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UNITED NATIONS



NATIONS UNIES

INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

TO:
A:

The Secretary-General

DATE: 23 December 1991

THROUGH:
S/C DE:

Mr. Virendra Dayal
Chef de Cabinet

REFERENCE: _____

FROM:
DE:

Carl-August Fleischhauer
Under-Secretary-General for Legal Affairs
The Legal Counsel

Car. August Fleischhauer

SUBJECT:
OBJET:

The Union of Soviet Socialist Republics and
the United Nations

1. Further to my memorandum to you of 19 December 1991 on the above, I would like to refer to events over the weekend reported in the press. According to the New York Times of Monday, 23 December 1991, leaders of 11 former Soviet Republics signed a Protocol in Alma-Ata on 21 December which included a reference to United Nations membership. The relevant text, as reproduced in the Times article, reads as follows:

"1. Member states of the commonwealth support Russia in taking over the U.S.S.R. membership in the U.N. including permanent membership in the Security Council and other international organizations.

"2. The Republic of Byelorussia, the Russian Federation and Ukraine will help other member states of the commonwealth settle problems connected with their full membership in the U.N. and other international organizations."

In the light of this development, I would like to make the following points:

2. First, the Protocol provides that the Agreement on the Creation of the Commonwealth of Independent States, of which the protocol forms a constituent part, "comes into force for each of the high contracting parties from the moment of its ratification." Thus, the Protocol is not in force for each republic until the legislative body of each republic ratifies it.

3. In substance, the solution envisaged in Alma-Ata seems to point in the direction of Scenario 2 of my memorandum of 19 December, i.e. the continuation of the Soviet seat in the Security Council by the Russian Federation, while the other Republics may choose to apply for membership, except for Ukraine and Belarus which continue as before. As the India/Pakistan case shows, such a solution is legally possible. However, whether continuation will be accepted by the other members of the Security Council remains to be seen, particularly since the responsibility for nuclear weapons, the take-over of treaty obligations in general and the fate of the foreign debt do not seem to have been clearly settled in Alma-Ata.

4. Third, the United Nations so far has not received any official notification of the events in Alma-Ata on behalf of either the old USSR or Russia. Some kind of communication of the new arrangements seems desirable in order to give the Council a basis on which to proceed; it would be preferable to obtain the relevant information from the old Soviet Union. Should Russia send a communication, there would be, as stated in paragraph 4 of my above-mentioned memorandum, a receivability problem which would have to be settled by the President of the Council together with his colleagues as the members of the organ immediately concerned.