

WORLD HEALTH
ORGANIZATIONORGANISATION MONDIALE
DE LA SANTÉTHIRD WORLD HEALTH ASSEMBLYA3/54 ✓
6 May 1950

ORIGINAL: FRENCH

APPLICATION FOR MEMBERSHIP BY THE STATE OF VIET-NAM
(Provisional Agenda, item 13)

The Government of the State of Viet-Nam has applied for membership in the World Health Organization. This request was made within the time limit required by the Rules of Procedure of the Assembly.

The letters exchanged and other relevant informations are reproduced below.

TELEGRAM DATED SAIGON, 27 MARCH 1950, AND LETTER DATED 25 MARCH 1950 FROM THE PRESIDENT, MINISTER FOR FOREIGN AFFAIRS, OF THE GOVERNMENT OF VIET-NAM TO THE DIRECTOR-GENERAL

HONOUR INFORM YOU THAT VIETNAM GOVERNMENT REQUESTS BY LETTER TODAY ADMISSION AS MEMBER WORLD HEALTH ORGANIZATION STOP WOULD BE OBLIGED IF YOU COULD REFER REQUEST TO WHO AS SOON AS RECEIVED YOURS ETC NGUYENPHANLONG PRESIDENT OF THE COUNCIL MINISTER OF FOREIGN AFFAIRS VIETNAM

"Having acquired the status of an independent State within the French Union following the ratification by the French Parliament on 2 February 1950 of the agreements reached on 8 March 1949 between the President of the French Republic and His Majesty BAO-DAI, the State of Viet-Nam wishes to take an active part in international activities in health matters and to become a member of the World Health Organization for this purpose.

"I have the honour to request you to submit the candidature of Viet-Nam for admission as a State Member of the Organization to the Third World Health Assembly, which is to meet on 3 May 1950.

"In order that my Government can follow the work of the Assembly while awaiting its decision, Viet-Nam proposes to send to Geneva a delegation of observers, which I should be very grateful if you could receive in this capacity during the meetings of the Assembly.

"I have the honour to be etc.etc."

LETTER FROM THE MINISTRY FOR FOREIGN AFFAIRS OF FRANCE DATED 15 APRIL 1950 TO THE DIRECTOR-GENERAL

"The President of the Council of the Viet-Nam Government has just informed me that he has requested the admission of his country as a member

of the World Health Organization.

"I have the honour, in the name of the President of the French Union, to associate myself with the step thus taken by the Viet-Nam Government, in conformity with Article 6 of the Constitution of the Organization, and should be obliged if you would kindly put the request formulated by Viet-Nam on the Agenda of the coming World Health Assembly."

EXTRACT FROM THE CONSTITUTION OF THE
FRENCH REPUBLIC OF 13 OCTOBER 1946,
PROMULGATED 27 OCTOBER 1946

SECTION VIII

Article 60

The French Union shall consist, on the one hand, of the French Republic, comprising metropolitan France and the overseas Departments and Territories, on the other hand of the Associated Territories and States.

Article 61

The position of the Associated States within the French Union shall be established for each of them by the instrument defining their relationship to France.

Article 62

The members of the French Union shall combine their entire resources to guarantee the defence of the Union as a whole. The Government of the Republic shall assume the co-ordination of these resources and the direction of the appropriate policy for preparing and ensuring the said defence.

Article 63

The central organs of the French Union shall be the Presidency, the Higher Council and the Assembly.

Article 64

The President of the French Republic shall be President of the French Union, whose permanent interests he shall represent.

Article 65

The Higher Council of the French Union shall consist, under the presidency of the President of the Union, of a delegation from the French Government and the representatives whom each of the Associated States shall have the power to appoint for collaboration with the President of the Union.

Its function shall be to assist the Government in the general direction of the Union.

Article 66

One half of the Assembly of the French Union shall consist of members representing metropolitan France and the other half of members representing the overseas Departments and Territories and the Associated States.

An organic law shall determine under what conditions the various sections of the population may be represented.¹

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Article 71

The Assembly of the French Union shall take cognizance of projects or proposals which are submitted to it for consideration by the National Assembly or the Government of the French Republic or the Governments of the Associated States.

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EXTRACTS FROM THE
INSTRUMENTS DEFINING THE RELATIONSHIP
OF THE
ASSOCIATED STATE OF VIET-NAM
WITH FRANCE

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II. DOCUMENTS CONCERNING THE ASSOCIATED STATE OF VIET-NAM

- A) Joint declaration signed on 5 June 1948 in Baie d'Along by M. Emile Bollaert, French High Commissioner for Indo-China and General Nguyen van Xuan, President of the provisional Central Government of Viet-Nam, in the presence of H.M. BAO DAI.

.....

(1) France solemnly recognizes the independence of Viet-Nam which shall be free to achieve national unity. For its part Viet-Nam proclaims its adhesion to the French Union as a State associated with France. The independence of Viet-Nam shall have no other limits than those imposed by its membership of the French Union.

¹ Act of 27 October 1946

(2) Viet-Nam promises to respect the rights and interests of French nationals, to ensure conditional respect for democratic principles and to make first call on French advisers and technicians for the needs of its internal organization and its economy.

(3) As soon as a provisional government is constituted, the representatives of Viet-Nam shall conclude, with the representatives of the French Republic, various special and appropriate agreements of a cultural, diplomatic, military, financial and technical nature.

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B) Exchange of letters dated 8 March 1949 between the President of the French Union and H.M. BAO DAI.

1. - Letter from the President of the Republic and President of the French Union to H.M. Bao Dai:

Sire,

You were good enough to express the wish to see confirmed and defined, insofar as concerns the Unity and Independence of Viet-Nam, the principles laid down by the Joint Declaration made on 5 June 1948 in Baie d'Along by M. Emile Bollaert, French High Commissioner in Indo-China and General Nguyen Van Xuan, President of the Provisional Central Government of Viet-Nam, in the presence of Your Majesty...

This desire is shared by the French Government which, after having discussed the matter in the Council of Ministers, asked me in my capacity as President of the French Union, to proceed by an exchange of letters with Your Majesty to the conclusion of an agreement to establish the principles of the Declaration of 5 June so that they may be put into application.

It will rest with Your Majesty's Government, on the one hand, to conclude with the French High Commissioner in Indo-China, the special or provisional agreements which shall govern the relations between the French Union and Viet-Nam, bearing in mind the rules laid down in the present exchange of letters and the existing state of affairs, until order and peace are re-established, and, on the other hand, to prepare with the French Representative and in conjunction with the Royal Governments of Laos and Cambodia the necessary regulations which follow from the present letters.

On this basis and under these conditions, I confirm in the name of the Government of the French Republic, my agreement with the provisions enunciated below:

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2. Diplomatic Questions

The external policy of the French Union, within which Viet-Nam shall exercise its rights through its delegates to the Higher Council and by its diplomacy as defined below, shall be examined and coordinated under the direction and the responsibility of the Government of the French Republic in the Higher Council of

the Union, where the Government of Viet-Nam shall be represented by its freely-chosen delegates.

For carrying out the above general directives in matters of external policy, H.M. Emperor of Viet-Nam shall associate the activities of his diplomacy with those of the French Union.

The heads of foreign diplomatic missions to Viet-Nam shall be accredited to the President of the French Union and to H.M. The Emperor of Viet-Nam.

The heads of Viet-Nam diplomatic missions, which the Government of Viet-Nam has designated to represent it in foreign states, in agreement with the Government of the French Republic, shall receive credentials issued by the President of the French Government and initiated by H.M. The Emperor of Viet-Nam.

The countries in which Viet-Nam is to be represented by a diplomatic mission shall be determined after agreement with the French Government.

The unity of the international policy of the French Union in these States shall be ensured by the general directives laid down, with the concurrence of the Higher Council of the French Union, and transmitted by the Government of the Republic to the Government of Viet-Nam, as well as by the direct contacts which French and Viet-Nam diplomats shall arrange between themselves. In the other States, Viet-Nam shall be represented by the diplomatic missions of the Government of the French Republic which may include representatives of Viet-Nam.

Viet-Nam shall be empowered to negotiate and sign agreements relating to its special interests, on the express condition that before any negotiations it shall submit its draft-agreements to the Government of the Republic for examination in the Higher Council, and that the negotiations be carried on in liaison with the diplomatic missions of the Republic. The favourable opinion of the Higher Council shall be necessary before agreements concluded in this way become final.

The Government of the French Republic is prepared, at the request of the Government of Viet-Nam to act as intermediary in the opening of Viet-Nam consulates in foreign countries where Viet-Nam feels that it has special interests.

In States where Viet-Nam has a diplomatic mission its consuls shall carry on their activities under the direction and supervision of the head of the said mission, in liaison with the head of the diplomatic station of the Government of the French Republic; in other States the said activities shall be under the direction and control of the head of the diplomatic station of the Government of the French Republic.

The Government of the French Republic shall undertake to put forward and support the candidature of Viet-Nam when the latter complies with the general conditions laid down by the Charter of the United Nations for admission to that Organization.

3. Military Questions

Viet-Nam shall have a national army responsible for maintaining order, internal security and the defence of the Empire. In the latter case it shall be supported

where necessary by the forces of the French Union. The Viet-Nam army shall also take part in the defence of the frontiers of the French Union against all foreign enemies.

The forces of the Viet-Nam national army and those of the army of the French Union stationed in Viet-Nam shall be fixed by a special agreement in such a way that the whole of the resources available may effectively ensure, in time of war, the defence of Viet-Nam territory and of the French Union.

The Viet-Nam Army shall consist of Viet-Nam nationals commanded by Viet-Nam officers; French instructors and technical advisers shall be placed at the disposal of Viet-Nam.

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4. Internal Sovereignty

The Government of Viet-Nam shall fully exercise the powers and prerogatives arising from its internal sovereignty. It shall conclude with the French High Commissioner in Indo-China special or provisional agreements, which, making allowance for circumstances, shall determine the ways and means for the transfer to Viet-Nam of powers previously exercised by the French Authorities.

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5. Judicial Questions

Viet-Nam shall receive full and complete jurisdiction over all civil, commercial and penal cases throughout the territory of the Kingdom.

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6. Cultural Questions

In the primary and secondary educational fields, France may freely open public and private educational establishments in Viet-Nam subject solely to the observance of the territorial laws and regulations in this matter.

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7. Economic and Financial Questions

Viet-Nam citizens in France and in the other parts of the French Union, as well as French citizens and citizens of the French Union in Viet-Nam shall enjoy the same freedom of settlement as the nationals, within the general structure of the territorial laws and regulations. They shall enjoy freedom of movement as well as commercial freedom, and, more generally, all democratic liberties in this field.

Property and undertakings belonging to citizens of the French Union in Viet-Nam territory shall be subject to the same regulations as those applied to the property and undertakings of Viet-Nam citizens particularly as concerns taxation and labour legislation. This equality of status shall be granted on a reciprocal basis to the property and undertakings of Viet-Nam citizens in the territories of the French Union.

The legal regulations applying to undertakings in Viet-Nam territory may not be amended except by joint agreement between the Government of the French Republic and the Government of Viet-Nam.

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The Government of Viet-Nam shall have supreme control over its finances. It shall draw up and manage its budget. It shall have at its disposal all revenue collected on Viet-Nam territory with the exception of those allocated in agreement with the French Government and the Governments of the other Associated States, to the financing of joint institutions or any other purpose which is specified. It may increase taxes and duties and create new ones. When these have special bearing on citizens of the French Union, they shall form the subject of an advance consultation with representatives of the French Union so as to maintain a certain fiscal harmony between Viet-Nam and the other Indo-Chinese States as well as the normal pursuit of economic activities.

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2. - Letter from H.M. BAO-DAI to the President of the Republic and President of the French Union. Paris, 8 March 1949.

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ORDINANCE

No. 1 dated 1 July 1949 defining the organization and functioning of the public institutions

STATEMENT OF MOTIVES

The will of the people is the source of all national activities. However, in view of the present war conditions, it cannot find free expression.

Nevertheless, it is essential to ensure that the national interests are safeguarded without any break in continuity, both at home and abroad, that Viet-Nam be restored without delay to its due place in the international community and that the political, administrative, economic and social reforms desired by the people be rapidly achieved.

For the accomplishment of these tasks, it is necessary to form a government. Furthermore, the latter should be given adequate powers and should exercise sovereignty.

However, it must be made clear that this government will act in accordance with the national opinion and will not take the place of the will of the people in any

final way. In accordance with these two aims, a national consultative assembly will be set up and a national constitutive assembly instituted as soon as general and free elections become possible.

In the present position, the national consultative assembly makes it possible to reconcile the need for rapid and effective governmental action with the requirements of democratic principles. This ordinance contains provisions guaranteeing the national consultative assembly the maximum of freedom in its functioning and aiming progressively to strengthen its representative character. None the less, as soon as peace is restored, the national consultative assembly must make way for the national constitutive assembly, an institution whose effective functioning will enable the people freely and fully to express their will.

HIS MAJESTY BAO-DAI, HEAD OF THE STATE

DECREES:

Section One

The National Constitutive Assembly

Article One - The people of Viet Nam shall freely decide as to the nature of their future institutions.

To this end, a national constitutive assembly shall be convened as soon as circumstances make it possible to carry out general and free elections.

During the transition period, the organization and functioning of public institutions shall be subject to the rules defined by the present ordinance.

Section II

The Head of the State

Article 2 - The Head of the State shall sign and ratify treaties. He shall appoint and accredit heads of missions and diplomatic envoys from Viet Nam to foreign countries and within the French Union. The heads of missions and diplomatic envoys of foreign states and of the French Union shall be accredited to him.

He shall preside over the Council of Ministers, fix the general policy and lay down directives for governmental action in all fields.

He shall be the supreme commander of the armed forces.

He shall have the right to grant free pardon.

Article 3 - The decisions of the Head of the State shall take the form of ordinances or of decrees.

An ordinance shall be necessary for all matters of a legislative nature usually forming the subject of an act. It shall be discussed in the Council of Ministers, signed by the Head of the State and countersigned by the President of the Council of Ministers, if the duties of the President of the Council of Ministers are not discharged directly by the Head of the State.

Decisions of a statutory nature, taken in application of an ordinance, shall be the subject of a decree signed by the Head of the State and countersigned by the President of the Council of Ministers, if the duties of the President of the Council of Ministers are not discharged directly by the Head of the State, and the minister/ministers or secretary/secretaries of State concerned.

Decrees shall be either simple decrees or decrees discussed in the Council of Ministers.

The Council of Ministers shall determine which decrees are to be discussed by the minister/ministers or secretary/secretaries of State concerned. They shall include, compulsorily, decrees relating to general policy, the appointment of high officials, generals and heads of missions to foreign countries.

A decree shall fix the date of application of the provisions of the present article.

Section III

Article 4 - The President of the Council of Ministers, the ministers and the secretaries of State shall be appointed by decree of the head of State and they shall be responsible to him. They shall be subject to dismissal under the same conditions.

Article 5 - The Head of the State shall define by decree the powers of the members of the Government. Until the promulgation of the said decrees, the existing texts and regulations in this connexion shall be provisionally kept in force, insofar as they do not contradict the provisions of this ordinance.

The members of the Government shall take decisions in the form of orders ("arrêtés").

Article 6 - The President of the Council of Ministers shall direct governmental action in accordance with the directives of the Head of the State, in the event of the latter not discharging the duties of the President of the Council of Ministers, shall ensure and maintain co-ordination between the members of the Government, shall ensure and control the implementation of the ordinances and decrees.

Article 7 - When the Head of the State directly discharges the duties of President of the Council of Ministers he may appoint one or more Vice-Presidents of the Council under the conditions defined in Article 4.

The Vice-President shall support the Head of the State in his capacity as President of the Council of Ministers.

He shall preside over the inter-ministerial committee convened by him.

He shall sign decrees by special authority of the Head of the State, granted in the Council of Ministers.

By special authority granted under the same conditions, he shall replace the Head of the State in his capacity as President of the Council of Ministers, in case of absence or hindrance.

Article 8 - Members of the Government may be prosecuted before the courts only following an authorization for prosecution issued by the Head of the State in the Council of Ministers and after consulting the Council of Censors.

Article 9 - A subsequent decree shall lay down the conditions under which draft ordinances and draft decrees shall be submitted for discussion by the Council of Ministers.

Section IV

The National Consultative Assembly

Article 10 - A national consultative assembly shall be established with the duty of giving as wide an expression as possible, in the present circumstances, to the national opinion.

This assembly shall be lawfully dissolved as soon as the national constitutive assembly takes up its duties.

Article 11 - The national consultative assembly shall comprise 45 regular members and 15 acting members.

The acting members shall be called upon to replace the regular members in the event of absence or hindrance.

This number may be progressively increased as peace is restored throughout the territory.

Article 12 - The members of the national consultative assembly shall be appointed, by decree of the Head of the State, from persons who represent either the national opinion or national and regional interests or are qualified by their ability.

In the six months following the installation of the assembly, the members referred to in paragraph 1 of the preceding Article shall make known to the board of the assembly the territorial area with which they claim to be connected. When, in accordance with a decree, elections have taken place in each area, the members of the assembly belonging to any area and who have not been elected shall cease their duties.

The preceding provisions shall apply to the members of the assembly referred to in paragraph 3 of the preceding Article in the month following their nomination.

Article 13 - The national consultative assembly shall give its opinion on questions submitted to it by the Government.

The opinion of the assembly shall be voted and adopted by a relative majority of the members present.

Except in case of urgency or of force majeure, established by decision of the Government and mentioned in the certifications ("visas"), it shall be compulsory to request this opinion before the adoption of any legislation concerning the budget, the freedom of the individual, and basic reforms relating to the economic and social structure of the country.

Any well-founded opinion of the assembly, tending to a reduction of civil expenditure or an increase in taxation, shall oblige the Government to undertake fresh discussions.

On the initiative of at least two-thirds of its members, the assembly may include in its agenda any question of national interest.

Article 14 - The assembly shall meet every six months for a regular session lasting two weeks.

It may meet in extraordinary session, lasting a maximum of one week, on being convened by its president at the request of at least two-thirds of the members or at the request of the Government. There may be only one extraordinary session between two regular sessions.

A sitting of the assembly shall be held to be valid when at least half of its members are present.

Article 15 - The meetings of the assembly shall be public unless it is decided otherwise, either by its board or at the request of the Government.

Article 16 - The national consultative assembly shall draw up its regulations, elect its board and its permanent commission, consisting of seven members. The opinion of the permanent commission may validly replace that of the assembly, except in the matters enumerated in Article 13, paragraph 3.

A decree shall fix amount of the appropriations for the assembly. Within the limits of this appropriation, the president of the assembly shall initiate and order expenditure.

Article 17 - No member of the assembly may be prosecuted or sought after concerning opinion or vote recorded by him in the course of his duties.

He may only be prosecuted or arrested for criminal or minor offences with the authorization of the assembly, except in the case of flagrante delicto.

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The detention or prosecution of a member of the assembly shall be suspended during the session and for the whole period thereof if the assembly requires this.

Article 18 - The present ordinance shall be published in the "Journal Officiel de l'Etat" and shall enter into force immediately.

Done at Dalat, 1 July 1949

B A O - D A I

SG 82/03/MJ

14 April 1950

Letter from the Secretary-General of the United Nations

(Extract)

.....¹... The Government of Viet-Nam has been recognized by the following states:

- | | |
|-----------------------------|--------------------------------------|
| 1. United States of America | 11. Bolivia |
| 2. United Kingdom | 12. Brazil |
| 3. Australia | 13. Cuba |
| 4. Belgium | 14. Ecuador |
| 5. Luxembourg | 15. Greece |
| 6. New Zealand | 16. Italy |
| 7. Costa Rica | 17. Jordan, Hashemite Kingdom of the |
| 8. Republic of Korea | 18. Union of South Africa |
| 9. Spain | 19. Venezuela |
| 10. Netherlands | 20. Thailand |
| | 21. Honduras |

¹ Unofficial statement