

LETTER FROM THE REPRESENTATIVE OF BELGIUM ADDRESSED TO THE PRESIDENT OF
THE SECURITY COUNCIL, DATED 12 AUGUST 1948 CONCERNING THE PARTICIPATION
OF SWITZERLAND IN THE INTERNATIONAL COURT OF JUSTICE

Mr. President:

As evidenced by document S/947, Switzerland has now become a party to the Statute of the International Court of Justice in accordance with Article 93, paragraph 2, of the Charter and with the resolution of the General Assembly of December 11th, 1946. Furthermore, she has accepted, under Article 36 of the Statute, the compulsory jurisdiction of the Court.

The Security Council has, therefore, to make to the General Assembly certain recommendations, prescribed by the Statute. Some, contemplated in Article 4, paragraph 3, concern the conditions under which a State, a party to the Statute, but not a Member of the United Nations, may participate in electing the members of the Court. The others, contemplated in Article 69, concern the participation of such a State in the procedure for amending the Statute.

These recommendations are not of equal urgency. While circumstances do not necessitate an examination at this time of the recommendations mentioned in Article 69, such is not the case for those provided by Article 4. It behoves the Security Council, as the General Assembly, to take its decision in time to make it possible for Switzerland usefully to exercise her right to participate in the elections which will be held during the third ordinary session of the Assembly.

I have, therefore, the honour hereby to request that the question be included in the provisional agenda of one of the next meetings of the Security Council.

You will find below a draft resolution which I submit to the Council by the present communication. This draft conforms with the opinion expressed by the Committee of Experts in its report of November 11th, 1946 (S/191).

DRAFT RESOLUTION

The Security Council,

Whereas, having complied with the conditions set out on
December 11th, 1946, by the General Assembly pursuant to Article 93 (2)

of the Charter, the Swiss Confederation has become a party to the Statute of the International Court of Justice; and whereas it has even, under Article 36 of the Statute, accepted the compulsory jurisdiction of the Court;

Whereas the Assembly will have to hold at its next session elections of members of the Court;

Whereas it consequently behooves the Security Council to make to the Assembly the recommendations provided by Article 4 (3) of the Statute of the Court, which concern any State, a party to the Statute, but not a Member of the United Nations;

Recommends to the General Assembly to determine as follows the conditions in which a State, a party to the Statute of the Court, but not a Member of the United Nations, may participate in electing the members of the International Court of Justice:

1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly;
2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations;
3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly, if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections, if it is satisfied that the failure to pay is due to conditions beyond the control of that State (Comp. Charter; art. 19).

Accept, Mr. President, the assurances of my high consideration.

/s/ Joseph Nisot,
Alternate Representative of
Belgium to the United Nations

