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THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

June 7, 1945

To Mr. Darlington, Executive Officer, Coordination Committee

From Mr. Myers, Reference Specialist

Subject: Depositary of Charter

In accepting the Report of its Subcommittee A, Committee IV/2 has adopted the following provision:

"2. The ratifications shall be deposited with the Government of the United States of America which shall notify all the signatory states of each deposit."

This clause makes a single government the permanent depositary of the Charter, which would more appropriately be deposited with the Secretary-General after it enters into force or after the ratifications of the signatory members have been deposited. A redraft providing for both transitory and permanent depositaries would read somewhat as follows:

"2. The ratifications shall be deposited with the Government of the United States of America which shall notify all the signatory states of deposit. After the Charter has entered into force (After all the signatory states have deposited ratifications,) the Secretary-General shall be the depositary of the Charter and the instruments of ratification."

DPM
DPM/m

The Jurists are requested to draft several alternative forms of Article 3 to permit a decision on this matter to be taken at higher levels.

Some possibilities are:

- (1) The original members of the United Nations shall be the signatories of the present Charter, whose ratification has become effective in accordance with Article 82.
- (2) The original members of the United Nations shall be the States which sign and ratify the present Charter.
- (3) The original members of the United Nations shall be the States named in the Preamble, which sign and ratify the present Charter.
- (4) The original members of the United Nations shall be the States named in the Annex, which sign and ratify the present Charter.
- (5) The original members of the United Nations shall be the States which, having participated in the United Nations Conference at San Francisco, sign and ratify the present Charter and ratify it in accordance with Article 82.
- (6) The original members of the United Nations shall be the states which, having participated in the United Nations Conference at San Francisco and being parties to the Declaration of January 1, 1942, sign the present Charter and ratify it in accordance with Article 82.

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CHAPTER II
MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

A broad principle governing the United Nations' membership the first time was expressed in the "Declaration of Four Nations on General Security" released November 1, 1943 by Tripartite Conference in Moscow.

The Four Nations jointly recognized "the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving states, and open to membership by all such states, large and small, for the maintenance of international peace and security." x)

The Dumbarton Oaks Conference unfolded this principle in its proposals in the following terms:

x) The Department of State Bulletin, Nov. 6, 1943, p. 308.

Article 3, Ch. II

The principle governing the

④ I. 2. The General assembly should be empowered to admit new members to the Organization upon recommendation of the Security Council.

3. The General assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by
(other case)

decision of the Security Council.
The general assembly should
be empowered, upon recom-
mendation of the Security
Council, to expel from the
Organization any member
of the Organization which
persistently violates the
principles contained in the
Charter."

" Chapter III. Membership.

1. Membership of the Organization should be open to all peace-loving states."

Also paragraph 2 and 3 of Section B, Chapter V (The General Assembly) of the Dumbarton Oaks Proposals ~~should be considered (and it was considered only by Commission I and II of the San Francisco Conference) is relevant to the question of UN membership.~~

These two paragraphs read as follows:

Q1.

All provisions on UN membership were arranged by the San Francisco Conference in the UN Charter under Chapter II on Article 3, 4, 5 and 6.

The 17 ~~seventeen~~ ^{major} governments participating in the Conference offered comments or amendments to the Chapter on membership; ~~while thirteen governments joined before the Conference in submitting comments on~~

2 Australia (vol 3, p. 543)

Belgium (ibid, p. 338), Bolivia (ibid, p. 583),
Brazil (ibid, p. 237-238), Chile (ibid, p. 284), Costa Rica
(ibid, p. 274), Ecuador (ibid, p. 400-402, 405), Egypt (ibid,
p. 454-455, 456), France (ibid, p. 377-378), Guatemala
(ibid, p. 256, 257), Honduras (ibid, p. 350), Mexico (ibid, p. 176,
180, 182), Netherlands (ibid, 324), Norway (ibid, p. 366, 379),
Philippine Commonwealth (ibid, 536), Uruguay (ibid, 34-36,
38), Venezuela (ibid, p. 193-195, 224).

The sponsoring powers
had not offered amendments to ch. II on membership or on admission,
withdrewal, suspension, or expulsion of members.

The Drafting Committee has proposed an UN membership
and the amendments and comments submitted
by governments were considered in the following
order:

and taking into account the suggestion to drop all references concerning membership in article II, Chapter II

In conformity with the original terms of reference Chapter III of the Drafting Committee's Proposals was referred to Committee I/2, ^{the consideration of} paragraph 2 of Section B, Chapter V ^{was referred} to Committee II/I, and paragraph 3 of Section B, Ch. V ^{to} Committee II/2. But in the course of the general discussion in these committees it was recognized to revise the terms of reference of these committees and the matters under consideration. And with the consent of the Drafting Committee it was agreed ^{upon} to leave the consideration of Chapter 3 ^{entirely} to Committee I/2, but to divide the consideration of paragraph 2 and 3 of Section B, Chapter V of the Drafting Committee's Proposals between Committee I/2, Committee II/I, and Committee II/2 so that Committee I/2 would consider the conditions of admission, suspension and expulsion of members but Committee II/I would consider the procedure of admission of new states to membership and ^(§ 2, Section B, Ch. V) Committee II/2 the procedures of suspension and expulsion (§ 3, Section B, Ch. V).

Also a new question whether the right to withdraw from the Organization should be provided in the Charter or not was raised by some delegates.

The consideration of this question was referred to Committee I/2.

The texts of the relevant paragraphs adopted by the ~~Technical~~ ^{Technical} Committee were approved either by Commission I or Commission II and then reviewed by the Advisory Committee of Jurats and by the Coordination Committee.

The Coordination Committee ~~periodically~~ ^{periodically} arranging the provision approved by the Commission is a definite order in the Charter made ^{also some} slight changes in the phraseology of these provisions.

The Advisory Committee of Jurats introduced the inclusion of a ^{additional} ~~new~~ paragraph (3) in Article 4 of the Charter which read as follows:

"3. The autonomy of the General Assembly shall be promptly communicated by the Secretary General to the Government of the United States of America, as the depositary of the Charter, and to the governments of all other members of the United Nations." xx)

x) Admission of new members.

xx) Vol. 15, p. 58, Doc. 1129, CO/127(1), June 21, 1945.

However, the Coordination Committee decided neither
to refer the consideration of this proposal to the
Technical Committee nor to include it in the
Charter x)

The texts of Article 3, 4, 5 and 6 as adopted
by the Technical Committee and approved by
the Coordination Committee ^{will be} found below in the
comments to each article xx)

xxx) Arch. vol. 28, En. WD 439, CO/203, p. 11
Vol. 15, p. 174, 276.

xxxi) Arch. vol. 29, Documents CO/32, CO/32(1), CO/32(2), CO/33,
CO/33(1), CO/33(2), CO/34(2), CO/34, CO/34(1).

Further development of the principles embodied in Chapter II of the Charter shall be found:

a) in the rules of procedure for the admission of new members as prepared by the Preparatory Commission of the United Nations and its Executive Committee for both the Security Council and the General Assembly and later adopted and improved by these two organs of the United Nations;

b) in the proceedings, decisions and recommendations of the Security Council and its Committee on the admission of new members in connection with the consideration of applications of States for membership in the United Nations; and

c) in the proceedings, decisions and recommendations of the General Assembly and its Committees (mainly Committee I and Committee VI) in connection with the consideration of the reports of the Security Council on the admission of new members and its recommendations for admission.

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Article 3, Chapter II

The Dumbarton Oaks Proposals did not contain a definition what states should be considered as invited (or original) members of the United Nations Organization.

Several governments in their comments and amendments to the Dumbarton Oaks Proposals suggested inclusion of such definition.

Such suggestions were made by Australia (vol. 3, p. 573, Doc. 2, G/14 (L)), Ecuador (vol. 3, p. 401, Doc. 2, G/7 (P)), Philippines (vol. 3, p. 436, Doc. 2, G/14 (K)).

Subcommittee I/2/A in charge of the amendments of Chapter III of the Dumbarton Oaks Proposals introduced for inclusion in the Charter a new paragraph in the following terms:

"Members of the Organization are the signatories of the Charter whose ratification has become effective in accordance with Chapter XI * x)

It was understood that the purpose of introducing this paragraph was to define who are members at
x/ Vol. 7, p. 34. Report of Drafting Committee of Committee I/2, Doc. 251, I/2/14, May 12, 1945.

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the outset of the United Nations Organization in distinction from those who will become members later. x)

Committee I/2 agreed with this suggestion and approved the text proposed by Subcommittee I/2/A x)

The Secretariat of the Conference presenting the text approved by the Technical Committee to the Coordination Committee made the following observations:

The Reporters of Committee I/2 in connection with this made the following comment:

With respect to the distinction between initial and subsequent members, the Committee desired to avoid associating any stigma with this unavoidable distinction.

" x x x)

xx) Vol. 7, p. 36

xx) Vol. 7, p. 36 Summary Report of 6th meeting of Committee I/2, May 14, 1945, Doc. 314, I/2/17.

xx) Vol. 7, p. 121 Report of the Reporters of Committee I/2, Doc. 506, I/2/43, May 26, 1945.

The Secretariat made the following comment to this paragraph: "This paragraph of the Text of Chapter IV as reported by Technical Committee 1/2 (See chapter page 1) presents a problem which the Technical Committee does not appear to have solved. The words, 'Members of the Organization are the signatories of the Charter,' implies that all states which may become members (those who are the original members as well as those subsequently admitted) will sign the Charter. It would seem doubtful if this will in fact be the case.

The original members will be those who sign and ratify the Charter, but subsequent members, admitted by the General Assembly on the recommendation of the Security Council, presumably would not sign the actual Charter itself or that document by then would have become part of the public archives or would be an public exhibition.

In the case of the Covenant of the League of Nations this problem was overcome by making a distinction between the original members and those subsequently admitted, the former being named in an Annex. This method cannot be followed with the present Charter for Technical Committee 1/2 is said to have

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From the view that it would be preferable that the distinction in the United Nations between original and other members should be minimized as much as possible.

Nevertheless it would seem that these two groups, because of the different ways in which they become members, cannot be defined within one paragraph of Chapter III, as the Technical Committee proposed, but should be defined in two separate paragraphs as suggested in Drafting Paper 1. The suggestions made in Drafting Paper 1 are now revised by ~~the~~ the Secretariat, as a result of further study and consultation, as follows:

"The initial members of the United Nations shall be the signatories of the Charter whose ratification has become effective in accordance with Chapter XVI, Article 6. (Note: This number follows the "Suggested Arrangement of the Charter")."

X) Doc. CO/8, May 20, 1945. Text passed by the Technical Committee (through Saturday, May 19, 1945).

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Having observed at its 3rd meeting the proposed text the Condensation Committee decided to refer it to Committee I/2, for explanation of the meaning which the Committee desired that the paragraph convey" xx) The Condensation Committee noted that "in particular, the question whether new members joining the organization subsequent to the original members might sign the Charter and the questions of the method by which such new members would assume all the obligations of the Charter were not clear" xxx).

Committee I/2 reconsidered its previous decision and unanimously accepted the following phrasing of Article 3:

"The initial members of the Organization shall be the signatories of the Charter, whose ratification has become effective in accordance with Chapter — Article —" ~~xxx~~

Commenting this decision the Rapporteurs of Committee I/2 pointed out that Committee I/2 accepted this modification of the draft Article 3 "in order to eliminate

xx) Arch. vol. 27, Summary Report of 3rd meeting of Condensation Committee, May 21, 1945, Doc. WD 16, CO/II, p. 3.

xxx) Ibid.

xx) Vol. 7, p. 113, Summary Report of 13th meeting of Committee I/2 May 25, 1945, Doc. 604, I/2/42.

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any misunderstanding concerning the method
by which new members would subscribe to the
principles and obligations of the Organization^{XXI}

The meaning of this new Article was further
clarified in the final report of the Representatives
of Committee I/2

1. Original members of the Organization

Let us consider the first paragraph of the text which
we suggest in connection with the phrasing of the second para-
graph. It will be noted that a distinction is made between
original members and future members. As regards original
members their participation in the Organization is considered
as acquired by right, while that of future members is depend-
ent on the fulfillment of certain conditions. It was, how-
ever, clearly understood that this distinction did not imply
any discrimination against future members but that the normal
course of events required it. Before new members can be
admitted the Organization must exist, which in turn implies
the existence of original members. On the other hand the
definition adopted would serve to calm the fears of certain
nations participating in our deliberations which, properly
speaking, are not States and which for this reason might be
denied the right of membership in the Organization.

XX X)

Commission I approved the text of Article 3 as finally
adopted by Committee I/2 without any discussion.
The Representatives of Commission I made only the
following note in reference to Article 3:

"Original members, it is quite clear, will be
those nations participating in the Conference, which
ratify the Charter + XX)

XXI Vol. 7, p. 122, Report of the Representatives of Committee I/2,
Doc. 606, I/2/43, May 26, 1945.

XXII Vol. 7, p. 325, Report of the Representatives of Committee I/2, Doc. 1178,
I/2/26(2), June 24, 1945.

XXIII Vol. 6, p. 248, Report of Representatives of Commission I to Plenary
Session, Doc. 1179, I/9(1), June 24, 1945.

7.

In this connection it should be mentioned that up to this in the draft text of Article 3 ^{neither} the word "nations" nor "state" had been used. In all cases the word "signatories" has been used instead of "nations" or "states". It was thought that some of the participants of the San Francisco Conference are not "states" in the strict sense of the word and that the inclusion of the word "states" would close the door for membership to those countries which were not considered as states. Therefore the authors of the draft preferred to avoid the use of the word "states" in Art. 3.

The Coordination Committee could not agree with this point of view. It considered that each member of the Organization was a state.

In the Summary Report of 38th meeting of Coordination Committee we read:

"The Committee agreed that the Charter provided and that it had established as a definition that members of the United Nations were states."

~~Before submitting~~ ~~the draft of Article 3~~ ~~to the~~ ~~Coordination Committee~~ the Secretariat prepared several new drafts as a possible basis for the work of the Coordination Committee. But the following draft was accepted as

XXX) Art. vol 38, Summary Report of 38th meeting of Coordination Committee, June 22, 1945, Doc. WD 438, CO/202, p. 3.

XX) For instance the delegate of Philippines felt ^{that the word} "state" would be included the Philippines would not be allowed to become a member of the United Nations at that time. Therefore he proposed to have two kinds of membership: original signatories as members admitted thereafter. (vol 7, p. 25)

a basis for consideration:

"The original members of the United Nations shall be those states named in Annex I hereto who ratify the present Charter in accordance with Chapter XVI, Article 6 (note: this number follows the "Suggested Arrangement of the Charter").x)

The Coordination Committee and its Advisory Committee of Experts finally laid down Article 3 as follows:

"The original members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110." xx)

A majority of the Coordination Committee preferred to use the word original instead of "initial" xxx)

This text was inserted in the Charter as Article 3 and adopted by the U.N. Conference, ^{which had}

so, the Charter recognizes as original members the states (1) ^{which had} signed previously the Declaration by United Nations of January 1, 1942 (see annex I); or (2) participated

x) Vol. 15, p. 32, Doc. 431, CO/5, May 16, 1945

xx) Vol. 15, p. 174, 275. Doc. 1159, CO/187, June 23, 1945 and

Doc. 1191, CO/128, June 25, 1945.

xxx) Encl. Vol. 27, Summary Report of 8th meeting of Coordination Committee, May 30, 1945, Doc. WD 60, CO/29, p. 2.

(annex I),
in the San Francisco Conference provided that
they signed and ratified the Charter of the United
Nations ^{original members of the UNO.} ~~and 1945~~ (9)

Forty ~~four~~ ^{five} states that had signed the
Declaration by United Nations. Forty five of them
participated in the United Nations Conference
at San Francisco and signed the Charter of
the United Nations. ^{and Poland was a signatory of the Declaration who did not participate} But provision was made
by the Conference for the Charter to be signed
at a later date by Poland as an original
member, x) ~~only two states (Argentina and~~
~~Peru)~~ ^{both non-signatories of the}
Declaration by United States participated in
the San Francisco Conference on the invitation
of the latter and signed the Charter.

Byelorussian SSR and Ukrainian SSR
joined the Conference and signed the Charter
on invitation of the Conference.

Considering the proposed text the Chairman of the
Coordination Committee stated "that it seemed clear
to him that every participant in the United Nations
Conference and every state which was a United
Nations at the time but did not participate in the
United Nations Conference had a right to sign the
Charter. Under this formula only Poland, in addition
to the signatories at San Francisco, could become an
original member" (Arch. Vol. 28. Summary Report of 32nd

meeting of Coordination Committee, June 19, 1945, Doc. WD 432,
CO/196, p. 3).

10 ~~11~~

Invitations to the Ukrainian SSR and the
White Russian SSR to become original members
of the International Organizations.

The decision with regard to the admission of Ukrainian SSR and Byelorussian SSR as original members of the United Nations Organization was adopted at the Yalta Conference.

The text of this decision read as follows:

"When the conference on world organization is held the delegates of the United Kingdom and the United States of America will support a proposal to admit to original membership two Soviet Socialist Republics, i. e., the Ukraine and White Russia."

~~at the meeting of the heads of delegations, June 27, 1945~~
Speaking in behalf of these republics (the delegates of
of the USSR (Mr. Molotov) at a meeting of the heads of
delegations ~~at~~ to the San Francisco Conference, April 27, 1945
made the following observations:

"The Soviet Republics are sovereign states. The Constitutions of the Soviet Union, as well as the Constitutions of the individual Soviet Republics insure to them the right even to leave the Soviet Union whenever they desire to do so. Decisions adopted by the Supreme Soviets of the Ukrainian and White Russian Republics, as well as by the Supreme Soviet of the Soviet Union, granted to the Republics the right to make treaties, to participate in international acts, to take part in international conferences, and to establish diplomatic relations with foreign countries.

Judgement of the Organization.

11 ~~st~~

Of no less importance, Mr. Molotov continued, was the part which the Two Republics had played in the struggle against the common enemy. In this respect, they were unique among the sixteen Republics, for at least one million of the citizens of each of the Two Republics were enrolled in the ranks of the Red Army. Their participation in other ways in the war had been the maximum possible.

Germany had begun its attack on the Soviet Union by attacking the Ukrainian and White Russian Republics and it was they who had borne the major burden of invasion."

The ~~Propo~~ Delegate of the United States (Mr. Stettinus) ~~endorsed the motions~~ speaking on behalf of the United States Government said that "the importance of ~~the~~ ^{the} Ukrainian and White Russian Republics in the Soviet Union and the sufferings which they had undergone in the war, as well as their contributions to the war, fully justified their admission to the organization!"

The motions for admittance of the two Soviet Republics to the U.N. organization were endorsed also by the delegates of the United Kingdom (Mr. Eden), ~~and~~ China (Mr. Soong), Iran, France, Brazil, Czechoslovakia, and Australia. X)

The meaning of the words "all peace-loving states"

of the Heads of Delegations
 The meeting acted unanimously to endorse the request
 of Mr. Molotov that the Ukrainian and White Russian
 Soviet Republics be admitted as original members
 of the organization.

~~In the recommendation of the Executive Committee of~~
~~the San Francisco Conference the Steering Committee~~
 The plenary meeting of the Conference adopted
 the following resolution:

"The meeting recommends that the Ukrainian Soviet
 Socialist Republic and the Byelorussian Soviet
 Socialist Republic be invited to be initial members
 in the proposed international organizations." x)

Delegations of the said two Soviet republics
 participated in the San Francisco Conference
 and signed the United Nations Charter, ~~as~~
~~original members.~~

x) Vol. I, p. 168. Verification Minutes of the Second Plenary
 Session, April 22, 1945. Doc. 20/P/6.

Membership of Poland.

As it was mentioned Poland was not represented at the United Nations Conference of four members, but provision was made for the United Nations to be signed at a later date by Poland as an original power.

The ~~the~~ Declaration of United Nations was signed by the Polish exile government in London.

In the course of discussion of Poland from the German Nazi occupation ~~the~~ a provisional government had been established in Poland in January 1940.

At the Yalta Conference it ~~was decided~~ ~~to~~ ~~be~~ ~~called~~ for a reorganization of the government ~~with a provisional government of Poland~~ ~~by~~ ~~the~~ ~~government~~ ~~on~~ ~~a~~ ~~broader~~ ~~an~~ ~~across~~ ~~basis~~ ~~with~~ ~~inclusion~~ of democratic leaders from Poland itself and from Poland abroad.

'When a Polish Provisional Government of National Unity has been properly formed in conformity with the above, the government of the U.S.S.R., which now maintains diplomatic relations with the present provisional government of Poland, and the government of the United Kingdom and the government of the U.S.A. will establish diplomatic relations with the new Polish Provisional Government of National Unity, and will exchange ambassadors by whose reports the respective governments will be kept informed about the situation in Poland.' x)

x) Conference of Yalta, February 4-11, 1945. The Am. Journal of Rep. Int., Vol. 39, No. 2, Jan. 6, 1947.

Mr. Molotov (USSR)

✓ At the meeting of the Heads of Delegation to the UN Conference, April 27, 1945, Mr. Molotov in support of a statement by Mr. Masaryk (Czechoslovakia) ~~stated that~~ ~~he felt it~~ suggested ~~to invite~~ that ~~the~~ a representative of the Provisional Government of Poland should be invited to the Conference. But ~~the delegates of~~ ~~the USSR~~ Mr. Stettinius (USA) and Mr. Eden (UK) opposed ~~the suggestion~~ the proposal of Mr. Molotov.

"Mr. Stettinius stated that the Government of the United States could not accept the proposal of Mr. Molotov until a new Polish Government had been formed and after it had been established in accordance with the Crimea decision". x)

"Mr. Molotov asked the members to read the Crimea decision and indicated that they would not find there anything which stated that until the Provisional Government of Poland was reorganized it should be debarred from participating in the Conference." x)

Fild Marshal Smuts (South Africa) said he thought that it was the sponsoring governments which possessed the right to invite other governments to attend the Conference and that other governments should not fix it upon themselves to extend invitations to governments ~~to the extent~~ not already invited.

x) Vol. 5, p. 93, Doc. 30, DC 5 (1). Meeting of the Heads of Delegation to organize the Conference, April 27, 1945.

xx) Ibid., p. 85-86.

The meeting passed by a vote 31 to none ~~is for~~ a resolution proposed by Mr. Spaak (Belgium) in the following terms:

"The governments of the United Nations express to the people of Poland their sympathy and their admiration. They hope that the constitution of a Polish Government recognized or such by the sponsoring nations, will make it possible for Polish delegates to come and ~~take part~~ as soon as possible in the work of the Conference."

Mr. Molotov stated that the Soviet Delegation abstained from voting, and he reserved the right to raise the question in the Executive Committee x/

The Second Plenary Session of the UN Conference adopted the resolution submitted by the meeting of the Heads of the Conference xx/

Mr. Molotov, while discussing the question of admitting Argentina to the Conference ~~has~~ made the following statement concerning Poland at the fifth Plenary Session:

"Poland is known to hold in this war an honorable place among allied nations which have devoted all their efforts to the struggle against our common foe. The heroic Polish people have been fighting in our ranks and making innumerable sacrifices. We cannot afford to forget about all this. To invite Argentina, which has been helping our common enemy throughout this war, and not to

x/ Stod. p. 26-27, 118. xx/ Vol. I, p. 168-169, Dec. 20, p. 6
Verbatim minutes of the Second Plenary Session, April 27, 1945.

with the Provisional Polish Government, which is now functioning in liberated Poland and enjoys an enormous prestige among the Polish people, would be doing a course that might affect adversely the prestige of this Conference.

He can deny the fact that the Polish government has functioning in Warsaw and all over Poland is a democratic government. This Government Polish government is strongly supported by the people and is carrying on a struggle against our common enemy side by side with our Allies.

We also remember that the Government of the United States, Great Britain, and the Soviet Union had undertaken to promote the reorganization of this Government on a broadly democratic basis. I have no doubt that this excellent decision regarding the work of the Polish people, too, and so we must do our best to implement it as soon as possible.

It is also obvious that the question of reorganizing the Polish Government is not a matter for this Conference. It has to be dealt with by the three Allied Governments and especially by the Polish themselves. We are working in Poland, a government having a broadly democratic form, a government with which diplomatic relations will be established by our Allied governments.

This is understood. But if we are not prepared to undertake at this Conference the settlement of the Polish issue as a whole, neither must we ignore the fact that our international conference

is being held at this very moment which is not attended by representatives of the Polish people. In any case we cannot refuse a seat at this Conference to representatives of the Polish people, our heroic ally, while granting one to representatives of Argentina, which in this war has not been helping us, but our enemies.

It may be argued that Argentina has sinned, but that her sins may be forgotten. This may be true, perhaps we should really forget Argentina's sins. But let me ask you: If election was committed by Argentina may be forgotten, why should we forget Poland's services, why should we forget the great services of the Polish nation in this struggle against our common foe? "x)

Mr. Camargo (Colombia) said:

"Surely it would be an act of injustice if Poland who has suffered so much in this war were not to have a voice in the organization of peace. However, I must point out that there is no effort made in sessions of the Conference or its committees to avoid the question of an invitation to Poland. That is a question pending the actions of the three powers regarding the internal organization of Poland and her government, the question being which government represents Poland, "x)

cf Vol. I, p. 346 - 347. Relations Minutes of the Fifth ~~Plenary~~ Plenary Session April 30, 1945, Doc. 42, p. 10.

x) Ibid. p. 350

18.

Mr. Padilla (Mexico) having expressed homage to Poland
~~and~~ said: "We would all welcome the arrival of Poland
in our deliberations and will be eager to hear her
voice. However, the agreement has not yet been
reached by the three powers." x/

~~June 23, 1945 the Chairman of the Standing Committee~~
~~stated that~~

The solution to grant Poland assigned membership
came almost at the close of the conference.
at the eleventh meeting of the Standing Committee;
~~the following passage:~~

"The Chairman stated that...

... approved "xxx,

(See & see vol. 5, p. 305)

x/ Ibid., p. 354.

Copy ~~of~~ ^{vol. 5} p. 305. Summary Report of 11th meeting of the Standing
Committee, June 23, 1945, Doc. 1213, ST/23.

Admission of Argentina to the U.N. Conference ¹⁹

The motion to admit Argentina to the U.N. Conference was moved by Mr. Padilla (Mexico)

✓ at a meeting of the Executive Committee, April 30, 1945. ~~by Mr. Padilla (Mexico), and the question was raised to admit Argentina to the U.N. Conference. x/~~

Mr. Molotov (U.S.S.R.) opposed this proposal and said that "he wished the Committee to consider that this would be the first case in which an invitation to a country to participate in the Conference was not issued with the concurrence of the four sponsoring governments" x/x/ And he moved that the question of admitting Argentina should be referred to the four sponsoring governments for preliminary consideration by them. This motion was seconded by Mr. Morrison (Gibraltar) and Dr. Subasic (Yugoslavia)

The proposal of Mr. Padilla was supported by the Delegates of U.S.S.R. (Mr. Stepanov), Argentina (Mr. Exalt) and seconded by Mr. Fernandez (Chile).

Then the question of admitting Argentina to the Conference was taken up at a meeting of the Heads of Delegations. x/x/x/ At this meeting Mr. Molotov "suggested as a matter of procedure", that the four powers should discuss the representation of Argentina

x/ Vol. 5, p. 378 & meeting of the Executive Committee, April 30, 1945, am. 41, Ex/2.

x/x/ Ibid. p. 379.

x/x/x/ Vol. 5, p. 155-156, 148.

among themselves prior to action by the Steering Committee. He also raised a substantive question as to the character of the present Government of Argentina, and stated that for this reason, too, the matter should be discussed first by the four powers. And he moved that the question of visiting Argentina be postponed for several days, until there had been preliminary discussions by the four powers.

Mr. Ponce Enrriquez emphasized "the profound contributions that Argentina had made to American unity and said that Argentina had taken all necessary action in accordance with the Act of Chapultepec to qualify for representation at this Conference. He moved that an immediate vote be taken on the admission of Argentina to the Conference.

Also the delegates from Peru, Chile, and Cuba spoke on behalf of taking an immediate vote.

The delegate of ^(Dr. Gallagher) ~~Peru~~ said that "the Argentine was an American nation that had made mighty contributions to the development of international law, to the inter-American system, to the world community, and to the freedom of the world, as shown by the example of San Martín." Then he added that the Argentine Government had faithfully fulfilled the steps taken at the Chapultepec Conference in order

To gain the right of admission to the Conference of the United Nations at San Francisco, and consequently it has gained this right. In the same sense spoke the delegates of Chile and Cuba.

Mr. ^(New Zealand) Foster raised questions as to the implications of the proposed action as a precedent for countries like Spain, Ireland, and Iceland. There was no straight answer to this question except a brief remark of the Delegate of Peru from which it could be understood that each case should be considered and solved on its own merits. In this case the American had agreed at ~~Chapultepec~~ to support the admission of Argentina to the UN Conference.

The meeting defeated the motion of Mr. Molotov by a vote 25 to 7 and the recommendation to the Conference that the ^{representatives of Argentina} be permitted to take their ^{at the conference} seats immediately.

was carried by a vote of 29 to 5.

The question was further discussed in the Steering Committee(?) and ~~the same day~~ ^{where} a Plenary Session was convened ^{the same day} and the Argentine question was put on the agenda.

At this meeting Mr. Molotov emphasized again that the question of admission of Argentina should be first considered by the four sponsoring powers.

"Up to now all resolutions to this Conference have been approved unanimously by the four sponsoring governments which hold an equal position here. We consider this a very good rule and are opposed to any disruption of our unity."

X/ Vol. I p. 344-357
X/ Hist. p. 348.
Verbatim minutes of the Fifth Plenary Session
April 30, 1945 Doc 42, P/10.

Mr. Carrasco (Colombia) pointed out that Argentina had ^{not} met the conditions, such as the declaration of war on the Axis powers and therefore it was the word of honor to be confirmed by the plenipotentiaries by inviting ^{the admission of} Argentina to the 11th Conference:

"We are dealing here with a nation that has declared war. We are not interested in determining or analyzing the character or quality of her government. We are merely interested in affirming that as long as there be a government in Argentina that shall maintain Argentina in the position that it has taken we shall consider Argentina as now a belligerent nation." x)

Almost the same arguments in form of admission of Argentina were used by other speakers (Padilla (Mexico), Mr. Delamonde (Panama), Mr. Steinhilber (USA)). Only ~~the~~ Mr. ^{Mr.} ~~Spain~~ ^{Spain} (Belgium) considered that the request of the Soviet Delegation is reasonable and legitimate.

"It is the principle of maintaining complete unanimity between the four sponsoring powers," said Mr. Spain, "I believe that this is one of great importance in our words -- to maintain complete unanimity among the four sponsoring nations."

Also, let us try to be logical. We, the delegations of other nations, accepted, without

questioning, the invitations as they were sent out by the four great powers. We accepted also the agreement reached at Yalta by the great powers regarding the representation of the Ukraine and the Byelo-Russian Republics as founding members of the International Organization;

now, regarding Poland, it seems that we must postpone that question because it is attached to an agreement reached between the three powers. We would all welcome the arrival of Poland in our deliberations and will be eager to hear her voice. However, the agreement has not yet been reached between the three powers.

I insist again, let us try to be logical; let us make a last effort to maintain unanimity between the sponsoring nations." x)

The Plenary Session voted in favor of immediate seating of Argentina at the UN Conference 31 to 9. xx)

x) Ibid. p. 354.

xx) Ibid. p. 359.

69

Admission of Denmark to the Conference.

On the request of Norwegian Delegation the Executive Committee at its fifth meeting, June 5, 1945 decided ~~is not~~ to issue an invitation ^{the Government of} to Denmark to participate in the work of the Conference on United Nations Organization.

Mr. Mangerud (Norway) wrote in his letter that "owing to its geographic situation (see vol. V, p. 460) at this Conference" x)

The proposal was supported by ~~there was no further action~~ Lord Halifax (UK) ~~and~~ ^{and} suggested the proposal of Norway there was no further discussion on this matter. ~~Denmark was~~ ~~unanimously invited to the UN Conference and~~ ~~signed the Charter.~~ The vote to invite Denmark to the UN Conference was unanimous. xxy

x/ Vol. V, p. 460. Summary Report of Fifth Meeting of Executive Committee June 5, 1945. Doc. 806, EX/17.

xy Ibid, p. 460. See also, Vol. V, p. 613. Verbatim Minutes of the Ninth Plenary Session, June 25, 1945. Doc. 1210, P/20,

Mr. Molotov on the membership of India and
Philippines.

Speaking at the Fifth Plenary Session of the
San Francisco Conference, April 20, 1945 on the
question of seating Argentina at the Conference
Mr. Molotov made the following remarks
concerning the seating of India and Philippines
at the Conference :

1. " We have at this Conference and Indian
Delegation. But India is not an independent
state. We all know that the Time will come
when the voice of an independent India will
be heard, too. Nevertheless we share the opinion
held by the British Government which suggested
that representatives of India should be granted
a seat at this conference, imperfect though
her status is.

We have at this Conference a Philippine
delegation. But the Philippines are not an
independent country. We know full well
that the Time will come when we shall be
able to hear the voice of independent Philippines,
too. But we have agreed with the United States
Government, which suggested that the Philippines
have a voice even with their present status. " X/

X/ Vol. I, p. 347-348. Verification Minutes of the Fifth Plenary Session.
April 20, 1945. Doc. 42, p/10.

(26)

in the interest of cooperation of the sponsoring powers

Mr. Molotov: Issue of diplomatic relations has
not been an obstacle to invitation of governments
to the UN conference.

At the same meeting Mr. Molotov said:

"The Soviet Union still has no diplomatic relations with certain governments represented at this conference. In spite of this fact the Soviet government, meeting half way the suggestions of Great Britain and the United States of America, raised no objections to the invitation of all the delegations present here, no matter whether the countries in question maintain diplomatic relations with all of the sponsoring states. We felt that in this case we were bound to meet the wishes of Great Britain and the United States. All this was prompted by a desire on the part of the Soviet Union to come to terms with the other sponsoring governments on Conference matters." x)

Signatories of the
UN Charter

Signatories of the
Declaration by Jan. 1, 1942
United Nations
Adherents to it. X)

Annex I
Adherents to the
Declaration

- | | |
|----------------------|--------------------------|
| 1. China | China |
| 2. USSR | USSR |
| 3. United Kingdom | United Kingdom |
| 4. USA | USA |
| 5. France | France (Jan. 1, 1945) |
| 6. Argentina | — |
| 7. Australia | Australia |
| 8. Belgium | Belgium |
| 9. Bolivia | Bolivia (May 5, 1943) |
| 10. Brazil | Brazil (April 10, 1943) |
| 11. Byelorussian SSR | — |
| 12. Canada | Canada |
| 13. Chile | Chile (Feb. 14, 1945) |
| 14. Colombia | Colombia (Jan. 17, 1945) |
| 15. Costa Rica | Costa Rica |
| 16. Cuba | Cuba |
| 17. Czechoslovakia | Czechoslovakia |
| 18. Denmark | — |
| 19. Dominican Rep. | Dominican Republic |
| 20. Ecuador | Ecuador (Feb. 14, 1945) |
| 21. Egypt | Egypt (Feb. 28, 1945) |

22. El Salvador
23. Ethiopia
24. Greece
25. Guatemala
26. Haiti
27. Honduras
28. India
29. Iran
30. Iraq
31. Lebanon
32. Liberia
33. Luxembourg
34. Mexico
35. Netherlands
36. New Zealand
37. Nicaragua
38. Norway
39. Panama
40. Paraguay
41. Peru
42. Philippines
43. Poland (
44. Saudi Arabia
45. Syria
46. Turkey
47. Ukrainian SSR
48. Union of South Africa
49. Uruguay

- El Salvador
- Ethiopia (March 7, 1944)
- Greece
- Guatemala
- Haiti
- Honduras
- India
- Iran (Sept. 14, 1943)
- Iraq (April 10, 1943)
- Lebanon (April 12, 1945)
- Liberia (April 10, 1944)
- Luxembourg
- Mexico (June 10, 1942)
- Netherlands
- New Zealand
- Nicaragua
- Norway
- Panama
- Paraguay (Feb. 14, 1945)
- Peru (Feb. 14, 1945)
- Philippines (June 10, 1942)
- Poland
- Saudi Arabia (April 12, 1945)
- Syria (April 12, 1945)
- Turkey (Feb. 28, 1945)
- Union of South Africa
- Uruguay (Feb. 29, 1945)

- 2
50. Venezuela
51. Yugoslavia

1

Venezuela (Feb. 20, 1945)

Yugoslavia.

X. "A press release of the Department of State (~~USA~~) which was on June 11, 1943 in connection with the publication of the Draft Agreement for a United Nations Relief and Rehabilitation Administration listed Iceland and certain other countries as 'nations associated with the United Nations in the war' (Department of State Bulletin, June 12, 1943, p. 524). The other countries so listed at that time had since that date all declared war and adhered to the Declaration by 'United Nations' (~~the~~ Department of State Bulletin, August 12, 1945, p. 238).

Article 3

Sylvia This is the card
You gave me this
morning.

Byline

Effect of Indian Independence Act, 1947
on memberships and Representation of India
in the United Nations.

On July 18, 1947 the Royal Commission of the House of Lords signified the Royal assent to the Indian Independence Act of 1947.

Section I (1) of this Act reads:

"As from 15th of August 1947 Two Indian Dominions shall be set up in India, to be known respectively as India and Pakistan."

India was an original member of the United Nations. And ^{thereby a guarantee} ~~that~~ ^{it} had any effect upon the original memberships of India in the United Nations Organization.

In this connection the following

~~On this matter, a legal opinion was prepared~~
 by Dr. I. Kono, Assistant Secretary-General
 in charge of Legal Affairs of the Secretariat of the
 United Nations, ~~at which he concluded that~~
 "the ~~best~~ Dominion of India continues
 as an original member state of the

EFFECT OF INDIAN INDEPENDENCE ACT, 1947
ON MEMBERSHIP AND REPRESENTATION OF INDIA IN THE UNITED NATIONS

The Indian Independence Act provides that on the fifteenth day of August, 1947, two independent Dominions shall be set up in India to be known respectively as India and Pakistan. Under this act, the new Dominion of India will consist of all the territories of British India except certain designated territories which will constitute Pakistan.

What is the effect of this development on membership and representation of India in the United Nations?

From the legal standpoint, the Indian Independence Act may be analysed as effecting two separate and distinct changes:

1. From the viewpoint of international law, the situation is one in which a part of an existing state breaks off and becomes a new state. On this analysis, there is no change in the international status of India; it continues as a state with all treaty rights and obligations, and consequently, with all the rights and obligations of membership in the United Nations. The territory which breaks off, Pakistan, will be a new state; it will not have the treaty rights and obligations of the old state, and it will not, of course, have membership in the United Nations.

In international law, the situation is analogous to the separation of the Irish Free State from Gt. Britain, and of Belgium from the Netherlands. In these cases, the portion which separated was considered a new state; the remaining portion continued as an existing state with all of the rights and duties which it had before.

2. Apart from the question of separation, the Independence Act has effected a basic constitutional change in India. The existing State of India has become a Dominion, and consequently, has a new status in the British Commonwealth of Nations, independence in external affairs, and a new form of government. It is clear, however, that this basic constitutional change does not affect the international personality of India, or its status in the United Nations.

The only question it raises is whether new credentials should be requested for the Indian representatives in the organs of the United Nations. Although there is no precedent for this situation in the United Nations, there is some basis in diplomatic practice for requesting new credentials in cases of States which have undergone a change of sovereignty, as from a monarchy to the republic. It would, therefore, seem appropriate for the Secretary-General to suggest to the Government of India that in view of the change in sovereignty, it would be desirable to have new credentials issued to the Indian representatives by the Head of the Government or the Foreign Minister of the new Dominion of India.

In conclusion, the effect of the Independence Act may be summarized as follows:

1. The new Dominion of India continues as an original member state of the United Nations with all rights and obligations of membership.

2. Pakistan will be a new non-member state. In order for it to become a member of the United Nations, it would have to apply for admission pursuant to Article 4 of the Charter, and its application would be handled under the pertinent Rules of Procedure of the General Assembly and the Security Council.

3. The representatives of India on the Economic and Social Council and the representative of India participating in the discussion of the Indonesian case in the Security Council should be requested to submit new credentials after August 15 issued by the Head of the Government, or the Foreign Minister of the new Dominion of India.

The Secretary general ^{approved} ~~agreed with~~ that legal opinion ~~and certain actions were performed by the~~ ~~Secretary in accordance with the~~ ~~the Secretary's~~ ~~the membership of India.~~

is it was explained
by a special statement
by the Secretary
General in this legal
opinion could have
in effect beyond
providing guidance
for the Secretary
with respect to the
functions which it
was required to
perform. " x)

x) A/C.6/146.

During the second session of the General Assembly (Sept. 12 - November 29, 1947) the Representatives of Argentina submitted for the consideration of the Assembly a draft resolution under which the Dominions of India and Pakistan were simultaneously declared Members of the Organization with retrospective effect from 15 August, 1947. Nevertheless, during the second session of the General Assembly doubts were expressed by some delegations as to whether

During the second session of the General Assembly doubts were ^{by some delegations} nevertheless expressed as to whether India and Pakistan should not both have been considered new States, and both been admitted as new members of the Organization.

But neither the Security Council nor the General Assembly ~~took~~ any decisions altering the outcome of the Secretariat concerning the membership of India. Therefore, India never ceased to exercise its rights as a member of the U.N. Organization, whereas Pakistan was admitted to the Organization as a new State. (see comments on Art. 4, §1).

x) S/P.V. 186 and S/P.V. 190. xx) Journal of the General Assembly, Second Session N° 9, p. 4; N 14, p. 4.

On September 24, 1947
~~with the examination of the~~
~~application of Provisional Government (the First~~
Committee* of the General Assembly adopted a resolution
referring to the Sixth Committee, for consideration
and report, the legal problem raised by the
representative of Argentina during the discussion
relating to the admission of Portugal. The Committee
agreed that any view of the Legal Committee was for
use in future cases and had no application in the
present case. x)

After having considered the problem, the Sixth
Committee agreed on the following principles:

(X) insert

xxx)

x) Journal of the General Assembly, Second Session, N° 9, p. 9; Summary Record of the
59th meeting of First Committee, Sept. 24, 1947, Doc. A/C.1/SR.59, p. 6.

xx) A/C.6/145:

xxx) A/C.1/212; A/C.6/SR.42, p. 5. and Corr. 1 and Add. 1 to it;
A/C.6/SR.43, p. 1-6.

United Nations

Nations Unies

UNRESTRICTED

GENERAL
ASSEMBLY

ASSEMBLEE
GENERALE

A/C.1/212
11 October 1947

ORIGINAL: ENGLISH

FIRST COMMITTEE

ADMISSION OF NEW MEMBERS

LETTER FROM THE CHAIRMAN OF THE SIXTH COMMITTEE ADDRESSED
TO THE CHAIRMAN OF THE FIRST COMMITTEE, DATED 8 OCTOBER 1947

Dear Mr. Bech,

In accordance with the letter of the President of the General Assembly dated 26 September 1947, I am pleased to advise you of the report of the Sixth Committee with respect to the legal problem raised by the representative of Argentina in connection with the question of the admission of Pakistan to membership in the United Nations.

The legal problem raised by the representative of Argentina and considered by the Sixth Committee was set forth in your letter of 25 September 1947 as follows: "What are the legal rules to which, in the future, a State or States entering into international life through the division of a Member State of the United Nations should be subject". It was understood by the Legal Committee that the First Committee had agreed that the opinion of the Legal Committee was to be for use in future cases, and would have no application to the case of Pakistan. After having considered the problem, the Sixth Committee agreed on the following principles:

"1. That, as a general rule, it is in conformity with legal principles to presume that a State which is a Member of the organization of the United Nations does not cease to be a Member simply because its constitution or its frontier have been subjected to changes, and that the extinction of the State as a legal personality recognized in the international order must be shown before its rights and obligations can be considered thereby to have ceased to exist.

"2. That when a new State is created, whatever may be the territory and the populations which it comprises and whether or not they formed part of a State Member of the United Nations, it cannot under the system of the Charter claim the status of a Member of the United Nations unless it has been formally admitted as such in conformity with the provisions of the Charter.

"3. Beyond that, each case must be judged according to its merits."

/It was

It was agreed by the Sixth Committee that these principles are to be transmitted to the First Committee as suitable to give general guidance to the United Nations in connection with future cases, with the understanding that each case will be considered in accordance with its particular circumstances. " ~~XXX~~

Yours sincerely,

Faris el-Khoury
Chairman of the Sixth Committee

His Excellency
Mr. Joseph Bech,
Chairman of the First Committee

b

In addition to aforesaid it should be mentioned that ^{on} August 6, 1947 an agreement had been reached between the Dominion of India and the Dominion of Pakistan by which "membership of all international organizations together with the rights and obligations attaching to such memberships, will devolve solely upon the Dominion of India." And further:

"The Dominion of Pakistan will take such steps as may be necessary to apply for membership of such international organizations as it chooses to join." x/

x/ A/C.6/161.