

The following information, emanating from the Registry of the International Court of Justice, has been communicated to the Press :

The International Court of Justice will meet in public session at The Hague on April 22 to consider the request for an advisory opinion on the conditions of admission of a State to membership in the United Nations. A Resolution of the General Assembly, adopted November 17, 1947, asks the Court :

"Is a Member of the United Nations which is called upon, in virtue of Article 4 of the Charter, to pronounce itself by its vote, either in the Security Council or in the General Assembly, on the admission of a State to membership in the United Nations, juridically entitled to make its consent to the admission dependent on conditions not expressly provided by paragraph 1 of the said Article ? In particular, can such a Member, while it recognizes the conditions set forth in that provision to be fulfilled by the State concerned, subject its affirmative vote to the additional condition that other States be admitted to membership in the United Nations together with that State ?"

This resolution was adopted after long months of discussion in the Security Council and the General Assembly.

The Article of the Charter concerning the admission of new Members (Article 4) states :

- "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."

The procedure now followed requires that any State which desires to become a Member of the United Nations shall submit an application to the Secretary-General, containing a declaration made in a formal instrument that it accepts the obligations contained in the Charter. Having notified the Members of the United Nations of the application, the Secretary-General immediately places it before the representatives on the Security Council. Unless they decide otherwise, the application is referred by the President to a Committee upon which each Member of the Council is represented. The Committee examines the application and reports its conclusions to the Council.

On the basis of this report, the Security Council decides whether or not to recommend the applicant State for membership.

Since the recommendation of an applicant State is not a question of procedure, it requires the concurrence of seven Members of the Security Council, including all the permanent Members. Therefore, the negative vote of one permanent Member of the Council suffices for the rejection of an application.

After examination by the Security Council, one of two things may happen :

1. If the Council recommends the applicant State for membership, it forwards to the General Assembly the recommendation with a complete record of the discussion.
2. If the Council does not recommend the State for membership, or postpones the consideration of the application, it submits a special report to the Assembly with a complete report of the discussion.

In the first case, the General Assembly considers whether the applicant is peace-loving, able and willing to carry out the obligations contained in the Charter, and decides, by a two-thirds majority of the Members present and voting, upon its application for membership.

In the second alternative, the Assembly may, after full consideration of the special report of the Security Council, send back the application to the Council, together with a full record of the discussion in the Assembly, for further consideration and recommendation or report.

To date, Afghanistan, Iceland, Sweden, Siam, Yemen and Pakistan have been admitted to the United Nations as new Members; news of Burma's acceptance by the Security Council has been published in the press.

But eleven other applications (Albania, Outer Mongolia, Transjordan, Ireland and Portugal; Hungary, Rumania, Bulgaria, Austria, Finland and Italy) have been rejected. In most cases, the interpretation of the phrase "peace-loving ... able and willing to carry out ... obligations of the Charter" gave rise to sharp disagreement. In support of some States, the applicants' contribution to the war-effort against Axis aggression was adduced; in opposition, their failure to reaffirm pre-1939 bilateral treaties, to maintain diplomatic relations with one of the permanent Members of the Council, their sympathy for the Axis Powers and Franco Spain, or their grave suppression of human rights and liberties, gave rise to serious doubts as to the willingness and ability of the applicant States to carry out Charter obligations.

The cases of Finland and Italy were special in the sense that they would have been recommended to membership except that one of the permanent Members could not agree that they should be set apart from other States (Hungary, Rumania and Bulgaria) and admitted separately. In fact, the acceptance of Finland and Italy was expressly conceded provided the other States were accepted at the same time.

During the last Session of the General Assembly, in addition to the Resolution requesting the advisory opinion of the International Court of Justice, seven other resolutions were adopted. According to one of these, the General Assembly decided to recommend to the permanent Members of the Security Council to consult with a view to reaching agreement on the admission to membership of the applicants which had not been recommended hitherto, and to submit their conclusions to the Security Council. The other Resolutions determined that, in the judgment of the General Assembly, Eire, Portugal, Transjordan, Italy, Finland and Austria were peace-loving States within the meaning of Article 4 of the Charter and should therefore be admitted to membership in the United Nations. And the Assembly requested the Security Council to reconsider the applications of these States in the light of this determination.

✠ ✠ ✠

Resolution 2 of this series of eight Resolutions, presented by the First Committee and adopted by the General Assembly, requests the International ...

International Court of Justice to give the advisory opinion on the question quoted at the beginning of this communiqué. It was adopted by forty votes to eight, with two abstentions.

≡ ≡ ≡

Such is the historical background of the question of the admission of new Members which has been referred to the Court.

In accordance with Article 66 of the Statute of the Court, Members of the United Nations were notified that, as signatories of the Charter, they might submit, by February 9, 1948, a written statement of their observations on this question. The following States have availed themselves of this right: China, Salvador, Guatemala, Honduras, India, Canada, the United States of America, Greece, Yugoslavia, Belgium, Iraq, Ukraine, the U.S.S.R., Australia and Siam.

To the question asked of the Court by the Resolution: "Could a Member of the United Nations, in the examination of an application for membership, make its consent depend on conditions not expressly provided for by paragraph 1 of Article 4 of the Charter?" twelve of the above fifteen Governments answered in the negative, insisting in most cases that the terms of Article 4 were perfectly clear.

On the other hand, the statement submitted by Yugoslavia expresses the opinion that the terms of the pertinent article are perfectly clear and adds that the question raised by the resolution is essentially political, not juridical.

In its observations, the Ukrainian Soviet Socialist Republic said that this so-called advisory opinion was to be regarded, not as a consultation on an ordinary legal question as provided in Article 65 of the Court's Statute, but as an interpretation affecting the substance of the Charter and the United Nations itself. Such an interpretation was not provided for anywhere in the Charter, either directly or indirectly, and was consequently not within the competence of the International Court of Justice.

Similarly, in its observations, the Government of the U.S.S.R. expressed the opinion that the question did not lie within the competence of the International Court of Justice. The method of admission of a Member to the United Nations was determined by the Charter and could not be subject to an interpretation by the Court, inasmuch as this was not provided for in the Charter of the United Nations.

≡ ≡ ≡

The following Governments have announced that an oral statement will be submitted on their behalf: France, Yugoslavia and Belgium.

At the beginning of the public hearing, Dr. Ivan Kerno, Assistant-Secretary-General of the United Nations in charge of the Legal Department, will make a statement on behalf of the Secretary-General.

The Hague, April 19th, 1948.