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LETTER DATED 30 JULY 1968 FROM THE SECRETARY-GENERAL ADDRESSED TO THE
PERMANENT REPRESENTATIVE OF THE DOMINICAN REPUBLIC

I have the honour to acknowledge the receipt of your letter of 9 July 1968, concerning the omission of the name of the Dominican Republic in the roll-call votes at the 1671st and 1672nd meetings of the General Assembly on 12 June 1968. As requested, your letter was circulated to the General Assembly in document A/7136.

In the light of your reference to the omission of the Dominican Republic from the roll-call votes I believe that it is necessary for me to explain fully the reasons for the manner in which the Secretariat has consistently acted in this matter.

You will recall that, by letters of 24 and 29 April and 3 and 6 May 1968 (A/7086 and Add.1-3), I reported to the General Assembly, at its resumed twenty-second session, on those States which were "in arrears in the payment of their contributions to the United Nations regular budget within the terms of Article 19 of the Charter". My reports were not contested at any time during the resumed twenty-second session by the Member States mentioned therein nor, in fact, by any other Member State. None of the Member States involved requested that the General Assembly permit them to vote under the second sentence of Article 19.

The roll-call votes in question therefore took place in circumstances where the Dominican Republic and Haiti remained in arrears, where the General Assembly had received my reports without any question, and where no requests had been made under the second sentence of Article 19. Taking these circumstances into account, and in the absence of any specific determination by the competent organs of the United Nations, it was the responsibility of the Secretariat officials concerned to discharge their duties in the light of their understanding of the relevant

provisions of the Charter. It has always been the understanding of the Secretary-General that the express language of the first sentence of Article 19 of the Charter does not call for a decision of the General Assembly prior to deprivation of vote and is a provision entirely distinct and separate from Article 18 (2) of the Charter.

I believe that voting under Article 19 is only required in two possible instances, neither of which occurred in the cases under consideration. The first instance would be if my reports indicating that one or more States were in arrears were challenged as factually incorrect. No such challenge was made in the present case. The second instance would be if a Member State in arrears were to request the Assembly to exercise the discretion accorded in the second sentence of Article 19 to permit that Member State to vote, provided the Assembly is satisfied that failure to pay was due to conditions beyond that Member State's control. In order to arrive at a finding of the nature just indicated, I assume that a necessary prerequisite to action under the second sentence of Article 19 would be a request by the Member State in arrears, accompanied by the submission of such data as to satisfy the Assembly "that the failure to pay is due to conditions beyond the control of the Member". No such request was made and no such data were provided by the Dominican Republic to the General Assembly at its resumed twenty-second session.

The foregoing conclusions are based upon legal considerations which are set out in a detailed opinion of the Legal Counsel. A copy of this opinion, in which I concur, is annexed to the present letter.^{1/}

In the light of the foregoing, I consider that the Secretariat is obliged to continue to act in accordance with its understanding of the relevant provisions of the Charter and with the precedents which are cited in the annexed legal opinion until such time as the General Assembly indicates that it does not share that understanding and that different procedures should be followed which may release the Secretariat from this otherwise unavoidable responsibility.

In conclusion, in the light of your remarks that your Government is convinced that the General Assembly would be prepared to accept "the explanatory

^{1/} For the opinion of the Legal Counsel, see document A/7146, Annex.

considerations and legal formulations which would qualify the Dominican Republic" to participate in the voting, I feel that I should direct your attention particularly to the comments in this present reply and in the annexed legal opinion regarding the second sentence of Article 19, under which the Assembly may permit a Member to vote if it is satisfied that failure to pay was due to conditions beyond the control of the Member concerned.

I am having this letter also circulated as a document of the General Assembly.

(Signed) U THANT
Secretary-General
