

ARTICLE 10

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TEXT OF ARTICLE 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

INTRODUCTORY NOTE

1. Article 10 stands first in order and is the broadest in terms of the eight Articles of the Charter relating to the functions and powers of the General Assembly. The range of the questions or matters which it authorizes the Assembly to discuss is as wide as the scope of the Charter itself, and the Assembly's right to make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters is subject, under its terms, only to the restriction, temporary by definition, contained in Article 12 relative to the exercise by the Security Council of the functions assigned to it under the Charter. As regards Article 11, its provisions expressly state that the powers of the Assembly set forth therein shall not limit "the general scope of Article 10".
2. The "general scope" of this Article and the breadth of the powers of discussion which it confers on the Assembly have been referred to many times both in committee and in plenary meeting by representatives who wished to stress the over-all responsibility of the Assembly as a world forum for the consideration of international problems and its role in the Organization as the only principal organ on which all States Members are represented. References of this type have not been confined to the discussion of political matters alone; they have also occurred in connexion with the consideration of questions relating to the Assembly's activities in the economic, social and humanitarian spheres, questions concerning Non-Self-Governing and Trust Territories and frequently also questions of an internal character affecting the methods and procedures of the General Assembly in the conduct of its business. In short, there is scarcely any field in which the Assembly has taken an interest where reference has not been made, at one time or another, to the provisions of Article 10.
3. Article 10 has mostly been cited together with the specific provisions contained in other Articles of the Charter which define the powers of the General Assembly in various areas of international concern. Moreover, it has usually been referred to as an additional basis rather than as the principal basis for action by the Assembly, which, in the majority of cases, has been found in the more explicit provisions of Articles 11, 12, 13 and 14.
4. The study of the Assembly's practice under Article 10 is therefore limited to those resolutions and Charter questions which bear clearly and primarily, though not exclusively, on that Article. No attempt has been made to indicate every instance in which this Article has been mentioned in the debates. Furthermore, the present study is to be read together with the studies in this Repertory on the Articles referred to in paragraph 3 above.

5. By reason of its comprehensive character and particularly by virtue of the provision that the Assembly may discuss any questions or any matters "within the scope of the present Charter", Article 10 has very often been cited when the question whether Article 2 (7) limited the competence of the Assembly to discuss and to make recommendations on a particular matter arose. The discussions in this regard, however, appear to shed light more on the constitutional questions related to Article 2 (7) than to those bearing on Article 10. To avoid duplication, the items under which these discussions have taken place and the arguments and counter-arguments that have been advanced, though bearing also on Article 10, have been dealt with in the study on Article 2 (7) with the exception of the three cases mentioned in paragraph 8 below.

6. Very few resolutions adopted by the General Assembly contain a reference to Article 10. Only in connexion with the adoption of resolutions on the reports of the First Committee and the Ad Hoc Political Committee has such reference been found in the decisions themselves or in the proceedings leading to their adoption. Moreover, for the reasons indicated in paragraph 3 above, most of the resolutions adopted by the General Assembly on the reports of its political committees, as well as certain resolutions of a political character adopted without reference to a committee, appear to bear more directly on Articles 11, 13 and 14, which deal with specific functions and powers of the General Assembly, than on Article 10. Resolutions of the General Assembly effecting the admission of a State to membership in the United Nations, as well as resolutions of the Assembly containing recommendations to the Security Council with regard to the question of admission of new Members, have been studied under Article 4. The remaining resolutions bearing upon Article 10 are listed in Annex I along with the corresponding agenda item. No constitutional significance attaches to this classification, which is merely a convenient means of presenting the material.

7. Two Charter questions are dealt with in the Analytical Summary of Practice.

8. The first relates to the application of the term "within the scope of the Charter" in deciding whether a particular matter may be discussed. While this question has also arisen in connexion with the "domestic jurisdiction" clause of Article 2, three cases in which discussion on the actual terms of Article 10 has taken place have been selected to illustrate the interpretation which has been given to this Article in connexion with the powers of the General Assembly.

9. The second question involves the Assembly's right to make recommendations "relating to the powers and functions" of other organs provided for in the Charter. It deals with the question of the scope of those recommendations. Three of the four resolutions reviewed under this question concern the voting procedure in the Security Council. The fourth concerns the Assembly's action regarding the item "Recognition by the United Nations of the representation of a Member State". The text of these resolutions is appended as annex II.

I. GENERAL SURVEY

10. The General Assembly, while exercising its functions and powers of discussion and recommendation in dealing with the agenda items included in annex I, adopted a number of resolutions which, on the basis of the considerations stated in the Introductory Note, have been considered as resolutions bearing upon Article 10.

11. The practice of the General Assembly with regard to the addresses of the recommendations contained in the resolutions 1/ listed in annex I may be summarized as indicated in the following paragraphs.

12. Recommendations have been addressed by the Assembly as follows: to all Members of the United Nations; 2/ to all Members and other specific States; 3/ to all Members or simultaneously to specific Members, and to other addressees, including individuals; 4/ to specific Members and non-members; 5/ to non-members in general; 6/ and to specific non-members. 7/

13. The Assembly has also addressed recommendations to the Government of a specific Member of the United Nations; 8/ to specific Governments; 9/ and, simultaneously, to all Governments and other addressees, including individuals. 10/ The Assembly has, further, addressed its recommendations to specialized agencies; 11/ to administering Powers; 12/ to all authorities in a State under occupation 13/ and to international non-governmental organizations. 14/

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- 1/ Certain resolutions classified in this study as resolutions bearing upon Article 10, include among their provisions recommendations to the Economic and Social Council and the Trusteeship Council and have consequently also a bearing upon Articles 13 and 16, which provide for recommendations to those organs. Article 10 provides only for recommendations to the Members of the United Nations and the Security Council.
- 2/ G A resolutions: 3 (I), 32 (I), 112 B (II), 110 (II), 267 (III), 385 (V) and 616 B (VII).
- 3/ G A resolutions: 193 C (III) and 288 B (IV).
- 4/ In this connexion the General Assembly addressed its recommendations to: "Member States and other nations" (resolution 195 (III)); "Member States, the Government of the Republic of Korea, and all Koreans" (resolution 293 (IV)); "the Member States concerned, the Government of the Republic of Korea, and all Koreans" (resolution 195 (III)).
- 5/ G A resolutions: 302 (IV), 303 (IV), 382 A (V), 382 C (V) and 517 (VI).
- 6/ G A resolution 3 (I).
- 7/ G A resolution 272 (III).
- 8/ G A resolutions: 616 A (VII) and 721 (VIII).
- 9/ G A resolutions: 394 (V), 512 (VI), 513 (VI), 613 (VII), 618 (VII) and 701 (VII).
- 10/ In this connexion the General Assembly addressed its resolutions to: "all governments and authorities concerned" (resolutions 194 (III), 394 (V), 706 (VII)); "all governments, specialized agencies and non-governmental organizations" (resolution 701 (VII)), "all Governments and peoples and particularly ... the inhabitants of Palestine" (resolution 107 (S-1)); "all Governments, organizations and persons" (resolution 186 (S-2)).
- 11/ G A resolution 387 (V).
- 12/ G A resolutions: 289 (IV) and 387 (V).
- 13/ In this connexion a recommendation was addressed to "all authorities in the Federal Republic of Germany, Berlin and in the Soviet Zone" (resolution 510 (VI)).
- 14/ The International Committee of the Red Cross and the League of Red Cross Societies (G A resolutions 382 C (V) and 517 (VI)).

14. Recommendations have been addressed to the following organs of the United Nations: the Security Council; 15/ the Economic and Social Council; 16/ the Trusteeship Council; 17/ and the "appropriate organs of the United Nations". 18/ Recommendations have also been addressed to the permanent members of the Security Council; 19/ and to the members of the Security Council. 20/

II. ANALYTICAL SUMMARY OF PRACTICE

A. The question of the application of the term "within the scope of the Charter" in deciding whether a particular matter may be discussed

15. The term "within the scope of the Charter" has been the subject of discussion on some occasions when objections concerning the competence of the Assembly to discuss particular matters were raised. The considerations which were advanced regarding the application of this term in three cases when more than a passing reference was made to this provision of Article 10 21/ are summarized below.

16. During the third session of the General Assembly, when the inclusion of an item relating to the observance of human rights and fundamental freedoms in Bulgaria and Hungary was considered in the General Committee, 22/ the provisions of Article 10 were invoked against the argument that the Assembly was not competent to consider this question. It was maintained that in the light of the provisions of Article 55 the Assembly was fully competent, under Article 10, to consider whether, in a specific case, human rights had been respected either by a Member or by a non-member State, since that Article was essentially universal in scope. The right of discussion provided for in Article 10 of the Charter was one of its most important provisions. There was no question which came within the scope of the Charter and which concerned its aims, its principles or any one of its provisions which could not be discussed by the Assembly. It was further held that, as a world forum, the Assembly could, under Article 10, discuss any questions which concerned the conscience of all civilized men and which might threaten world peace. It was also pointed out that the problem under consideration involved so many provisions of the Charter with regard to human rights

15/ G A resolution 40 (I).

16/ G A resolutions: 266 (III), 387 (V) and 515 (VI).

17/ G A resolutions: 185 (S-2), 289 A (IV) and 303 (IV).

18/ G A resolutions: 494 (V) and 608 (VI).

19/ G A resolutions: 40 (I), 117 (II) and 267 (III).

20/ G A resolution 267 (III).

21/ For treatment of these cases, see also in this Repertory under Article 2 (7), Article 14 and Article 55.

22/ For texts of relevant statements, see G A (III/2), General Committee, 58th mtg.: Australia, pp. 15 and 16; Panama, pp. 20 and 21; 59th mtg.: China, p. 33; Mexico, p. 35; United States, p. 34.

that any question which involved these great principles was indisputably within the purview of the Charter. As regards the Assembly itself, the view was expressed that it should enjoy the greatest possible freedom of discussion and the right to make all types of recommendations; Articles 10 and 14 should be interpreted in the widest and most liberal manner and the Assembly should always be accessible to States which wished to present their points of view.

17. In plenary meeting, 23/ when the recommendation of the General Committee for inclusion of the item was considered, the question of the Assembly's competence was raised again. One representative maintained that this question involved the interpretation of the Charter to which the elementary rule of legal interpretation should be applied, namely, that any instrument must be interpreted in its entirety. Under Article 10, the Assembly could discuss any matters within the scope of the Charter, and Article 14 authorized it to recommend measures for the peaceful adjustment of any situation likely to impair friendly relations among nations. One of the purposes of the United Nations was to achieve international co-operation in promoting respect for human rights and fundamental freedoms. The provisions of Articles 55 and 56 were universal -- they did not apply only to Members of the Organization. Consequently, the item under consideration, which related to the observance of human rights in two particular countries, clearly fell within the scope of the Charter.

18. Similar views were advanced again during the consideration of the item in the Ad Hoc Political Committee. 24/

19. During the same session, further references were made 25/ to Article 10 in the same context, but with respect to the consideration of an item relating to the question of the violation by the USSR of "fundamental human rights, traditional diplomatic practices and other principles of the Charter". In this case, however, the discussion centred principally on the application of Article 14 under which the request for inclusion 26/ in the agenda had been submitted. The arguments relating to Article 10 were essentially the same as those summarized above.

20. The question whether a particular matter is "within the scope of the Charter" and the Assembly's competence with regard to it has also been raised in connexion with the item relating to the treatment of people of Indian origin in the Union of South Africa, with attendant references to the application of Article 10. The item was initially submitted by India under Articles 10 and 14 at the second part of the first session and has been on the agenda of each succeeding session, with the exception of the fourth, either at the request of India 27/ or by a decision of the Assembly itself. 28/

23/ For texts of relevant statements, see G A (III/2), Plen., 202nd mtg.: Cuba, pp. 246-248; United States, pp. 11 and 12.

24/ For texts of relevant statements, see G A (III/2), Ad Hoc Pol. Com., 35th mtg.: Cuba, p. 78; United States, p. 39; 37th mtg.: Brazil, p. 115; 33th mtg.: Chile, p. 130; 39th mtg.: Lebanon, p. 136.

25/ For texts of relevant statements, see G A (III/1), 6th Com., 134th mtg.: Chile, p. 725; United States, p. 733.

26/ G A (III/1), Plen., Annexes, p. 1, A/560.

27/ G A (I/2), Joint 1st and 6th Com., p. 52, annex 1, A/149;

G A (III/2), Plen., Annexes, p. 1, A/577;

G A (V), Plen., Annexes, a.i. 57, p. 1, A/1289.

28/ G A resolutions: 44 (I), 395 (V), 511 (VI) and 615 (VII).

21. There has been constitutional discussion on each occasion concerning the competence of the Assembly, with particular emphasis on the provisions of Article 2 (7). Generally, the references to the application of Article 10 took one of the following forms: (a) they were implicit; (b) they consisted of the simple assertion that the matter was within the scope of the Charter; (c) they were incidental to arguments based primarily on the question of "domestic jurisdiction", or on Article 14 or on Articles 13 and 55. However, during the third session 29/, the provisions of Article 10 were cited at greater length to defend the position that the Assembly was fully competent to consider the question of the treatment of people of Indian origin in the Union of South Africa. This Article, it was pointed out, referred to any matters within the scope of the Charter and one of the purposes of the United Nations was to achieve international co-operation in promoting and encouraging respect for human rights. According to Article 10 the Assembly could, therefore, take certain action in that respect. Furthermore, it had been said 30/ that the Assembly was empowered to investigate whether any State had or had not respected human rights in virtue of Article 55, whose application was absolutely general. Thus, an argument based on Article 2 (7) was invalid in the case of a specific question coming within the scope of other Articles, since it was obviously the duty of the United Nations to see that the provisions of the Charter were respected. The rights of the Assembly, according to Article 10, were fundamental and there was no question connected with the Purposes, Principles and provisions of the Charter that it could not discuss. As regards human rights, they were mentioned no less than seven times in the Charter. Since Article 10 authorized the Assembly to discuss any matter within the scope of the Charter it could hardly be argued that the Assembly was prohibited by Article 2 (7) from discussing so basic a matter. During the fifth, 31/ sixth, 32/ seventh 33/ and eighth 34/ sessions, when the item was considered, similar arguments bearing on Article 10 or simple references to it were advanced in the Ad Hoc Political Committee.

22. The item relating to race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa has given rise to constitutional discussions along the same lines as those which have taken place on the item mentioned in the preceding paragraphs. In fact, references to the Assembly's action on the latter item were made in order to justify action regarding the question of race conflict during the seventh session when the item relating to race conflict in South Africa was first considered. At that session, a number of references 35/ were

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- 29/ For texts of relevant statements, see G A (III/2), 1st Com., 267th mtg.: India, pp. 307-309; Philippines, p. 312.
- 30/ For text of relevant statement, see G A (III/2), General Com., 58th mtg.: Australia, pp. 15 and 16.
- 31/ For texts of relevant statements, see G A (V), Ad Hoc Pol. Com., 42nd mtg.: Iran, p. 256; 44th mtg.: Mexico, pp. 271 and 272; 45th mtg.: India, p. 276.
- 32/ For text of relevant statement, see G A (III/1), Ad Hoc Pol. Com., 28th mtg.: Indonesia, p. 156.
- 33/ For texts of relevant statements, see G A (VII), Ad Hoc Pol. Com., 8th mtg.: Iraq, p. 38; 9th mtg.: Lebanon, p. 44.
- 34/ For texts of relevant statements, see G A (VIII), Ad Hoc Pol. Com., 14th mtg.: Ecuador, p. 69; 19th mtg.: Brazil, p. 93; Syria, p. 95; 20th mtg.: India, p. 101.
- 35/ For texts of relevant statements, see G A (VII), Plen., 381st mtg.: Chile, pp. 62 and 63; United Kingdom, pp. 61 and 62. Ad Hoc Pol. Com., 13th mtg.: Union of South Africa, p. 65; 14th mtg.: United Kingdom, p. 72; 18th mtg.: China, p. 98; India, pp. 96 and 97; Iran, p. 102; 19th mtg.: Ethiopia, p. 109; Israel, p. 105.

made to Article 10, in conjunction with Articles 13, 14, 55 and 56, to establish that the item under discussion was one within the scope of the Charter which the Assembly was competent to consider. While the discussions bore more directly on the problem of reconciling the principle of non-intervention with the equally fundamental principle of respect for human rights, ^{36/} the provisions of Article 10 were expressly cited by one representative ^{37/} whose views may be summarized as follows: one of the purposes of the United Nations was to promote and encourage respect for human rights and for fundamental freedoms for all. Under the terms of Article 10, the Assembly could discuss any question within the scope of the Charter and make recommendations to Members. The question before the Committee, relating to respect for human rights, was indubitably within the scope of the Charter, and the Assembly was therefore competent to consider it. Acceptance of the argument of the Assembly's incompetence would mean that the provisions of Article 10, those of Articles 55 and 56 and of many other relevant Articles would become nugatory and the Assembly would be paralysed.

23. During the eighth session, ^{38/} when the Assembly considered the report of the Commission which had been established ^{39/} to study the racial situation in the Union of South Africa, references to the provisions of Article 10 were made by some representatives who questioned whether the matter came within the scope of the Charter. It was remarked, in this connexion, that it had been asked what became of the powers of recommendation conferred on the Assembly by Articles 10 and 14 if Article 2 (7) were to be interpreted literally; whether there was not some contradiction between those provisions and, if so, why Article 2 (7) should prevail. But there was no incompatibility — the Assembly could act without infringing the prohibition contained in Article 2 (7). In the first place, in matters essentially within domestic jurisdiction, it could make recommendations directed not against any particular State or States but recommendations of a general nature, directed to all the Members; the proclamation of the Universal Declaration of Human Rights came within that category. In the second place, if it related to one single State, action by United Nations organs was permissible so long as it had the consent of that State and consent could be given not only through the Charter but also through special conventions. Thus Articles 10 and 14 were not incompatible with Article 2 (7) for they allowed the Assembly broad powers of recommendation in matters within domestic jurisdiction, either in the form of general provisions or else, with the consent of the States concerned, in particular cases. In those two situations, action by the Assembly could not constitute interference as prohibited by Article 2 (7). Another representative, who also held the view that the item was outside the competence of the Assembly, pointed out that no valid distinction could be drawn under Article 10 between "discussion" and "recommendations". That Article authorized the Assembly to "discuss any questions or any matters within the scope of the present Charter" and to "make recommendations to the Members ... on any such questions or matters", but matters which were within the domestic jurisdiction of a State did not come within the scope of the Charter. The provisions of the Preamble and of Article 1 confirmed that point of view, for they indicated clearly that the United Nations was only concerned with problems of an international nature. On the other hand, it was maintained that Article 10 provided that the Assembly might "discuss any questions ..." Since discussion did not mean action in pursuit of the purposes stated in Article 1, Article 10 did not refer to the provisions of Article 2 (7) although it did refer to those of Article 12.

^{36/} For text of statement, see G A (VII), *Ad Hoc* Pol. Com., 16th mtg., Mexico, p. 81.

^{37/} For text of statement, see G A (VII), *Ad Hoc* Pol. Com., 18th mtg., India, p. 96.

^{38/} For texts of statements, see G A (VIII), *Ad Hoc* Pol. Com., 32nd mtg.: Belgium, pp. 159 and 160; 34th mtg.: United Kingdom, pp. 169 and 170; 36th mtg.: Denmark, p. 184; 37th mtg.: Pakistan, p. 190.

^{39/} G A resolution 616 (VII).

**B. The question of the scope of recommendations of the General Assembly
"relating to the powers and functions of any organs
provided for in the present Charter"**

24. Article 10 provides, inter alia, that the General Assembly may make recommendations to the Members of the United Nations or to the Security Council or to both on any questions or matters "relating to the powers and functions of any organs provided for in the present Charter".

25. The four resolutions reviewed below are of particular significance ^{40/} to illustrate the scope of such recommendations in the practice of the Assembly.

26. Resolutions 40 (I), 117 (II) and 267 (III) were the result of the consideration by the General Assembly of various items ^{41/} concerning the voting procedure in the Security Council. The last two are among the few resolutions of the General Assembly

^{40/} Resolution 181 (II), "Future government of Palestine", also has particular significance with regard to this question, both in the light of its provisions and in the light of the constitutional discussion in the proceedings connected with its adoption during which Article 10 as well as Article 14 were invoked. The resolution is treated in this Repertory under Article 14 in view of the fact that the Assembly used the language of that Article in the preamble of the resolution when it considered that the situation in Palestine was "one which is likely to impair the general welfare and friendly relations among nations". (See study on Article 14; for proceedings of the Security Council connected with resolution 181 (II), see study on Article 39). Resolutions of the General Assembly containing recommendations to the Security Council relating to the question of admission of new Members, which for convenience of presentation are treated in Article 4, are also relevant to the above question.

^{41/} Item 32: "Application of Article 27 of the Charter dealing with the method of voting in the Security Council"; item 35: "Calling of General Conference of Members of the United Nations under Article 109 of the Charter in order to eliminate the so-called 'veto privilege'"; item 43: "Calling of General Conference of Members of the United Nations under Article 109 of the Charter for the purpose of reviewing the present Charter", considered during the second part of the first session. Item 23: "Convocation of a general conference under Article 109 of the Charter to amend the privilege of the veto"; item 44: "Resolution of the second part of the first session of the General Assembly in relation to the exercise of the veto in the Security Council and the extent to which the recommendations contained in that resolution have been carried out", considered during the second session. Item 3 of the agenda of the first part of the third session; item 17: "The problem of voting in the Security Council: (a) Report of the Interim Committee of the General Assembly; (b) Convocation of a general conference under Article 109 of the Charter in order to study the question of the veto in the Security Council", considered during the second part of the third session.

in which the Assembly expressly stated ^{42/} the Charter Article under which it was acting. Although the debates connected with the three resolutions centred predominantly on the principle of unanimity of the permanent members of the Security Council and the history of that principle, references were also made to the question of the scope of the recommendations relating to the powers and functions of other organs of the United Nations which it would be within the competence of the General Assembly to make. In view of the similarity of the Charter arguments advanced during the discussion, the relevant views stated at the three sessions of the General Assembly are summarized together.

27. Resolution 396 (V), the fourth illustrative resolution, was approved by the General Assembly as a result of its consideration of the item "Recognition by the United Nations of the representation of a Member State", submitted by a representative as an item referring to a situation for which "the Charter makes no provision ... nor do the rules of procedure of the main organs give any standards by which it may concretely and specifically be solved". ^{43/} The proceedings connected with resolution 396 (V) included substantial constitutional discussion which, in some of its aspects, is relevant to the general question examined here.

1. Resolutions 40 (I), 117 (II) and 267 (III)

28. In the discussion preceding the adoption of these resolutions the view was expressed, on the one side, that under Article 10 the General Assembly had the authority to discuss questions relating to the powers and functions of any organ of the United Nations and to make recommendations on those questions to the Members of the United Nations and to the Security Council. It was, therefore, unquestionably the duty of the General Assembly to examine how the Security Council carried out its functions and powers, particularly under Article 24. The Security Council had complete power over its own rules and procedures, but the General Assembly had the right to examine the problem of the voting in the Security Council and to make recommendations with regard to this problem. Consequently, it was entirely appropriate for the General Assembly to recommend certain methods with regard to the smooth and effective practices and procedures of the Security Council in order to ensure the prompt and effective exercise of its functions. If the General Assembly had an opinion regarding the working of the Organization, it was its duty to speak its mind: it would be a denial by the General Assembly of its rights and a neglect of its duty if it failed to take notice of any defects in the working of the United Nations or if it refrained from expressing its opinion on the way in which those defects could be remedied.

29. On the other side it was argued that, while Article 10 authorized the General Assembly to make any recommendations as regards the powers and functions of the Security Council as well as of other organs of the United Nations, the Security Council under

^{42/} The first paragraph of resolution 117 (II) read as follows: "The General Assembly, in the exercise of its power to make recommendations relating to the powers and functions of any organs of the United Nations (Article 10 of the Charter)". In the second paragraph of resolution 267 (III) the General Assembly stated that it was "Exercising the authority conferred upon it by Article 10 of the Charter to discuss any question within the scope of the Charter or relating to the functions of any organ of the United Nations and to make recommendations to the Members of the United Nations and to the Security Council thereon,".

^{43/} See para. 31 below.

Article 30 had the exclusive right to adopt its own rules of procedure. The methods of the voting in the Security Council were part of its own procedure and remained essentially within its own competence. Therefore, whatever resolution might be adopted on this question by the General Assembly, it could only take effect when implemented by the Security Council. Unless such a resolution of the General Assembly was accepted by all the members of the Security Council, the chance of having a resolution of the General Assembly fully implemented would remain uncertain.

30. It was further argued that the proposed recommendations concerning the voting procedure in the Security Council represented an effort to eliminate the voting formula of Article 27 and to break the fundamental principles of the Charter. They constituted further attempts to undermine the principle of unanimity of the permanent members of the Security Council, were incompatible with the relevant provisions of the Charter and aimed at substituting a new procedure for that provided for in the Charter. The recommendations were, therefore, tantamount to a revision of the Charter by circumventing Articles 108 and 109. It was also pointed out in this connexion that essential questions relating to the maintenance of international peace and security could not be settled by voting and could not be decided automatically by a simple majority. 44/

Decisions

At its 61st plenary meeting on 13 December 1946, the General Assembly adopted 45/ by 36 votes to 6, with 9 abstentions, resolution 40 (I): "Voting procedure in the Security Council". 46/

At its 123rd plenary meeting on 21 November 1947, the General Assembly adopted 47/ by 38 votes to 6, with 11 abstentions, resolution 117 (II): "Convocation of a general conference under Article 109 of the Charter to amend the privilege of the veto and resolution of the second part of the first session of the General Assembly in relation to the exercise of the veto". 48/

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- 44/ For texts of relevant statements, see
 G A (I/2), 1st Com., 19th mtg.: Australia, p. 86; Poland, p. 91; 20th mtg.: USSR, p. 100; Yugoslavia, p. 96; 21st mtg.: Czechoslovakia, p. 104; 33rd mtg.: Australia, p. 211; 42nd mtg.: China, p. 286;
 G A (I/2), Plen., 60th mtg.: Australia, p. 1233; United States, p. 1246; 61st mtg.: China, pp. 1259 and 1260.
 G A (II), 1st Com., 113th mtg.: China, p. 489; 114th mtg.: USSR, pp. 504 and 505.
 G A (III/1), Ad Hoc Pol. Com., 17th mtg.: Canada, p. 193; Poland, pp. 202 and 204; United States, p. 197; 20th mtg.: USSR, pp. 232 and 233; 21st mtg.: Byelorussian SSR, p. 245; Ukrainian SSR, p. 241; 24th mtg.: France, p. 278.
 GA (III/2), Plen., 193rd mtg.: Czechoslovakia, p. 76; 194th mtg.: France, p. 96; Yugoslavia, pp. 90 and 93; 195th mtg.: Byelorussian SSR, p. 119; Ukrainian SSR, p. 116.
45/ G A (I/2), Plen., p. 1264.
46/ For text, see annex II.
47/ G A (II), Plen., vol. II, p. 1272.
48/ For text, see annex II.

At its 195th plenary meeting on 14 April 1948, the General Assembly adopted 49/ by 43 votes to 6, with 2 abstentions, resolution 267 (III): "The problem of voting in the Security Council". 50/

2. Resolution 396 (V)

a. PRECIS OF THE PROCEEDINGS CONNECTED WITH RESOLUTION 396 (V)

31. By a letter 51/ dated 19 July 1950, the alternate representative of Cuba to the United Nations requested the Secretary-General to include the question of the recognition by the United Nations of the representation of a Member State in the agenda of the fifth session of the General Assembly. By a letter 52/ dated 26 July 1950, the permanent representative of Cuba transmitted to the Secretary-General an explanatory memorandum in which it was stated that

"... the item proposed for the General Assembly's consideration does not refer only to the formal problem of credentials, but to the problem that arises with regard to the legality of the representation of a Member State; that is, when the United Nations has to decide which government has the right to represent that State in the Organization. The Charter makes no provision for such a situation, nor do the rules of procedure of the main organs give any standards by which it may concretely and specifically be solved."

32. At its 285th plenary meeting on 26 September 1950, the General Assembly decided 53/ to include the item in the agenda of the fifth session. The *Ad Hoc* Political Committee considered the item at its 18th to 24th meetings inclusive, and again at its 57th to 60th meetings inclusive.

33. At the 18th meeting of the *Ad Hoc* Political Committee, the representative of Cuba submitted a draft resolution 54/ which provided that the questions arising in connexion with the representation of a Member State in the United Nations should be decided in the light of: (a) effective authority over the national territory; (b) the general consent of the population; (c) ability and willingness to achieve the purposes of the Charter, to observe its principles and to fulfil international obligations of the State; and (d) respect for human rights and fundamental freedoms.

34. At the 19th meeting of the *Ad Hoc* Political Committee, the representative of the United Kingdom submitted a draft resolution 55/ which provided that where the question of the representation of a Member State arose in consequence of internal processes or changes which had taken place in that State the right of a government to represent the Member State concerned in the United Nations should be recognized if that government exercised effective control and authority over all or nearly all the national territory, and had the obedience of the bulk of the population of that territory, in such a way that this control, authority and obedience appeared to be of a permanent character.

49/ G A (III/2), Plen., p. 129.

50/ For text, see annex II.

51/ G A (V), Annexes, a.i. 61, p. 1; A/1292.

52/ G A (V), Annexes, a.i. 61, pp. 2 and 3; A/1308.

53/ G A (V), Plen., vol. I, p. 115.

54/ G A (V), Annexes, a.i. 61, p. 5; A/AC.38/L.6.

55/ G A (V), Annexes, a.i. 61, p. 6; A/AC.38/L.21.

35. At the 24th meeting, the Ad Hoc Political Committee decided 56/ by 29 votes to 6, with 7 abstentions, to establish a Sub-Committee to consider the item in the light of all proposals, amendments, suggestions and views presented in the course of the debate.

36. At the 57th meeting of the Ad Hoc Political Committee, the Rapporteur of the Sub-Committee presented its report and the draft resolution 57/ adopted by the Sub-Committee for consideration by the Committee. In the draft resolution it was provided that,

"The General Assembly,

".....

"1. Recommends:

"(a) That whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations, it should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case;

"(b) That the following should be among the factors to be taken into consideration in determining any such question:

"(i) The extent to which the new authority exercises effective control over the territory of the Member State concerned and is generally accepted by the population;

"(ii) The willingness of that authority to accept responsibility for the carrying out by the Member State of its obligations under the Charter;

"(iii) The extent to which that authority has been established through internal processes in the Member State.

"2. Recommends that when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the Assembly is not in session;

"3. Recommends that the decision reached by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;

"4. Declares that decisions reached by the General Assembly or its Interim Committee concerning any such question shall not of themselves affect the direct relations of individual Member States with the State, the representation of which has been the subject of such decisions;"

37. At the same meeting, the representative of Belgium submitted an amendment 58/ to this draft resolution proposing to delete paragraph 2, and to substitute the words "attitude adopted" for the words "decision(s) reached" in paragraphs 3 and 4 and consequential drafting changes in paragraph 4.

56/ G A (V), Ad Hoc Pol. Com., p. 159.

57/ G A (V), Annexes, a.i. 61, pp. 9-12; A/AC.38/L.45.

58/ G A (V), Ad Hoc Pol. Com., A/AC.38/L.50, p. 367.

38. Also, at the same meeting, 59/ the representative of Egypt submitted an amendment 60/ proposing to delete sub-paragraph 1 (b) of the draft resolution.

39. At the 60th meeting of the Ad Hoc Political Committee the amendments submitted by the representatives of Belgium and Egypt were adopted and the draft resolution of the Sub-Committee, as amended, after a vote by paragraphs, was adopted as a whole by 29 votes to 2, with 13 abstentions. 61/

40. The General Assembly considered the draft resolution adopted by the Ad Hoc Political Committee at its 325th plenary meeting on 14 December 1950.

B. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION IN THE
PROCEEDINGS CONNECTED WITH RESOLUTION 396 (V)

41. In the discussion which preceded the adoption by the Ad Hoc Political Committee of the amendment 62/ submitted by the representative of Belgium to paragraphs 3 and 4 of the draft resolution presented by the Sub-Committee, the sponsor of the amendment and those supporting it argued that the draft resolution merely proposed to settle the question of credentials when two sets issued by two different authorities were presented. There could be no doubt that it was the prerogative of each United Nations organ to reach a decision concerning the credentials presented to it. An attitude adopted by the General Assembly did not have the effect of a decision as far as other United Nations organs were concerned. The General Assembly and the Interim Committee could make no judgment except on their own behalf: their conclusions, when considered in relation to other United Nations organs, did not have the force of decisions. It was therefore better to speak of the "attitude" or "position" of the General Assembly or of the Interim Committee. It was provided in the Charter and in the rules of procedure of the General Assembly that other main organs of the United Nations were autonomous and thus the General Assembly could not impose its will upon them. However, a single organ should be charged with deciding on the question of representation, so that a Member State should not be represented in a different manner in various organs of the United Nations. The proposed solution, that the General Assembly should be competent in this matter, was perfectly logical because all Members were represented in the General Assembly. Another organ of the United Nations was hardly likely to adopt a policy different from that of the General Assembly.

42. Those opposing the amendment expressed the view that it would be preferable to allow the word "decision" to stand, as the general intention seemed to be that the General Assembly should adopt decisions which would be accepted by, and serve as a guide to, other organs of the United Nations. The Sub-Committee after a long discussion had decided to retain the word "decision", with the understanding that the use of the word "decision" did not imply that the action of the General Assembly would be binding on all other organs or on the specialized agencies. Any organ of the United Nations which adopted a specific attitude was in fact taking a decision.

43. Another representative contended that the provision of paragraph 3 of the draft resolution was contrary to Article 7, under which each organ of the United Nations was sovereign within the scope of its competence and activities; each organ, in accordance with its rules of procedure, was qualified to decide on matters of representation.

59/ G A (V), Annexes, a.i. 61, p. 15, A/1578.

60/ G A (V), Ad Hoc Pol. Com., A/AC.38/L.54, p. 380.

61/ G A (V), Ad Hoc Pol. Com., pp. 388 and 389.

62/ See para. 37 above.

44. On the other hand, it was maintained that the provision of paragraph 3 of the draft resolution in no way implied a violation of Article 7 with regard to the competence of various organs of the United Nations in connexion with representation. It was confined only to a recommendation to be submitted to those organs for study.

45. During the general consideration of the item certain representatives expressed the view that the draft resolution submitted by Cuba was in conformity with the system of the Charter and also took into account the political and legal standards that governed the relations of Member States outside that system. The recognition of a representative of a Member State must be based primarily on the principles of the Charter and on the generally recognized principles of international law applying to the recognition of States. The Charter implied no distinction between the conditions required for the admission of a State to membership in the United Nations and those governing the recognition of a representative from a Member State. A formula for this recognition should be a broad one. The origin of the government concerned appeared to be of particular importance in connexion with its application for a seat in the United Nations. Since the willingness and ability of a State could only be judged through its government, the qualifications laid down in Article 4 must also be applicable. The purposes of the United Nations would not be furthered by ignoring the fact that one or another of two competing claimants for recognition was unwilling or unable to carry out the obligations stipulated in the Charter. If one régime upheld the United Nations and the other defied it, morality and justice could not permit such facts to be disregarded. While the material aspect of the question could not be irrelevant, general principles of ethics should also be borne in mind. Further criteria for recognition should not be exclusive, but should be general and flexible enough to allow for the expression of factors which might be deemed essential, yet rigid enough to restrain arbitrary or capricious action and to permit the General Assembly to base its decisions on the circumstances of each particular case, bearing in mind the Purposes and Principles of the Charter. However, the General Assembly must have some latitude to declare a government unfit to sit in the General Assembly even though it might have control of the territory and have secured the tacit obedience of the people of the State in question.

46. Other representatives were of the opinion that the draft resolution submitted by Cuba was relevant to the question of admission of an applicant to membership in the United Nations rather than to the question of the recognition of a new government of a Member State and its right to represent that Member in the United Nations. The emphasis in Article 4 of the Charter was upon the question of admission to the United Nations of a State as an entity, not of a particular government of a State. The considerations which would govern the admission of a new Member under Article 4 were entirely separate from the question of whether a new government was or was not entitled to represent a State which was already a Member State. This question should be judged, therefore, on a different basis, and Article 4 bore no relation to it. The question of who represented a State was a question of fact which implied no moral or political approval of the government concerned. The Charter also did not require that the Members of the United Nations render moral or political judgment regarding the character of the government of a Member State. Refusal to allow a government exercising effective control to represent a State in the United Nations meant that the State was unrepresented. Such action was illegal and contrary to the Purposes and Principles of the Charter. Only the objective factors could be evaluated without violating the principles of the Charter, infringing the principle of sovereignty and of non-intervention in the domestic affairs of a State. It was easy to ascertain whether a government controlled all or almost all the territory of a State, but the other criteria, such as the general consent of the people, ability and willingness to carry out the purposes of the Charter, respect for human rights and fundamental freedoms, would involve so many subjective elements that an objective appraisal of the situation would be impossible. The criteria to be applied should be based, therefore, on facts, they should be as clear and as objective as possible and should exclude the moral issue.

It would be dangerous to seek to establish standards which in any way differed from those accepted in international law. The criteria in sub-paragraph 1 (b) of the draft resolution of the Sub-Committee were further incompatible with the provisions of Article 2 (7) of the Charter, for the General Assembly would be taking it upon itself to determine the extent of a government's authority and the way in which that government had been set up. That sub-paragraph also restated a prerequisite for admission of a new State which should not be applied explicitly in connexion with the recognition of representation of a Member State.

47. Certain representatives contended that the draft resolution submitted by Cuba sought to apply Article 4 to the question of the representation of States which were already Members of the United Nations and thus extended the scope of that Article beyond the range of the Charter and substituted the question of admission to membership for that of the representation of Member States. Any attempt to vest any special powers in that realm in the General Assembly would be invalid and illegal. The criteria set forth in the draft resolution submitted by Cuba were not contained in the Charter and had, therefore, no bearing either upon it or on the question of the representation of Member States. Neither the Charter nor the rules of procedure of the United Nations organs provided for or permitted the application of any specific conditions for the recognition of credentials. The rules of procedure were based on the juridical assumption, particularly applicable to the original Members of the United Nations, that the State in question had already been admitted to membership in accordance with the provisions of Article 4. In the matter of recognition of the representation of Member States, United Nations organs should follow the principle of admitting only representatives appointed by a government exercising effective power in the Member State concerned. Such a representation was its statutory right under the Charter. The question of recognition had already been settled by the Charter and by international law. The credentials could only be issued by a government exercising effective power over the territory of the State and it would be contrary to the provisions of the Charter for the General Assembly to attempt to take into account the changes of régime which States might undergo and to intervene when a change of régime occurred. The draft resolution submitted by Cuba would give the General Assembly the right to intervene in the domestic affairs of a sovereign Member State. It would thus illegally extend the competence of the General Assembly and would violate not only the Charter but also the generally recognized principles of international law. It was an expression of a tendency in the General Assembly to depart from the provisions of the Charter and the universally accepted rules of international law. The draft resolution proposed by the Sub-Committee would tend also to perpetuate existing abuses and to sanction practices contrary to the Charter and international law. It attempted to establish new

and binding provisions which were not to be found in the Charter and thus, in fact, would amend it without following the procedure prescribed in Articles 109 and 110. 63/

Decisions

At its 325th plenary meeting on 14 December 1950, the General Assembly considered the draft resolution recommended by the Ad Hoc Political Committee and adopted, 64/ by 25 votes to 10, with 10 abstentions, an amendment 65/ submitted by the representative of Egypt to insert between paragraphs 1 and 2 of the operative part of the draft resolution the following text:

"2. Recommends that when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the General Assembly is not in session".

At the same meeting the General Assembly adopted 66/ resolution 396 (V):
"Recognition by the United Nations of the representation of a Member State." 67/

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- 63/ For texts of relevant statements, see G A (V),
Ad Hoc Pol. Com., 18th mtg.: China, pp. 112 and 113; Cuba, pp. 111 and 112; Denmark, p. 114; United Kingdom, pp. 116 and 117;
 19th mtg.: Australia, pp. 123 and 124; Brazil, p. 121; USSR, pp. 121 and 122; United States, pp. 119 and 120;
 20th mtg.: Bolivia, p. 128; Costa Rica, p. 130; India, p. 127; Israel, pp. 132 and 133; Netherlands, p. 128; Union of South Africa, p. 131;
 21st mtg.: Burma, pp. 140 and 141; Czechoslovakia, pp. 137 and 138; El Salvador, p. 139; Greece, p. 142; Norway, pp. 138 and 139; Paraguay, p. 141; Sweden, p. 136; Ukrainian SSR, pp. 135 and 136; Venezuela, p. 140;
 22nd mtg.: Argentina, p. 145; Byelorussian SSR, p. 143; Dominican Republic, p. 147; New Zealand, p. 146; Thailand, p. 147; Yugoslavia, p. 144;
 23rd mtg.: Bolivia, p. 156; Ecuador, pp. 155 and 156; Pakistan, p. 157; Poland, pp. 151-153; USSR, pp. 153 and 154; United States, pp. 154 and 155;
 24th mtg.: Ukrainian SSR, p. 159;
 57th mtg.: Cuba, p. 364; Belgium, p. 367; United States, p. 365;
 58th mtg.: Australia, p. 375; Belgium, p. 374; Bolivia, p. 374; Byelorussian SSR, p. 372; Chile, p. 371; Colombia, p. 375; Norway, p. 373; Poland, pp. 369 and 370; Venezuela, pp. 371 and 372;
 59th mtg.: Czechoslovakia, pp. 377 and 378; France, pp. 379 and 380; Mexico, p. 380; Poland, p. 378; Sweden, p. 379; Uruguay, p. 380; Yugoslavia, p. 380;
 60th mtg.: Cuba, p. 387; India, p. 386; Pakistan, p. 386; Ukrainian SSR, pp. 385 and 386; USSR, pp. 383 and 384;
 Plen., vol. I, 325th mtg.: China, p. 677; Czechoslovakia, pp. 676 and 677; Poland, p. 677; USSR, pp. 675 and 676.
64/ G A (V), Plen., vol. I, 325th mtg., p. 675.
65/ G A (V), Plen., vol. I, 325th mtg., p. 675, A/1582.
66/ G A (V), Plen., vol. I, 325th mtg., p. 675.
67/ For text, see annex II.

ANNEX I

Tabulation of some Agenda Items bearing upon Article 10 a/

<u>Title of the item</u>	<u>Assembly Session</u>	<u>Item No.</u>	<u>Resolution No.</u>
Relations of Members of the United Nations with Spain	(I/1)	5 <u>b/</u>	32 (I)
The question of the extradition and punishment of war criminals <u>c/</u>	(I/1)		3 (I)
Application of Article 27 of the Charter dealing with the method of voting in the Security Council	(I/2)	32	40 (I)
Calling of General Conference of Members of the United Nations under Article 109 of the Charter in order to eliminate the so-called "veto privilege"	(I/2)	35	40 (I)
Calling of General Conference of Members of the United Nations under Article 109 of the Charter for the purpose of reviewing the present Charter	(I/2)	43	40 (I)
Constituting and instructing a special committee to prepare for the consideration of the question of Palestine at the second regular session <u>d/</u>	(S-1)		106 (S-1) 107 (S-1)
Convocation of a general conference under Article 109 of the Charter to amend the privilege of the veto	(II)	23	117 (II)
Resolution of the second part of the first session of the General Assembly in relation to the exercise of the veto in the Security Council and the extent to which the recommendations contained in that resolution have been carried out	(II)	44	117 (II)
The problem of the independence of Korea	(II)	60	112 (II)

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- a/ This tabulation includes only agenda items which were referred by the General Assembly to its First and Ad Hoc Political Committees and agenda items of a political character which were considered directly by the Assembly.
- b/ Item No. 5 of "Items added to the Agenda during the First Part of the First Session of the General Assembly on the Recommendation of the General Committee".
- c/ The General Assembly, at its 22nd plenary meeting on 2 February 1946, decided to include this item in its agenda and to refer it to the First Committee. The item, however, was not formally recorded in the supplementary list of agenda items.
- d/ This was the only item on the agenda of the first special session of the General Assembly.

<u>Title of the item</u>	<u>Assembly Session</u>	<u>Item No.</u>	<u>Resolution No.</u>
Measures to be taken against propaganda and the inciters of a new war	(II)	61	110 (II)
Further consideration of the question of the future government of Palestine	(S-2)	7	185 (S-2) 186 (S-2) 189 (S-2)
Threats to the political independence and territorial integrity of Greece: reports of the United Nations Special Committee on the Balkans	(III/1)	15	193 C (III)
The problem of the independence of Korea: (a) Report of the United Nations Temporary Commission on Korea; (b) Report of the Interim Committee of the General Assembly	(III/1)	16	195 (III)
Palestine: Progress report of the United Nations Mediator on Palestine	(III/1)	67	194 (III)
The problem of the voting in the Security Council: (a) Report of the Interim Committee of the General Assembly; (b) Convocation of a general conference under Article 109 of the Charter in order to study the question of the veto in the Security Council	(III/2)	3 (17) ^{e/}	267 (III)
Question of the disposal of the former Italian colonies	(III/2)	13 (66) ^{e/}	266 (III)
United Nations Guard	(III/2)	14 (68) ^{e/}	270 (III)
Creation of an <u>ad hoc</u> committee to consider methods and procedures which would enable the General Assembly to discharge its functions more effectively and expeditiously	(III/2)	15 (74) ^{e/}	271 (III)
Having regard to the provisions of the Charter and of the peace treaties, the question of observance in Bulgaria and Hungary of human rights and fundamental freedoms, including questions of religious and civil liberties, with special reference to recent trials of Church leaders	(III/2)	18	272 (III)
Question of Indonesia	(III/2)	19	274 (III)

^{e/} The numbers in brackets indicate the order of items on the agenda of the first part of the third session of the General Assembly.

<u>Title of the item</u>	<u>Assembly Session</u>	<u>Item No.</u>	<u>Resolution No.</u>
Palestine: (a) Proposals for a permanent international régime for the Jerusalem area: report of the United Nations Conciliation Commission for Palestine; (b) Protection of the Holy Places: report of the United Nations Conciliation Commission for Palestine; (c) Assistance to Palestine refugees: report of the Secretary-General	(IV)	18	303 (IV) 302 (IV)
Question of the disposal of the former Italian colonies	(IV)	19	289 (IV)
Question of Indonesia	(IV)	20	301 (IV)
Threats to the political independence and territorial integrity of Greece: report of the United Nations Special Committee on the Balkans	(IV)	21	288 B (IV)
The problem of the independence of Korea: report of the United Nations Commission on Korea	(IV)	22	293 (IV)
United Nations Field Service: report of the Special Committee	(IV)	26	297 (IV)
Observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms	(IV)	27	294 (IV)
Palestine:..... (b) Assistance to Palestine refugees: report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East; (c) Repatriation of Palestine refugees and payment of compensation due to them: implementation of General Assembly resolutions regarding this question; (d) Report of the United Nations Conciliation Commission for Palestine	(V)	20	393 (V) 394 (V)
Former Italian colonies: (a) Report of the United Nations Commissioner in Libya; (b) Reports of the Administering Powers in Libya; (d) Report of the United Nations Commission for Eritrea; (e) Report of the Interim Committee of the General Assembly on the report of the United Nations Commission for Eritrea	(V)	21	387 (V) 388 (V) 389 (V) 390 (V) 392 (V)

<u>Title of the item</u>	<u>Assembly Session</u>	<u>Item No.</u>	<u>Resolution No.</u>
Threats to the political independence and territorial integrity of Greece: (a) Report of the United Nations Special Committee on the Balkans; (b) Repatriation of Greek children: report of the Secretary-General	(V)	22	382 A (V) 382 C (V)
Observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms: advisory opinion of the International Court of Justice	(V)	25	385 (V)
The appropriate adjustment of the frontiers between Egypt and the former Italian colony of Libya with particular reference to paragraphs 2 and 3 of Annex XI of the Treaty of Peace with Italy	(V)	59	391 (V)
Development of a twenty-year programme for achieving peace through the United Nations	(V)	60	494 (V)
Recognition by the United Nations of the representation of a Member State	(V)	61	396 (V)
Declaration on the removal of the threat of a new war and the strengthening of peace and security among nations	(V)	69	381 (V)
The question of Formosa <u>f/</u>	(V)	71	
Duties of States in the event of the outbreak of hostilities	(V)	72	378 B (V)
Question of the representation of China in the United Nations <u>g/</u>	(V)		490 (V) 501 (V)
Threats to the political independence and territorial integrity of Greece:..... (b) Repatriation of Greek children: reports of the Secretary-General and of the international Red Cross organizations	(VI)	19	517 (VI)
Libya: (a) annual report of the United Nations Commissioner in Libya; (b) annual reports of the Administering Powers in Libya	(VI)	20	515 (VI)

f/ At the 442nd meeting of the First Committee on 7 February 1951 the debate on this item was adjourned sine die.

g/ This question was considered by the General Assembly but was not recorded in the list of agenda items.

<u>Title of the item</u>	<u>Assembly Session</u>	<u>Item No.</u>	<u>Resolution No.</u>
The appropriate adjustment of the frontiers between Egypt and the former Italian colony of Libya, with particular reference to paragraphs 2 and 3 of Annex XI of the Treaty of Peace with Italy	(VI)	22	516 (VI)
Palestine: (a) Report of the United Nations Conciliation Commission for Palestine; (b) Assistance to Palestine refugees: report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	(VI)	24	512 (VI) 513 (VI)
Development of a twenty-year programme for achieving peace through the United Nations	(VI)	54	608 (VI)
Appointment of an impartial international commission under United Nations supervision to carry out a simultaneous investigation in the Federal Republic of Germany, in Berlin, and in the Soviet Zone of Germany in order to determine whether existing conditions there make it possible to hold genuinely free elections throughout these areas	(VI)	65	510 (VI)
Korea: (b) Reports of the United Nations Agent General for Korean Reconstruction	(VII)	16	701 (VII)
Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	(VII)	20	614 (VII)
Eritrea: report of the United Nations Commissioner in Eritrea	(VII)	21	617 (VII)
Repatriation of Greek children: reports of the Secretary-General and of the international Red Cross organizations	(VII)	23	618 (VII)
Use of the citation "Died for the United Nations" in respect to persons who, in certain circumstances, are killed in the service of the United Nations	(VII)	59	699 (VII)
Question of an appeal to the Powers signatories to the Moscow Declaration of 1 November 1943, for an early fulfilment of their pledges towards Austria	(VII)	63	613 (VII)

<u>Title of the item</u>	<u>Assembly Session</u>	<u>Item No.</u>	<u>Resolution No.</u>
The question of race conflict in South Africa resulting from the policies of <u>apartheid</u> of the Government of the Union of South Africa	(VII)	66	616 (VII)
The Conciliation Commission for Palestine and its work in the light of the resolutions of the United Nations	(VII)	67	No resolution adopted
Complaint of violation by Arab States of their obligations under the Charter, United Nations resolutions and specific provisions of the General Armistice Agreements concluded with Israel, requiring them to desist from policies and practices of hostility and to seek agreement by negotiation for the establishment of peaceful relations with Israel	(VII)	68	619 (VII)
Complaint of non-compliance of States still detaining members of the Greek armed forces with the provisions of resolution 382 A (V), adopted by the General Assembly on 1 December 1950, recommending "the repatriation of all those among them who express the wish to be repatriated"	(VII)	70	702 (VII)
Question of impartial investigation of charges of use by United Nations Forces of bacteriological warfare	(VII)	73	706 (VII)
Complaint of the mass murder of Korean and Chinese prisoners of war by the United States military authorities on the island of Pongam	(VII)	76	No resolution adopted
Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	(VIII)	19	720 (VIII)
The question of race conflict in South Africa resulting from the policies of <u>apartheid</u> of the Government of the Union of South Africa: report of the Commission appointed to study the racial situation in the Union of South Africa	(VIII)	21	721 (VIII)
Question of atrocities committed by the North Korean and Chinese Communist forces against United Nations prisoners of war in Korea	(VIII)	74	804 (VIII)
Question of the representation of China in the United Nations <u>h/</u>	(VIII)		800 (VIII)

h/ This question was considered by the General Assembly but was not recorded in the list of agenda items.

ANNEX II

Text of resolutions of the General Assembly treated
in the Analytical Summary of practiceResolution 40 (I): Voting Procedure in the Security Council

(Adopted by the General Assembly at its 61st plenary meeting on 13 December 1946, by 36 votes to 6, with 9 abstentions)

The General Assembly,

Mindful of the Purposes and Principles of the Charter of the United Nations, and having taken notice of the divergencies which have arisen in regard to the application and interpretation of Article 27 of the Charter:

Earnestly requests the permanent members of the Security Council to make every effort, in consultation with one another and with fellow members of the Security Council, to ensure that the use of the special voting privilege of its permanent members does not impede the Security Council in reaching decisions promptly;

Recommends to the Security Council the early adoption of practices and procedures, consistent with the Charter, to assist in reducing the difficulties in the application of Article 27 and to ensure the prompt and effective exercise by the Security Council of its functions; and

Further recommends that, in developing such practices and procedures, the Security Council take into consideration the views expressed by Members of the United Nations during the second part of the first session of the General Assembly.

Resolution 117 (II): Convocation of a general conference under Article 109 of the Charter to amend the privilege of the veto and resolution of the second part of the first session of the General Assembly in relation to the exercise of the veto

(Adopted by the General Assembly at its 123rd plenary meeting on 21 November 1947, by 38 votes to 6, with 11 abstentions)

The General Assembly, in the exercise of its power to make recommendations relating to the powers and functions of any organs of the United Nations (Article 10 of the Charter),

Requests the Interim Committee of the General Assembly, in accordance with paragraph 2 (a) of resolution 111 (II) of the General Assembly of 13 November 1947, establishing that Committee, to:

1. Consider the problem of voting in the Security Council, taking into account all proposals which have been or may be submitted by Members of the United Nations to the second session of the General Assembly or to the Interim Committee;

2. Consult with any committee which the Security Council may designate to co-operate with the Interim Committee in the study of the problem;

3. Report, with its conclusions, to the third session of the General Assembly, the report to be transmitted to the Secretary-General not later than 15 July 1948 and by the Secretary-General to the Member States and to the General Assembly;

Requests the permanent members of the Security Council to consult with one another on the problem of voting in the Security Council in order to secure agreement among them on measures to ensure the prompt and effective exercise by the Security Council of its functions.

Resolution 267 (III): The problem of voting in the Security Council

(Adopted by the General Assembly at its 195th plenary meeting on 14 April 1949, by 43 votes to 6, with 2 abstentions)

The General Assembly,

Having considered the report of its Interim Committee on the problem of voting in the Security Council, and

Exercising the authority conferred upon it by Article 10 of the Charter to discuss any question within the scope of the Charter or relating to the functions of any organ of the United Nations and to make recommendations to the Members of the United Nations and to the Security Council thereon,

1. Recommends to the members of the Security Council that, without prejudice to any other decisions which the Security Council may deem procedural, the decisions set forth in the attached annex i/ be deemed procedural and that the members of the Security Council conduct their business accordingly;

2. Recommends to the permanent members of the Security Council that they seek agreement among themselves upon what possible decisions by the Security Council they might forbear to exercise their veto, when seven affirmative votes have already been cast in the Council, giving favourable consideration to the list of such decisions contained in conclusion 2 of part IV of the report of the Interim Committee;

3. Recommends to the permanent members of the Security Council, in order to avoid impairment of the usefulness and prestige of the Council through excessive use of the veto:

(a) To consult together wherever feasible upon important decisions to be taken by the Security Council;

(b) To consult together wherever feasible before a vote is taken if their unanimity is essential to the effective action by the Security Council;

(c) If there is not unanimity, to exercise the veto only when they consider the question of vital importance, taking into account the interest of the United Nations as a whole, and to state upon what ground they consider this condition to be present;

4. Recommends to the Members of the United Nations that in agreements conferring functions on the Security Council such conditions of voting within that body be provided as would to the greatest extent feasible exclude the application of the rule of unanimity of the permanent members.

i/ For text of annex, see G A (III/2), Resolutions, p. 8.

Resolution 396 (V): Recognition by the United Nations of the representation of a Member State

(Adopted by the General Assembly at its 325th plenary meeting on 14 December 1950, by 36 votes to 6, with 9 abstentions)

The General Assembly,

Considering that difficulties may arise regarding the representation of a Member State in the United Nations and that there is a risk that conflicting decisions may be reached by its various organs,

Considering that it is in the interest of the proper functioning of the Organization that there should be uniformity in the procedure applicable whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations,

Considering that, in virtue of its composition, the General Assembly is the organ of the United Nations in which consideration can best be given to the views of all Member States in matters affecting the functioning of the Organization as a whole.

1. Recommends that, whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations and this question becomes the subject of controversy in the United Nations, the question should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case;

2. Recommends that, when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the General Assembly is not in session;

3. Recommends that the attitude adopted by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;

4. Declares that the attitude adopted by the General Assembly or its Interim Committee concerning any such question shall not of itself affect the direct relations of individual Member States with the State concerned;

5. Requests the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate.

