

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

INTERPRÉTATION DES TRAITÉS DE PAIX
CONCLUS AVEC LA BULGARIE,
LA HONGRIE ET LA ROUMANIE
AVIS CONSULTATIF DU 30 MARS 1950

1950

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

INTERPRETATION OF PEACE TREATIES
WITH BULGARIA, HUNGARY
AND ROMANIA

ADVISORY OPINION OF MARCH 30th, 1950

Le présent avis doit être cité comme suit :

« *Interprétation des traités de paix,*
Avis consultatif : C. I. J. Recueil 1950, p. 65. »

This Opinion should be cited as follows :

“*Interpretation of Peace Treaties,*
Advisory Opinion : I.C.J. Reports 1950, p. 65.”

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INTERNATIONAL COURT OF JUSTICE

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March 30th
General List
No. 8INTERPRETATION OF PEACE TREATIES
WITH BULGARIA, HUNGARY
AND ROMANIA

Advisory function.—Competence of the Court: objection on the ground of alleged lack of competence of the General Assembly, based on the character of the Court as an organ of the United Nations; Article 2, paragraph 7, of the Charter.—Power of the Court to reply to a Request for Opinion in spite of the opposition of certain States; duty to answer; limits of this duty; Article 65 of the Statute.—Questions relating solely to the conditions of application of a procedure, provided for by treaty, for the settlement of disputes.—Article 68 of the Statute: discretion allowed to the Court.—Existence of disputes; applicability of the procedure provided for by treaty for the settlement of disputes to disputes concerning the interpretation or execution of the treaty.—Definition of a question put to the Court.—Compulsory settlement of disputes by Treaty Commissions; obligation for the parties to the dispute to co-operate in the constitution of the Commissions by appointing their representatives.

ADVISORY OPINION

Present: President BASDEVANT; *Vice-President* GUERRERO; *Judges* ALVAREZ, HACKWORTH, WINIARSKI, ZORIČIĆ, DE VISSCHER, SIR ARNOLD MCNAIR, KLAESTAD, BADAWI PASHA, KRYLOV, READ, HSU MO, AZEVEDO; *Registrar* HAMBRO.

THE COURT,

composed as above,

gives the following Advisory Opinion :

On October 22nd, 1949, the General Assembly of the United Nations adopted the following Resolution :

“Whereas the United Nations, pursuant to Article 55 of the Charter, shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Whereas the General Assembly, at the second part of its Third Regular Session, considered the question of the observance in Bulgaria and Hungary of human rights and fundamental freedoms,

Whereas the General Assembly, on 30 April 1949, adopted Resolution 272 (III) concerning this question in which it expressed its deep concern at the grave accusations made against the Governments of Bulgaria and Hungary regarding the suppression of human rights and fundamental freedoms in those countries; noted with satisfaction that steps had been taken by several States signatories to the Treaties of Peace with Bulgaria and Hungary regarding these accusations; expressed the hope that measures would be diligently applied, in accordance with the Treaties, in order to ensure respect for human rights and fundamental freedoms; and most urgently drew the attention of the Governments of Bulgaria and Hungary to their obligations under the Peace Treaties, including the obligation to co-operate in the settlement of the question,

Whereas the General Assembly has resolved to consider also at the Fourth Regular Session the question of the observance in Romania of human rights and fundamental freedoms,

Whereas certain of the Allied and Associated Powers signatories to the Treaties of Peace with Bulgaria, Hungary and Romania have charged the Governments of those countries with violations of the Treaties of Peace and have called upon those Governments to take remedial measures,

Whereas the Governments of Bulgaria, Hungary and Romania have rejected the charges of Treaty violations,

Whereas the Governments of the Allied and Associated Powers concerned have sought unsuccessfully to refer the question of Treaty violations to the Heads of Mission in Sofia, Budapest and Bucharest, in pursuance of certain provisions in the Treaties of Peace,

Whereas the Governments of these Allied and Associated Powers have called upon the Governments of Bulgaria, Hungary and

Romania to join in appointing Commissions pursuant to the provisions of the respective Treaties of Peace for the settlement of disputes concerning the interpretation or execution of these Treaties,

Whereas the Governments of Bulgaria, Hungary and Romania have refused to appoint their representatives to the Treaty Commissions, maintaining that they were under no legal obligation to do so,

Whereas the Secretary-General of the United Nations is authorized by the Treaties of Peace, upon request by either party to a dispute, to appoint the third member of a Treaty Commission if the parties fail to agree upon the appointment of the third member,

Whereas it is important for the Secretary-General to be advised authoritatively concerning the scope of his authority under the Treaties of Peace,

The General Assembly

1. *Expresses* its continuing interest in and its increased concern at the grave accusations made against Bulgaria, Hungary and Romania ;

2. *Records* its opinion that the refusal of the Governments of Bulgaria, Hungary and Romania to co-operate in its efforts to examine the grave charges with regard to the observance of human rights and fundamental freedoms justifies this concern of the General Assembly about the state of affairs prevailing in Bulgaria, Hungary and Romania in this respect ;

3. *Decides* to submit the following questions to the International Court of Justice for an advisory opinion :

'I. Do the diplomatic exchanges between Bulgaria, Hungary and Romania, on the one hand, and certain Allied and Associated Powers signatories to the Treaties of Peace, on the other, concerning the implementation of Article 2 of the Treaties with Bulgaria and Hungary and Article 3 of the Treaty with Romania, disclose disputes subject to the provisions for the settlement of disputes contained in Article 36 of the Treaty of Peace with Bulgaria, Article 40 of the Treaty of Peace with Hungary, and Article 38 of the Treaty of Peace with Romania ?'

In the event of an affirmative reply to question I :

'II. Are the Governments of Bulgaria, Hungary and Romania obligated to carry out the provisions of the articles referred to in question I, including the provisions for the appointment of their representatives to the Treaty Commissions ?'

In the event of an affirmative reply to question II and if within thirty days from the date when the Court delivers its opinion,

the Governments concerned have not notified the Secretary-General that they have appointed their representatives to the Treaty Commissions, and the Secretary-General has so advised the International Court of Justice :

'III. If one party fails to appoint a representative to a Treaty Commission under the Treaties of Peace with Bulgaria, Hungary and Romania where that party is obligated to appoint a representative to the Treaty Commission, is the Secretary-General of the United Nations authorized to appoint the third member of the Commission upon the request of the other party to a dispute according to the provisions of the respective Treaties ?'

In the event of an affirmative reply to question III :

'IV. Would a Treaty Commission composed of a representative of one party and a third member appointed by the Secretary-General of the United Nations constitute a Commission, within the meaning of the relevant Treaty articles, competent to make a definitive and binding decision in settlement of a dispute ?'

4. *Requests* the Secretary-General to make available to the International Court of Justice the relevant exchanges of diplomatic correspondence communicated to the Secretary-General for circulation to the Members of the United Nations and the records of the General Assembly proceedings on this question ;

5. *Decides* to retain on the agenda of the Fifth Regular Session of the General Assembly the question of the observance of human rights and fundamental freedoms in Bulgaria, Hungary and Romania, with a view to ensuring that the charges are appropriately examined and dealt with."

By a letter of October 31st, 1949, filed in the Registry on November 3rd, the Secretary-General of the United Nations transmitted to the Court a certified true copy of the General Assembly's Resolution.

On November 7th, 1949, in accordance with paragraph 1 of Article 66 of the Court's Statute, the Registrar gave notice of the Request to all States entitled to appear before the Court. On the same date, the Registrar, by means of a special and direct communication as provided in paragraph 2 of the above-mentioned article, informed all States entitled to appear before the Court and parties to one or more of the above-mentioned Peace Treaties (Australia, Canada, United States of America, Greece, India, New Zealand, Pakistan, United Kingdom of Great Britain and Northern Ireland, Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Czechoslovakia, Union of Soviet Socialist Republics, Union of South Africa, Yugoslavia) that the Court was prepared to receive from them written statements on the questions submitted

to it for an advisory opinion and to hear oral statements at a date which would be fixed in due course.

An identical communication was sent, also on November 7th, in pursuance of paragraph 1 of Article 63 of the Statute, to the other States parties to one of the above-mentioned Treaties, namely, Bulgaria, Hungary and Romania.

These communications were accompanied by copies of an Order, made on the same date, by which the Acting President of the Court appointed January 16th, 1950, as the date of expiry of the time-limit for the submission of written statements and reserved the rest of the procedure for further decision.

Written statements and communications were received within the prescribed time-limit from the following States : United States of America, United Kingdom, Bulgaria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Byelorussian Soviet Socialist Republic, Romania, Czechoslovakia, Australia and Hungary.

In accordance with Article 65 of the Statute, the Secretary-General of the United Nations transmitted to the Registrar a set of documents which reached the Registry on November 26th, 1949. Some additional documents, which had subsequently been filed with the Secretariat, were forwarded to the Registry, where they arrived on February 24th, 1950. All these documents are enumerated in the list attached to the present Opinion.

In a letter dated January 23rd, 1950, the Assistant Secretary-General in charge of the Legal Department of the Secretariat of the United Nations announced that he intended to take part in the oral proceedings and to submit a statement on behalf of the Secretary-General.

The Government of the United Kingdom and the Government of the United States of America stated, in letters dated respectively January 6th and February 10th, 1950, that they intended to submit oral statements.

At public sittings held on February 28th and on March 1st and 2nd, 1950, the Court heard oral statements submitted :

on behalf of the Secretary-General of the United Nations by Mr. Ivan Kerno, Assistant Secretary-General in charge of the Legal Department ;

on behalf of the Government of the United States of America by the Honorable Benjamin V. Cohen ;

on behalf of the Government of the United Kingdom by Mr. G. G. Fitzmaurice, C.M.G., Second Legal Adviser of the Foreign Office.

* * *

In conformity with the Resolution of the General Assembly of October 22nd, 1949, the Court is at present called upon to give an Opinion only on Questions I and II set forth in that Resolution.

The power of the Court to exercise its advisory function in the present case has been contested by the Governments of Bulgaria, Hungary and Romania, and also by several other Governments, in the communications which they have addressed to the Court.

This objection is founded mainly on two arguments.

It is contended that the Request for an Opinion was an action *ultra vires* on the part of the General Assembly because, in dealing with the question of the observance of human rights and fundamental freedoms in the three States mentioned above, it was "interfering" or "intervening" in matters essentially within the domestic jurisdiction of States. This contention against the exercise by the Court of its advisory function seems thus to be based on the alleged incompetence of the General Assembly itself, an incompetence deduced from Article 2, paragraph 7, of the Charter.

The terms of the General Assembly's Resolution of October 22nd, 1949, considered as a whole and in its separate parts, show that this argument is based on a misunderstanding. When the vote was taken on this Resolution, the General Assembly was faced with a situation arising out of the charges made by certain Allied and Associated Powers, against the Governments of Bulgaria, Hungary and Romania of having violated the provisions of the Peace Treaties concerning the observance of human rights and fundamental freedoms. For the purposes of the present Opinion, it suffices to note that the General Assembly justified the adoption of its Resolution by stating that "the United Nations, pursuant to Article 55 of the Charter, shall promote universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

The Court is not called upon to deal with the charges brought before the General Assembly since the Questions put to the Court relate neither to the alleged violations of the provisions of the Treaties concerning human rights and fundamental freedoms nor to the interpretation of the articles relating to these matters. The object of the Request is much more limited. It is directed solely to obtaining from the Court certain clarifications of a legal nature regarding the applicability of the procedure for the settlement of disputes by the Commissions provided for in the express terms of Article 36 of the Treaty with Bulgaria, Article 40 of the Treaty with Hungary and Article 38 of the Treaty with Romania. The interpretation of the terms of a treaty for this purpose could not be considered as a question essentially within the domestic jurisdiction of a State. It is a question of inter-

national law which, by its very nature, lies within the competence of the Court.

These considerations also suffice to dispose of the objection based on the principle of domestic jurisdiction and directed specifically against the competence of the Court, namely, that the Court, as an organ of the United Nations, is bound to observe the provisions of the Charter, including Article 2, paragraph 7.

The same considerations furnish an answer to the objection that the advisory procedure before the Court would take the place of the procedure instituted by the Peace Treaties for the settlement of disputes. So far from placing an obstacle in the way of the latter procedure, the object of this Request is to facilitate it by seeking information for the General Assembly as to its applicability to the circumstances of the present case.

It thus appears that these objections to the Court's competence to give the Advisory Opinion which has been requested are ill-founded and cannot be upheld.

Another argument that has been invoked against the power of the Court to answer the Questions put to it in this case is based on the opposition of the Governments of Bulgaria, Hungary and Romania to the advisory procedure. The Court cannot, it is said, give the Advisory Opinion requested without violating the well-established principle of international law according to which no judicial proceedings relating to a legal question pending between States can take place without their consent.

This objection reveals a confusion between the principles governing contentious procedure and those which are applicable to Advisory Opinions.

The consent of States, parties to a dispute, is the basis of the Court's jurisdiction in contentious cases. The situation is different in regard to advisory proceedings even where the Request for an Opinion relates to a legal question actually pending between States. The Court's reply is only of an advisory character: as such, it has no binding force. It follows that no State, whether a Member of the United Nations or not, can prevent the giving of an Advisory Opinion which the United Nations considers to be desirable in order to obtain enlightenment as to the course of action it should take. The Court's Opinion is given not to the States, but to the organ which is entitled to request it; the reply of the Court, itself an "organ of the United Nations", represents its participation in the activities of the Organization, and, in principle, should not be refused.

There are certain limits, however, to the Court's duty to reply to a Request for an Opinion. It is not merely an "organ of the United Nations", it is essentially the "principal judicial organ" of the Organization (Art. 92 of the Charter and Art. 1 of the Statute). It is on account of this character of the Court that its

power to answer the present Request for an Opinion has been challenged.

Article 65 of the Statute is permissive. It gives the Court the power to examine whether the circumstances of the case are of such a character as should lead it to decline to answer the Request. In the opinion of the Court, the circumstances of the present case are profoundly different from those which were before the Permanent Court of International Justice in the Eastern Carelia case (Advisory Opinion No. 5), when that Court declined to give an Opinion because it found that the question put to it was directly related to the main point of a dispute actually pending between two States, so that answering the question would be substantially equivalent to deciding the dispute between the parties, and that at the same time it raised a question of fact which could not be elucidated without hearing both parties.

As has been observed, the present Request for an Opinion is solely concerned with the applicability to certain disputes of the procedure for settlement instituted by the Peace Treaties, and it is justifiable to conclude that it in no way touches the merits of those disputes. Furthermore, the settlement of these disputes is entrusted solely to the Commissions provided for by the Peace Treaties. Consequently, it is for these Commissions to decide upon any objections which may be raised to their jurisdiction in respect of any of these disputes, and the present Opinion in no way prejudices the decisions that may be taken on those objections. It follows that the legal position of the parties to these disputes cannot be in any way compromised by the answers that the Court may give to the Questions put to it.

It is true that Article 68 of the Statute provides that the Court in the exercise of its advisory functions shall further be guided by the provisions of the Statute which apply in contentious cases. But according to the same article these provisions would be applicable only "to the extent to which it [the Court] recognizes them to be applicable". It is therefore clear that their application depends on the particular circumstances of each case and that the Court possesses a large amount of discretion in the matter. In the present case the Court is dealing with a Request for an Opinion, the sole object of which is to enlighten the General Assembly as to the opportunities which the procedure contained in the Peace Treaties may afford for putting an end to a situation which has been presented to it. That being the object of the Request, the Court finds in the opposition to it made by Bulgaria, Hungary and Romania no reason why it should abstain from replying to the Request.

For the reasons stated above, the Court considers that it has the power to answer Questions I and II and that it is under a duty to do so.

* * *

Question I is framed in the following terms :

“Do the diplomatic exchanges between Bulgaria, Hungary and Romania on the one hand and certain Allied and Associated Powers signatories to the Treaties of Peace on the other, concerning the implementation of Article 2 of the Treaties with Bulgaria and Hungary and Article 3 of the Treaty with Romania, disclose disputes subject to the provisions for the settlement of disputes contained in Article 36 of the Treaty of Peace with Bulgaria, Article 40 of the Treaty of Peace with Hungary and Article 38 of the Treaty of Peace with Romania ?”

The text of the articles mentioned in Question I is as follows :

Article 2 of the Treaty with Bulgaria (to which correspond *mutatis mutandis* Article 2, paragraph 1, of the Treaty with Hungary and Article 3, paragraph 1, of the Treaty with Romania) :

“Bulgaria shall take all measures necessary to secure to all persons under Bulgarian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.”

Article 36 of the Treaty with Bulgaria (to which correspond *mutatis mutandis* Article 40 of the Treaty with Hungary and Article 38 of the Treaty with Romania) :

“1. Except where another procedure is specifically provided under any article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty, which is not settled by direct diplomatic negotiations, shall be referred to the Three Heads of Mission acting under Article 35, except that in this case the Heads of Mission will not be restricted by the time-limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.”

The text of Article 35, which is referred to in Article 36 of the Treaty with Bulgaria (and to which correspond *mutatis mutandis* Article 39 of the Treaty with Hungary and Article 37 of the Treaty with Romania), is as follows :

“1. For a period not to exceed eighteen months from the coming into force of the present Treaty, the Heads of the Diplomatic Missions in Sofia of the Soviet Union, the United Kingdom and the United States of America, acting in concert, will represent the Allied and Associated Powers in dealing with the Bulgarian Government in all matters concerning the execution and interpretation of the present Treaty.

2. The Three Heads of Mission will give the Bulgarian Government such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit.

3. The Bulgarian Government shall afford the said Three Heads of Mission all necessary information and any assistance which they may require in the fulfilment of the tasks devolving on them under the present Treaty.”

Question I involves two main points. First, do the diplomatic exchanges between Bulgaria, Hungary and Romania on the one hand and certain Allied and Associated Powers signatories to the Peace Treaties on the other, disclose any disputes? Second, if they do, are such disputes among those which are subject to the provisions for the settlement of disputes contained in Article 36 of the Treaty with Bulgaria, Article 40 of the Treaty with Hungary, and Article 38 of the Treaty with Romania?

Whether there exists an international dispute is a matter for objective determination. The mere denial of the existence of a dispute does not prove its non-existence. In the diplomatic correspondence submitted to the Court, the United Kingdom, acting in association with Australia, Canada and New Zealand, and the United States of America charged Bulgaria, Hungary and Romania with having violated, in various ways, the provisions of the articles dealing with human rights and fundamental freedoms in the Peace Treaties and called upon the three Governments to take remedial measures to carry out their obligations under the Treaties. The three Governments, on the other hand, denied the charges. There has thus arisen a situation in which the two sides hold clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations. Confronted with such a situation, the Court must conclude that international disputes have arisen.

This conclusion is not invalidated by the text of Article 36 of the Treaty with Bulgaria (Article 40 of the Treaty with Hungary and Article 38 of the Treaty with Romania). This article, in referring to “any dispute”, is couched in general terms. It does not justify limiting the idea of “the dispute” to a dispute between the United States of America, the United Kingdom and the Union of Soviet Socialist Republics acting in concert on the one hand, and Bulgaria

(Hungary or Romania) on the other. In the present case, a dispute exists between each of the three States—Bulgaria, Hungary and Romania—and each of the Allied and Associated States which sent protests to them.

The next point to be dealt with is whether the disputes are subject to the provisions of the articles for the settlement of disputes contained in the Peace Treaties. The disputes must be considered to fall within those provisions if they relate to the interpretation or execution of the Treaties, and if no other procedure of settlement is specifically provided elsewhere in the Treaties.

Inasmuch as the disputes relate to the question of the performance or non-performance of the obligations provided in the articles dealing with human rights and fundamental freedoms, they are clearly disputes concerning the interpretation or execution of the Peace Treaties. In particular, certain answers from the Governments accused of violations of the Peace Treaties make use of arguments which clearly involve an interpretation of those Treaties.

Since no other procedure is specifically provided in any other article of the Treaties, the disputes must be subject to the methods of settlement contained in the articles providing for the settlement of all disputes.

The Court thus concludes that Question I must be answered in the affirmative.

In these circumstances, it becomes necessary to take up Question II, which is as follows :

“Are the Governments of Bulgaria, Hungary and Romania obligated to carry out the provisions of the articles referred to in Question I, including the provisions for the appointment of their representatives to the Treaty Commissions ?”

Before answering the Question, the Court must determine the scope of the expression “the provisions of the articles referred to in Question I”. Question I mentions two sets of articles : one set being those articles concerning human rights, namely, Article 2 of the Treaties with Bulgaria and Hungary, and Article 3 of the Treaty with Romania ; the other set being those articles concerning the settlement of disputes, namely, Article 36 of the Treaty with Bulgaria, Article 40 of the Treaty with Hungary and Article 38 of the Treaty with Romania. The Court considers that the expression “the provisions of the articles referred to in Question I” refers only to the articles providing for the settlement of disputes, and does not refer to the articles dealing with human rights.

This view is clearly borne out by the various considerations stated in the Resolution of the General Assembly of October 22nd, 1949. It is confirmed by the fact that the Questions put to the Court have for their sole object to determine whether the disputes, if they exist, are among those falling under the procedure provided for in the Treaties with a view to their settlement by arbitration. The Court does not think that the General Assembly would have asked it whether Bulgaria, Hungary and Romania are obligated to carry out the articles concerning human rights. For, in the first place, the three Governments have not denied that they are obligated to carry out these articles. In the second place, the words which precede Question II, "In the event of an affirmative answer to Question I", exclude the idea that Question II refers to the articles relating to human rights. There is no reason why the General Assembly should have made the consideration of the question concerning human rights depend on an affirmative answer to a question relating to the existence of disputes. The articles concerning human rights are mentioned in Question I only by way of describing the subject-matter of the diplomatic exchanges between the States concerned.

The real meaning of Question II, in the opinion of the Court, is this: In view of the disputes which have arisen and which have so far not been settled, are Bulgaria, Hungary and Romania obligated to carry out, respectively, the provisions of Article 36 of the Treaty with Bulgaria, Article 40 of the Treaty with Hungary, and Article 38 of the Treaty with Romania?

The articles for the settlement of disputes provide that any dispute which is not settled by direct diplomatic negotiations shall be referred to the Three Heads of Mission. If not resolved by them within a period of two months, the dispute shall, unless the parties to the dispute agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member, to be selected in accordance with the relevant articles of the Treaties.

The diplomatic documents presented to the Court show that the United Kingdom and the United States of America on the one hand, and Bulgaria, Hungary and Romania on the other, have not succeeded in settling their disputes by direct negotiations. They further show that these disputes were not resolved by the Heads of Mission within the prescribed period of two months. It is a fact that the parties to the disputes have not agreed upon any other means of settlement. It is also a fact that the United Kingdom and the United States of America, after the expiry of the prescribed period, requested that the disputes should be settled by the Commissions mentioned in the Treaties.

This situation led the General Assembly to put Question II so as to obtain guidance for its future action.

The Court finds that all the conditions required for the commencement of the stage of the settlement of disputes by the Commissions have been fulfilled.

In view of the fact that the Treaties provide that any dispute shall be referred to a Commission "at the request of either party", it follows that either party is obligated, at the request of the other party, to co-operate in constituting the Commission, in particular by appointing its representative. Otherwise the method of settlement by Commissions provided for in the Treaties would completely fail in its purpose.

The reply to Question II, as interpreted above, must therefore be in the affirmative.

For these reasons,

THE COURT IS OF OPINION,

On Question I :

by eleven votes to three,

that the diplomatic exchanges between Bulgaria, Hungary and Romania on the one hand and certain Allied and Associated Powers signatories to the Treaties of Peace on the other, concerning the implementation of Article 2 of the Treaties with Bulgaria and Hungary and Article 3 of the Treaty with Romania, disclose disputes subject to the provisions for the settlement of disputes contained in Article 36 of the Treaty of Peace with Bulgaria, Article 40 of the Treaty of Peace with Hungary, and Article 38 of the Treaty of Peace with Romania ;

On Question II :

by eleven votes to three,

that the Governments of Bulgaria, Hungary and Romania are obligated to carry out the provisions of those articles referred to in Question I, which relate to the settlement of disputes, including the provisions for the appointment of their representatives to the Treaty Commissions.

Done in French and English, the French text being authoritative, at the Peace Palace, The Hague, this thirtieth day of March, one thousand nine hundred and fifty, in two copies, one of which will

be placed in the archives of the Court and the other transmitted to the Secretary-General of the United Nations.

(Signed) BASDEVANT,
President.

(Signed) E. HAMBRO,
Registrar.

Judge AZEVEDO, while concurring in the Opinion of the Court, has availed himself of the right conferred on him by Article 57 of the Statute and appended to the Opinion a statement of his separate opinion.

Judges WINIARSKI, ZORIČIĆ and KRYLOV, considering that the Court should have declined to give an Opinion in this case, have availed themselves of the right conferred on them by Article 57 of the Statute and appended to the Opinion statements of their dissenting opinions.

(Initialled) J. B.

(Initialled) E. H.

ANNEX

DOCUMENTS TRANSMITTED TO THE INTERNATIONAL
COURT OF JUSTICE BY THE SECRETARY-GENERAL OF
THE UNITED NATIONS IN ACCORDANCE WITH THE
RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY
ON 22 OCTOBER, 1949

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Records of proceedings.*

- Records of the General Committee, 65th meeting [See pages 3 and 4, paragraphs 71-73, and page 7, paragraphs 104 and 105.]
- Records of the General Assembly, 224th plenary meeting [See pages 18 and 19, paragraphs 2-10, and page 23, after paragraph 56.]

Folder 9.

*Inclusion of item in agenda.
Documents.*

- Supplementary list of items for the agenda of the fourth regular session ; items proposed by Australia A/948
- Adoption of the agenda of the fourth regular session and allocation of items to Committees ; report of the General Committee A/989
[See paragraphs 9-12.]

Folder 10.

Ad hoc Political Committee.

Records of proceedings.

- 7th meeting.
- 8th meeting.
- 9th meeting.
- 10th meeting.
- 11th meeting.
- 12th meeting.
- 13th meeting.
- 14th meeting.
- 15th meeting.

Folder 11.

Ad hoc Political Committee.

Documents.

- Letter dated 26 September, 1949, from the President of the General Assembly to the Chairman of the *Ad hoc Political Committee* A/AC.31/2
- Bolivia, Canada and the United States of America : draft resolution A/AC.31/L.1/Rev. 1
- Australia : amendment to the draft resolution proposed by Bolivia, Canada and the United States of America (A/AC.31/L.1/Rev. 1) A/AC.31/L.2
- Brazil, Lebanon and the Netherlands : amendment to the draft resolution proposed by Bolivia, Canada and the United States of America (A/AC.31/L.1/Rev. 1) A/AC.31/L.3
- Telegram dated 7 October, 1949, from the Government of the People's Republic of Romania to the Secretary-General A/AC.31/L.4
- Report of the *Ad hoc Political Committee* A/1023

Folder 12.

Plenary meetings of the General Assembly.

Records of proceedings.

234th meeting.

235th meeting.

Folder 13.

Plenary meetings of the General Assembly.

Documents.

Resolution adopted by the General
Assembly, 22 October, 1949.

[*Note—See Folder II for :*

Report of the Ad hoc Political Committee A/1023.]