



Chairman: Mr. Paul Bamela ENGO (Cameroon).

**AGENDA ITEM 88**

**Need to consider suggestions regarding the review of  
the Charter of the United Nations (A/8053)**

1. Mr. GONZALEZ GALVEZ (Mexico) recalled that at the twenty-fourth session his delegation (1175th meeting), while not expressing any views on the substance of the question, had supported the Colombian delegation's proposal,<sup>1</sup> that the item concerning a possible review of the Charter of the United Nations should be included on the agenda. His delegation's first impression was that, despite the procedure for review laid down in Articles 108 and 109, the Charter was somewhat too rigid. The flexibility of any constitution depended not so much on what means of review were provided for as on what the practical possibilities were of carrying out a review.

2. There were two main arguments in favour of amending the Charter. The first was that it had been drafted 25 years earlier, when only some 50 States had been Members of the United Nations. The other argument was that a document which had failed to achieve its main objective, namely, the maintenance of international peace and security, should be reviewed. The countries which were opposed to a review of the Charter argued that nothing would be solved by amending it, since the possibilities of agreement between States were limited not by the Charter but by the fact that States themselves were frequently involved in disputes.

3. The General Assembly had already taken up the question at its eighth session, and the discussion had continued until the tenth session, when the Assembly in resolution 992 (X) had decided that a General Conference to review the Charter should be held at an appropriate time and had also appointed a Committee to consider the question of the organization of the Conference. That Committee, whose term had been extended at the eleventh and twelfth sessions, had submitted a report<sup>2</sup> stating the view of the Soviet Union that the time had not yet come to hold a General Conference on the question.

4. The difficulties involved in reviewing the Charter were therefore apparent. However, it was possible to make the Charter somewhat more dynamic without actually reviewing it. One way of doing so was *not* to apply certain Articles. For instance, the provisions of Article 23, which

<sup>1</sup> See *Official Records of the General Assembly, Twenty-fourth Session, Annexes*, agenda item 107, document A/7870, para. 5.

<sup>2</sup> *Ibid.*, *Twenty-second Session, Annexes*, agenda item 26, document A/6865, para. 5.

specified that for the purpose of electing non-permanent members of the Security Council due regard should be paid not only to equitable geographical distribution but also to the contribution of Members of the United Nations to the maintenance of international peace and security, had fallen into disuse. Secondly, some Articles could be interpreted in such a way as to bring them into line with the current needs of the international community. That method had been used on several occasions. For example, the General Assembly had extended its own powers<sup>3</sup> at the expense of those of the Security Council, once it had been realized that misuse of the right of veto was impairing the proper functioning of the Council. Another example was the interpretation of Chapter XV dealing with the authority of the Secretary-General, which had changed somewhat over the years, particularly with regard to Article 99. Again, the consideration for the first time of principles of international law concerning friendly relations and co-operation among States had given Member States an opportunity to acknowledge that the Charter contained the principle that one State should not intervene in the affairs of another. Chapters XI and XII had also been interpreted less restrictively from 1949 onwards, and the notion of universality of the United Nations had also been given a more liberal interpretation since the tenth session of the General Assembly. Lastly, the interpretation of Charter principles could be clarified by supplementary agreements, as had been done in the case of the Headquarters Agreement (General Assembly resolution 169 (II)) and the Convention on the Privileges and Immunities of the United Nations (resolution 22 A (I)). There was a third way of changing the operation of the Charter without reviewing it; that was to establish subsidiary organs, as was possible under Articles 22 and 29.

5. While his delegation did not believe that the time was really propitious for a review of the Charter, it felt that the question merited discussion. The Colombian delegation's proposal should not be rejected for political reasons. If a majority was in favour of a review, his delegation would request that the Secretary-General should be asked to solicit the views of Member States.

6. Mr. ROMULO (Philippines) said that, of all the institutions developed in human history, the United Nations was unique; hence the exceptional importance of the Charter. Its overriding significance should be borne in mind in any study of the extent to which, 25 years after its signature, it still conformed to the requirements of the international community. At the tenth session, as head of the Philippine delegation, he had himself proposed (547th plenary meeting) the implementation of the provisions of Article 109 on the holding of a General Conference for the purpose

<sup>3</sup> See resolution 377A (V) of 3 November 1950.

of reviewing the Charter, and at the twenty-first session the President of the Philippines (1411th plenary meeting) had again raised the question in the General Assembly. If a review of the Charter was undertaken, it should be in the light of the responsibilities of delegations not only to the countries they represented but to mankind as a whole.

7. The principles of the Charter were fundamental, and no one challenged them because they had withstood the test of time remarkably well. Those who had drafted the Charter had been convinced that, if mankind was not to remain in a perpetual state of confrontation, it was essential that the means for fruitful co-operation should be provided. They had also realized that in the modern world no one could be excluded from international life. Nevertheless, certain provisions of the Charter, having been drafted a quarter of a century earlier, were today inadequate; others had been overtaken by events. That was hardly surprising in view of the fact that of the 127 present Members, only 51 had been original Members of the United Nations. It was true that much of the dissatisfaction with the achievements of the United Nations stemmed from the fact that countries often failed to use the provisions of the Charter or, even more serious, preferred to settle their problems outside the Organization. But even if the attitude of nations in that respect were to change, it would still be necessary to remedy the inadequacies which, with the passage of time, had come to light in the Charter.

8. Turning to the various matters to which consideration should be given in a review of the Charter, he said that, first, the wording of Articles 53 and 107 should be amended so as to remove the reference to “enemy” States. Secondly, Article 33 dealing with pacific settlement of disputes was inadequate, in that it did no more than to recommend the solution of disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, and so forth, without indicating any modalities, providing any machinery or defining any specific obligations. A permanent conciliation commission should be provided for in the Charter. Recourse to third parties in the case of intractable disputes should also be provided for. Furthermore, the Charter should impose on States the obligation to accept arbitration or judicial settlement where mediation or conciliation had proved insufficient. Thirdly, in addition to the measures provided for in Chapter VII, the Charter should contain specific provisions concerning the peace-keeping operations carried on by the United Nations. Formal recognition of that aspect of the Organization’s activities might give a new impetus to the efforts of the Special Committee on Peace-keeping Operations to elaborate the principles and procedures of such operations. The Charter should also provide for a United Nations observer corps. Fourthly, if in the selection of the non-permanent members of the Security Council, according to Article 23 (1), “due regard” should be specially paid “in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution”, those criteria were even more important in the case of the permanent members of the Council. It was now necessary to ensure that the international community benefited from the participation in the Security Council of nations with a special contribution to make. The addition of new per-

manent members to the Council, or the creation of a semi-permanent regional seat to be shared by the major countries in the area concerned, might be considered. Fifthly, the Charter should be modified to suspend the use of the veto in matters involving use of armed force by the United Nations. Sixthly, the Statute of the International Court of Justice, which constituted an integral part of the Charter, should also be subject to review; in particular the United Nations should be recognized in the Statute as a legal entity entitled to bring a case before the Court against any State which had accepted the Court’s jurisdiction. Additionally, the Court should have the right to determine whether a gross violation of world law had occurred. Seventhly, the authority of the Economic and Social Council should be increased with regard to the co-ordination of the Organization’s constantly expanding efforts in the economic and development fields. Eighthly, the Charter should be amended to place the Commission on Human Rights on the same level as the Economic and Social Council and the Trusteeship Council.

9. Those and other possible adjustments in the Charter would in no way impair the nature of the Organization and would be purely functional. Other suggestions to the same end had been made during the current session. For instance, the General Assembly at its seventeenth session, by a decision adopted at the 1162nd plenary meeting, had established the *Ad Hoc* Committee on the Improvement of the Methods of Work of the General Assembly, and the Sixth Committee had recommended at the current session that States should be invited to submit their views on strengthening the role of the International Court of Justice.<sup>4</sup> His delegation supported those suggestions, even though they were limited in scope, and was prepared to support the establishment of a body to consider all suggestions that had been made, particularly during the commemorative session, to receive further suggestions from Member States and competent non-governmental organizations, and to prepare a conference which would consider all aspects of United Nations improvement and reform, including updating of the Charter in specific respects. It was important to ensure that the valuable ideas that had been expressed—the watershed of 25 years of experience—were not wasted.

10. There had never been a period of more rapid change in human history than the last 25 years, particularly in international relations. As with all organisms, human institutions must adapt themselves or perish. The United Nations was no exception to that law; on the contrary, it must set the pace.

11. Mr. MORALES SUAREZ (Colombia) felt that there were five clear reasons why proposals regarding the review of the Charter must be considered. First, evolution was a fundamental rule that applied both to society itself and to the law; accordingly, the Charter should be examined to see whether it was capable of meeting the needs of a continual changing world or whether it was becoming an outdated and therefore ineffective instrument. Secondly, Article 109 of the Charter itself laid down the procedure for review. Thirdly, 60 per cent of the States which were now Members of the United Nations had not belonged to it at the time of

<sup>4</sup> See resolution 2723 (XXV).

its establishment; his delegation felt that the time had come to give those States the opportunity to express their views on the Charter and to have a hand in any amendments. Fourthly, the Charter was an instrument which had been formulated at the end of the Second World War, in exceptional and transitory circumstances, and consequently it contained some expressions which were now outdated and should be replaced. Fifthly, the need for a review of the Charter was now acknowledged by many States and various institutions, and several studies had been made on the provisions which appeared to require amendment, deletion or expansion.

12. His delegation had frequently raised the question of the review of the Charter in various United Nations bodies and very recently in the 1846th plenary meeting of the General Assembly it had stressed three aspects of the problem, namely, the application of the principle of universality, the establishment of a permanent force to support the Security Council, and the role of the International Court of Justice. Because of the sometimes vehement protests which its proposals had aroused, his delegation wished to state that, in its view, the fundamental elements of the Charter should be retained; after all, the task immediately at hand did not necessarily imply any amendment of the Charter, but merely a review of its provisions, in the course of which Member States could express their opinion on whether there was a need to change some of them.

#### AGENDA ITEM 89

##### **Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28 (concluded) (A/8054)**

13. The CHAIRMAN said that, at so late a stage in the General Assembly's session, a further adjournment of the debate seemed to be in the general interest. If there was no objection, he would take it that the Committee agreed to postpone the consideration of the item and to recommend its inclusion in the provisional agenda of the twenty-sixth session of the General Assembly.

*It was so decided.*

#### AGENDA ITEM 90

##### **United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law: report of the Secretary-General (concluded) (A/8130 and Corr.1), A/C.6/L.811/Rev.1, A/C.6/L.813)**

14. Mrs. BOIVINEAU (France) stated that her delegation had already endorsed in the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, the Secretary-General's recommendations (see A/8130 and Corr.1, chap. III) regarding execution of the Programme in 1971, because it recognized its great value; it would therefore vote in favour of draft resolution A/C.6/L.811/Rev.1. However, paragraph 2 contained a provision

which did not relate to any passage in the Secretary-General's report and had not been considered by the Advisory Committee; accordingly, and in view of its financial implications, her delegation had reservations concerning it.

15. While her delegation noted with satisfaction that that provision was no longer associated with the Secretary-General's recommendations and took note of the explanations given by the representative of Ghana (1236th meeting), on behalf of the sponsors of the draft resolution, regarding the special and exceptional nature of the request and the manner in which it had been introduced, without prior consideration by the Advisory Committee, such a procedure must not create a precedent for the future. She requested the Secretariat to give an assurance that the related expenditure would in the normal course of events be covered by voluntary contributions and that recourse would be had to the regular budget of the United Nations only if those contributions proved to be insufficient.

16. If a separate vote was taken on paragraph 2 of the revised draft resolution, her delegation would abstain because of the reservations she had just expressed.

17. Mr. BERMAN (United Kingdom) thanked the representative of Ghana for his explanations and for the change the sponsors had made, which removed the factual inaccuracy from the original text. With regard to the substance of paragraph 2 of the revised draft resolution, his delegation still had some doubts; it felt that the value of regional symposia to participants should be such that their own countries could be expected to defray their travel expenses. It also wished to stress that questions of that kind should in future first be considered by the Fifth Committee and by the Advisory Committee on Administrative and Budgetary Questions.

18. In view of the sponsors' confirmation of this fact and their assurance that the approval of paragraph 2 of the revised draft resolution would not constitute a precedent, his delegation would abstain if a separate vote was taken. It would vote in favour of the text as a whole, but on the understanding that its affirmative vote did not prejudice the position it might adopt on the question in the Fifth Committee; as he had previously stated (1235th meeting), his delegation would not object to the sums in question being financed out of the regular technical assistance budget within the current over-all total.

19. Mr. TESLENKO (Secretariat) said that the data in the statement of administrative and financial implications (A/C.6/L.813) relating to the recommendations contained in draft resolution A/C.6/L.811 also applied to the revised draft resolution (A/C.6/L.811/Rev.1).

20. Mr. FEDOROV (Union of Soviet Socialist Republics) observed that the provision in paragraph 2 of the revised draft resolution introduced something new which had not appeared in the texts adopted by the Sixth Committee on the item at previous sessions. His delegation had already stated that the payment of a travel grant to participants in regional symposia had not been mentioned in the Advisory Committee. In any case, his delegation considered it inappropriate to have recourse to the United Nations

regular budget in order to cover expenses which would normally be charged to the budget of the United Nations Institute for Training and Research (UNITAR). Moreover, the very desirability of such expenditure was questionable, since, as had already been argued, the regional symposium programmes required many improvements and the number of States participating in the symposia was seldom large enough to justify holding them. He requested the representative of UNITAR to state whether the travel expenses of participants in such symposia could legitimately be charged to the regular budget of the United Nations.

21. His delegation requested a separate vote on paragraph 2 of the revised draft resolution, and it would vote against it.

22. Mr. LEE (Canada) said that his delegation considered that the question of the travel expenses of the participants in the seminars should have been reviewed by the Advisory Committee on Administrative and Budgetary Questions and by the Fifth Committee. Nevertheless, it would vote in favour of the revised draft resolution even if paragraph 2 was retained, on the understanding that its adoption should not be interpreted as prejudging any decision which the Fifth Committee might see fit to take on the matter.

23. Mr. QUINTEROS (Chile) said that the programmes for teaching and disseminating international law should be drawn up in a balanced and objective way so that the various legal systems would be fully represented in them. His delegation had misgivings about charging the travel expenses of participants in the seminars to the regular budget of the United Nations, as it feared that that would entail a reduction in the appropriations for technical assistance as such. Nevertheless, it would support the revised draft resolution.

24. Mrs. KRISPI-NIKOLETOPOULOU (Greece) said that her delegation approved of the report of the Secretary-General on the Programme and also the recommendations contained in it. In view of the fact that the financial implications of paragraph 2 of draft resolution A/C.6/L.811/Rev.1 were relatively modest, it would vote in favour of the draft.

25. Mr. SCHACTER (United Nations Institute for Training and Research), replying to the questions asked by several representatives concerning the financial aspects of the regional programmes, said that the proposal concerning travel grants for participants in the regional seminars had not originated with UNITAR, which only helped to carry out the Programme established by the General Assembly. UNITAR was scarcely in a position to increase its financial support to the activities contemplated, since its Board of Trustees had already adopted its budget and fixed the programme priorities. UNITAR would seek support from other interested organizations, but it had just been learned that unfortunately the UNESCO budget for 1971-1972 no longer included appropriations for regional training courses. It was regrettable that the Advisory Committee had not known about that change when it had met and that it had not been aware of the difficulties faced by the African Governments.

26. The estimated increase in costs for 1971 was in part due to the fact that the African seminar, which was to have

taken place in 1970, had had to be postponed to the beginning of 1971. The increased costs could appropriately be regarded as being spread out over two years and would therefore amount to no more than about \$11,000 per year.

27. With regard to the remarks made by the representative of France, he agreed that the costs should normally be charged to resources deriving from voluntary contributions and that the regular budget of the United Nations should be drawn on only as a last resort. In reply to a remark made by the representative of the Union of Soviet Socialist Republics, he said that the United Nations sometimes paid the travel expenses of participants in seminars, such as those dealing with human rights, for example.

28. Mr. FEDOROV (Union of Soviet Socialist Republics) said that he was not entirely satisfied with the explanations provided by the representative of UNITAR. He wondered whether it would not be possible, by means of transfers within the UNITAR budget, to make available the funds needed for the travel grants of the participants in the regional seminar in Africa and the regional training course in Latin America.

29. He also wondered whether it could properly be decided to make additional financial commitments, once the Advisory Committee had approved the recommendations of the Secretary-General regarding execution of the Programme.

30. Mr. WARREN (Secretariat) said that, should the General Assembly adopt this draft resolution and specifically authorize the Secretary-General to enter into commitments for this purpose, then these expenses could legitimately be charged to the regular budget of the United Nations.

31. Mr. SEATON (United Republic of Tanzania) said that, as a member of the Advisory Committee and a representative of a developing country, he hoped that those who objected to increases in the budget of the Programme and wished to make the developing countries responsible for the additional costs would weigh the consequences of their decision carefully. It was not very logical to approve the recommendations regarding execution of the Programme while at the same time refusing to provide the means for implementing it. He urged the members of the Committee to come to an agreement on the matter.

32. Mr. FEDOROV (Union of Soviet Socialist Republics) said that his delegation was always ready to look for solutions acceptable to everybody. He wished to make it clear that there was certainly no question of putting an additional burden on the developing countries, but rather of asking UNITAR to find a way of assuming the additional costs required to implement paragraph 2 of the revised draft resolution.

33. The CHAIRMAN invited the Committee to vote separately on paragraph 2 of the revised draft resolution A/C.6/L.811/Rev.1).

*At the request of the representative of Ghana, the vote was taken by roll-call.*

*The Central African Republic, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Central African Republic, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Denmark, Ecuador, El Salvador, Ethiopia, Finland, Gabon, Ghana, Greece, Guatemala, Guyana, India, Indonesia, Iran, Iraq, Ireland, Israel, Ivory Coast, Jamaica, Kenya, Kuwait, Laos, Lesotho, Liberia, Libya, Madagascar, Malaysia, Mali, Mexico, Morocco, Nepal, Nicaragua, Niger, Nigeria, Norway, Panama, People's Republic of the Congo, Peru, Philippines, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Southern Yemen, Spain, Sweden, Thailand, Togo, Trinidad and Tobago, Uganda, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Algeria, Argentina, Austria, Bolivia, Brazil, Burma, Cambodia, Cameroon.

*Against:* Czechoslovakia, Hungary, Mongolia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Bulgaria, Byelorussian Soviet Socialist Republic.

*Abstaining:* Chile, Cuba, France, Italy, Japan, Netherlands, New Zealand, Poland, Portugal, Romania, South Africa, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Afghanistan, Australia, Belgium, Canada.

*Paragraph 2 was adopted by 69 votes to 7, with 18 abstentions.*

34. The CHAIRMAN then put the revised draft resolution as a whole (A/C.6/L.811/Rev.1) to the vote.

*The revised draft resolution was adopted by 85 votes to none, with 7 abstentions.*

35. Mr. TERRY (Australia) said that although his delegation continued to support the Programme, it had abstained from voting on paragraph 2 because in it the Secretary-General was authorized to appropriate funds for travel grants although neither the Advisory Committee nor the Fifth Committee had had an opportunity to express their views on the advisability of such a measure. He reserved the position which his delegation would take on the matter in the Fifth Committee. Nevertheless, his delegation had voted in favour of the draft resolution as a whole.

36. Mr. CAPOTORTI (Italy) said that he had abstained from voting on paragraph 2 of the draft resolution since he could not agree that costs should be charged to the United Nations budget without the proper procedure being followed. He hoped that the measure in question, on which his delegation reserved the position it would take in the Fifth Committee, would not be used as a precedent. His delegation had voted in favour of the draft resolution as a whole, since it was convinced that the Programme had a worth-while purpose.

*The meeting rose at 12.55 p.m.*