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## DOCUMENT A/2174

# Report of the Special Committee for the consideration of the methods and procedures of the General Assembly for dealing with legal and drafting questions

[Original text: English]  
[8 September 1952]

## I. INTRODUCTION

1. On 20 December 1951, the General Assembly adopted resolution 597 (VI), which provides as follows:

*"The General Assembly,*

*"Considering that various ideas were expressed during the debate on the methods and procedures for dealing with legal and drafting questions, and in the draft resolutions and amendments submitted to the Sixth Committee concerning the scope of the problems, the methods for their solution and the nature of these methods, all of which testify to the complexity of the problems raised,*

*"Believing that in the circumstances further study of all the problems involved is necessary,*

*"1. Establishes a special committee of fifteen members consisting of one representative of each of the following Member States: Belgium, Canada, Chile, Czechoslovakia, Egypt, El Salvador, France, Indonesia, Iran, Israel, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela, to meet at the Headquarters of the United Nations;*

*"2. Requests the Special Committee to consider the documents, draft resolutions and amendments submitted to the Sixth Committee, as well as the records of its debates, to study the question further and to report thereon to the General Assembly at its seventh session;*

*"3. Requests the Secretary-General to carry out appropriate studies, to collaborate closely with the Special Committee and to submit to it, as he may consider appropriate, proposals for the handling of the problems dealt with in the present resolution."*

2. The Special Committee for the consideration of the methods and procedures of the General Assembly for dealing with legal and drafting questions held six meetings from 27 August to 4 September 1952. The members appointed by the General Assembly were represented as follows during the Committee's work:

*Belgium:* Mr. Joseph Nisot (representative) and Mr. Georges Cassiers (alternate)

*Canada:* Mr. A. Raymond Crépault (representative)

*Chile:* Mr. Horacio Suárez (representative) and Mrs. Margarita Gallo-Muller (alternate)

*Czechoslovakia:* Mr. Karel Petrželka (representative)

*Egypt:* Mr. Saleh Mahmoud (representative)

*El Salvador:* Mr. Miguel Rafael Urquía (representative) and Mr. Rafael Eguizábal (alternate)

*France:* Mr. Pierre Ordonneau (representative)

*Indonesia:* Mr. Soeleiman Hoesin Tajibnapis (representative)

*Iran:* Mr. Djalal Abdoh (representative) and Mr. Fereydoun Adamiyat (alternate)

*Israel:* Mr. Gideon Rafael (representative)

*Sweden:* Mr. Oscar Thorsing (representative) and Baron Göran von Otter (alternate)

*Union of Soviet Socialist Republics:* Mr. Georgi F. Saksin (representative)

*United Kingdom of Great Britain and Northern Ireland:* Mr. F. A. Vallat (representative)

*United States of America:* Mr. James N. Hyde (representative) and Mr. Charles D. Cook (alternate)

*Venezuela:* Mr. Victor M. Pérez Perozo (representative)

3. The following officers were elected unanimously: Mr. Abdoh (Iran), Chairman; Mr. Pérez Perozo (Venezuela), Vice-Chairman; and Mr. Crépault (Canada), Rapporteur.

4. The documents, draft resolutions and amendments submitted to the Sixth Committee, its report to the General Assembly and the records of its debates were made available to the Special Committee. The Special Committee also had before it memoranda prepared by the Secretary-General, as requested by paragraph 3 of resolution 597 (VI), on the work of the Sixth Committee (A/AC.60/L.2), on proposals by Committee for requests for advisory opinions from the International Court of Justice (A/AC.60/L.3), on reference of matters to the International Law Commission (A/AC.60/L.4) and on proposals by Committees for amendments to the rules of procedure of the General Assembly (A/AC.60/L.5).

## II. AGENDA AND PLAN OF WORK

5. At its first meeting on 27 August 1952, the Special Committee adopted its agenda (A/AC.60/L.1). It also adopted a plan of work (A/AC.60/L.6) for the discussion of the various aspects of the problem referred to it by the General Assembly. Some delegations took the view that the plan of work in some respects went beyond the task assigned to the Special Committee by the General Assembly. A large majority of the Committee, however, thought that that was not the case and that the plan was a convenient division of the subject matter for the purpose of discussion. The plan of work was adopted by 12 votes to none, with abstentions. The Special Committee's discussions and decisions on general principles and under the various headings and sub-headings of the plan of work are described below.

## III. GENERAL CONSIDERATIONS

6. From the outset of the discussions, all members of the Special Committee were agreed on the necessity of establishing for the work of the General Assembly

"conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". All laid emphasis on the primary importance of the Charter and the rule of law in the work of the United Nations.

7. The majority of the Special Committee thought that, while existing methods and procedures for dealing with legal and drafting questions had not yet led to any serious abuses, they were susceptible of improvement, and that such improvement would make it more certain that there would be no abuses in the future. It was also noted that such changes as the General Assembly might adopt in that field would be kept under review and the Assembly would be free to modify or repeal them if they did not work out. Some delegations, however, took the view that the problem could not be solved on a purely technical, procedural level. In their opinion, present procedures were adequate, and what was necessary was that certain Member States should abandon policies which those delegations claimed had led in the past to violations of the Charter and of international law.

8. There was general agreement that economy of the General Assembly's time was a consideration of paramount importance in recommending solutions to the problem assigned to the Special Committee by the General Assembly. Any recommendations made by the Special Committee should not prolong the duration of the Assembly's sessions, but should permit the Assembly to use the time at its disposal more effectively. Many delegations expressed a desire to avoid excessive rigidity in methods and procedures, as such rigidity might prevent the General Assembly and its Main Committees from exercising a necessary discretion with regard to particular questions. The view was also expressed that greater use should be made of the services of the legal and technical staff of the Secretariat to facilitate the work of the Assembly.

9. The members of the Special Committee also shared a desire that the competence of the Main Committees of the General Assembly should be respected. Some delegations thought that, for that reason, the recommendations of the Special Committee should in all cases be limited to the suggestion of methods which a Committee might adopt if it deemed it wise to do so in the light of all the circumstances. Other delegations, however, thought that the recommendations should be more definite, and that to require a Committee under certain circumstances to seek legal advice, which would in no case be binding, was not an infringement of the competence of that Committee.

#### IV. METHODS AND PROCEDURES FOR DEALING WITH LEGAL QUESTIONS

##### *Methods for the handling of specific legal questions*

(a) *Requests for advisory opinions from the International Court of Justice;*

(b) *Proposals to refer a matter to the International Law Commission;*

(c) *Proposals to amend the General Assembly's rules of procedure applicable to the consideration of legal and drafting questions.*

10. Some delegations were concerned lest the Committees of the General Assembly should be in some degree subordinated to the Sixth Committee in dealing with those types of questions. They feared that the Sixth Committee might be overburdened if it had to be consulted on all such matters. Others thought that the preparation of texts on those questions could best be performed by the Committee which was considering the substance of the agenda item.

11. It was considered by other delegations that the Sixth Committee was primarily a group of representatives of governments, and that it was a mistake to try to use it as a body of legal experts. The advice of the Sixth Committee or of legal sub-committees composed of representatives to the General Assembly would not necessarily be based on purely legal grounds. Agenda items which were proposed for the purpose of securing an advisory opinion might well be initially assigned to the Sixth Committee, but there was no advantage in consulting it on proposals for such requests and proposals to refer matters to the International Law Commission which were made in the course of discussions in another Committee.

12. On the other hand, it was argued that there would be no subordination of other Committees to the Sixth Committee if the latter only gave advice and did not make a binding decision on the question referred to it. Consultation of the Sixth Committee on those types of questions would not overburden it, some delegations stated, since such questions did not arise very frequently and since the Sixth Committee had always been able to complete its work before some other Committees.

13. Those delegations agreed that the Sixth Committee was in a sense a political body, since it was composed of representatives of governments, but they believed that it was in a better position than any other organ to advise the General Assembly on legal matters. In accordance with the terms of the Charter, advisory opinions could be requested only on legal questions, and it was important that the requests should be well drafted. The Sixth Committee was especially competent to give opinions as to the functions and workload of the International Law Commission, since it reviewed the Commission's reports. The Sixth Committee had also been consulted in the past on most of the amendments to the rules of procedure.

14. Some delegations, however, thought it essential that Committees should retain the option to have requests for advisory opinions drafted by sub-committees composed of their own members. Such drafting might be too intimately connected with matters of substance to be performed by another Committee.

15. The United Kingdom submitted draft proposals (A/AC.60/L.7), and Belgium also submitted a draft (A/AC.60/L.8). Both those drafts were withdrawn in favour of three drafts (A/AC.60/L.11, A/AC.60/L.12 and A/AC.60/L.13) submitted jointly by Belgium, Canada and the United Kingdom, which were adopted as paragraphs (a), (b) and (c) of the recommendations at the end of the present report.

16. El Salvador submitted two amendments (A/AC.60/L.9 and A/AC.60/L.10) to the first two paragraphs of the United Kingdom draft (A/AC.60/L.7);

those amendments were later transferred to the first two of the joint drafts (A/AC.60/L.11 and A/AC.60/L.12). The amendments provided that a Committee should ask for advice on requests for advisory opinions and proposals to refer a matter to the International Law Commission only "if that Committee deems it necessary and useful".

17. The Special Committee voted on the proposals before it at its fourth meeting on 29 August 1952.

The amendment of El Salvador (A/AC.60/L.9) to the first joint draft (A/AC.60/L.11) was rejected by 7 votes to 5, with one abstention.

The first joint draft (A/AC.60/L.11) of Belgium, Canada and the United Kingdom was adopted by 8 votes to 4, with 2 abstentions.

The amendment of El Salvador (A/AC.60/L.10) to the second joint draft (A/AC.60/L.12) was rejected by 7 votes to 6, with one abstention.

The second joint draft (A/AC.60/L.12) of Belgium, Canada and the United Kingdom was adopted by 9 votes to 4, with one abstention.

The third joint draft (A/AC.60/L.13) of Belgium, Canada and the United Kingdom was adopted by 12 votes to 2, with no abstentions.

*Proposals for reference of legal questions to the Sixth Committee or to special committees*

18. The Special Committee recognized that that heading covered two distinct problems: first, the assignment of agenda items to Main Committees by the General Assembly at the outset of each session and, second, the handling of legal aspects of an agenda item which appeared important during discussion by a Main Committee other than the Sixth Committee.

19. As to the first of those problems, the Special Committee recalled that rule 97 of the rules of procedure of the General Assembly provided that "Items relating to the same category of subjects shall be referred to the committee or committees dealing with that category of subjects...". It also noted that a recommendation of the Special Committee on Methods and Procedures, approved by the General Assembly in resolution 362 (IV) of 22 October 1949 and annexed to the rules of procedure, provided that "...questions which may be considered as falling within the competence of two or more committees, should preferably be referred to the committee with the lightest agenda".

20. In view of those provisions, the present Special Committee did not find it necessary to make any formal recommendation on the allocation of agenda items at the opening of each session. It was confident that the General Committee, in making recommendations to the General Assembly on the distribution of agenda items, would continue to bear in mind the Sixth Committee's function, laid down in rule 99 of the rules of procedure, as the legal committee.

21. On the second problem, the handling of legal aspects of agenda items which arose in the course of the discussions of Committees other than the Sixth Committee, some delegations thought that no recom-

mendation by the Special Committee was necessary. It was pointed out that, under the present rules of procedure, the problem could be solved from the start by the reference of items of mixed legal and non-legal character to joint committees of the Sixth Committee and another Committee. It was also possible, without change in the present rules, for any Committee to establish a sub-committee of legal experts, or to refer the legal aspects of an item to the Sixth Committee for advice.

22. The procedure of referring legal aspects of agenda items to the Sixth Committee was criticized by some delegations as cumbersome and time-wasting, since the same item would be discussed by two bodies of sixty members.

23. Other delegations contended that it was too early in the life of the General Assembly to select one or two out of the wide range of available methods for dealing with the legal aspects of agenda items; it was desirable to keep procedure in that respect as flexible as possible. On the other hand, a number of delegations thought that a recommendation by the Special Committee would be useful, so that attention might be directed to the desirability of giving separate consideration to legal aspects of questions.

24. A draft proposal (A/AC.60/L.14) by Canada, submitted as a basis for discussion and a draft (A/AC.60/L.15) by Belgium were withdrawn in favour of a revised draft (A/AC.60/L.14/Rev.1) prepared by an informal drafting group and sponsored by Canada, which was adopted as paragraph (d) of the recommendations at the end of the present report. It was made clear that, under that proposal, there would be no mandatory reference to the Sixth Committee and it would be left entirely to the Committee concerned to decide both whether the legal aspects were important enough to warrant reference to another body and whether a special sub-committee of the Committee concerned or the Sixth Committee should be asked to give advice.

25. A draft proposal (A/AC.60/L.16) of Sweden was withdrawn in favour of a United Kingdom amendment (A/AC.60/L.19) to the revised Canadian draft (A/AC.60/L.14/Rev.1); the latter amendment would have replaced the words "That, when a Committee considers the legal aspects of a question important, the Committee should..." by the words "That, if at least one-third of the members present and voting at a meeting of a Committee consider the legal aspects of a question important, the Committee shall...". That provision was put forward on the ground that a substantial minority of a Committee should be able to ensure that separate consideration would be given to the legal aspects of an item.

26. At its fifth meeting on 29 August 1952, the Special Committee voted on the proposals before it.

The United Kingdom amendment (A/AC.60/L.19) was rejected by 7 votes to 3, with 4 abstentions.

The revised Canadian draft proposal (A/AC.60/L.14/Rev.1) was adopted by 9 votes to 5, with no abstentions.

## V. METHODS AND PROCEDURES FOR DEALING WITH DRAFTING QUESTIONS

*Drafting of complex legal instruments such as international agreements, statutes of tribunals, etc.*

27. At the opening of the discussion, the United Kingdom submitted a draft proposal (A/AC.60/L.18) providing that in principle the drafting of certain specified types of complex legal texts should be carried out or reviewed by a body of experts legally qualified to do so; it was explained that those experts might be drawn from among the representatives to the General Assembly. Other delegations stated that, in general, that had been the practice of the General Assembly, and it would be advantageous to put it into written form.

28. Some delegations thought it desirable to provide expressly that drafting should always be performed by experts who were representatives of governments. Others thought that drafting ought never to be entrusted to a body different from that which was competent on the substance of the question.

29. During the course of the discussion it was pointed out that the Special Committee on Methods and Procedures, in paragraphs 13 and 14 of its report, approved by General Assembly resolution 362 (IV) of 22 October 1949 and annexed to the rules of procedure, made certain recommendations concerning the drafting of conventions, and concluded: "With regard to the drafting of legal texts, the Special Committee strongly recommends that small drafting committees should be resorted to whenever possible."

30. The Special Committee was in complete agreement with those recommendations and, in view of their previous approval by the General Assembly, did not find it necessary to adopt a new provision on the subject. However, the Special Committee considered it desirable that that point should be reaffirmed in its report. On that understanding, the United Kingdom withdrew its draft proposal.

### *Drafting of General Assembly resolutions*

31. Some delegations were of the opinion that the best results could be obtained in the drafting of General Assembly resolutions by providing that the rapporteurs of Main Committees should consult with the competent officials of the Secretariat and propose such modifications in style, form and the use of technical terms as were necessary.

32. Other delegations thought that not only the rapporteur but also the chairman and vice-chairman of the committee should also participate in the review of the drafting of resolutions submitted to Committees.

33. On the other hand, some delegations thought that, while it was always possible for the officers of Committees to consult the Secretariat on drafting problems, such consultation should not be made compulsory.

34. El Salvador submitted a draft proposal (A/AC.60/L.20), which was withdrawn in favour of a revised text (A/AC.60/L.20/Rev.1) incorporating amendments by the United Kingdom (A/AC.60/L.21), Belgium and Egypt. The revised draft of El Salvador was adopted by 11 votes to 3, with no abstentions, at

the fifth meeting on 29 August 1952, and is reproduced as paragraph (e) of the recommendations at the end of the present report. It was the understanding of the Special Committee that the recommendation made in paragraph (e) would in no way prejudice or hinder the establishment by Committees of *ad hoc* sub-committees to undertake drafting tasks.

35. In addition to the above proposals, the United Kingdom submitted a draft (A/AC.60/L.22) which provided for periodic meetings of the rapporteurs of Committees with the competent officials of the Secretariat to establish, in so far as practicable, common methods of drafting and to ensure that in general the drafting of resolutions was satisfactory from the point of view of style, form and the use of technical terms.

36. It was pointed out that there might be certain practical difficulties in arranging for periodic meetings of rapporteurs. The Special Committee decided to make no formal recommendation on the subject; nevertheless, the Committee believes that it is desirable that informal consultation should take place from time to time between the various rapporteurs and officials of the Secretariat for the purpose described in the United Kingdom proposal.

## VI. ANNUAL REPORTS BY THE SECRETARY-GENERAL

37. The United Kingdom submitted a draft proposal (A/AC.60/L.23) suggesting that the Secretary-General should be requested to furnish to the General Assembly an annual report on the matters dealt with by the Special Committee, indicating to what extent the Assembly or its Committees had succeeded during the year in realizing the objectives aimed at and suggesting any appropriate adjustments or improvements in the methods and procedures involved.

38. During the discussion, the representative of the Secretary-General recalled that the General Assembly, in paragraph 6 of resolution 362 (IV) of 22 October 1949, had requested the Secretary-General "to carry out appropriate studies and to submit, at such times as he may consider appropriate, suitable proposals for the improvement of the methods and procedures of the General Assembly and its committees...". It was pointed out that the Secretary-General was much concerned with improving the procedures and methods of the Assembly and that there was no need for a new resolution requesting reports on that subject.

39. The Special Committee agreed that the points covered by the United Kingdom draft could be included when advisable in reports of the Secretary-General under resolution 362 (IV); such reports should be submitted at the appropriate times, and at reasonably frequent intervals. Consequently, the United Kingdom draft (A/AC.60/L.23) was withdrawn, and the Committee makes no formal recommendation on the subject.

## VII. RECOMMENDATIONS OF THE SPECIAL COMMITTEE

40. The Special Committee submits the following recommendations for consideration and adoption by the General Assembly:

(a) That, whenever any Committee contemplates making a recommendation to the General Assembly to

request an advisory opinion from the International Court of Justice, the matter shall, at some appropriate stage of its consideration by that Committee, be referred to the Sixth Committee or to an *ad hoc* sub-committee established by the Committee concerned, for advice on the legal aspects and on the drafting of the request.

(b) That, whenever any Committee contemplates making a recommendation to the General Assembly to refer a matter to the International Law Commission, the Committee shall, at some appropriate stage of its consideration, consult the Sixth Committee as to the advisability of such a reference, and on its drafting.

(c) That, whenever any Committee contemplates making a recommendation for the adoption by the General Assembly of any amendment to the rules of procedure of the General Assembly, the matter shall,

at some appropriate stage of its consideration by the Committee, be referred to the Sixth Committee for advice on the drafting of such amendment and of any consequential amendment.

(d) That, when a Committee considers the legal aspects of a question important, the Committee should refer it for legal advice to the Sixth Committee or to an *ad hoc* sub-committee of the Committee concerned.

(e) That, normally, the chairman of a Committee shall, at the appropriate time, call upon the vice-chairman and the rapporteur to join him for the purpose of proceeding, in consultation with the competent officials of the Secretariat, to examine the draft resolutions from the point of view of style, form and the use of technical terms, and, when appropriate, to suggest to the Committee such changes as they deem necessary.

## DOCUMENT A/C.6/L.234

### United Kingdom of Great Britain and Northern Ireland: draft resolution

[Original text: English]  
[20 October 1951]

#### *The General Assembly,*

Considering that it is essential to establish for the work of the General Assembly "conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained", and to this end it is desirable that the General Assembly improve its methods and procedures for dealing with legal and drafting questions,

Taking note of the report and recommendations (A/2174) of the Special Committee established under resolution 597 (VI) of 20 December 1951,

#### *Decides:*

(a) That, whenever any Committee contemplates making a recommendation to the General Assembly to request an advisory opinion from the International Court of Justice, the matter shall, at some appropriate stage of its consideration by that Committee, be referred to the Sixth Committee or to an *ad hoc* sub-committee established by the Committee concerned, for advice on the legal aspects and on the drafting of the request;

(b) That, whenever any Committee contemplates making a recommendation to the General Assembly to refer a matter to the International Law Commission, the Committee shall, at some appropriate stage of its consideration, consult the Sixth Committee as to the advisability of such a reference, and on its drafting;

(c) That, whenever any Committee contemplates making a recommendation for the adoption by the

General Assembly of any amendment to the rules of procedure of the General Assembly, the matter shall at some appropriate stage of its consideration by the Committee, be referred to the Sixth Committee for advice on the drafting of such amendment and of any consequential amendment;

(d) That, when a Committee considers the legal aspects of a question important, the Committee should refer it for legal advice to the Sixth Committee or to an *ad hoc* sub-committee of the Committee concerned.

(e) That, normally, the chairman of a Committee shall, at the appropriate time, call upon the vice-chairman and the rapporteur to join him for the purpose of proceeding, in consultation with the competent officials of the Secretariat, to examine the draft resolutions from the point of view of style, form and the use of technical terms, and, when appropriate, suggest to the Committee such changes as they deem necessary.

#### *Directs:*

(1) That the terms of the foregoing decision should be embodied as an annex to the rules of procedure of the General Assembly;

(2) That the said annex should also set out, in the annex, paragraphs 19 and 20, 29 and 30, 35 and 36, 38 and 39 of the report (A/2174) of the Special Committee.