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**Chairman:** Mr. Yordan TCHOBANOV (Bulgaria).

AGENDA ITEM 74

The status of the German-speaking element in the Province of Bolzano (Bozen); implementation of General Assembly resolution 1497 (XV) of 31 October 1960 (A/4802 and Add.1, A/4884; A/SPC/55; A/SPC/L.77) (continued)

1. Mr. TOWNSEND (Peru) said that the General Assembly's unanimous adoption at the fifteenth session of resolution 1497 (XV) had seemed to hold out hope for an amicable solution of the dispute between Austria and Italy, under the auspices of the United Nations. Unhappily, the direct negotiations proposed in that resolution had not been successful and the item was once again on the General Assembly's agenda. The unfortunate outbreaks of violence in the area were also not conducive to a peaceful settlement.

2. Both parties were agreed that the dispute concerned the implementation of the Paris agreement.<sup>1/</sup> The General Assembly had recognized in resolution 1497 (XV) that the status of the German-speaking element in the Province of Bolzano was regulated by that agreement and the question was clearly, therefore, a legal one. The Peruvian delegation regretted that it had not so far proved possible to reach a settlement, but it could not regard the negotiations as closed. Both parties had a tradition of respect for international law and possessed common interests and common responsibilities towards the free world. Peru earnestly hoped that the two Governments would respond to the renewed appeal of the international community and resume negotiations. If that approach proved impossible, the Peruvian delegation believed that the Paris agreement and General Assembly resolution 1497 (XV) opened the way for the possible voluntary submission of the question to the International Court of Justice. The General Assembly was not seeking to impose a solution but only to offer assistance to the two countries concerned with a view to facilitating a procedure of their own choice. Any other course would be dangerous, for although the powers and authority of the General Assembly had been gradually increasing over recent years, it was not a judicial organ. Its present powers would not extend to the appointment of a commission of investigation, as the Austrian delegation had sug-

gested (289th meeting). If both parties were agreeable, the logical step would be recourse to the Court.

3. In conclusion, he wished to convey to the Italian Government and people his delegation's condolences on the murder of the thirteen Italian airmen in the service of the United Nations.

4. Mr. ZABARAH (Yemen) said that his delegation was in favour of the settlement of the dispute between Austria and Italy by peaceful means and by negotiations between the parties concerned, in accordance with the provisions of Charter and the principles of international law. No new element had arisen in the dispute since the General Assembly's adoption of resolution 1497 (XV), and he considered that the two countries should continue their efforts to reach a direct settlement. If their efforts proved unsuccessful, the question should be placed before the appropriate judicial body. The dispute centred upon the implementation of a treaty and only a judicial authority such as the International Court of Justice had the power to settle it once and for all. He regretted that acts of violence had occurred in the area which were likely to impair relations between the two countries. A solution would not be brought nearer by such deplorable means.

5. He asked the Italian delegation to convey his delegation's sincere condolences to the Government and people of Italy on the murder of the thirteen Italian airmen in Kivu province.

6. Mr. MILLET (France) recalled that at the fifteenth session of the General Assembly his delegation had expressed its regret at the dispute between Austria and Italy and had suggested that the General Assembly was perhaps not the most appropriate place in which to find a solution.<sup>2/</sup> The Assembly, however, had been wise enough to limit itself to noting the existence of a difference over the implementation of the Paris agreement which governed the status of the German-speaking element in the Province of Bolzano, and had unanimously adopted resolution 1497 (XV) calling upon the parties to resume their negotiations and, in the event of failure, to give favourable consideration to the possibility of seeking a solution by any of the means provided in the Charter, including recourse to the International Court of Justice.

7. The Foreign Ministers of Austria (289th meeting) and Italy (290th meeting) had described the course of the negotiations held in accordance with the resolution's recommendations. It was clear that a genuine effort had been made and was in fact still going on and the French delegation wondered, in the circumstances, whether the current debate was truly necessary or advisable. It was unwise to allow questions to reappear automatically on the Assembly's agenda. Resolution 1497 (XV) had rightly refrained from fixing any time-limit for the direct negotiations and had referred only

<sup>1/</sup> United Nations, *Treaty Series*, vol. 49 (1950), No. 747, annex IV.

<sup>2/</sup> Official Records of the General Assembly, Fifteenth Session (Part I), Special Political Committee, 178th meeting.

to "a reasonable period of time". He did not share the apparent assumption that "a reasonable period" was the interval between sessions of the General Assembly. The previous speakers had all rightly refrained from taking up the substance of the dispute, which was unquestionably of a legal nature. If the General Assembly attempted to give advice on such a complex matter, it would only delay and possibly complicate a settlement by introducing political considerations outside the scope of the dispute. The Assembly's wisest course would be to recommend, without dwelling any longer on the item, that the two parties should resume their negotiations. Resolution 1497 (XV) was still valid and the process of direct negotiations had not by any means been exhausted.

8. His delegation welcomed the establishment by Italy of a special committee to study the problems of the Alto Adige. It also noted that the Italian Government had reaffirmed its willingness to apply resolution 1497 (XV), while the Foreign Minister of Austria had stated that the implementation of the resolution was a valuable prerequisite for a satisfactory solution. To continue the debate any further would be to display a lack of confidence in the peaceful intentions of the parties and in the diplomatic resources at their disposal. Resolution 1497 (XV) was an act of faith by the General Assembly in the ability of Italy and Austria to settle their dispute by peaceful means and that faith had not been disappointed despite the violence that had taken place in the area since the adoption of the resolution.

9. Mr. PLIMPTON (United States of America) expressed the profound regret and deep sympathy of the Government and people of the United States for the tragedy that had cost the lives of the Italian airmen serving in the Congo in the cause of peace.

10. The United States had followed with sympathetic interest the serious efforts made by Austria and Italy over the past year to achieve a settlement in accordance with the terms of resolution 1497 (XV). It had been heartened by the Italian Government's establishment of a special committee to study the position in the Alto Adige and it deplored the acts of violence that had made the attempt to reach an accommodation more difficult. It earnestly hoped that the initiatives now under way would lead to a mutually acceptable agreement. In the circumstances, the General Assembly could best contribute to a solution of the problem by urging both parties to continue their efforts in accordance with the recommendations of resolution 1497 (XV). If those efforts proved fruitless, recourse to the International Court of Justice or to another body agreed upon by both parties would appear to be the most promising method of achieving the lasting settlement that was desired by all delegations.

11. Mr. CHAU SENG (Cambodia) said that despite their differences, the Governments of Italy and Austria were determined to achieve a peaceful settlement of their dispute. All supporters of non-violence must applaud that determination.

12. The Italian Government believed that the recommendations in operative paragraph 2 of resolution 1497 (XV) had not yet been carried out, and consequently deplored the Austrian Government's decision to bring the matter once again before the General Assembly. It was in favour of recourse to the International Court of Justice, while Austria would prefer the establishment of an international commission of investigation, on the ground that the question was more political than

legal. The Cambodian delegation supported that view. While it would not express an opinion on the substance of the dispute, it was strongly in favour of granting minorities the greatest possible amount of autonomy, with a view to safeguarding their ethnic character and their cultural and economic development. He recalled the case of the Khmers, the oppressed Cambodian minority in South Viet-Nam. Cambodia did not claim the condition of the German-speaking element in Bolzano was the same, but it was nevertheless in favour of granting them the greatest possible measure of autonomy.

13. However, the discrepancy between the Italian and the Austrian view was not as wide as it seemed. Both parties had agreed to respect the terms of the Paris agreement, and although Italy claimed that it had carried out its international obligations under that treaty, it was ready to make further special arrangements for the German-speaking element in certain specific matters. The task of interpreting the Paris agreement might perhaps be given to a legal body, but account must also be taken of the aspirations of the German-speaking minority or no real settlement could be achieved. Recourse to the International Court of Justice should not be incompatible with the establishment of an international commission of investigation. However, the Cambodian delegation would not vote in favour of any resolution that was not agreeable to both parties. It urged Italy and Austria to resume their direct negotiations. The United Nations Secretariat might perhaps appoint an official to participate in the negotiations, provided that the appointment was agreed to by both sides. Cambodia earnestly hoped that the new conversations would lead to the choice of a peaceful method of settling the dispute that would be agreeable to both Austria and Italy.

14. In conclusion, he expressed his delegation's condolences over the tragic death of the Italian airmen in the Congo, in the service of the United Nations.

15. Mr. PAPAGOS (Greece) remarked that his delegation had hoped that the General Assembly's debate at the fifteenth session and the unanimous adoption of resolution 1497 (XV) would be the beginning of an understanding in the dispute under discussion. At that session<sup>3/</sup> his delegation had made it clear that in its view the legal basis for any action by the General Assembly was the possible violation of the Paris agreement. The mere existence of an ethnic minority would not justify intervention by the United Nations, and without an international instrument, the matter would have been within the domestic jurisdiction of Italy. After examining the question closely, the General Assembly had adopted resolution 1497 (XV). Unfortunately, the bilateral negotiations undertaken in accordance with it had been interrupted. It was to be hoped that the acts of violence that had poisoned the atmosphere would not recur.

16. The General Assembly must take up the question where it had been left at the previous session with the adoption of resolution 1497 (XV). In that resolution, the Assembly had clearly envisaged recourse to the International Court of Justice as a procedure for settlement likely to lead to a definitive solution and thus eliminate a dangerous situation. However, if both sides were agreeable, the Greek delegation would not object to any other means of settlement, such as the appointment of an international commission. An *ad hoc* international

<sup>3/</sup> *Ibid.*

commission would not, of course, present the advantages of the International Court of Justice, an established body with great prestige.

17. He drew attention to the moderate and dignified tone of the statements of both Foreign Ministers and sincerely hoped that it would be possible to arrive at a friendly solution. The world was full of tension and the United Nations had a duty to the peoples of the world to eliminate all possible sources of conflict.

18. Mr. ZEA (Colombia) wished to ask the Italian Minister for Foreign Affairs to convey to his Government and people the profound regret of the Colombian Government and people at the death of the thirteen Italian airmen who had been serving the cause of peace in the Congo.

19. He did not feel that it was for him to go into the historical and sociological background of the dispute between Austria and Italy, for it had been described at length by the representatives of both countries. The important thing from the standpoint of the United Nations was that the existing tension in the area in question had reached a point where violence had broken out and the General Assembly should do whatever it could to help bring about a solution as quickly as possible. In his view, the provisions of General Assembly resolution 1497 (XV) still held good, for it did not appear that the parties had exhausted all possibilities of settling the dispute either through bilateral negotiations or by some other peaceful means, such as recourse to the International Court of Justice. The issue was simplified by the fact that although Austria considered it a political rather than a legal matter, it had disclaimed any intention to seek revisions of existing treaties or alterations of the frontier between itself and Italy and had expressed the view that it was necessary to reach a satisfactory and lasting solution on the basis of the application of article 2 of the Paris agreement. Thus the dispute was limited to the question whether or not that article had been implemented. That was clearly a legal problem and as such should be referred to the International Court of Justice if other attempts to settle the dispute failed. The Court's judgement concerning the way in which the Paris agreement was being implemented would at the same time clarify the political issue involved. His delegation would not, however, be opposed to the adoption of any other peaceful means of settlement acceptable to both parties, for Colombia as a democratic country was a staunch advocate both of the rights of minorities and of the sanctity of international agreements.

20. Mr. VALDES LARRAIN (Chile) said that he wished to express Chile's deep regret over the tragic events in the Congo which had led to the death of the thirteen Italian airmen.

21. His country, which had benefited from the contributions made to its development by both Austrian and Italian settlers, had hoped that the parties to the dispute would be able to resolve it between themselves, since solutions reached bilaterally on the basis of a conciliatory attitude on both sides were always preferable to public recriminations. As the question had not, however, been settled it was fortunate that in the view of Austria and Italy alike it was limited to the interpretation of a treaty respected by both sides. General Assembly resolution 1497 (XV), which had recognized that the status of the German-speaking element in the area in question had been regulated by the Paris agreement and called on both parties to renew their efforts to solve their differences relating to the imple-

mentation of that agreement, had in effect signified that it was not for the United Nations to rule on the substance of the issue. That was still the case. In other instances United Nations resolutions had been ignored by one or more of the parties to which they had been addressed, but in the case under consideration both parties had complied with the request that they should resume negotiations and had submitted to each other proposals and counter-proposals, some of which had been accepted and others rejected, depending on each side's interpretation of the Paris agreement.

22. Since, however, no final decision had been reached, his delegation did not feel that the time had come for either side to conclude that negotiations should be abandoned. Indeed, progress had been achieved in clarifying certain aspects of the problem and he was convinced that if the negotiations had continued they would ultimately have led to a satisfactory solution. Under General Assembly resolution 1497 (XV) the step to be taken in the event that negotiations failed was to seek a solution of the dispute by any of the means provided in the Charter, including recourse to the International Court of Justice; his delegation thought that inasmuch as the Court was a permanent body composed of experts such a step would be preferable to the establishment of a special commission. The acts of violence which had occurred in the area were to be deplored, for they had only aggravated the existing tension and made it more difficult for a solution to be reached on the basis of the Paris Agreement.

23. Mr. CROWE (United Kingdom) said that his delegation deeply regretted that the dispute between Austria and Italy had come before the Committee once again, for it had hoped that the adoption of resolution 1497 (XV) would enable the parties to find a solution to the problem. The United Nations was not the place either to examine the historical background of the dispute, or to formulate views concerning the issues involved. The Committee was not qualified to settle a legal question of that kind and he was of the opinion that the only really satisfactory and lasting settlement would be one which, meeting the needs of both parties, was arrived at by agreement between them. He accordingly had welcomed the negotiations undertaken by the two parties in accordance with paragraph 1 of the Assembly's resolution and hoped that the possibilities which they offered had not been exhausted. Similarly, he welcomed the news of the appointment of the Special Committee and trusted that its recommendations would open up new prospects for a solution of the problem. In any event, he did not think that the possibilities envisaged in resolution 1497 (XV) had been exhausted. His delegation felt that any new resolution must meet with the acceptance of both parties if it was to be workable. That was the basic consideration with which it would approach any draft resolution that might be put before the Committee.

*Mr. Sanz Briz (Spain), Vice-Chairman, took the Chair.*

24. Mr. TCHEN (China) thought that General Assembly resolution 1497 (XV), the implementation of which was the issue now before the Committee, was a fair and appropriate resolution that took into account the interests of both parties to the dispute. Agreed to by both Austria and Italy, it had appeared to point the way to a satisfactory settlement and it was a source of deep disappointment to his delegation that the Austrian Government should have felt obliged to bring up the

matter again at the present session (A/4802 and Add.1). The two Governments concerned had been in agreement on the substance of the problem, namely, the existence in Italian territory of a German-speaking element desirous of preserving its ethnic characteristics and cultural heritage and the need to guarantee to it complete equality of rights with the Italian-speaking inhabitants. They had also both seemed anxious to reach a mutually satisfactory solution. The present outlook was not entirely negative, for both parties had complied with paragraph 1 of the Assembly's resolution urging them to resume negotiations, and although so far no conclusive results had been achieved the consideration of the item by the sixteenth session might be the starting point for a new effort on their part. The restoration of an atmosphere of calm in the area would, of course, greatly contribute to the possibility of a negotiated settlement and it was encouraging to note in that connexion the statement by the Italian Minister for Foreign Affairs that the Austrian Government (290th meeting) had recently taken measures to making the organization of terrorist acts in Italy more difficult. It was likewise cause for satisfaction that the Austrian Government, despite certain reservations, had welcomed the establishment by the Italian Government of a special committee to study the problem with a view to determining what measures would be best calculated to meet the wishes of the people concerned. His delegation would not question the sincerity of the Italian Government's desire to ensure the well-being of the inhabitants of the Province in the spirit of the Paris agreement. Austria, as a party to that agreement, was in a position to ascertain whether appropriate measures were being taken. If, however, it was to be concluded that an amicable bilateral settlement was no longer possible, he did not think that the question of the delays involved would give Austria justification for continuing to oppose recourse to the International Court of Justice.

25. The desire expressed by both parties to reach a fair settlement led his delegation to conclude that bilateral negotiations still offered the best hope of satisfying the interests of all concerned.

26. Mr. MAHMUD-GHAZI (Afghanistan) wished at the outset to express to the Italian delegation the profound sympathy of his delegation on the occasion of the tragic death of the Italian airmen in the service of the United Nations.

27. It was to be regretted that a dispute which everyone had hoped could be settled by direct negotiations should have again come before the Committee. Unhappily, the issue not only remained very much alive but had been aggravated during the past year by acts of violence in the area concerned. A year earlier it had been possible to hope that the problem was a temporary flare-up of emotions which would die down with the passage of time. Now its full implications were beginning to be apparent and the Assembly was faced with the choice of either finding an early solution based on logic and reason, or passively standing by while the situation continued to deteriorate. Similar problems in the past had often ended in bloodshed; that was particularly true when the legitimate aspirations of men, or their pride and dignity, were involved.

28. The Committee must begin by ascertaining the real nature of the dispute. The case was one of a large community of people who wished to preserve their identity, their way of life and their cultural heritage. It was wrong to link such legitimate wishes with certain sinister theories that had been propagated during an

era which the world wished to forget. It had been repeatedly argued that the matter was a purely legal one, but his delegation could not accept that a dispute involving the profound convictions and the future of people could be thus dismissed. His delegation held that the dispute was fundamentally a political one, and agreed with the Austrian Foreign Minister's statement at the 289th meeting that a truly satisfactory solution of the problem could be achieved only by the application of the principle of self-determination. The Austrian Government was not arguing for the revision of the boundary, and was simply concerned for the establishment of full regional authority for the Province of Bolzano, as provided in article 2 of the Paris agreement. At the same time, his delegation sincerely believed that the ideal boundary between two States was one which took into account the freely expressed wishes of the local people.

29. Mr. JHA (India) said that, while it was not easy for a country enjoying the friendliest relations with both Italy and Austria to speak on a subject on which strong views were held on both sides, India believed that, as a Member of the United Nations, it should try to assist in reaching a solution to the problem. In its statement in the Committee the previous session,<sup>4/</sup> his delegation had analysed the legal and political aspects of the issue, and it still maintained the position set forth at that time. A basic fact of the situation was that Bolzano was part of Italy and that Italy's sovereignty must be respected. On the other hand, it must be accepted that relations between the two countries concerned had become strained. It also had to be remembered that problems of minorities in Europe had frequently given rise to conflicts.

30. The issue concerned not only relations between two States, but also the implementation of an agreement regulating the status of the German-speaking population of Bolzano. Unfortunately, that agreement had not provided any machinery for the settling of disputes, presumably because such disputes had not been anticipated. At its previous session, the General Assembly had adopted a resolution 1497 (XV) which recommended that if the parties did not reach a solution by bilateral negotiations, they should agree on some other means provided in the Charter. The negotiations between the two Governments had unfortunately been fruitless, and the question of finding other peaceful means of settlement had therefore arisen.

31. At the present session, the General Assembly should adhere to the principles it had followed in resolution 1497 (XV) and should not try to impose a particular means of settlement; however, neither could it be satisfied with the present situation. It had been said that the matter should be dealt with exclusively by the International Court of Justice. While it was true that legal issues were involved, the question should not be looked at from the legal point of view alone, since it involved the emotions and attitudes of a large number of people. Clearly, it was for the Italian Government to take into account the views of its German-speaking population. His delegation would support any action within the general framework he had outlined.

*Mr. Tchobanov (Bulgaria) resumed the Chair.*

32. Mr. ROSSIDES (Cyprus) wished to express his delegation's condolences to the Italian Government and people regarding the recent murder of the Italian airmen in the service of the United Nations. The Organiza-

<sup>4/</sup> *Ibid.*, 181st meeting.

tion owed a debt of gratitude to those men and should arrange for some financial assistance to be given to their families.

33. Resolution 1497 (XV), adopted by the General Assembly at its previous session, a resolution co-sponsored by his delegation, had urged that the dispute between Austria and Italy should be settled by bilateral negotiations, or, failing that, by peaceful means agreeable to the parties. Negotiations between the two countries had duly taken place, but no positive results had been achieved, nor had any other peaceful means for reaching a solution been agreed upon.

34. His country had close and friendly relations with both countries, and might therefore have preferred to adopt an attitude of passive neutrality; however, if the United Nations was to serve its purpose, every Member State must help in the task of reaching a constructive solution to such disputes. His delegation's view was that the dispute should be settled by agreement between the parties. The problem arose from the existence of a German-speaking majority in an area of Italy which had previously been part of Austria. The Paris agreement of 1946 had been designed to solve that problem, and the question was now one of the implementation of that agreement. He did not believe that it was in any way Austria's intention to undermine that agreement.

35. The following two basic principles needed to be observed: the German-speaking people of Bolzano must enjoy the rights to which they were entitled under the Paris agreement; and the sovereignty and integrity of Italy must be safeguarded. The agreement provided for equality of rights between the German-speaking and Italian-speaking inhabitants of the Province. It also called for parity between the German and Italian languages in official documents used in the area. He understood that such parity did not exist at present, and he trusted that Italy would take steps to rectify the situation, particularly as it was in the interests of all that official documents should be published in German

as well as in Italian. Paragraph 2 of the agreement said that the population should be granted the exercise of autonomous executive powers in the region. In his view, the purpose of that paragraph would not be served if such autonomy was given to a region which had an Italian-speaking majority; therefore, either the region should have a German-speaking majority, or autonomy should be granted at the local level in the German-speaking area.

36. Since the basic problems were settled by the Paris agreement, a settlement of the points at issue should be possible. With that hope in view, his delegation, together with the delegations of India and Indonesia, wished to submit a draft resolution (A/SPC/L.77). That text recommended, if continued bilateral negotiations failed to reach a result, that the parties should agree on the designation of organs or persons to assist in finding a solution. Since negotiations had so far been fruitless, it seemed right that the General Assembly should now provide for some means by which the parties could receive assistance in reaching agreement, without needing to return once more to the United Nations. He commended the draft resolution to the favourable consideration of the Committee.

37. Mr. MARTINO (Italy) wished to make it clear that his delegation would be unable to accept the draft resolution just introduced by the representative of Cyprus. Implicit in that text was an interpretation of the Paris agreement which was not that of his delegation. As the issue involved was precisely one of the interpretation of a treaty, Italy insisted that the matter should be submitted to the only body competent to interpret treaties. Furthermore, the draft resolution involved a modification of the previous year's resolution (1497 (XV)). There was general agreement that that resolution had been entirely appropriate, and it should therefore not be altered.

The meeting rose at 1.10 p.m.