



Eighth session  
Agenda items 58, 70 and 72

PUBLICATION OF DOCUMENTS CONCERNING THE DRAFTING  
AND APPLICATION OF THE CHARTER

PREPARATORY WORK WITH REGARD TO THE POSSIBLE HOLDING OF A  
GENERAL CONFERENCE OF THE MEMBERS OF THE UNITED NATIONS  
IN ACCORDANCE WITH ARTICLE 109 OF THE CHARTER

AMENDMENT OF THE CHARTER: ELECTION OF A TECHNICAL COMMITTEE  
TO STUDY AND REPORT ON THE AMENDMENT OF THE CHARTER ON THE  
BASIS OF PROPOSALS TO BE SUBMITTED BY MEMBER STATES

Report of the Sixth Committee

Rapporteur: Mr. J. SPIROPOULOS (Greece)

I. INTRODUCTION

1. The three items to which the present report relates were placed on the provisional agenda of the eighth session of the General Assembly upon the request of the Permanent Representatives of Argentina, the Netherlands and Egypt, respectively. As provided in rule 20 of the rules of procedure, the proposals of the three Member States were accompanied by explanatory memoranda giving reasons for their submission (A/2415, A/2442, A/2466/Add.1).
2. At its 435th plenary meeting held on 17 September 1953, the General Assembly decided, on the recommendation of the General Committee, to include the items entitled "Publication of documents concerning the drafting and application of the Charter"; "Preparatory work with regard to the possible holding of a general conference of the Members of the United Nations in accordance with

Article 109 of the Charter"; "Amendment of the Charter: election of a technical committee to study and report on the amendment of the Charter on the basis of proposals to be submitted by Member States" in the agenda of its eighth session and to refer the items to the Sixth Committee for consideration.

3. The Sixth Committee considered the three items jointly from its 371st meeting held on 19 October 1953 to its 380th meeting held on 4 November 1953.

4. A memorandum containing observations on the first two items was submitted by the Secretary-General to the Sixth Committee for its information (A/C.6/343). In his memorandum the Secretary-General presented a detailed description of the official records of the San Francisco Conference and indicated, in particular, that the only official records not published up to the present were the documents of the Co-ordination Committee including the summary reports of the Advisory Committee of Jurists. The memorandum described the manner in which a chronological and synoptical index of the documentation of the Conference could be prepared by the Secretariat and indicated that the preparation of a systematic and comprehensive study of the legislative history of the Charter previously undertaken, had had to be deferred in order to give priority to the preparation of a repertory of the practices of the United Nations under the Charter. The suggestion was made that the main purpose of publishing a legislative history might be achieved by the preparation of a comprehensive index to the San Francisco documentation. The memorandum also contained a report on the initial steps taken within the Secretariat with a view to a preparation of a co-ordinated history of the application of the Charter provisions. A summary of the financial implications of the proposals made to the Committee was annexed.

## II. PROPOSALS SUBMITTED TO THE COMMITTEE

5. The following draft resolutions were before the Committee:

(a) A draft resolution by Argentina (A/2415/Add.1) which stated in its preamble that one of the best methods of acquiring knowledge of the Charter was to study its legislative history and the practice followed by the various organs of the United Nations in applying it, and that this study could be carried out

by the Secretariat on the basis of the official documents. The operative part provided that the General Assembly would request the Secretary-General to arrange to publish, before the end of 1954: (1) a systematic compilation of the documents of the United Nations Conference on International Organization, not yet published; (2) a complete index of all the documents of that Conference; (3) a systematic and comprehensive study of the legislative history of the Charter; and (4) a repertory of various provisions of the Charter, taking into account their application by the various organs of the United Nations and the interpretations to which they have given rise.

(b) A draft resolution by Costa Rica and Egypt (A/C.6/L.305) the preamble of which referred to Article 109, paragraph 3, of the Charter, and stated that the examination of the proposal to hold a General Conference for the purpose of reviewing the Charter would require considerable preparatory work, and that the work and deliberations of the General Conference - in case the General Assembly should decide to convene it - would be considerably facilitated if a comprehensive study were made of the provisions of the Charter as applied by the various organs of the United Nations. The operative part of the draft resolution proposed that the General Assembly should (1) request the Secretary-General to prepare all the relevant documents and materials necessary for the preparatory work and study mentioned in the preamble; (2) establish an advisory committee composed of fifteen Member States to assist the Secretary-General in the preparatory work necessary for the possible convening of the General Conference referred to in Article 109, paragraph 3, of the Charter. The advisory committee would be requested to prepare a questionnaire to be circulated to the Member States to ascertain their preliminary views on what they might deem appropriate for the purpose of the General Conference; to receive, examine, analyse and co-ordinate the views expressed by the Member States; and to report to the General Assembly not later than 30 June 1955. Member States would be invited to submit their views on the questionnaire prepared by the advisory committee.

(c) A draft resolution by Argentina, Canada, Cuba, the Netherlands, New Zealand and Pakistan (A/C.6/L.306/Rev.2), which also referred in the preamble to the provisions of Article 109 of the Charter and stated that the examination

of a proposal to hold a General Conference would require considerable preparation on the part of both the Secretary-General and Member States. It expressed the view that a study of the legislative history of the Charter and of the practice followed by the various organs of the United Nations would be one of the best methods of acquiring knowledge of the Charter and would greatly facilitate the Assembly's consideration, at its tenth annual session, of the question of calling a General Conference. Under paragraph 1 of the operative part of this draft resolution, the General Assembly would request the Secretary-General to prepare and publish during 1954, or shortly thereafter: (a) a systematic compilation of the documents of the United Nations Conference on International Organization not yet published; (b) a complete index of all the documents of that Conference; (c) a systematic and comprehensive study of the legislative history of the Charter; (d) a repertory of the various provisions of the Charter, taking into account their application by the various organs of the United Nations and the interpretations to which they had given rise. Under paragraph 2 the General Assembly would invite Member States to submit, preferably not later than 31 March 1955, their preliminary views with regard to the possible review of the Charter, and under paragraph 3 it would request the Secretary-General to circulate these preliminary views to Member States as soon as they had been submitted.

6. The following amendments were submitted to the draft resolution of Argentina, Canada, Cuba, Netherlands, New Zealand and Pakistan:

(a) An amendment submitted by Belgium, Colombia, France and Mexico (A/C.6/L.307) which proposed to replace the preamble of the six-Power draft resolution with a statement that any measure likely to lead to a more thorough knowledge of the Charter would be conducive to the efficient functioning of the United Nations; that a study of the preparatory work on the Charter and of the practice followed by the various organs of the United Nations would be one of the best means of acquiring knowledge of the Charter; and that such a study might be made with the help of the official documents by the Secretary-General. A further amendment proposed to delete paragraphs 2 and 3 of the operative part of the draft resolution.

(b) An amendment submitted by Australia and the United Kingdom (A/C.6/L.308/Rev.1) which proposed to add a fourth paragraph to the preamble referring specifically to the memorandum by the Secretary-General (A/C.6/343); to amend sub-paragraph (b) of operative paragraph 1 to read as follows: "(b) A complete index of the documents of that Conference on the lines envisaged in part II and part III C of the memorandum by the Secretary-General"; to delete sub-paragraph (c); and to replace sub-paragraph (d) by the following sub-paragraph: "(c) A repertory of the practice of United Nations organs appropriately indexed".

(c) An amendment submitted by El Salvador (A/C.6/L.309/Rev.2) which proposed to make certain drafting changes in the preamble of the six-Power draft resolution and to indicate in paragraph 1 of the operative part that the Secretary-General would not only prepare and publish the documentation requested but that he would also circulate that documentation among the Member States.

(d) An amendment submitted by Panama (A/C.6/L.310) which proposed to replace paragraph 2 of the operative part of the six-Power draft resolution by a paragraph inviting the Member States to submit, preferably not later than 31 March 1955, their objections to the Charter and their views with regard to the possible review of the Charter; to replace paragraph 3 of the operative part by a request to the Secretary-General to circulate these objections and preliminary views to Member States as soon as they had been submitted so that each Member State could express its opinion thereon; and to add a fourth paragraph instructing the Secretary-General to submit all the documentation which he would prepare in accordance with the resolution to the General Assembly at its session in 1955 so that the Assembly could consider whether a General Conference should be convened to take a definitive decision regarding such amendments to the Charter as might be necessary and advisable.

(e) An amendment submitted by Czechoslovakia (A/C.6/L.312) which proposed to delete sub-paragraphs (c) and (d) of operative paragraph 1.

### III. DISCUSSION IN THE SIXTH COMMITTEE

#### A. Study of the Charter and Charter review

7. During the discussion which took place in the Committee, consideration was given to the question of the relation between the proposals before the Committee and the question of Charter review under paragraph 3 of Article 109.

8. A number of delegations held the view that it was desirable to make such preparations now as would enable governments in 1955 to reach a considered opinion on the question whether a General Conference should be convened to review the Charter. It was the view of those delegations that the provisions of Article 10 and of paragraph 1 of Article 109 of the Charter were sufficiently broad to enable the General Assembly to undertake such preparations. Without committing themselves on the question whether a revision of the Charter would be desirable, several delegations expressed themselves in favour of holding a General Conference for the purpose of reviewing the Charter. Other delegations went further and asserted that the Charter required revision, but it was recognized that revision could not be effected without the approval of each of the permanent members of the Security Council.

9. Some delegations favoured technical studies, but wished to avoid linking them at the present time to the question of reviewing the Charter. In their view, it was premature to deal with the question of review and it was even doubtful whether the General Assembly was competent to undertake any activities bearing directly on the review of the Charter, since Article 109 entrusted that task to a General Conference and not to any of the existing organs of the United Nations.

10. Some delegations opposed the adoption of the proposals submitted to the Committee and maintained that they were indirect attempts to abolish the unanimity rule and to undermine the basic principles of the Charter. In their opinion, it was not likely that extensive and costly preparatory work would be proposed unless the proponents intended it to result in revisions. Any proposals made in anticipation of the revision of the Charter could only increase international tension and might endanger the existence of the United Nations.

B. Proposal for publication of documents concerning the drafting and the application of the Charter

(a) Compilation of unpublished documents of the San Francisco Conference

11. It was generally agreed that it would be useful to publish the hitherto unpublished official documents of the Co-ordination Committee of the San Francisco Conference. In this connexion, the suggestion was made that the Secretariat should distribute to governments, some of which were not represented at the San Francisco Conference and had not had the same opportunity as others to obtain those documents, the edition of the San Francisco records prepared by the United Nations Information Organization. Without that material, it would be of little value to have at hand what would be a supplement to it.

(b) Preparation of an index to the documents of the San Francisco Conference

12. With respect to the preparation of a comprehensive index to the San Francisco documents, agreement was expressed with the suggestions in the Secretary-General's memorandum as to the form and contents of such an index. It was pointed out that the analytical index suggested by the Secretary-General should be prepared not only from the technical but also from the juridical viewpoint, with due regard to the legally significant issues involved in the interpretation of each particular Article or paragraph of the Charter.

(c) Legislative history of the Charter

13. Those delegations which favoured the preparation of a systematic and comprehensive legislative history of the drafting of the Charter stressed the usefulness which such a study would have for governments and for United Nations organs. Its cost, when spread over the two years which would be required for its preparation, would be small compared with its value. Other delegations expressed doubts as to the desirability of such a history and wondered whether its cost and the burden that its preparation would place upon the Secretariat would be justified. In particular, it was pointed out that a multilateral instrument such as the Charter initially reflected a variety of views but later acquired an independent existence and had to be interpreted accordingly. It was therefore questionable whether the intentions of its authors would be of value in its interpretation, not

only because of the number of countries involved, but also in view of the fact that States which became members subsequent to its drafting had not been heard at the San Francisco Conference. In addition, it was stated that a legislative history, unless accompanied by explanatory comments, would not help the reader greatly in understanding why the various provisions had developed along certain lines. The selection of material for inclusion in such a history would be a difficult task for the Secretariat, and would be more difficult in a summarized history than in an extended one.

14. In view of those considerations, the Secretary-General's suggestion that a comprehensive index might serve the purpose of a legislative history of the Charter evoked favourable response from several delegations.

(d) Repertory of practice under the Charter

15. In supporting the proposal regarding the preparation of a repertory of the practice of the United Nations under the Charter, several delegations observed that such a repertory would assist governments in forming a considered opinion about the desirability of convening a General Conference under Article 109. In addition, emphasis was laid on the intrinsic value which would be derived from the proposed repertory independently of its usefulness in the determination whether the Charter required review. Such a repertory would contribute to an understanding of the Charter regardless of whether a General Conference were convened or not. The Secretariat was the only institution equipped to carry out such a scientific and objective study and had already commenced its preparation as part of its normal functions.

16. With respect to the presentation of the proposed repertory, some delegations, wishing to give the Secretary-General clear instructions on the matter, expressed the view that it should be prepared along the lines indicated in part IV of the Secretary-General's memorandum. It was pointed out that material should be organized primarily in terms of the various Articles of the Charter so as to reveal their application and interpretation, rather than be given a historical case-by-case treatment. A significant topic might be treated separately when its importance warranted such consideration or when dealt with in more than one Article. The importance of a good index to the repertory was stressed. Some delegations suggested that the repertory should be kept up to date by periodic supplements.



(e) Administrative implications

17. In reply to questions raised in the Sixth Committee, the representative of the Secretary-General explained that existing staff would be inadequate for the preparation of a legislative history of the Charter. A concise study would lay a heavier workload on the Secretariat and would require the same staff (five research assistants) as a comprehensive study, but the printing costs would be less. As regards the proposed index, the debate had made it clear that the index would have to be more complete than had been expected, and the services of an indexer with legal training would be required. With respect to the repertory of practice, each department would be responsible for the section which was its own special concern; two additional staff members working under a Secretariat committee would be necessary for co-ordination and editorial presentation.

18. In regard to the time schedule it was noted that publication of the Co-ordination Committee documents and of the index would be completed within one year and the repertory of practice would probably be substantially done within that time. It was unlikely that the repertory could be completed in a year, particularly since translation and publication would require additional time.

C. Proposal to invite Member States to submit preliminary views regarding possible revision of the Charter

19. With respect to the proposal to invite Member States to submit their preliminary views regarding the possible revision of the Charter, the delegations which favoured the proposal thought that its adoption would result in a useful exchange of views which would greatly assist the General Assembly at its tenth session in deciding whether a General Conference should be called, since a general picture of the position taken and the amendments desired by governments would emerge. It was understood that the words "preliminary views" were used in order to leave governments entirely free to express whatever opinions they wished or not to express any at all. Indeed, the purpose of requesting the views of governments was not so much to induce them to take a definite position in advance as to stimulate them to study the question. Some delegations felt that non-member States should also be requested to submit their opinions on Charter revision.

20. In addition to the constitutional arguments mentioned earlier, other reasons were advanced by those delegations which opposed the proposal to request governments to submit their preliminary views on Charter revision. Governments would hesitate to formulate their views without knowing what would be the international atmosphere three years hence. If they submitted their views beforehand, they might find it difficult to modify their positions during the General Conference, if one were held. Should some governments advance their views and others refrain from doing so, an incorrect picture of international opinion would result. It was pointed out that, if the only purpose of requesting governments for their opinions was to stimulate the study of Charter revision, that purpose had already been achieved by the debates in the Sixth Committee.

D. Proposal for election of a technical committee to study  
and report on amendment of the Charter

21. With regard to the establishment of an advisory committee to study and report on the amendment of the Charter, the delegations which supported this proposal considered it a method of preparing gradually for revision of the Charter similar to the conference which had been held by the Great Powers prior to the San Francisco Conference. One of the committee's tasks would be to prepare a questionnaire to ascertain the preliminary views of governments as to what amendments to the Charter might generally be acceptable, although the position of Member States would not be prejudiced by the expression of such preliminary views. The committee would also assist the Secretary-General in his task of preparing the necessary documentation, thus guaranteeing his neutrality.

22. Most of the objections to the proposal to request governments to submit their views on Charter revision were also raised with respect to the proposal regarding an advisory committee. Doubts were also expressed as to the usefulness of a committee having such imprecise terms of reference. By the mere act of drawing up a questionnaire, the committee would limit the scope of the comments of governments and it was questionable whether the committee should be allowed to supervise the preparation of documents and studies by the Secretariat. The task entrusted to the Secretariat should be a purely objective one, and the General Assembly alone could judge its value.

#### IV. DISPOSITION OF PROPOSALS

23. At the 372nd meeting of the Sixth Committee, the delegation of Argentina withdrew its draft resolution (A/2415/Add.1) in favour of the six-Power draft resolution (A/C.6/L.306/Rev.2). At the 374th meeting, the draft resolution of Costa Rica and Egypt (A/C.6/L.305) was withdrawn by its authors.

24. At the 379th and 380th meetings, the Sixth Committee proceeded to vote on the six-Power draft resolution (A/C.6/L.306/Rev.2) and the amendments submitted to it.

25. Point 2 of the four-Power amendment (A/C.6/L.307) proposing the deletion of paragraph 2 was adopted by 24 votes to 23, with 5 abstentions.

26. The representative of Argentina requested the Chairman to consult the Committee on the question whether a new vote should be taken to check the results of the first. The Chairman, considering that a new vote would imply reconsideration of the matter, put the Argentine proposal to the vote under rule 122 of the rules of procedure; there were 25 votes in favour, 24 against and 5 abstentions. The vote, which was taken by roll call, was as follows:

In favour: Argentina, Australia, Brazil, Canada, Chile, China, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Ethiopia, Honduras, Netherlands, New Zealand, Nicaragua, Pakistan, Panama, Peru, Philippines, Turkey, United States of America, Uruguay, Venezuela, Yugoslavia.

Against: Afghanistan, Belgium, Burma, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, Denmark, France, Guatemala, Iceland, India, Indonesia, Iraq, Liberia, Mexico, Norway, Poland, Saudi Arabia, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Egypt, Greece, Iran, Israel, Thailand.

Having failed to obtain the required two-thirds majority, the proposal was rejected.

27. By 27 votes to 16, with 2 abstentions, the Committee decided not to vote on point 3 of the four-Power amendment. As a result, paragraph 3 of the operative part of the six-Power draft resolution was considered deleted.

28. The deletion of operative paragraphs 2 and 3 of the six-Power draft resolution rendered unnecessary a vote on the amendment by Panama (A/C.6/L.310) to amend those paragraphs and to add a fourth operative paragraph.

29. Point 1 of the Czechoslovak amendment (A/C.6/L.312) to delete sub-paragraph (c) of operative paragraph 1 of the six-Power draft resolution was rejected by 20 votes to 18, with 7 abstentions. Point 2 of the same amendment proposing the deletion of sub-paragraph (d) was rejected by 24 votes to 8, with 5 abstentions.

30. Point 4 of the amendment submitted by El Salvador (A/C.6/L.309/Rev.2), to insert the words "and to circulate among the States Members" in operative paragraph 1, was adopted by 39 votes to 5, with 5 abstentions.

31. Point 2 of the amendment submitted by Australia and the United Kingdom (A/C.6/L.308/Rev.1), to substitute a new text for sub-paragraph (b) of operative paragraph 1, was adopted by 29 votes to 17, with 4 abstentions. Notwithstanding the rejection of point 1 of the amendment of Czechoslovakia (A/C.6/L.312), the Committee decided, by 26 votes to 16, with 6 abstentions, to vote on point 3 of the amendment by Australia and the United Kingdom, proposing to delete sub-paragraph (c) of operative paragraph 1. Point 3 of the amendment was adopted by a roll-call vote of 27 to 20, with 5 abstentions. The voting was as follows:

In favour: Afghanistan, Australia, Belgium, Burma, Byelorussian Soviet Socialist Republic, China, Colombia, Czechoslovakia, Denmark, Egypt, France, Iceland, India, Iran, Iraq, Liberia, Norway, Philippines, Poland, Saudi Arabia, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Argentina, Brazil, Canada, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Indonesia, Mexico, Netherlands, New Zealand, Nicaragua, Panama, Peru, Uruguay, Venezuela, Yugoslavia.

Abstaining: Greece, Israel, Pakistan, Thailand, Turkey.

32. Point 4 of the amendment by Australia and the United Kingdom to substitute a new text in place of sub-paragraph (d) of operative paragraph 1, was adopted by 23 votes to 16, with 7 abstentions.

33. Point 1 of the four-Power amendment (A/C.6/L.307), to replace the preamble of the six-Power draft resolution with a new text, was rejected by a roll-call vote of 28 to 15, with 9 abstentions. The voting was as follows:

In favour: Afghanistan, Belgium, Burma, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, France, Guatemala, Iran, Liberia, Mexico, Poland, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: Argentina, Brazil, Canada, Chile, China, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Greece, Iceland, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Sweden, Turkey, United States of America, Uruguay, Venezuela, Yugoslavia.

Abstaining: Australia, India, Indonesia, Iraq, Israel, Saudi Arabia, Thailand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland.

34. Point 1 of the amendment by El Salvador (A/C.6/L.309/Rev.2) to delete the word "present" in the first paragraph of the preamble, was adopted by 28 votes to 7, with 10 abstentions. The amendment in point 2 to delete the words "is one of the best methods of acquiring knowledge of the Charter and" in the third paragraph of the preamble was rejected by 29 votes to 5, with 14 abstentions. The amendment in point 2 to delete in the same paragraph the words "by the tenth annual session" was rejected by 40 votes to 2, with 7 abstentions. The amendment in point 3 to delete the comma at the end of the same paragraph, and to add the words "with the object of reviewing the Charter" was rejected by 16 votes to 9, with 25 abstentions.

35. Point 1 of the amendment by Australia and the United Kingdom (A/C.6/L.308/Rev.1) to add a fourth paragraph to the preamble, was adopted by 28 votes to 6, with 11 abstentions.

36. The draft resolution of Argentina, Canada, Cuba, the Netherlands, New Zealand and Pakistan (A/C.6/L.306/Rev.2), as amended, was then put to the vote

in parts. The first paragraph of the preamble, as amended, was adopted by 38 votes to 5, with 3 abstentions. The second paragraph of the preamble was adopted by 41 votes to 5, with 2 abstentions. The third paragraph of the preamble was adopted by 40 votes to 5, with 5 abstentions. The operative part of the draft resolution, as amended, was adopted by 44 votes to 5.

37. The draft resolution as a whole, as amended, was then put to a vote and was adopted by 48 votes to 5.

38. The Sixth Committee, therefore, recommends to the General Assembly the adoption of the following resolution:

The General Assembly,

Having regard to the provisions of Article 109 of the Charter under which a proposal to hold a General Conference of the Members of the United Nations for the purpose of reviewing the Charter is to be placed on the agenda of the tenth annual session of the General Assembly if such a conference has not been held before that session,

Considering that the examination of such a proposal will require considerable preparation on the part of both the Secretary-General and Member States,

Considering that study of the legislative history of the Charter and of the practice followed by the various organs of the United Nations is one of the best methods of acquiring knowledge of the Charter and will greatly facilitate the General Assembly's consideration, at its tenth annual session, of the question of calling a General Conference,

Having regard to the memorandum by the Secretary-General (A/C.6/343),

Requests the Secretary-General to prepare, publish and circulate among the Member States during 1954, or shortly thereafter:

(a) A systematic compilation of the documents of the United Nations Conference on International Organization not yet published;

(b) A complete index of the documents of that Conference on the lines envisaged in part II and part III C of the memorandum by the Secretary-General;

(c) A repertory of the practice of United Nations organs appropriately indexed.