

commenced with the establishment of the *Ad Hoc* Committee would not be interrupted at a time when it was attracting growing interest. Motivated by that spirit of dialogue and aware of the delicate mission of the members of the *Ad Hoc* Committee, his delegation was prepared to

support any draft resolution proposing the extension of the *Ad Hoc* Committee's mandate and urging Member States fully to respect the Charter of the United Nations.

The meeting rose at 12.40 p.m.

1566th meeting

Tuesday, 18 November 1975, at 10.55 a.m.

Chairman: Mr. Frank X. J. C. NJENGA (Kenya).

A/C.6/SR.1566

AGENDA ITEMS 113 AND 29

Report of the *Ad Hoc* Committee on the Charter of the United Nations (*continued*) (A/10033, A/10102, A/10108, A/10113 and Corr.1 and Add.1-3, A/C.6/437)

Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States: reports of the Secretary-General (*continued*) (A/10218, A/10219, A/10255, A/10289, A/C.6/437)

1. Mr. SHARAF (Jordan) thanked the *Ad Hoc* Committee on the Charter of the United Nations for its enlightening report (A/10033) and the Romanian Government for its dedicated effort in pursuing its initiative regarding the strengthening of the role of the United Nations (A/C.6/437). The contemporary international environment, which was radically different from that in which the United Nations had been established, must be reflected in the spirit, direction and scope of the Organization's activity. The modern world was no longer a small club of nations which were predominantly European in background and outlook but was made up of a much larger number of nations representing different civilizations, cultural backgrounds and philosophies. The work of the United Nations had come to focus on questions of international development and economic co-operation with a view toward restructuring economic relations among nations on the basis of their changed political relations. The United Nations, and indeed the whole world, had to deal with the acute problems of mass poverty, the widening international economic gap, the depletion of the earth's resources, the erosion of the environment, outer space and nuclear technology.

2. The broadening representation in the United Nations had led to the increasing democratization of the Organization. The hopes and agonies of the majority of the population of the world must now acquire priority in the concerns of the United Nations, which was not only an organization for peace and security but also an organization for change and human emancipation. Now more than ever the dynamic, rather than the static, elements of the Charter must be emphasized. Currently, international peace and

security were threatened as much by colonial practices, *apartheid*, racial discrimination and the suppression of national self-determination as by the conventional threats envisioned by the founders of the Organization. The efforts of the smaller and weaker nations to ensure international social justice as well as international political justice must be channelled through the United Nations. The survival of the Organization would depend on its ability to assimilate the changes which had taken place.

3. International development had now become a new dimension of the Organization and in the past decade the United Nations had found a new important and rewarding role in that area. The international community now felt that it was necessary, in fact inevitable, that the developing and developed nations enter into a healthy and co-operative partnership based on equity and mutual benefit. New machinery and organizational structures must be set up in order to cope with the vastly increased number of complex problems facing the world.

4. Like any modern constitution, the Charter was a basic document which allowed reasonable evolution and was open to reasonable *ad hoc* revisions without the need for a fundamental reconsideration which might threaten stability and progress. The purposes and principles of the Charter were universal and timeless and its procedures were relatively flexible. It was therefore too early and unnecessary to initiate a radical reconsideration of its fundamental structure.

5. The Charter was not an obstacle to the necessary evolution of the United Nations so as to better reflect the changed world and deal with its changing responsibilities. The many grave problems facing the United Nations would be solved by changing the relationships of power among States and the attitudes of States rather than by changing texts.

6. His delegation felt that limited changes should be made in the Charter itself, to reflect the process of international democratization. The General Assembly must be endowed with a certain measure of authority which would help to balance the power of the veto in the Security Council. Certain other amendments should be introduced to make the Charter more up to date and freer from the bias of the mental climate of the war in which it had been conceived.

7. Turning to other measures needed to strengthen the United Nations, he said that, while structural and organizational innovations could be envisaged to fill certain gaps in the structure of the United Nations, the real change needed in order for the United Nations to become a more effective instrument of peace, security and human emancipation lay in the political, mental and psychological area. The United Nations could become a stronger and more effective organization when its Members decided to make it so. That was the responsibility of all its Members, large and small, but it was rather the big Members who must change their attitudes and mental habits to fit the new international realities, needs and ideals. The small countries, which constituted the majority, but were less powerful than the bigger countries, must protect the Organization by acting with responsibility and restraint. The big countries must not think and behave as if the *status quo* were permanent and sacred. The current age was one of economic and political interdependence and equality and of a new world economic order. The former power élite must learn to live with the times, if international co-operation and the survival and growth of the United Nations were to be achieved.

8. Mr. ALTING VON GEUSAU (Netherlands) said that the Charter of the United Nations, whatever its shortcomings, was the most outstanding result of an exceptional period, if not a turning-point, in human history. With its basic principles and purposes it had enabled the Organization to reach near universality in membership and it supplied the framework for the emergence of many new States and many new forms of international co-operation. However, the Organization's effectiveness as an instrument for maintaining peace and harmonizing the action of Member States had not improved. The current session of the General Assembly provided renewed evidence of the profoundly different concepts nations had of the United Nations and its tasks. The problem of the Organization's diminishing value was rooted not in the deficiency or obsolescence of the Charter but in the unwillingness of Member States to use the Charter and the Organization fully for the purpose of promoting peace. His delegation therefore considered it imprudent to embark upon a comprehensive review of the Charter, although it had already expressed its willingness to co-operate in incidental revisions of Articles of the Charter, as the need arose and was widely felt by Member States.

9. The report of the *Ad Hoc* Committee confirmed his delegation's fears about the imprudence of creating a separate committee with so unlimited a mandate as that established in General Assembly resolution 3349 (XXIX) and showed that the *Ad Hoc* Committee had failed to carry out any of the tasks assigned to it in that resolution.

10. Two basic arguments in favour of Charter revision seemed to emerge from the written and oral comments made thus far. The first was that the Charter no longer reflected the new realities of the world and that obsolete provisions should therefore be deleted and new principles and rules elaborated. The second argument was that some Charter provisions, particularly those giving a privileged position to the great Powers as permanent members of the Security Council, had always been objectionable to certain Member States and that the situation should therefore be

redressed, using the provisions of Articles 108 and 109 of the Charter. The two arguments had, in his view, been consistently confused with each other in much of the discussion and as a consequence some Member States had tended to equate specific proposals for Charter revision with efforts to undermine the Charter itself.

11. The necessity of revision of the Charter did not depend primarily on political changes which had occurred since its entry into force but on the flexibility of the instrument itself to cope with those changes. The Charter had, in his view, proved to be flexible and had shown itself able to afford the Members of the Organization the means of elaborating declarations and conventions reflecting the changes which had taken place. A comprehensive review of the Charter ran the risk of being a hazardous, if not harmful, exercise and was unnecessary. The Charter could be interpreted more dynamically so as to reflect political changes and enable the Organization to enter new fields of activity. Many examples of new forms of economic and political co-operation, achieved when Member States were willing to use the Organization and the Charter as dynamic instruments, could be found. The failures of some of those efforts were due not so much to the provisions of the Charter as to the unwillingness of certain Member States to strengthen the role of the United Nations.

12. One area where success could be achieved, provided Member States were willing to make better use of the available instruments, was the peaceful settlement of international disputes. His delegation associated itself with the opinions expressed by the representatives of the United States and Australia at the previous meeting concerning the need for an in-depth examination of methods and machinery for the prevention and peaceful settlement of disputes. The *Ad Hoc* Committee, if its mandate was renewed, ought to study that important matter. The report of the Secretary-General on the peaceful settlement of international disputes (A/10289) indicated that Member States had not availed themselves of the services of the new bodies set up since 1945, such as the International Court of Justice, for the purposes of the settlement of disputes.

13. The *Ad Hoc* Committee might also examine the proposals aimed at making the functioning of the United Nations more efficient, including improved procedures for international legislation and the rationalization of debates and decision making in the Assembly. He urged that the *Ad Hoc* Committee be reminded of its aims as stated in paragraphs 1 (b) and (c) of resolution 3349 (XXIX) and that it refrain from dealing with subjects being discussed in other special bodies. The Charter was a unique instrument for maintaining peace, practising tolerance, fostering co-operation and promoting human rights. It was the attitudes of Member States towards peace and interdependence, rather than the rules of the Charter, which were in need of a comprehensive review. It was the national and ideological self-righteousness of States and their tendency to consider the refusal to compromise as the virtue of orthodoxy that needed to be overhauled and updated.

14. Mr. VILLAGRAN KRAMER (Guatemala) said that the report of the *Ad Hoc* Committee showed clearly that obstacles would be encountered in attempting to revise the Charter. Nevertheless, the subject was attracting increased

interest in the light of the problems with which the world community was concerned, the necessary readjustments of institutional machinery and the need for the institutionalization in a normative context of certain trends or practices which had developed gradually but lacked a universally binding character, since they had not been embodied in a treaty of universal character. It was understandable that certain Member States had expressed misgivings with regard to the revision of the Charter, since the limits of such an exercise and the institutions affected thereby had not been clearly defined. It was necessary to lay down clearly and precisely the rules to be followed both in the process of study and discussion and in the actual process of revision. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Definition of Aggression (General Assembly resolutions 2625 (XXV) and 3314 (XXIX), annexes) showed that efforts of that nature were difficult initially but that once the limits and scope of the exercise in question had been clearly defined, with a reasonable margin of security for those States concerned with that aspect, the substance of the problem could be approached and results produced by consensus rather than confrontation.

15. His delegation welcomed the initiatives taken by certain Governments, including those of Romania and Colombia, with a view to specifying clearly the subjects to be considered. There was no doubt that the structure of the United Nations needed to be readjusted to meet contemporary requirements. The Trusteeship Council would soon have no *raison d'être* and the Economic and Social Council needed to be brought into conformity with current trends so that it would not be necessary for economic and social problems of concern to the international community to be taken up in other forums. In some cases, however, such alternative forums seemed to offer a more appropriate framework for the discussion of economic and social problems, particularly those of interest to producer and consumer countries. His delegation thought it was essential to adopt an open-minded but realistic approach in considering the problems of structural reform within the United Nations. Realistically, the permanent members of the Security Council could not be expected to accept any revision of the Charter which would affect their rights as permanent members.

16. Rules adopted by an Organization which had initially had only 50 Members or so might have become inadequate, as time went by, to govern relations between a number of Members which had nearly tripled in 30 years. What had formerly been known as a "select club" of States which laid down the rules of conduct for themselves and others had disappeared now that 143 States enjoyed the privilege of membership of the United Nations on an equal footing. The controls which the Members of that select group used to accept had undergone changes in the course of time. Accordingly, it was essential, on the one hand, to include in the Charter precise indications as to the rights and duties of States and, on the other, to lay down as clearly as possible the controls which safeguarded legality within the United Nations. In that regard, his delegation associated itself with the suggestions made by the Australian delegation at the preceding meeting to the effect that the dispute-settlement machinery should be made more dynamic and flexible. It

was to be hoped that all States would find the Australian suggestion acceptable.

17. Conflict situations might also result from an arbitrary exercise of power by the majority in the General Assembly in opposition to one State or a group of States. The General Assembly was certainly capable of abusing its power or acting in excess of its authority, which was known under English law as acting *ultra vires*. It must also be recognized that there would always be a margin for possible illegality when the Charter, as a primary instrument of law, was opposed to a resolution running counter to the rules laid down in the Charter. The General Assembly could, of course, overrule its previous decisions, but that required a two-thirds majority. If such a majority could not be mustered, a decision which might be invalid vis-à-vis the Charter could be upheld. That was a subject of concern to his delegation, since the increasing membership of the United Nations carried with it a greater danger of legal and political mistakes. It was therefore necessary to have machinery to safeguard the legality of decisions taken by the United Nations. One such safeguard was the veto power of the permanent members of the Security Council, which was a means of reducing the possible margin of illegality. At the level of the General Assembly the right of review was another form of control, but the two-thirds majority required to revise previous decisions ran the risk of creating serious political conflicts which might bring the Security Council into play.

18. A State or group of States wishing to question the legality of a decision currently did so on a unilateral basis by not accepting and refusing to comply with it. For many years the developed countries had abused their decision-making power by resorting to economic or political pressure or invoking the veto, thus imposing their decisions on other States. The process of decolonization, in some cases, and of economic and political emancipation in others, had brought about a drastic change in the situation and currently the swing of the pendulum had gone even further, affecting in some cases the interests of the developed countries and in others those of the countries of the third world. The possibility of consensual illegality should be eliminated from the United Nations system and replaced by concern for world peace, legality and the rule of law. In the past, it had been helpful to resort to the International Court of Justice for advisory opinions in order to counteract illegal actions and decisions. However, that machinery could take effect only by virtue of a majority decision. It might be useful to adopt a rule which would enable the General Assembly through an affirmative vote of, say, one third of the membership to request an advisory opinion. The present Statute of the Court did not make it possible for a single State to question the Security Council or the General Assembly. Thus, introducing new procedures to contest decisions would help to reduce the area in which conflict might arise as a result of decisions affecting the rights of Members of the United Nations.

19. Another problem which should be clarified in the context of the Charter was the possibility of a Member State voluntarily withdrawing from the Organization. That possibility was being discussed in the United States of America and in other countries among certain segments of public opinion. In his country as well, there were segments

of public opinion which advocated withdrawing from the United Nations and that question had been widely debated in the press. It had been argued that a State could not legally withdraw at all. Some authorities maintained that even if a State did withdraw voluntarily from the United Nations, the Charter was still binding upon it. Others had taken the view that, since the Charter was an international treaty, it could be denounced like any other instrument of its kind. A discussion of that whole question would be helpful. Clearly, a procedure needed to be worked out to provide for the possibility of States wishing to withdraw from the Organization.

20. His delegation expressed satisfaction with the progress made by the *Ad Hoc* Committee and endorsed the idea that it should continue its work.

21. Mr. AL-ADOOFI (Yemen) said that after 30 years the United Nations had entered a mature phase in which it would be called upon to play a greater and more effective role in the international community. It had been the most successful means of preserving international peace and security and the international community was indebted to it not only on that account but also on account of its promotion of co-operation among States in the economic and social fields and of self-determination.

22. That did not mean, however, that the United Nations was free of short-comings or had been able to cope with all situations. It had sometimes failed to implement its purposes and principles, particularly with regard to the promotion of international peace and security and of economic co-operation. Regrettably, some Members of the United Nations still viewed the Organization as a domain for rivalry and the exertion of influence. They looked at the world as they had a quarter of a century before, when most of the newly independent States were still subject to imperialism and foreign occupation. They stubbornly refused to recognize the major changes which had occurred in the world or to respect the principle of equality of rights of all nations large and small, and of co-operation based on democratic principles. General Assembly resolution 3282 (XXIX) was a first step towards diagnosing that problem and eventually solving it.

23. His delegation unreservedly supported the strengthening of the role of the United Nations. The most effective way of achieving that goal was full adherence to the letter and spirit of the Charter, which set forth clear and well-defined means for co-operation among States. All States must shun the threat or use of force and must respect national integrity, political independence and the right of all States to full sovereignty over their territories. Likewise, they should solve their differences by peaceful means, contain the arms race, prohibit the production of weapons of mass destruction and support the Committee on Disarmament.

24. Because third world countries were occupied with the development of their economic resources and the building of a better society, it was important to apply speedily the decisions of the sixth and seventh special sessions of the General Assembly, to establish a new international economic order, to strengthen the economies of the developing countries and to distribute the resources of the world

equitably. It was also necessary to promote work in the area of human rights and fundamental freedoms.

25. If the United Nations were capable of better fulfilling its functions, its role would of course be strengthened. Efforts should be concentrated on increasing the effectiveness of the General Assembly, the Economic and Social Council and the International Court of Justice by applying their decisions. Likewise, the Secretariat should be democratic and fully reflect the aspirations of the United Nations. His delegation, which respected the Charter and believed fully in its purposes and principles, supported all such efforts.

26. The Charter had already been amended several times, pursuant to Article 108. Because the membership of the United Nations had increased beyond the imagination of the drafters of the Charter and General Assembly resolution 3349 (XXIX) had been adopted, the time had come for certain other Articles to be revised in order to ensure implementation of the democratic principles of the Organization. Some States abused the advantages accorded to them in the Charter, to the detriment of the rights and the wishes of smaller countries. Instead, those States should bear their burden of preserving international peace and security by co-operating with the other Members of the United Nations in the interests of mankind as a whole.

27. The Articles of the Charter which had been drafted as a direct result of the Second World War should be eliminated, since there was no need to retain them.

28. His delegation's support for the revision of certain Articles did not mean that it supported abolition of the whole Charter or its replacement by a new one. Most provisions of the Charter retained their relevance, responded to the aspirations of all peoples and furthered implementation of the purposes and principles of the United Nations. The problem lay basically in lack of respect for the Charter on the part of some States which preferred their own special interests to those of the world as a whole.

29. His delegation supported any recommendation for extension of the mandate of the *Ad Hoc* Committee and believed that that Committee was the appropriate forum for continued work on Charter revision. The *Ad Hoc* Committee should analyse the views of States on the matter in order to facilitate the work of the Sixth Committee. In order to further its work, the Secretariat should provide it with all possible assistance. In his delegation's view, there was no harm in delaying for some time a decision on any amendments of the Charter, since the Charter should be beyond criticism, compatible with modern concepts, realistic and democratic.

30. Mr. BAROODY (Saudi Arabia) said there was no doubt that some representatives who sought revision of the Charter felt that the United Nations was not discharging its obligations, especially towards smaller States. His long experience in the United Nations, however, had taught him that no constitution, national or international, was perfect. Often, tampering with an instrument such as the Charter could not only weaken it but also set a precedent for further changes which might later be regretted. He was therefore opposed to any radical revision of the Charter.

The real problem lay not in the Charter itself but in Governments or in the public. Governments were made up more often of politicians than of statesmen, and based their policies on expediency or on personal considerations.

31. It was in that connexion that he wished to emphasize the pitfalls of tampering with the Charter. He had been in San Francisco when the Charter was signed and had had misgivings about it, especially concerning the veto in the Security Council. Later, however, he had realized that a State which had great power, if it lacked the veto, might act rashly. The advantage of the veto was that it made the positions of States, unjust as they sometimes were, quite clear to everyone.

32. When the modern idea of consensus had supplanted the veto, he had wished the veto would be revived. A consensus often served the national interests of States with the veto power at the expense of those who brought questions before the Security Council. That applied not only to the major Powers but also to smaller Powers who hid behind them. The result was that justice was sacrificed. That was why many problems had not been solved by consensus, whereas with the veto, at least one knew where delegations stood.

33. He had focused his remarks on the veto because he believed it was the target of those who wished to amend the Charter. There were also a few countries which wished to become permanent members of the Security Council themselves or even to exercise veto power. While he would welcome adding additional permanent members, those who did not in fact wield world power but who were simply ambitious for privilege and power should, instead, work with humility towards peace, as most States did. People became decadent if they were too rich, and tyrannical if they were too powerful. They should exercise more self-restraint.

34. If the veto in the Security Council were abolished, change in the world could only be brought about by revolution. He leaned more towards moderation, or accelerated evolution.

35. The preamble of the Charter was a masterpiece of exposition of the purposes and principles of the United Nations. Structural changes in the body of the Charter, such as the expansion of the Security Council and of the Economic and Social Council, were sometimes appropriate, but he opposed tampering with anything that could not be improved upon, and particularly with anything that involved the purposes and principles of the Charter.

36. He read out in full, and reaffirmed, the text of the letter addressed by his Government to the Secretary-

General on the subject of a review of the Charter, which was reproduced in document A/10113.

AGENDA ITEM 109

Succession of States in respect of treaties: report of the Secretary-General (*continued*)* (A/10198 and Add.1-5, A/9610/Rev.1**, A/C.6/L.1019)

37. Sir Vincent EVANS (United Kingdom) introduced draft resolution A/C.6/L.1019 on behalf of its sponsors.

38. After summarizing the major trends that had emerged in the Committee's debate on the item, he read out the four preambular paragraphs, which were of a purely formal nature. Turning to the operative part, he noted that paragraph 1 took account of the view expressed by many delegations that the item should be referred back to the International Law Commission for further consideration of the proposals referred to in paragraph 75 of the report of the Commission on the work of its twenty-sixth session (A/9610/Rev.1) and the procedures by which a successor State might be enabled to apply the régime embodied in the articles to its own situation. The Commission would submit its report, taking into account the comments and observations of Member States and the debates in the General Assembly, to the General Assembly at its thirty-first session, at which time it should be possible to decide on the procedure by which and the form in which work on the draft articles should be completed. To that end, paragraph 2 urged Member States which had not yet been able to do so to submit to the Secretary-General as soon as possible their written comments and observations on the draft articles. Paragraph 3 requested the Secretary-General to forward to the International Law Commission the records of the discussion of the item at the thirtieth session of the General Assembly and the comments and observations submitted by Member States in accordance with paragraph 2. Paragraph 4 requested the Secretary-General to circulate the report submitted by the International Law Commission under paragraph 1 and the comments and observations submitted by Member States in accordance with paragraph 2. Finally, paragraph 5 placed the item on the provisional agenda of the General Assembly at its thirty-first session.

The meeting rose at 1.05 p.m.

* Resumed from the 1550th meeting.

** Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 10.