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NEW ZEALAND MISSION TO THE UNITED NATIONS, NEW YORK

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DATE: 19 July 1994 PAGE 1 OF: 5

TO: WELLINGTON NO: 299 PRECEDENCE: IMMEDIATE TO: WGTN UNSC NO: PRECEDENCE: IMMEDIATE

LD: SFAT (MEA, UNC, ISAC, DSP1, EAB)

Opied to UNS, MEA, UNC

SUBJECT: SECURITY COUNCIL: RWANDA

Our fax 2989 refers.

You may also find the attached note by the UK Legal Adviser (Michael Wood) on Rwandese credentials of interest.

Chargé

cc: Ms Holland

Mr Bowden, UND) by Ms Wilmshurst, Legal Counsellor) fax

18 July 1994

RWANDA: SECURITY COUNCIL: REPRESENTATION AND CREDENTIALS

- 1. The White House has announced that it will begin consultations with other Council members "to remove Representatives of the interim Government from Rwanda's seat in the Council", and the RPF's has announced of the formation of a broad-based Government. The following is a note on questions that may arise concerning representation of Rwanda on the Security Council and the credentials of the Representatives of Rwanda on the Council.
- 2. The main relevant rules and practices in the matter of representation/credentials of Security Council members are as follows:
- (a) The credentials of a Representative on the Security Council are to be communicated to the Secretary-General, and shall be issued either by the Head of the State or of the Government concerned or by its Minister of Foreign Affairs (Rule 13).
- (b) The credentials of Representatives on the Security Council are to be examined by the Secretar-General who shall submit a report to the Security Council for approval (Rule 15). In fact, if the Secretary-General reports that credentials are in order, they are tacitly approved by the Council (presumably at the first meeting at which the Representative concerned is present) see \$/8365. Occasionally, the Secretary-General's report is non-committal, ie he merely lists the communications received, and possibly adds that, on the information available to him, he is unable to say whether they are in order.
- (c) Any Representative on the Council, to whose credentials objection has been made within the Council, shall continue to sit with the same rights as other Representatives until the Council has decided the matter (Rule 17).
- (d) A challenge to credentials would probably be regarded as a procedural matter, to which the veto does not apply. The US and France are on record to this effect in 1950, but there has been very little practice. A challenge could take the form of a resolution rejecting credentials or an oral proposal to reject them. Equally, a member of the Council may simply put on record his objection, without pressing the matter to a decision.

(e) General Assembly resolution 396 (V) (attached) recommends that, whenever more than one authority claims to be the Government entitled to represent a Member State in the United Nations, such question should be considered by the General Assembly, and that the attitude adopted by the General Assembly should be taken into the attitude adopted by the General Assembly should be taken into account in other UN organs. This reflects the fact that the General Assembly is the body on which all Member States are General Assembly is the body on which all Member organs represented, and the desirability of avoiding different organs reaching different conclusions on the question of representation.

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- 3. In December 1993 a report on the credentials of the Representative (Bizimana) and Deputy Representative (Abimana) of Rwanda on the Security Council were circulated by the Secretary-Rwanda on the Security Council were circulated by the Secretary-Rwanda to Council members (\$\frac{5}{26923}\$), and no objection was raised. In accordance with the practice of the Council, these credentials In accordance with the practice of the Council, these credentials were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were tacitly approved when no objection was raised to them at the were t
 - 4. Any member of the Council may challenge the credentials of the Representatives of Rwanda. A challenge could take the form of a draft resolution (see the 458th and 459th meetings of the Council) or be an oral proposal (see the 480th 482nd meetings of the Council). This challenge could be put to a vote, and if there council). This challenge could be put to a vote, and if there were nine votes in favour, the credentials would be rejected. (The matter would probably be regarded as procedural, and the veto would not apply.) The seat of Rwanda would then be empty.
- 5. It would, however, be unusual for there to be a challenge to credentials unless competing credentials had been submitted. The more likely eventuality is that a new "Government" will submit the credentials of its Representatives to the Security Council. The Secretary-General would probably then be asked to report to the Council. He might well do so without comment, and it would then be for the Council to decide whethere to postpone the matter (thus be for the Council to decide whethere to postpone the matter (thus leaving Bizimana in place for some time), to eject Bizimana leaving Bizimana in place for some time), to eject the new credentials.

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> 394 (V). Palestine: Progress report of the United Nations Conciliation Commission for Palestine; Repatriation or resettlement of Palestine refugees and payment of compensation due to them

The General Assembly,

Recalling its resolution 194 (III) of 11 December 1948,

Having examined with appreciation the general progress report dated 2 September 1950, and the supplementary report dated 23 October 1950, of the United Nations Conciliation Commission for Palestine,

Noting with concern:

- (a) That agreement has not been reached between the parties on the final settlement of the questions outstanding between them,
- (b) That the repatriation, resettlement, economic and social rehabilitation of the refugees and the payment of compensation have not been effected,

Recognizing that, in the interests of the peace and stability of the Near East, the refugee question should be dealt with us a matter of urgency,

- 1. Urges the governments and authorities concerned to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;
- 2. Directs the United Nations Conciliation Commission for Palestine to establish an office which, under the direction of the Commission, shall:
- (a) Make such arrangements as it may consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III);
- (b) Work out such arrangements as may be practicable for the implementation of the other objectives of paragraph 11 of the said resolution;
- (c) Continue consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees;
- 3. Calls upon the governments concerned to undertake measures to ensure that refugees, whether repatriated or resettled, will be treated without any discrimination either in law or in fact.

325th plenary meeting, 14 December 1950.

Treatment of people of Indian origin in the Union of South Africa

The General Assembly,

Recalling its resolutions 44 (I) and 265 (III) relating to the treatment of people of Indian origin in the Union of South Africa,

Having considered the communication 14 by the Permanent Representative of India to the Secretary-General dated 10 July 1950.

Having in mind its resolution 103 (1) of 19 November 1946 against racial persecution and discrimination, and its resolution 217 (III) dated 10 December 1948 relating to the Universal Declaration of Human Rights,

Considering that a policy of "racial segregation" (Apartheid) is necessarily hased on doctrines of racial discrimination,

- 1. Recommends that the Governments of India, Pakistan and the Union of South Africa proceed, in accordance with resolution 265 (111), with the holding of a round table conference on the basis of their agreed agenda and bearing in mind the provisions of the Charter of the United Nations and of the Universal Declaration of Human Rights:
- 2. Recommends that, in the event of failure of the governments concerned to hold a round table conference before 1 April 1951 or to reach agreement in the round table conference within a reasonable time, there shall be established for the purpose of assisting the parties in carrying through appropriate negotiations a commission of three members, one member to be nominated by the Government of the Union of South Africa, another to be nominated by the Governments of India and Pakistan and the third to be nominated by the other two members or, in default of agreement between these two in a reasonable time, by the Sccretary-General;
- 3. Calls upon the governments concerned to refrain from taking any steps which would prejudice the success of their negotiations, in particular, the implementation or enforcement of the provisions of "The Group Areas Act", pending the conclusion of such negotiations;
- 4. Decides to include this item in the agenda of the next regular session of the General Assembly.

315th plenary meeting, 2 December 1950.

396 (V). Recognition by the United Nations of the representation of a Member State

The General Assembly,

Considering that difficulties may arise regarding the representation of a Member State in the United Nations and that there is a risk that conflicting decisions may be reached by its various organs,

Considering that it is in the interest of the proper functioning of the Organization that there should be uniformity in the procedure applicable whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations,

Considering that, in virtue of its composition, the General Assembly is the organ of the United Nations in which consideration can best be given to the views of al Member States in matters affecting the functioning c the Organization as a whole,

1. Recommends that, whenever more than one author ity claims to be the government entitled to represent Member State in the United Nations and this question becomes the subject of controversy in the United N:

¹² See documents A/1367 and A/1367/Corr.1.
12 See document A/1367/Add.1.
14 See document A/1289.



nons, question should be considered in the light of the Purposes and Principles of the Charter and the circumstances of cach case,

- 2 Recommends that, when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the General Assembly is not in session.
- 3. Recommends that the attitude adopted by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;
- 4. Declares that the attitude adopted by the General Assembly or its Interim Committee concerning any such question shall not of itself affect the direct relations of individual Member States with the State concerned;

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3. Requests the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate.

325th plenary meeting, 14 December 1950.

397 (V). Report of the Security Council

The General Assembly

Takes note of the report¹⁶ of the Security Council covering the period from 16 July 1949 to 15 July 1950.

325th plenary meeting, 14 December 1950.

¹³ See Official Records of the General Assembly, Fifth Session, Supplement No. 2.