

ARTICLE 14

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TEXT OF ARTICLE 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

INTRODUCTORY NOTE

1. Article 14 empowers the General Assembly to recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair: (a) the general welfare, or (b) friendly relations among nations. These situations include those resulting from a violation of the provisions of the Charter setting forth the Purposes and Principles of the United Nations.
2. The General Assembly's power of recommendation under Article 14, as in the case of Articles 10 and 11 (2), is subject to the provisions of Article 12 under which, while the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the Charter, the General Assembly cannot make any recommendations with regard to that question unless the Security Council so requests.
3. The resolutions of the General Assembly in which Article 14 is explicitly referred to, or in which its language is used, are listed in the General Survey, as are resolutions which recall earlier resolutions containing such references. References to Article 14 made in the course of debates in connexion with various agenda items are also mentioned.
4. The Analytical Summary of Practice deals with the following two questions relevant to Article 14:
 - a. The question of the type of "measures for the peaceful adjustment of any situation" of the nature described in Article 14 that the General Assembly may recommend under the Article;
 - b. The question of the powers granted to the General Assembly under Article 14 in connexion with the term "regardless of origin".
5. The first question was the subject of considerable constitutional discussion during the consideration of a draft resolution relating to the future Government of Palestine which proposed the adoption of certain measures with regard to the peaceful adjustment of the situation in Palestine as one deemed "likely to impair the general welfare and friendly relations among nations". Certain resolutions adopted in connexion with the following items are also examined under the same question: treatment of people of Indian origin in the Union of South Africa, measures for the peaceful solution of the problem of prisoners of war, and complaint of Yugoslavia of hostile activities of certain Governments.

6. The second question arose during the consideration of the inclusion in the General Assembly's agenda of an item relating to the peace treaty with Italy which later was withdrawn from the agenda. The debate involved constitutional discussion of the term "regardless of origin" as used in Article 14.

7. Since Article 14 has been frequently invoked in conjunction with Article 10 in the proceedings of the General Assembly to which the resolutions included in this study relate, as well as in the applications for inclusion of the relevant items in the agenda, the resolutions mentioned above may be regarded as throwing light also on the provisions of Article 10.

I. GENERAL SURVEY

8. Explicit reference to Article 14 was made in the resolutions of the General Assembly relating to the establishment and re-establishment of the Interim Committee, that is to say, in resolutions 111 (II), 196 (III) and 295 (IV), and in resolution 721 (VIII), "The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa".

9. Resolution 111 (II), "Establishment of an Interim Committee of the General Assembly", contained a reference to Article 14 in its preamble and provided in paragraph 2(b) that the Interim Committee should assist the General Assembly in the performance of its functions by considering any dispute or any situation which, by virtue of Articles 11 (2), 14 or 35 of the Charter, had been proposed for inclusion in the agenda of the General Assembly and reporting with its conclusions to the General Assembly.

10. The references to Article 14 contained in resolution 111 (II) were repeated in resolution 196 (III), "Re-establishment of the Interim Committee of the General Assembly", and in resolution 295 (IV), "Re-establishment of the Interim Committee of the General Assembly".

11. Reference 1/ to Article 14 was made during the proceedings connected with resolutions 111 (II) and 196 (III). The constitutional discussion centred, however, on

1/ G A (II), 1st Com., 74th mtg., pp. 129-132, 134 and 135.

76th mtg., p. 148

77th mtg., pp. 158 and 161.

78th mtg., pp. 164, 165 and 172.

94th mtg., pp. 307, 308 and 309.

97th mtg., p. 334.

Plen., vol. I, 91st mtg., p. 293.

Plen., vol. II, 110th mtg., pp. 769 and 782.

G A (III/1), Ad Hoc Pol. Com., 1st mtg., p. 1.

3rd mtg., p. 26.

Plen., 168th mtg., pp. 668 and 669

the question of the relationship between the responsibilities of the General Assembly and the primary responsibility of the Security Council for matters relating to the maintenance of international peace and security. As this question is closely related to the provisions of Article 11, it is dealt with in the study on that Article. 2/

12. By resolution 721 (VIII), in paragraph 4(a)(ii), 3/ the General Assembly requested the United Nations Commission on the Racial Situation in the Union of South Africa to continue its study of the development of the racial situation in the Union of South Africa in relation "to the provisions of the Charter and, in particular, to Article 14".

13. The language of Article 14 was used by the General Assembly in the following two resolutions: resolution 44 (I), "Treatment of Indians in the Union of South Africa", the operative part of which states that "friendly relations between the two Member States have been impaired"; and resolution 181 (II), "Future government of Palestine", in the preamble of which the General Assembly considered that the situation in Palestine was "likely to impair the general welfare and friendly relations among nations".

14. A part of the text of Article 14 was reproduced in the preambles of resolution 427 (V), "Measures for the peaceful solution of the problem of prisoners of war", and of resolution 509 (VI), "Complaint of hostile activities of the Government of the Union of Soviet Socialist Republics and the Governments of Bulgaria, Hungary, Romania and Albania, as well as the Governments of Czechoslovakia and Poland, against Yugoslavia", although the resolutions did not expressly refer to the Article.

15. Subsequent to the adoption of resolution 44 (I), "Treatment of Indians in the Union of South Africa", the General Assembly adopted, at various sessions, five other resolutions on the same question, four of which expressly recalled resolution 44 (I). 4/

2/ See also in this Repertory under Article 11, paragraphs 22-45.

3/ In its Report to the General Assembly at its eighth session, the United Nations Commission on the Racial Situation in the Union of South Africa had stated: "... It is clear that by the inclusion of Article 14 the Charter was intended also to make provision for cases (regardless of origin) which, though not directly threatening peace and security, were likely to bring interests into conflict with one another, to impair friendly relations among nations, and to prejudice the 'general welfare'. The object was that the Assembly should have the power to discuss and to make recommendations concerning such situations. The Charter makes particular mention in this Article of the fact that the situations in question include those 'resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations'.

"This last passage of Article 14 recognizes explicitly and clearly that any violation of the Purposes and Principles of the Charter, the Organization's raison d'être, is prejudicial to the 'general welfare' and might impair 'friendly relations among nations'." (G A (VIII), Suppl. No. 16 (A/2505 and A/2505/Add.1), para. 114).

4/ See p. 13, footnote 31, below.

16. Article 14 was often invoked during the consideration of the item "United action for peace", 5/ and incidental references to it were made during the debates on various other items 6/ on the agenda of the General Assembly.

- 5/ G A (V), 1st Com., vol. I, 354th mtg., paras. 8 and 52; 356th mtg., paras. 31 and 32; 357th mtg., paras. 5 and 39; 359th mtg., para. 5; 368th mtg., paras. 9 and 10. General Assembly resolution 377 (V), "Uniting for peace", adopted as a result of the consideration of the above item, is treated in this Repertory under Article 11.
- 6/ Second session, item 60, The problem of the independence of Korea, (G A (II), General Com., 38th mtg., p. 20; Plen., vol. I, 90th mtg., p. 280). First part of the third session, item 19, and second part of the third session, item 4, Study of methods for the promotion of international co-operation in the political field: report of the Interim Committee of the General Assembly (G A (III/2), Ad Hoc Pol. Com., 29th mtg., pp. 4, 5 and 6; 30th mtg., pp. 14 and 19).
- First part of the third session, item 42, and second part of the third session, item 7, Violation by the Union of Soviet Socialist Republics of fundamental human rights, traditional diplomatic practices and other principles of the Charter (G A (III/1), 6th Com., 134th mtg., p. 725; 137th mtg., pp. 750 and 754).
- Second part of the third session, item 18, 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 (G A (III/2), General Com., 58th mtg., pp. 18 and 19; 59th mtg., pp. 34 and 35; Ad Hoc Pol. Com., 35th mtg., pp. 77 and 89; 37th mtg., p. 115; Ad Hoc Pol. Com., Annexes, pp. 5 and 6, A/AC.24/48/Rev.2; Plen., 189th mtg., p. 12; 202nd mtg., pp. 246 and 248; 203rd mtg., p. 270).
- Fourth session, item 21, Threats to the political independence and territorial integrity of Greece: report of the United Nations Special Committee on the Balkans (G A (IV), 1st Com., 297th mtg., para. 36); item 27, Observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms (G A (IV), General Com., 65th mtg., para. 55; Ad Hoc Pol. Com., 12th mtg., para. 2).
- Fifth session, item 25, Observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms: advisory opinion of the International Court of Justice (G A (V), Ad Hoc Pol. Com., 6th mtg., para. 24); item 71, The question of Formosa (G A (V), General Com., 71st mtg., para. 7).
- Sixth session, item 6 of the supplementary list of items for the agenda of the sixth session, Violation by France in Morocco of the Principles of the Charter and the Declaration of Human Rights (G A (VI), General Com., 75th mtg., para. 30; Plen., 354th mtg., para. 127); item 65, 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 (G A (VI), 76th mtg., paras. 45 and 50; Ad Hoc Pol. Com., 22nd mtg., para. 29; 23rd mtg., para. 22; 25th mtg., para. 56; Plen., 341st mtg., para. 98).
- Seventh session, item 65, and eighth session, item 57, The question of Morocco (G A (VII), 1st Com., 548th mtg., paras. 28 and 48. G A (VIII), 1st Com., 634th mtg., para. 43; 635th mtg., paras. 18 and 31).
- Seventh session, item 66, The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa (G A (VII), Ad Hoc Pol. Com., 14th mtg., para. 9; 18th mtg., paras. 13 and 72; Plen., 381st mtg., para. 102).
- Eighth session, item 56, The Tunisian question (G A (VIII), 1st Com., 644th mtg., para. 30).

II. ANALYTICAL SUMMARY OF PRACTICE

A. The question of the type of "measures for the peaceful adjustment of any situation" of the nature described in Article 14 that the General Assembly may recommend under the Article

17. During the consideration of the item concerning Palestine at the second regular session of the General Assembly, the problem arose whether the General Assembly had the power to recommend to the Members of the United Nations the adoption and implementation of a plan for partition of the territory of Palestine. In this connexion, two divergent views were expressed. It was argued, on the one hand, that such a recommendation would be ultra vires for the General Assembly and would not be binding from the legal point of view, since the essence of the concept of a recommendation was that it was not binding and could not, therefore, be enforced. A recommendation of this nature by the General Assembly would constitute a decision of a compulsory character in excess of its own powers. On the other hand, it was contended that if the General Assembly adopted the resolution in question it would be recommending a type of measure covered by Article 14, which provides that the General Assembly "may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations".

18. The resolutions adopted by the General Assembly in connexion with the following questions may also be regarded as throwing light on the practice of the Assembly with regard to the problem examined here: treatment of people of Indian origin in the Union of South Africa, measures for the peaceful solution of the problem of prisoners of war, and complaint of Yugoslavia of hostile activities of certain Governments.

1. Resolution 181 (II)

19. At its 90th plenary meeting, on 23 September 1947, the General Assembly decided ^{7/} to establish an Ad Hoc Committee on the Palestinian question, to which it referred the following items: (a) Question of Palestine (item proposed by the United Kingdom); ^{8/} (b) Report of the Special Committee on Palestine; ^{9/} (c) Termination of the mandate over Palestine and the recognition of its independence as one State (item proposed by Saudi Arabia and by Iraq). ^{10/}

20. At its 19th meeting, the Ad Hoc Committee on the Palestinian question adopted ^{11/} a proposal submitted by the Chairman to establish: (a) a conciliation group; (b) a sub-committee (Sub-Committee 1) to draw up a detailed plan based on the majority proposals of the United Nations Special Committee on Palestine; (c) a sub-committee (Sub-Committee 2) to draw up a detailed plan in accordance with the proposals of

^{7/} G A (II), Plen., vol. I, 90th mtg., p. 275.

^{8/} A/286; letter dated 3 April 1947 from the delegation of the United Kingdom to the Acting Secretary-General, by which the Government of the United Kingdom requested that the question of Palestine be included in the agenda of the next regular session of the General Assembly. It was stated further that the United Kingdom Government would ask the General Assembly to make recommendations under Article 10 of the Charter concerning the future government of Palestine.

^{9/} G A (II), Suppl. No. 11, vols. I-IV (A/364 and Add. 1-4).

^{10/} A/317, A/328.

^{11/} G A (II), Ad Hoc Com. on the Palestinian question, 19th mtg., pp. 136 and 137.

Saudi Arabia and Iraq for the recognition of Palestine as an independent united State and the proposal to the same effect submitted by Syria. 12/

21. The report of Sub-Committee 1 recommended the adoption of a draft resolution embodying a plan of partition with economic union. 13/

22. The report of Sub-Committee 2 to the Ad Hoc Committee 14/ recommended the adoption of three draft resolutions. The first of these provided that the General Assembly, before recommending a solution of the Palestine problem, would request the International Court of Justice for an advisory opinion on eight legal questions connected with, or arising from, that problem, including the following two questions:

"(g) Whether the United Nations is competent to recommend either of the two plans and recommendations of the majority or minority of the United Nations Special Committee on Palestine, or any other solution involving partition of the territory of Palestine, or a permanent trusteeship over any city or part of Palestine, without the consent of the majority of the people of Palestine;

"(h) Whether the United Nations, or any of its Member States, is competent to enforce or recommend the enforcement of any proposal concerning the constitution and future government of Palestine, in particular, any plan of partition which is contrary to the wishes, or adopted without the consent of, the inhabitants of Palestine,".

23. At the 32nd meeting of the Ad Hoc Committee, at the request 15/ of the representative of France, separate votes were taken on the provisions of the first draft resolution: one on the first seven questions, including question (g), the other on question (h). 16/

24. The proposal to refer the first seven questions to the International Court of Justice was rejected 17/ by 25 votes against, 18 in favour and 11 abstentions. The proposal to refer question (h) to the Court was rejected 18/ by 21 votes against, 20 in favour and 13 abstentions.

25. At its 34th meeting, the Ad Hoc Committee adopted 19/ by 25 votes to 13, with 17 abstentions, the draft resolution recommended by Sub-Committee 1, as amended.

26. The General Assembly considered the draft resolution adopted by the Ad Hoc Committee at its 124th to 128th plenary meetings.

27. During the discussion in the Ad Hoc Committee and at the plenary meeting it was argued that while Article 14 gave the General Assembly the right to take certain

12/ G A (II), Ad Hoc Com. on the Palestinian question, pp. 238 and 239, annex 14 (A/AC.14/22).

13/ Ibid., pp. 242-264, annex 19 (A/AC.14/34 and Corr.1 and Add.1).

14/ Ibid., pp. 270-303, annex 25 (A/AC.14/32 and Add.1).

15/ Ibid., 32nd mtg., pp. 202 and 203.

16/ Questions (g) and (h) above are referred to in the Official Records of the 32nd meeting of the Ad Hoc Committee on the Palestinian question as sub-paragraphs (vii) and (viii).

17/ G A (II), Ad Hoc Com. on the Palestinian question, 32nd mtg., p. 203.

18/ Ibid.

19/ Ibid., 34th mtg., p. 223.

limited measures for the peaceful adjustment of any situation, it was not empowered to take substantive measures which would bind the future of a nation. It was also argued that the problem of Palestine could not be dealt with under Article 14 since what was being proposed was not the peaceful adjustment of a situation but the imposition by force of a settlement contrary to the wishes of the people concerned. If the General Assembly adopted the plan for partition, it would have to use force to carry it out.

28. It was further pointed out that there was a distinction between making a recommendation and adopting a plan prejudicial to the territorial integrity of a people and their political and legal status, and to appoint a committee of the Assembly to carry out that plan. Nor did it seem possible to contend that this plan was merely a recommendation, because there was always the possibility that a recommendation might not be accepted. On the contrary, it was argued that this plan undoubtedly implied coercion, as was proved by the fact that one of its clauses provided that any attempt to alter by force the settlement set forth in the resolution should be considered as a threat to the peace, breach of the peace, or act of aggression within the meaning of Article 39. This, then, it was concluded, was a settlement which was to be forcibly imposed and therefore was not merely a recommendation. To follow such a procedure would constitute an infringement of the Charter.

29. If the plan for partition of Palestine were to be adopted, the General Assembly would fail to exercise its function of recommending measures for the peaceful adjustment of any situation as provided under Article 14. Further, many Member States would still have doubts regarding the legality of the action taken by the General Assembly.

30. It was maintained, on the other hand, that the General Assembly had the authority under Article 14 to recommend measures for the peaceful settlement of any situation which it deemed likely to impair the general welfare or friendly relations among nations; that the situation in Palestine was of such a nature could not be questioned. Consequently, if, in the opinion of the General Assembly, partition of Palestine and the establishment of two independent States was the best solution of the problem, the General Assembly was competent to make a recommendation to that effect. Article 14, as well as Article 10, could be considered relevant to the situation in Palestine, and the General Assembly could make recommendations under the authority of that Article. The view was also expressed that if the binding force of treaties -- in this instance of the mandate -- was invoked, an appeal might be made to the doctrine implicit in Article 14 of the Charter concerning adjustments of situations likely to impair the general welfare or friendly relations among nations. 20/

Decision

At its 128th plenary meeting on 29 November 1947, the General Assembly adopted 21/ by 33 votes to 13, with 10 abstentions, resolution 181 (II), "Future government of Palestine", incorporating a "Plan of Partition with Economic Union".

20/ For text of relevant statements, see: G A (II), Ad Hoc Com. on the Palestinian question:

27th mtg.: Iraq, p. 164; Poland, pp. 160 and 161.

31st mtg.: Lebanon, pp. 194 and 195; Mexico, p. 196.

Plen., vol. II, 124th mtg.: Egypt, pp. 1329 and 1330; United States, pp. 1326 and 1327.

125th mtg.: USSR, p. 1363.

126th mtg.: Cuba, p. 1383; Iraq, p. 1389; Pakistan, p. 1370.

21/ G A (II), Plen., vol. II, 128th mtg., p. 1425.

Resolution 181 A (II) read:

"The General Assembly,

"Having met in special session at the request of the mandatory Power to constitute and instruct a special committee to prepare for the consideration of the question of the future government of Palestine at the second regular session;

"Having constituted a Special Committee and instructed it to investigate all questions and issues relevant to the problem of Palestine, and to prepare proposals for the solution of the problem, and

"Having received and examined the report of the Special Committee (document A/364) including a number of unanimous recommendations and a plan of partition with economic union approved by the majority of the Special Committee,

"Considers that the present situation in Palestine is one which is likely to impair the general welfare and friendly relations among nations;

"Takes note of the declaration by the mandatory Power that it plans to complete its evacuation of Palestine by 1 August 1948;

"Recommends to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation, with regard to the future government of Palestine, of the Plan of Partition with Economic Union set out below;

"Requests that

"(a) The Security Council take the necessary measures as provided for in the plan for its implementation;

"(b) The Security Council consider, if circumstances during the transitional period require such consideration, whether the situation in Palestine constitutes a threat to the peace. If it decides that such a threat exists, and in order to maintain international peace and security, the Security Council should supplement the authorization of the General Assembly by taking measures, under Articles 39 and 41 of the Charter, to empower the United Nations Commission, as provided in this resolution, to exercise in Palestine the functions which are assigned to it by this resolution;

"(c) The Security Council determine as a threat to the peace, breach of the peace or act of aggression, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement envisaged by this resolution;

"(d) The Trusteeship Council be informed of the responsibilities envisaged for it in this plan;

"Calls upon the inhabitants of Palestine to take such steps as may be necessary on their part to put this plan into effect;

"Appeals to all Governments and all peoples to refrain from taking any action which might hamper or delay the carrying out of these recommendations, and

"Authorizes the Secretary-General to reimburse travel and subsistence expenses of the members of the Commission referred to in Part I, Section B, paragraph 1

below, on such basis and in such form as he may determine most appropriate in the circumstances, and to provide the Commission with the necessary staff to assist in carrying out the functions assigned to the Commission by the General Assembly." 22/

**2. Resolutions 44 (I), 265 (III), 395 (V),
511 (VI), 615 (VII) and 719 (VIII)**

31. By letter 23/ dated 22 June 1946 addressed to the Secretary-General, the delegation of India requested that the question of the treatment of Indians in the Union of South Africa be included in the agenda of the second part of the first session of the General Assembly, and that the situation, which was "likely to impair friendly relations between India and South Africa", be considered under Articles 10 and 14 of the Charter.

32. At its 46th plenary meeting, the General Assembly approved 24/ the inclusion of the item "Treatment of Indians in the Union of South Africa (item proposed by the Government of India)" and referred it to a Joint Committee of the First and Sixth Committees which considered the item at its 1st to 6th meetings.

33. At its 6th meeting, the Joint Committee adopted 25/ a draft resolution 26/ submitted by France and Mexico as an amendment to an Indian draft resolution, 27/ by 24 votes to 19, with 6 abstentions.

34. At its 50th to 52nd plenary meetings, the General Assembly considered the draft resolution recommended by the Joint Committee of the First and Sixth Committees.

35. During the consideration of the item, statements were made to the effect that the General Assembly was competent to recommend appropriate measures for the peaceful settlement of the situation in accordance with Article 14. 28/ On the other hand, it was objected, on the basis of Article 2 (7), that the question was a matter of domestic jurisdiction and that the United Nations was not competent to consider it. 29/

Decision

At its 52nd plenary meeting, on 8 December 1946, the General Assembly adopted 30/ by 32 votes to 15, with 7 abstentions, resolution 44 (I), "Treatment of Indians in the Union of South Africa", which read:

22/ Resolution 181 B (II) authorized the Secretary-General to draw from the Working Capital Fund a specified sum for the purposes set forth in the last paragraph of resolution 181 A (II).

23/ G A (I/2), Joint 1st and 6th Com., pp. 52 and 53, annex 1 (A/149).

24/ G A (I/2), Plen., 46th mtg., pp. 924 and 925.

25/ G A (I/2), Joint 1st and 6th Com., 6th mtg., p. 51.

26/ G A (I/2), Joint 1st and 6th Com., p. 133, annex 1f (A/C.1 and 6/12).

27/ G A (I/2), Joint 1st and 6th Com., pp. 131 and 132, annex 1d (A/C.1 and 6/3).

28/ For texts of relevant statements, see G A (I/2),

Joint 1st and 6th Com., 3rd mtg.: USSR, p. 28.

4th mtg.: Australia, p. 34; Chile, p. 40.

Plen., 51st mtg.: Mexico, p. 1024; Uruguay, p. 1031.

29/ See also in this Repertory under Article 2 (7).

30/ G A (I/2), Plen., 52nd mtg., p. 1061.

"The General Assembly,

. Having taken note of the application made by the Government of India regarding the treatment of Indians in the Union of South Africa, and having considered the matter:

"1. States that, because of that treatment, friendly relations between the two Member States have been impaired and, unless a satisfactory settlement is reached, these relations are likely to be further impaired;

"2. Is of the opinion that the treatment of Indians in the Union should be in conformity with the international obligations under the agreements concluded between the two Governments and the relevant provisions of the Charter;

"3. Therefore requests the two Governments to report at the next session of the General Assembly the measures adopted to this effect."

36. During its subsequent sessions, the General Assembly adopted a series of resolutions 31/ on the same question. 32/ The main provisions of these resolutions are summarized below:

(a) By resolution 265 (III), 33/ the General Assembly invited the Governments of India, Pakistan and the Union of South Africa to enter into discussions at a round-table conference, taking into consideration the Purposes and Principles of the Charter and the Declaration of Human Rights.

(b) By resolution 395 (V), 34/ the General Assembly recommended that the Governments of India, Pakistan and the Union of South Africa proceed with the holding of a round-table conference and that, in the event of failure of the three Governments to hold such a conference before 1 April 1951, a commission of three members should be established for the purpose of assisting the parties in carrying through appropriate negotiations. The General Assembly called upon the Governments concerned to refrain from taking any steps which would prejudice the success of their negotiations, in particular, the implementation of the Group Areas Act, and decided to include the item in the agenda of its sixth session.

(c) By resolution 511 (VI), 35/ the General Assembly recommended that a commission of three members be established for the purpose of assisting the Governments of India,

31/ G A resolutions 265 (III), 395 (V), 511 (VI), 615 (VII) and 719 (VIII). All these resolutions, with the exception of resolution 265 (III), expressly recalled resolution 44 (I).

32/ The question was included in the agenda of the second and third sessions of the General Assembly under the same title as in the agenda of the second part of the first session. In the agenda of the fifth and subsequent sessions it was included under the title "Treatment of people of Indian origin in the Union of South Africa".

33/ Adopted on 14 May 1949 by 47 votes to 1, with 10 abstentions (G A (III/2), Plen., 212th mtg., p. 455).

34/ Adopted on 2 December 1950 by 33 votes to 6, with 21 abstentions (G A (V), Plen., vol. I, 315th mtg., para. 51).

35/ Adopted on 12 January 1952 by 44 votes to none, with 14 abstentions (G A (VI), Plen., 360th mtg., para. 35).

Pakistan and the Union of South Africa in carrying through appropriate negotiations and proposed a procedure for the nomination of its members. The General Assembly requested the Secretary-General, in the event that the members of the Commission should not be nominated in accordance with the recommended procedure, to lend his assistance to the three Governments with a view to facilitating appropriate negotiations between them. It called upon the Government of the Union of South Africa to suspend the implementation of the Group Areas Act pending the conclusion of the negotiations, and decided to include the item in the agenda of its seventh session.

(d) By resolution 615 (VII),^{36/} the General Assembly established a United Nations Good Offices Commission with a view to arranging and assisting in negotiations between the three Governments concerned in order that a satisfactory solution of the question, in accordance with the Purposes and Principles of the Charter and the Universal Declaration of Human Rights, might be achieved. The General Assembly called upon the Government of the Union of South Africa to suspend the implementation of the Group Areas Act pending the conclusion of the negotiations, and decided to include the item in the agenda of its eighth session.

(e) By resolution 719 (VIII),^{37/} the General Assembly expressed regret that the Government of the Union of South Africa had refused, inter alia, to make use of the good offices of the United Nations Good Offices Commission and had continued to implement the Group Areas Act. The General Assembly decided to continue the Commission, urged the Government of the Union of South Africa to co-operate with the Commission, again called upon that Government to refrain from implementing the Group Areas Act, and decided to include the item in the agenda of its ninth session.

3. Resolution 427 (V)

37. By letter ^{38/} dated 25 August 1950, the delegations of Australia, the United Kingdom and the United States requested that the item "Failure of the Union of Soviet Socialist Republics to repatriate or otherwise account for prisoners of war detained in Soviet territory" be included in the agenda of the fifth session of the General Assembly under Articles 10, 14 and 1 (3) of the Charter.

38. At its 285th plenary meeting, on 26 September 1950, the General Assembly approved ^{39/} the inclusion of the item in its agenda in the form recommended by the General Committee: "Complaint of failure on the part of the Union of Soviet Socialist Republics to repatriate or otherwise account for prisoners of war detained in Soviet territory". The Third Committee considered the item at its 338th to 340th and 342nd to 345th meetings.

39. The representatives of the three sponsoring States submitted a joint draft resolution ^{40/} to which various amendments were proposed.

^{36/} Adopted on 5 December 1952 by 41 votes to 1, with 15 abstentions (G A (VII), Plen., 401st mtg., para. 69).

^{37/} Adopted on 11 November 1953 by 42 votes to 1, with 17 abstentions (G A (VIII), Plen., 457th mtg., para. 93).

^{38/} G A (V), Annexes, a.i. 67, p. 2, A/1339.

^{39/} G A (V), Plen., vol. I, 285th mtg., para. 67.

^{40/} G A (V), Annexes, a.i. 67, pp. 10 and 11, A/C.3/L.145.

40. During the consideration of the item, reference was made to Article 14. 41/

41. At its 345th meeting on 11 December 1950, the Third Committee adopted 42/ the joint draft resolution, as amended, by 43 votes to 5, with 4 abstentions.

Decision

At its 325th plenary meeting, on 14 December 1950, the General Assembly adopted 43/ by 43 votes to 5, with 6 abstentions, resolution 427 (V), "Measures for the peaceful solution of the problem of prisoners of war", which read:

"The General Assembly,

"Mindful that one of the principal Purposes of the United Nations is to achieve international co-operation in solving international problems of a humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all,

"Considering that the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations,

"Believing that all prisoners having originally come within the control of the Allied Powers as a consequence of the Second World War should either have been repatriated long since or have been otherwise accounted for,

"Recalling that this is required both by recognized standards of international conduct and the Geneva Convention of 1949 for the protection of war victims, and by specific agreements between the Allied Powers,

"1. Expresses its concern at the information presented to it tending to show that large numbers of prisoners taken in the course of the Second World War have neither been repatriated nor otherwise accounted for;

"2. Calls upon all governments still having control of such persons to act in conformity with the recognized standards of international conduct and with the above-mentioned international agreements and conventions which require that, upon the cessation of active hostilities, all prisoners should, with the least possible delay, be given an unrestricted opportunity of repatriation and, to that end, to publish and transmit to the Secretary-General before 30 April 1951:

"(a) The names of such prisoners still held by them, the reasons for which they are still detained and the places in which they are detained;

"(b) The names of prisoners who have died while under their control as well as the date and cause of death, and the manner and place of burial in each case;

41/ G A (V), 3rd Com., 342nd mtg.: Union of South Africa, para. 87;
United Kingdom, para. 82.

343rd mtg.: New Zealand, para. 80; Poland, para. 69;
Ukrainian SSR, para. 4.

42/ G A (V), 3rd Com., 345th mtg., para. 86.

43/ G A (V), Plen., vol. I, 325th mtg., para. 36.

"3. Requests the Secretary-General to establish an Ad Hoc Commission composed of three qualified and impartial persons chosen by the International Red Cross or, failing that, by the Secretary-General himself, with a view to settling the question of the prisoners of war in a purely humanitarian spirit and on terms acceptable to all the governments concerned. The Commission shall convene at a suitable date after 30 April 1951 to examine and evaluate, in the light of the information made available to the fifth session of the General Assembly, the information furnished by governments in accordance with the terms of the preceding paragraph. In the event that the Commission considers that this information is inadequate or affords reasonable ground for believing that prisoners coming within the custody or control of any foreign government as a consequence of military operations of the Second World War have not been repatriated or otherwise accounted for, the General Assembly:

"(a) Requests the Commission to seek from the governments or authorities concerned full information regarding such prisoners;

"(b) Requests the Commission to assist all governments and authorities who so desire in arranging for and facilitating the repatriation of such prisoners;

"(c) Authorizes the Commission to use the good offices of any qualified and impartial person or organization whom it considers might contribute to the repatriation or accounting for of such prisoners;

"(d) Urges all governments and authorities concerned to co-operate fully with the Commission, to supply all necessary information and to grant right of access to their respective countries and to areas in which such prisoners are detained;

"(e) Requests the Secretary-General to furnish the Commission with the staff and facilities necessary for the effective accomplishment of its task;

"4. Urgently requests all the governments to make the greatest possible efforts, based in particular on the documentation to be provided, to search for prisoners of war whose absence has been reported and who might be in their territories;

"5. Directs the Commission to report as soon as practicable the results of its work to the Secretary-General for transmission to the Members of the United Nations."

4. Resolution 509 (VI)

42. By letter 44/ dated 9 November 1951, addressed to the President of the General Assembly, the Head of the delegation of the Federal People's Republic of Yugoslavia requested the inclusion of the following item in the agenda of the sixth session of the General Assembly: "Hostile activities of the Government of the Union of Soviet Socialist Republics and the Governments of Bulgaria, Hungary, Romania and Albania, as well as the Governments of Czechoslovakia and Poland, against Yugoslavia."

43. In an explanatory memorandum 45/ accompanying the letter, it was requested that, in accordance with Article 10, the item be included in the agenda of the General Assembly. At the 77th meeting of the General Committee, however, the representative

44/ G A (VI), Annexes, a.i. 68, p. 1, A/1946

45/ G A (VI), Annexes, a.i. 68, pp. 1 and 2, A/1946.

of Yugoslavia requested 46/ that the Committee include the item in accordance with the principles of Article 14.

44. At its 342nd plenary meeting, on 13 November 1951, the General Assembly decided 47/ to include the item in its agenda in the form proposed by the General Committee, that is to say, preceded by the words "Complaint of".

45. The Ad Hoc Political Committee considered the item at its 8th to 14th meetings. The representative of Yugoslavia submitted a draft resolution, and later two successive revisions 48/ affecting the preamble of the original text.

46. At its 14th meeting on 1 December 1951, the Ad Hoc Political Committee adopted 49/ the draft resolution as revised by 50 votes to 5, with 2 abstentions.

Decision

At its 355th plenary meeting, on 14 December 1951, the General Assembly adopted 50/ by 7 votes to 5, with 2 abstentions, resolution 509 (VI), which read:

"The General Assembly,

"Having considered the complaint submitted to it by the delegation of the Federal People's Republic of Yugoslavia concerning the activities of the Government of the Union of Soviet Socialist Republics and the Governments of Bulgaria, Hungary, Romania and Albania, as well as the Governments of Czechoslovakia and Poland, against Yugoslavia,

"Viewing with serious concern the tension between Yugoslavia on the one side, and the other above-mentioned countries on the other side,

"Mindful of the purpose of the United Nations 'to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace',

"Mindful of the authority of the General Assembly to 'recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations',

"1. Takes note of the declaration of the Yugoslav delegation that the Government of Yugoslavia for its part is ready to do all that is necessary for the carrying out of the recommendations of the present resolution;

"2. Recommends that the Governments concerned:

"(a) Conduct their relations and settle their disputes in accordance with the spirit of the United Nations Charter;

"(b) Conform in their diplomatic intercourse with the rules and practices which are customary in international relations;

46/ G A (VI), General Com., 77th mtg., para. 45.

47/ G A (VI), Plen., 342nd mtg., para. 40.

48/ G A (VI), Annexes, a.i. 68, pp. 3 and 4, A/AC.53/L.10/Rev.1 and A/1997, paras. 5-7C.

49/ G A (VI), Ad Hoc Pol. Com., 14th mtg., para. 27.

50/ G A (VI), Plen., 355th mtg., para. 39.

"(c) Settle frontier disputes by means of mixed frontier commissions or other peaceful means of their choice."

B. The question of the powers granted to the General Assembly under Article 14 in connexion with the term "regardless of origin"

47. During the consideration of the inclusion in the agenda of the second session of the General Assembly of the item "Suggestions to the countries concerned with the Peace Treaty with Italy", the question arose whether the term "regardless of origin", as used in the provision of Article 14, that is to say, that the General Assembly "may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations", authorized the General Assembly to consider the revision or modification of a specific international treaty or treaties. 51/

Proceedings connected with the inclusion of the item "Suggestions to the countries concerned with the Peace Treaty with Italy" in the agenda of the second session of the General Assembly

48. By telegram 52/ dated 27 August 1947, to the Secretary-General, the Permanent Representative of Argentina requested the inclusion of the following item in the supplementary agenda of the second session of the General Assembly: "Revision of the Treaty of Peace with Italy". This proposal was supported 53/ by Bolivia, Costa Rica, the Dominican Republic, Panama, Paraguay and Uruguay.

49. On 4 September 1947, the representative of Argentina submitted a draft resolution 54/ providing that the General Assembly recommend to the Member States signatories to the Peace Treaty with Italy that Italy be given an opportunity to present new observations and suggestions which would tend to lessen the obligations that the Treaty had imposed on it and which had to be met by its people.

50. At the 38th meeting of the General Committee, on 21 September 1947, Chile proposed 55/ the following change in the wording of the title: "Suggestions to the countries concerned with the Peace Treaty with Italy". The representative of Argentina accepted the change. 56/

51. At the same meeting, the General Committee, by 4 votes to 2, with 3 abstentions, recommended to the General Assembly the inclusion in its agenda of the item, as amended. 57/

52. At its 91st plenary meeting, on 23 September 1947, the General Assembly, by 22 votes to 8, with 19 abstentions, decided 58/ to include the item, as recommended by the General Committee, in its agenda.

51/ The question whether the General Assembly was authorized to consider the revision of international treaties was also mentioned during the discussion of the item "The Tunisian question" (G A (VIII), 1st Com., 34th mtg., pp. 218 and 219; 87th mtg., p. 250; 88th mtg., pp. 255 and 256; 89th mtg., p. 259).

52/ G A (II), 1st Com., p. 530, annex 3 (A 361).

53/ G A (II), 1st Com., pp. 530 and 531, annex 3 (A 361).

54/ G A (II), 1st Com., p. 545, annex 6 (A 379).

55/ G A (II), Gen. Com., 38th mtg., pp. 17 and 13.

56/ G A (II), Gen. Com., 38th mtg., p. 13.

57/ *Ibid.*

58/ G A (II), Plen., 91st mtg., p. 299.

53. During the discussion on the inclusion of the proposed item in the agenda of the General Assembly, objection was raised that the purpose of the draft resolution was to recommend the revision of a peace treaty. It was contended that, since Article 107 of the Charter referred specifically to such proposals, the General Assembly was not competent to discuss a question of this nature. Any recommendation which the General Assembly or any other organ of the United Nations might formulate would be invalid. The matter concerned only the signatories of the Peace Treaty with Italy. It was also questioned whether the General Assembly should recommend the revision of peace treaties under Article 14 of the Charter, more particularly in the light of the provision of Article 107.

54. It was contended, on the other hand, that the draft resolution submitted did not propose that the General Assembly should discuss the Peace Treaty with Italy but that it should appeal to its signatories to allow Italy to ask for the modification of certain clauses. Therefore, Article 107 did not apply in this case. Attention was drawn to the provision of Article 14 that the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations. The term "regardless of origin" had been emphasized at the San Francisco Conference for the very purpose of enabling the General Assembly to consider a situation that might arise out of a treaty, to express its opinion on the matter and to make an appropriate recommendation. The General Assembly could consider any situation likely to impair friendly relations or affect international peace and could discuss it, regardless of its origin. The very fact that the Peace Treaty with Italy had caused injustice had provoked discussion which might lead to recommendations by the General Assembly.

55. It was further stated that a recommendation by the General Assembly concerning the fundamental reconsideration of some of the clauses of the Peace Treaty with Italy was within the powers of the General Assembly under Chapter IV of the Charter. The revision of treaties was in no way contradictory to the Charter, Article 14 being sufficiently comprehensive to include the case of revision of treaties. In the Charter, the doctrine embodied in Article 19 of the Covenant of the League of Nations not only had been preserved but had been improved. It was also argued that "regardless of [the] origin" of the problem presented, Article 14 gave Italy the right to come to the General Assembly with its problem if it was likely to impair the general welfare of the world. It was the duty of the United Nations to listen to the petitions of countries which claimed that their relations with the rest of the world were so affected by a treaty that the general welfare was likely to be impaired or that the peace of the world was likely to be disturbed. 59/

56. At the 116th meeting of the First Committee, on 19 November 1947, the representative of Argentina withdrew 60/ his proposal for inclusion of the item, "Suggestions to the countries concerned with the Peace Treaty with Italy", in view of the many objections that had been raised.

59/ For texts of relevant statements, see G A (II),
Gen. Com., 37th mtg.: Argentina, p. 16; France, pp. 15 and 16; USSR, p. 15.
38th mtg.: USSR, p. 17.
Plen., vol. I, 90th mtg.: Argentina, pp. 288 and 289; Australia, pp. 280 and 281;
USSR, pp. 277 and 278; United States, p. 287.
91st mtg.: Ecuador, p. 298; Yugoslavia, pp. 291 and 292.
60/ G A (II), 1st Com., 116th mtg., p. 527.