

# ARTICLE 21

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### TEXT OF ARTICLE 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

### INTRODUCTORY NOTE

1. An addition of six special rules was made to the rules of procedure of the General Assembly in 1956 as a result of the decision of the Assembly regarding the procedure for examination of reports and petitions relating to the Territory of South West Africa. This addition to the rules is dealt with in the present study under the heading entitled "Method and procedures employed in adopting and amending the rules".
2. One sub-heading (II,B,2 in the present study) which did not appear in the corresponding study in volume I of the Repertory has been added here in order to introduce the material relating to the discussions of the General Assembly in connexion with a proposal for a new rule concerning corrections of votes.

## I. GENERAL SURVEY

3. Except for the addition to the rules of procedure, which followed consequentially on the decision of the General Assembly to adopt the special rules mentioned above, the only matters requiring treatment that have arisen during the period under review bearing on the application of Article 21 concerned the questions of (1) the amendment of the rules to make specific provision for the announcement of the results of votes, (2) the condition subject to which corrections might be admitted and (3) the consequences of such corrections. At the ninth session, the Assembly, without entering into the substance of the matter, requested the Secretary-General to obtain information on the rules and practices of other inter-governmental organizations and of national assemblies and to submit, with possible recommendations, a report thereon. This report, duly submitted by the Secretary-General, was the basis of the debates which took place at the tenth session (see paragraphs 16-28 below).

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. Adoption and amendment of the rules of procedure

#### 1. *Question of the relationship of the rules to the functions and powers of the Assembly under the Charter*

4. No new material requiring treatment under this heading has been found for the period under review.

#### 2. *Method and procedures employed in adopting and amending the rules*

5. Six special rules designed to govern the procedure of the General Assembly for the examination of reports and petitions relating to the Territory of South West Africa were adopted at the ninth session <sup>1/</sup>. The text of these rules is now reproduced as annex III of the latest edition <sup>2/</sup> of the Rules of Procedure of the General Assembly. The annex contains two special rules governing the procedure with regard to reports; two governing the procedure with regard to petitions; one relating to the holding of private meetings; and, finally, one special rule concerning the relation of the foregoing voting procedure to Article 18 (2) of the Charter.

6. The Assembly decided not to take any action to amend the rules as a result of its consideration of the question of the correction of votes (see paragraphs 29 and 30 below).

### B. Some significant features of the rules

#### 1. *General characteristics of the rules*

7. As stated in volume I of the Repertory under Article 21 <sup>3/</sup>, the question of how explicit the rules of procedure of the General Assembly should be, has been raised when discussions have taken place on specific amendments to the rules. This matter arose again at the ninth and tenth sessions in connexion with an item concerning the correction of votes in the Assembly and its Committees. In the explanatory

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<sup>1/</sup> See also in this Supplement under Article 18.

<sup>2/</sup> United Nations Publication, Sales No.: 1956.I.8.

<sup>3/</sup> See in the Repertory, vol. I, under Article 21, paras. 23-27.

memorandum <sup>4/</sup> submitted by the sponsor of the item it was stated that the rules of procedure were incomplete as regards the announcement by the President of the results of votes and the circumstances in which representatives might be permitted to correct the positions taken by them during a ballot. The memorandum pointed out that contrary to the practice followed in most cases in national assemblies of Members, there was no provision in the rules of the General Assembly to the effect that, once the results of a vote had been announced, they could not be modified by corrections requested by representatives. It went on to state that there had even been cases where, contrary to logic and common sense, certain Presidents had admitted that a motion which they had announced as rejected had nevertheless been adopted after one or more Members had expressed a desire to modify their positions after the event. This matter was described as relatively important and it was desirable to remedy the omission.

8. During the consideration of the question <sup>5/</sup> some representatives favoured the adoption of specific rules "with a view to filling an obvious gap" which was held to be a serious deficiency that in the past had caused some difficulties. Others felt that a satisfactory and stable practice had already developed in this matter but that it might be useful to give formal sanction to that practice by introducing minor changes in the rules.

9. A larger number of representatives, on the other hand, felt that there was no necessity for adopting any express provision and that to do so might create new problems and deprive the prevailing system of its flexibility. The present procedure had never given rise to serious difficulties. Errors were exceedingly rare and problems had always been quickly settled. It was therefore clear that the existing system afforded a potent safeguard against any genuine error on a vital question. Attempts to lay down rigid rules for every contingency might give rise to difficulties where none had previously existed.

## *2. Voting procedures; prevention and correction of errors*

10. At the ninth session of the General Assembly, an item entitled "Amendment to the rules of procedure of the General Assembly: proposal for a new rule concerning corrections of votes" was included in the agenda and referred to the Sixth Committee for consideration and report. In the Committee, at that session, the discussion <sup>6/</sup> centred primarily on the method of obtaining the information which the representative of France, as sponsor of the item, felt was required in order to settle the question. A draft resolution was submitted by the representatives of France and Syria <sup>7/</sup> which contained the following preambulatory clause:

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<sup>4/</sup> G A (IX), annexes, a.i. 60, p. 2, A/2700/Rev.1.

<sup>5/</sup> For texts of relevant statements, see G A (X), 6th Com.:

455th mtg., Australia, Canada, China, Egypt, El Salvador, India, Israel, United Kingdom;

456th mtg., Belgium, Brazil, Guatemala, Indonesia, Philippines, Syria, Uruguay, USSR, Venezuela;

457th mtg., Australia, Belgium, Bolivia, Egypt, Guatemala, India, Netherlands, Sweden, United Kingdom, United States.

<sup>6/</sup> G A (IX), 6th Com., 458th mtg., paras. 20-38; 459th mtg., paras. 1-31.

<sup>7/</sup> G A (IX), annexes, a.i. 60, p. 2, A/C.6/L.344/Rev.1.

"The General Assembly,

"...

"Believing that for this purpose [that the question should be studied and settled] it would be useful to examine the existing rules of national legislative assemblies and to request the opinions of the general secretaries of these assemblies on the question,"

11. Objections were raised to the reference to general secretaries of national legislative assemblies. It was pointed out that the United Nations was not a parliament and that the rules applicable to a legislative assembly might not therefore be suitable; although parliamentary practice might afford guidance in some cases, great care should be exercised before deciding what rules should apply to the General Assembly.

12. In addition to the suggestion that this reference should be deleted it was further suggested that the proposed study should include not only the existing rules of national assemblies but also the practices usually followed by those bodies and that its terms should be broadened so as to extend the field to cover generally rules and practices to prevent or correct errors that might occur in the taking of votes.

13. As a result of the observations made concerning the type of information which the Secretary-General should gather and the sources from which it should be taken, the draft resolution was revised, approved by the Sixth Committee and recommended for adoption by the General Assembly as follows:

"The General Assembly,

"Considering that the rules of procedure of the General Assembly contain no rule on the announcement by the President of the results of votes or the circumstances in which representatives of States Members may be permitted to correct the positions taken by them during a ballot,

"Believing that it is desirable that this question should be studied and settled,

"Believing that for this purpose it would be useful to obtain information concerning the existing rules and the generally accepted practices of other inter-governmental organizations and of national legislative assemblies,

"Requests the Secretary-General to submit to the General Assembly at its tenth session a report:

"(a) On the terms and application of the rules which in other inter-governmental organizations and in parliaments govern the announcement of the results of votes, on the conditions subject to which corrections are admitted and on the consequences of such corrections;

"(b) On possible provisions designed to prevent and correct any mistakes which might occur during the voting procedure in the General Assembly and its Committees".

14. The draft resolution was subsequently adopted 8/ by the Assembly without discussion and became resolution 901 (IX).

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8/ G A (IX), Plen., 512th mtg., p. 495.

15. In pursuance of this resolution, the Secretary-General prepared a report 9/ based on the data submitted to him in response to the request he addressed to the Secretaries-General of the League of Arab States, of the Council of Europe and of the Organization of American States, to the Directors General of the Food and Agriculture Organization of the United Nations, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, to the Secretary-General of the International Civil Aviation Organization and to all Members of the United Nations. The Secretary General of the National Assembly of France also transmitted a compilation of data covering the procedure followed by the Assembly of the European Coal and Steel Community and by the parliaments of a number of countries.

16. The report, which was referred by the Assembly at its tenth session to the Sixth Committee, dealt with (1) methods of voting and prevention of errors (including a section on voting by electrical equipment); (2) rules governing the announcement of the results of votes and their application; and (3) the problem of corrections of votes. In his conclusions, the Secretary-General made some observations relating to operative sub-paragraph (b) of the resolution of the General Assembly regarding "possible provisions designed to prevent and correct any mistakes which might occur during the voting procedure in the General Assembly and its Committees." Noting that the study of the voting procedures showed that very few mistakes had occurred and that, when found, they had been dealt with satisfactorily, the Secretary-General, as an aid to discussion of the subject, referred to three minor changes which could be introduced in the rules. These suggested changes (see paragraphs 17-28 below) became the basis of the debate in the Sixth Committee.

17. At the outset of the consideration by the Committee of the item, the representative of Australia submitted a draft resolution 10/, the purpose of which, he stated, was to give effect to the suggestions made in the report of the Secretary-General. In order to prevent rather than to correct any errors which might arise in the course of voting, the following amendments to the rules of procedure were proposed:

"1. To insert after the third sentence of rules 89 and 128 of the Rules of Procedure of the General Assembly the following:

"Immediately after the roll has been called the names of any Members whose representatives have not answered shall be called again and such Members may then answer as provided in the preceding sentence. Their answers shall be recorded as a part of the roll-call vote."

"2. To insert after rule 93 the following new rule:

"Rule 93 (a)

"At the conclusion of voting on matters other than elections the President shall announce the number of votes in favour, the number against and the number of abstentions and shall state whether the proposal or amendment has been adopted or rejected or that a second vote will, under these rules, be required, as the case may be."

[A similar text was proposed for the corresponding rule in Committee.]

9/ G A (X), annexes, a.i. 51, A/2977.

10/ G A (X), annexes, a.i. 51, p. 11, A/C.6/L.364.

"4. To insert after rule 97 the following new rule:

"Rule 97 (a)

"Unless it can be shown that a clerical error has occurred, the results of voting on matters other than elections, as announced by the President, shall be final and conclusive."

[A similar text was proposed for the corresponding rule in Committee.]

18. The representative of Venezuela submitted a draft resolution 11/ which proposed the adoption of a new rule, as follows:

"Corrections of vote

"Rule 93 (a)

"When a vote is taken on a matter other than an election, a representative may correct his vote immediately after the President has proclaimed the result of the vote, but a correction shall not modify the result already proclaimed."

[A similar text was proposed for the corresponding rule in Committee.]

19. A draft resolution submitted by the representative of Guatemala 12/ dealt, in the first operative paragraph, with detailed procedures to ensure the accuracy of the counting of votes, including provisions for the recounting and the methods of announcing results. In the second operative paragraph it was proposed to add the following sentence to rule 90 [129]:

"Where the object of the voting is not an election, any representative who voted in error may, after the President [Chairman] has announced the result, request that his explanations appear in the record, but the result already announced shall not be affected thereby."

20. In addition, the Sixth Committee had before it a draft resolution 13/ which simply recommended that no further action should be taken for the present.

21. The views expressed during the debate 14/ on these proposals are summarized below and, for convenience, have been grouped under sub-headings which refer to the specific points that were discussed.

a. METHODS OF VOTING BY ROLL-CALL

22. A provision whereby the names of representatives who had not answered on the first call would be called again immediately after a roll-call vote was felt by a few representatives to be unobjectionable in principle, if it was understood that the names would be called only once and immediately. The majority, however, believed that a provision of this kind might encourage a practice which would be prejudicial to the work of the General Assembly. It was pointed out that such a provision might lead to abuses in that a delegation wishing to vote on the side of the majority, or to weigh

11/ Ibid., p. 12, A/C.6/L.365.

12/ Ibid., A/C.6/L.366.

13/ Ibid., p. 13, A/C.6/L.367.

14/ G A (X), 6th Com., 455th-457th mtgs. (See also footnote 5.)

the possible influence of its vote, could deliberately abstain when the first roll was called; if this tendency developed it would detract from the value of the roll-call vote and nullify the fundamental purpose of the procedure of drawing lots to determine the alphabetical order of each roll-call. By making it possible for representatives to vote out of turn, a regular practice might be established which in fact should be exceptional and rare, if it was to occur at all. In reply to these objections, one representative observed that any rule could be frustrated if carried to extremes, but the fact that abuse was possible did not justify dispensing with a rule. Moreover, delegations were unlikely to resort to abusive practices which were apt to injure their country's reputation.

#### b. METHODS OF ANNOUNCING RESULTS OF VOTING

23. While, in general, there was no strong objection to the proposal that the methods for announcing the results of the voting should be precisely defined in the rules, the majority of Members considered that such a provision was superfluous and only confirmed a practice which was already clearly established and normally observed by the presiding officers. However, some representatives questioned whether a formal definition of methods might not lead to misunderstandings. For example, when parts of a proposal were put to the vote separately, it might be difficult to determine the precise moment of the "conclusion of voting". It was also pointed out that although, of course, the new text could not apply to elections, the explicit exclusion of a reference to elections might give the impression that there was a special voting procedure with respect to elections and that the Chairman did not have to announce the results of a vote in those cases. It was further observed that a formal provision such as this might give rise to "vexatious challenges" of the validity of any given announcement. In opposition to the opinion that it was unnecessary and unadvisable to "introduce ultimate refinements in the rules", the view was held that the proposed amendment served to legalize the present practice; it was desirable to embody in a set of rules certain powers which were in any case vested in the Chair. The United Nations worked under a written Charter and under written rules of procedure: precedent and custom were therefore not always a good guide. It was necessary to state in a specific rule that the Chairman announced the results of a vote, and to lay down the manner in which the results should be announced. As matters stood, a delegation might conceivably challenge the announcement by the Chairman of a decision on the grounds that he had no written powers to make such an announcement.

#### c. FINALITY OF THE RESULTS AS ANNOUNCED

24. Some representatives felt that there might be merit in providing for the finality and conclusiveness of the results of the vote as announced by the presiding officers and that a provision of this kind was required to meet the type of case which in practice had actually given rise to uncertainty and dissatisfaction.

25. One representative pointed out that the proposed rule did not specify when and by whom the error might be reported, or who would determine its nature and, further, that the term "clerical error" was too vague. In order to meet these objections, the sponsor of the draft resolution modified the text as follows 15/:

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15/ G A (X), annexes, a.i. 51, p. 11, A/C.6/L.364/Rev.1.

"Rule 97 (a) [134]"

"Unless it can be shown by a representative or the Secretariat, to the satisfaction of the President /Chairman/, that a clerical or arithmetical error has occurred, the results of voting on a proposal or amendment, as announced by the President [Chairman], shall be final and conclusive".

26. A majority of Members felt, however, that there was no need to amend the rules in order to do little more than confirm an existing practice. Any problems of this kind could be settled, as in the past, by the Chair. It was undesirable to have a rule which treated technical mistakes as if they were a normal occurrence. Moreover, the proposed rule went too far in the direction of making the announcement of a result "final and conclusive"; this did not seem consistent with the powers of the presiding officers as defined in the rules. However, on this point, there were other Members who felt rather that a rule which would allow the Chairman to reopen the counting would impose an added burden on the presiding officers without leading to any tangible improvement. Furthermore, as a general rule, when the Chairman announced the results of a vote, these results were definite but a Member was entitled to express any doubts he might feel on the matter. If doubts persisted, the Chairman could call on the Committee to take a decision on the question; it would be unadvisable to leave it to him alone to decide whether an error had occurred, since that might well increase his authority to an extent hardly in keeping with the general spirit of the rules of procedure.

## d. CORRECTION OF VOTES

27. An express provision in the rules which would ensure that a result already announced could not be modified by the correction of votes, was supported by some representatives who were not convinced that the voting has always proceeded "with exemplary smoothness" in the Assembly and its Committees. Referring to the explanatory memorandum submitted by the representative of France when the item was first proposed (see paragraph 7 above), they felt that the proper course was to adopt an explicit rule to prevent the recurrence of such incidents as the memorandum had cited. It had been pointed out that votes could be corrected in two possible ways: either by taking a fresh vote, in which case there would be a strong temptation for one or two delegations to reverse a closely contested decision, or by allowing delegations to correct their votes, it being clearly understood that the results of the vote would not be affected thereby. This latter method had an essential point in its favour: it enabled a delegation which had not voted in accordance with its intention to put its true position on record. The proposal was not, in fact, as radical as it might at first appear, since only very rarely would representatives fail to realize and rectify a mistake before the result was announced. In order to eliminate any possibility of abuse, however, it was necessary to emphasize that corrections of votes would be admissible only after the announcement of the results and that they could have no decisive effect. The sponsor of the amendment also pointed out that its purpose was not to give a representative the right of correction but to ensure that no correction would affect a result previously announced.

28. On the other hand, those Members who were unwilling to support the amendment did not feel that the rules governing the voting procedure suffered from any clearly demonstrated deficiencies. A review of the practice of the Assembly and its Committees did not reveal a significant number of situations in which the question of correcting a vote had given rise to any serious difficulties; a more precise and rigid formula was not likely to produce a happier solution than the one resulting from the application of the existing rules. Since the principle that a correction should not modify the results already proclaimed was absolutely sound, it was difficult to see the point of including a provision enabling a representative to correct his vote immediately after

the Chair had announced the results. This was a right that could not be denied to representatives and which had been frequently exercised by them in the past; if a representative made an error in voting he could, by explaining his vote, make a correction. Moreover, proposals for correction of votes already given could lead to undesirable results. For example, the proposed amendment appeared to preclude the possibility of resorting to a new count in a situation where representatives had been confused as to the question which had been put to the vote.

#### Decisions

29. The draft resolutions submitted by the representatives of Australia, Guatemala and Venezuela were not put to the vote. It was agreed to request the Rapporteur to insert an appropriate passage in the report of the Committee 16/ expressing, as the opinion of the majority, that the amendments, in so far as they referred (1) to the manner in which the votes were to be counted and in which the President should announce the results of the voting; and (2) to corrections of votes after the announcement of the results of the voting, were unnecessary because they corresponded to the established practice of the United Nations.

30. The Sixth Committee approved, and the Assembly adopted 17/ a resolution 18/ commending the report of the Secretary-General, noting the conclusions contained therein and deciding to take no further action for the present while recommending that Members should continue to study the question.

### C. Election of the President of the General Assembly

31. The President and the Vice-Presidents of the ninth and tenth sessions were elected in accordance with the rules of procedure of the General Assembly.

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16/ G A (X), annexes, a.i. 51, p. 13, A/3040, para. 15.

17/ G A (X) Plen. 549th mtg., p. 386.

18/ G A resolution 983 (X).

