

## ***The Failure of the UN to Hold a Charter Review Conference in the 1950s: The Future in the Past?***

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### **I INTRODUCTION**

There are three formal means by which a multilateral treaty may be amended: through the development of customary international law which supersedes the treaty's provisions, by the negotiation of a subsequent agreement, and via the treaty's provisions on revision or amendment.<sup>1</sup> Article 26 of the Covenant of the League of Nations provided for amendments to take effect when ratified by a majority in the Assembly and by all members of the Council. The UN Charter contains two articles on amendment. Article 108 corresponds to article 26 of the Covenant. It specifies that an amendment requires ratification by two-thirds of the Members of the United Nations as well as by the permanent members of the Security Council. The difference between the amendment provisions in the two treaties corresponds to the different scope of the veto. In the League, all members of the Council effectively held a veto, whereas in the United Nations it is only the five permanent members of the Security Council who have a veto power.

In addition to article 108, the UN Charter includes an article providing for a general conference to review the Charter. This is article 109 by which:

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<sup>2</sup> of the Security Council. Each Member of the United Nations shall have one vote in the conference.
2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.
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.

For the first decade of the life of the United Nations it was widely assumed that a decision to hold a general conference to review the Charter would be taken by the General Assembly in 1955 if not before. The United States spoke publicly in favour of such a conference until the close of 1955. And yet no such conference eventuated.

This article traces the history of the idea of a review conference and the exit strategy by which the United States and the United Kingdom, once they had decided

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<sup>1</sup> Zacklin, *The Amendment of the Constitutive Instruments of the United Nations and Specialized Agencies* (1968) 7.

<sup>2</sup> Now nine.

that such a conference was not in fact desirable, avoided a review conference without ever needing publicly to acknowledge a change of policy. The fact that the question of Security Council reform, perhaps necessitating Charter revision, is currently high on the international agenda makes this a particularly apposite time to consider how, once the United States and United Kingdom had decided against such a conference, they were able to defuse the whole debate without needing to renege on earlier undertakings to support Charter revision.

## **II THE ASSOCIATION OF CHARTER REVIEW AND THE SECURITY COUNCIL VETO**

At San Francisco and for the first decade of UN life, the idea of a review conference was very much tied up with the question of the veto in the Security Council. It is well-known that the question of voting procedure in the Security Council caused considerable upset at San Francisco, the conference at which the Charter text was finalised. Those opposed to the veto, however, came to realise that the choice with which they were being presented by the sponsoring powers was, in stark terms, that of a United Nations inclusive of a veto in the Security Council, or no international organization. Much of the original drafting had taken place in the State Department and international meetings between the US, USSR, UK, and China had been held at the Dumbarton Oaks Estate in Washington DC from August to October 1944. This had given rise to a document entitled the “Dumbarton Oaks Proposals for a General International Organization”. With the arrangements for Security Council voting having later been agreed at the Yalta meeting of Churchill, Stalin, and Roosevelt in January/February 1945, the San Francisco Conference was presented with a largely finalised Charter text in April 1945.

The decision for middle and smaller powers to accept the Charter as inclusive of the veto was softened by the Charter provisions on amendment. The original Dumbarton Oaks Proposals had made no allowance for a Special Conference to review the Charter, Chapter XI providing only for a procedure under which amendments required a vote of two-thirds of the members of the General Assembly and ratification by a majority of members of the Organization, inclusive of all five Great Powers. This was tightened at San Francisco to require two-thirds ratification. Supporters of the change believed that it would reduce the risk of members finding themselves in a minority with respect to amendments in which they had not concurred.<sup>3</sup> Article 108 specified:

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council.

The so-called “small powers” at San Francisco attempted to prevent the extension of the great power veto into the process of amendment, where it would presumably be used to prevent amendment of the veto. But here too it came to be accepted that without the veto the US and USSR might not ratify the Charter.

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<sup>3</sup> Zacklin, *supra* note 1, 106.

In addition to the general provisions on amendment, the Sponsoring Powers proposed a general review conference, to be held at a date and place to be decided by a three-fourths vote of the General Assembly with the concurrence of the Security Council. Any alterations to the Charter recommended by a two-thirds vote of the Conference would take effect if ratified by the permanent members of the Security Council and by a majority of other members.<sup>4</sup> A number of invited governments also made proposals for a general review conference, some of which specified a definite time-limit for the calling of such a conference. Those in favour of setting a definite time-limit argued that it would not preclude amendment under article 108 but would favour the durability of the Organization, reduce the pressure for revision at a premature date and that it would facilitate ratification of the Charter since it would mean that certain provisions, on which not all wholly agreed, would at a later date be re-examined. Those opposed believed that it was unnecessary given article 108 and specifying a particular time meant that a review conference might be held when unwise or unnecessary.<sup>5</sup>

The United States put forward a compromise proposal to the effect that, if a general conference had not been convened by the tenth year after the Charter entered into force, a proposal to call such a conference would automatically be placed on the agenda of the General Assembly. This became paragraph 3 of article 109,<sup>6</sup> which can be understood as a concession to the smaller states. The prospects of a review conference being held seemed relatively high, particularly given that many delegations had not been totally happy with the Charter text as finalised at San Francisco. Even if the General Assembly did take a decision to hold a review conference, this would not guarantee that amendments, even if approved by a two-thirds majority at the review conference, would be ratified by all the permanent members.

### **III ONGOING DISSATISFACTION WITH THE VETO AND EARLY CONSIDERATION OF HOLDING A REVIEW CONFERENCE**

There was discussion of the possibility of holding a review conference from the earliest days of the General Assembly, prompted primarily by dissatisfaction with the functioning of the Security Council. The Soviet Union, which was in a much less favourable voting position in the Security Council than either the United States or United Kingdom, cast the first veto as early as 16 February 1946 and the first double veto,<sup>7</sup> on 26 June 1946. By the end of 1947 the veto had been used 23 times, once by France on its own, once jointly by the USSR and France, and the other times by the USSR.

Two proposals to amend the Charter were put forward at the first session of the General Assembly. The Philippines proposed an article 108 amendment to article 27(3) on Security Council voting procedure but withdrew this in favour of a Cuban proposal to convene a conference under article 109, the motivation again being to review the

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<sup>4</sup> United Nations Conference on International Organization, Documents, vol 7, p 462 cited in *ibid* at 110.

<sup>5</sup> Zacklin, *supra* note 1, 109.

<sup>6</sup> "Charter Review Survey: Action on Charter revision at the San Francisco Conference", AA 1838 851/10/1 Pt 3.

<sup>7</sup> I.e. one veto to prevent a question from being considered procedural and another to defeat the resolution as a substantive question.

matter of Security Council voting procedure. Cuba received little support other than from a small group of Latin and Central American states. The proposition was soundly defeated in the First Committee.<sup>8</sup>

At the second session of the Assembly, Argentina sought to invoke article 108 to amend article 61 of the Charter on ECOSOC membership, as well as proposing a general conference under article 109 to consider the question of the abolition of the veto power of the permanent members of the Security Council.<sup>9</sup> Speaking in support of the second proposal, the Argentinian representative attacked the veto in the Security Council, arguing that article 27(3) required revision. This proposal was rejected by the Special Political Committee while the proposal to amend article 61 regarding ECOSOC membership, which had not been pressed to a vote the previous year, was again not voted upon.

Amendment of the UN Charter was at this stage highly unlikely given the Soviet view that the principle of unanimity was “one of the vital provisions of the United Nations Charter”. The USSR believed that, if the principle were abolished or weakened, the Security Council “would be transformed into a blind instrument in the hands of the Anglo-American bloc. All decisions would be taken only under United States dictation.”<sup>10</sup> It was not that the Western Powers would necessarily have wanted the veto removed but that, with the strength of Soviet opposition to the very idea, no other State really needed to give the question any serious consideration.

#### **IV THE UNITED STATES AND THE POSSIBILITY OF A CHARTER REVIEW CONFERENCE**

There was considerable interest in the question of Charter Review in the United States during the five years after 1945. A number of resolutions on the subject were introduced into the US Senate. After a two months’ consideration of several resolutions, the Senate Committee on Foreign Relations on 19 May 1948 unanimously reported a resolution (S Res 239) to the Senate and recommended that it be passed. The resolution proposed that the US seek voluntary agreement that the veto not be applied in matters of peaceful settlement of disputes and in the admission of new states to UN membership. Under this formula the five permanent members would be called upon to waive voluntarily their right of veto with respect to certain types of decisions. The committee believed that it would be “extremely unwise” at that time to adopt the alternative of “insisting upon drastic revision of the Charter which might result in splitting the United Nations and further accentuating the differences already existing between East and West”.<sup>11</sup>

On 11 June 1948 the United States Senate adopted the so-called “Vandenberg resolution”, by which the President was to be advised of the sense of the Senate that the Government pursue the following objectives within the United Nations Charter:

- (1) Voluntary agreement to remove the veto from all questions involving pacific settlements of international disputes and situations, and from the admission of new members.

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<sup>8</sup> GAOR (I/2), 1<sup>st</sup> Comm, 326-7; annex 7d (A/C 1/58).

<sup>9</sup> A/C 1/58 and A/351.

<sup>10</sup> General Assembly, Verbatim Records, 14 April 1949. A/PV 192, 1948-49, 33-50.

<sup>11</sup> “Report of the Senate Committee on Foreign Relations on the Vandenberg Resolution, May 19, 1948” reprinted in *Review of the United Nations Charter. A Collection of Documents* (1954), 132-141.

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(6) If necessary, after adequate effort toward strengthening the United Nations, review of the Charter at an appropriate time by a General Conference called under article 109 or by the General Assembly.<sup>12</sup>

Interest in Charter amendment subsided both in the General Assembly and in the United States, after 1948. From 1950 to 1953 the question of revising the Charter continued to take a back seat in the United States to problems of the Korean War and the United for Peace plan.<sup>13</sup> Interest began to rebuild as the prospect of a ten-year review conference drew closer.

John Foster Dulles, who had been a member of the US delegation at the San Francisco conference, the US representative in the General Assembly in 1946, 1947 and 1950, consultant to the Secretary of State in 1951-1952, and who was to be Secretary of State from 1953 to 1959, was a strong supporter of the idea of Charter review. In early 1950 he wrote:

There is little to hope for, and much to fear from a diplomatic conference between the leaders of a few great powers . . .

[But] there is much to hope for, and little to fear, from another great world conference called primarily to modernize the United Nations in the light of its five year's experience, and to review broadly its basic objectives of peace, justice, human liberty, and regulation of armaments.<sup>14</sup>

Dulles recognised that it had "only been possible to secure acceptance of the Charter at San Francisco by a provision assuring that there would be an opportunity to review it in the light of experience."<sup>15</sup>

On 16 August 1953 the Netherlands requested that "Preparatory Work ... for a General Conference of the Members of the United Nations in accordance with Article 109 of the Charter" be placed on the provisional agenda of the eighth session of the General Assembly.<sup>16</sup> The Netherlands considered that preparatory work for such a conference might include a compilation of the jurisprudence of the United Nations and for individual States to submit tentative proposals and suggestions regarding possible Charter revision, prior to the Tenth Session in 1955. It was at this stage widely assumed that a general review conference would be held after ten years of UN operation.

John Foster Dulles sought to arouse public attention, in the United States and elsewhere, to the opportunities such a Conference would present for the "peoples" referred to in the preamble to the Charter to contribute in a way that had not been possible when the war was still being fought.<sup>17</sup> Speaking to the American Bar Association on 26 August 1953, Dulles referred to the UN Charter as the "master security treaty of our time" and to the anticipated Charter Review Conference of 1956

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<sup>12</sup> S Res 239, 80<sup>th</sup> Cong, 2d sess, reprinted in *Review of the United Nations Charter*, *ibid*, 140-141.

<sup>13</sup> Weiler and Simons, *The United States and the United Nations: The Search for International Peace and Security* (1967) 406.

<sup>14</sup> Dulles, *War or Peace* (1957) 208.

<sup>15</sup> "Address by the Honorable John Foster Dulles, Secretary of State, Made in General Debate of the United Nations Assembly, New York Thursday, September 17, 1953", State Department Press Release No 505 AA A1838 851/10/1 Part 1.

<sup>16</sup> New Zealand had suggested at the seventh session that it might be useful to appoint a Preparatory Committee immediately to receive and analyse suggestions for revision, but the proposal was not taken up by the General Assembly. The Argentine proposal was A/2415. 'Revision of the Charter' G A 8/Supplementary Item 12. AA A1838 851/10/1 Part 1.

<sup>17</sup> "Charter Revision", Department of State Press Release, 3 September 1953. A1838 851/10/1 Pt 1.



as “comparable in its importance to the original San Francisco Conference”. He went on to claim that, in its present form, the United Nations had not met “all our expectations” and listed as “serious inadequacies” the “obsolete” pre-atomic provisions dealing with disarmament and the assumption of effective co-operation “with a nation which is dominated by an international party seeking world domination”.

The Subcommittee of the Senate Foreign Relations Committee held hearings across the United States, revealing three sets of attitudes. First was that which regarded the United Nations as a threat to US sovereignty. They were more interested in abolishing the Organization than in changing it. Second were those who sought to modify the United Nations so that it functioned more as a world government. And third were those generally in support of the United Nations but which sought to limit any change, especially to the Charter itself.<sup>18</sup> Speaking before the General Assembly in 1953, John Foster Dulles re-stated his view that the opportunity to hold a review conference “should be grasped”.<sup>19</sup> The United States representative in the Sixth Committee, Governor James F Byrnes, also stated clearly that the United States favoured the holding of a review conference.<sup>20</sup> He emphasised that discussion should not start on the premise that the Charter was to be amended in a certain way, or necessarily, amended at all. What was to be involved was a *review* of the Charter.

Not all countries were at this stage as convinced as the United States’ public position suggested that it was. The “preliminary and very tentative” official attitude of Canada was one of doubt as to whether such a review conference, if held, would serve any purpose sufficiently useful to outweigh the risk “of stirring up a hornet’s nest”.<sup>21</sup> Speaking in the Sixth Committee debate at the eighth session, the Australian representative stated that the Committee was concerned only with the procedure and not in the concrete views on where the Charter needed amending. Some states, including Belgium, opposed even the establishment of an Advisory Committee to carry out preparatory work for the possible convening of the Charter Review Conference. Nevertheless, by resolution 796(VIII) adopted on 27 November 1953, the General Assembly requested the Secretary-General to prepare certain documentation to facilitate consideration at the tenth session, of the possible calling of such a conference.

At some stage in late 1953 or early 1954, Dulles began to lose his earlier enthusiasm for a review conference. In February 1954 Canadian diplomats reported that Dulles was apparently more pessimistic in private than he felt he could be in public about the prospects for Charter revision. Dulles was said to consider it doubtful as to whether any document at all would emerge from a review conference and was almost certain that anything on which agreement could be reached would be less satisfactory than that already in place.<sup>22</sup> Indeed, he was said to have commented privately that he saw his present task as one of “letting Congress down gradually” and of fending off “well-meaning but starry-eyed amateurs who wish to advance the millennium of which they were deprived by the bungling of the Founding Fathers in San Francisco”.<sup>23</sup>

While it is not clear exactly when and why Dulles lost much of his earlier enthusiasm for the possible benefits of holding a conference, there were plenty in the

<sup>18</sup> This paragraph draws on Weiler and Simons, *The United States and the United Nations: The Search for International Peace and Security* (1967) 409-410.

<sup>19</sup> “Address by the Honorable John Foster Dulles”, *supra* note 15, Part 1.

<sup>20</sup> ‘Charter Review Survey: Action at the Eighth Session of the General Assembly’. [Canadian] United Nations Division Working Paper No 54/9, April 1954, A1838 I851/10/1 Part 3.

<sup>21</sup> “Revision of the Charter” G A 8/Supplementary Item 12, AA A1838 851/10/1 Part 1.

<sup>22</sup> The Permanent Delegate of Canada to the United Nations, New York to the Secretary of State for External Affairs, Ottawa, 4 February 1954, AA A1838 I851/10/1 Pt 2.

<sup>23</sup> *Ibid.*

United States who were consciously attempting to dampen enthusiasm for the idea. In December 1953 Mr Joseph E Johnson of the Carnegie Endowment for International Peace brought together a group of private American citizens with the object of deliberately bringing United States thinking on the subject down to earth. A private meeting was held at Princeton, attended by academics and members of Foundations as well as several from the State Department.<sup>24</sup>

Dulles' statement of 18 January 1954 before the Subcommittee on the United Nations Charter of the Senate Committee on Foreign Relations had a markedly different tone to that of his speech in Boston the previous year. Dulles now spoke in terms of "expect[ing] to favor the holding of a Review Conference".<sup>25</sup> Dulles believed that the Charter may have been very different had the atomic era already begun at the time of San Francisco, and he listed some of the topics that could usefully be considered at the conference. These included:

- The principle of universality;
- The further development of international law;
- The adequacy of the security provisions in the Charter;
- The possible elimination of the veto in the Security Council on decisions regarding the admission of new members and the pacific settlement of disputes;
- The possibility of some form of weighted voting in the General Assembly; and
- The possibility of a special UN organ to deal with the problems of disarmament.<sup>26</sup>

But Dulles said nothing that could be construed as an attack on the veto, stating that the United States would hesitate to go further in surrendering its own veto power than perhaps removing the application of the veto from questions involving pacific settlement of disputes and the admission of new members. Dulles made the point that differences of opinion about how the United Nations should be strengthened "should not be pressed to a point such that the Review Conference would result in undermining the United Nations or disrupting it. The United Nations as it is is better than no United Nations."

By this stage, the United Kingdom delegation had already recommended to the Foreign Office that what may be the "Great Debate" of the United Nations should not be prejudiced by "ill-informed United States public opinion". The delegation had recommended to the Foreign Office that on the next occasion when high level talks between the United States and United Kingdom take place, the UK should make clear its desire to reach advance agreement with the United States on very modest objectives for Charter review. It was the view of the UK delegation that such an approach would "strengthen the hand" of Dulles and State Department officials "who might otherwise feel compelled, because of the pressure of Congress and public opinion, to pursue more far-reaching aims which might be dangerously divisive in their results and could not in any case be achieved without stretching the Charter".<sup>27</sup>

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<sup>24</sup> Mr Gross, Mr Hyde, Dr Jessup, Mr Robert Murphy, Mr Lincoln Bloomfield and Mr Leonard Meeker: *ibid*.

<sup>25</sup> Speech by Secretary Dulles, 18 January 1954 before the Subcommittee of the Senate Foreign Relations Committee. GET.

<sup>26</sup> See his testimony in US Senate, 83<sup>rd</sup> Congress, 2<sup>nd</sup> Session, *Review of the United Nations Charter: Hearings before a Subcommittee of the Committee on Foreign Relations* (1954) Part 1 10ff.

<sup>27</sup> Permanent Delegate of Canada to the United Nations, *supra* note 22.

David Wainhouse, Deputy Assistant Secretary of State for United Nations Affairs, similarly emphasised in a speech on 10 April 1954 that the Charter was capable of undergoing informal change as political conditions changed, as evidenced by the United for Peace resolution.<sup>28</sup> The US considered it a matter of good faith to support the holding of the conference, given that at San Francisco some of the smaller States had supported adoption of the Charter only on the assumption that they would be given the opportunity to re-examine the Charter after a ten-year trial. This was particularly true given the dynamic political changes since World War II.<sup>29</sup> And yet, while still supportive of the review, the State Department did not want to foster “over-optimism” as to what would be possible at the conference. “Changes in language alone cannot transform the behavior of nations.”<sup>30</sup>

As the Tenth Session approached, at which the subject was automatically to appear on the agenda, it still seemed likely that a proposal to hold a review conference would get the necessary majority vote in the Assembly, although it was not exactly clear just how the US would approach the question. The US in April 1955 renewed its public support for a review conference,<sup>31</sup> but it was not known how hard the US would lobby for the conference, and its commitment did not appear to extend to any particular timing, preparations for the conference, revisions or amendments. Given that the USSR had come out definitely against a conference it was difficult for US allies to express publicly their doubts. But they undoubtedly existed. Australian diplomats had concluded by early 1955 that amendments of substance were hardly likely to receive the necessary support and discussion of them may well lead to barren controversy and the hardening of positions.<sup>32</sup> Krishna Menon summed up the position of the Government of India by saying “If the Charter has to be revised, it will require agreement, and if there was agreement there would be no need for revision”.<sup>33</sup> Even the UN Secretary-General, Mr Hammarskjöld, commented on 25 April 1955 that, while he was required to place the question of calling a conference to review the Charter on the agenda of the next session of the General Assembly, he was against attempting change. He did not believe that differences between the Powers could be resolved by any “constitutional magic”.<sup>34</sup>

By July 1955, Australian officials reported that doubts about the wisdom of holding the conference had been expressed by Canada, Chile, Denmark, France, India, Mexico, Netherlands, New Zealand, Pakistan, Syria, United Kingdom and the USSR.<sup>35</sup> The UK was wary. The UK and Australia also feared that the “colonial issue” would be raised in an acute form alongside that of Chinese representation in the United Nations. The UK delegation to the UN reportedly suggested to the Foreign Office the possibility of avoiding, or at least postponing, a review conference in 1956 by proposing that the 1955 General Assembly set up a committee to consider the necessity for a conference

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<sup>28</sup> “Address by David W Wainhouse, Deputy Assistant Secretary of State for United Nations Affairs Before the Institute on United Nations Charter Review at the University of Minnesota, Minneapolis, Minnesota”, 10 April 1954, Press Release of the Department of State No 186, AA A1838 851/10/1 Part 3, 4.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> *New York Times*, New York, United States, 14 April 1955.

<sup>32</sup> Shann, Acting Assistant Secretary, UN and External Affairs, 18 January 1955. Australian Archives 851/10/1 Pt 4.

<sup>33</sup> “Charter Review Conference” for Mr Lawrey, UN Section, External Affairs, 21 July 1955 AA A1838/1 851/10/1 Pt 6A.

<sup>34</sup> “Conversation between the Secretary of State and Mr D. Hammarskjöld, Secretary-General of the United Nations”, 25 April 1955, AA A1838 I:851/10/1 Part 5.

<sup>35</sup> “United Nations Charter Review”, 19 July 1955, AA A1838 I:851/10/1 Part 6A.



and to report to the following General Assembly.<sup>36</sup> This idea was echoed in the second interim report of the Subcommittee on the United Nations Charter of the Committee on Foreign Relations, presented on 2 August 1955. While it concluded that it had not found compelling reasons against the calling of a review conference,<sup>37</sup> the Subcommittee did refer to the possibility that as an alternative to a conference being called by the 10th General Assembly, a continuing committee of the Assembly might be established to study all the issues involved and keep the question open for a reasonable period of time.<sup>38</sup>

Debate on Charter Review began in the General Assembly on 17 November 1955. The item attracted a “good deal less interest than might have been expected”.<sup>39</sup> Very few States, other than those of Latin America, favoured the early holding of a conference. The United States proposed the compromise position that the Assembly approve in principle the convening of a conference. The United States’ representative, Mr Bell, adopted a more positive tone, citing as reasons to justify reviewing the Charter provisions for the admission of new members and atomic and disarmament developments, but pointed to the need for thorough preparatory work and a favourable political climate. India and Egypt proposed increasing the proposed committee by twelve. The sponsors first tried to meet the Indian amendment by increasing the proposed Committee by three or six rather than twelve – the Indian list contained a large proportion of Arab and Asian States that the sponsors believed would unbalance the Committee. They finally decided that this was not possible and introduced a revised resolution by which the Committee was increased to include all members of the United Nations.<sup>40</sup>

By Resolution 992 (x), adopted by the General Assembly on 21 November 1955, by 43 (Australia) – 6 (Soviets, Syria) – 9 (India, Scandinavians, Yugoslavia, Saudi Arabia, Yemen, Afghanistan), the Assembly decided that a General Conference to review the Charter should be held “at an appropriate time”. It further decided to appoint a Committee of the whole to consider “the question of fixing a time and place for the conference, and the organization and procedures”, and to report at the twelfth session of the General Assembly. At the opening of its discussions on 3 June 1957 the Committee for the Purpose of Reviewing the Charter considered a proposal that the report be submitted no later than the fourteenth session of the General Assembly. On 14 October 1957 this proposal was endorsed as resolution 1136(XII) of the General Assembly. While the Committee was to play some role in the preparation for the 1963 decisions to expand of the Security Council and ECOSOC, it never advised that the time was propitious for a general conference to review the Charter. It thus served as a useful delaying tactic.

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<sup>36</sup> Cable 168 from Australian Mission to the United Nations, New York, to External Affairs, 6 April 1955. AA 851/10/1 Pt 5.

<sup>37</sup> *Review of the United Nations Charter*. Second Interim Report of the Committee on Foreign Relations of its Subcommittee on the United Nations Charter (1955) 2.

<sup>38</sup> Ibid at 4.

<sup>39</sup> Australian Mission to United Nations to The Secretary, External Affairs, 25 November 1955, AA A989 I1943/735/356.

<sup>40</sup> This paragraph draws on ibid.

## V CONCLUSIONS

Ralph Zacklin referred to the debate that took place at the Tenth Session of the General Assembly pursuant to article 109(3) as “a classic example of the institutional internment of an undesirable subject matter”.<sup>41</sup> Certainly it was a means by which governments that had previously expressed strong support for Charter amendment were able to avoid further debate on the subject once it became clear that the likelihood of positive change as a result of further debate was minimal. It might just be that, when the current debate on Security Council reform comes to a head, key players will similarly turn from advocating change to seeking a way out – possibly through some similar device which can sustain the possibility of future review while precluding any immediate change. However imperative the need for reform might appear, delay might at some stage come to appear more attractive. It just might be that the future lies in the past?

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<sup>41</sup> Zacklin, *supra* note 1, 118.