

The following information from the Registry of the International Court of Justice has been communicated to the press:

The International Court of Justice this morning began hearings at the Peace Palace in The Hague in the Second Phase of the Advisory Case concerning certain procedural questions relating to the Interpretation of Peace Treaties with Bulgaria, Hungary and Romania.

In opening the sitting the President, M. Jules Basdevant, referred to the Advisory Opinion delivered on March 30th, 1950 by which the Court answered in the affirmative the first two of four questions referred to it for advisory opinion by the General Assembly of the United Nations under Resolution dated October 22nd, 1949. This request consisted of four questions, the last two being put to the Court only under certain conditions.

The President further referred to the fact that the Secretary-General had notified the Court that the Governments of Bulgaria, Hungary and Romania had not designated their representatives to the Commissions under the Peace Treaty within 30 days from the date when the Court delivered the above Opinion, and that therefore, the conditions under which the Court was to examine Questions III and IV were fulfilled.

Dr. Edvard Hambro, Registrar of the Court, read the text of Questions III and IV.

The President continued by stating that the necessary notifications were sent to the States concerned and that they had been informed of the time limits fixed for the presentation of written and oral statements. The Government of the United States of America presented a written statement within the prescribed time-limit and declared its intention of presenting an oral statement designating the Hon. Benjamin V. Cohen, assisted by Mr. Leonard C. Meeker, of the office of the Legal Department, Department of State, as its representatives for this purpose. The United Kingdom Government had referred to its written observations on the question submitted during the first phase of the case, and was now represented before the Court by Mr. G.G. Fitzmaurice, Second Legal Adviser of the Foreign Office, who would present an oral statement on its behalf.

The Secretary-General of the United Nations was represented before the Court by Dr. Ivan Kerno, Assistant Secretary-General in charge of the Legal Department, assisted by Mr. Hsuan Tsui Liu, Legal Counsellor of the Legal Department of the Secretariat of the United Nations.

The President of the Court called upon Dr. Kerno.

Dr. Kerno began by referring to the first phase of the present case in which he had presented an oral statement on behalf of the Secretary-General of the United Nations consisting mainly of an objective summary of the salient points in the discussions which took place in the General Assembly. He added a few remarks to his previous statement on the discussions which took place in the ad hoc Political Committee and in the Plenary Meetings of the General Assembly. Dr. Kerno continued "The Secretary-General is, of course, the head of one of the

principal ...

principal organs of the United Nations. The United Nations is based on certain fundamental purposes and principles. In all his activity, the Secretary-General must undoubtedly act in accordance with these purposes and principles. They are contained in the preamble and the first two Articles of the Charter."

The treaties of peace with Bulgaria, Hungary and Romania had given the Secretary-General a special task and there was no doubt, said Dr. Kernó, that in respect of this special task the Secretary-General would, in any event, be guided and inspired by the same principles as those which were at the basis of his general activities under the Charter. The Opinion of the Court in the second phase of this case would obviously be of particular importance for the Secretary-General. Dr. Kernó repeated that it was of the essence of the procedure under the Peace Treaties that any action on the part of the Secretary-General should be free from the slightest suspicion of partiality and concluded his statement by saying that the Secretary-General would be able to define his attitude only in the light of the Opinion of the Court and with full knowledge of the views of the General Assembly.

The President then called upon the Hon. Benjamin V. Cohen, representative of the United States of America to address the Court.

In his remarks, Mr. Cohen stated that it was the view of the United States that the Peace Treaties fairly and reasonably construed, gave the Governments of Bulgaria, Hungary and Romania neither the legal right nor the legal power to frustrate the operation of the mandatory provisions for the settlement of disputes by refusing to appoint their representatives to the treaty commissions in accordance with the treaty obligation.

In respect of Question III, the treaties conferred upon the Secretary-General the authority to appoint the third member of a treaty commission when the parties were unable to agree upon the selection of the third member within one month. The language of the treaties was clear and there was no reason in law or in equity why the words of the treaties should not be construed to mean what they said. The United States was of opinion that a negative answer by the Court to Question III would be a serious blow to the progress of international law in the field of peaceful settlement of disputes.

Relying, inter alia, upon citations from publicists on the general principles of international law, and the jurisprudence of the International Court of Justice, the representative of the United States concluded that an affirmative answer should also be given to Question IV.

Mr. Fitzmaurice, representative of the Government of the United Kingdom of Great-Britain and Northern Ireland, began his statement.

The Hague, June 27th, 1950.

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