

Repertory of Practice of United Nations Organs
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Repertory of Practice of United Nations Organs)
Volume VI

ARTICLES 108 AND 109

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ARTICLES 108 AND 109

TEXT OF ARTICLE 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified 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.

TEXT OF ARTICLE 109*

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a 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 United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

* After 12 June 1968. For the background of the amendment to Article 109, see *Repertory, Supplement No. 3*, vol. IV, under Articles 108 and 109, paras. 15-18 and 45-50.

INTRODUCTORY NOTE

1. The present study generally retains the organizational approach adopted in the previous *Supplements* to the *Repertory*¹ with respect to the same Articles. However, a few changes have been made. In Chapter II, section A, a subheading entitled “Proposals to amend Article 61 of the Charter”, has been deleted as no such proposals were made during the period under review. Furthermore, in the same section one new subheading has been introduced, 1(d) “Proposals concerning the ICJ”, to cover a new item in relation to amendment proposals under Article 108.

I. GENERAL SURVEY

2. During the period under review, the amendment procedure provided for in Article 108 of the Charter of the United Nations was referred to in relation to several issues. As noted in the previous Supplement, an Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council (hereinafter referred to as the “Working Group”) was established at the forty-eighth session of the General Assembly to consider, *inter alia*, questions relating to the equitable representation on and increase in the membership of the Security Council.² The Working Group continued to meet during the period under review. The desirability to employ the amendment procedure in Article 108 was discussed in this context. In particular, the question of the required majority for the adoption of a General Assembly resolution containing “amendment implications” as opposed to amendments *in concreto* was considered. In this regard, at its fifty-third session, the General Assembly adopted resolution 53/30³ in which it determined “...not to adopt any resolution or decision on the question of equitable representation on and increase in the membership of the Security Council and related matters, without the affirmative vote of at least two thirds of the Members of the General Assembly.”

3. Furthermore, Article 108 was invoked during the discussion in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (hereinafter referred to as the “Special Committee”) on the question relating to the deletion of the “enemy State” clauses from Articles 53, 77 and 107. Based upon a recommendation by the Special Committee, the General Assembly in resolution 50/52⁴ expressed its intention “...to initiate the procedure set out in Article 108 of the Charter of the United Nations to amend the Charter, with prospective effect, by the deletion of the ‘enemy State’ clauses from the Articles 53, 77 and 107 at its earliest appropriate future session”.

4. Article 108 was also referred to during the debate in the General Assembly and in the Special Committee, regarding the future role of the Trusteeship Council. This item was included in the agenda of the General Assembly during the fiftieth session. In this regard, the General Assembly adopted resolution 50/55⁵ inviting Member States to submit written comments on the future role of the Trusteeship Council and requested the Secretary-General to submit a report containing the comments by Member States on the subject. Pursuant to General Assembly resolution 50/52⁶ the question continued to be considered during the period under review in the Special Committee.

¹ See under Articles 108 and 109: *Repertory, Supplement No. 3*, vol. IV; *Supplement No. 4*, vol. II; *Supplement No. 5*, vol. V; *Supplement No. 6*, vol. VI; *Supplement No. 7*, vol. VI; and *Supplement No. 8*, vol. VI.

² See GA resolution 48/26.

³ Without a vote. See GA (53), Plen., 66th mtg.

⁴ By vote: 155-0-3. See GA (50), Plen., 87th mtg.

⁵ Adopted by consensus. See GA (50), Plen., 87th mtg.

⁶ *Supra*, note 4.

5. The amendment procedure provided for in Article 108 of the Charter was also discussed during the 1997, 1998 and 1999 sessions of the Special Committee in the context of a debate regarding proposals to amend the Statute of the International Court of Justice (hereinafter referred to as the “ICJ”) and, as a corollary, the Charter of the United Nations.

6. Despite the frequent references to Article 108 throughout the period under review, no amendments were adopted. No formal proposals to hold a general conference for the purpose of reviewing the Charter, as provided for under Article 109, were made.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Procedure for the amendment or review of the Charter

1. PROPOSALS SUBMITTED UNDER ARTICLE 108

(a) Proposals to amend Articles 23, 27 and 109 of the Charter

7. Pursuant to General Assembly resolution 48/26, the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council (Working Group) continued throughout the period under review to consider questions relating to the increase in the membership of the Security Council, its working methods and voting procedures. The General Assembly renewed the mandate of the Working Group at each session during the period under review and requested it to submit reports on its work taking into account the progress already achieved.⁷

8. The debate in the Working Group indicated that agreement existed to expand the Security Council and to review its working methods,⁸ which was unanimously reaffirmed at the highest political level in the “Declaration on the Occasion of the Fiftieth Anniversary of the United Nations”, adopted by the General Assembly during its fiftieth session. However, the Declaration also recognized that important differences on key issues relating to the question on Security Council reform existed among the Member States and that further in-depth consideration was necessary.⁹

9. The annual reports of the Working Group contained summaries of discussions, working papers and proposals from Member States regarding, among other things, the expansion of the Security Council and its voting procedures, most of which would require amendments to the Charter of the United Nations.¹⁰

10. During the fifty-first session of the General Assembly, the Chairman of the Working Group introduced a document containing a comprehensive draft proposal for Security Council reform.¹¹

⁷ GA decisions 49/499, 50/489, 51/476, 52/490 and 53/487.

⁸ A/49/47, para. 13.

⁹ GA resolution 50/6, para. 14, adopted by acclamation. See GA (50), Plen., 40th mtg.

¹⁰ See GA (49), (50), (51), (52) and (53), supplement No. 47 in each year. See also A/49/965 containing a Compendium of observations and assessments of the two Vice-Chairmen of the Working Group, their discussion papers, as well as proposals and other documents presented to the Working Group. However, the report of the Working Group (A/49/47, para. 11) stated that the Compendium had no legal status and that it did not constitute the position of the Working Group, nor prejudice the position of any delegation.

¹¹ A/51/47, Annex II.

The draft proposal envisaged a two-step approach. First, the General Assembly would decide, *inter alia*, to increase the membership of the Security Council in both the permanent and non-permanent categories, with the new permanent members having “...no provision of the veto power.” Furthermore, it also “...discouraged the use of the veto, by urging the original permanent members of the Security Council to limit the exercise of their veto power to actions taken under Chapter VII of the Charter”. The new permanent members were to be elected by a vote of two thirds of the members of the General Assembly. Second, the draft proposal suggested that the actual amendments to the Charter of the United Nations arising from the decisions taken in the proposal would be voted upon at a later stage in accordance with Article 108 of the Charter.

11. The draft proposal gave rise to a debate in the Working Group and in the General Assembly on a procedural question regarding the majority with which a General Assembly resolution containing “amendment implications” to the Charter of the United Nations had to be adopted, especially in light of the fact that resolution 48/26 establishing the Working Group had stressed the importance of reaching general agreement with regard to its work.¹² While some States argued that the procedure provided for in Article 108 of the Charter, requiring a vote by a two thirds majority of the Member States, should apply also to resolutions containing amendment implications,¹³ other States argued that the Article could only apply to resolutions containing amendments *in concreto*.¹⁴ The latter States maintained that General Assembly resolutions containing amendment implications should be adopted in accordance with the procedure set out in Article 18, paragraph 2, of the Charter, under which decisions on important questions were to be adopted by a two thirds majority of the members *present and voting*.

12. In light of this debate, a draft resolution¹⁵ was introduced in the General Assembly during its fifty-second session. The draft resolution emphasized “... the need to comply faithfully with the provisions of Article 108 of the Charter of the United Nations with respect to any resolution with Charter amendment implications”. A modified language was proposed to the draft resolution with, *inter alia*, the effect that the procedure in Article 108 would apply to any resolution “...which contains amendments to the Charter” and that “...decisions on important questions on equitable representation on and increase in the membership of the Security Council and other matters related to the Council [should] be made by a two-thirds majority of the members present and voting”.¹⁶ However, none of the two proposals was put to vote in the General Assembly.

13. The question of the required majority for the adoption of a General Assembly resolution containing amendment implications continued to be discussed¹⁷ during the fifty-third session of the General Assembly. Again, a draft resolution and a proposal modifying its language were introduced on the topic.¹⁸ Some States reiterated that the Charter had not envisaged a two-step approach such as the one found in the Chairman’s draft proposal of 20 March 1997 and in which the General Assembly would first adopt a framework resolution with amendment implications and later a second resolution containing the amendments *in concreto*, where only the latter resolution would be adopted in accordance with the procedure in Article 108. These States

¹² A/52/47, Annexes XXVIII – XXXI; A/53/47, Annex X; and A/53/856, Annex VIII.

¹³ See e.g., GA (52), Plen., 62nd mtg. pp. 22 and 25; GA (52), Plen., 63rd mtg. pp. 4-7, 14-15, 19, 25, 29 and 36; and GA (52), Plen., 64th mtg. p. 15.

¹⁴ See e.g., GA (52), Plen., 62nd mtg. pp. 8-9 and GA (53), Plen., 63rd mtg. p. 9-10.

¹⁵ A/52/L.7. Without reference to a Main Committee.

¹⁶ A/52/L.47. Without reference to a Main Committee.

¹⁷ For the discussion, see GA (53), Plen., 63rd mtg. pp. 1-2, 5, 7-8, 10-11, 13, 16, 20, 22, 25 and 28; GA (53), Plen., 64th mtg. pp. 5-7, 10, 12-14, 16, 19, 23-24 and 27-29; GA (53), Plen., 65th mtg. pp. 2, 7-12, 14-17, 20, 22-24, 27, 29-31, 33-37 and 40; and GA (53), Plen., 66th mtg. pp. 5-6 and 9-11.

¹⁸ A/53/L.16 and Rev.1 and A/53/L.42. Without reference to a Main Committee. Both were withdrawn during GA (53), Plen., 66th mtg. (p.10).

argued that in order to uphold the constitutional requirements stipulated in the Charter, Article 108 had to be applied also to resolutions containing amendment implications.¹⁹ Conversely, other States, while agreeing that a large majority was needed to reform the Security Council, held the view that such an interpretation of Article 108 would entail legal implications that went beyond Security Council reform and amend the Charter itself.²⁰ The General Assembly adopted resolution 53/30²¹ which read as follows:

“The General Assembly,
Mindful of Chapter XVIII of the Charter of the United Nations and of the importance of reaching general agreement as referred to in resolution 48/26 of 3 December 1993, determines not to adopt any resolution or decision on the question of equitable representation on and increase in the membership of the Security Council and related matters, without the affirmative vote of at least two thirds of the Members of the General Assembly”.

14. The item on Security Council reform continued to be considered during the fifty-fourth session in the Working Group and in the General Assembly²² but no further action was taken before the end of the period under review.

15. Similarly to the previous period under review,²³ the reform of the Security Council was also considered in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (Special Committee), under the item “Maintenance of international peace and security”.²⁴ In this regard, at its 1995 session the Special Committee had before it a proposal previously submitted by the Libyan Arab Jamahiriya²⁵ and a proposal by Cuba²⁶ on, among other things, the question of the composition of the Security Council and its decision making procedure. Revised versions of the proposals and an additional working paper on a related subject matter were submitted at the subsequent sessions of the Special Committee.²⁷ However, no recommendations were made by the Special Committee regarding the proposals throughout the period under review.

16. In its resolutions 50/52, 51/209, 52/161, 53/106 and 54/106, the General Assembly made a reference to its resolution 47/62 on the question of equitable representation of and increase in the membership of the Security Council and requested the Special Committee to continue its consideration of proposals relating to the maintenance of international peace and security, specifically referring to the proposals submitted by the Libyan Arab Jamahiriya and Cuba.

¹⁹ See e.g. GA (53), Plen., 63rd mtg. pp. 1-2, 8, 20 and 22; GA (53), Plen., 64th mtg. pp. 5, 7, 10, 12-14, 16 and 24; GA (53), Plen., 65th mtg. pp. 9-12, 16-17, 20, 22-24, 27, 29-31 and 35-36.

²⁰ See e.g., GA (53), Plen., 63rd mtg. pp. 10-11 and 16; GA (53), Plen., 64th mtg. pp. 19 and 27-29; GA (53), Plen., 65th mtg. pp. 2, 7-8, 14-15, 33-34 and 37; and GA (53), Plen., 66th mtg. pp. 9-10.

²¹ Without a vote. See GA (53), Plen., 66th mtg.

²² See e.g. GA (54), Plen., 81-82nd and 85-86th mtgs.

²³ See *Repertory, Supplement 8*, vol. VI under Articles 108-109, para. 13.

²⁴ See GA (50), (51), (52), (53) and (54), supplement No. 33 in each year.

²⁵ A/48/33, paras. 93-94.

²⁶ A/50/33, paras. 47-49.

²⁷ A/51/33, paras. 56-57 (Libya); A/52/33, paras. 59-74 (Cuba); A/53/33, paras. 98-100 (Libya) and paras. 84-97 (Cuba).

(b) Proposals to amend Articles 53, 77 and 107 of the Charter²⁸

17. At its 1995 session, pursuant to General Assembly resolution 49/58,²⁹ the Special Committee considered the question of deleting the “enemy State” clauses from Articles 53, 77 and 107 of the Charter and submitted a draft resolution on the subject, for consideration and adoption by the General Assembly.³⁰

18. At its fiftieth session, the General Assembly adopted resolution 50/52³¹ in which it took note of the recommendation made by the Special Committee “...on the most appropriate legal action to be taken on the question of the deletion of the ‘enemy State’ clauses from Articles 53, 77 and 107 of the Charter of the United Nations.” Furthermore, it also took into account the complex process involved in amending the Charter and expressed its intention “...to initiate the procedure set out in Article 108 of the Charter of the United Nations to amend the Charter, with prospective effect, by the deletion of the ‘enemy State’ clauses from the Articles 53, 77 and 107 at its earliest appropriate future session”.

19. During the period under review, no further action was taken by the General Assembly regarding the amendment of Articles 53, 77 and 107.

(c) Proposals concerning the Trusteeship Council

20. As noted in Supplement No. 8, volume VI of the Repertory,³² in light of the fact that the Trusteeship Council had completed its work on the last remaining item on its agenda, a debate had commenced regarding its future role.

21. Upon the request by Malta,³³ the item entitled “Review of the role of the Trusteeship Council” was included in the agenda of the fiftieth session of the General Assembly. The General Assembly decided that the introduction and initial discussion of the item would be held in its plenary meeting and that subsequent consideration would be held in the Sixth Committee.³⁴

22. In its explanatory memorandum,³⁵ Malta expressed the view that the role of the Trusteeship Council should be enhanced to that of trustee of the common heritage of humankind. At the same session, the Secretary-General reiterated, in his annual report on the work of the Organization, the recommendation made in 1994³⁶ that the Trusteeship Council should be abolished in accordance with the procedure laid down in Article 108 of the Charter of the United Nations.³⁷

23. After considering the item and based upon a recommendation made by the Sixth Committee³⁸, the General Assembly adopted resolution 50/55,³⁹ in which the Secretary-General

²⁸ For a more detailed discussion on the question of the “enemy State” clauses, see *Repertory, Supplement 9*, vol. III under Article 53; vol. V under Article 77 and vol. VI under Article 107.

²⁹ See *Repertory, Supplement No. 8*, vol. VI, under Articles 108 and 109, para. 15.

³⁰ A/50/33, paras. 64-65.

³¹ By vote: 155-0-3. See GA (50), Plen., 87th mtg.

³² See *Repertory, Supplement No. 8*, vol. VI, under Articles 108 and 109, para 16.

³³ A/50/142.

³⁴ See GA (50) Plen., 3rd mtg pp. 7 and 9. See also A/50/250, p. 27.

³⁵ A/50/142, Annex.

³⁶ See A/49/1, para. 46.

³⁷ See A/50/1, paras. 68 and 69.

³⁸ A/50/646, Section III.

³⁹ Adopted by consensus. See GA (50), Plen., 87th mtg. Prior to the adoption of resolution 50/55, Malta introduced draft resolution A/C.6/50/L.6 which contained, *inter alia*, a decision to include the item again in the provisional agenda of

was requested to invite Member States to submit written comments on the future of the Trusteeship Council and to submit to the General Assembly a report containing such comments before the end of the fiftieth session.

24. The report of the Secretary-General contained replies from nineteen Member States. It evidenced the divergence of views held by Member States regarding this matter. While some Member States were in favour of assigning the Council a new mandate, e.g., as suggested by Malta, others argued that the Council should be abolished in accordance with the amendment procedure set forth in Article 108 of the Charter of the United Nations, as part of an omnibus amendment exercise or as part of the general reform of the Organization. Furthermore, it was also suggested that the Council, not giving rise to any cost, should remain unchanged.⁴⁰

25. During the period under review, the General Assembly also requested the Special Committee to consider proposals concerning the Trusteeship Council.⁴¹ However, due to the divergent views among Member States no recommendation was made by the Special Committee to the General Assembly on this topic.⁴²

26. The question regarding the future role of the Trusteeship Council was also considered in the context of the debate on the reform of the United Nations. At the resumed fifty-first session of the General Assembly, the Secretary-General submitted a report entitled “Renewing of the United Nations: A Programme for Reform” in which he observed that it appeared that Member States had decided to retain the Trusteeship Council. Therefore, he proposed that it be reconstituted as “...the forum through which Member States exercise their collective trusteeship for the integrity of the global environment and common areas such as the oceans, atmosphere and outer space. At the same time it should serve to link the United Nations and civil society in addressing these areas of global concern...”⁴³

27. At the fifty-second session, the General Assembly adopted resolution 52/12B⁴⁴ inviting the Secretary-General to elaborate further his proposal regarding, *inter alia*, a new concept of trusteeship.⁴⁵ In pursuance of this resolution, in March 1998, the Secretary-General submitted a Note to the General Assembly entitled “United Nations reform: measures and proposals, A new concept of trusteeship.”⁴⁶ The Note explained that a Task Force had been set up to prepare proposals on environmental and human settlement areas and that it would have the opportunity to consider the Secretary-General’s proposal regarding a new concept of trusteeship. The General Assembly decided to defer consideration of the Note to its fifty-third session.⁴⁷

the General Assembly for the fifty-first session. However, Malta later introduced a revised version of the draft resolution, the text of which is contained in resolution 50/55.

⁴⁰ A/50/1011. See also e.g., GA (50), Plen., 68th mtg pp. 3-8; GA (50), 6th Comm., 34th mtg. paras. 7 and 24; GA (50), 6th Comm., 44th mtg. paras. 15-17; and GA (50), 6th Comm., 45th mtg. para. 1.

⁴¹ See, GA resolutions 50/52, 51/209, 52/161, 53/106 and 54/106.

⁴² See GA (51), (52), (53) and (54), Supplement 33 in each year. See also GA (53), Plen., 71st mtg. pp. 2, 4, 7, 20 and 21; GA (53), 6th Comm., 5-8th mtgs.; and GA (54), 6th Comm., 5-7th mtgs.

⁴³ A/51/950, paras. 84-85.

⁴⁴ Adopted without a vote. See GA (52), Plen., 78th mtg.

⁴⁵ Pursuant to resolution 52/12B, the Secretary-General was also requested to elaborate on his proposal “...that Member States consider establishing a Special Commission, at the ministerial level, to examine possible needs for changes in the Charter of the United Nations...”, made in the report on the reform of the Organization (A/51/950, para. 89). Thus, in his Note A/52/850, the Secretary-General suggested designating the fifty-fifth session of the General Assembly as “The Millennium Assembly”, and that the Millennium Assembly might wish to establish such a Special Commission. By resolution 53/202, the General Assembly designated the fifty-fifth session as the Millennium Assembly. No further action on the establishment of a Special Commission was made during the period under review.

⁴⁶ A/52/849.

⁴⁷ GA decision 52/477.

28. The report of the Task Force⁴⁸ was submitted to the General Assembly at its fifty-third session in which it recommended that the Executive Director of United Nations Environment Programme undertake consultations with Governments, non-governmental organizations, representatives from civil society and the private sector concerning the institutional arrangements for dealing with environmental challenges for the next century. Such consultations were to culminate in a two-day meeting on global environment and societal questions in order to make recommendations on, *inter alia*, the trusteeship question to the Millennium Assembly and the Millennium Forum, to be established during the fifty-fifth session.⁴⁹ In resolution 53/242⁵⁰ the General Assembly took note of the report and welcomed many of the recommendations made by the Task Force. However, the question relating to the future role of the Trusteeship Council was not expressly referred to in that resolution.

29. No further action was taken regarding the future role of the Trusteeship Council during the period under review.

(d) Proposals concerning the International Court of Justice

30. At its 1997 session, the Special Committee considered a proposal⁵¹ aimed at amending the Statute of the ICJ in order to extend its competence with respect to contentious matters to disputes between States and international organizations. At the same session, an amendment to the proposal was introduced. The amendment suggested, *inter alia*, a new Article 96(bis) to the Charter of the United Nations which provided that the "...United Nations and its specialized agencies may at any time be authorized by the General Assembly to be parties in cases before the International Court of Justice and to accept the jurisdiction of the Court in any of the manners established in Article 36 of the Statute of the International Court of Justice".⁵²

31. In 1998, a proposal entitled "Draft of a questionnaire addressed by the General Assembly to States regarding the proposal to extend the jurisdiction of the International Court of Justice in contentious cases to disputes between States and intergovernmental organizations" was introduced in the Special Committee.⁵³ The aim of the draft questionnaire was to obtain comments from Member States regarding the desirability and feasibility of amending the Statute of the ICJ, and, as a corollary, the Charter of the United Nations, as suggested in the proposals mentioned above. However, the proposed questionnaire was not circulated.

32. At the 1999 session of the Special Committee, a further revised version of the proposal to amend the Statute of the ICJ was introduced replacing the original text in its entirety.⁵⁴ Although the revised proposal received support on the part of some delegations,⁵⁵ it also gave rise to strong procedural and substantive objections by others.⁵⁶ Subsequently, at the same session, the sponsor

⁴⁸ A/53/463, Annex.

⁴⁹ Such a meeting was not convened during the period under review. See also UNEP Governing Council Decision 20/17 and GA resolution 53/242 relating to, *inter alia*, the establishment of such a meeting.

⁵⁰ Adopted without a vote. See GA (53), Plen., 105th mtg.

⁵¹ A/AC.182/L.95/Rev.1. See also A/52/33, paras. 101-114. During the fifty-third session, the proposal was orally revised in the Special Committee. See A/53/33, para. 129.

⁵² A/AC.182/L.97. See also A/52/33, paras. 115 -116.

⁵³ A/AC.182/L.101. See also A/53/33, para. 140.

⁵⁴ A/AC.182/L.103 and Corr. 1. See also A/54/33, paras. 109-116. An explanatory memorandum to which the revised proposal was attached envisioned yet another modality for extending the ICJ's jurisdiction by allowing intergovernmental organizations to become parties to the Statute on the basis of an amendment to Article 93, paragraph 2 of the Charter of the United Nations with the consequential revisions of the Statute of the ICJ. However, this modality was not elaborated in the proposal itself.

⁵⁵ See e.g., GA (52), 6th Comm., 5th mtg. para. 21 and GA (53), 6th Comm., 8th mtg. para. 50.

⁵⁶ See e.g., GA (52), 6th Comm., 5th mtg. paras. 33 and 39; GA (52), 6th Comm., 6th mtg. para. 23; GA (53), 6th Comm., 5th mtg. paras. 12 and 27; and GA (53), 6th Comm., 7th mtg. paras. 40 and 65.

delegation withdrew its revised proposal while reserving the right to reintroduce it once more favourable prospects for its adoption arose.⁵⁷ No further action was taken by the Special Committee on this matter during the period under review.

2. PROPOSALS FOR THE CALLING OF A GENERAL CONFERENCE UNDER ARTICLE 109

33. No formal proposal for holding a conference for the purpose of reviewing the Charter of the United Nations in accordance with Article 109 was made during the period under review. However, the desirability of reviewing the Charter in accordance with Article 109 was extensively referred to during the debates relating to the reform of the Security Council,⁵⁸ the deletion of the “enemy State” clauses,⁵⁹ the future role of the Trusteeship Council,⁶⁰ and the establishing of an international criminal court.⁶¹

B. The powers of the General Assembly in respect of the calling of a general conference to review the Charter

**1. COMPETENCE TO PRESCRIBE THE TERMS OF REFERENCE OF THE CONFERENCE

2. COMPETENCE TO UNDERTAKE PREPARATORY WORK

34. Pursuant to General Assembly resolutions 796 (VIII), 992 (X) and 686 (VII), the Secretary-General continued during the period under review the preparation of supplements to the publications *Repertory of Practice of United Nations Organs* (hereinafter referred to as the “*Repertory*”) and *Repertoire of the Practice of the Security Council* (hereinafter referred to as the “*Repertoire*”).⁶²

35. During the fiftieth session, in the context of the item “Report of the Special Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization” and pursuant to a request from the Sixth Committee, the Legal Counsel made an oral presentation on the status of the preparation of the *Repertory* and the *Repertoire*.⁶³ While indicating that a backlog existed with regard to the preparation of supplements to both publications, the Legal Counsel offered to study the situation further and to discuss the matter in the Special Committee. Thus, in resolution 50/52⁶⁴ the General Assembly requested the Special Committee to consider the status of the two publications during its next session.

36. At its 1996 session, the Special Committee had before it a Note by the Secretariat on the background of the two publications, the difficulties encountered in their production and the possible courses of action for their updating.⁶⁵ Based on the recommendation by the Special Committee⁶⁶ the General Assembly requested, in resolution 51/209⁶⁷, “...the Secretary-General,

⁵⁷ A/54/33, para. 116.

⁵⁸ See e.g., GA (50), Plen., 56th mtg. p. 20, GA (50), Plen., 57th mtg. p. 15, GA (51), Plen., 49th mtg. p. 23; A/50/752 p. 26; and A/52/47, Annexes XXV, XXX.

⁵⁹ See e.g., GA (50), 6th Comm., 36th mtg. paras. 8-9.

⁶⁰ See e.g., GA (51), 6th Comm., 7th mtg. para. 7 and GA (54), 6th Comm., 5th mtg. para 49.

⁶¹ See e.g., A/50/22, para. 16 and A/51/22, paras. 25-26.

⁶² See *Repertory, Supplement No. 8*, vol. VI, under Articles 108 and 109, para .18.

⁶³ GA (50), 6th Comm., 44th mtg. paras. 10-14.

⁶⁴ By vote 155-0-3. See GA (50), Plen., 87th mtg.

⁶⁵ A/AC.182/L.87.

⁶⁶ A/51/33, paras. 125-126.

taking into account the views expressed and the practical suggestions made during the debate held within the framework of the Special Committee, to expedite the preparation and publication of the supplements to the '*Repertoire of the Practice of the Security Council*' and the '*Repertory of Practice of United Nations Organs*' and to submit a progress report on the matter to the General Assembly before its fifty-second session".

37. During the fifty-second, fifty-third and fifty-fourth sessions, pursuant to General Assembly resolutions 52/161, 53/106 and 54/106, the Secretary-General submitted annual progress reports to the General Assembly regarding his efforts to identify resources to prepare supplements to the *Repertoire* and the *Repertory* with a view to updating them.⁶⁸

38. According to the report of Secretary-General⁶⁹ submitted to the General Assembly during its fifty-fourth session, the Supplement for the period 1985-1988 of the *Repertoire* was completed⁷⁰ and work on the next period (1989-1992) commenced. Volume VI of Supplement No. 6 to the *Repertory* was completed during this period and volumes III and IV of Supplement No. 5 were scheduled to be completed and published in 2000. Furthermore, volumes I, II and V of Supplement No. 6 to the *Repertory* were scheduled to be finished during the biennium 2000-2001 while work on volumes III and IV of the same Supplement was scheduled to begin during that period.

39. The present Supplement follows from Supplement No. 8 (1 January 1989 to 31 December 1994) and covers the period 1 January 1995 to 31 December 1999.

****C. Ratifications required for the entry into force of revisions of the Charter**

⁶⁷ Adopted without a vote. See GA (51), Plen., 88th mtg.

⁶⁸ A/52/317, A/53/386 and A/54.363.

⁶⁹ A/54/363.

⁷⁰ Scheduled to be printed in 2000.