



## **INTERPOL MEMBERSHIP – HISTORICAL PERSPECTIVE**

### **Executive Summary**

Article 4 of the INTERPOL Constitution requires that a membership request come from a “country”; that the Member being proposed by the country is an “official police body whose functions come within the framework of activities of the Organization”; and that the request is made by “the appropriate governmental authority.” Neither the INTERPOL Constitution nor the General Regulations contains any definitions of those key elements for membership. Moreover, INTERPOL’s Constitution, regulations and rules are silent regarding the procedural steps to be taken following receipt of the request.

For many years, INTERPOL membership requests have been processed on a case by case basis by the Secretary General and Executive Committee for inclusion on the General Assembly’s agenda, similarly to the way in which other programs of work and projects are included.

INTERPOL membership requests from countries recognized as sovereign States by a large number of other States have presented few questions regarding compliance with INTERPOL’s membership criteria in Article 4. Such requests generally received expeditious review and a relatively prompt General Assembly approval vote.

Other requests have raised questions about compliance with Article 4. For example, in the case of the former Netherland Antilles, the requests from three autonomous, but non-sovereign, countries raised no controversy among INTERPOL Members, resulting in prompt approval of the applications. In other cases, mostly involving countries emerging from the breakups of the U.S.S.R. and the Socialist Federal Republic of Yugoslavia, the status of the entity was unclear or in dispute, including among INTERPOL Members. There, the General Secretariat and the Executive Committee worked to maintain INTERPOL’s independence as a police cooperation network, not dependent for its membership decisions on actions of other international Organizations or states. Nevertheless, INTERPOL reference to a United Nations determination of a country’s international status has occurred more frequently in recent years.

An important backdrop to INTERPOL’s membership process is the efforts inside the Organization to define “country” in Article 4 to mean “sovereign State.” Those efforts arose out of some Members’ concerns that INTERPOL was perceived as less than a full-fledged intergovernmental Organization because its membership included non-States. Knowledge of the discussions and debates they occasioned, is important for a full understanding of the issues that have arisen during INTERPOL’s process of accepting new Members since 1956.

## INTERPOL Membership – Historical Perspective

### Introduction

This historical perspective on Membership of INTERPOL first covers the procedures and practice for applying to INTERPOL illustrated with discussion of several applications for membership. The second part discusses INTERPOL's efforts over several decades to define the terms of Article 4.

Article 4 of the INTERPOL Constitution sets out both the criteria and the process for becoming a Member of the Organization. That article provides:

“Any country may delegate as a Member of the Organization any official police body whose functions come within the framework of activities of the Organization.

The request for membership shall be submitted to the Secretary General by the appropriate governmental authority. Membership shall be subject to the approval by a two-thirds majority of the General Assembly. ”

The criteria established by Article 4 can be expressed in three relatively direct inquiries. First, does the request come from a “country” within the meaning of Article 4? Second, is the Member being proposed by the country an “official police body whose functions come within the framework of activities of the Organization”? Third, is the request made by “the appropriate governmental authority” of the country making the application? Neither the INTERPOL Constitution nor the General Regulations contain any further provisions explaining how the key elements of these criteria should be understood in relation to requests for new membership.

### Part I. INTERPOL's Procedures and Practice

#### I. Procedure Applied to INTERPOL Membership Requests

Article 4 of the Constitution provides only that “[t]he request for membership shall be submitted to the Secretary General . . . .” and “[m]embership shall be subject to approval by a two-thirds majority of the General Assembly.” INTERPOL's Constitution, regulations and rules are silent regarding what procedural steps should be taken between receipt of the request and its approval.

For many years, there has existed a practice at INTERPOL regarding the way in which membership requests will be processed. That practice follows from the applicable provisions in the Constitution that provide the various bodies of the Organization with certain powers to act regarding INTERPOL's affairs. Specifically, membership requests are processed by the Secretary General and Executive Committee for inclusion on the General Assembly's agenda, similarly to the way in which other programs of work and projects are included for Assembly consideration.<sup>1</sup> The current procedural steps for membership requests, as reflected by the practice of the Organization are as follows:

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<sup>1</sup> Constitution, Article 22.

1. Upon the Secretary's receipt of the request, the General Secretariat sends an acknowledgement, and then examines the request for completeness, bearing in mind the criteria set out in INTERPOL's Constitution and rules.
2. The Secretary informs the President that a request has been received. Members of the Committee and the membership are also informed.
3. The General Secretariat generally seeks additional information from the requesting country, if necessary, as well as from INTERPOL Members and other international Organizations. Once the information is received, the Secretary requests the Committee to include the request as an item on the agenda for the Assembly.
4. The Committee also discusses the request, and any information provided by the Secretary, and considers adding it to the agenda of the Assembly.

For requests that have raised sensitive issues, or cases in which it has not been clear whether the request has met INTERPOL's criteria. The Committee has sometimes sought additional information from the requesting country, or others, or has decided to delay consideration of the request pending clarification of the circumstances, which raised questions about the compliance of the request with INTERPOL's Constitution, regulations or rules.

5. Once the Committee completes its review of the request, it adds the request to the draft (provisional) agenda of the Assembly.<sup>2</sup> The General Secretariat then prepares a report presenting the request. The report is circulated to INTERPOL's Members at least 30 days before the opening of the Assembly.<sup>3</sup> If a Member raises an objection to an application, the Secretary informs the Committee and the Assembly.
7. Upon presentation of the request, the Assembly may take the action it deems appropriate. In some cases, the Assembly has decided to postpone taking a vote on a request, effectively delaying for at least a year its outcome. If a vote is taken, approval of the request requires at least a two-thirds majority.<sup>4</sup>
8. Upon approval of its request, the country's delegation takes its place as full Members at the Assembly. If the request is denied, the delegation may remain as observers at that session, unless the Assembly decides otherwise.<sup>5</sup>

The provisional agenda of the General Assembly is prepared by the Committee during its session in June of each year, which allows the General Secretariat to circulate it to the membership no fewer

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<sup>2</sup> Constitution, Article 22 (b).

<sup>3</sup> General Regulations, Article 13.

<sup>4</sup> Constitution, Article 4.

<sup>5</sup> Rules of Procedure of the General Assembly, Article 41 (2).

than 90 days before the opening session.<sup>6</sup> Once the provisional agenda has been set and circulated, additional items can be added only in limited circumstances.<sup>7</sup> Consequently, membership requests received too near the June Executive Committee meeting may not be able to be included on the Assembly's agenda for that year.

The Executive Committee has occasionally added a membership request after the provisional agenda has been prepared and circulated. At times, the Committee has placed a request on the final agenda, which it prepares the day before the opening session of the General Assembly, even though the provisional agenda did not include that request.<sup>8</sup> In such cases, due to the lack of specific rules on the submission of membership applications, the Secretary General generally advises the Members in advance that the Committee will be asked to include the request on the final agenda.

The General Assembly may also decide on its own initiative "to add to its agenda any item which is both urgent and important."<sup>9</sup>

The agenda process has been followed for many years in handling membership requests, but the absence of firm deadlines at each stage, and the substantial discretion exercised by the Secretary General and Executive Committee, have meant that some applications have taken longer than others to be presented to the General Assembly for a vote<sup>10</sup>.

## II. INTERPOL Membership Practices Since 1956

INTERPOL's membership applications since 1956 have been reviewed and approved on a case-by-case basis. The table presented in Annex 1 shows the key dates and applications that occasioned debate.

### A. The Majority of Applications Were Approved Quickly

Today, INTERPOL Members are sovereign States except for the four constituent countries of the Kingdom of the Netherlands, namely the Netherlands, Aruba, Curacao and Sint Maarten (see Annex 2). Membership requests from countries that are recognized as sovereign States by a large number of other States, have presented few questions or doubts regarding those requests' compliance with INTERPOL's membership criteria established in Article 4. The requesting State was clearly a

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<sup>6</sup> General Regulations, Article 9; Rules of Procedure of the General Assembly Article, 10 (1).

<sup>7</sup> General Regulations, Article 11 (requests by Members).

<sup>8</sup> General Regulations, Article 12; Rules of Procedure of the General Assembly, Article 13 (1). In 1980, the Executive Committee decided not to add Barbados' membership request to the final agenda, while in 1982, the Committee decided to add Angola's request. Both requests had been received a month before the respective General Assembly meeting.

<sup>9</sup> Rules of Procedure for the General Assembly, Article 13 (2). It appears that only once has the General Assembly added to its agenda on its own. In 1986, the General Assembly first voted to add Brazil's request for membership to the agenda, then immediately voted to accept that country as a Member.

<sup>10</sup> See further discussion with examples at II A *infra*.

“country” within the meaning of Article 4, the existence of an official police force whose functions came within INTERPOL’s framework of activities rarely raised a doubt, and the appropriateness of the government official making the request could be easily verified. Such requests generally passed expeditiously through the approval process, or some of its earlier iterations, without undue delay, and received a relatively prompt General Assembly approval vote. A testament to the overall efficiency of INTERPOL’s membership process has been the steady, and at times rapid, growth of its membership (see Annex 3).

The processing of membership requests raising no significant issues, however, has not always strictly followed rules governing the preparation of the provisional agenda of the General Assembly. For example, in 1976, the Executive Committee decided against making an exception to the deadline for requesting placement of items on the Assembly’s agenda, and did not submit Paraguay’s late request to the 45th Assembly in Accra. As a result, Paraguay was not admitted to INTERPOL until the following year, at the 46th Assembly in Stockholm.<sup>11</sup> In other cases, exceptions were made. The Secretary General received Angola’s membership request in 1982 one day past the 30-day deadline then in force for placing items on the Assembly’s agenda. The Chairman of the Assembly agreed to the Committee’s suggestion that the request could be considered despite the late receipt. Without voting to expand the agenda, the Assembly voted approval of the Angolan request.<sup>12</sup> Four days before the opening session of the 55th Assembly in Belgrade in 1986, Brazil delivered a telegram requesting to rejoin INTERPOL, following several years’ absence. The Committee considered whether to postpone placing the matter on the agenda until the following year, but decided to ask the Assembly if it wished to consider the matter. At the Assembly’s First Plenary Session, the President asked for a vote to expand the agenda to include Brazil’s request, which was approved. Brazil’s application was then approved overwhelmingly.<sup>13</sup> The exception has occurred more recently, as well, in the case of South Sudan. The General Assembly received South Sudan’s membership request on October 12, 2011, nineteen days before the opening of the 80th Assembly in Hanoi. The General Secretariat prepared a short report dated October 24, stating that the request fulfilled all Article 4 requirements. The Committee approved the report and forwarded it to the Assembly. The Assembly approved South Sudan’s application by a wide margin.<sup>14</sup>

## B. Some Applications Presented New Issues

### Aruba

In 1987, Aruba requested membership in INTERPOL as the first non-sovereign State to seek admission since adoption of the 1956 Constitution. Until January 1, 1986, Aruba had been part of the Netherland Antilles, a group of islands comprising part of the Kingdom of the Netherlands. The Netherland Antilles operated a National Central Bureau at Willemstad, Curacao, and participated as

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<sup>11</sup> Minutes of the Executive Committee Meeting, 56<sup>th</sup> Session – First Sitting, Accra, 13<sup>th</sup> October 1976, pp.1-2. The General Assembly, nevertheless, authorized the General Secretariat to begin cooperation with Paraguay during the intervening year.

<sup>12</sup> Minutes of 51<sup>st</sup> General Assembly, First Plenary Session, October 5, 1982, Torremolinos, 51/PV/1, pgs. 1, 3-4.

<sup>13</sup> Minutes of 83rd Executive Meeting Committee, October 2-3, 1986, Belgrade, pg.18; Minutes of 55th General Assembly, First Plenary Session, October 6, 1986, Belgrade, AGN/55/PV/1, pg. 1.

<sup>14</sup> Report No. 24, Application for Membership from the Republic of South Sudan, dated October 24, 2011, AG-2011-RAP-24; AG-2011-RES-03.

a full Member of INTERPOL, as did the Netherlands. Aruba became an autonomous country within the Kingdom of the Netherlands in 1986, operated its own official police force, and had an independent judiciary, among other governmental powers. It maintained close ties to the Netherlands, including having its governor appointed by the Queen of the Netherlands. Aruba sought membership in INTERPOL in its own name, apart from the Netherland Antilles and the Netherlands. The application had the full support of the Kingdom of the Netherlands. At the First Plenary Session of the 56th General Assembly in Nice, on November 23, 1987, Aruba presented its request for membership, which was approved by 102 votes in favor, 0 against, and 1 abstention.<sup>15</sup> The minutes contain no discussion of whether Aruba was a “country” within the meaning of Article 4.

#### Cook Islands

In February 1996, the Commissioner of Cook Islands Police inquired of the Secretary General about membership in INTERPOL. A few weeks later, the Secretary replied by letter dated April 10, 1996. He explained that “only States with full legal capacity can be admitted” to INTERPOL. The Secretary further stated that Cook Islands’ constitutional status, specifically the fact that New Zealand was responsible for the Islands’ external affairs and that Cook Islands’ people were New Zealand citizens, prevented it from becoming a Member of INTERPOL. The Secretary suggested, however, that the Commissioner might contact New Zealand authorities to discuss becoming a sub-bureau of that Member’s NCB. It appears that the Cook Island inquiry came without the knowledge of the New Zealand NCB, as the Secretary forwarded a copy of the Commissioner’s request.<sup>16</sup>

There is no indication in the available documents whether the Secretary General informed either the Executive Committee or General Assembly of the Cook Islands request.

#### Montenegro

On April 29, 2003, Montenegro applied for membership in INTERPOL, proposing to establish a new NCB in Podgorica. The request raised a number of novel legal issues for the General Secretariat and the Executive Committee to resolve. After the breakup of Socialist Federal Republic of Yugoslavia in the early 1990s, Serbia and Montenegro formed the Federal Republic of Yugoslavia, which was admitted into INTERPOL in 2001. A single NCB serving both republics resided in Belgrade. In 2002, under the auspices of the European Union, the Belgrade Agreement resulted in the “State of Serbia and Montenegro” being considered a single, federated State, with each republic having a degree of autonomy, including over police affairs. Neither republic had authority to act in the other’s territory regarding police matters, and each had its own police information system. Police agencies came under the authority of each republic’s respective Ministry of the Interior. The federal authority was limited to foreign affairs, defense, and other specified powers. Initially, after 2002, Serbia and Montenegro maintained its previous unified membership in INTERPOL with a single NCB. Montenegro’s application put that arrangement in issue.

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<sup>15</sup> AGN/56/PV/1, pgs. 3-4.

<sup>16</sup> Letter from R.E. Kendall, Q.P.M., M.A., Secretary General, dated April 10, 1996, to M. T.V. Matapo, Commissioner Cook Islands Police.

In June 2003, the General Secretariat put Montenegro's request before the Executive Committee at its 138<sup>th</sup> meeting in Lyon by way of Report No. 23.<sup>17</sup> The Committee rejected the application on the grounds that under the Belgrade Agreement "Serbia and Montenegro" was to be considered a single State with a single NCB, consistent with the way other international Organizations regarded it. Denying Montenegro's separate application was also viewed as necessary to avoid allowing one Member with two votes in the General Assembly.<sup>18</sup> The Committee decided to advise Montenegro of its decision, but noted that if the republic persisted in its separate request, the Committee would put the matter before the Assembly at its 72<sup>nd</sup> session.<sup>19</sup> In fact, however, the Montenegro request was not considered by the General Assembly that year, and no further action appears to have been taken until 2006.

Montenegro declared its independence from Serbia on June 3, 2006, and the two countries established diplomatic relations. Within days of Montenegro's independence, it submitted a request for membership in its own name to INTERPOL. In addition, Serbia requested that the previous membership held by the "State of Serbia and Montenegro" be "continued" in Serbia's name alone. The Committee took up the requests at its 151<sup>st</sup> Session held a few days before the 75<sup>th</sup> General Assembly in Rio de Janeiro in mid-September 2006. The General Secretariat prepared two reports dated September 4, 2006, regarding the requests. The first, Report No. 5, for the Committee, described the two applications, concluded they were in order, and recommended that the Committee put them before the upcoming 75<sup>th</sup> Assembly.<sup>20</sup> The second report, No. 14, was submitted by the Committee to the Assembly, and contained a recommendation that the Assembly approve both membership requests.<sup>21</sup> A few days later, the 75<sup>th</sup> Assembly approved Montenegro's membership request "by acclamation."<sup>22</sup> Serbia assumed the membership previously held by the federated State.

#### Kosovo

By letter dated May 28, 2010, the Minister of Internal Affairs of the Republic of Kosovo requested membership in INTERPOL. This application was followed by reservations expressed by the United Nations Interim Administration Mission in Kosovo (UNMIK). UNMIK was established by the United Nations Security Council Resolution 1244 pursuant to which INTERPOL entered into a Memorandum of Understanding (MoU) with UNMIK to establish a framework for international police cooperation for Kosovo. At the time, there were concerns within the General Secretariat and supported by the United Nations Office of Legal Counsel that proceeding with Kosovo's application for membership could run contrary to Resolution 1244 and the MoU. Because of these concerns, the Secretary General did not proceed with the application.<sup>23</sup>

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<sup>17</sup> *Idem.*

<sup>18</sup> CE-2003-2-DOC-33.

<sup>19</sup> CE-2003-2-DOC-23.

<sup>20</sup> Document No. 5, Status of Serbia and Montenegro, September 4, 2006, CE-2006-3-DOC-05.

<sup>21</sup> Report No. 14, Status of Serbia and Montenegro, September 4, 2006, AG-2006-RAP-14.

<sup>22</sup> AG-2006-PV-1, pg. 2.

<sup>23</sup> CE-2016-1-Doc 11.

## Curacao and Sint Maarten

Curacao and Sint Maarten each sought membership in INTERPOL by letters dated July 21 and September 19, 2011, respectively. Before October 10, 2010, both islands had been part of the Netherland Antilles, which was a full Member of INTERPOL. On that date, Curacao and Sint Maarten obtained autonomous positions as countries within the Kingdom of the Netherlands, which supported their separate requests to become independent Members of INTERPOL. Both countries had independent police forces under the authority of their respective Ministries of Justice. They proposed that Curacao maintain the existing NCB at Willemstad, and that Sint Maarten establish its own NCB within the Police Force of Sint Maarten. The General Secretariat prepared an Executive Committee report regarding each application, which the Committee approved at its meeting on the eve of the 80th General Assembly in Hanoi.<sup>24</sup> The membership requests were presented to the Assembly, with both countries being voted into INTERPOL as full Members.

### C. References to The United Nations

#### Russia

Sometime in 1991 or 1992, the Russian Federation asked to continue the INTERPOL membership of the former U.S.S.R. Initially, the Secretary General told the Russian Minister of Security and Internal Affairs that INTERPOL would wait to see what happened in the United Nations regarding the Federation's status as a continuing State of the former U.S.S.R. By the time the Executive Committee discussed the matter at its 100th meeting in April 1992, it took note that the United Nations, including the Security Council, had recognized the Russian Federation as the continuing State to the U.S.S.R. The Committee followed the United Nations decision that the Federation was a legitimate continuing State, but raised concern about how the countries emerging from the former U.S.S.R., which were expected to soon apply for INTERPOL membership themselves, would be able to communicate with other police bodies, since the only NCB was in Moscow. The Committee hoped that the countries would find their own solution to that problem. The Committee decided not to get involved in that question and to do no more than advise the Russian Federation that it would be considered the continuing State to the U.S.S.R.'s membership, subject to the approval of the General Assembly.<sup>25</sup>

#### Croatia and Slovenia

Pending at the 100th Session of the Executive Committee in March 1992 were the membership requests from Croatia and Slovenia, formerly part of the Socialist Federal Republic of Yugoslavia (SFRY). Both States had unilaterally declared their independence, and had been recognized by approximately fifteen other States. The SFRY, however, disputed their independence. The Committee discussed what to do with the applications, including a suggestion that Croatia, Slovenia and Yugoslavia all be told that the Committee would abide by the decision of the United Nations

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<sup>24</sup> Report No. 17, Application for Membership by Curacao, October 12, 2011; Report No. 20, Application for Membership by Sint Maarten, October 7, 2011.

<sup>25</sup> Minutes of the 100<sup>th</sup> Session of the Executive Committee, March 30 – April 1, 1992, 92/CE/2, pgs. 31-34.



regarding State recognition. In the end, however, the Secretary General, with the Committee's approval, agreed to tell the applicants that, since their applications contained several deficiencies, their consideration would be put off until the next Committee meeting.<sup>26</sup>

By the next Executive Committee meeting in July 1992, Croatia and Slovenia had perfected their membership requests. Regarding the question of State recognition, one Committee Member referred to a statement by Yugoslavia in another context that implied that it recognized the independence of, among other seceding States, Croatia and Slovenia. Nevertheless, the Committee did not take final action on the two requests, since the countries' monetary contributions to the Organization were still unresolved. The Secretary was given discretion to negotiate an appropriate contribution from each, after which the Committee would take up final action of the applications.<sup>27</sup>

The Executive Committee resolved the financial questions with Croatia and Slovenia by the time the 102nd Executive Committee took place in November 1992. That same month, at the 61st General Assembly, both countries were approved as full Members of INTERPOL.

#### Yugoslavia

In 1992, following the dissolution of the Socialist Federal Republic of Yugoslavia, which had been an INTERPOL Member, four of the States that emerged applied for membership to INTERPOL. These were Bosnia Herzegovina, Croatia, Macedonia and Slovenia. The Federal Republic of Yugoslavia (Serbia and Montenegro) did not apply for membership, taking the position that it was the continuing State of the former Socialist Federal Republic of Yugoslavia, even though the international community, in particular in the framework of the United Nations, did not recognize the Federal Republic of Yugoslavia as a continuing State of its predecessor.

During the 61st session of the General Assembly that took place in Dakar, Senegal, discussions on the application for membership of the former Yugoslav applicant States, noted that the Federal Republic of Yugoslavia (Serbia and Montenegro) was still a Member of INTERPOL. And, in light of the dissolution of the SFRY, the continued membership in INTERPOL of FRY (Serbia and Montenegro) was a delicate matter that required serious consideration.<sup>28</sup>

Subsequently, the status of the Federal Republic of Yugoslavia was discussed during the Executive Committee sessions of 1993. During its 62nd session, in Aruba from 29 September to 5 October 1993, the General Assembly voted a Resolution expressly referring to UNGA Resolution 47/1 on the Membership of the Federal Republic of Yugoslavia (Serbia and Montenegro). The INTERPOL Resolution used the same wording as the UN Resolution in reference to the Federal Republic of Yugoslavia (Serbia and Montenegro) noting that it "cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia" and decides, like the UNGA, that the Federal Republic of Yugoslavia (Serbia and Montenegro) must apply for membership of the Organization.<sup>29</sup>

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<sup>26</sup> *Idem.*, pgs. 34-35.

<sup>27</sup> Minutes of the 101<sup>st</sup> Session of the Executive Committee, July 7-9, 1992, 92/CE/3, pgs. 34-35.

<sup>28</sup> Minutes of the 61<sup>st</sup> General Assembly, November 4-10, 1992, 61/AGN/PV/1 pg. 3

<sup>29</sup> AGN/62/RES/1.

It was not until 2001 that Serbia and Montenegro (as one federal State) applied for membership and became a Member of INTERPOL. As noted above, Montenegro later applied and gained membership on its own.

#### Former Yugoslav Republic of Macedonia

In early 1992, the Republic of Macedonia made a request to become a member of INTERPOL. Macedonia had been a part of the former Yugoslav republic until it declared its independence in September 1991. There existed a dispute with Greece over Macedonia's name, which involved possible territorial claims by Macedonia on a Greek province by the same name. As a result, few states had recognized the Republic of Macedonia as a sovereign state. The Executive Committee first took up the request at its 101st session, in July 1992, in Lyon. It was noted that the application contained no information about the international recognition of Macedonia's independence or the dispute with Greece. Finally, it was noted that communications with Macedonia were difficult.<sup>30</sup>

The Executive Committee, nevertheless, included Macedonia's request on the final agenda, which was approved by the 61st General Assembly during its First Plenary Session on November 4, 1992. When Macedonia's membership request was put before the Assembly, however, the United Kingdom and Greek delegations opposed it. They noted that because of the dispute over its name, the Republic of Macedonia had not been recognized as a state by the United Nations or any other international Organization. The European Economic Council had tentatively admitted it, on the condition that it not use the name Macedonia. In addition, the Non-Aligned Countries had refused it membership. The Greek delegate suggested that INTERPOL should not admit a country under such circumstances, which could involve the Organization in a political issue and possibly affect the EEC's negotiation with Macedonia. The Assembly then approved a motion from Greece to end the discussion and postpone the vote, effectively denying Macedonia's membership request.<sup>31</sup>

The following year, during the 104th Executive Committee session in July 1993, the Committee Members discussed whether to place Macedonia's renewed request for membership on the General Assembly's agenda. The Secretary General advised that he had asked Macedonian officials to prepare a new application using the name it had used to gain admission to the United Nations, Former Yugoslav Republic of Macedonia. No final action appears to have been taken at that time.<sup>32</sup>

The Executive Committee again took up the question of Macedonia's request at its 105th session in Aruba, September 27-28, 1993, just before the beginning of the 62nd General Assembly. The Secretary General stated that the application fulfilled all the necessary conditions, but the problem about the country's name remained. Macedonia insisted that its INTERPOL membership request be considered under the name Republic of Macedonia, and not the provisional name it was using in its attempt to join the United Nations. One delegation maintained its strong opposition to the application, and threatened to withdraw from INTERPOL if Macedonia were admitted under that name. Sentiments varied. Some Executive Committee Members favored delaying presentation to the General Assembly until Macedonia completed its negotiations with the United Nations, so as to

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<sup>30</sup> Minutes of the 101<sup>st</sup> Session of the Executive Committee, July 7-9, 1992, 92/CE/3, pg. 34.

<sup>31</sup> Minutes of 61<sup>st</sup> General Assembly, November 4-10, 1992, AGN/61/PV/2, pg. 2.

<sup>32</sup> Minutes of the 104<sup>th</sup> Session of the Executive Committee, July 8-9, 1993, 93/CE/3, Document No. 1, pg. 17.

avoid the possibility that an INTERPOL member would be known by two different names in two separate international Organizations. Another member asserted that INTERPOL need not make its decision depend on other Organizations, but did not want to be seen as trying to influence the United Nations negotiations with Macedonia by admitting it under a name it had imposed on INTERPOL. At least one member suggested that the request simply be passed to the General Assembly to be sorted out there. The Secretary General expressed the view that the Committee should take steps to settle the matter between the countries, as had been done at the United Nations. He said he would talk to both the Macedonian and Greek delegations to see if a resolution could be found before the General Assembly.

The next day, the Secretary General reported to the Committee that the Macedonian Minister of the Interior had agreed to pursue INTERPOL membership under the provisional name Macedonia was using in the United Nations.<sup>33</sup> The 62nd General Assembly voted in favor of making the Former Yugoslav Republic of Macedonia a member of INTERPOL.<sup>34</sup>

### South Africa

South Africa was a Member of the ICPC from 1948 to 1955. On the 29th of September 1993, it once again applied for Membership to the Organization. The application was considered by the Executive Committee during its 105th session held in Aruba on 27th and 28th September 1993. On this occasion, the Members of the EC noted that South Africa's membership would be very beneficial for INTERPOL. The Secretary General pointed out that he had visited South Africa with the Committee's agreement. His observations indicated that the country was well on the way to becoming a multiracial society, particularly with regard to its police force. Furthermore, many countries had lifted the sanctions previously imposed on South Africa. He concluded that the country's application therefore stood a very good chance of being accepted.

Nevertheless, one of the concerns expressed by some African countries and the President was South Africa's position in the United Nations: the elimination of South Africa's apartheid had been on the agenda of the United Nations from the UN's inception. For three decades, the United Nations had imposed sanctions upon South Africa, including arms embargo and its supports on oil embargos and boycotts of apartheid in many fields. On 14 December 1989, four years before South Africa submitted its second application to INTERPOL, the UN General Assembly had adopted Resolution A/RES/S-16/1 entitled "Declaration on Apartheid and its Destructive Consequences in Southern Africa" and calling for negotiations to end apartheid and establish a non-racial democracy. With political violence escalating and negotiations at risk, the United Nations Observer Mission in South Africa was established by the Security Council in 1992.<sup>35</sup>

Committee Members observed that although some African Members had concerns about South Africa's status with the United Nations, some countries in the region had already begun cooperating with South Africa's police forces. In addition, several INTERPOL Members who had led the sanctions movement in

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<sup>33</sup> Minutes of the 105<sup>th</sup> Session of the Executive Committee, September 27-28, 1993, 94/CE/2/ Document No. 1, para. 3.2.

<sup>34</sup> Minutes of 62<sup>nd</sup> General Assembly, September 29-October5, 1993, AGN/62/PV/2, pg. 2.

<sup>35</sup> 94/CE/2, Doc No. 1.

the United Nations had not only lifted sanctions themselves, but also intended to support South Africa's request to join INTERPOL.<sup>36</sup> The Secretary General cautioned that INTERPOL should make its decision independently, without considering itself bound by what occurred in another international Organization, in this case, the United Nations. He also observed, moreover, that there seemed little doubt about the approval of South Africa's application by the General Assembly.<sup>37</sup>

The Executive Committee unanimously decided to submit South Africa's application for membership to the General Assembly. South Africa joined INTERPOL on the 29th of September 1993.<sup>38</sup>

#### Palestinian Authority

In preparation for the 124th Session of the Executive Committee held on November 7, 1999, the General Secretariat issued a report indicating that Palestine had applied to INTERPOL membership on August 19, 1999. The Secretary General advised in the report that he had replied to the Minister of Planning and International Co-operation that it was not possible to grant Palestine membership in INTERPOL since Palestine was not a sovereign State recognized by the United Nations. In response to the Minister's alternative request, however, the Secretary offered to grant Palestine observer status in the Organization.<sup>39</sup>

The report further stated INTERPOL's "consistent practice for almost fifteen years to accept only sovereign States, recognized as such by the international Community as a whole, as Members of INTERPOL. Palestine does not fall into that category." The report concluded by suggesting that the Executive Committee would have to decide at the final Committee meeting before the 68th General Assembly whether to grant Palestine observer status.<sup>40</sup> At that meeting in Seoul, Palestine's observer status received Committee approval.<sup>41</sup>

In January 2010, the Minister of Interior of the Palestinian National Authority again requested membership in INTERPOL. The 166th Session of the Executive Committee received a report describing the 1999 request and questioning the applicant's ability, in the event that it became a Member, to comply with its obligations under the INTERPOL Constitution and Rules. Questions relating to its status under international law, Organization of its police force, and abilities to engage in international judicial cooperation and extradition were raised. The report recommended that the Committee reaffirm the decision of 1999.

At the Executive Committee meeting, a diversion of opinions was expressed. Several Committee Members thought that, in light of progress in Palestine's governmental and police structures since 1999, it "deserved a fair response from the Committee." It was also noted that providing Palestine

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<sup>36</sup> *Idem.* para. 3.2.

<sup>37</sup> *Idem.*

<sup>38</sup> AGN/62/PV/2.

<sup>39</sup> According to the Secretary General, the Israeli Embassy in Paris indicated that Israel had no objection to Palestine participating as an INTERPOL observer. See Document No. 2, Minutes and Abstract of Decisions of the 124<sup>th</sup> Session of the Executive Committee, November 7-12, 1999, pg. 19.

<sup>40</sup> Document No. 10, Co-operation with the Palestinian Police, CE/99/3/DOC/10.

<sup>41</sup> Document No. 2, Minutes and Abstract of Decisions of the 124<sup>th</sup> Session of the Executive Committee, November 7-12, 1999, pg. 20.

with INTERPOL's tools would assist it in fighting crime in the region. The Secretary General, however, urged that admitting Palestine would be "a major policy issue," and would change a policy in existence for 25 years of accepting only sovereign States. The Committee took no definitive action on Palestine's request for membership. Rather, it decided to subject it to more study by the General Secretariat, including consultation at the Regional Conferences.<sup>42</sup>

## China

In 1980, when the People's Republic of China (PRC) initiated inquiries about membership to INTERPOL, the Republic of China (ROC) had been a Member of INTERPOL since 1961.

The PRC officially applied for INTERPOL membership in May 1984. There was general recognition within the Executive Committee that admitting the PRC to INTERPOL would be beneficial in light of that country's growing importance in international affairs. The PRC, however, emphasized that it would be the only representative of China in INTERPOL.<sup>43</sup> As the Republic of China (ROC) had been an INTERPOL Member since 1961, concern arose in the Committee about the situation. On the one hand, some Members thought that the Committee should simply pass the application, which everyone recognized as fulfilling all requirements, to the General Assembly and avoid getting involved in the political issues between the PRC and ROC. It would then be up to the Organization's Members to decide whether to accept the PRC request. If the PRC request won approval, however, the ROC's continued status in INTERPOL would be in question.

Two different Members could not represent the same country, and the INTERPOL Constitution had no provision for excluding a Member who was in good standing in the Organization. In previous conversations with a PRC Embassy official, the Secretary General learned that the PRC was agreeable to having the ROC continue to participate in INTERPOL as a sub-bureau to the Beijing NCB. He hoped that the ROC might accept such a solution. At the end of the 76th Session of the Executive Committee meeting, it was decided that the PRC membership would be placed on the 53rd General Assembly's agenda scheduled for September 1984. In the meantime, the President and the Secretary would travel to Taiwan as a courtesy to the ROC to explain the circumstances of the PRC request and its consequences.

The trip to Taipei did not result in any concession by the ROC, which was unwilling to accept sub-bureau status within the PRC delegation. Thereafter, the PRC delivered a draft resolution it wished to have presented for when the General Assembly voted on its membership application. The resolution made it clear that the Assembly would be deciding that the PRC was the only lawful representative of China in INTERPOL. The resolution caused a great deal of discussion at the 77th Session of the Executive Committee held on the eve of the 53rd Assembly. The Secretary General "wondered whether the Assembly should not decide first on whether the application submitted was receivable [...] In his opinion, it was not up to the President or the Secretary General of the Organization to take a decision on the constitutional acceptability of a membership application. It

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<sup>42</sup> Document No. 2, Minutes of the 166<sup>th</sup> Session of the Executive Committee, June 22-23, 2010, CE-2010-3-DOC-02, para. 6.2.

<sup>43</sup> Minutes of the 76<sup>th</sup> Session of the Executive Committee, May 28-June 1, 1984, 84/CE/2, pg. 2-3.

was a decision for the Assembly, as the Organization's sovereign body.<sup>44</sup> The President concurred: "It would, in fact, be highly appropriate for the Assembly to take a decision on the principle of whether a conditional application for membership was receivable or not."<sup>45</sup> Some Committee Members objected that it was highly unusual, and inappropriate, to ask the General Assembly to vote on a resolution accompanying a membership request. Others thought some of the PRC language was threatening and political in nature. As a result, the Secretary General was dispatched to talk to the PRC to see if it would withdraw or modify the resolution.<sup>46</sup>

The Secretary's discussion later that evening with both the PRC and ROC delegations yielded no agreements. The PRC said it would consider what to do, but made no promise to withdraw the resolution.

The PRC membership request was taken up at the 53rd General Assembly. Many Members voiced opinions concerning the inclusion of the PRC resolution with its application. Members and the General Secretariat were uncertain if the INTERPOL rules and regulations permitted the Assembly to vote on a conditional membership application. The ROC delegation insisted that a preliminary vote be taken on that question, before taking a vote on the application itself. A motion to that effect was defeated, however. The Assembly then took a vote on the application as a whole, including the resolution affirming that the PRC was the sole China representative in INTERPOL. The PRC request did not receive the necessary two-thirds majority vote, and the session was adjourned for the day.<sup>47</sup>

The following day, in accordance with Article 21 of the INTERPOL Constitution, the General Assembly took a second vote, which resulted in approval of the PRC's membership request, including the resolution, by the required two-thirds majority.<sup>48</sup>

Acceptance of the PRC as China's sole representative in INTERPOL worried some Members concerning the continued status of the ROC. The Secretary General, and others, over the course of the next two years, tried to find some solution that would allow the ROC to continue to cooperate with INTERPOL.<sup>49</sup> The only alternative acceptable to the PRC, however, remained Taiwan's participation as a non-voting sub-bureau of Beijing, an arrangement the ROC was unwilling to abide. As a result, in 1986, the Executive Committee instructed the Secretary to advise the General Assembly that the ROC had rejected sub-bureau status and that further attempts to find a solution were not warranted.<sup>50</sup>

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<sup>44</sup> 53/AGN/PV/2, pp.8-9.

<sup>45</sup> *Idem*, p.10.

<sup>46</sup> Minutes of the 77<sup>th</sup> Session of the Executive Committee August 31-September 11, 1984, 84/CE/3, pgs. 6-8.

<sup>47</sup> Minutes of the 53<sup>rd</sup> General Assembly, September 4-11, 1984, 53/AGN/PV/2, pg. 13.

<sup>48</sup> Minutes of the 53<sup>rd</sup> General Assembly, September 4-11, 1984, 53/AGN/PV/3, pg. 2.

<sup>49</sup> In 1985 INTERPOL sought a legal opinion from Professor Paul Reuter to address several questions, among them whether Article 3 of the Constitution applies to decisions for membership, he concluded that it does not; and the effect of the admission of PRC on the membership of ROC. Professor Reuter concluded that the vote on PRC meant that INTERPOL admitted other delegates who claimed to represent the whole of China, *i.e.*, the mainland and islands. The country remained the same, only the delegates representing the country changed.

<sup>50</sup> Summary Record of Discussions, 82<sup>nd</sup> Session of the Executive Committee, June 3-6, 1986, pg. 3-4.

Although not expressly stated in the records relating to PRC's adhesion to INTERPOL, the status of PRC as the sole representative of China and the consequent exclusion of ROC follows the same position of PRC at the UN.

## **Part II. Defining the Terms of Article 4**

### **I. The Words in Article 4**

The wording in Article 4 first appeared in the 1956 INTERPOL Constitution. While other provisions of the Constitution have been amended since then, the text of Article 4 has remained the same. Since 1956, Members of INTERPOL and its governing bodies, have had extended discussions over several decades about the meaning of the word "country" in Article 4. Those discussions and debates arose during several attempts to have INTERPOL officially define "country" in Article 4 to mean "sovereign State."<sup>51</sup>

Article 4, as adopted in 1956, reflects a compromise. In 1955, the evolution of the International Criminal Police Commission (I.C.P.C.) prompted an examination of its legal basis. One notable criticism about the Statutes in force was the lack of clarity regarding membership. The draft Constitution that was prepared to address the shortcomings of the Statutes in force, and presented to the 24th General Assembly in 1955, focused on establishing States as Members of the Organization. This gave rise to protests by Members who disagreed with the proposed intergovernmental nature of the Organization and feared that the political appointment of representatives to the General Assembly would detract from the technical character of the Organization and therefore reduce its independence and efficiency. The draft Constitution also provided that non-State territories could become non-voting "associate Members" of the Organization. That language met with objection from Members who believed that any country that had a police force dealing autonomously with criminal activity, regardless of its legal status, should be able to join the Organization as a full Member.<sup>52</sup>

The General Assembly appointed a Sub-committee on Statutes Reform to re-examine the draft Constitution in light of Members' comments at the 24th Assembly. During the sub-committee's deliberations, some Members considered that it was difficult to say that the States are Members of the Organization and that it was dangerous to try define the meaning of a State. One suggestion was to have police services be the Members of the Organization. However, this met with opposition, as there could be different police services in a given country. Failing to come to an agreement, a compromise was reached to replace the word "State" with the word "country". The Sub-committee agreed on the language for Article 4, which was adopted as part of the new

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<sup>51</sup> The efforts to define "country" to mean "sovereign State" did not arise as part of the process of reviewing and deciding upon specific requests for membership to INTERPOL. They followed an independent course, having come about out of some Members' concerns that INTERPOL was perceived as less than a full-fledged intergovernmental Organization because its membership included non-States. Nevertheless, knowledge of those endeavors, and the discussions and debates they occasioned, is important for a full understanding of the difficult issues that have often arisen during INTERPOL's process of accepting new Members since 1956.

<sup>52</sup> Minutes of the XXIVth Session of the General Assembly of the I.C.P.C., Monday 5th September 1955, Plenary Session 1, pp.1-13.

constitution in 1956 at the 25th Assembly. The historical record, however, does not appear to include a complete history of the sub-committee discussions or 25th Assembly's debate regarding why the term "country" was chosen or the rest of the article which deals with the procedural aspect of membership of the Organization.

## II. The Efforts to Define INTERPOL's Membership

After the adoption of the 1956 Constitution, INTERPOL's status as an intergovernmental Organization continued to be of concern to some Members, and especially to Members of the Executive Committee and General Secretariat. The Organization advanced its claim to international status by securing a legal opinion from an outside adviser<sup>53</sup> and by obtaining a letter from the United Nations Assistant Secretary-General and Legal Counsel, attesting that INTERPOL had been designated an intergovernmental Organization in 1971 by the U.N. Economic and Social Council.<sup>54</sup> Doubts continued to be raised, however, by several countries and Organizations with which INTERPOL dealt.<sup>55</sup> It was felt that Article 4's text created ambiguity concerning whether INTERPOL's Members were States, countries, or even individual police bodies. In the face of such uncertainty, some questioned whether INTERPOL's Constitution should be considered an international agreement among governments, as it claimed, or simply an agreement among police bodies of the Member countries that was not binding on the governments themselves.

### A. The 1992 Proposed Amendments to the Constitution

In 1986, the Executive Committee placed the revision of the Constitution on the 55th General Assembly's agenda. Over the next five years, the Organization Advisers prepared proposals for amendments, which were presented to the 60th Assembly in 1991. Comments were taken from the membership and, thereafter, the Advisers and General Secretariat were tasked with preparing a draft text of a new constitution. The Committee examined that draft text in early 1992 and, after some modifications, presented it to the 61st Assembly in late 1992 in Dakar.

Article 5 of the proposed constitution pertained to membership. The first two sub-paragraphs read as follows:

- "(1) The Members of the Organization shall be those States whose applications for membership have been approved by the General Assembly by a two-thirds majority.
- (2) Applications for membership shall be submitted to the Secretary General by the appropriate government authority."<sup>56</sup>

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<sup>53</sup> 85/CE/1 – A Legal Opinion by Paul Reuter, Professor Emeritus at the University of Law, Economics and Social Sciences, Paris.

<sup>54</sup> Note on the intergovernmental status of INTERPOL *in* Letter to Mr Bossard, INTERPOL Secretary General, from Mr Suy, Assistant Secretary-General, Legal Counsel, United Nations, 14 December 1982.

<sup>55</sup> 4/D.3/STA/36-B - Circular Letter from Mr Bossard, INTERPOL Secretary General to the Heads of National Central Bureaus, 24 February 1983.

<sup>56</sup> AGN/61/RAP No.9, Appendix 1, pg. 4.



The Comments accompanying Article 5 stated that “[t]his wording merely reflects the existing legal situation: INTERPOL’s status as an intergovernmental Organization has been formally recognized by the United Nations (ECOSOC) and by a number of States which have concluded or are preparing to conclude headquarters agreements . . . or to grant [INTERPOL] immunities which . . . are available to intergovernmental Organizations (United States). . . INTERPOL’s Members are therefore States.” It was also noted that, “in light of current developments in international police co-operation, the formal expression of INTERPOL’s status as an intergovernmental Organization would give our Organization certain advantages in its relations with other international institutions and with its Members States.”<sup>57</sup>

The General Assembly did not adopt the proposed constitution at its 61st meeting. Rather, it adopted a resolution inviting all Members to nominate experts to participate in drafting a report and preparing a draft constitution to be presented to the Assembly in the future.<sup>58</sup>

The Expert Group was comprised of the Organization’s Advisers, Members of the Executive Committee, and experts the Members sent to the Group’s meetings. The Group met twice, in July 1993 and January 1994. Before the first meeting, it received responses from a membership survey that sought opinions of whether INTERPOL’s Members were States, countries, or police bodies. The Group took those responses and the proposed amended constitution the Committee had presented in Dakar as the starting points for discussions. The initial discussions yielded agreement on some non-controversial articles in the 1992 proposal, but other articles became stumbling blocks. The difficult provisions were those involving the Organization’s legal status, which once again raised the debate over the definition of INTERPOL’s Members as countries, States, or police bodies.

As had already emerged from the discussion of the Committee which met during the 61st General Assembly session to examine the Draft Constitution, the Organization’s legal status was a source of controversy for its own Members: some considered that INTERPOL was an intergovernmental Organization whose Members were States and whose Constitution was a treaty in simplified form; others – on the contrary – considered that INTERPOL was a non-governmental Organization made up of police bodies serving the cause of international police cooperation; others still, while not denying INTERPOL’s intergovernmental nature, nevertheless considered that its Members were police bodies.

The minutes of the first Expert group show that some Members favored the language in proposed Article 5 because they felt it reflected INTERPOL’s true nature as an intergovernmental Organization recognized by the United Nations and several States. The implication of that intergovernmental status was that INTERPOL’s Members were States, not police bodies or non-sovereign countries.<sup>59</sup> The Members holding this view thought that the Constitution should say as much, and eliminate the ambiguous language in Article 4 of the 1956 version.

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<sup>57</sup> *Idem.*

<sup>58</sup> AGN/61/RES/5.

<sup>59</sup> Minutes of First Expert Group Meeting, held from 12<sup>th</sup> to 15<sup>th</sup> July 1993, pg. 19, attached as Appendix 5 to General Assembly Report AGN/63/RAP/11, Amendment to INTERPOL’s Constitution, 1994.

Other Members, however, worried that making INTERPOL an intergovernmental Organization whose Members were States would hurt its ability to remain an effective cross-border police to police crime fighting network. They feared the involvement of non-police delegates, including diplomats or other government officials, who would politicize INTERPOL. One Group Member also raised a concern about the future membership status of then-current INTERPOL Members who were not clearly sovereign States. If those Members had to leave INTERPOL, the Organization's effectiveness would be diminished. Another concern was that, if the INTERPOL Constitution were considered an international agreement among State Members, the national legislations of some Members would require their governments to approve the agreement and their participation in the Organization.<sup>60</sup>

The first Expert Group meeting ended without agreement regarding the membership issue. The Group decided to send out a second survey, the results of which were to be reviewed at the second meeting.

The second Expert Group meeting took place in January 1994. The Expert Group discussed at length the question of the Organization's legal status and the issue of whether INTERPOL's Members were countries or States. A number of Members continued to oppose specifically declaring that INTERPOL's Members were states. At one point, compromise language was offered and adopted as an amendment to proposed Article 5: "A member of the Organization shall be the official criminal police agency designated by a State or country whose application for membership has been approved by the General Assembly by a two-thirds majority."<sup>61</sup> By including both "country" and "state" in the membership article, it was hoped that all Members could come to an agreement. Consensus did not occur, however. A member of the General Secretariat noted that, with only two exceptions, "country" in Article 4 had been interpreted as being synonymous with "state." Including both terms in a new constitutional provision might suggest that they had different meanings, leading to membership applications from non-state entities. If that occurred, INTERPOL might find itself in the political arena by having to decide the international status of an applicant. In the end, the Group decided that the alternative language would not be an improvement over the text of current Article 4, which, it was noted, had worked well for the Organization since 1956.<sup>62</sup> The Group's Members decided to report their lack of progress on the issue of the Organization's legal status to the Executive Committee and to ask that the General Assembly provide further guidance on how they should proceed with the project.

After the Executive Committee received the Group's report, it decided that the best course would be to suspend work on drafting an amended constitution. The General Assembly agreed, adopting a resolution presented by the Committee to that effect at the 63rd Assembly in October 1994.<sup>63</sup>

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<sup>60</sup> Idem., pg. 6.

<sup>61</sup> Idem., pg. 39.

<sup>62</sup> Idem., pg. 44.

<sup>63</sup> AGN/63/RES/8; AGN/63/PV/5, pg. 2.

## B. 2011 Effort to Define the Word “Country” in Article 4 of the Constitution

At the 170th Executive Committee meeting in Lyon in June 2011, the General Secretariat presented the Committee with a report and recommendation regarding the interpretation of “country” in Article 4 of the Constitution. The report was entitled “INTERPOL’s Policy Regarding Membership,” dated June 7, 2011.<sup>64</sup> The report explained that the status as States of two recent applicants to INTERPOL, Palestine and Kosovo, was under “fervent debate in the international arena.”<sup>65</sup> The General Secretariat suggested that in the future INTERPOL would be likely to receive requests from similar entities whose qualifications were subject to political debate. According to the report, INTERPOL could best protect itself from being placed in the middle of such debates by making clear that its Members were sovereign States, recognized as such by the international community, and a Member of the United Nations. The Secretariat said that the time was appropriate for INTERPOL to affirm its practice over the preceding 20 years, which interpreted the term “country” in Article 4 to mean “sovereign State.” Attached to the report was a draft resolution to that effect, which the Secretariat asked the Committee to approve and place on the agenda of the 80th General Assembly, to be held later that year in Hanoi.

Some Executive Committee Members urged caution in presenting the resolution. One Member felt that doing so at that time would be seen as “targeting certain entities.” Another Member thought the reference to the United Nations should be deleted. The Secretary General decided to withdraw the draft resolution and the Committee Members agreed to continue to handle membership requests on a case-by-case basis.<sup>66</sup>

## C. Registration of INTERPOL’s Constitution with the United Nations

In approximately 2004, the General Secretariat and Executive Committee began considering whether INTERPOL should try to register its Constitution as an international agreement under Article 102 of the United Nations Charter.<sup>67</sup> In 2006, the General Secretariat provided an opinion in favor of registration. A group of several Members’ legal advisers meeting in Lyon in 2007 also recommended that the Constitution was an appropriate instrument for registration.<sup>68</sup> In addition, in May 2010, the European Regional Conference adopted a recommendation declaring that INTERPOL’s Constitution should be registered with the United Nations.<sup>69</sup>

At its 167th meeting, the Executive Committee considered a draft resolution regarding registration and approved presenting it to 79th General Assembly in November in Doha, Qatar. The Assembly,

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<sup>64</sup> CE-2011-2-DOC-16.

<sup>65</sup> *Idem.*, pg. 1

<sup>66</sup> Extracts of the Minutes of the 170<sup>th</sup> session of the Executive Committee on item “INTERPOL’s policy regarding membership” rejecting the General Secretariat’s proposal, CE-2011-3-DOC-02, pgs. 34-35.

<sup>67</sup> Opinion of the Office of Legal Affairs by Dr. R.S.J. Martha, L.L.M., General Counsel, “The Legal Character of the Constitution of the International Criminal Police Organization,” dated January 2006, pg. 1-2.

<sup>68</sup> “Registration and Publication of INTERPOL’s Constitution under Article 102, Paragraph 1 of the United Nations Charter,” Meeting held in Lyon, France on 3 and 4 May 2007, Final Report by Professor Maurice Kamto, Chairman of the Meeting, pg. 3.

<sup>69</sup> AG/2011/RAP/16, pg. 2.

however, decided to provide Members time to consider the proposal, so it set off a vote until the following year.<sup>70</sup>

At the 80th General Assembly in Hanoi, the Members again discussed the proposal to register the Constitution with the United Nations. Several Members, urged proceeding with the registration in order to bolster INTERPOL's international status. Others spoke against registration because they believed that the Constitution was not binding on INTERPOL Members in the same way as a treaty or similar international agreement. After the debate, the Assembly adopted the resolution calling for the Secretary General to take steps to accomplish the registration with the United Nations.

To date, however, the INTERPOL Constitution has not appeared on the Article 102 registry.

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<sup>70</sup> AG/2011/RAP/16, pg. 3.