



Chairman: Mr. Paul Bamele ENGO (Cameroon).

**AGENDA ITEM 88**

**Need to consider suggestions regarding the review of the Charter of the United Nations (continued) (A/8053, A/C.6/L.817)**

1. Mr. MORALES SUAREZ (Colombia), introducing draft resolution A/C.6/L.817 on behalf of the sponsors, said that paragraph 1 gave States the opportunity to express their views, either in favour of a review of the Charter of the United Nations or against it. Paragraph 2 was in line with the existing procedure which States had already agreed to adopt in connexion with possible changes to the Charter.

*Mr. Houben (Netherlands), Vice-Chairman, took the Chair.*

2. Mr. TSURUOKA (Japan) said that the twenty-fifth anniversary of the United Nations was an occasion for re-dedication to its cause and to the strengthening of its peace-keeping and peace-building functions. In view of the drastic changes which had taken place during the first quarter of a century of the Organization's existence and the natural need for a periodic evaluation of its effectiveness as the best available international machinery for peace-building, his delegation considered it appropriate to undertake a review and, if necessary, a revision of those provisions of the Charter which described the functions of the United Nations in its pursuit of world peace and security.

3. As a first step, the Assembly should request Member States to submit to the Secretary-General views, opinions and suggestions regarding the question of the review of the Charter. The Secretary-General should then be requested to prepare a comprehensive report on those views and suggestions for consideration by the Assembly at its twenty-sixth session. The relevant item should accordingly be included in the provisional agenda of that session.

4. Mr. YASSEEN (Iraq) said that it was a heavy responsibility to decide on such a delicate issue as a review of the Charter, not so much because the Charter was sacrosanct, but because of its political significance. Since the Charter reflected a delicate international balance, consideration of a review required extreme caution.

5. First of all, however, he wished to allay certain misgivings. The Charter was only a treaty, containing its own procedures for amendment or revision. But it had proved to be very adaptable to changing conditions,

through the adoption of resolutions by the General Assembly and other United Nations bodies. A factor which had likewise made the Charter very flexible was the constant process of interpretation, particularly by the General Assembly. There was no doubt that an interpretation by an organ comprising all the parties to the Charter had great authority, even if it were not considered authentic, since it emanated from the body which was empowered to amend the Charter by using a certain procedure.

6. In the field of decolonization, for example, the Charter laid down certain rules on Non-Self-Governing Territories. But the situation had always been envisaged as a transitory one. Since the existence of dependent States was incompatible with the fundamental principles of the Charter, the General Assembly and other United Nations bodies had interpreted those principles. The result had been the Declaration on the Granting of Independence to Colonial Countries and Peoples, which had constituted a turning-point in the evolution of international society.

7. It had been argued that there were certain gaps in the Charter. But in the case of Article 33, for example, action had been taken to develop the system by means of compulsory jurisdiction clauses in conventions that had been signed and ratified by many Member States.

8. In view of the flexibility of the Charter, it could be argued that revision was unnecessary. The legality of such a process was beyond question; what could be disputed, however, was the much more important issue of the appropriateness of revision at the present time. Extreme caution was necessary, since such a potentially hazardous course might well jeopardize the delicate balance of international organization. Revision of the Charter required the same kind of solidarity as had prevailed following the Second World War; but that solidarity seemed to be absent at the present time. Another vital factor was the importance of the great Powers in all matters pertaining to the amendment or revision of the Charter. Consequently, in the absence of the People's Republic of China it did not even seem advisable to set in motion the procedure for the review of the Charter.

9. It could be said that the Charter in its present form was failing to preserve international peace and security; but the failure should not be attributed to the Charter. A revision could not transform the Organization into a supra-national body. As at present constituted, the Organization depended for its functioning on the political will of States. That was particularly so in the case of the great Powers, which in view of their heavy responsibility for world peace could not afford the luxury of being parties to a dispute, but rather had to act in the role of a judge. However, certain great

Powers were not fulfilling that responsibility to act in accordance with the provisions of the Charter; and in seeking to solve international problems those Powers were motivated by narrow considerations based on their own internal policies.

10. With regard to the convening of a conference to consider suggestions on a review, it was true that the Charter made provision for such a conference but it did not make it mandatory procedure. The ultimate decision lay with the General Assembly. He reserved the right to state his views on the draft resolution at a later date, when he had had an opportunity to study its provisions. To pass a valid judgement on the timeliness of a review required very careful consideration of all the factors involved. He hoped that the underlying spirit of the Charter would be maintained and its provisions fully implemented, as they had not always been in the past.

11. Mr. FRANCIS (Jamaica) said that a matter which affected the constitutional framework of the United Nations needed deep reflection and the benefit of collective wisdom. For the moment, his delegation would confine its remarks to the general idea of reviewing the Charter and finding a procedure for determining whether a review should be initiated.

12. The purpose of Articles 108 and 109 of the Charter was to provide adequate safeguards for the interests of all Member States. It was noteworthy that no amendment to the Charter could enter into force until, *inter alia*, it had been ratified by all the permanent members of the Security Council. But the other members of the Security Council also had a function as far as a possible review was concerned, since a review conference could be convened at the instance of a two thirds vote of the members of the General Assembly supported by a vote of any nine members of the Council.

13. To his delegation, the Charter, although the most important multilateral treaty in force, was not so sacrosanct that it should not be amended if necessary. The membership of the United Nations had grown from 51 in 1945 to 127 in 1970 and its Charter needed modification if it was to reflect the collective views of the expanded membership. The fact that the Charter could be revised without detriment to its basic purposes and principles had been demonstrated in 1963, when the composition of the Security Council and the Economic and Social Council had been enlarged.<sup>1</sup> In the present situation, the United Nations could either adapt itself to the needs of the age or become an irrelevant anachronism. Although the Organization had been made to respond to contemporary needs in some areas, in particular through General Assembly resolutions and declarations, a possible review of the Charter had to be contemplated if the United Nations was to be brought up to date in other respects. The twenty-fifth anniversary, when there was a quarter of a century of experience to guide the Committee, was an appropriate moment for a discussion of the matter. It was to be hoped that the Committee's debate would be conducive to an eventual review of specific aspects of the Charter.

14. The General Assembly had recently adopted resolution 2632 (XXV) on the rationalization of its procedures and organization, a step which reflected the concern of the majority of delegations to make improvements in the functioning of the United Nations system. His delegation regarded action under that resolution as complementary to any future review of the Charter; each process would aim in its own way at increasing the efficiency of the Organization. He hoped that a draft resolution commanding the Committee's unanimous support would emerge on the item under consideration.

15. Mr. CAVALCANTI (Brazil) welcomed the initiative of the sponsors of the draft resolution on the question of a review of the Charter. Twenty-five years' experience was a sufficient basis for a constructive re-appraisal of the Charter to see whether, in a rapidly evolving world, it needed revision in order to serve as an effective instrument for the maintenance of good relations between States.

16. Not only had the membership of the United Nations doubled, but international horizons had changed with the admission of young States which presented the Organization with new problems and aspirations. In addition to reviewing its Charter, the United Nations should examine the functioning of its various organs and their suitability for their tasks. There should be a survey of the entire structure of the Organization to determine its capacity to maintain peace and settle international disputes. The fact that a section of world political opinion doubted its abilities in that direction was sufficient justification for such a step. A system which bore so heavy a responsibility towards humanity required continuous improvement if it was to discharge that duty properly.

17. Criticism was frequently directed against the structure of the United Nations, the unsatisfactory composition of its deliberative councils, and the political interests that dominated it. Charges such as those would have to be investigated through a process of State consultation. His delegation would find no difficulty in supporting a move to begin that task in 1971. Every organism needed to adapt itself to new conditions if it was to survive, so there was good reason for reviewing the Charter.

18. Mr. PRANDLER (Hungary) said that the very idea of a review of the Charter implied a need for its revision at some stage, even if not immediately. The issue to be decided was whether that need really existed. It had been held that new developments made the amendment of the Charter desirable, but the question was whether the provisions of the Charter were inadequate to ensure harmonious relations between States and whether the present world situation was favourable to the preparation of a revised instrument.

19. On the first question, his delegation maintained that the basic provisions of the Charter were still a valid code of conduct for States in their international affairs. They formed a satisfactory foundation for three major aspects of the Organization: its purposes and principles; the structure of its principal organs and division of labour among them; and the implementation of its objectives. No Member State questioned the validity of the purposes and principles of the United Nations; if States had not respected the

<sup>1</sup> See General Assembly resolution 1991 (XVIII).

obligations which the Charter thus imposed on them, the fault lay with the States concerned and not with the obligations. With regard to the structure of the principal organs, the shortcomings of any particular organ were due to the behaviour of sovereign Member States and not to inherent weakness in the organ concerned. As to the division of responsibilities between the principal organs, any drastic move to upset it, for instance the transfer of the Security Council's powers to the General Assembly, would jeopardize co-operation among States and endanger not only the interests of Member States but also the very future of the United Nations. In the matter of the implementation of objectives, the Charter had proved flexible enough to ensure a significant contribution to the liquidation of colonialism and to promote the progress of the developing countries and international economic co-operation. But there might be a case for amending selected provisions of the Charter, as had been found necessary with regard to the composition of the Security Council and the Economic and Social Council.

20. As to the second question, whether the world situation was favourable to a revision of the Charter, in his delegation's view the answer was no. In the first place, the adoption of the Charter by the San Francisco Conference had been made possible by a large measure of agreement among the great Powers, a situation which could not be envisaged at present. Furthermore, no beneficial results could be expected from a revision of the Charter as long as the People's Republic of China, one of the great Powers, was denied its rightful place in the United Nations and the two German States were outside it. Finally, seeing how difficult it had proved to agree on the formulation of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)), it was hard to foresee any possibility at present of a consensus on new Charter provisions which would be binding on Member States.

21. Hungary's objection to any attempt to revise the Charter was based on a deep concern for the future of the United Nations and the fear that even minor changes might beget unexpected dangers. His delegation would therefore oppose draft resolution A/C.6/L.817. It should not be thought, however, that it had a negative attitude towards progress in the Organization. Not only was there ample scope for change within the existing framework of the Charter, but there were also fruitful opportunities for advance in the field of the progressive development and codification of international law. The painstaking process of drawing up conventions could help to eliminate obstacles to international co-operation, provided the over-all political atmosphere improved. That was an essential prerequisite of progress. The United Nations was basically a political organization and its Charter was a political as well as a legal instrument. The gradual development of the Organization and of international law, although less spectacular than a revision of the Charter, might be safer and more rewarding. The United Nations had no alternative but to do its utmost to make the Organization work as the authors of the Charter had intended.

22. Mr. CHAMMAS (Lebanon) said that one point had emerged clearly from the Committee's discussions: the

purposes and principles of the Charter had not been called into question. On the contrary, the Charter was a dynamic document in the sense that its provisions remained as relevant now as they had been twenty-five years earlier. Furthermore, however the concept of a review was defined, the references made by previous speakers to Article 109, contained in Chapter XVIII entitled "Amendments", left no doubt whatever that Members in fact considered the issue to be one which concerned amendments to the Charter.

23. The possibility could certainly not be excluded that the institutional arrangements provided for in the Charter might not be sufficiently flexible to respond to changing needs. That situation had occurred with the admission to membership in the United Nations of many African and Asian States. It was widely acknowledged that there was need for equitable representation of the emerging nations in the principal organs of the United Nations; but the necessary action had been taken to enlarge the membership of the Security Council and the Economic and Social Council without the need to resort to the procedure provided for in Article 109.

24. His delegation could not fully agree with the suggestion, however constructive, made by the representative of the Philippines, for a general approach to the question of the review. In fact, the appropriate course would be to adopt an *ad hoc* approach, whereby only those provisions would be chosen on which there was agreement on the need for amendment of the Charter.

25. As an example of the *ad hoc* approach, he recalled the delicate task of preparing the Declaration on Friendly Relations, adopted in General Assembly resolution 2625 (XXV), and providing a much more precise interpretation of the principle of the pacific settlement of disputes than that contained in Article 33 of the Charter. Yet hasty or over-forceful attempts to bring about change, however desirable it might be, could only give rise to adverse reactions which would defeat the common purpose.

26. A second example was the question of peace-keeping operations in all its aspects, on which no full agreement was thus far in sight, despite intensive work over at least six years. Surely shortcomings could not be attributed to the Charter because of failure to reach agreement on that issue.

27. It might be considered that the question of the composition of the Security Council might lend itself as a suitable subject for amendment. His delegation considered that the right of veto of the permanent members did not run counter to the principle of sovereign equality of States. It had to be remembered that the founding fathers accepted and voted for the provision of the veto power in exercise of their sovereign right. When the Council was established, however, it had been considered that those States carried a tremendous burden of responsibility in building the peace. Again, it might be desirable to re-examine the composition and role of the Economic and Social Council and its subsidiary bodies. The Commission on Human Rights, for example, might require at some time in the future to be given a new status. But any such proposal should be considered on its merits, without the need for a general review of the Charter.

28. While Article 109 provided for the possibility of a review, including the convening of a conference for the purpose, that provision did not make a review imperative. The realities of the international situation should be a guide, and his delegation took the view that the prevailing situation was not propitious for a thorough review. It had not been possible, for instance, to apply the principle of universality. Only a realistic, cautious approach would make it possible to find common ground. He agreed with the representative of the Philippines (1238th meeting) that the wording of Articles 53 and 107 was anachronistic; but it could be amended without recourse to a general review or a conference. To speak of a review gave the wrong impression.

29. Turning to draft resolution A/C.6/L.817, he thought it would be premature to invite Member States to communicate their suggestions on the review of the Charter. Governments would appoint committees of experts in the political, legal, economic and social fields to assess the shortcomings of the Charter, and such an assessment would go far beyond any suggestions made thus far at the twenty-fifth session. That was why his delegation favoured

the *ad hoc* approach. Despite its reservations, however, it would not oppose a request for the views of Governments.

30. In order to achieve the widest measure of agreement, he would like to propose certain formal amendments.<sup>2</sup> The first, which would replace the third preambular paragraph, had been proposed because he was not convinced that a review would secure the full application of the principles of the Charter. The fact that Chapter VII, for instance, had never been applied was because of the lack of political will on the part of States and not because of any shortcomings in the Charter. Paragraph 1 of the draft resolution needed to be amended, because the words “bearing in mind the provisions of Article 109 (3) of the Charter” tended to prejudge the issue. His second amendment would eliminate that phrase and make the wording as neutral as possible, so that Governments could submit any views and suggestions they might wish.

*The meeting rose at 5.25 p.m.*

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<sup>2</sup> Subsequently circulated in document A/C.6/L.818.