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CONTENTS

Chairman : Mr. Finn MOE (Norway).

Admission of new Members, including the right of candidate States to present proof of the conditions required under Article 4 of the Charter (A/1887/Rev.1, A/1899, A/1907, A/C.1/702/Rev.1 and A/C.1/703) *(continued)*

[Item 60]*

GENERAL DEBATE (*continued*)

1. Mr. Y. MALIK (Union of Soviet Socialist Republics) opposed the Peruvian delegation's draft resolution (A/C.1/702/Rev.1) on the admission of new Members, as being inconsistent with the Charter. Article 4 of the Charter stipulated four conditions which must be satisfied by States applying for admission to the United Nations : they must be peace-loving, must accept the obligations contained in the Charter and must be able and willing to carry out those obligations. Article 18 of the Charter said that decisions on the admission of new Members to the United Nations, considered an important question, must be made by a two-thirds majority of the Members present and voting. Article 4, paragraph 2, stipulated that the decision of the General Assembly must be made upon the recommendation of the Security Council ; and lastly, Article 27, paragraph 3, specified that the decision of the Security Council must be made by an affirmative vote of seven Members, including the concurring votes of the permanent members.

2. The opponents of the principle of unanimity had tried in vain to undermine its basis ; many such attempts had been made since 1947. For example, the International Court of Justice had been asked to advise whether a State could be admitted to membership in the United Nations on the decision of the General Assembly even if the Security Council had made no recommendation to that effect or if the statutory recommendation had not been adopted unanimously. The Soviet delegation had opposed the reference of that question to the Court ; Article 4, paragraph 2, was sufficiently clear and needed no additional elucidation, and, moreover, the USSR considered that the International Court of Justice was not competent to interpret the Charter, since Article 96 of the Charter laid down that the advisory opinion of the International Court of Justice could be requested only on legal questions. The Court clearly had no competence with regard to the admission of new Members, which was a political question.

3. In spite of that objection, the Anglo-American group had placed the question before the Court. On 3 March 1950 the Court had made known its findings [1], according to which the admission of a State to membership in the United Nations pursuant to paragraph 2 of Article 4 of the Charter could not be effected by a decision of the General Assembly when the Security Council had made no recommendation for admission, by reason of the candidate failing to obtain the requisite majority vote or of the negative vote of a permanent member on the recommendation. In explanation of its opinion, the Court had stated that two conditions must be satisfied : first, the Security Council recommendation and secondly, the General Assembly decision. The Charter did not place the Security Council in a subordinate position ; its recommendation of the candidate State was essential before the General Assembly could vote on its admission to membership. That reply proved the flimsy nature of the attacks made upon that important clause in the Charter.

4. In his statement introducing his draft resolution, the Peruvian representative had boosted the principle of universality in the United Nations ; yet the Peruvian draft resolution (A/C.1/702/Rev.1) proposed additional restrictions on the admission of new Members. In particular, the second paragraph and paragraph 6 of the operative part were incompatible with the Charter and the rules of procedure of the Security Council and the General Assembly. The proofs required under the draft resolution were not stipulated by any provisions at present in force (United Nations Charter, Article 4, paragraph 1 ; rules 58, 59 and 60 of the provisional rules of procedure of the Security Council ; rule 133 of the rules of procedure of the General Assembly).

5. The rules of procedure laid down for the admission of new Members had been applied many times since the establishment of the United Nations. None of the States recently admitted had been asked to present proofs of its qualifications. The Charter made no such demand, and it would have been contrary to the letter and the spirit of Article 4 of the Charter if the Assembly had arrogated to itself any such right.

6. The object of the draft resolution submitted by Peru was in fact solely to circumvent the Charter and the rules

* Indicates the item number on the General Assembly agenda.

[1] See *Competence of General Assembly for the admission of a State to the United Nations, Advisory Opinion*, I.C.J. Reports 1950, p. 4.

of procedure ; it was proposed to discriminate between States on the basis of a criterion of " maturity " which was merely a pretext for eliminating the undesirable.

7. It was proposed to demand that a State should prove the maintenance of friendly relations with other States —but, for such relations to exist between States, both sides must be actuated by a spirit of friendship. When Bulgaria applied for membership, the United States, which had broken off diplomatic relations with that State, would be able to assert that Bulgaria did not maintain the prescribed friendly relations with other States. It could adduce that fact before the Security Council, which would transmit it with its recommendation to the General Assembly ; and under that pretext an unwelcome candidate might very well be eliminated.

8. Clearly the proposed procedure was in fact merely a new method of eliminating candidates who did not support the United States. The Peruvian delegation had asserted during the current session that justice was above the Charter. That was a peculiar concept, which would make it possible to defy the United Nations Charter. Who was to decide what was just or unjust ? Who was to be the judge ? With or without a pretext, the United States and the United Kingdom were opposing the admission to membership of the peace-loving peoples' democracies. On the other hand, Mr. Belaúnde considered that Greece's election to the Security Council was perfectly right and proper, although it was a flagrant breach of the London " gentleman's agreement " on the fair distribution of seats.

9. The effect of adopting the Peruvian draft resolution would be to open the way to fresh possibilities of arbitrary action in connexion with the admission of new Members.

10. The third paragraph of the Peruvian draft resolution referred to the advisory opinion of the International Court of Justice of 28 May 1948 [2] and Mr. Belaúnde had stated that in accordance with that advisory opinion a Member State of the United Nations was not entitled to make its consent to a candidate's admission dependent on conditions not expressly provided by paragraph 1 of Article 4 of the Charter. But the very substance of the truth was distorted in that paragraph of the Peruvian draft resolution. The effect of that paragraph would be to prevent the admission to membership in the United Nations of the fourteen candidate States.

11. That advisory opinion of the International Court of Justice, it should be noted, had already been studied at the third session of the General Assembly [3]. It had been found that the main question on which the Court had been divided was precisely the correct interpretation of Article 4 of the Charter : whether the conditions stipulated were to be considered exhaustive or not ; whether other conditions could or could not be stipulated ; and whether such other conditions might be political. On that highly important question the Court had been far from unanimous. Eight judges had considered that the admission of new Members was not only a legal but also a political question ; that is, eight out of fifteen judges had opposed Mr. Belaúnde's contention.

12. Moreover, the judges had been equally divided, seven against seven, on the question of whether it was possible to demand the simultaneous admission to the United Nations of a number of States. Six judges had said that the simultaneous admission of a number of candidate States was permissible, and a seventh, Mr. Alvarez, had stated that it might be justified in certain cases, thus partially supporting that view.

13. In the Security Council the United States delegation had, as a matter of fact, already proposed the simultaneous admission of a number of States—which was no doubt the case Mr. Alvarez had had in mind. The question before the Committee was precisely such an exceptional case. That was why, although the advisory opinion given by the International Court of Justice on 28 May 1948 bore the signature of nine judges, it must not be overlooked that two of them had given a different opinion on the most important question before the Court. That clearly showed that the opinion of the majority of the Court had been the opposite of that upheld by Mr. Belaúnde.

14. Attention should also be given to the inconsistent attitude taken by the majority of the Court over the question whether Article 4 of the Charter prohibited political factors from being taken into account. The Court's advisory opinion of 28 May 1948 [4] showed that, according to the terms of Article 4 of the Charter, the consideration of political factors was in no way to be excluded. That meant that for the admission of new Members, the Security Council and the General Assembly could be guided not only by the criteria explicitly defined in Article 4 but also by political criteria, even though they were not explicitly mentioned in the Article. Thus, the third paragraph of the Peruvian draft resolution was pointless.

15. Moreover, the Court, which had not been unanimous on that important matter but had adopted its advisory opinion by a dubious majority, had contradicted itself in its own findings.

16. For all those reasons, the USSR delegation regarded as untenable the Peruvian delegation's attempt to impose the advisory opinion of the International Court of Justice on the United Nations as a guiding principle in respect of the admission of new Members. The only valid conclusion in view of the foregoing considerations would be to say that it was allowable, in dealing with the admission of new Members, to take into account both legal and political factors.

17. Paragraph 1 of the operative part of the Peruvian draft resolution, which was closely linked to the third paragraph of the preamble, stated that the judgment of the Organization should be based only on the legal conditions established in Article 4. That again was a misinterpretation of the Charter. In finding legal rules in the Charter, Mr. Belaúnde was guilty of inconsistency ; he recognized that the interpretation and application of the Charter should be primarily the concern of the founders of the United Nations, while, on the other hand, he referred to the opinion of the International Court of Justice which he regarded as the competent authority for the same task of interpreting the Charter.

18. The Peruvian representative had said that when candidate States had given proof of their peace-loving intentions, a political judgment would be given. That statement showed that the admission of new Members was no longer merely a legal question. It was in fact a matter which depended on political considerations and the attitude adopted towards certain States by the " Anglo-American majority " was ample proof of that fact. Why should States which fulfilled the requirements of the Charter be excluded ? Why should Italy be accepted if Romania was refused ? It was obvious that the " Anglo-American majority " was moved only by exclusively poli-

[2] See *Admission of a State to the United Nations (Charter, Article 4), Advisory Opinion*, I.C.J. Reports 1948, p. 57.

[3] See *Official Records of the General Assembly, Third Session, Part I, Plenary Meetings*, 175th and 176th meetings.

[4] See *Admission of a State to the United Nations (Charter, Article 4), Advisory Opinion*, I.C.J. Reports 1948, p. 63.

tical arguments. That was contrary to the letter and the spirit of the Charter and was tantamount to closing the door of the United Nations to peace-loving States.

19. The argument on behalf of the admission of Italy put forward in the last paragraph of the memorandum submitted by El Salvador, Guatemala and Honduras (A/1906) was equally unacceptable. Racial criteria or criteria based on the similarity of political institutions were alien both to the text and to the spirit of the Charter.

20. The Soviet Union had never opposed and was still not opposing the admission of Italy to the United Nations, but it considered that such admission should be granted on a basis of equality with all other legitimate candidates. It was the indefensible attitude of the United States, Great Britain and France which had so far prevented Italy from entering the United Nations.

21. Paragraph 3 of the operative part of the draft resolution was also unacceptable. Mr. Belaúnde was requesting that the procedure to be adopted should be based solely on the text of his resolution, which was contrary both to the Charter and to the rules of procedure. Moreover, the sponsor of the proposal contradicted himself once more in that paragraph. On the one hand, he proposed that the Security Council should make a further examination of all outstanding requests for admission and, on the other hand, he said that the Council should base its decision on the requirements laid down in the Charter.

22. The Peruvian proposal was an attempt to exercise pressure on the Security Council. It was unacceptable and completely untenable. Its adoption would complicate the question of the admission of new Members and aggravate international tension by making relations between States more difficult. The USSR delegation would vote against the draft resolution submitted by Peru (A/C.1/702/Rev.1).

23. The Soviet Union delegation was opposed to making an arbitrary choice among the candidates which would mean that certain States would enjoy a privileged position. It therefore submitted the following draft resolution (A/C.1/703):

" *The General Assembly*,

Recommends that the Security Council should reconsider the applications of Albania, the People's Republic of Mongolia, Bulgaria, Romania, Hungary, Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon and Nepal, and consider the application of Libya for membership in the United Nations. "

24. The question of the admission of Libya should, in the opinion of the USSR delegation, be settled at the same time as that of the thirteen other States, some of which, such as Albania, had made their application six years earlier.

25. Mr. DIHIGO (Cuba) congratulated the Peruvian representative on the draft resolution submitted by his delegation. The draft resolution was a step forward, since it sought to introduce rules and regulations in a field where discretionary judgment had governed hitherto.

26. Nevertheless, as the Colombian representative had indicated and as the Peruvian representative had himself recognized, the proposal seemed unlikely to solve the real problem, because although, according to the draft resolution the candidates must furnish proof of their peace-loving character, the evaluation of those proofs would still continue to depend on the unfettered opinion of each Member State. Since the draft resolution did not eliminate the right of veto of the five permanent members of the Security Council, it was possible that the Council might continue to reject the candidature of a State if its proofs were regarded as insufficient by one of the permanent members.

27. It was undoubtedly a mistake to link the question of the admission of new Members to the veto of the permanent members of the Security Council, which was not applicable in that matter.

28. Article 4 of the Charter laid down that new Members should be admitted by decision of the General Assembly on the recommendation of the Security Council. Although, according to its grammatical acceptation, the word " recommendation " implied a favourable recommendation, it could be maintained, as Dr. Arce, representative of Argentina, had done, that a recommendation could be either favourable or unfavourable. The International Court of Justice, however, in its opinion of 3 March 1950, had ruled that the recommendation referred to in Article 4 of the Charter implied a favourable recommendation. It was nevertheless true that even if the Court's opinion were accepted, it was questionable whether or not that recommendation constituted a substantive matter and, in consequence, whether or not it was subject to the rule of unanimity among the five permanent members of the Security Council.

29. It should be recalled that the rule of unanimity among the five permanent members had only been accepted at San Francisco after a dramatic debate, in which the four sponsoring Powers had declared that unless the rule was accepted, there would be no United Nations. Of the fifty States present, only the representatives of Cuba and Colombia had opposed the rule as to the veto ; fifteen States had abstained and among the thirty-three States which had finally acquiesced in the rule, many had done so reluctantly.

30. Moreover, when the question of voting procedure in the Security Council had been discussed, a questionnaire [5] had been submitted to the sponsoring Powers, to which the latter had replied by a declaration [6] stating *inter alia* that the Security Council would be called upon to exercise two different categories of function : on the one hand, functions in connexion with the peaceful settlement of disputes and coercive measures, and, on the other, miscellaneous functions. In the first case, decisions were to be taken by a special majority, that is, by an affirmative vote of seven members including all the permanent members. In the second, decisions might be taken by a simple majority of seven votes.

31. The four-Power declaration had then enumerated a series of questions not requiring a special majority in the Council. Certain of those questions had not been questions of procedure. That being so, the clause in Article 27, paragraph 2, concerning voting by the Council on matters of procedure, related not to questions which from the legal point of view were procedural in character, but to questions which differed from those that were subject to the veto rule and were strictly defined in the declaration of the four sponsoring Powers.

32. That solemn declaration was of particular importance because it had been the basis for acceptance at San Francisco of the rule of unanimity among the five permanent members of the Security Council. Since, according to the terms of that declaration, only questions relating to the maintenance of peace and security were subject to the veto rule, it followed that the admission of new members must be regarded as a procedural question. Moreover, the veto was indisputably a privilege and it was a universally accepted rule of law that the interpretation of any

[5] See *Documents of the United Nations Conference on International Organization*, San Francisco 1945, Volume XI, document 855 III/1/B/2.
[6] *Ibid.* document 852 III/1/37.

privilege must be restrictive. In the circumstances, it could not be gainsaid that the veto rule should not apply in cases where the Security Council was called upon to make a recommendation to the General Assembly concerning the admission of new Members.

33. The question then arose which organ should decide that the question of the Council's recommendation concerning the admission of new Members was a procedural matter. The Council itself most certainly could not decide since, despite the reverse sustained by the rule of the double veto in the case of the invitation from the Security Council to a representative of the People's Republic of China, that rule could nevertheless be invoked again on the basis of the declaration of the four sponsoring Powers at the San Francisco Conference.

34. The Charter had not provided that the International Court of Justice should be responsible for interpreting rules in dispute. The idea which had prevailed at San Francisco was that each organ should interpret its own rules.

35. That was why the General Assembly should itself decide whether the Security Council's recommendations concerning the admission of new members were recommendations on substantive or procedural matters.

36. The Assembly should also request the Security Council to inform it of the results of the ballots on applications for admission in each case. It might admit candidates which had received at least seven favourable votes.

37. The representative of Cuba reserved the right to comment later on the Peruvian draft resolution when he had studied the amendments to it.

38. Mr. LIU (China) congratulated the Peruvian representative on the moral and juridical arguments he had advanced with the intention of remedying the abuse of the right of veto in the Security Council with regard to the admission of new Members.

39. Certain speakers, however, had laid too much stress on the universality of the United Nations. Universality was indeed a desirable goal, but it was desirable only if nations were aware of a community of interests and would work together with unity of purpose.

40. Article 4 of the Charter, which laid down the conditions for the admission of new Members, provided more particularly that candidate States should be peace-loving. Many States were not peace-loving and therefore did not qualify to become Members of the United Nations. Further, Articles 5 and 6 provided that States which had violated the principles of the Charter might be either suspended or expelled. It must therefore be concluded that a State which did not fulfil its obligations under the Charter could not be admitted to the Organization.

41. Hence, the representative of Peru, in presenting his draft resolution, had very wisely urged that the admission of new Members should be based on the juridical considerations contained in Article 4, and the issue must not be confused by a flood of arguments in favour of universality.

42. The Chinese delegation would vote in favour of the draft resolution submitted by the delegation of Peru (A/C.1/702/Rev.1).

43. Mr. MAZA (Chile) recalled that when the question of the admission of new Members had been examined at previous sessions of the General Assembly, his delegation had advocated the admission of all peace-loving States with a view to strengthening the influence and prestige of the United Nations.

44. During the second part of the General Assembly's first session, the Security Council had submitted a report on ten States which had applied for admission [1]. As a result of that report, the Assembly had admitted Afghanistan, Iceland, Sweden and Thailand. Albania, Austria, Ireland, Jordan and Portugal had not been admitted because the five permanent members of the Security Council had been unable to agree on their case. At that time accordingly it had been held that the recommendation of the Security Council required an affirmative vote by the five permanent members.

45. In 1947, six other States had applied for admission. None of them had been admitted, either because they had failed to obtain a majority vote in the Security Council or because one of the permanent members had voted against them. The USSR representative had then insisted that the question of the admission of new Members was a substantive question for the Security Council and required unanimity on the part of the five permanent members. The General Assembly, at its second session, had adopted resolution 113 (II), recommending that the permanent members of the Security Council should consult with a view to reaching agreement on the admission of States which had applied and which had not yet received favourable recommendations for admission. Further, in its resolution 113 B (II), the General Assembly requested the International Court of Justice to give a consultative opinion on whether a member of the Security Council was entitled to make its consent to the admission of a State dependent on conditions not expressly provided in Article 4 of the Charter.

46. In an advisory opinion dated 28 May 1948, the Court had indicated that a Member of the United Nations was not juridically entitled to make its consent dependent on conditions not expressly provided in Article 4 and in particular, on the condition that other States be admitted together with that State.

47. At its third session, the General Assembly had adopted resolution 197 A (III) recommending that members of the Assembly and of the Council should act in accordance with the opinion of the International Court of Justice and resolution 197 B (III), by which it requested the Security Council to reconsider each application for admission separately. The same year, on the recommendation of the Interim Committee, the Assembly had adopted resolution 267 (III) which recommended that the permanent members of the Security Council should seek agreement upon what possible decisions by the Security Council they might forbear to exercise their veto, when even affirmative votes had already been cast in the Council.

48. In 1949, the General Assembly had adopted resolution 296 (IV) which recalled the recommendations in previous resolutions and which also requested the International Court of Justice to give an advisory opinion as to whether the admission of a State to membership might be effected by a decision of the General Assembly when the Security Council had not recommended its admission. On 3 March 1950, the Court had given the opinion that a State could not be admitted to the United Nations by a decision of the General Assembly unless the Security Council had previously made a valid recommendation.

49. Thus it must be concluded that the General Assembly was not empowered to disregard the Security Council's recommendation.

50. The representative of Chile felt that the Peruvian draft resolution should be examined in the light of that

[1] See document A/108.

brief historical survey. The draft resolution, which was based on experience, suggested a new procedure. Despite the good intentions of the Peruvian representative there was, however, reason to fear that the Security Council would repudiate that new procedure, since there was every reason to suppose that like all organs endowed with power, the Council would not willingly desist from abusing that power.

51. For that reason his delegation was prepared to accept the Peruvian draft resolution (A/C.1/702/Rev.1) if an amendment were included recalling the successive resolutions adopted by the General Assembly on the subject.

52. Mr. NISOT (Belgium) expressed appreciation of the spirit in which the draft resolution had been prepared. He would vote for the draft, since its objectives were in harmony with those of the Charter.

53. Mr. Nisot would, however, make three observations. In the first place, Article 4 of the Charter provided that membership in the United Nations was open to all peace-loving States which accepted the obligations contained in the Charter, and were able and willing to carry out those obligations. The question whether those conditions were satisfied in the case of a particular State depended on the circumstances peculiar to that case. Article 4 did not set up any priority among the factors to be borne in mind in determining whether a State was peace-loving and willing to carry out the obligations contained in the Charter. By its distribution of the emphasis, however, the draft resolution seemed to place special importance on an applicant's being party to treaties establishing friendly relations and providing for the settlement of disputes by peaceful means. That was not necessarily conclusive proof. On the one hand, treaties of friendship did not always have the significance which their terminology would suggest. It was important, too, to know who was the other party, and above all how they had been observed. Furthermore, although very many Members of the United Nations had not assumed the binding obligation to submit to arbitration or judicial settlement, they had shown themselves to be peace-loving and willing to respect the Charter.

54. In the second place, under the Peruvian draft resolution, States applying or having applied for admission to the United Nations would be requested by the General Assembly to provide the Security Council and the General Assembly with proof that they satisfied the conditions required by Article 4. Such a request was conceivable if addressed to States whose cases had not yet been dealt with by the United Nations ; but it was hardly conceivable if addressed to States whose applications for admission had failed, or at any rate if addressed to all such States. In the case of a large number of such States, the great majority of the members of the Security Council and the General Assembly had already expressed a favourable view, and rejection had been due solely to the exercise of the veto. To request those States now to prove their fitness for admission would be to imply that their fitness was still uncertain, and that consequently many Members of the United Nations had supported their applications for admission in the past either without having proof of their fitness or without having sufficient proof.

55. In the third place, the draft resolution recommended that the Security Council should base its action on the conditions contained in the Charter. It would, however, be more appropriate for such a recommendation to be addressed to the members of the Security Council and not to the Security Council itself, since each of the Council's previous recommendations had presumably been based on a correct interpretation of the Charter. In view of the fact that it had invariably conformed to the recommendations of the Council, could the Assembly today, by expressly calling upon the Council to respect the Charter, suggest that it might not have done so in the past or would not do so in the future ?

56. Having made those three points, the Belgian delegation would vote for the Peruvian draft resolution.

57. In conclusion, he referred to the case of Italy, which had been the subject of the resolution adopted by the General Assembly at its 351st plenary meeting (A/L.2). In the conviction that the participation of Italy was necessary to the effective functioning of the United Nations, he expressed the wish that the obstacle hitherto preventing Italy's admission, in violation of the Charter, might finally be overcome.

58. Mahmoud FAWZI Bey (Egypt) recalled that his delegation had invariably supported the many General Assembly resolutions recommending the Security Council to examine applications for membership on the basis of the requirements prescribed by Article 4 of the Charter and the advisory opinion of the International Court of Justice, given on 28 May 1948, which stipulated that a Member was not juridically entitled to make its consent to the admission of a State dependent on conditions not provided by Article 4.

59. The principle of universality was unquestionably the ideal towards which the United Nations should strive. Nevertheless, the main condition was that applicants should fulfil the requirements established by Article 4 of the Charter. The most that could be said was that, in assessing applications, excessive strictness and over-insistence on absolute perfection should be avoided, since that would result in turning away all applicants.

60. Some fifteen States had applied in vain for membership, some of them as long as six years ago. It was Egypt's view that those States should be admitted to membership in the United Nations. In particular, Libya, whose admission in principle—after its establishment as an independent State—had been recommended by the Assembly's unanimous vote of 21 November 1949 (resolution 289A (IV)), should be admitted immediately.

61. The consequences of the present deadlock facing the United Nations were manifestly unfair. It was the result of the international tension and antagonism between two " blocs " of States. For that reason, Egypt heartily desired that the States applying for membership should be admitted.

62. The Egyptian delegation reserved its right to explain later its vote on any draft resolution submitted.

63. On a point of order, Mr. KURAL (Turkey), supported by Mr. NISOT (Belgium), proposed that the Committee should postpone the meeting for 8.30 p.m. He pointed out that there was no urgency and that delegations needed the evening for work outside the Committees.

64. The CHAIRMAN put to the vote the proposal for the postponement of the meeting scheduled for 8.30 p.m.

The proposal was adopted by 40 votes to 4, with 10 abstentions.

The meeting rose at 6.5 p.m.

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