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RECOGNITION BY THE UNITED NATIONS

OF THE REPRESENTATION OF A MEMBER STATE

Report of the Ad Hoc Political Committee

Rapporteur: Mr. S. P. LOPEZ (Philippines)

1. By a letter dated 19 July 1950 (A/1292), the Alternate Representative of Cuba to the United Nations requested the Secretary-General to place the question of the recognition by the United Nations of the representation of a Member State on the provisional agenda of the fifth session of the General Assembly. By a letter dated 26 July 1950, the Permanent Representative of Cuba transmitted to the Secretary-General for circulation an explanatory memorandum on the item (A/1308).
2. On 6 September 1950, the Secretary-General transmitted to the Members of the General Assembly for their information the text of a letter of 1 June 1950 from the Director-General of the United Nations Educational, Scientific and Cultural Organization enclosing the text of a resolution adopted on 30 May 1950 by the fifth session of the General Conference of UNESCO (A/1344). The resolution expressed the wish that the United Nations should adopt general criteria by which it might be possible to reach a uniform and practical settlement of the problem of representation on the various organs and organizations of the United Nations of countries of which two or more authorities claimed to be the only regular Government.
3. The General Assembly, at its 285th meeting on 26 September 1950, decided to include the item in the agenda of the fifth session and to refer it to the Ad Hoc Political Committee.
4. The Ad Hoc Political Committee considered the item at its 18th to 24th meetings inclusive, and again at its 57th to 60th meetings inclusive.
5. At the 58th meeting of the Committee on 20 October 1950, a draft resolution (A/H.C.38/L.6) was submitted by Cuba. The preamble expressed the view: (1) that

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questions regarding the representation of a Member State in the United Nations could not be definitively settled under the present rules and that there was danger that the organs of the United Nations might reach conflicting decisions; (2) that in the interest of the proper functioning of the United Nations there should be uniformity in the procedure applied in the settlement of such questions; and (3) that, in virtue of its composition, the General Assembly was the only organ of the United Nations in a position to express the general opinion of all Member States in matters affecting the functioning of the Organization as a whole. The first operative paragraph of the draft resolution recommended that questions arising in connexion with the representation of a Member State in the United Nations should be decided in the light of the following: (a) effective authority over the national territory; (b) the general consent of the population; (c) ability and willingness to achieve the Purposes of the Charter, to observe its Principles and to fulfil the international obligations of the State; and (d) respect for human rights and fundamental freedoms. The second operative paragraph provided that when it was necessary to take a decision regarding the legitimacy of the representation of a Member State, the matter was to be referred to the General Assembly for decision. The third operative paragraph declared that such decisions taken by the General Assembly were not to affect the direct relations of individual Member States with the State, the representation of which had been the subject of such decision. The fourth operative paragraph requested the Secretary-General to transmit the resolution to the organs and specialized agencies of the United Nations for appropriate action.

6. At the same meeting, an amendment (A/AC.38/L.11) to the draft resolution of Cuba was submitted by Uruguay to add to sub-paragraph (a) of the first operative paragraph the words "established without the intervention of any other State" and to delete from the second operative paragraph the words "it is necessary to take a decision" and replace them by the words "disputes arise".

7. At the 19th meeting on 21 October 1950, a draft resolution (A/AC.38/L.21) was submitted by the United Kingdom. The preamble stated: (1) that there was no uniformly agreed principle for determining the right of the government of a Member State to represent it and that there was a danger that conflicting decisions on this subject might be reached by the various organs of the United Nations and in the specialized agencies; (2) that in the interest of the proper functioning of the

Organization there should be uniformity in the criteria to be applied in determining whether a given Government was entitled to represent a Member State or when the representation of a Member State was challenged in any organ of the United Nations; (3) that, in virtue of its composition, the General Assembly was the only organ of the United Nations in which consideration could be given to the views of all Member States in matters affecting the functioning of the Organization as a whole. The first operative paragraph recommended that where the question of the representation of a Member State arose in consequence of internal processes or changes which had taken place in that State, the right of a Government to represent the Member State concerned in the United Nations should be recognized if that Government exercised effective control and authority over all or nearly all the national territory, and had the obedience of the bulk of the population of that territory, in such a way that this control, authority and obedience appeared to be of a permanent character. The second operative paragraph provided that when any question arose regarding the right of a Government to represent a Member State in the United Nations, the matter was to be referred to the General Assembly for consideration, but without thereby precluding action by any other organ of the United Nations which was called upon to take a decision on the matter during the period before the Assembly met. The third operative paragraph recommended that the view taken by the General Assembly concerning the right of a Government to represent a Member State should be acted upon by Member States in other organs of the United Nations and in the specialized agencies. The fourth operative paragraph declared that decisions taken by the General Assembly in accordance with the resolution were not of themselves to affect the direct relations of individual Member States with the State the representation of which had been the subject of such decisions. The fifth operative paragraph requested the Secretary-General to transmit the resolution to the organs and specialized agencies of the United Nations for appropriate action.

8. At the 20th meeting on 23 October 1950, an amendment (A/AC.38/L.22) to the draft resolution of Cuba was submitted by China: (1) to add after the third paragraph of the preamble a paragraph to the effect that the recognition of a new representation of a Member State should not be premature and should be guided strictly by the principles and provisions of the Charter of the United Nations and the Stimson Doctrine of Non-Recognition; and (2) in the operative part to make the

/following additions:

following additions: (a) at the end of paragraph 1 (a) "established without the intervention of any other State, independent of foreign control and domination, and not as a result of foreign aggression, direct or indirect"; (b) at the end of paragraph 1 (b) "expressed through freely conducted or internationally supervised or observed elections"; (c) at the end of paragraph 1 (c) "not having been an accomplice of aggression or given aid and sympathy to an aggressor so proclaimed by the United Nations, and not having committed acts of aggression"; (d) at the end of paragraph 1 (d) "as defined by the United Nations Universal Declaration of Human Rights"; (e) at the end of paragraph 2 "as a question of importance and that the General Assembly shall appoint a Commission of Investigation to ascertain the facts relating to each one of the items under paragraph 1, and to report to the General Assembly for consideration"; (f) at the end of paragraph 3, after changing the word "not" earlier in that paragraph to "neither", "nor the application of regional agreements concerning recognition."

9. At the same meeting a draft resolution (A/AC.38/L.23) was submitted by the Dominican Republic: (1) to request the International Law Commission to study the legal aspects of the item and to submit the results of such study in time for inclusion in the agenda of the sixth regular session of the General Assembly; and (2) to send to the International Law Commission the records of the meetings of the Committee dealing with the subject, the draft resolutions submitted, and all other documents which might provide the International Law Commission with useful information, and to request the Secretary-General to take the necessary action on this resolution.

10. At the 21st meeting on 25 October 1950, an amendment (A/AC.38/L.24) to the United Kingdom draft resolution was submitted by Venezuela for the deletion of the disjunctive "or" in paragraph 2 of the preamble, and for the addition to paragraph 1 of the operative part of the words "and expressly declares its willingness to fulfil the international obligations of the State."

11. At the 23rd meeting on 26 October 1950, the United Kingdom submitted a proposal (A/AC.38/L.25) to the effect that, if it should be decided to refer the matter to an outside body, the latter should be the International Court of Justice, to which, or to the International Law Commission if reference were made to that body, the following questions should be put: "(1) If, in consequence of internal changes or processes which have taken place in a State a Member of the United

Nations, there is established in that State a Government which exercises effective control and authority over all or nearly all the national territory, and has the obedience of the bulk of its population, in such a manner that this control, authority and obedience appear to be of a permanent character, is there an obligation, according to the accepted principles of international law, to recognize the Government concerned as being entitled to represent that Member State? (2) If the answer to the first question is in the negative, what are the circumstances (if any) in which such an obligation can be regarded as existing?"

12. At the 24th meeting on 26 October 1950, the Committee decided, by 29 votes to 6, with 17 abstentions, to establish a Sub-Committee to consider the item in the light of all the proposals, amendments, suggestions and views presented in the course of debate. The Sub-Committee was composed of the representatives of Australia, Belgium, China, Cuba, Denmark, Dominican Republic, Egypt, France, India, Turkey, United Kingdom, United States of America, Uruguay and Venezuela.

13. At the 57th meeting on 27 November 1950, the Rapporteur of the Sub-Committee presented its report (A/AC.38/L.45) and the draft resolution adopted by the Sub-Committee for consideration by the Committee. The text of the draft resolution submitted by the Sub-Committee read as follows:

"The General Assembly,

"Considering

"That difficulties may arise regarding the representation of a Member State in the United Nations and that there is a risk that conflicting decisions may be reached by its various organs;

"That it is in the interest of the proper functioning of the Organization that there should be uniformity in the procedure applicable whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations

"That, in virtue of its composition, the General Assembly is the organ of the United Nations in which consideration can best be given to the views of all Member States in matters affecting the functioning of the Organization as a whole;

/"1. Recommends:

"1. Recommends:

"(a) That whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations, it should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case;

"(b) That the following should be among the factors to be taken into consideration in determining any such question:

"(i) The extent to which the new authority exercises effective control over the territory of the Member State concerned and is generally accepted by the population;

"(ii) The willingness of that authority to accept responsibility for the carrying out by the Member State of its obligations under the Charter;

"(iii) The extent to which that authority has been established through internal processes in the Member State.

"2. Recommends that when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the Assembly is not in session;

"3. Recommends that the decision reached by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;

"4. Declares that decisions reached by the General Assembly or its Interim Committee concerning any such question shall not of themselves affect the direct relations of individual Member States with the State the representation of which has been the subject of such decisions;

"5. Requests the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate."

14. At the same meeting an amendment (A/AC.38/L.50) to the draft resolution of the Sub-Committee was submitted by Belgium, calling for the deletion of paragraph 2, the substitution for the words "decision (s) reached" in paragraphs 3 and 4 of the

words "attitude adopted," and consequential drafting changes in paragraph 4.

15. At the 59th meeting on 28 November 1950, an amendment (A/AC.38/L.53) to the Sub-Committee's draft resolution was submitted by Mexico to add at the end of paragraph 2 of the operative part the following: "it being understood that nothing in this resolution shall be interpreted to mean that the General Assembly or the Interim Committee is authorized to appoint commissions of investigation or study, to hold hearings, to convene persons or receive evidence or statements, since the factors referred to in paragraph 1, sub-paragraph (b), (i), (ii) and (iii) should be considered exclusively as criteria which each individual delegation may take into account."

16. At the same meeting an amendment (A/AC.38/L.54) to the Sub-Committee's draft resolution was submitted by Egypt for the deletion of sub-paragraph (b) of paragraph 1 of the operative part.

17. At the 60th meeting on 28 November 1950, the Dominican Republic submitted a draft resolution (A/AC.38/L.55) to request the International Law Commission to study the legal aspects of the item and, in connexion with the problem of representation, to study specified principal factors.

18. At the same meeting an amendment (A/AC.38/L.56) to the Sub-Committee's draft resolution was submitted by Argentina to substitute the following for paragraph 1 of the operative part: "1. Recommends that when the question of the representation of a State Member arises as the result of internal processes that have occurred in such State, a government shall be recognized as possessing the right to represent the State Member in question in the United Nations if that government effectively exercises its power and authority over all or almost all the national territory and if it is obeyed by the people, account being taken also of the willingness of the said government to accept responsibility for carrying out the obligations which the Charter imposes on the States Members." The representative of Argentina withdrew the foregoing amendment before the vote was taken, while reserving his right to re-submit it to the General Assembly.

19. The draft resolution of the Sub-Committee and the amendments thereto were put to the vote with the following results:

(a) The preamble as a whole was adopted by 38 votes to 6, with 10 abstentions.

(b) Paragraph 1 (a) of the operative part was adopted by 34 votes to 5, with 12 abstentions.

(c) The Egyptian

(c) The Egyptian amendment (A/AC.38/L.54) to delete paragraph 1 (b) was adopted by a roll-call vote of 27 to 13, with 14 abstentions.

In favour: Afghanistan, Argentina, Brazil, Burma, Byelorussian Soviet Socialist Republic, Czechoslovakia, Dominican Republic, Ecuador, Egypt, France, India, Indonesia, Israel, Mexico, Norway, Pakistan, Poland, Saudi Arabia, Sweden, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Venezuela, Yemen, Yugoslavia.

Against: Australia, Belgium, Chile, China, Cuba, Guatemala, Honduras, Iraq, New Zealand, Paraguay, Thailand, United States of America, Uruguay.

Abstaining: Canada, Colombia, Denmark, El Salvador, Ethiopia, Greece, Haiti, Iran, Lebanon, Netherlands, Panama, Peru, Philippines, Syria.

(d) In view of the deletion of paragraph 1 (b) the representative of Mexico withdrew his amendment (A/AC.38/L.53).

(e) The Belgian amendment (A/AC.38/L.50) calling for the deletion of paragraph 2 was adopted by 21 votes to 20, with 14 abstentions.

(f) The Belgian amendment (A/AC.38/L.50) relating to paragraph 3 was adopted by 16 votes to 10, with 27 abstentions.

(g) Paragraph 3 as amended was adopted by 29 votes to 5, with 19 abstentions.

(h) An amendment to delete from paragraph 4 the words "or its Interim Committee", submitted by the representative of the Union of Soviet Socialist Republics, was rejected by 35 votes to 6, with 11 abstentions.

(i) The Belgian amendment to paragraph 4, with drafting changes consequent on the adoption of paragraph 3, as amended, was adopted by 35 votes to 5, with 13 abstentions.

(j) Paragraph 5 was adopted by 35 votes to 2, with 13 abstentions.

(k) The draft resolution of the Sub-Committee, as amended, was adopted as a whole by 29 votes to 7, with 15 abstentions.

20. At the conclusion of the voting, the representative of the Dominican Republic withdrew his draft resolution (A/AC.38/L.55), while reserving the right to reintroduce it in the General Assembly.

21. The Ad Hoc Political Committee accordingly recommends that the General Assembly adopt the following resolution:

RECOGNITION BY THE UNITED NATIONS OF THE  
REPRESENTATION OF A MEMBER STATE

The General Assembly,

Considering that difficulties may arise regarding the representation of a Member State in the United Nations and that there is a risk that conflicting decisions may be reached by its various organs,

Considering that it is in the interest of the proper functioning of the Organization that there should be uniformity in the procedure applicable whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations,

Considering that, in virtue of its composition, the General Assembly is the organ of the United Nations in which consideration can best be given to the views of all Member States in matters affecting the functioning of the Organization as a whole,

1. Recommends that whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations, it should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case;

2. Recommends that the attitude adopted by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;

3. Declares that the attitude adopted by the General Assembly or its Interim Committee concerning any such question shall not of itself affect the direct relations of individual Member States with the State concerned;

4. Requests the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate.