



SUMMARY RECORD OF THE 50th MEETING

Chairman: Mr. DENG (Sudan)

CONTENTS

AGENDA ITEM 126: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued)

*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2 750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.6/43/SR.50
1 December 1988

ORIGINAL: ENGLISH

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 126: OBSERVER STATUS OF NATION; LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued) (A/C.6/43/L.10/Rev.1; A/C.6/43/L.24 and Corr.1)

1. Mr. AL-KHASAWNEH (Jordan), introducing draft resolution A/C.6/43/L.10/Rev.1, announced that the sponsors had been joined by Afghanistan, Angola, Bangladesh and Cuba.
2. Enabling the Palestine Liberation Organisation (PLO) and the South West Africa **People's Organization (SWAPO)** to have their communications relating to the work of the General Assembly circulated directly and without intermediary would enhance the effectiveness of the role of those organisations and facilitate the multilateral diplomatic process. Some of the **delegations** that had participated in the informal consultations on the proposal had expressed a fear that the adoption of the draft resolution might blur the distinction between States Members of the **Organization** and observers and that it might affect the status of other observers. A **statement** of the viewpoint of the sponsors of the draft resolution might help to dispel such doubts.
3. The preservation of the distinction between Members and observers was an important **consideration** but not an exclusive one. The practice of the Organization showed **clearly** that its attitude towards the facilities granted to observers had always been determined by a pragmatic outlook. Under the terms of the Statute of the International Court of Justice and of General Assembly resolution 264 ('III), for example, a State which was a party to the Statute but not a Member of the United Nations, could participate in the **election** of members of the Court and in effecting amendments to its Statute, and it could vote in the General Assembly and its Main Committees for those two purposes.
4. That observers should have the right to have documents distributed directly would not affect the different status of Members **and observers**, since the **purpose** of the distinction was that **non-members** should not be allowed to influence the will of Members. It **was** difficult to see how the proposal could have such an effect.
5. Doubts had also been expressed with respect to the effect that the **draft resolution** might have on the facilities granted to other observers, including States. Such fears were exaggerated. There was no direct link between the status of observers and the facilities granted to them. Non-governmental **organizations** in consultative status with the Economic and Social Council were **entitled** to have written statements **circulated** directly and **without** intermediary in accordance with Council resolution 1296 (XLIV). The Council had been prompted to adopt that resolution by the practical consideration of increasing the effectiveness of those organisations. There was no reason why a similar position should not be adopted with regard to the draft resolution before the Committee.

(Mr. Al-Khasawneh, Jordan)

6. Paragraph 1 of the draft resolution referred to communication relating to the sessions and work of the General Assembly and paragraph 2 to communication relating to the sessions and work of all international conferences convened under the auspices of the Assembly. Paragraph 3 had been formulated in a less mandatory manner in a desire on the part of the sponsors to show flexibility with regard to communication relating to other organs or conferences.

7. In the same desire to show their flexibility, the sponsors would like to insert the word "appropriate" between the words "the" and "symbol" in operative paragraph 3.

8. Mrs. VALDES PEREZ (Cuba), introducing draft resolution A/C.6/43/L.24 on behalf of the sponsors listed in document A/C.6/43/L.24/Corr.1, said that the draft was identical to the text of General Assembly resolution 41/71, except for minor adjustments in the first preambular paragraph and paragraph 3. She wished in particular to draw attention to the reference made in the second preambular paragraph to General Assembly resolution 3237 (XXIX) on observer status for the PLO, as well as to stress the importance of the seventh preambular paragraph of the draft. Where paragraph 2 was concerned, it must be borne in mind that the facilities referred to included the granting of visas to the representatives of the national liberation movements in question so that they could enter the United States in order to perform their functions. Unfortunately, in refusing to issue a visa to the Chairman of the PLO the United States was, at that very moment, violating not only previous resolutions on the subject but also a number of relevant international instruments, including the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations. The sponsors therefore attached great importance to the draft resolution and hoped that it would be adopted by consensus.

9. The CHAIRMAN suggested that, in accordance with rule 131 of the rules of procedure, the Committee should first consider draft resolution A/C.6/43/L.10/Rev.1.

10. Mr. KALINKIN (Secretary of the Committee), said that, under article 153 of the rules of procedure, the Office of Legal Affairs had raised the question of possible financial implications of draft resolution A/C.6/43/L.10/Rev.1 with the Department of Conference Services and the Office of Programme Planning, Budget and Finance. The Department of Conference Services had indicated that it did not consider that the draft resolution had financial implications. It had further indicated that currently both the PLO and SWAPO were able to obtain the sponsorship of a member delegation for submission of new communication for circulation as United Nations documents. There was no clear indication that the number of such communications was expected to increase under the items of the draft resolution. The Department would assume that both organizations, like Member States, would be expected to exercise restraint in their requests for the circulation of communications as United Nations documents and to endeavour to keep to a minimum the length of any communications submitted for circulation. In that connection, the Department had drawn attention to paragraph 6 of section D of General Assembly resolution 41/177 and to paragraph 71 of the report of the Committee on Conferences (A/43/32)

/...

(Mr. Kalinkin)

recommending that the General Assembly should renew its appeal to Member States to exercise restraint in that area. The Office of Programme Planning, Budget and Finance had informed the Office of Legal Affairs that it had reached the same conclusions as the Department of Conference Services.

11. Mr. ROSENSTOCK (United States of America), speaking in explanation of vote before the vote, said that a spirit of good will and compromise could have avoided a vote on the matter under consideration. The United States would vote against the draft resolution because it disagreed with its premises and conclusions.

12. Where paragraph 1 was concerned, only States Members of the Organisation could be said to be "entitled" to have documents issued and circulated as official documents of the General Assembly. Paragraph 2 was similarly flawed. Paragraph 3 appeared to be an attempt by one principal organ of the United Nations to tell another principal organ how to handle documents, which the Assembly did not have the right to do.

13. There was no need for the draft resolution, since there had been no instances where documents had not been circulated because no Member State would make a corresponding request. Member States must take responsibility for the circulation of United Nations documents. With regard to the practice followed by the Economic and Social Council, the draft completely ignored Article 71 of the Charter, Account should also be taken of the principle expressio unius est exclusio alterius. Moreover, it must be borne in mind that it was the subsidiary bodies of the Economic and Social Council that had the right to circulate documents submitted by non-governmental organisations - as their own documents; the organizations submitting the documents in question did not themselves have the right to circulate the documents,

14. The Committee had not been provided with information on any financial implications. If that was because no documents would be circulated that would not have been circulated anyway, then the provocative item under consideration was without any purpose other than to engender disagreement. If it was impossible to estimate the costs, at a minimum the Secretariat ought to have told the members of the Committee that documents cost \$600 per page and, on the assumption that the item was not a sham, that there would be financial implications, although the precise sum was hard to specify.

15. Mr. ROUCOUNAS (Greece), speaking on behalf of the 12 States members of the European Community, said that he wished to explain why the Twelve would be abstaining in the vote on draft resolution A/C.6/43/L.10/Rev.1. The proposal set forth in the draft resolution, which had first been put forward four years earlier and had been revived at the current session of the General Assembly, had been submitted very late in the session. A decision on such a proposal could not be taken without the benefit of a thorough study by the Secretariat of its legal, constitutional and financial implications, without any consideration of the proposal by the Fifth Committee, and without time for delegations, and their Governments, to consider the long-term implications fully.

(Mr. Roucouas, Greece)

16. On the basis of such information as they had been able to gather in the short time available, the Twelve had concluded that there were a number of objections to the proposal. Firstly, it had not been demonstrated that the United Nations needed to give observer missions the privileges in question. Observer status had been granted to the organisations concerned primarily because it was in the interest of the United Nations that they should have such status. It had not been shown that it was in the interest of the United Nations that either the missions in question or other observer missions should be given privileges enjoyed by Member States. Secondly, the Twelve were concerned about the financial implications of granting such privileges to observer missions, particularly since observer missions were not bound by the financial obligations of Member States. Thirdly, a Member State had obligations to other States Members of the United Nations, whereas observer missions had no such obligations. Lastly, the Twelve were greatly concerned about the long-term constitutional implications of the proposal. The United Nations was composed of Member States, and its constitution was the Charter, to which only States Members were parties. If some observer missions were given privileges regarding the circulation of documents, one might ask what further privileges would be requested subsequently. Observer missions should not have the privileges of Member States.

17. Where the actual text of the draft was concerned, the Twelve noted that paragraph 3 authoriaed the Secretariat to issue and circulate documents of the two organisations concerned as official documents of the United Nations under the symbol of other United Nations organs. The International Court of Justice was a principal organ of the United Nations. Given the provisions of Chapter XIV of the Charter and the Statute of the Court, the Twelve assumed that the resolution would not apply to the Court. Similar considerations applied to paragraph 2, which applied to all international conferences convened under the auspices of the General Assembly. The ruler of procedure for such conferences were a matter to be decided upon by the participants in such conferences,

18. Mr. HAREL (Israel) said that his delegation would vote against draft resolution A/C.6/43/L.10/Rev.1. Articles 3 and 4 of the Charter stipulated that only States could be Members of the United Nations, and only Members had the right to have their documents issued and circulated as official documents of the General Assembly. In the absence of any guidelines or rules concerning observers, it was necessary to rely on practice and precedent. The draft before the Committee completely disregarded accepted practice and was entirely without precedent. The long-standing practice was that the circulation of documents submitted by observers was requested specifically by a Member State. The purpose of the draft under consideration was to permit the PLO - a terrorist organisation - to enjoy more privileges and facilities than those granted to State observers that had been making a great contribution to the work of the United Nations. At the current meeting the Sixth Committee was being requested to establish a dangerous precedent that might in the future cripple the effectiveness of the United Nations, through a vote for a draft resolution that lacked any legal basis. The Charter and the rules of procedure must be respected in all circumstances, and the interest6 of the United Nations could not be served by practices departing from those texts,

19. The CHAIRMAN said that he wished to appeal to delegations not to engage in name-calling.

20. Mr. TETU (Canada) said that his delegation would abstain in the vote on the draft **before** the Committee, since it **was not in favour** of **granting** to observers privileges that had so far been granted only to Member States. A decision to grant such privileges to observers would constitute a disturbing precedent.

21. Draft resolution A/C.6/43/L.10/Rev.1, as orally revised, was adopted by 81 votes to 2, with 25 abstentions.

22. Mr. TARUI (Japan), speaking in explanation of vote after the vote, said that his country **recognized** the valuable role played by the PLO and SWAPO at the United Nations and believed that, as a result of recent international developments, the two organisations concerned would have an even greater role to play in the future. However, Japan had abstained in the vote on the draft resolution just adopted because **more time** had been needed in order to consider its implications and to gain the support of as many Member States as possible. Japan's abstention in the vote should **not** be interpreted as an indication of any change in its views on the PLO and SWAPO,

23. Mr. CULLEN (Argentina) said that his delegation had voted in favour of draft resolution A/C.6/43/L.10/Rev.1 in order to facilitate the activities of the PLO and SWAPO in the United Nations system, particularly in the light of recent developments. The granting of certain facilities and privileges by States to other entities or subjects of international law should be decided upon on a case-by-case basis. Argentina would be willing to give favourable consideration to requests for the granting of such facilities and privileges in respect of observer States.

24. Mr. EHLERS (Uruguay) said that his delegation had voted in favour of draft resolution A/C.6/43/L.10/Rev.1 because it **believed that** the text would make a positive contribution to the processes currently under way. However, his delegation was somewhat concerned about the legal precedent created by the draft resolution, which might alter the differences in status between Member States and observers,

25. Mr. CALERO RODRIGUES (Brazil) said that his delegation had voted in favour of draft resolution A/C.6/43/L.10/Rev.1. In its opinion, the draft had no political implications but was simply a practical effort to facilitate the work of the organizations mentioned. He wished to point out, however, that his Government would be prepared to consider a similar facility for observer States.

26. Mr. LUTEM (Turkey) said that his country had made clear on several occasions that its position on the question of Palestine was firmly based on moral grounds. It supported the PLO in its just cause. A founding member of the United Nations Council for Namibia, Turkey had also consistently extended unreserved support to the people of Namibia in their courageous struggle to achieve self-determination and national independence under the leadership of SWAPO, their sole authentic representative. However, it had reservations with regard to draft resolution A/C.6/43/L.10/Rev.1. It believed that granting observers the right to circulate

(Mr. Lutem, Turkey)

United Nations documents directly would create a precedent that would inevitably have legal and technical implications. His delegation would have liked to have a comprehensive study of those implications. It was for those reasons that his delegation had abstained in the vote.

27. Mr. (Sweden), speaking on behalf of the Nordic countries, said that they had abstained in the vote on draft resolution A/C.6/43/L.10/Rev.1. The proposal had been put forward at a late hour and it had not been possible for delegations to give it the careful study it deserved in view of its legal, constitutional and financial implications for the United Nations. No thorough study had been made by the Secretariat of those implications and the Nordic delegations could not approve the text without benefit of such a study, without the proposal having been considered by the Fifth Committee and without delegations and Governments having had time to examine the draft.

28. Mrs. BERTRAND (Austria) said that her Government's position with regard to the status of observers in general and of those referred to in draft resolution A/C.6/43/L.10/Rev.1 in particular was well known. She understood that observers would wish to make full use of their status but her delegation had certain misgivings about the procedure in question. In particular, her delegation would have welcomed a comprehensive study of the matter by the Secretariat. In her Government's view, it would be preferable to have a single régime governing the status of observers. Her delegation found it difficult to accept that a new type of privilege was being created vis-à-vis the organisations in question and had therefore abstained in the vote.

29. Mr. LUKABU (Zaire) said that had his delegation been present during the voting, it would have voted in favour of draft resolution A/C.6/43/L.10/Rev.1. His country maintained excellent relations with the PLO and consistently respected its obligations.

30. Mr. KULTHANAN (Thailand) said that his delegation had voted in favour of draft resolution A/C.6/43/L.10/Rev.1 on the understanding that it applied only to the national liberation movements referred to in the operative part.

31. The CHAIRMAN invited the Committee to consider draft resolution A/C.6/43/L.24 and Corr.1.

32. Mr. HAREL (Israel), speaking in explanation of vote before the vote, said that as at previous sessions when the question had been discussed, his delegation based its negative vote on certain fundamental, indisputable and factual grounds.

33. Article 89 of the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character provided that the Convention should enter into force following the deposit of the thirty-fifth instrument of ratification or accession by States entitled to do so. Thus far only 23 such instruments had been received. Most of the main host States of the United Nations were not included in that number and, as stated by the Office of Legal

(Mr. Harel, Israel)

Affairs in a legal opinion on the question of the applicability of the Convention, such host States had either abstained or voted against the Convention.

34. As the Convention was not yet in force, the discussion was obviously superfluous since the draft resolution was virtually devoid of all practical legal value. In his delegation's view, it would be inappropriate to ask the Committee to approve a proposal under which States not parties to a convention were requested to apply that convention to an entity which possessed none of the attributes of States and then to request the Secretary-General to report on the implementation of an unimplementable resolution,

35. His delegation considered that States which had taken no steps whatsoever to become bound by the Convention were in no position to propose resolutions of the kind before the Committee. Far from helping to strengthen international peace and co-operation, as stated in the seventh preambular paragraph, the PLO - a terrorist organisation in both its declared charter and its activities - had shown itself to be an obstacle to such international peace and co-operation and had none of the recognized attributes of States to which the Convention and international law applied. Accordingly, the PLO had no place in the United Nations. For those reasons, his delegation would vote against the draft resolution.

36. The CHAIRMAN invited the Committee to vote on draft resolution A/C.6/43/L.24 and Corr.1.

37. Draft resolution A/C.6/43/L.24 and Corr.1 was adopted by 87 votes to 9, with 14 abstentions.

38. Mr. . (Japan) speaking in explanation of vote, said that his delegation had abstained in the vote for purely legal reasons. Referring to paragraph 1, he recalled that at the 1975 Conference on the Representation of States, held at Vienna, a number of States including host countries of international organisations, had either abstained or voted against the Convention. His Government, having borne difficulty with the content of the Convention, had had to abstain in their vote on its adoption at the Conference and had not acceded to it,

39. A great number of States had neither ratified nor acceded to the Convention and, consequently, it had not yet entered into force. Under those circumstances, it was inappropriate for the General Assembly to take the action indicated in paragraphs 1 and 2 of the draft resolution.

40. Mr. LUTEM (Turkey) said that his delegation had voted in favour of the draft resolution. It wished to point out, however, that it had reservations with regard to the fifth preambular paragraph and paragraph 2 of the text, in which reference was made to the Vienna Convention on the Representation of States in Their Relations with International Organisations of a Universal Character,

41. Mr. DELON (France) said that his delegation had voted against the draft resolution for **legal reasons**. The Vienna Convention did not **represent the** current state of international law, It had been ratified by only a small number of States and had not entered into force. Even if it had entered into force, it would apply only to **States parties**.

42. Mr. QUERTON (Belgium) said that his delegation had voted against the draft resolution for purely **legal reasons**. The 1975 Convention remained a **controversial** instrument and only a limited number of States had given it their support. Furthermore, the Convention applied only to **States** which had **ratified it**. His delegation could not agree that it should be applied to national liberation movements and that they should be **accorded** the immunities which the Convention granted only to **States**.

43. Mr. TREVES (Italy) said that his delegation had voted against the draft resolution solely for **legal reasons**. His Government had neither signed nor ratified the Vienna Convention on the Representation of States in Their Relations with International Organisations of a Universal Character, which had not been adopted by **consensus**. In 13 years, only 23 States had **ratified the Convention**. In his delegation's view, it was not **appropriate** for the United Nations to try to **enhance** the status of the Convention.

44. Mr. KULTHANAN (Thailand) said that his delegation had voted in favour of the draft resolution on the understanding that it applied only to the national liberation movements **recognised** by the United Nations.

45. Ms. WILLSON (United States of America) said that her delegation had voted against the draft resolution. The 1975 Vienna Convention on the Representation of States in Their Relations with International Organisations of a Universal Character had been adopted by a **divided vote** and had not yet entered into force. Furthermore, it would be inappropriate to claim that the Convention applied to institutions and groups which lacked the attributes of States, although the draft said that many States had recognised the national liberation movements and had granted them in their countries facilities, **privileges** and immunities, many had not done so.

46. In her delegation's view, it would not be productive for the item to be placed on the Committee's Agenda in two years. That could be done at some future date if and when the Convention entered into force.

47. The CHAIRMAN said that the Committee had concluded its consideration of agenda item 126.

The meeting rose at 4.30 p.m.