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# THE GENERAL CONFERENCE FOR THE REVIEW OF THE CHARTER OF THE UNITED NATIONS

K. KRISHNA RAO\*

THOMAS JEFFERSON has said: “. . . laws and institutions must go hand in hand with the progress of the human mind. . . . As new discoveries are made, new truths disclosed and manners and opinions change with the advance of circumstances, institutions must advance also and keep pace with the times. . . . Each generation has a right to choose for itself the form of government the most promotive of its own happiness.”<sup>1</sup> The constitution of the United Nations, namely, the Charter, makes provision for the review and adoption of amendments to its provisions. In accordance with Article 109 of the Charter, the General Assembly of the United Nations during its current session will consider the desirability of convening a general conference of Member nations to review the present Charter. The authors of the Charter included provisions similar to those to be found in a “rigid” national constitution requiring a special process to amend the constitution, rather than an amendment by the ordinary legislative process. Article 108 of the Charter lays down the procedure for amendments; their adoption is possible by a vote of two-thirds of the members of the General Assembly and ratification in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council. Under Article 109, a general conference convoked for the purpose of reviewing the Charter by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council should recommend any alterations by a two-thirds vote of the conference. If no general conference is summoned before the tenth session of the Assembly, that session of the Assembly should consider the desirability of holding one and a simple majority both in the Assembly and any seven members of the Security Council would be sufficient for a decision in the matter.

## I. THE SAN FRANCISCO CONFERENCE 1945

Chapter XVIII of the Charter, containing Articles 108 and 109, had its origin in Chapter XI of the Dumbarton Oaks Proposals, which provided that the amendments should come into force for all Members of the Organization if adopted by two-thirds of the members of the Assembly

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\* Member of the Office of Legal Affairs, United Nations. Any opinions expressed in this article, unless otherwise indicated, are those of the author and do not necessarily represent those of the Organization with which he is associated.

1. *Life and Selected Writings of Thomas Jefferson 674-75* (Koch & Peelan).

and ratified by all the permanent members of the Security Council and by a majority of the other Members of the Organization.<sup>2</sup> The four sponsoring governments (United States, United Kingdom, the Soviet Union and China) suggested at San Francisco Conference two additional paragraphs. The first paragraph provided that the present Charter would come into force after ratification by the permanent members of the Security Council and by a majority of the other Members of the Organization. The second paragraph made provision for a general conference of the Member of the Organization to be held at a date and place to be fixed by a two-thirds vote of the General Assembly with the concurrence of a majority of the Security Council members for the purpose of reviewing the Charter and that each Member shall have one vote in the Conference. Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified by the permanent members of the Security Council and by a majority of the other Members of the Organization.<sup>3</sup>

The Dumbarton Oaks Proposals as amended by the sponsoring governments were taken up for discussion in Committee I/2<sup>4</sup> of the San Francisco Conference. After the delegate of Uruguay stated his opposition to the requirement in the amendment process for the unanimity of the Members having permanent seats on the Security Council, the British delegate replied that the so-called veto of the permanent members of the Security Council would not be involved in the future calling of the Conference. He stated that the holding of a general conference would focus the public opinion of all Member States on the issue of the proposed amendment. He further expressed his belief that “. . . an amendment carried by a two-thirds majority of this general conference would be likely to find general agreement including that of members of the Security Council.”<sup>5</sup> It may be argued that the British delegate is implying the existence of a moral obligation on the part of the permanent Members to accept amendments approved by a two-thirds vote in the Conference.

The Australian delegate after stating that the proposals of the sponsoring governments, if adopted, would make amendments impossible and that the provisions of the Dumbarton Oaks Proposals were more liberal in this respect proposed, in view of the importance, the appointment of a special sub-committee to consider the question and report to the full committee. He expressed his belief that the Yalta formula dealt with the exercise of the veto during the currency of the Charter while it did not address itself to amendments of the Charter. The delegate of Chile proposed that on expiration of the period of one year Members who have not communicated

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2. W.D. 2, I/2/25, 7 U.N. Conf. Int'l Org. Docs. 519 (1945).

3. Doc. No. 1, G/1, 3 U.N. Conf. Int'l Org. Docs. 7-8 (1945).

4. Doc. No. 648, I/2/46, 7 U.N. Conf. Int'l Org. Docs. 144 (1945).

5. *Id.* at 145.

their ratification to the Organization would be considered to have ratified the Charter.<sup>6</sup>

At the next meeting of the Committee,<sup>7</sup> several delegates emphasized that, if the veto applied to amendments, it would be necessary to differentiate between amendments on purposes and principles of the Organization and the rules governing the action of the Security Council, and other matters not affecting the special responsibilities of the permanent members of the Security Council. It was explained by several delegates, opposed to the amending procedure suggested in the Dumbarton Oaks Proposals and modified by the amendment of the sponsoring governments, that the latter amending procedure was too inflexible. It was pointed out that any one of the permanent members of the Council acting alone would be able to prevent revision of the Charter. Several of the delegates argued on behalf of the qualified majority for ratification. Some delegates stated their preference for a periodic review of the Charter, while some others felt that the Assembly could serve adequately as a public forum for the preliminary discussion of amendments.

A special Sub-Committee, appointed for the purpose of studying the matter in detail, reported<sup>8</sup> to the Committee with six recommendations:<sup>9</sup>

- (i) a provision in the Charter for a special conference to revise the Charter;
- (ii) the special conference is to be called by a *two-thirds* vote of the General Assembly and of any seven members of the Security Council;<sup>10</sup>
- (iii) the special conference should be called not sooner than the fifth and not later than the tenth year after the coming into force of the Charter;
- (iv) the Charter should provide that decisions of the special conference be taken by a two-thirds vote;
- (v) any alterations recommended by a two-thirds vote of the conference to take effect when ratified by a majority of the Members of the Assembly and all the permanent members of the Security Council;
- (vi) with regard to regular amendments of the Charter, they are to come into force when ratified by two-thirds of all Members including all of the permanent members of the Security Council.

The full Committee discussed first, recommendation (iii) of the Sub-Committee relating to the specific time-limit for calling a conference. The delegations of the United States, the Soviet Union, Iran, Syria and Lebanon spoke in favour of omitting reference to a specific time-limit for calling

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6. *Id.* at 146.

7. Doc. No. 683, I/2/48, 7 U.N. Conf. Int'l Org. Docs. 154 (1945).

8. W.D. 344, I/2/E/2, 7 U.N. Conf. Int'l Org. Docs. 573-75 (1945).

9. Doc. No. 991, I/2/66, 7 U.N. Conf. Int'l Org. Docs. 209 (1945).

10. The sponsoring governments originally proposed a three-fourths vote of the General Assembly for calling a special conference. The United States delegate stated that the sponsoring governments agreed to amend their proposal providing for a two-thirds instead of a three-fourths vote of the Assembly and this modified proposal was adopted by the Sub-Committee. See note 8 *supra*.

a conference. The delegations of Australia, Canada, Peru and Belgium supported the recommendation of the Sub-Committee. The delegate of Uruguay believed it necessary to see how the veto power would be exercised and stated that such a revision conference would provide an opportunity for the members to denounce any country abusing the veto power.<sup>11</sup> The Committee decided at its next meeting to consider the recommendation of the special Sub-Committee that the conference be called not sooner than the fifth, nor later than the tenth year after the coming into force of the Charter.<sup>12</sup>

After rejecting a South African proposal that a special conference should be called not later than the tenth year of the coming into force of the Charter, the committee considered the proposal that if a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a conference shall be placed on the agenda of that meeting of the Assembly. The United States delegate explained during the debate that the Secretary-General would place the item on the agenda of the Assembly and the Assembly would act in accordance with the procedures prescribed in the Charter. On the other hand, the delegate from the Soviet Union considered it a political error to mention in the Charter a specific time for calling the revision conference and the delegate from New Zealand proposed an amendment under which the general conference would be held unless the General Assembly and the Security Council decide otherwise. The Committee decided to provide in the Charter for a special conference to revise the Charter.<sup>13</sup> It was decided that the special conference be called by two-thirds vote of the General Assembly and of any seven members of the Security Council.

With regard to the question of voting procedure at the special conference, the Australian delegation urged that the Committee should accept the Mexican proposal to make no provision in the Charter with regard to the voting procedures to be followed at this special conference or for the ratification of amendments proposed by the conference. The Mexican delegate himself declared that in making the recommendation his delegation was not taking a position either for or against the future of the veto. However, in view of the opposition of the permanent members of the Security Council to his proposal he withdrew it. He commented that ". . . to pretend that an amendment may come into force, notwithstand-

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11. Doc. No. 991, I/2/66, 7 U.N. Conf. Int'l Org. Docs. 209, 211 (1945). It may be pointed out here that this statement of the Uruguayan delegate formed the basis for the rejection by the Soviet delegate to have a general conference to revise the Charter. See p. 360, *infra*.

12. Doc. No. 1015, I/2/68, 7 U.N. Conf. Int'l Org. Docs. 219 (1945).

13. Doc. No. 1022, I/2/69, 7 U.N. Conf. Int'l Org. Docs. 229 (1945).

ing the non-ratification by one or more of the permanent members of the Security Council, would probably amount to forcing said members to withdraw from the Organization, or in other words to pretend that the Organization could fulfil its duties without the cooperation of such states, which he considered impossible."<sup>14</sup>

At the next meeting of the Committee, it is interesting to note that the Chinese delegate<sup>15</sup> expressed the belief that ". . . those who pressed for change of the procedure assumed too readily that the permanent members of the Council would be at odds with the rest of the nations. His own view was that the veto might prove much less important than expected and might, in fact, never be used; he felt that it was not unreasonable to suppose that after a time the great powers would be willing to consider elimination of the veto"—a hope, which, as later events proved, never materialized. The Committee finally approved the following text:

"Any alterations of the Charter recommended by two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the Organization including all of the permanent Members of the Security Council."<sup>16</sup>

The United States delegate moved the adoption of the following proposal:

"If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general conference shall be placed on the agenda of that meeting of the Assembly, and the conference shall be held if so decided by a simple majority of the Assembly and by any seven members of the Security Council."<sup>17</sup>

The delegates of Australia, New Zealand, Ecuador, the United Kingdom, Peru, Canada, France, Chile, Brazil, South Africa, China, Argentina and Greece spoke in support of the proposal of the United States. The delegate of the Soviet Union announced his opposition to the proposal of the United States. He stated that his delegation was opposed to facilitating the convocation of such a conference for which there might be no need in the future. He explained that his delegation supported the amendment of the sponsoring governments on the revision conference but was opposed to any easy procedure for calling such a conference. Another consideration for the Soviet opposition, the delegate of the Soviet Union pointed out, was the desire expressed by many delegates to use such a conference to destroy the veto power. He believed that such a conference would also be used to threaten the unanimity of the big powers. The Committee finally adopted the proposal of the United States. The final text for the

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14. Doc. No. 1157, I/2/79, 7 U.N. Conf. Int'l Org. Docs. 236-37 (1945).

15. Doc. No. 1053, I/2/72, 7 U.N. Conf. Int'l Org. Docs. 241, 244 (1945).

16. Doc. No. 1052, I/2/71, 7 U.N. Conf. Int'l Org. Docs. 249, 251 (1945).

17. *Id.* at 250.

Special Conference on the Revision of the Charter, approved by the Committee, has become, with minor drafting changes, Article 109 of the present Charter.

At the same meeting the Committee adopted the recommendation of the Sub-Committee that regular amendments come into force when ratified by two-thirds of all Members including all of the permanent members of the Security Council. The final text, approved by the Committee, was included with some minor drafting changes, as Article 108 of the present Charter.

It appears from the above study of the legislative history that the delegations present at San Francisco in not wishing to leave the calling of the general conference entirely to chance had included a suitable provision in Article 109, paragraph 3, of the Charter. The provision has been a compromise between proposals without any specific time-limit for the calling of a conference and those providing for a definite time. It also shows that practically all delegations had attached a great importance to a general conference which would review the Charter. It is significant that although under Article 108 any amendment would not come into effect unless ratified by all the permanent members of the Security Council, the British delegate seemed to imply that if the General Assembly recommended an amendment by a two-thirds vote the permanent members would not, in all likelihood, refuse to ratify it.

## II. ACTUAL AMENDMENTS PROPOSED BY MEMBER STATES

Proposals to amend the Charter or to convene a general conference have been made as early as the first session of the General Assembly. Member States made concrete proposals during the second and third sessions of the Assembly. No further proposals have since been made. Article 27 of the Charter governing the method of voting in the Security Council (otherwise known as the veto question) became the centre of controversy almost from the inception of the United Nations. During the first session of the Assembly the Philippines submitted a proposal,<sup>18</sup> which, while recognizing that the stalemate in the Security Council regarding many current and serious problems demanding swift and decisive action was due to the existence of veto power in the Charter, will amend paragraph 3, Article 27 of the Charter. It would require that decisions on all non-procedural matters be made by an affirmative vote of seven members, including the concurring votes of at least three (and not five as provided at present) permanent members. At the same session the delegation of Cuba put forward a proposal to convene a general conference to review the Charter. It proposed the appointment of a special committee of those

18. U.N. General Assembly Off. Rec., 1st Sess., pt. 2, First Committee, Annex 7a, at 323-24 (Doc. No. A/C.1/34) (1946).

representatives of Member States, willing to serve, for the purpose of considering and preparing a report to the General Assembly, concerning amendments which would make the United Nations a more effective instrument to maintain world peace and security.<sup>19</sup> The Philippines withdrew its proposal in favour of the Cuban proposal, which, when put to vote, was rejected, and the resolution actually adopted by the Assembly made no mention of either a review conference or of an amendment of the Charter.<sup>20</sup>

Another proposal submitted by Argentina to convene a general conference to amend Article 27 was considered by the First Committee of the Assembly during the second session of the Assembly.<sup>21</sup> The Conference was to be convened for the ". . . purpose of studying the privilege of the veto . . . with a view to its abolition. . . ." <sup>22</sup>

A proposal to refer to the Interim Committee of the General Assembly the question of veto in the Security Council was adopted.<sup>23</sup> The Interim Committee recommended that the Assembly should consider at its third session ". . . whether the time has come or not to call a general conference. . . ." <sup>24</sup> At the third session of the Assembly, an Argentine proposal to convene a general conference to consider the desirability of revising the Charter was rejected. No proposals have since been made.

At this point it is relevant to note the views of important delegations at the time of the opening of the tenth session of the Assembly. Only the delegates of United States and Soviet Union have made statements on the question of veto at the time of this writing. The Secretary of State, Mr. Dulles, remarked that a review conference should be held and that ". . . one impelling reason would be to reconsider the present veto power in relation to the admission of new members, particularly if that veto power should continue to be abused."<sup>25</sup> On the other hand, Mr. Molotov, the Foreign Minister of USSR expressed the opinion that, "The Charter, as it stands today, meets in full the demands placed on it, provided the States Members of the United Nations seek genuinely to promote international co-operation and security.

". . . Our aim should not be to break up the Charter but rather to achieve joint and common action by States and, in particular, by the permanent members of the Security

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19. U.N. General Assembly Off. Rec., 1st Sess., pt. 2, First Committee, Annex 7d, at 326-27 (Doc. No. A/C.1/58) (1946).

20. U.N. General Assembly Off. Rec., 1st Sess., pt. 2, First Committee, 283 at 292 (Doc. No. A/C.1/130) (1946).

21. U.N. General Assembly Off. Rec., 1st Sess., pt. 2, Res. 40, at 64 (1946).

22. U.N. General Assembly Off. Rec., 2d Sess., First Committee, Annex 2, at 529-30 (Doc. No. A/351) (1947).

23. *Ibid.*

24. U.N. General Assembly Off. Rec., 3d Sess., Interim Committee, Supp. 10, at 17 (Doc. No. A/578) (1948).

25. U.N. General Assembly Provisional Verbatim Rec., 10th Sess., at 13-15, A/PV. 518 (1955).

Council. This is required in order to achieve success in the work of the United Nations for the maintenance and consolidation of peace. In view of this, the Soviet Government deems it appropriate to state clearly that it is necessary, in conformity with the Charter, to enhance the role of the Security Council in the United Nations, bearing in mind the fact that for some time now the Council obviously has not been functioning at full capacity and that it has often been by-passed in cases where it was precisely the Security Council that should have dealt with important matters relating to the maintenance of peace."<sup>26</sup>

Another proposal for the amendment of the Charter related to the question of the composition of the Economic and Social Council. Argentina submitted at the first session of the Assembly the item proposing that ". . . the number of members of the Economic and Social Council stipulated in Article 61, paragraph 1, be increased to twenty-four (24)."<sup>27</sup> The Argentine proposal to convene a general conference to review Article 61 of the Charter and to increase the number of members of the Economic and Social Council was not put to vote. The Assembly adopted a resolution requesting Member States to communicate their suggestions on the question to the Secretary-General.<sup>28</sup>

It may be noted that opposition to convene a conference for the purpose of amending the Charter made in the above proposal was due to the view held by a majority of Member States that it was then too early to consider amending the Charter and that the Charter should be given a period of trial. As for the veto question, it was pointed out that difficulties have arisen because of the peculiar political situation, which was existing at the time and that amendment of the Charter would be no solution to the problem.

### III. PREPARATIONS FOR THE REVIEW CONFERENCE

At the eighth session of the Assembly the delegates referred generally to the question of a conference for the review of the Charter in their statements during the general debate in the plenary meetings.<sup>29</sup> In addition, three separate items relating to the study of the Charter were placed on the agenda of the eighth session at the request of Argentina, the Netherlands and Egypt respectively. Argentina proposed the publication of documents concerning the legislative history and the practice followed by the various organs of the United Nations in applying the Charter.<sup>30</sup>

26. U.N. General Assembly Provisional Verbatim Rec., 10th Sess., at 77-80, A/PV. 520 (1955).

27. U.N. General Assembly Off. Rec., 1st Sess., pt. 2, General Committee, 82-83 (Doc. No. A/BUR/48) (1946).

28. U.N. General Assembly Off. Rec., 3d Sess., pt. 1, Res. 203, at 44 (1948).

29. U.N. General Assembly Off. Rec., 8th Sess., Plenary; U.S. p. 17, 20; Peru p. 65, 70; Ecuador p. 99, 107; Syria p. 149, 150; Argentina p. 177, 178 (1953).

30. U.N. General Assembly Off. Rec., 8th Sess., Annexes, Agenda Item No. 58, at 2-3 (Doc. No. A/2415, Doc. No. A/2415/Add. 1) (1953).

The Netherlands proposed preparatory work with regard to the possible holding of a general conference in accordance with Article 109 of the Charter.<sup>31</sup> The Egyptian proposal related to the 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.<sup>32</sup> Three different views seem to have prevailed concerning the question of review of the Charter at the General Assembly; some governments, like the United States,<sup>33</sup> wished to implement the provisions of Articles 108 and 109 of the Charter, some other governments, like the Soviet Union,<sup>34</sup> did not see any need to change the fundamental principles of the Charter and certain other governments, among them India,<sup>35</sup> took the position that greater adherence to the Charter is needed more than the revision of the Charter at the present time. These views have been reiterated by the respective delegates in their statements made during the general debate of the tenth session of the General Assembly.<sup>36</sup>

A draft resolution by Argentina, Canada, Cuba, the Netherlands, New Zealand and Pakistan, requested the Secretary-General to prepare and publish a systematic compilation of documents of the San Francisco Con-

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31. U.N. General Assembly Off. Rec., 8th Sess., Annexes, Agenda Item No. 70, at 3 (Doc. No. A/2442) (1953).

32. U.N. General Assembly Off. Rec., 8th Sess., Annexes, Agenda Item No. 72, at 4 (Doc. No. A/2466, Doc. No. A/2466/Add. 1) (1953).

33. The delegate of the United States: "Many nations, particularly the smaller nations, objected strongly to what they thought was an excessive award of power to the permanent members of the Security Council. They feared that the Security Council would prove unworkable because of disagreements among the Great Powers. Unhappily, these fears have in large measure materialized. There were other provisions of the Charter which were adopted with great reluctance and concern. It was possible to secure acceptance of the Charter at San Francisco only by means of a provision assuring that there would be an opportunity to review it in the light of experience. It is already apparent, after eight years, that this opportunity should be grasped." U. N. General Assembly Off. Rec., 8th Sess., Plenary 29 (1953).

34. The delegate of the Soviet Union: "The fact that the United States is not interested in relaxing international tension is also clear from the part of Mr. Dulles' speech devoted to the revision of the United Nations Charter or, rather, to propaganda to the effect that advantage should be taken of a revision of the Charter to do away with one of the fundamental principles on which the United Nations is based, namely, the principle of the unanimity of the permanent members in the consideration and solution of problems in the Security Council. This principle ties the hands of those who wish to weaken the Security Council's role and its significance." *Id.* at 53.

35. The delegate of India: "If I may say so with great respect and humility, what we perhaps require even more than the revision of the Charter is a greater adherence to the spirit of its provisions. That greater adherence comes about only by the resolving of the tensions to which reference has been made, by a more sincere and prompt adherence to such decisions as are made. The allegiance, the support and moral backing that the nations and the peoples of the world give to the Charter are far more important than any kind of revision." *Id.* at 204.

36. Statements of Mr. Dulles, U.N. General Assembly Provisional Verbatim Rec., 10th Sess., A/PV.518 (1955) and Mr. Molotov *supra* A/PV.518.

ference not yet published, a complete index of all the documents of that conference, a systematic and comprehensive study of the legislative history of the Charter, taking into account their application by the various organs of the United Nations and the interpretation to which they have given rise.<sup>37</sup> The Egyptian and Costa Rican proposal provided for the establishment of an advisory committee composed of fifteen Member States to assist the Secretary-General in the preparation of the relevant documents and prepare a questionnaire to circulate to the Member States to ascertain their preliminary views as regards what they might deem appropriate for the purpose of the general conference, to coordinate the views of these Member States and to report to the General Assembly before June 1955.<sup>38</sup>

#### IV. RELATION OF PREPARATORY WORK TO CHARTER REVIEW

During the discussions on the above resolutions which took place in the Sixth (Legal) Committee, the relation between the proposals before the Committee and the question of the Charter review, as provided under paragraph 3 of Article 109, was considered at great length. The view was expressed generally that preparations should be made now so that the governments in 1955 would be in a position to reach a considered opinion on the question of whether or not a general conference should be convened to review the Charter. They felt 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 preparation.<sup>39</sup> Some delegations, without committing themselves on the desirability of an actual revision of the Charter, 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 needed a revision at the same time recognizing that it could not be accomplished without approval of each of the permanent members of the Security Council.<sup>40</sup>

Some delegations favoured a technical study but wished to avoid linking them at the present time to the question of reviewing the Charter. They felt that Article 109 entrusted the task of reviewing the Charter to a general conference and not to any of the existing organs of the United Nations. Some delegations opposed the very idea of convening a conference pointing out that indirect attempts have been made to abolish the unanimity rule and to undermine the basic principles of the Charter.

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37. U.N. General Assembly Off. Rec., 8th Sess., Sixth Committee, 98 (Doc. No. A/C.6/L.306/Rev. 2) (1953).

38. U.N. General Assembly Off. Rec., 8th Sess., Sixth Committee, 56 (Doc. No. A/C.6/L.305) (1953).

39. The statements of the delegates of Belgium and the Netherlands; U.N. General Assembly Off. Rec., 8th Sess., Sixth Committee, at 86, paras. 41, 43 (1953).

40. U.N. General Assembly Off. Rec., 8th Sess., Annexes, Agenda Item No. 70, at 14 (Doc. No. A/2559) (1953).

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. The delegations of the USSR and other Eastern-European States held the view that it was contrary to the provisions of Article 109 to make advance preparations for a possible revision of the Charter. It was pointed out that nothing was said in Article 109 concerning such preparatory work. The delegations of Belgium and France shared these objections to some extent. Similar constitutional objections were raised with regard to the proposal to call for the submission of the preliminary views by governments as provided in the Egyptian resolution. It was felt that the submission of preliminary views would lead to the deprivation of the necessary independence in discussions at the time of the actual conference.

#### V. REPERTORY OF PRACTICE UNDER THE CHARTER

In supporting the proposal regarding the preparation of the repertory of 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 the general conference under Article 109. In addition emphasis was laid on the intrinsic value which would be derived 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 scientific and objective study.<sup>41</sup> As to the actual presentation of the repertory, the Secretary-General was given clear instructions by several delegations. The Argentine Representative observed that the 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 case-by-case treatment.<sup>42</sup> The Representative of Israel pointed out that the repertory should be kept up-to-date by periodic supplements.<sup>43</sup> A suggestion was made by the United States Representative that the repertory should be properly indexed.<sup>44</sup>

#### VI. RATIFICATION OF AMENDMENTS

Most of the delegations which have participated in the discussion on the proposals to amend the Charter or to convene a review conference have stated that under the provisions of Articles 108 and 109 no change could be made in the present Charter without the approval of each of the perma-

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41. U.N. General Assembly Off. Rec., 8th Sess., Sixth Committee, at 59, para. 49 (1953).

42. *Id.* at 86, para. 39.

43. *Id.* at 81, para. 47.

44. *Id.* at 63, para. 23.

ment members of the Security Council.<sup>45</sup> It is relevant to point out here that a few delegations expressed a different view in the Interim Committee of the Assembly to the effect that the Charter after being revised by a general conference called for that purpose would become a new treaty which would incorporate its own provisions on the method of its ratification. This new treaty would then come into force in accordance with those provisions without regard for Articles 108 and 109 of the present Charter.

The Sixth Committee recommended a draft resolution, which was approved by the Assembly, in which the Secretary-General was requested to prepare, publish and circulate among the Member States, a systematic compilation of the documents of the United Nations Conference on International Organization not yet published, a complete index of all the documents of that Conference and a repertory on the practice of United Nations organs appropriately indexed.<sup>46</sup>

The great mass of the material to be presented has required the division of the Repertory of Practice into five volumes. The first three volumes covering the first 72 articles of the Charter have already been published by the Secretary-General.<sup>47</sup> These volumes will cover all the articles of the Charter in respect of which there have been decisions and discussions by the organs of the United Nations from the period from which they began functioning until September 1, 1954. The purpose of the repertory as stated by the General Assembly was twofold, first to facilitate the consideration, at the tenth annual session, of the proposal to hold a general conference of the Members of the United Nations for the purpose of reviewing the Charter and secondly to contribute to the knowledge and understanding of the Charter as it has been applied in practice by the organs of the United Nations. In his preface to the first volume of the repertory, the Secretary-General pointed out that both of these aims will be served by the repertory.<sup>48</sup> It constitutes a comprehensive summary of the decisions of United Nations organs together with related material organized by Charter Articles and presented in such a way as to throw light on questions of application and interpretation of the Charter, which have arisen in practice. Apart from achieving the stated objectives, these volumes should prove useful to research students and teachers of International Law.

With the preparatory material above-described, the tenth session of the Assembly will decide this year firstly whether or not to hold a review conference and if so, when. Under the Charter, the decision to convene

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45. U.N. General Assembly Off. Rec., 8th Sess., Annexes, Agenda Item No. 70, at 16, para. 8 (Doc. No. A/2559) (1953).

46. U.N. General Assembly Off. Rec., 8th Sess., Sixth Committee, Res. 796, at 51 (1953).

47. Repertory of United Nations Practice, I, II, III (1955).

48. Repertory of United Nations Practice, I, i i i (1955).

a general conference could be made by the Assembly at its present session by a majority vote of the Members of the General Assembly and by a vote of any seven members of the Security Council. In this connection the Secretary-General expressed the view that Article 109 (3) does not preclude the General Assembly and the Security Council from taking a decision in favour of a conference in accordance with the Article, but leaving it to a later session to decide on the date of the conference. In view of all the circumstances, valid arguments may be brought forward for such a line of action, that is, for a decision at the tenth session of the General Assembly in favour of a charter review conference, leaving open for the time being, in the way just indicated, the question when the conference for that purpose should be convened. This view was so far supported by the delegates of the United States, Ecuador, Brazil and Dominican Republic and there appears to be general support from a majority of the Member States for this proposal at this time.