

CHAPTER XV

QUESTIONS RELATING TO THE UNITED NATIONS CHARTER
AND MEMBERSHIP IN THE UNITED NATIONS

AMENDMENTS TO THE UNITED NATIONS CHARTER

ENTRY INTO FORCE OF
AMENDMENTS TO
ARTICLES 23, 27 AND 61

It will be recalled that, on 17 December 1963, the General Assembly approved amendments to Articles 23, 27 and 61 of the United Nations Charter to increase the number of members of the Security Council and of the Economic and Social Council and, in the case of the Security Council, to increase from seven to nine the number of votes required for adoption of decisions by the Council.¹ As at 31 December 1964, 47 Member States had deposited instruments of ratification of these amendments.² As at 20 January 1966, the amendments had been ratified by the following 57 additional Member States:

Afghanistan, Australia, Belgium, Bolivia, Bulgaria, Burma, Burundi, the Byelorussian SSR, Cambodia, Chile, China, the Congo (Brazzaville), Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Finland, France, Greece, Guatemala, Hungary, Iran, Israel, Italy, Japan, Laos, Lebanon, Luxembourg, Malawi, Malaysia, Malta, Mauritania, Mexico, Mongolia, Pakistan, Panama, Paraguay, Poland, Romania, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Syria, Turkey, Uganda, the Ukrainian SSR, the USSR, the United Kingdom, the United States, Venezuela, Yemen, Zambia.

The amendments to Articles 23, 27 and 61 of the Charter entered into force on 31 August 1965, the requirements of Article 108 of the Charter for their entry into force having been fulfilled on that date as follows:

Total number of instruments deposited	95
Membership in the United Nations as at 31 August 1965	114
Number of ratifications required under Article 108 of the Charter of the United Nations to bring the amendments into force (two thirds of the Members of the United Nations, including all the permanent members of the Security Council)	76

The last of the instruments of ratification of the permanent members of the Security Council was deposited on

31 August 1965

Date of entry into force of the amendments for all the Members of the United Nations

31 August 1965

As depositary of the amendments to the Charter, the Secretary-General on 31 August 1965 issued a protocol of entry into force of the amendments. This protocol was communicated to all Members of the United Nations and was also submitted to the General Assembly on 27 September 1965, in connexion with the elections, at the twentieth session, to the Security Council and to the Economic and Social Council as enlarged by the entry into force of the amendments.

In communications dated 4 October, 2 and 14 December 1965 respectively, the Permanent Missions of the USSR, Czechoslovakia and Hungary referred to the protocol of entry into force and the listing therein of an instrument of ratification by "the Chiang Kai-shek clique." They said their Governments did not recognize any authority other than the Government of the People's Republic of China as entitled to represent and act on behalf of China. Accordingly, they considered that the instruments of ratification which had been made out and deposited by the "Chiang Kai-shek clique" had no legal force whatsoever.

The three Governments noted, nevertheless, that the People's Republic of China had announced that it would not object to the enlargement of the two Councils even before the restoration of the lawful rights of the People's Republic of China in the United Nations. Czechoslovakia said that, in view of this stand taken by the People's Republic, the

¹ See Y.U.N., 1963, pp. 87-88.

² See Y.U.N., 1964, p. 467.

General Assembly could proceed to fill the vacancies on the two Councils as enlarged. Hungary added, for the same reason, that it accepted and recognized the entry into force of the Charter amendments.

In a reply dated 15 October 1965 to the USSR communication of 4 October, the Permanent Representative of China said that the Republic of China, a permanent member of the Security Council, had ratified the amendments to the Charter on 6 July 1965 and that the instrument of ratification had been deposited with the Secretary-General on 2 August 1965. There was no doubt that the protocol of entry into force was valid in its entirety. If any part of the provisions of Article 108 of the Charter had not been fulfilled, the amendments would not be deemed to have entered into force. The allegations made by the USSR, said the representative of China, were untenable both in law and in fact and could in no way affect the validity of the protocol or the entry into effect of the amendments.

AMENDMENT TO ARTICLE 109

On 16 September 1965, the Secretary-General asked that an item entitled "Amendment to Article 109 of the Charter of the United Nations" be included in the agenda of the General Assembly's twentieth session.

In an explanatory memorandum accompanying this request, the Secretary-General drew attention to the fact that, on 31 August 1965, the amendments to Articles 23 and 27 of the Charter had entered into force, thereby increasing the number of members of the Security Council from 11 to 15 and changing the majority votes required for decisions of the Council from seven to nine. He then referred to the text of Article 109 of the Charter, paragraphs 1 and 3 of which read as follows:

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 seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference. . . .

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.

The Secretary-General pointed out that a discrepancy existed between the amended text of Articles 23 and 27 and the existing text of Article 109, requiring a consequential amendment to paragraph 1 of the latter Article, so that a vote of "any nine members of the Security Council" instead of "any seven members of the Council" would be required for fixing a date and venue for a General Conference to review the Charter.

As far as paragraph 3 of Article 109 was concerned, the Secretary-General's note continued, no similar amendment was required, as the provisions of that paragraph had already been complied with.

He also recalled that the General Assembly had adopted a resolution on the matter on 3 November 1956 (whereby, among other things, it was decided that a General Conference to review the Charter should be held "at an appropriate time"³ and that, on 16 December 1955, the Security Council had concurred in that Assembly decision.⁴). Paragraph 3 of Article 109 of the Charter, the Secretary-General's note added, could therefore be considered obsolete.

The Secretary-General accordingly submitted a draft resolution, for the Assembly's consideration, to enable the necessary amendments to be made to paragraphs 1 and 3 of Article 109 of the Charter.

In 1965, at the Assembly's twentieth session, the Assembly's Sixth (Legal) Committee devoted one meeting to the question of amending Article 109 of the Charter. It was unanimously agreed that paragraph 1 of Article 109 should be amended.

In the opinion of the representatives of Australia, China and the United Kingdom,

³ See Y.U.N., 1955, pp. 76-77.

⁴ Ibid., p. 77.

among others, paragraph 3 of Article 109 had already been acted upon at the tenth session of the General Assembly and was, in this sense, no longer operative. Nevertheless, it should be retained for historical reasons. The Australian spokesman also pointed out that a practical purpose might be served by retaining paragraph 3 in its present form, as the decision at the Assembly's tenth session to convene a conference for the purpose of reviewing the Charter at an appropriate time had not yet been fully implemented. To delete paragraph 3 might give rise to the question whether the decision remained in effect. Czechoslovakia and others considered that any conference convened to review the Charter in the future should be convened only under paragraph 1 of Article 109.

Greece proposed a draft resolution whereby

the Assembly would adopt and submit for ratification by Member States an amendment to paragraph 1 of Article 109, to the effect that a vote by any nine Security Council members (instead of a vote by any seven Council members) would be required for a Council decision on the date and venue of a General Conference of United Nations Members to review the Charter. In addition, the Assembly would also call on all United Nations Member States to ratify this amendment at the earliest possible date. This draft resolution was adopted unanimously by the Sixth Committee on 14 December 1965. On 20 December, this decision was endorsed at a plenary meeting of the Assembly with the unanimous adoption of resolution 2101 (XX). (For full text, see DOCUMENTARY REFERENCES below.)

DOCUMENTARY REFERENCES

ENTRY INTO FORCE OF AMENDMENTS TO ARTICLES 23, 27 AND 61

A/6019. Election of non-permanent members of Security Council; Election of members of Economic and Social Council. Report of Secretary-General, containing "Protocol of Entry into Force of the Amendments to Articles 23, 27 and 61 of the Charter of the United Nations adopted by the General Assembly resolutions 1991 A and B (XVIII) of 17 December 1963."

A/6031, A/6055, A/6139, A/6185. Election of non-permanent members of Security Council; Election of members of Economic and Social Council: Note verbale of 4 October 1965 from USSR; Note verbale of 15 December 1965 from China; Note verbale of 2 December 1965 from Czechoslovakia; Note verbale of 14 December 1965 from Hungary.

AMENDMENT TO ARTICLE 109

GENERAL ASSEMBLY—20TH SESSION
Sixth Committee, meeting 897.
Plenary Meetings 1336, 1404.

A/5974. Note by Secretary-General requesting inclusion in agenda of item entitled "Amendment to Article 109 of the Charter of the United Nations," and proposing draft resolution.

A/C.6/L.584. Greece: draft resolution, adopted unani-

mously by Sixth Committee on 14 December 1965, meeting 897.

A/6180. Report of Sixth Committee.

RESOLUTION 2101 (xx), as submitted by Sixth Committee, A/6180, adopted unanimously by Assembly on 20 December 1965, meeting 1404.

"The General Assembly,

"Considering that the Charter of the United Nations has been amended to provide that the membership of the Security Council, as provided in Article 23, should be increased from eleven to fifteen and that decisions of the Security Council should be taken, as provided in Article 27, by an affirmative vote of nine members instead of seven,

"Considering that these amendments make it necessary also to amend Article 109 of the Charter,

"1. Decides to adopt, in accordance with Article 108 of the Charter of the United Nations, the following amendment to the Charter and to submit it for ratification by the States Members of the United Nations:

" 'In Article 109, paragraph 1, the word "seven" in the first sentence shall be replaced by the word "nine";

"2. Calls upon all Member States to ratify the above amendment, in accordance with their respective constitutional processes, at the earliest possible date."

COMMITTEE ON ARRANGEMENTS TO REVIEW THE CHARTER

The Committee on Arrangements for a Conference for the Purpose of Reviewing the

United Nations Charter, established on 25 November 1955, was continued by an Assembly

resolution (1933(XVIII)) of 17 December 1963 and invited to report, with recommendations, to the Assembly at its twentieth session in 1965.⁵

The Committee, consisting of all Members of the United Nations, met on 16 December 1965. There was a general expression of satisfaction with the ratification of amendments to the Charter which had been adopted by the Assembly, increasing the membership of the Security Council and the Economic and Social Council.⁶ The USSR representative considered that the shortcomings of the United Nations should not be attributed to the Charter and that the potentiality inherent in the Charter should be fully realized. The United States observed that a general review conference was not the only means of determining whether changes were necessary; such a conference could be held only when there was general

agreement on the objectives sought, which was not the case at the present time.

The Committee approved, by a vote of 54 to 0, with 10 abstentions, a resolution, submitted by its rapporteur, by which the General Assembly would decide to keep the Committee in being and invite it to report with recommendations to the General Assembly at its twenty-second (1967) session. The Assembly would further recommend the preparation of the supplements to the Repertory of Practice of United Nations Organs.

The text to this effect was later adopted by the General Assembly, without objection, at a plenary meeting on 21 December 1965 as resolution 2114(XX). (For full text, see DOCUMENTARY REFERENCES below.)

⁵ See Y.U.N., 1963, pp. 76-77, for text of resolution 1933(XVIII).

⁶ See APPENDIX II for texts of Articles 23, 27 and 61.

DOCUMENTARY REFERENCES

GENERAL ASSEMBLY—20TH SESSION
Plenary Meeting 1407.

A/5987. Report of Committee on Arrangements for Conference for Purpose of Reviewing Charter.

RESOLUTION 2114(xx), as proposed by Committee, A/5987, adopted by Assembly on 21 December 1965, meeting 1407, without objection.

"The General Assembly,

"Recalling the provisions of its resolutions 992(X) of 21 November 1955, 1136(XII) of 14 October 1957, 1381 (XIV) of 20 November 1959, 1670(XVI) of 15 December 1961, 1756(XVII) of 23 October 1962 and

1993(XVIII) of 17 December 1963 relating to the establishment, under Article 109 of the Charter of the United Nations, of the Committee on arrangements for a conference for the purpose of reviewing the Charter and to the functions entrusted to the Committee,

"1. Decides to keep in being the Committee on arrangements for a conference for the purpose of reviewing the Charter and invites the Committee to report with recommendations to the General Assembly at its twenty-second session;

"2. Requests that the work envisaged in paragraph 4 of General Assembly resolution 992 (X) should be continued."

THE ADMISSION OF NEW MEMBERS

The number of United Nations Member States rose to 118 in 1965. Three more States—The Gambia, the Maldives Islands and Singapore—were admitted to United Nations membership by the General Assembly as recommended by the Security Council. The following table indicates the dates of United Nations actions:

Applicant	Date of Council Recommendation	Date of Admission by Assembly
The Gambia	15 March	21 September

The Maldives Islands	20 September	21 September
Singapore	20 September	21 September

The admission of these three States was unanimously recommended by the Security Council. At a plenary meeting of the Assembly on 21 September, all three States were also unanimously declared admitted to United Nations membership. (For texts of Security Council and General Assembly resolutions, see DOCUMENTARY REFERENCES below.)

DOCUMENTARY REFERENCES

THE GAMBIA

SECURITY COUNCIL, meeting 1190.

S/6197. Letter of 18 February 1965 from Gambia.
S/6226. Ivory Coast, Jordan, Malaysia, United Kingdom: draft resolution.
RESOLUTION 200(1965) as proposed by four powers, S/6226, adopted unanimously by Council on 15 March 1965, meeting 1190.

GENERAL ASSEMBLY—20TH SESSION
Plenary Meeting 1332.

A/5898. Letter of 18 February 1965 from Gambia.
A/5911. Letter of 15 March 1965 from President of Security Council.
A/6002. Report of Security Council to General Assembly, Chapter 10 D.
A/L.462. Australia, Canada, Ceylon, Cyprus, Ghana, India, Jamaica, Kenya, Malawi, Malaysia, Malta, New Zealand, Nigeria, Pakistan, Sierra Leone, Trinidad and Tobago, Uganda, United Kingdom, United Republic of Tanzania, Zambia: draft resolution.
RESOLUTION 2008(xx), as proposed by 20 powers, A/L.462, adopted by acclamation by Assembly on 21 September 1965, meeting 1332.

"The General Assembly,

"Having received the recommendation of the Security Council of 15 March 1965 that the Gambia should be admitted to membership in the United Nations,

"Having considered the application for membership of the Gambia,

"Decides to admit the Gambia to membership in the United Nations."

THE MALDIVE ISLANDS

SECURITY COUNCIL, meeting 1243.

S/6645. Letter of 26 August 1965 from Maldives Islands.
S/6695. Jordan, Malaysia, United Kingdom: draft resolution.
RESOLUTION 212(1965) as proposed by three powers, S/6695, adopted unanimously by Council on 20 September 1965, meeting 1243.

GENERAL ASSEMBLY—20TH SESSION
Plenary Meeting 1332.

A/5967. Letter of 26 August 1965 from Maldives Islands.

A/5981. Letter of 20 September 1965 from President of Security Council.

A/L.463. Australia, Ceylon, India, Jordan, Kuwait, Malaysia, Malta, Nigeria, Pakistan, United Kingdom: draft resolution.

RESOLUTION 2009(xx), as proposed by 10 powers, A/L.463, adopted by acclamation by Assembly on 21 September 1965, meeting 1332.

"The General Assembly,

"Having received the recommendation of the Security Council of 20 September 1965 that the Maldives Islands should be admitted to membership in the United Nations,

"Having considered the application for membership of the Maldives Islands,

"Decides to admit the Maldives Islands to membership in the United Nations."

SINGAPORE

SECURITY COUNCIL, meeting 1243.

S/6648. Cable of 2 September 1965 from Singapore.
S/6696. Ivory Coast, Jordan, Malaysia, United Kingdom: draft resolution.
RESOLUTION 213(1965) as proposed by four powers, S/6696, adopted unanimously by Council on 20 September 1965, meeting 1243.

GENERAL ASSEMBLY—20TH SESSION
Plenary Meeting 1332.

A/5968. Cable of 2 September 1965 from Singapore.
A/5982. Letter of 20 September 1965 from President of Security Council.

A/L.464 and Add.I. Australia, Cambodia, Canada, Ceylon, Cyprus, Ghana, India, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Malawi, Malaysia, Malta, New Zealand, Nigeria, Sierra Leone, Thailand, Trinidad and Tobago, Uganda, United Kingdom, Zambia: draft resolution.

RESOLUTION 2010(xx), as proposed by 23 powers, A/L.464 and Add.I, adopted by acclamation by Assembly on 21 September 1965, meeting 1332.

"The General Assembly,

"Having received the recommendation of the Security Council of 20 September 1965 that Singapore should be admitted to membership in the United Nations,

"Having considered the application for membership of Singapore,

"Decides to admit Singapore to membership in the United Nations."

MATTERS PERTAINING TO INDONESIA'S MEMBERSHIP
IN THE UNITED NATIONS

On 20 January 1965, it will be recalled, the Deputy Prime Minister and Minister for For-

eign Affairs of Indonesia formally notified the Secretary-General of the United Nations by

letter that "Indonesia has decided at this stage and under present circumstances to withdraw from the United Nations."⁷

In this connexion, in a note verbale of 13 May 1965 addressed to the Secretary-General, the Italian Government voiced its "apprehension over the disquieting consequences for the United Nations resulting from the absence of any mention in the United Nations Charter of such an important point as withdrawal from the Organization." The declaration on withdrawal which had been adopted at the San Francisco Conference, the note verbale stated, did not appear to be entirely adequate as it did not contain any definition of the circumstances justifying withdrawal, or any procedure for determining such circumstances in the future. The Italian Government hoped that an appropriate study of the problem, in general terms, would be undertaken in the near future.

As to the statement in the Indonesian letter of 20 January 1965 to the effect that "Indonesia still upholds the lofty principles of international co-operation enshrined in the United Nations Charter,"⁸ the Italian Government observed that the principles of the Charter were

now part of general customary international law. No State, it added, could by withdrawing from the Organization avoid some of the fundamental obligations laid down in the Charter.

In this connexion, the Italian note referred to Article 2, paragraph 6, and to Chapter VII of the Charter (for text of these sections of the Charter, see APPENDIX II). It went on to say that, while respect for the sovereignty of States should be safeguarded, States had, by joining the United Nations, renounced those parts of their sovereign capacities which were contrary to the principles proclaimed in the Charter. This point was recognized in a number of post-war constitutions, including that of Italy.

In withdrawing from the United Nations, the Italian note verbale concluded, a State did not cease to be a party to those multilateral conventions concluded under the auspices of the Organization to which it had previously adhered.

⁷ See Y.U.N., 1964, pp. 189-91, for a description of this letter, the reply by the Secretary-General, and letters from Malaysia and from the United Kingdom.

⁸ *Ibid.*, p. 190.

DOCUMENTARY REFERENCES

A/5914 (S/6356). Note verbale of 13 May 1965 from Italy.

A/6002. Report of Security Council to General Assembly, Chapter 26.