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THE SPECIAL BALKAN COMMITTEE OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS*

I

Establishment of Special Balkan Committee by the General Assembly

AT its 100th plenary meeting on October 21, 1947, the General Assembly of the United Nations, so aptly termed the "town meeting of the world" by Senator Vandenberg, adopted by a vote of forty to six with eleven abstentions perhaps one of the most important resolutions of its second regular session: concerning "Threats to the Political Independence and Territorial Integrity of Greece".¹ The serious character of the situation in Greece had been emphasized earlier by the Secretary of State, in addressing the American Association for the United Nations, an organization composed of leading public-spirited and United Nations-minded citizens, on September 14, 1947, the eve of the opening of the second regular session of the General Assembly. In his address, Mr. Marshall pointed out the particular concern on the part of the United States with the "aid and assistance which are being provided by Yugoslavia, Bulgaria, and Albania to the guerrillas in Greece—a direct threat to

*The views expressed herein are not necessarily shared by the Government of the United States, but are made in the author's private capacity.

¹ For complete text, see Appendix to this article.

the territorial integrity and political independence of that country . . . The solution must be the cessation of the threat—and we earnestly hope that the General Assembly will be able to devise means for accomplishing that end”.² This was no overstatement of the culpability of Greece’s northern neighbors, for by its resolution the General Assembly, evidencing a sober realization of the facts, called upon Albania, Bulgaria and Yugoslavia to do nothing which could furnish aid and assistance to the *guerrillas* and called upon these Governments on the one hand and Greece on the other to cooperate in the settlement of their disputes by peaceful means. The Assembly also recommended that the four countries establish normal diplomatic and good neighborly relations among themselves and frontier conventions to regulate and control their common frontiers and that they co-operate in the voluntary repatriation of refugees and their prevention from participating in political or military activity. Moreover, to observe the *compliance* by the four Governments with these recommendations concerning the troubled situation in the Balkans and to be available to assist those Governments in the all-important task of *implementing* the recommendations, the General Assembly by its resolution established what it calls a “Special Committee,” consisting of the representatives of eleven Members of the United Nations: Australia, Brazil, China, France, Mexico, the Netherlands, Pakistan, the United Kingdom and the United States of America, *seats being held open for Poland and the Union of Soviet Socialist Republics*³ (the last two Governments having stated that they would not take part⁴). The Commit-

² Department of State Bulletin, Sept. 21, 1947, p. 542.

³ With the exception of Mexico, the Netherlands and Pakistan, these States were members of the Security Council in 1947.

⁴ Before the vote in the Plenary meeting of the General Assembly on October 21, 1947, the Soviet Union delegation stated that “it would abstain from participating in the solution and decision of the question of the establishment and membership of the Special Committee.” In the October 11, 1947 meeting of the

tee, if it considers it necessary for the maintenance of international peace and security, may recommend the convoking of a special session of the General Assembly as a matter of urgency, and it must render a report to the next regular session of the General Assembly or to such a prior special session. Interim reports as considered appropriate are also suggested. Further, the resolution provides that the Special Committee shall have its principal headquarters in Salonika and *with the co-operation of the four Governments concerned* shall perform its functions in such places and in the territories of the four States concerned as it may deem appropriate.

In accordance with the terms of the resolution, the Special Committee came into being on November 20, 1947 and will continue to exist until terminated by the General Assembly, its creator. It is expected, therefore, that it will function for at least a year. The Special Committee assembled at Athens late in November and then proceeded to establish itself at Salonika, its headquarters. It has already adopted, subject to the co-operation of the four governments concerned, a resolution advanced by the United States envisaging the establishment, under the Committee, of border observer teams to observe and report "to what extent good neighborly relations exist" along both sides of Greece's frontiers with her three northern neighbors. The United States is assured of exceptionally competent representation with the appointment by the President of Admiral Alan G. Kirk, American Ambassador to Belgium, as the United States Representative on the Special Committee, and the general caliber of the other Representatives is also very high.

First Committee of the General Assembly (Political and Security) which recommended to the Assembly the establishment of the Special Committee, the Polish representative said that his Government could not consent to take part in the work of the Special Committee, but "Poland was ready to assist in any attempt at conciliation in accordance with the spirit of the Charter."

II

Events Leading up to the Establishment of the Special Committee

In order to understand fully the necessity for the General Assembly to take action in the worsening situation of Greece, it would be helpful at this point to review the main events beginning with the complaint to the Security Council by Greece and culminating with the failure of the Council to effect any solution of the problem acceptable to the majority *due to the veto of one permanent member*.

On December 3, 1946 Greece complained to the Security Council of the United Nations that the *guerrilla* movement in Greece was receiving substantial encouragement and assistance from Albania, Bulgaria and Yugoslavia, that groups of men were being trained for *guerrilla* warfare within Greece, and that other foreign assistance had been given to the *guerrillas*. On December 19, 1946 the Security Council, by unanimous decision, established an on-the-spot Commission of Investigation, composed of representatives of the eleven members of the Security Council, to examine the facts and to report on the troubled situation along the northern Greek frontiers. The Commission was also invited to make proposals for averting a repetition of border violations and disturbances. The Commission's investigation lasted four months and was actually carried out in the territories of the four countries concerned. All in all, the Commission and its seven field investigating teams made thirty-three field investigations, of which more than half were requested by one or more of Greece's northern neighbors. It examined 238 witnesses, of whom twenty-five were presented by Albania, thirty-four by Bulgaria, seventy-six by Greece, sixty-seven by Yugoslavia, and thirty-five by the Commission itself. More than 3,000 communications were received, and the Commission accumulated 20,000 pages of evidence and other material. The Commission's report to the Security Council con-

sists of three volumes totalling 767 pages. The majority of eight of the eleven members of the Commission, in its Report to the Security Council, signed on May 23, 1947, found that "On the basis of the facts ascertained by the Commission it is its conclusion that Yugoslavia and, to a lesser extent, Albania and Bulgaria have supported the *guerrilla* warfare in Greece." On July 29, 1947 nine members of the Security Council voted for a resolution providing for the pacific settlement of the dispute along the lines recommended by nine members of the Investigating Commission, but this resolution failed because of the veto of one permanent member of the Council. On August 4, 1947 a Soviet resolution assigning blame to Greece, recommending withdrawal of foreign troops from Greek soil, and proposing a Commission to supervise foreign economic assistance extended to Greece received only *two* favorable votes. Meanwhile, reports from the Subsidiary Group of the Commission of Investigation⁵ left in the area indicated that the assistance to the *guerrillas* by Greece's northern neighbors was increasing rather than decreasing. Because of this and of such large-scale attacks as the one of July 11-13, 1947 on the Greek-Albania frontier near Konitsa involving between 2,000 and 3,000 *guerrillas*, the Security Council, at the request of the Greek Government, sought to consider the Greek case under Chapter VII of the United Nations Charter (Action with respect to threats to the peace, breaches of the peace, and acts of aggression). On August 19, 1947 nine of the eleven members of the Security Council voted for (1) a resolution proposed by Australia which "determines that the situation on the northern borders of Greece constitutes a threat to the peace" and "calls upon the parties, namely Greece, Albania, Yugoslavia and Bulgaria to cease all acts of provocation" and (2)

⁵ At the direction of the Security Council, the Investigating Committee, prior to its departure from Greece, established on April 30, 1947, a Subsidiary Group to continue the investigation of new border incidents in the disturbed area and to keep the Council currently informed of developments.

a resolution proposed by the United States finding that “. . . assistance and support of the *guerrillas* by Albania, Bulgaria and Yugoslavia constitutes a threat to the peace within the meaning of Chapter VII of the Charter” and calling upon Albania, Bulgaria and Yugoslavia to cease and desist from rendering any further assistance or support in any form to the *guerrillas* fighting against the Greek Government; *but these resolutions were also vetoed.*

On September 16, 1947 a resolution requesting the General Assembly to make recommendations in the Greek Case received nine votes but was vetoed. Immediately thereafter the Security Council removed the matter from the list of matters of which it is charged,⁶ thus terminating the existence of the Balkan Investigation Commission and its Subsidiary Group and clearing the way for the General Assembly to adopt the item on the agenda of its second regular session with the assurance that it would be enabled to make recommendations thereon at the proper time. The question was referred to the Political and Security Committee of the General Assembly in the terms of the agenda item, “threats to the political independence and territorial integrity of Greece” by a vote in the General Committee of twelve to two.

On this same day, Mr. Marshall, in outlining the attitude of the United States with respect to a number of problems, outlined the United States position on Greece as follows: “. . . It is a universally accepted principle of international law that for one nation to arm or otherwise assist rebellious forces against another government is a hostile and aggressive act. Not only has this principle been upheld in a number of famous cases in international law but it has also found ex-

⁶ Under Article 12 of the Charter of the United Nations, “While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.” The creation of the Special Committee by the General Assembly consequent upon a deadlock in the Security Council exemplifies in action the broad rationale of the Charter.

pression in international agreements. The majority of the members of the Security Council have recorded their support of this principle by their action in this case. One permanent Member of the Security Council, however, has three times vetoed the efforts of the Council to deal with the situation. This Assembly cannot stand by as a mere spectator while a Member of the United Nations is endangered by attacks from abroad. If the United Nations should fail to protect the integrity of one small state, the security of all small states would be placed in jeopardy. The inability of the Security Council to take effective action in this case passes a grave responsibility to the General Assembly. I am confident that the General Assembly will not fail to meet this responsibility. It must do so if the Organization is to carry out its fundamental purposes . . .”⁷ Mr. Marshall’s confidence was fully justified when five weeks later the General Assembly adopted the resolution establishing the Special Balkan Committee upon the proposal of the Assembly’s Political and Security Committee by an overwhelming majority of the United Nations, thus expressing the clear determination of the Assembly to fulfill its responsibilities for bringing about a peaceful adjustment of the troubled Balkan situation.⁸

III

Legal Basis For Establishment of the Special Committee

1. Roles of the Security Council and the General Assembly in the maintenance of international peace and security.

The first and foremost of the purposes of the United Nations set forth in Article 1 of its Charter is “to maintain international peace and security.” Article 7 lists among the six principal organs of the United Nations the General Assembly

⁷ United Nations doc. A/PV/82, pp. 46-47.

⁸ The resolution adopted by the Assembly has substantially the same effect as the first draft proposal submitted by the United States to the Political and Security Committee on September 25, 1947.

and the Security Council⁹ and provides that such subsidiary organs as may be found necessary may be established in accordance with the Charter. Chapter IV of the Charter (The General Assembly) defines the broad recommendatory powers and functions of the Assembly which can *discuss* any question within the scope of the Charter, including questions relating to the maintenance of international peace and security, and make recommendations thereon. On the other hand, Article 24 (Functions and powers of the Security Council) confers on the Security Council primary responsibility for the maintenance of international peace and security "*in order to insure prompt and effective action by the United Nations*" (italics supplied). Moreover, the Charter has carefully safeguarded the primary jurisdiction of the Security Council by inserting a standard proviso in all the relevant Articles relating to the jurisdiction of the General Assembly (10, 11, 14 and 35) to the effect that while the General Assembly is not limited in its right to discuss a dispute or situation, it cannot make a recommendation in a dispute or a situation in respect of which the Security Council is exercising its functions unless the Council so requests (Article 12). Furthermore, it provides in Article 11 (2) that any question relating to the maintenance of international peace and security "*on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion*" (italics supplied). Finally, the Security Council is the only organ of the United Nations which can apply enforcement measures (Chapter VI).

In the field of pacific settlement of disputes and situations (Chapter VI of the United Nations Charter), however, no *monopoly* of the Security Council was contemplated by the framers of the Charter. The Charter clearly envisages that *both* organs will deal with situations and disputes and pro-

⁹ The remaining four principal organs are the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat (U. N. Charter, Art. 7, par. 1).

vides specifically in Article 35 (1) that any State Member of the United Nations may bring a dispute or a situation to the attention of the Security Council *or* of the General Assembly. In Article 35 (2) the Charter contains a similar provision for States which are not Members of the United Nations (this would include Albania and Bulgaria). In Article 11 of the Charter it is provided expressly that the General Assembly may discuss any question relating to the maintenance of international peace and security and *make recommendations* thereon. In Article 14 the Charter envisages that the General Assembly will take part in the process of pacific settlement: according to this article the Assembly may "recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations . . ." Thus it is clear that the Charter has also placed upon the General Assembly definite responsibility for maintenance of international peace and security.

An extensive interpretation of the powers of the General Assembly in proceedings for pacific settlement is further supported by the concept expressed in the report of the Rapporteur of Committee III/3 at San Francisco, providing in effect that "all the powers of international organization originally reside" in the General Assembly. Furthermore, the broad language of Article 10 of the Charter also gives support to this idea in providing that the General Assembly may discuss and make recommendations on any question or matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter.

In the Greek case, Greece had its initial choice to bring its dispute with its northern neighbors either before the Security Council or before the General Assembly in accordance with Article 35 (1) of the Charter. Greece selected the Security Council, but it is precisely because that organ was un-

able to effect a solution that the dispute became aggravated and the question of her territorial integrity and political independence became the responsibility of the General Assembly, the general repository, as it were, of United Nations functions.

2. *Legality of the establishment by General Assembly of the Special Committee.*

The most important aspect of the resolution adopted by the Assembly on October 21, 1947 is the establishment of its Special Committee. The constitutional basis for its establishment as a subsidiary organ of the Assembly is contained in Article 22 of the Charter which authorizes the Assembly to establish such subsidiary organs as it deems necessary for the performance of its functions. This is clearly borne out by the historical background available from the Dumbarton Oaks conversations in 1944 and the San Francisco Conference in 1945. During the Dumbarton Oaks conversations, the principle that the United Nations could create such subsidiary agencies as it felt necessary was generally accepted. At that time the United States and other principal powers made it plain that they considered that the United Nations could create, in addition to its own principal organs, commissions, committees, agencies, or even Councils. This principle was generally acceptable on the understanding that no such body could be considered a main or *principal* organ of the world organization without Charter amendment. There was little debate on this matter since the idea readily gained general acceptance. At San Francisco, Committee II/1 of the Conference was presented with the question: "Should the General Assembly be empowered to set up such bodies and agencies as it may deem necessary for the performance of its functions?" With little or no debate, the Committee unanimously approved on May 22, 1945 the principle that the General Assembly should be so empowered. The final language adopted in Article 22 of the United Nations Charter

uses the expression "subsidiary organs," the qualifying adjective making it clear that no new *principal* organs could be created without amending the Charter. In the language of the Report by the Secretary of State to the President on the Results of the San Francisco Conference, expressing the United States interpretation, the General Assembly "will be the organ primarily responsible for the smooth functioning of the entire Organization and for seeing that provision is made for the establishment of such subsidiary organs as will be necessary to carry out its duties (Article 22)." ¹⁰

Article 22, as has been pointed out, merely restates so far as powers of the General Assembly are concerned the provision in Article 7 (2) of the Charter; "Such subsidiary organs as may be found necessary may be established in accordance with the present Charter." Further, Article 22 simply specifies in the case of the General Assembly the same right to establish subordinate bodies as the Charter gives to the Security Council under Article 29 and to the Economic and Social Council under Article 68. Actually, in the case of the Economic and Social Council Article 68 *requires* that organ to set up certain commissions for the performance of its functions. It would be unthinkable that the General Assembly, which under the Charter is vested with *overall* responsibility for the discharge of United Nations functions in the economic and social fields, could not, as does the Economic and Social Council, which is responsible to the Assembly for action in those fields, itself create its own subordinate bodies. The necessity for the creation of subsidiary organs in the political field had already been amply demonstrated by the appointment of the Special Committee on Palestine,¹¹

¹⁰ Department of State publication 2349, p. 56.

¹¹ The First Special Session of the General Assembly, which was convened April 28, 1947, was called at the request of the United Kingdom for the purpose of constituting and instructing a special committee to undertake a preliminary study of the Palestine question. The Special Session established a Special Committee of 11 members, endowed with broad powers to investigate all aspects of the Palestine problem, and under specific instructions to submit for consideration

and the recent establishment of the Interim Committee of the General Assembly,¹² popularly referred to as the "Little Assembly," serves to confirm that need. A number of other subsidiary organs have been established, including the Atomic Energy Commission and the Committee on the Progressive Development of International Law and its Codification.

The Special Committee, as constituted, derives its legal existence and authority *vis-a-vis* the General Assembly from an act of the Assembly under Article 22, but it is important to bear in mind that the Committee's functioning in relation to the individual Members of the United Nations or *other* States is *dependent entirely upon their voluntary co-operation and readiness to follow the recommendations of the General Assembly*. The conciliatory function of the Committee is dependent, then, upon the co-operation by the countries concerned with the Assembly's recommendations as a whole. Its fact-finding function is limited to investigating facts concerning the implementation of the Assembly's recommendations for peaceful settlement, and there is no case here of the "pupil outdoing his master."

It is quite true that the Security Council alone has authority to make investigations which have compulsion behind them. Article 25 of the Charter provides that "The Members of the United Nations agree to accept and carry out the decisions¹ of the Security Council in accordance with the present Charter." It follows that the Security Council may be able to send an investigating commission where it will

by the second regular session of the General Assembly "such proposals as it may consider appropriate for the solution of the problem of Palestine"—for text of resolution establishing the Committee, see Department of State Bulletin May 25, 1947, p. 1024.

¹² The proposal (by the United States) for the establishment of an Interim Committee of the General Assembly, which is to function until the opening of the next regular session of the Assembly in Sept. 1948, was adopted on Nov. 13, 1947 by a vote of 41 to 6, with 6 abstentions—for text of resolution as finally adopted, see Department of State Bulletin, Nov. 16, 1947, p. 950.

and to summon whom it will. Neither the Assembly nor any subsidiary organ of the Assembly has legal power to impose investigation upon unwilling countries or unwilling persons. But this does not mean, that the Assembly cannot arrange to investigate facts and make inquiries. This is precisely what it did in relation to Palestine, where the Special Committee there was authorized to "conduct investigations in Palestine and wherever it may be useful." The United Nations Charter would surely be a defective document if, placing grave responsibility upon the General Assembly, it then forbade the Assembly to do what is essential to the discharge of that responsibility.

IV

Conclusion

No attempt has been made in these pages to consider the intricate procedural problems constantly raised by those Members of the United Nations and by other States who stated their refusal to co-operate with the Special Committee for the implementation of the General Assembly resolution. Nor is it within the orbit of this paper to consider the thorny legal questions which *may* arise. The question, for example, of *recognition* of the *guerrilla "regime"* or *junto* led by General Markos Vafiades which is being mentioned in the press is, indeed, a subject worthy of separate treatment. For our purposes here, it will suffice to point out that as this article is being written, the following resolution proposed by the Brazilian Delegate was unanimously voted by the Special Committee at Salonika on December 29, 1947:

The Committee is of the opinion that a recognition, even *de facto*, of the movement describing itself as the "provisional democratic Greek Government", followed by direct or indirect aid and assistance to this insurrectionary movement against the government of a Member of the United Nations in defiance of international law, peace treaties and the principles of

the charter (of the United Nations) would constitute a grave threat to the "maintenance of international peace and security".

It is the firm hope of all peace-loving States that, as Dr. Evatt, the Australian Delegate to the United Nations expressed it,

. . . the appointment of this commission will not only add to the prestige of the United Nations in that it can see that the threat of force or the application of force is not made surreptitiously and secretly without an open declaration of war, but it will ultimately assist in the protection of the people of Greece so that they will have a chance to reconstruct their shattered economy, and they will be able to lead decent lives as citizens of a country which has rendered epic service to the heroic cause of the Allies in the great war.¹³

Warren R. Austin

¹³ Conclusion of remarks made by Dr. Evatt on Oct. 21, 1947, in opening the debate in the General Assembly on the Special Balkan Committee.

APPENDIX

Text of Resolution submitted to the General Assembly by its Political and Security Committee and adopted by the Assembly October 21, 1947.

THREATS TO THE POLITICAL INDEPENDENCE AND TERRITORIAL INTEGRITY OF GREECE

1. WHEREAS.

The peoples of the United Nations have expressed in the Charter of the United Nations their determination to practice tolerance and to live together in peace with one another as good neighbours and to unite their strength to maintain international peace and security; and to that end the Members of the United Nations have obligated themselves to carry out the purposes and principles of the Charter;

2. THE GENERAL ASSEMBLY OF THE UNITED NATIONS,

HAVING CONSIDERED the record of the Security Council proceedings in connection with the complaint of the Greek Government of 3 December 1946, including the report submitted by the Commission of Investigation established by the Security Council resolution of 19 December 1946, and information supplied by the Subsidiary Group of the Commission of Investigation subsequent to the report of the Commission;

3. TAKING ACCOUNT of the report of the Commission of Investigation which found by a majority vote that Albania, Bulgaria and Yugoslavia had given assistance and support to the guerrillas fighting against the Greek Government;

4. CALLS UPON Albania, Bulgaria and Yugoslavia to do nothing which could furnish aid and assistance to the said guerrillas;

5. CALLS UPON Albania, Bulgaria and Yugoslavia on the one hand and Greece on the other to co-operate in the settlement of their disputes by peaceful means, and to that end recommends:

(1) That they establish normal diplomatic and good neighbourly relations among themselves as soon as possible;

(2) That they establish frontier conventions providing for effective machinery for the regulation and control of their common frontiers and for the pacific settlement of frontier incidents and disputes;

(3) That they co-operate in the settlement of the problems arising out of the presence of refugees in the four States concerned through voluntary repatriation wherever possible and that they take effective measures to prevent the participation of such refugees in political or military activity;

(4) That they study the practicability of concluding agreements for the voluntary transfer of minorities.

6. ESTABLISHES a Special Committee:

- (1) To observe the compliance by the four Governments concerned with the foregoing recommendations;
- (2) To be available to assist the four Governments concerned in the implementation of such recommendations;

7. RECOMMENDS that the four Governments concerned co-operate with the Special Committee in enabling it to carry out these functions;

8. AUTHORIZES the Special Committee, if in its opinion further consideration of the subject matter of this resolution by the General Assembly prior to its next regular session is necessary for the maintenance of international peace and security, to recommend to the Members of the United Nations that a special session of the General Assembly be convoked as a matter of urgency;

9. DECIDES that the Special Committee

SHALL CONSIST of representatives of Australia, Brazil, China, France, Mexico, the Netherlands, Pakistan, the United Kingdom and the United States of America, seats being held open for Poland and the Union of Soviet Socialist Republics;

10. SHALL HAVE its principal headquarters in Salonika and with the co-operation of the four Governments concerned shall perform its functions in such places and in the territories of the four States concerned as it may deem appropriate;

11. SHALL RENDER a report to the next regular session of the General Assembly and to any prior special session which might be called to consider the subject matter of this resolution, and shall render such interim reports as it may deem appropriate to the Secretary-General for transmission to the Members of the Organization; in any reports to the General Assembly the Special Committee may make such recommendations to the General Assembly as it deems fit;

12. SHALL DETERMINE its own procedure, and may establish such sub-committees as it deems necessary;

13. SHALL COMMENCE its work within thirty days after the final decision of the General Assembly on this resolution, and shall remain in existence pending a new decision of the General Assembly;

14. THE GENERAL ASSEMBLY,

REQUESTS the Secretary-General to assign to the Special Committee staff adequate to enable it to perform its duties, and to enter into a standing arrangement with each of the four Governments concerned to assure the Special Committee, so far as it may find it necessary to exercise its functions within their territories, of full freedom of movement and all necessary facilities for the performance of its functions.