Kelsen, *The Law of the United Nations*, London, Stevens & Sons, Ltd, 1950, p. 197.

Danish Government during its consideration of this problem.

24. We are not fundamentally opposed to amendments of the Charter. In our opinion, however, the touchstone must be whether amendments really could contribute to the relaxation of tension and to closer and better collaboration, and consequently to the strengthening of the United Nations.

25. The problem of reviewing the Charter — whether this will result in a revision or not — should be dealt with, in our view, not in a theoretical or purely juridical manner but, above all, on a politically realistic basis.

26. We should take into account the practical possibilities of passing amendments and the practical result of carrying them into effect. In addition, we ought to consider the possibly harmful repercussions on the relationship and on the mutual confidence between the Member States of the United Nations.

27. May I, in this connexion, mention a conception which is widely spread — at least outside this Assembly. I am thinking of the fact that in all countries many interested citizens and organizations have been convinced, and perhaps are still convinced, that imperfections of the Charter are responsible for the political difficulties, for the tension among States, and even for the so-called "cold war". Consequently, these citizens believe that an improvement of the Charter would improve the international atmosphere as well.

28. In this connexion people are particularly critical of the rule of unanimity in the Security Council, usually called the right of veto of the five permanent members.

29. In our opinion we must do our best to do away with this misunderstanding. The situation is quite the opposite. It is the conflicting interests, not only of the great Powers but also of other States, which have caused the tension and thus prevented the United Nations from functioning more in conformity with the words and the spirit of the Charter.

30. Thus, it is not the United Nations or the Charter which is to be blamed. The mere changing of words in some Articles of the Charter will not change the facts of the international situation.

31. In debating the question of convening a special conference to review and perhaps to revise the Charter the Danish delegation would like to stress that it would have been possible during the past ten years to have adopted amendments to the Charter according to Article 108 or to Article 109, paragraphs 1 and 2. But no attempt has been made to that effect, and no amendments have hitherto been moved. This situation cannot be motivated by the fact that, according to Article 109, paragraph 3, a conference can be called by a simple majority of votes of the present General Assembly. For, in any case, amendments of the Charter must be adopted or recommended by a two-thirds vote of the Assembly or of the Conference, and in no case can any amendment come into force if it is not ratified by two-thirds of the Member States, including all the permanent members of the Security Council. Therefore, the provision regarding a two-thirds majority for calling a special conference in the future hardly constitutes a real hindrance to a future revision of the Charter.

32. In addition, the Danish Government feels that this moment is not a happy one for taking a decision to convene a conference of this kind, even though the date is not being fixed now. In the present situation the efforts of the Member States should be concentrated on

avoiding any step that might create difficulties on our road to co-operation.

33. Now it is still to be hoped, of course, that our apprehensions are groundless or exaggerated. But apart from this we do not find the time ripe for any amendments of real significance.

34. The rule of unanimity or the right of veto cannot be abolished as none of the permanent members, whose consent is necessary, would support a proposal to that effect. In common with the majority of this Assembly, the Danish delegation deplors the misuse of the veto which has taken place. But we understand and endorse the fundamental attitude of the permanent members, recognizing the special responsibilities for the enforcement of decisions which in certain cases might be imposed upon these Powers.

35. It should be realized also that we could not expect the rule of unanimity in the Security Council to be abolished without abandoning the existing principle of one country, one vote. There can be no doubt that the attempt at establishing a system of "weighted vote" would give rise to considerable disagreements among the Member States, and that would not serve our purpose.

36. The Danish Government has often declared its adherence to the principle of universality. However, my Government hopes and believes that this question can be solved without any amendment of the Charter. The prerequisite is, to be sure, that the permanent members of the Security Council agree on the recommendation on which new Members should be admitted to the United Nations. If they do not agree on such a recommendation — or if they do not refrain from using the right of veto — neither will they be able to agree on an amendment of the Article in question. So an agreement or an abstention on the required recommendation is the only way to solve the question of admission of new Members to the United Nations.

37. If this question be solved during this session of the General Assembly, as we sincerely hope it will be, so that a great number of new members are admitted to the United Nations, it must be acknowledged, as previous speakers have said, that a revision of some Articles of the Charter, for example, that concerning the composition of the Security Council, will present itself in a different light. But it does not necessarily involve the holding of a special conference.

38. Another outstanding problem in connexion with a revision of the Charter would undoubtedly be the interpretation of Article 2, paragraph 7, concerning matters essentially within the domestic jurisdiction of a State, and its relation to Article 1, paragraph 3, and to other Articles of the Charter. The preceding speaker, the representative of Iraq, dealt with this question, and expressed the hope that the special conference would be equal to giving a clearer definition with regard to the contents of these paragraphs. I regret to say that I do not think that the representative of Iraq is right in his assumption and his hopes. However, I am not going to embark on the details of these problems; I shall confine myself to stating that the previous proceedings of the General Assembly of the United Nations and its Committees have not led to any resolutions based upon a satisfactory legal approach to the problems. The debates and the resolutions have been mainly of a political character.

39. This fact must necessarily lead us to the conclusion that it will not be possible to solve these questions

through a revision of the Charter. On the contrary, we fear that such an attempt would almost inevitably lead to an intensification of the existing differences of opinion and to a very deplorable aggravation of the situation in these fields. In our opinion, proposals for a revision of the Charter on these points cannot bring us nearer to a solution of these very important problems.

40. We are convinced that the nearest way, and the most solid way, to solutions of these problems is not through amendments to the Charter, but by means of an honest will of the parties directly concerned to find the road to a patient, peaceful and positive development towards the goal laid down in the solemn words of the Charter, which have been accepted by all Members of the United Nations.

41. To sum up: the Danish Government does not believe that the preparation, at this moment, of a special conference, convened to review the Charter, will mean a step forward towards agreement on these problems, on substance, on interpretation, or on clarification of words and concepts. On the contrary, we fear that the result will easily be new controversial debates which will make the work of the United Nations more difficult.

42. If, on the other hand, we succeeded in establishing a real co-operation and a true reconciliation of opinion in accordance with the high ideals of the Charter, then we might, so to say, have established a factual "revision" of the Charter.

43. In accordance with this statement, the Danish delegation will not be able to support the draft resolution [A/L.197/Rev.1] sponsored by the delegations of Canada, Ecuador, Iraq, Thailand, the United Kingdom and the United States of America.

44. Mr. TAMMES (Netherlands): At the General Assembly's eighth session a stimulating discussion started in the Sixth Committee regarding the application of Article 109, paragraph 3, of the Charter. Delegations were well aware of the fact that a proposal to call a General Conference for the purpose of reviewing the Charter would, in accordance with the provision referred to, be placed automatically before the tenth session of the General Assembly. They also understood that such a weighty decision would require due preparation in order to get full information on the problems involved. For these reasons the General Assembly adopted resolution 796 (VIII), requesting the Secretary-General to prepare documentation concerning the drafting and application of the Charter.

45. In the opinion of my delegation, the discussions on that resolution and the resolution itself have had a stimulating effect. In the first place, they gave birth to the impressive documentary and analytical work of the Secretariat, now for the greater part in the hands of delegations, the *Repertory of Practice of United Nations Organs*². Probably for years to come this *Repertory* will be the most important tool for Governments, representatives and other officials to acquaint themselves with the way in which certain precedents and practices developed during the first period of the United Nations. It gives a most complete picture of the living constitution of our Organization. It makes clear how far the Charter has been subjected to what has been summed up as informal amendments through the non-application of certain provisions, the application of others in a manner generally accepted, applications acceptable only to a majority, the conclusion of treaties

supplementing the Charter, and the creation of auxiliary organs.

46. It is appropriate to pay tribute to the Secretary-General and his staff for this, the most comprehensive preparatory work accomplished so far. It inspires full confidence in the opinion expressed by the Secretary-General in his preface to the *Repertory*. "If supplemented regularly, it will become more valuable from year to year as the Organization's records increase in size and complexity" he said.³ The Netherlands delegation, therefore, whole-heartedly supports the idea expressed in paragraph 4 of the draft resolution contained in document A/L.197/Rev.1, requesting the Secretary-General to continue, "prior to the twelfth regular session of the General Assembly, to prepare and circulate supplements, as appropriate, to the *Repertory of Practice of United Nations Organs*".

47. We further note with satisfaction that the interest taken at the eighth session of the General Assembly in the problem of Charter revision gave a new impetus everywhere to official and private activities in this matter. Some Governments established advisory bodies, if they had not already done so before. Preparatory studies were undertaken in departments of foreign affairs of various Member States. Parliaments paid attention to the problem. I have only to refer to the very comprehensive project of study undertaken by the Committee on Foreign Relations of the United States Congress. Learned societies like the International Law Association set up national committees in order to form an opinion and discussed the matter at, for instance, the Indian Regional Conference in New Delhi and at the Edinburgh Conference of the Society in 1954. Even at the time of the eighth session of the General Assembly, Charter revision was one of the topics at the Conference on Leaders of Institutes of World Affairs, organized by the Carnegie Endowment in New York. I wish also to refer to the important research project undertaken by the Brookings Institution. In the meantime, a considerable literature on the subject has been published in the periodicals on international law and relations.

48. It is the impression of my delegation that the process of forming of opinions is still under way. A stage of greater ripeness for dealing substantially with the various topics of Charter review should be awaited, apart from considerations of political expediency. On the other hand, my delegation is convinced that a General Conference for the purpose of reviewing the Charter in accordance with Article 109 of the Charter should be held and that the General Assembly at its present session should take a decision to this effect.

49. It may be, as I have already observed, that the Charter is gradually being developed by informal methods instead of by amendments of a more formal nature. It can also be admitted, as the Secretary-General has himself expressed in his preface to the *Repertory*, that the framework provided by the constitution of the Organization — of purposes, principles and procedures — as governed and guided the activities of the United Nations:

"... without unduly constricting the ability of the Member States to deal with the constantly changing problems they have had to face within the Organization".⁴

³ *Ibid.*, Vol. 1, p. iii.

⁴ *Ibid.*

50. Nevertheless, there are certain limitations to the process of gradual modification, such as national constitutions habitually undergo. Besides its constitutional structure, the Charter, as a treaty, also has its contractual features. Not being a "super-state", the United Nations cannot freely extend the scope of its institutions as it would be able to do if a world community were already in existence. Moreover, many provisions of the Charter are unambiguous and essential to such an extent that they would not permit even the beginning of a deviating practice. Formal amendments generally agreed upon, therefore, would be necessary if it were deemed desirable to alter the practice in respect of these provisions. Lacking this, the Charter, instead of being a living constitution, may become a deadweight. In discussing now and in the future the desirability and the timing of the General Conference for the purpose of review provided for in Article 109, sight must not be lost of the possibility, in accordance with Article 108, of partial amendments relating to non-controversial matters.

51. In the light of all the considerations expressed in this statement, the Netherlands delegation will gladly support the draft resolution, sponsored by Canada, Ecuador, Iraq, Thailand, the United Kingdom and the United States of America, contained in document A/L.197/Rev.1. I reserve the right of my delegation at a later stage to pronounce on the proposals contained in documents A/L.200 and A/L.201/Rev.1, which have just been distributed.

52. Mr. MARTIN (Canada) (*translated from French*): As the Members of the General Assembly are aware, the Canadian delegation is one of the sponsors of the draft resolution [A/L.197/Rev.1] before the Assembly. I should like to explain briefly the position of Canada on this important question of reviewing the Charter.

53. Canada has from the beginning supported the idea that the Articles of the Charter should eventually be examined in the light of experience. It was for that reason that at San Francisco we suggested the inclusion in the Charter of Article 109, paragraph 3, and it is on the basis of that paragraph that we are now discussing the question of reviewing the Charter.

54. We felt at the time that the United Nations could not and should not be a static body but an organization that was capable of development by adapting itself to the changing conditions of international life. We therefore urged that a definite review procedure should be established. We considered that it would be important to find out, after a certain time, how far the Charter really met the needs of the international situation. It seems that the experience acquired over a period of ten years has provided the General Assembly with sufficient data to determine how effective the United Nations Charter has been.

55. For several years we have been carefully studying the working of the Charter and the various amendments that have been proposed. In order to make the task easier we joined other States during the eighth session in sponsoring a resolution [796 (VIII)] requesting the Secretary-General to prepare, publish and circulate among the Member States certain documents of the United Nations Conference on International Organization and a *Repertory of Practice of United Nations Organs*. We are grateful to the Secretary-General for his very valuable work in fulfilment of that request. It

has enabled us all to approach this question with a more thorough knowledge of its implications.

56. My country is keenly interested in this question. The Canadian Government has encouraged expressions of public opinion on the complicated question of Charter review. This has led important groups to submit various useful suggestions. The question has also been raised on several occasions in Parliamentary debates. The Ministry of Foreign Affairs has made an extensive and detailed study of the many amendments proposed. As a result of all these studies we have come to the conclusion which is embodied in the draft resolution before the General Assembly. Moreover, the interests shown in this question seems to be shared by many other countries. I noted in particular the remarks of my colleagues on the subject of Charter review during the general debate. Opinions of striking similarity were expressed by representatives of countries in all parts of the world. I feel that these opinions, which agree with my own, reflect something which is more than a mere academic analysis of the official views of Governments. They reflect the earnest desire, and even the deep concern, of all peoples to ensure the success of the United Nations.

57. Having said this, I should add that we believe that Charter review does not necessarily imply any basic amendment of the Charter. We are particularly concerned, for example, about the improper use of the veto as a means of preventing the admission of new members. We have also wondered whether the composition of some of the main organs of the United Nations should not be reviewed in the light of changing political circumstances and the birth of several new nations. We must of course deal with these problems but we think that we can do this without necessarily having to amend the basic structure of the Charter. In fact, we are not very fond of the idea of pulling constitutions apart in order to find out how well they are put together. Our own history has taught us that the soundness of a constitution is the outcome of evolution, of its gradual adaptation to conditions to which we have become accustomed, rather than of measures which destroy its solid foundations on the pretext of amending it.

58. We are all aware that the Charter is the result of a compromise reached in the special circumstances prevailing in 1945. Its provisions were adapted as far as possible to the political situation at the time and they corresponded to the hopes and aspirations of the various signatories. It is clear that this situation, like the hopes and aspirations, can change with time. New conditions may require different ideas and reformed institutions if the international machinery is to be able to go on working effectively. Nevertheless, the more we reflect on the matter, the more does it seem to us almost miraculous that the Charter has survived the strains and tensions of the past ten years. As we know, the Charter rests on the basic principle of co-operation between the great Powers. Yet not only has this co-operation been absent during the past ten years, but at times relations between these Powers deteriorated so much as to justify the greatest apprehension for the future of the United Nations.

59. Nevertheless, not only has the United Nations managed to survive and to adapt itself to an international situation which its founders had not foreseen, but it has accomplished a great deal in many fields. In the light of the experience of the past decade we wonder whether the alleged imperfections of the United Nations are really the result of any lack on its part or whether

they are due to the refusal of Member States to apply the letter or, which is even more important, the spirit of the Charter. It is not so much the existence of the veto as its abuse that has mostly been the cause of difficulties. The veto provisions merely reflect the facts of world power as it is today. We cannot alter these facts by redrafting the Articles of our Charter. Nor would any attempt to amend Article 2, paragraph 7, alter the attitude of Member States with regard to their sovereign rights in the present state of the world. What seems to be necessary is rather a greater understanding of the difficulties and the obstacles to be overcome if progress and improvements are to be made in a world which is still far from perfect.

60. There have been many references at this session to the improvement that has appeared in the international atmosphere. Our debates so far have to a certain extent reflected this improvement although we are not really much nearer the solution of our most important problems. There have admittedly been indications from every quarter of the hope that this new atmosphere will develop. If that were to happen, there would undoubtedly be marked progress in all United Nations activities. This state of affairs might be regarded by some as a return to the normal in international relations, but no matter what we call it, such a development would promote the kind of international co-operation envisaged in the Charter.

61. We are consequently of the opinion that before holding a General Conference for the purpose of reviewing the Charter it might be useful to allow a little more time to elapse so that the international atmosphere may continue, as we all hope it will, to promote closer co-operation. Not only would this respite improve the chances of success of the conference itself but it might also give us an opportunity of discovering how far an improvement in international relations would help our Organization to function smoothly. We might find that there is no need to make any great changes. We also share the opinion expressed this morning by the United Kingdom representative that it would be wise to postpone the examination of possible amendments to the Charter until the new members whose admission in the near future now seems likely have been able to acquaint themselves with the functioning of the United Nations and are in a position to make their own contribution to the task of review, which we could then undertake.

62. Examining, in the light of recent events, its preliminary conclusions on the subject of reviewing the Charter, the Canadian Government thinks that the General Assembly should merely adopt a decision in principle to hold a General Conference, in accordance with Article 109 of the Charter. The time, place and other details of this meeting should be given more detailed study and would depend largely on the international situation. A conference held prematurely would not only be liable to fail but it might impair the prospects of improving international relations. A heated discussion of certain questions, ending in a deadlock, might have unfavourable repercussions on the international situation in general and on the United Nations in particular. We therefore consider it essential that all the relevant factors should be studied carefully and the most propitious moment chosen for the holding of the Conference.

63. In view of all these considerations, the Canadian Government has been pleased to associate itself with the other Powers which express the views of the different parts of the world represented in this Assembly

and to support the draft resolution to which I have referred. My delegation considers that this draft resolution reflects the opinions of the majority of the delegations to this Assembly and represents a moderate, cautious and realistic approach to the question of reviewing the United Nations Charter. We hope that it will be supported by a large majority.

64. Mr. van LANGENHOVE (Belgium) (*translated from French*): In order to understand the scope of Article 109, paragraph 3, by virtue of which this item has been included in the agenda of the present session, it might be useful briefly to review its origin.

65. During the San Francisco Conference, the small medium Powers — which included Belgium — objected to the right of veto which the great Powers wished to retain and above all to the wide scope which they proposed to give it. The small and medium Powers were finally obliged to accept the veto but they did so only in the hope that circumstances would later become more favourable to them and would permit of the amendment, in their favour, of the provisions to which they were most opposed.

66. To this end it was necessary to facilitate the amendment procedure; they therefore bent all their efforts in that direction. The United States delegation, anxious to offer some consolation to the more impatient spirits, proposed that if, after ten years, the review conference had not been held, the question of reviewing the Charter should automatically be included in the Assembly's agenda. Since this concession still did not appear to go far enough, it was added, at the instance of several delegations, that in that case the decision to call the conference would require only a simple majority of the Assembly and the favourable vote of any seven Members of the Security Council. This accounts for the difference between paragraphs 1 and 3 of Article 109.

67. In what does this difference consist? Paragraph 1 does not operate automatically and the decision to call a review conference requires a two-thirds majority of the Assembly, plus seven votes in the Security Council. Paragraph 3, on the contrary, operates automatically. Thus it came about that the proposal to call a conference was automatically included by the Secretary-General in the agenda of the Assembly's tenth session. The General Assembly may take a decision upon it by a simple majority and the Security Council by the affirmative vote of any seven members.

68. The importance of paragraph 3 stems from the differences to which I have just drawn attention. With the passage of time, however, it is now clear that the importance is more apparent than real. In the first place, there is no denying that the relaxation of tension which has prevailed for some time past in international relations is not yet such that any amendment to the statutory regulations on the veto can be contemplated. In addition, it is generally realized today that the defects in the operation of the United Nations are due at least as much to the international situation as to imperfections in the text of the Charter.

69. Finally, if a Conference for reviewing the Charter were to be held as a result of a decision taken by a simple majority in the General Assembly, a two-thirds majority would nevertheless be required before any amendments could be adopted, and these would not come into force unless they themselves were ratified by two-thirds of the Member States of the United Nations,

including all the permanent Members of the Security Council.

70. Are many Members under the illusion that any such result could be attained in present circumstances? To judge by the statements made during the general debate at the opening of the present session, there is room for doubt. The opinion that clearly predominated was that the time is not yet ripe for attempting to review the Charter.

71. While it recognizes that the Charter, including the Statute of the International Court of Justice, is capable of various improvements and clarifications, the Belgian delegation is acutely aware of the danger of calling a review conference in the present circumstances. To do so would be to embark upon long and acrimonious debates which, far from improving the international atmosphere, would produce the opposite effect. Instead of serving the cause of our Organization, such a conference, by its ultimate breakdown, could not but undermine the authority of the United Nations and expose it to grave dangers.

72. It may well be useful at this stage to recall the terms of the commentary on withdrawal, adopted by the San Francisco Conference in plenary session on 25 June 1945. The representative of Ecuador referred to it this morning [542nd meeting].

73. According to that commentary, it is not the intention of the Organization "to compel a Member to remain in the Organization if its rights and obligations as such were changed by Charter amendment in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general conference fails to secure the ratification necessary to bring such amendment into effect".⁵

74. Such are the terms of the 1945 commentary on withdrawal. As Mr. Charles de Visscher, a distinguished Belgian lawyer, stated recently, a possibility of this kind should be a warning against taking any stand that would expose the United Nations to disintegration. In the same sense, the United Kingdom representative made a timely reference this morning to the circumstances which have led two founder Members to withdraw from the present session. There is a lesson here which we should be wise to ponder.

75. The possibility which I have contemplated should at the same time place us on our guard against any premature and untimely calling of a review conference. The wisest course would be to leave the matter in abeyance. Is the moment ripe for expressing an opinion at least on the principle? The Swedish Minister of Foreign Affairs remarked during the general debate [531st meeting] that he saw no point in taking such a decision now if we were determined not to apply it for several years. This opinion seems to us to be common sense. For that reason the Belgian delegation would have preferred simply to postpone the question. It will nevertheless vote for the draft resolution before us, subject to any amendments which may be proposed during the debate. It will do so because the text represents a compromise between the various opinions which have been expressed.

76. In this connexion, the Committee it is proposed to set up should keep strictly within its terms of reference. If it is not to involve the United Nations in

a fruitless undertaking, it should not propose the calling of a review conference until it is certain that a very large majority, which should be at least equal to that required for the adoption of the amendments, is in favour of such a course.

77. Prince WAN WAITHAYAKON (Thailand): The proposal to call a General Conference of the Members of the United Nations for the purpose of reviewing the Charter has been placed on the agenda of this tenth session of the General Assembly in accordance with the provisions of Article 109, paragraph 3, of the Charter, and the Conference is to be held if so decided by a majority vote of the Members of the General Assembly and by a vote of any seven members of the Security Council.

78. This shows that, according to the spirit of the Charter, after ten years of existence the United Nations may find it desirable to review the Charter in the light of the experience gained during that period. That is why it is provided that, for this purpose only, a majority vote of the Members of the General Assembly and a vote of any seven members of the Security Council will be required, instead of a two-thirds vote of the Members of the General Assembly and a vote of any seven members of the Security Council. The founders of the United Nations were wise in incorporating such a provision in the Charter because, with a growing World Organization of such vital importance to the peace, freedom and economic and social well-being of all the nations of the world, there should be every possibility of improvement so that the United Nations may achieve to the full its purposes for the benefit of mankind.

79. I have spoken of the United Nations as a growing World Organization, and it is growth that my delegation seeks, and not any radical changes. The United Nations should be given every opportunity to grow on the basis of the present Charter, and the Charter itself should be given every opportunity to grow by way of interpretation. My delegation attaches the greatest importance at the agreements and understandings which go to make up the practice of the United Nations. We welcome as of particular significance the practice that has been established in the Security Council whereby an abstention is not considered a veto.

80. The delegation of Thailand is prepared, even in matters of the utmost importance, such as those which concern the principle of self-determination and that of non-intervention in matters which are essentially within the domestic jurisdiction of any State, to let the process of growth work in the development of these matters in the United Nations. For we are of the opinion that more experience should be gained before Charter changes in these respects could or should be envisaged. It is not, therefore, these matters which, in the opinion of the Thai delegation, necessitate the convening of a Charter review conference.

81. There are, however, other matters of practical importance, in regard to which my delegation considers it highly desirable to hold a conference in order to review the experience which the United Nations has gained during its ten years' existence.

82. There are, in particular, two questions of genuine concern not only to Thailand but also to Asia and Africa as a whole. They are, first, the admission of new members to the United Nations and, secondly, the representation of African and Asian countries on the Security Council.

⁵ United Nations Conference on International Organization, p. 20.

83. Such concern may be seen in the following resolution of the Bandung Conference on these matters:

"The Asian-African Conference, taking note of the fact that several States have still not been admitted to the United Nations, considered that for effective co-operation for world peace, membership of the United Nations should be universal; called on the Security Council to support the admission of all those States which were qualified for membership under the terms of the Charter. In the opinion of the Asian-African Conference, the following among the participating countries, *viz.* Cambodia, Ceylon, Japan, Jordan, Laos, Libya, Nepal, a unified Vietnam, were so qualified.

"The Conference considered that the representation of the countries of the Asian-African region on the Security Council, in relation to the principle of equitable geographical distribution, was inadequate. It expressed the view that, as regards the distribution of the non-permanent seats, the Asian and African countries, which, under the arrangement arrived at in London in 1946, were precluded from being elected, should be able to serve on the Security Council, so that they might make a more effective contribution to the maintenance of international peace and security."

84. These two desires of the African and Asian countries for universality of membership in the United Nations and for adequate representation of African and Asian countries on the Security Council are obviously reasonable and legitimate. And yet attempts at overcoming existing difficulties by arrangements and understandings to be arrived at during regular sessions of the General Assembly, including the present session, have not yet been successful.

85. The reason for this, in the opinion of my delegation, is that if such matters constitute various items on the agenda of a regular session of the General Assembly, they do not receive sufficient concentrated attention from world public opinion, through the force of which alone can agreements be reached to overcome the existing difficulties.

86. And let us be frank about it. One of the existing difficulties, of course, arises from the question of the exercise of the veto power in the Security Council; and, even if agreement could be reached on the question of admission of new members and the question of a certain seat on the Security Council, now pending before the present Assembly, it would only be on a practical basis, and the general question of the exercise of the veto power, as well as the question of representation on the Security Council and the Economic and Social Council, especially Asian-African representation in view of increased membership in the United Nations, would still call for examination in a review conference.

87. To convene a review conference does not necessarily mean to revise the Charter, but only to review whether any revision is necessary; and any revision, as is known, has, under Article 109, paragraph 2, of the Charter, to be ratified by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.

88. To hold a review conference therefore means a friendly exchange of views in search of agreed solutions in order to overcome the difficulties which have arisen in connexion with the Charter; and in order to ensure

every possibility of success the conference should, of course, be held under favourable circumstances.

89. The delegation of Thailand is, therefore, in favour of the convening of a Charter review conference at an appropriate time and of the appointment of a committee to consider, in consultation with the Secretary-General, the question of fixing a time and place for the conference, and its organization and procedures, and to report to the twelfth session of the General Assembly. My delegation is a co-sponsor of draft resolution A/L.197/Rev.1, now under consideration, and it wholeheartedly recommends its adoption by the General Assembly.

90. I have no intention of dealing with the amendments at this stage because they have not yet been formally submitted. But I should like to emphasize that, according to the draft resolution of which my delegation is a co-sponsor, the General Assembly is to decide in principle to call a Charter review Conference at an appropriate time, and that anything short of such a decision would not commend itself to my delegation. As regards the composition of the committee, inasmuch as the questions to be considered by the committee are only the questions of fixing a time and place for the General Conference and its organization and procedures, and not the determination of the Articles of the Charter to be reviewed or revised, a membership of eighteen appears to my delegation to be a sufficient number, for the committee should not become unwieldy through too large a membership.

91. Mr. HOLMBACK (Sweden): Two years ago at the eighth session of the General Assembly, the Swedish Minister for Foreign Affairs, Mr. Undén, stated the views of the Swedish Government on the question of a review of the United Nations Charter. In summarizing his remarks, Mr. Undén said:

"... a revision of the basic parts of the Charter constitutes no immediate or important goal. As a matter of fact the Charter is, on the whole, satisfactory. Provided that there is sufficient will to co-operate, the machinery of the present Charter can render excellent service. I have no doubt that a review conference will confirm this fact [443rd meeting, para. 27]".

92. As in many other countries, a committee was also set up in Sweden last year by the Government to study the question of a review of the Charter. This committee arrived at the same conclusion which Mr. Undén arrived at two years ago, that is that the Charter is on the whole satisfactory provided there is sufficient will to work in harmony. There were, however, in the view of the committee, certain Articles of the Charter which could be improved by alteration. One of these is Article 4, which sets out the conditions for obtaining membership in the Organization. These conditions ought to be simplified as much as possible in order to make it easier to admit new members. The aim of the United Nations is, after all, to be universal.

93. The question of greater universality creates another problem. When new States, among them great Powers, become Members of the United Nations, it would perhaps be appropriate to make the Security Council a more comprehensive body.

94. The provisions contained in Articles 53, 77 and 107 of the Charter where the term "enemy States" appears, are a heritage from the days when the Charter was conceived. They are somewhat inappropriate now

when several States which were neutral during the Second World War have become Members. These provisions should not be maintained when in the future States which during the Second World War were enemies of the original Members of the United Nations will be admitted into the Organization. We cannot have an Organization whose statutes term some of the Members enemies of other Members.

95. There is a very strong feeling in Sweden that the jurisdiction of the International Court of Justice — the Statute of which, in accordance with Article 92 of the Charter, is an integral part of the Charter — should be compulsory in all matters. We all know that this is an unrealistic wish for the present, but I have found it desirable in this connexion to state the Swedish point of view.

96. Such problems as now exemplified — and other problems, for example, a review of Article 2, paragraph 7, which was mentioned by the representative of the United Kingdom this morning — can, however, be taken up in the United Nations at any time in accordance with the procedure for amendment contained in Article 108 of the Charter. As has been clearly stated in the second interim report of the pertinent sub-committee of the Senate of the United States, the procedure to be followed in this respect is substantially the same as that to be followed when a conference is convened. It is certainly not more difficult to amend the Charter under Article 108 than to do so by a review conference. To hold a conference for the purpose of amending single Articles of the Charter is therefore unnecessary.

97. The purpose of a review conference would be, on the contrary, to review the Charter in its entirety. It is not quite clear how deeply the conference has to go. There is, for example, a discrepancy between the English and French texts of Article 109 of the Charter. The English text speaks of "reviewing the present Charter", while the French text speaks of *une revision de la présente Charte*. The same discrepancy is also apparent in the English and French texts of the draft resolution submitted by six Member States [A/L.197/Rev.1]. In any event, the agenda for a conference must be very broad. It must deal, as I have just stated, with the Charter in its entirety.

98. Every jurist knows that a conference which is to deal with such a comprehensive subject as a review of the United Nations Charter and which will be made up of as many as sixty Members, or even more if new States are to be admitted to the United Nations, will require much time and will be very costly.

99. I shall not dwell on the many difficulties it would face. It is quite possible that the conference would not be successful but would end in failure. Propaganda against the United Nations would, I fear, make use of such failure. Therefore, I think that Members of the United Nations must be very careful in deciding whether a conference should be held.

100. In consequence of this, this draft resolution states that a review of the United Nations Charter should be conducted under auspicious international circumstances. The Swedish delegation, however, would qualify that condition for a review. We feel that, as there is no urgent need for calling a conference, no decision should be taken unless circumstances at the moment of the decision are auspicious. This is not the case now. I think that we all agree in this respect. We know, for instance, that the Soviet Union would oppose any alteration of

the Charter. We also know that the approval of the Soviet Union is necessary to put into force any amendment of the Charter.

101. My statement that present circumstances are not favourable for deciding that a review conference should be held, seems to be endorsed also by the sponsors of the draft resolution now before us. They invite the General Assembly to decide that a general conference to review the Charter shall be held only at an appropriate time.

102. Ostensibly, the sponsors feel that in two years' time it will be possible to decide when favourable circumstances will exist. We beg to express our doubts. We are of the opinion that there is a very great risk that such circumstances will not exist in two years' time and that it will not even be possible to say then when such circumstances will exist. Very likely a General Conference now decided upon would be postponed for a considerable time at the twelfth session of the General Assembly, and perhaps several times.

103. When I heard the representative of the United Kingdom this morning, I had the opinion that that was also his view. He said that the Committee that it is proposed to constitute in the draft resolution will perhaps only report in two years that that is not an appropriate time to convene the General Conference. The Swedish delegation holds that, in view of all this, it is better now not to tie our hands by a decision that a conference should be held, but to postpone such a decision also.

104. Why is it that we have been invited to make a decision now? The answer to that question, I believe, lies in the fact that the present time is favourable, but favourable in another way than when I previously used that word. Article 109, paragraph 3, is valid only at this tenth session of the General Assembly. On all other occasions, a decision to call a conference must be taken in accordance with Article 109, paragraph 1.

105. What, then, is the difference between these two paragraphs, paragraph 1 and paragraph 3? The only difference is that if, this year, at the tenth session, a decision is taken that a conference shall be held, only a simple majority is needed in the General Assembly for that decision; whereas, if the decision to call a conference should be made during a later session of the Assembly, such a decision would require a two-thirds majority. In the Security Council, as you all know, a vote by any seven members of the Council is needed in either case. The gain in having a decision taken by the General Assembly now is thus that there are less severe conditions now for having the decision adopted by the General Assembly — that is, a simple majority instead of a two-thirds majority.

106. We ask, however, whether it is really appropriate to take a decision on calling a conference with only a simple majority. The Swedish delegation does not think so. We feel that the condition for a reasonable chance of success for the extremely difficult work to be undertaken by a review conference is that the conference shall have been decided upon by a large majority of Member States. If not, the conference is likely to have to conduct its work in an atmosphere of mistrust which will certainly have repercussions on the results.

107. It is obviously the intention of the sponsors of the draft resolution that the time and place for the conference which is to be decided upon now should be fixed at the twelfth session of the General Assembly. It is, however, not clear that at the twelfth session the

opinion will prevail that the fixing of the time and place for the conference shall be decided upon at that session by a simple majority vote. The opinion will certainly be voiced at the twelfth session that the application at that stage of the facilitating provision contained in Article 109, paragraph 3 — the application of the provision for a simple majority — would be a circumvention of Article 109, paragraph 1, in order to evade the two-thirds majority otherwise required. Even if the opinion should prevail at the twelfth session of the General Assembly that only a simple majority would be needed for the decision to fix the date and place of the conference, it would always be left in doubt whether that Assembly really had a right to do so. It should be emphasized that, according to Article 109, paragraph 1, a two-thirds majority is required for fixing the date and place of a review conference, and that the task of the twelfth session of the General Assembly would be precisely to fix the date and place of a conference already decided upon in principle.

108. If, on the other hand, the opinion should prevail at the twelfth session of the General Assembly that a two-thirds majority would be required for the decision to fix a date and place for the conference, nothing would be gained by deciding now that a conference should be held at some future date to be set by a later session of the General Assembly.

109. I will now sum up: It is not necessary to call a conference for amending single Articles of the Charter. A conference of at least sixty Members with so great a task as to review the Charter of the United Nations would require much time, would be very costly and would face many difficulties. It is quite possible that it would not be successful, and a failure could be used against the United Nations. No decision should then be taken that a conference should be held if, at the time of the taking of the decision, conditions are not auspicious. The conditions for the present are, however, unfavourable for the conference and, as nothing, or almost nothing, would be gained by a decision now, no decision should be taken at this session. Such a decision now would be likely to create problems for the future.

110. For these reasons, the Swedish Government has come to the conclusion that a decision now to hold a General Conference would be unwarranted. The Swedish delegation will, in consequence, vote against paragraph 1 of the operative part of the draft resolution submitted by six Member States [A/L.197/Rev.1], that paragraph being the decisive part of the resolution. We are also unable to vote in favour of the other parts of the draft resolution.

111. Mr. URQUIA (El Salvador) (*translated from Spanish*): The founders of the United Nations established two different procedures for review of the Charter.

112. The first, with slight variations, is the same as appeared in the Dumbarton Oaks proposals to be found in Article 108 of the Charter. It relates to amendments of one kind and these can be adopted by the General Assembly. This is the ordinary review procedure.

113. The second, the extraordinary procedure based on a proposal made at San Francisco by the visiting Governments, is set out in the three paragraphs which comprise Article 109, and appeared to be broader in scope than the ordinary procedure in that it provides for a review of the Charter as a whole by a General Conference of the Members of the United Nations.

114. There is actually no essential difference between the two procedures, both of which suffer from the same rare defect that, contrary to the spirit and the letter of the Charter, they are based on inequality between Member States.

115. In fact, any changes adopted by a vote of two-thirds of the Members of the General Assembly or recommended by a two-thirds vote of the Conference can take effect only when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council.

116. We fully understand that a general review of the Charter is a more extensive and complex task and one of much greater importance than the mere amendment of certain provisions or clauses and we also understand that it requires not only more time, but more study, more care, and more prudence. Finally we understand that while sporadic amendments may be considered and adopted by the General Assembly at any of its regular sessions, a general review should be undertaken at a special session convened solely for that purpose. What we do not understand is why in this case it must be a general conference of Member States and not the General Assembly, the body responsible for carrying out this duty.

117. This is not the right time, however, to point out and comment on the technical defects and the political and legal inconsistencies that we continually come across in the study and — what is more serious — in the application of the great instrument signed at San Francisco ten years ago when the war was still on and our minds were dominated by the impact of that catastrophe and inspired by feelings that, merely in the space of ten years, have undergone fundamental change.

118. The problems which the world is facing today, grave though they may be, are no graver than those the League of Nations had to face in those difficult years, but they are different and they confront a world which is different too. Fortunately, the atomic age has arrived at a time when the conclave of man is much broader based, is stronger and more secure, than was the League of Geneva days.

119. The United Nations has accumulated sufficient experience in its ten years of existence to be in a position to undertake a general review of its Charter and to make such changes as may be considered necessary, and even, in some cases, indispensable.

120. But there are some amendments that are so urgently needed that they cannot be left till they can be considered by a General Conference of Member States. Among these are amendments concerning the composition of the Councils and of the International Court of Justice.

121. We are on the verge of a development which will be very gratifying to those of us who have struggled unceasingly to open the doors of the United Nations to as many States as possible instead of keeping them shut as though this were an exclusive petty-minded club. Then if — as is to be hoped — in the next few days, the membership of the United Nations is increased by something like 30 per cent, we shall have to increase proportionately and without marked delay the number of Members of each of the Councils and of the judges of the International Court of Justice, in order to permit the newly elected countries to participate in the Organization's work as soon as possible, and of course all

the other Member States too, particularly those which, so far, have not been able to occupy important posts or assume important responsibilities, or have done so only on a temporary or limited basis, despite the well-known principles of rotation and equitable geographical distribution which, democratic though they are, it has not always been possible to observe fully during the ten years of our Organization's existence.

122. It would be difficult for the General Assembly to deal with this matter at the present session, after it has settled the question of the admission of new members, but it will doubtless have to do so at its next session because we are all aware of the urgent necessity of the partial amendments to which I have referred.

123. With regard to the question of convening a General Conference of Member States for the purpose of reviewing the Charter, a question which, under Article 109, paragraph 3, of the Charter, has to be considered at this tenth session of the General Assembly, my delegation considers the draft resolution [*A/L.197/Rev.1*] proposed by the delegations of Canada, Ecuador, Iraq, Thailand, the United Kingdom and the United States to be very judicious and well thought out and thanks those delegations for including El Salvador among the countries suggested for membership of the Committee mentioned in paragraph 2 of the operative part.

124. There is only one observation we should like to make regarding the draft resolution, with all due respect to its authors. It relates to paragraph 3 of the operative part, which requests the Committee to report to the General Assembly with its recommendations at its twelfth session.

125. If the Assembly adopts the draft resolution, it will be recognizing that the review of the Charter should be conducted under auspicious international circumstances, deciding that such a General Conference should be held at an appropriate time and asking the committee to consider, in consultation with the Secretary-General, the question of fixing a time and place for the conference.

126. To ask the Committee to report to the General Assembly with its recommendations at its twelfth session — that is, during the last months of 1957 — would mean that the conference could not be held before 1958, would amount to taking for granted the international political climate in the meantime, to some extent would be inconsistent with the flexible approach reflected in the paragraphs to which I have referred.

127. In this spirit, therefore and without the least desire to press the matter, much less to submit an amendment, my delegation would like to suggest, with due respect to the sponsoring delegations, that their text might perhaps be improved if operative paragraph 3 were altered to read that the committee is requested "to report to the General Assembly with its recommendations at its eleventh or, at the latest, its twelfth session".

128. This would allow the Committee much greater freedom to study, in consultation with the Secretary-General, the question of the appropriate time for the Conference without discarding the possibility that it might decide to fix the date in 1958 or later, since the wording we suggest would enable the Committee to present its report and recommendations, in the light of its careful appraisal of the international situation, either at the eleventh or at the twelfth session.

129. In any event the delegation of El Salvador will vote for the joint draft resolution.

130. As regards the amendment proposed by Egypt and India [*A/L.201/Rev.1*], to increase the membership of the Committee, my delegation views this idea with favour and is prepared to support it provided the Committee is not enlarged to such an extent as to make it difficult for it to carry out its duties.

131. We shall not, however, support the Syrian amendments [*A/L.200*], as we frankly believe that they mutilate the joint draft resolution beyond recognition and conflict both with the spirit and with the letter of Article 109, paragraph 3, of the Charter.

132. Under that provision, if a General Conference of the Members of the United Nations has not been held before the tenth regular session of the General Assembly, the Assembly must at that session decide whether such a conference is to be convened. The same power is accorded to the Security Council. But the Syrian amendments are in direct conflict with the basic purpose of Article 109, paragraph 3, of the Charter and with the terms of the joint draft resolution, since they would without further ado delete operative paragraph 1 of the draft which states that the Assembly decide that a Conference shall be held at the appropriate time.

133. Instead of that, the Syrian delegation proposes in its amendments that the Committee should consider the desirability of the review of the Charter, and while Syria agrees that the Committee's report and recommendations should be submitted to the twelfth session of the Assembly, since its amendments include no proposal for altering the provisions dealing with this point, it is clear that the Syrian delegation's purpose is merely to postpone until the end of 1957 — that is to say, for two years — any decision by the General Assembly or by the Security Council with regard to the convening of this General Conference for a review of the Charter.

134. For these reasons the Syrian amendments are wholly unacceptable to my delegation.

135. Mr. MENON (India): The question of Charter review, sometimes expressed as synonymous with Charter revision, has been in the minds of the delegations of the United Nations — and has been no less a subject of general public discussion — for some time. This year, however, which is the tenth anniversary year of the United Nations and the occasion of our commemorative meetings at San Francisco when delegations were in a reviewing mood — an estimating mood — this problem has become more pinpointed. Further, it has come on to our agenda as a result of the provisions contained in the Charter itself.

136. It is to these matters that I shall refer in due course, but before doing so and disclosing the attitude of my Government on the various aspects of the question, there is an observation which I am obliged to make as the result of the statement made this morning by the representative of the United Kingdom. It would not have been the desire of my delegation to raise an issue of this kind relating to any controversy. Indeed, that is also not the express desire of my distinguished colleague from the United Kingdom, but since this matter has been raised — and, much to my regret, raised in a form of words which we cannot let pass without adding our own observations thereto — I am obliged to comment.

137. The Assembly will remember that Sir Pierson Dixon said this morning:

"As a sponsor of the draft resolution now before the Assembly [*A/L.197/Rev.1*] I must not go deeply into controversial matters on which the delegations

which have agreed to join with me in presenting this draft might not be altogether in agreement. But, as spokesman of the United Kingdom delegation, I should be failing in my duty if I did not express my deep distress at the developments which have caused the withdrawal from the present session of two of the founder Members of the United Nations: one a permanent member of the Security Council and a dear and old friend of my country, the other a member of the Commonwealth itself. This double wound to the United Nations should, I submit, cause us to reflect in all seriousness on the wisdom of some of our actions and on the probable consequences if it is sought to continue further along the same path [542nd meeting, para. 21]."

Just as my distinguished friend, Sir Pierson Dixon, thinks that he would be failing in his duty if he did not express an opinion on the subject, my delegation feels the same. We share his regret about the withdrawals of certain delegations, but we cannot share his distress at the developments which have caused them because we are partly responsible for those developments. My delegation retracts nothing from its competence and its justification for bringing before this Assembly the two items which are related to this particular matter. As I have said, we had no desire to refer to this at all.

138. Secondly, with regard to the question of the wound to the United Nations, we disown all responsibility with regard to inflicting this wound. We agree that it is an undesirable development; we would welcome the return of those two Members who are not with us at the present time in the Assembly. We will do everything we can which is in reason and in consonance with the principles on which our policies are based. We would do nothing to impair relations in this way, and we regret that this matter should have come in and necessitated our commenting on it. But we cannot share in the distress with regard to the developments which led to it. That would be to bring in a condemnation of the attitude of our Government and of those who shared our views in this Assembly on these particular matters. But this is not to retract in any way our concern at the absence of those two delegations, friends of ours, nor in any way to suggest that we would not, to the extent of our abilities, exert our energies to bring about their return to the Assembly.

139. As far as concerns the views of our Government on this matter of Charter review — and I expressly use the word Charter "review" — we expressed ourselves in San Francisco [eighth meeting] in these terms:

"... it is sufficient to say, so far as my Government is concerned, that any deficiency in the structure is merely, and very largely, an expression of the deficiencies in ourselves. So that, even with the best of machinery, if there was not the will, if there was not the attitude, we should not be able to get anywhere. On this question of the revising of the Charter" — it was then spoken of as revising the Charter — "I am asked to say, on behalf of my Government, that our general view is that if the Charter has to be revised it will require agreement, and that if there was agreement there would be no need for revision".⁶

140. In the general debate in the General Assembly we pointed out that this matter had come within the focus of our discussion and had appeared on our agenda

because, in Chapter XVIII, there are two Articles which refer to this review. We said:

"We have no objection to subscribing to any move that arises as a matter of general agreement and compromise, but my Government is definitely opposed to the establishment of any elaborate machinery or to the taking of any overt step which demands from us a full-scale review of the Charter [533rd meeting, para. 36]".

141. That is our general background, and it is in this background and in the context of the widely different views held on this question in the General Assembly that we are going to examine this question today. And here may I say that, in the course of the general debate, in which twenty-nine speakers participated, fifteen were against any revision or any great alteration of the Charter, against what, properly speaking, may be called Charter review. Out of the remaining fourteen, seven or eight made reservations. It is to be noted also that of those who supported the Charter review, eight came from one part of the world. So it is not as though it were a widely held view; it is not a view held without a considerable number of reservations, and it is not even clear what is desired or that there is any consistence of opinion as to the orientation of these changes.

142. We should like to examine this question from the point of view of the obligations arising from the Charter, from that of the need for any action, from its expediency and usefulness. I should like to make our position very clear since there appears to have been, from the speakers whom we have heard, interpretation of the Charter in such a way as to create contradiction and confusion in our own minds.

143. Our view is that there is an obligation, under Article 109, paragraph 3, for this item to appear on the agenda; and that obligation has been carried out. I think that that is the only mandatory obligation in the Charter, namely, that this item must be placed, unless the Charter had previously been reviewed, on the agenda of this session. And, of course, if there is a majority vote by the General Assembly, a General Conference shall be held. I will come to this question of the obligatory nature of holding the conference when I deal with the draft resolution or other aspects of the matter.

144. Now, with regard to the necessity of holding this Conference, it is only to the extent that the Charter makes it mandatory or obligatory upon us. With regard to the expediency, it is interesting that practically everyone who has spoken made some reservations. The draft resolution itself refers to the appropriate or opportune occasions. Our view on that is that if occasions became opportune, probably the desire for review would recede to the background; so that, on the question of expediency, we do not think that the present moment is even the moment to consider this question. If our Government's views alone had to be stated, we would have said that all we need to do under Article 109 is to place the item on the agenda and then decide to adjourn it. Of course, there would be no objection to making the speeches if the item were then to be adjourned. But, with regard to its usefulness, I think that the best thing I can do is to quote two Foreign Ministers whose countries have a great record of loyalty to the United Nations and which have played a great part even in the history of its predecessor, the League of Nations.

145. At San Francisco the Foreign Minister of Sweden told us:

⁶ United Nations Publication, Sales No.: 1955.I.26, pp. 264, 265.

"...I still hold the view that the Charter as it stands at present does not prevent the United Nations from fulfilling its tasks, provided that the Member States really wish to act in accordance with the principles of this document [*Fourth meeting*]"⁷

146. It was the following day that Mr. Lester Pearson, Minister of External Affairs of Canada, said:

"Our machinery is adequate; but the will to operate it successfully has often faltered or been frustrated.

"Improvements in that machinery — as in any kind of machinery — can, of course, be made. But the remedy for our ills lies not so much in such improvement as in the desire and determination to make the existing mechanism function better, and for that purpose to make the adjustments in national policy necessary for international agreement on disputed questions. The responsibility for such agreement rests mainly on those members of the United Nations which have the greatest power and the special privileges [*Seventh meeting*]"⁸

147. The main impression that should be left upon our minds after those observations is to remind ourselves of the fact that this issue is not one of any juridical metaphysics, or legal finesse of any kind; this is a political issue and, politically, therefore, we have to consider whether it is wise or it is expedient or it is useful, over and above this question, to look into the question of priorities: that is to say, whether the General Assembly's time, the time of the Member States, the diplomatic energies of the Member States, the time of their staffs, and of the Secretariat, should, in the next two years, be more concentrated on this matter than on other things. There are questions like disarmament; the questions which we were discussing in the earlier part of the session in the First Committee with regard to atomic energy; the questions regarding the economic development of various areas of the world; the revision and the consideration of various aspects of international law which will give to the world the foundations of a rule of law so far as the international community is concerned. Should these things not take priority over revision of the Charter?

148. This is an appropriate moment to draw the distinction between review and revision. There is nothing in the Articles of the Charter — unless, as one of the preceding speakers said, the French edition conveys a different meaning, but, if that is so, it does not convey it to me because I go by the English text — which calls for revision of the Charter. I do not think this is a question of playing with words. We want to make it clear that the idea of a revision of the Charter is foreign to the whole conception of the development of law in relation to institutions.

149. The majority of us here — I believe, with one exception — live under written constitutions, and it is not the practice in any of our countries, so far as I know, every ten years to write a new code. It may be that one has codes relating to particular aspects of law, public or private, but that the constitution should be periodically revised reminds us of little children who plant a seedling and every ten days pull it up to see if it is growing. One cannot do that sort of thing.

150. The Secretary-General, in his introduction to the very valuable document, *Repertory of Practice of United Nations Organs*, refers to the Charter as the framework.

One does not break the frame to improve it; so that the idea of revision in this wholesale way, particularly at the present time, necessitating something that the Conference in San Francisco ten years ago did not envisage, is not, in the view of my delegation, the practical or pragmatic approach to this problem. And what is more, just as priorities have to be considered, we have also to see that public opinion in the world, our Member States, our Governments, and all those who participate in the United Nations do not seek to evade the main responsibilities, the main issues, by blaming it on the Charter; also, that our attention is not diverted to other matters.

151. The approach appears to us to be that the necessary improvements have to be brought about by the provisions of Article 108, which precedes this particular one. It is true that any law, any statute, would, after a time, require amendments or alterations. These alterations, right from the time of the early systems of law and law-givers, have taken place in different ways. Either it is done by alteration of the statute itself; it is done by judicial interpretation, or by the growth of conventions. It is also done by the decision of administrative and other bodies, particularly in the modern age, for the development of a considerable volume of administrative law.

152. Now, all these things are taking place in the United Nations. There have been various opinions, advisory opinions of the International Court of Justice, which are in a way, like the law of the praetors, in Roman days, like our own laws of equity and case law, and these have interpreted the Charter in many ways.

153. We have a volume of literature on the question, for example, of domestic jurisdiction and on the question of various procedural matters. There are advisory opinions of the International Court of Justice. That is a channel along which changes can take place. We also have the development of a number of conventions, for example, the Charter states that on questions in the Security Council the concurrent votes of the permanent members are necessary, and it has now been decided that a concurrent vote includes an abstention. That is purely a convention, it does not literally follow upon the words. This was brought up in the case of the admission of Indonesia and, likewise, in the Iranian dispute, and it became a convention. There are many conventions which have been developed in that way, and conventions would have developed in the United Nations provided there was the political atmosphere, provided there was the development of that essential ingredient in the background of our Organization, namely, international tolerance and the recognition that our national systems, economically and politically, and our historical backgrounds are different and, therefore, there is a degree of give and take. In that way, when conventions developed, changes would automatically come about or the law would adjust itself to the political, the social and the economic necessities of our time.

154. But, in addition to that, sometimes a sharp and definite change, a change that is beyond all ambiguity, becomes necessary, and it is in those circumstances, when we have recognized the need of that change and the law stands in the way, that one makes amendments. This appears to be a more modern, a more pragmatic, a more socially valuable approach to legal systems. Therefore, we should make greater use of Article 108 of the Charter to bring about such changes as are necessary.

⁷ *Ibid.*, p. 135.

⁸ *Ibid.*, p. 214.

155. The Covenant of the League of Nations carried no provisions for total revision in that way. Article 26 provided for amendments, but no one would suggest that the League of Nations did not succeed because of the failure of the Covenant. It was due to other, political, reasons.

156. There is another aspect of this matter to which I want to refer, and that is the difference between the epoch in the world when the Charter was brought into being ten years ago in 1945, and the present situation. The Charter was brought into being with all the impact of a world desiring peace after a ravaging war. It was brought into being in conditions when the main founders recognized the diverse differences and said that in spite of these differences they should create a world community. The Charter was brought into being at a time when it was overtly recognized that this Organization should be universal and not be a holy alliance. It was brought into being at a time when compromises were made by the parties whose systems were intolerable, one to the other, but those conditions have changed.

157. The first ten years of the United Nations, unlike the first ten years of the League of Nations, has not seen a harmonious development but rather has been seen as an arena of great conflicts. The 1955 period differs fundamentally from that of 1945 and, therefore, it is a most inopportune time to think of what may be called "rocking the boat". This is no time to rock the boat because the weather is stormy, and even without our rocking the boat, it tends to rock.

158. Today, we have a situation in which, instead of the war-weary great Powers trying to make peace, the great Powers are entrenched behind great walls of armaments, talking to each other in the language, as Sir Winston Churchill said the other day, of "peace by terror". In these conditions, it is inconceivable that the same kind of agreements, the same kind of factors that would make for harmonious understanding and that would make concessions readily forthcoming, would be available.

159. Secondly, I think that if there is to be a Charter review, that review, if it is to be durable, if it is to be fruitful, if it is to be accomplished at all, necessarily would have to come from the background that the review is not undertaken for a particular purpose, specious or otherwise, which concerns only one section, one body, one continent or one level of membership in this Organization. In other words, if it is to remove some evil which is fastened on to one particular side or for which one particular side is responsible, when that amendment or modification has to come by agreement of that side, it becomes impossible. That is why we said at San Francisco that the Charter cannot be revised without agreement, and that if there was that agreement there would be no need for revision. Therefore, to approach this Charter problem as a political problem, as part of the cold war controversy, would be the best way to ruin it from the beginning.

160. Before I address myself to the draft resolution [A/L.197/Rev.1], I want to refer again to the provisions of the Charter to which we referred a short time ago. I want to point out that there is nothing in Article 109 that makes the calling of this conference obligatory. That Article states:

"A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place..."

161. The "shall" will come only when we take a decision and, therefore, it is appropriate that before we take a decision we express the view that there is nothing mandatory in this. The mandate has to be created in the future. The Charter does not call for an obligatory review conference of any kind. It makes a provision for this, but it is purely a permissive provision. The people who wrote the Charter naturally thought there must be some opportunity, some facilities provided for an occasion of this kind, but the provision made is purely a permissive provision. The debates that have taken place, not so much in this Assembly but particularly in the so-called "learned" societies and the various other "do-good" bodies have proceeded as though this revision of a new Napoleonic Code is obligatory. It is nothing of the kind, the provision is purely permissive. My delegation would not like to give support to any proposition that goes further than what is the minimum contained in the Charter. The minimum provision in the Charter is that this item should be placed on the agenda and, for the sake of compromise, we would go further and support a study of it, but we would not want to lend ourselves to a resolution by which next year we would find that we had committed ourselves to a conference in principle, even though the date were not stated, because that would be going further than the mandatory obligations of the Charter.

162. That is why, looking at this draft resolution, we find difficulty in giving full support to it. We think that this draft resolution has been cast in the mould of goodwill and the desire to get some agreement among the various groups of people who want revision tomorrow, or a conference this year or next year, and those who do not want to do anything at all. We recognize that, but we find there are certain difficulties in regard to it. I will dwell on these difficulties when I deal with the draft resolution.

163. I want to take this opportunity of drawing attention to a sentence in the speech delivered by the United States representative this morning. He said:

"The committee as proposed will have the task of laying the procedural and organizational groundwork for a successful conference [542nd meeting, para. 63]."

164. Therefore, at least in the minds of some who are sponsoring this draft resolution, the holding of a conference is a foregone conclusion; it is not to be just one of the ideas.

165. We should rely very much more upon the work that is being done to collate all the experience, such as the *Repertory of Practice of United Nations Organs*, for which a tribute to the Secretariat is well called for, although I hope that one day these volumes will be provided with an index. There are very useful tables of contents for every chapter, but, if there are no technical difficulties, I hope it will be possible to provide an index for the volumes. Here is a storehouse of case law on this subject which will be of great value to us.

166. I come now to the draft resolution [A/L.197/Rev.1]. I shall not analyse it part by part at this stage, but, if we find it necessary to do so, we will do so at the resolution stage.

167. I am now only going to refer to two or three aspects of which we would like the Assembly to be seized. First of all, there is the part in the draft resolution that in the preamble calls for an affirmation of belief from the Assembly, where it says:

"Believing that it is desirable to review the Charter in the light of the experience gained in its operation".

Now far be it from me to argue that the language might have been different. I am sure that it was written by experts in this matter. But as it is written, it looks as though the experience that we have already gained brings about the belief that it is desirable to review the Charter.

168. I rather gather that that is not the intention. The intention is merely to have a general statement that as we gain experience, it may be desirable to review. But that is not how it is put. As it is put, it looks as though our ten years experience warrants the belief that we must review the Charter. Now if review means simply looking at it, I say that the process has begun. These four volumes of the *Repertory* about which I have spoken, are in themselves a review. We are continually reviewing it whenever there is a debate here, as to what the Charter means and what it does not mean, what we did in a previous Assembly or what we did not do in a previous Assembly. The entire process of review is continually going on.

169. But unfortunately these words "review" and "revision" have been interchanged and used as though they mean the same thing. Therefore, I would have no objection in using the words "Believing that it may be desirable" or something of that character. But if it is an affirmation of belief that commits us to say that here our experience calls upon us to revise or review the Charter, then of course it is going farther than circumstances warrant.

170. But that is not the main difficulty. The main difficulty is with regard to operative paragraph 1 of the draft resolution which says:

"Decides that a General Conference to review the Charter shall be held at an appropriate time".

If I understand the language right, and even with the minimum grammar claimed by the English language, that "shall" is not merely denoting what is called simply futurity. It is connected up with a General Conference. That "shall" makes it mandatory. If the wording were that "a General Conference to review the Charter may be held", that is a very different question.

171. My delegation has not made a decision as to whether we will seek to amend it, but we put this forward as a suggestion to the sponsors, so that with that change it may become more acceptable. It would read:

"Decides that a General Conference to review the Charter may be held at the appropriate time."

In any case, this paragraph would apply only to the Assembly because the holding of this conference would require, according to the Charter, the vote of seven members of the Security Council as well. But there is a degree, although it is to some extent corrected by the fact that the wording in operative paragraph 5 of the draft resolution, namely "Transmits this resolution to the Security Council," is putting the Security Council on notice.

172. When two organs of the United Nations have joint responsibility, to go all the way in this matter with the use of the word "shall" seems to be more than is warranted by our rights and obligations in this question. Therefore, the operative paragraph, which justifies the statement made this morning by the representative of the United States, is not, as far as we can see at the present moment, the position that we could support;

that is, that a conference should be held. A conference may be held, and that is all the Charter says.

173. We are not prepared to go further than the Charter in this matter, and for the sake of agreement and of getting a consensus of opinion in the Assembly which does not do violence to the majority view or to anyone to a great extent, we would be prepared to go along if it was possible that this conference would not be obligatory. We certainly could not accept the position that a conference has to be held. There is of course a safety valve in the use of the words "at an appropriate time". That again is throwing the whole of a decision into the hands of snatch majorities.

174. Our experience in this Assembly is that the majority has a tendency to slide in one direction; that is to say, the equilibrium in this place is comparatively stable so far as the voting is concerned. And that being so, the appropriateness of time being left to a decision in that way does not provide sufficient safety to soften the mandatory effect of the word "shall". The wording of operative paragraph 1 of the draft resolution which says "Decides that a General Conference to review the Charter shall be held at an appropriate time." is, as it stands at present, unacceptable to us. Whether we will seek to amend it or not would depend upon whether we are able to support the draft resolution after it is amended.

175. Then we come to operative paragraph 2 of the draft resolution. My delegation has put forward jointly with the delegation of Egypt an amendment [A/L.201/Rev.1] in regard to this which asks for the addition of a number of countries to this paragraph. I think that this requires some explanation. If there is going to be a conference, or if there is going to be the procedural preparatory work for a conference—and in our experience, it is quite likely, it is more than probable, that the draft resolution will get through no matter what we thought about it—and if there is going to be a committee, then it is our desire to see that it reflects what the Assembly is. If there were no names mentioned at all, this is a case where the whole of the Assembly should go into committee. After all, our permanent representatives live here and this is not a matter in which one country, large or small, important or otherwise, whether it is in the north or the south or the east or the west, has an obligation or concern which is less than any other country, because the whole basis of the United Nations is that sovereign States, however small or great, geographically wherever they may be, are equally concerned. And we are dealing with the subject of the Charter.

176. Therefore, I think that every country has an equal obligation, an equal concern, and perhaps should have the equal opportunity to make a contribution. So that if you are starting on a clean slate and if you agree to a committee, my delegation would propose that the entire Assembly should go into committee during this period, in the sense that the Governments would be able to participate, or provide representation, or whatever is necessary.

177. We have not gone so far. We have tried to add more people to make it more representative, so that certain parts of the world that are left out or whose voices would not be heard, or are not heard normally, are added. Also we have taken into account the contributions they have made in the past at San Francisco and everywhere else.

178. Now it has been said by more than one person that the committee must be of a manageable size. It all depends who manages the committee. Some committees even of three, or even of one, cannot be managed because people cannot make up their minds. So that it is not a question of the size of this committee, and I cannot understand why a committee of twenty or thirty or forty should be unmanageable in this manner, because this committee is not going to do any drafting. I can understand that thirty people cannot draft something. What is more, it is a question of reviewing the whole of the Charter, the whole of the experience of the United Nations. And it will at least have to go through those four fat volumes, and probably more volumes will be added; it will have to go through the discussions of the past; it will have to go through the advisory opinions of the International Court of Justice, it will have to go through the experience of the League of Nations and all that happened to the Covenant at various times, and also it would have to draw on a considerable body of international law and experience.

179. Therefore, it will go into sub-committees; it will go into study groups and all kinds of things like that. So if we are to proceed to work and be assisted by the Secretariat in turn, I cannot see any basis for the argument at all about being unwieldy. We are accustomed to large committees in this place. After all, if large numbers of people are left out of it, then when it comes back to the Assembly for report, we will have to go through the work of the committee all over again. So that we do not see any basis for the objection that it is too large.

180. We have proposed the names of several other countries and if anyone proposes any more, we would not object to it. On the basis that, first of all, this is not a committee that should be established on what is called a representative basis but more on another basis, and secondly, that it is possible that all the members will have enough work to do because of the wide field they have to cover, and the long period they will sit, and because of the fact that representatives of Governments are permanently with the United Nations here, for all those reasons we do not see any basis in the objection that it is too large. This amendment we propose to move at the resolution stage.

181. I would like to say once again that in our view the only obligation we have is to consider this matter, and if we consider this matter and say that we will consider it again when there is time, that is to say that the item should stand adjourned, so far as my delegation is concerned we would be entirely happy. On the other hand, if in view of other opinions expressed here, there is a desire to take it a little further — and we maintain that it should not exceed the minimum limits set by the Charter itself and that it should not commit us to hold a conference whether we like it or not — and what is more, the appropriateness of time is left to the majority vote at some stage, then we would find it difficult to go along with it.

182. With these observations, I reserve the position of my delegation to speak when the draft resolution is examined.

The meeting rose at 6. p.m.