

## ARTICLE 23

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#### TEXT OF ARTICLE 23

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

#### INTRODUCTORY NOTE

1. Article 23(1) specifies which five Members of the United Nations are to be permanent members of the Security Council and provides for the election of six non-permanent members for fixed terms. At its annual sessions, the General Assembly,

pursuant to Article 23 and the relevant rules of procedure, 1/ elected non-permanent members to the Security Council for appropriate terms. An account of these elections at the eleventh, twelfth and thirteenth sessions of the General Assembly is given in the General Survey of the present study.

2. In connexion with the election of a non-permanent member to the Security Council to fill the vacancy resulting from the resignation of another non-permanent member, discussion took place at the eleventh session of the General Assembly on problems related to compliance with the Charter requirements of "equitable geographical distribution". During the General Assembly's consideration of the "Question of amending the United Nations Charter, in accordance with the procedure laid down in Article 108 of the Charter, to increase the number of non-permanent members of the Security Council and the number of votes required for decisions of the Council", the principle of equitable geographical distribution was again discussed. Accounts of the proceedings relating to this matter are included in the Analytical Summary of Practice. A table is presented in paragraph 7, below, showing the distribution of non-permanent seats on the Security Council in 1957, 1958 and 1959.

### I. GENERAL SURVEY

3. At the eleventh session, the General Assembly elected four non-permanent members to the Security Council. The additional non-permanent vacancy resulted from the resignation of Yugoslavia 2/ from membership in the Council upon completion of the first year of its term of office - a resignation effected in order to permit the election of the Philippines. 3/ The other three vacancies occurred upon the expiration of the terms of office of Belgium, Iran and Peru on 31 December 1956. At its 612th plenary meeting, on 7 December 1956, the General Assembly, on the first ballot, 4/ elected the Philippines to the seat vacated by Yugoslavia. Objection was raised 5/ that the General Assembly, in electing the Philippines to the Security Council, had violated the "London agreement" on regional representation in elections to the Council, which was reached in 1946 among the permanent members of the Security Council. 6/ The General Assembly, at its 627th meeting, on 19 December 1956, 7/ elected Colombia and Iraq on the first ballot and Sweden on the fourth ballot.

4. At the twelfth session of the General Assembly, three non-permanent members were to be elected to replace Australia, Cuba and the Philippines, whose terms of office expired on 31 December 1957. At its 695th plenary meeting, on 1 October 1957, the General Assembly, on the first ballot, 8/ elected Canada, Japan and Panama as non-permanent members of the Security Council.

5. At the thirteenth session of the General Assembly, three non-permanent members were to be elected to replace Colombia, Iraq and Sweden, whose terms of office expired on

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1/ See Rules of Procedure of the General Assembly (United Nations publication, Sales No.: 1961.I.4), chapter XII, Plenary meetings ... Voting: Elections, rules 94-96; chapter XV, Elections to principal organs, General provisions, rules 140 and 141; The Security Council, rules 143-145.

2/ G A (XI), Annexes, vol. II, a.i. 68, A/3332.

3/ See Repertory, Supplement No. 1, vol. I, under Article 23, para. 9.

4/ G A (XI), Plen., vol. I, 612th mtg., para. 16.

5/ Ibid., paras. 17-22.

6/ See Repertory, vol. II, under Article 23, para. 16.

7/ G A (XI), Plen., vol. II, 627th mtg., paras. 15 and 21.

8/ G A (XII), Plen., 695th mtg., para. 2.

31 December 1958. At the 775th meeting, on 8 October 1958, the General Assembly elected 9/ Argentina, Italy and Tunisia on the first ballot.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. The question of the "equitable geographical distribution" of elected seats

6. During the period under review, the principle of "equitable geographical distribution" as a basis for ensuring the proper constitution of the Security Council was invoked in connexion with proposals to enlarge the Council. Discussion centred on the criteria for determining how non-permanent members to be elected to the Security Council should be chosen. The principle was also invoked in connexion with the question of regional representation in elections to the Security Council involved in the so-called "London agreement" among the permanent members of the Security Council.

7. The following table 10/ shows the distribution of non-permanent seats on the Security Council for the years 1957, 1958 and 1959:

<u>1957</u>	<u>1958</u>	<u>1959</u>
Colombia	Canada	Argentina
Iraq	Japan	Italy
Sweden	Panama	Tunisia
<u>Australia</u>	<u>Colombia</u>	<u>Canada</u>
<u>Cuba</u>	<u>Iraq</u>	<u>Japan</u>
<u>Philippines</u>	<u>Sweden</u>	<u>Panama</u>

#### *Criteria for the distribution of seats*

8. A twenty-Power draft resolution, 11/ submitted at the eleventh session by nineteen Latin American countries and Spain, to increase the membership of the Security Council from eleven to thirteen and the number of non-permanent seats from six to eight, recommended the following distribution of non-permanent seats: Latin America, two seats; Asia and Africa, two seats; the Commonwealth of Nations, one seat; western and southern Europe, two seats; eastern Europe, one seat. The discussion that followed revealed a divergency of views concerning the criteria to be applied in determining "equitable geographical distribution".

9. In support of the proposed distribution, the following considerations were urged. Equitable geographical distribution of the non-permanent seats could best be ensured by defining a pattern of distribution in precise terms in advance. The proposal under consideration would contribute to the effective functioning of the Security Council. Any proposal on this matter must serve the important requirements of being formal and overt, and of paying due regard both to the groups favoured by existing convention and to the claims for wider representation of Asia, as well as the need for precise definition of the basis of representation for western and eastern Europe. If all Members of the United Nations believed that an increase in the membership of the

9/ G A (XIII), Plen., 775th mtg., para. 2.

10/ The terms of office of the three underlined non-permanent members expired at the end of the year indicated.

11/ G A (XI), Annexes, vol. II, a.i. 56, p. 4, A/3446; ibid., p. 5, A/L.217/Rev.1.

Security Council was necessary, they should not delay the increase because of the fear of future discrepancies in the manner of applying the principle.

10. In criticism of the proposed distribution in the twenty-Power draft resolution, the following views were advanced. Although there should be some means of ensuring adequate representation of the different regions of the world, 12/ any change should correct the present imbalance and should maintain the balance of populations by taking into account the large number of newly independent countries. It was also suggested that only countries which were able to express the views or sentiments of groups of countries should be elected. If western Europe, southern Europe and eastern Europe were to be considered regional entities, western Asia, south-eastern Asia and the Far East should also be treated as regional entities.

11. The question was raised whether adequate distribution of seats required mathematical allocation on a pro rata basis according to the number of Member States in each geographical area, or distribution solely on the basis of geographical regions or allocation with regard to the political affiliations of countries. One representative did not believe that a satisfactory scheme of geographical distribution could be defined by General Assembly resolution. Another thought that due regard must be paid to the functional criterion of the contribution of a State to the maintenance of international peace and security as well as the regional considerations generally recognized as equitable. 13/

12. In view of the diversity of opinion, sixteen African and Asian States submitted a draft resolution 14/ to establish a fifteen-member committee which would study the matter and report to the General Assembly.

13. Neither of the draft resolutions was put to a vote. At its 661st plenary meeting, on 26 February 1957, the General Assembly decided 15/ to postpone consideration of the item until the twelfth session.

14. During the twelfth session, the General Assembly, at its 728th meeting, on 12 December 1957, unanimously adopted 16/ the draft resolution recommended to it by the Special Political Committee to postpone consideration of the item until the thirteenth session. At the thirteenth session, the General Assembly, at its 783rd meeting, on 10 December 1958, postponed 17/ consideration of the item until the fourteenth session.

12/ In this connexion, some representatives made favourable mention of the distribution of seats on the Board of Governors of the International Atomic Energy Agency (IAEA), as established in the Statute of IAEA (IAEA/CS/13); and of the agreement (G A (XI), Annexes, vol. II, a.i. 59, p. 3, A/3427, para. 15) which had been reached by the Sixth Committee concerning an increase in the membership of the International Law Commission.

13/ For texts of relevant statements, see G A (XI), Plen., vol. II, 620th mtg.: Ceylon, paras. 107, 108 and 113; Jordan, para. 127; Mexico, para. 132; Spain, para. 99; Sudan, para. 118; Venezuela, para. 72; 621st mtg.: Greece, paras. 30 and 36; Poland, paras. 12 and 14-18; USSR, paras. 67 and 68; 622nd mtg.: Bulgaria, paras. 20 and 29; China, paras. 31, 34 and 37; India, paras. 77-85; New Zealand, paras. 90-95; United Kingdom, paras. 103-105 and 110; 624th mtg.: Australia, paras. 31, 32, 37 and 40; Canada, paras. 46-52; Thailand, paras. 53-56 and 67; United States, paras. 125, 126, 129, 133, 135 and 136; 629th mtg.: India, paras. 44, 45, 47 and 48.

14/ G A (XI), Annexes, vol. II, a.i. 56, p. 4, A/3468/Rev.1.

15/ G A (XI), Plen., vol. II, 661st mtg., para. 108.

16/ G A (XII), Plen., 728th mtg., para. 1; G A resolution 1190 (XII).

17/ G A (XIII), Plen., 783rd mtg., para. 1; G A resolution 1299 (XIII).

**B. The question of the verification or determination by the  
Security Council of its composition in accordance with  
the terms of the Charter**

15. At the 827th meeting of the Security Council, on 15 July 1958, the validity of the credentials of the representative of Iraq was challenged by the representative of the Union of Soviet Socialist Republics on the ground that a change in régime had taken place in Iraq the day before. The Secretary-General reported receipt of a communication regarding the question of credentials and observed that the communication was not signed by any person; the only information concerning the establishment of the new régime was contained in a radio report. He observed that article 5 of the Constitution of the Arab Union provided that the King of Iraq should be Head of the Union, and in his absence the King of Jordan should be the Head. He also referred to declarations by the King of Jordan concerning the purported new régime in Iraq and concluded that in these circumstances he did not consider that the unsigned communication constituted proper credentials. On the proposal of the representative of Panama, the President (Colombia) ruled, without objection, that, in view of the report submitted by the Secretary-General, and in accordance with rule 17 of the provisional rules of procedure of the Security Council, the Council should continue its consideration of the agenda for the meeting.

16. At the 834th meeting, on 18 July 1958, the Security Council received another oral report from the Secretary-General on the question of the credentials of the representative of Iraq. The Secretary-General stated that he had received a letter dated 15 July, informing him that the Government of Iraq had appointed a new representative to the Security Council and had withdrawn the credentials of the previous one. He had also received a cable dated 17 July, informing him of the withdrawal of Iraq from the Arab Union with Jordan. The Secretary-General cited the provision of the Constitution of the Arab Union which empowered the Head of the Arab Union to appoint diplomatic representatives of the Government of the Arab Union. He observed that this provision was to be read together with article 5 of the Constitution, which provided that in the absence of the King of Iraq, the King of Jordan was to be the Head of the Arab Union.

17. One representative contended that the Constitution of the Arab Union had no bearing on the question of the validity of the credentials of the newly designated representative of Iraq, because there was no longer an Arab Union since Iraq had withdrawn, and because there was no longer a Head of State since the Kingdom of Iraq had become a republic.

18. The representative of Iraq informed the Security Council that his original letter of credentials, which had been signed by the Foreign Minister of Iraq before the Arab Union came into effect, had subsequently been confirmed by the Foreign Minister of the Arab Union, who had not considered it necessary to issue new credentials.

19. The President (Colombia) ruled that the problem of credentials should be decided in the light of rule 17 of the provisional rules of procedure of the Security Council, and that the representative of Iraq, to whose credentials objection had been made,

should accordingly continue to sit, with the same right as other representatives, until the Security Council should decide otherwise. 18/

20. At the 838th meeting, on 7 August 1958, the President (France) drew the attention of members to the Secretary-General's report 19/ dated 6 August concerning the credentials of the representative of Iraq, and to a letter 20/ dated 5 August from the permanent representative of Iraq to the Secretary-General.

21. The Secretary-General's report referred to a cable dated 17 July 1958 from the Minister of Foreign Affairs in Baghdad, informing him that the Government of the Republic of Iraq considered that all obligations arising from the Arab Union were null and void. The Secretary-General reported that he had been officially notified by the Government of Jordan that it considered that the Constitution of the Arab Union was in abeyance and inapplicable. The Secretary-General also referred to a letter of 15 July 1958 from the Minister of Foreign Affairs of the Government of Iraq, accrediting the new representative of Iraq to the Security Council. In the opinion of the Secretary-General, these credentials were in order.

22. A letter dated 5 August 1958 from the representative of Iraq informed the Secretary-General of the declaration by Jordan terminating the Arab Union as from 1 August 1958, and of the termination thereby of his mission as permanent representative of Iraq accredited by the Government of the Arab Union. Following a reference to the foregoing documents, the President of the Security Council welcomed the new representative of Iraq. 21/

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18/ By cable dated 19 July (S C, 13th yr., Suppl. for July-Sept., p. 54, S/4060), the Foreign Minister of Jordan informed the Secretary-General that only the King of Jordan, as Head of the Arab Union, could authorize the representation of Iraq on the Security Council; and by cable dated 20 July (S C, 13th yr., Suppl. for July-Sept., p. 54, S/4060), he further informed the Secretary-General that the King of Jordan had confirmed the appointment of the new representative of Iraq whose credentials had been challenged.

19/ S C, 13th yr., Suppl. for July-Sept., p. 124, S/4080.

20/ Ibid., p. 125, S/4081.

21/ For texts of relevant statements, see S C, 13th yr., 827th mtg.: President (Colombia), paras. 28 and 29; Panama, para. 27; USSR, paras. 2 and 3; Secretary-General, paras. 5-8, 834th mtg.: President (Colombia), paras. 38-40; Iraq, para. 24; USSR, para. 14; Secretary-General, paras. 2-10; 838th mtg.: President (France), paras. 1 and 2.