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Recognition of New States and Japanese Practice after the Second World War (1)

Kentaro SERITA

Introduction

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Introduction

After World War II, the monographs of H. Lauterpacht and T. C. Cheng revived ancient, inconclusive debates over the place of recognition in international law.⁽¹⁾ Lauterpacht and Cheng drew the supporting evidence mainly from the British and American diplomatic and judicial decisions. However, since World War II, about ninety new States have emerged and virtually all in Asia and Africa. The appearance of so many new States has provided us with a mass of data to be collected, analyzed, and compared with existing data on earlier recognition practice and with fashionable theories as to the nature, criteria, and forms of recognition. This study examines the attitude and behavior of Japan in the realm of recognition policy toward the new States. Such a study makes it possible to contribute to elucidate the contemporary state of recognition.

I. Post-war independence of States—decolonization

While the newly independent States counted fifteen in the forties and seven in the fifties, they numbered forty-four in the sixties at one stroke. In the seventies further twenty-four States had access to independence and two States in 1980. Since 1940 ninety-two countries have achieved the status of an independent State. With such a consequent proliferation of independent States in Asia and Africa, colonial systems, covering a third of the people of the earth, have completely broken up. As a result of that the contemporary world consists of some 160 States, of which more than 90 States became independent from colony. This change of the circumstances is extremely surprising compared with the pre-war world composed of some 50 christian, european and american States as well as of some 10 Asian and 4 African States. The sixties—the apogee of decolonization—form one of the great watersheds of history.

Now, certain traits could be recognized when we examine the postwar independent States by marking the dates of independence off by a decade. Of the States

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(1) H. Lauterpacht, *Recognition in International Law* (Cambridge, Cambridge University Press, 1947), and T. C. Cheng, *The International Law of Recognition*, ed. L. C. Green (London: Stevens & Sons Ltd., 1951).

1940-1949		Date of	Date of U. N.
Name	Former Status	Independence	Membership
Lebanon	French Mandate	22.XI.1943	Original Member
Indonesia	Netherland	17.VIII.1945	28.IX.1950
Jordan	British Mandate	22.III.1946	14.XII.1955
Syria	French Mandate	1.IV.1944	Original Member
Philippines	United States	4.VII.1946	Original Member
India	British	15.VIII.1947	Original Member
Pakistan	British	15.VIII.1947	30.IX.1947
Burma	British	4.I.1948	19.IV.1948
Ceylon	British	4.II.1948	14.XII.1955
Israel	British Mandate	14.V.1948	11.V.1949
South Korea	Japan-Occupied	15.VIII.1948	--
North Korea	Japan-Occupied	9.IX.1948	--
Vietnam	French	18.III.1949	(20.IX.1977)
Laos	French	19.VII.1949	14.XII.1955
Cambodia	French	8.XI.1949	14.XII.1955

achieving independence in the forties, Lebanon, Jordan, Syria and Israel which were all 'A' Mandates, territories detouched from Turkey by Article 16 of the Treaty of Lausanne, 1923, had been expected to become independent sooner or later (cf. article 22 (4) of the Covenant of the League of Nations). The Philippines, whose independence on 4 July 1946 was authorized on the part of the United States by the Philippine Independence Act approved on 24 March 1934, and India, whose independence was achieved on 15 August 1947 pursuant to an Act of the British Parliament "to make provision for the setting up in India of two independent Dominions [India and Pakistan]", were both parties to the United Nations Declaration of 1 January 1942. Ceylon was also expected to become independent. The surrender of the Japanese forces in Seoul heralded the liberation of Korea and "the independence of Korea" was recognized in Article 2 (a) of the Treaty of Peace of 9 September 1951. There existed the liberation fight in the Netherlands Indies (Indonesia) and in the French Indochina (Vietnam, Laos and Cambodia) which both were among the territories listed in the Resolution 66 (I) of the General Assembly—in accordance with Article 73 e of the Charter of the United Nations, Member States responsible for the administration of such territories have the obligation to send each year to the Secretary-General information on economic, social and education conditions.—Also in Burma not listed in that Resolution there had been the liberation movement. Thus, new States in the forties attained their independence as the result of the decolonization effected in close connection with World

1950-1959		Date of	Date of U. N.
Name	Former Status	Independence	Membership
Libya	Italy-Occupied	24.XII.1951	14.XII.1955
Sudan	Anglo-Egypt Condominium	1.I.1956	12.XI.1956
Morocco	French	2.III.1956	12.XI.1956
Tunisia	French	20.III.1956	12.XI.1956
Ghana	British	6.III.1957	8.III.1957
Malaysia	British	31.VIII.1957	17.IX.1957
Guinea	French	2.X.1958	12.XII.1958

War II. In other words, they would fall under the category of the Verhoeven's "décolonisation violente"⁽¹⁾. During and after World War II there existed liberation fight in Morocco and Tunisia which could be ranged among the States achieving independence in the forties. All newly independent States in the fifties except Libya and Sudan had been treated as "Non-Self-Governing Territories" for the purposes of Article 73 of the Charter. The British Colony and Protectorate of Gold Coast became independent as Republic of Ghana, with which the British Togoland under the British Trusteeship was united after plebiscite. One of the events worthy of our notice in the fifties was the convening of the Asian-African Conference held at Bandung, Indonesia in April 1955, in which participated 29 Asian-African States including Sudan and Gold Coast, and to which Morocco and Tunisia sent their observers. The Conference adopted the "Ten Principles of Peaceful Coexistence" on the base of spirit of Asian-African solidarity, which declared above all the anti-colonialism, anti-imperialism, the peaceful coexistence. The Conference, together with the non-aligned summit conference, had encouraged especially the African Independence movement. Within about ten years after World War II the Mediterranean States except Algeria, and Asian States achieved independence.

1960-1969		Date of	Date of U. N.
Name	Former Status	Independence	Membership
Cameroon	French Trusteeship	1.I.1960	20.IX.1960
Togo	French Trusteeship	27.IV.1960	20.IX.1960
Madagascar	French	26.VI.1960	20.IX.1960
Zaire	Belgian	30.VI.1960	20.IX.1960
Somalia	Italian Trusteeship	1.VII.1960	20.IX.1960

(1) Joe Verhoeven, *La reconnaissance internationale dans la pratique contemporaine*, Paris, Pedone, 1975, p. 19.

<i>Name</i>	<i>Former Status</i>	<i>Date of Independence</i>	<i>Date of U. N. Membership</i>
Benin(Dahomey)	French	1.VIII.1960	20.IX.1960
Niger	French	3.VIII.1960	20.IX.1960
Upper Volta	French	5.VIII.1960	20.IX.1960
Ivory Coast	French	7.VIII.1960	20.IX.1960
Chad	French	11.VIII.1960	20.IX.1960
Central Africa	French	13.VIII.1960	20.IX.1960
Congo	French	15.VIII.1960	20.IX.1960
Cyprus	British	16.VIII.1960	20.IX.1960
Gabon	French	17.VIII.1960	20.IX.1960
Senegal	French	20.VIII.1960	28.IX.1960
Mali	French	22.IX.1960	28.IX.1960
Nigeria	British	1.X.1960	7.X.1960
Mauritania	French	28.XI.1960	27.X.1961
Sierra Leone	British	27.IV.1961	27.IX.1961
Kuwait	British Protectorate	19.VI.1961	14.V.1963
Tanzania	British Trusteeship (→Tanganyika)	9.XII.1961	14.XII.1961
	British Protectorate (→Zanzibar)	(9.XII.1963)	(16.XII.1963)
Western Samoa	N. Z. Trusteeship	1.I.1962	15.XII.1976
Burundi	Belgian Trusteeship	1.VII.1962	18.IX.1962
Rwanda	Belgian Trusteeship	1.VII.1962	18.IX.1962
Algeria	French	3.VII.1962	8.X.1962
Jamaica	British	6.VIII.1962	18.IX.1962
Trinidad & Tobago	British	31.VIII.1962	18.IX.1962
Uganda	British Protectorate	9.X.1962	25.X.1962
Kenya	British Protectorate	12.XII.1963	16.XII.1963
Malawi	British	6.VII.1964	1.XII.1964
Malta	British	21.IX.1964	1.XII.1964
Zambia	British	24.X.1964	1.XII.1964
Gambia	British	18.II.1965	21.IX.1965
Maldives	British	26.VII.1965	21.IX.1965
Singapore	Part of Malaysia	9.VIII.1965	21.IX.1965
Guyana	British	26.V.1966	20.IX.1966
Botswana	British	30.IX.1966	17.X.1966
Lesotho	British	4.X.1966	17.X.1966
Barbados	British	30.XI.1966	9.XII.1966
Southern Yemen	British Protectorate	30.XI.1967	14.XII.1967
Nauru	N. Z., U. K., Aust. Trusteeship	31.I.1968	- -
Mauritius	British	12.III.1968	24.IV.1968

Swaziland	British	6.IX.1968	24.IX.1968
Equatorial Guinea	Spanish	12.X.1968	12.XI.1968

The Sixteen African countries having access to independence in 1960 and admitted to the United Nations in autumn that year had been treated as "Non-Self-Governing" territories for the purposes of Article 73 of the Charter, except Cameroon, Togo and Somalia which had been under the Trusteeship system. On 14 December 1960, the Declaration on the granting of independence to colonial countries and peoples was adopted by the United Nations General Assembly in Resolution 1514(XV). Eighty-nine States including African new Member States voted for the resolution and none against, but there were nine abstentions (Portugal, Spain, Union of South Africa, United Kingdom, United States, Australia, Belgium, Dominican Republic and France). In the sixties many new independent States appeared in the African Continent. Of forty-four countries attaining their independence in the sixties, only three States of Kuwait, Algeria and Maldives were neither Trust territories nor Non-Self-Governing territories. Thus, almost all of the colonial countries achieved independence except the Non-Self-Governing territories of the last colonial Empire of Portugal.

Indeed in the first half of the sixties small independent sovereign States such as Western Samoa and Maldives having a small population of about 150,000 figured in the world, but it is in the seventies that the problems of so-called mini-States or micro-States came to the front at one stroke. Of twenty-six States achieving independence during 1970-1980 fourteen are those States having a population of less than 250,000. Tuvalu is said to have about 10,000 habitants. Bahrain, Qatar, United Arab Emirates, Tonga and Bangladesh were not the territories treated as Non-Self-Governing territories. The Australian territory of Papua became independent as Papua New Guinea in union with former Australian Trust Territory of New Guinea which had been administered together with Australian Papua.

Now, only nine States of Sudan, Kuwait, Algeria, Maldives, Tonga, Bangladesh, Bahrain, Qatar and United Arab Emirates of seventy-six States which achieved independence since the Asian-African Conference held after the cessation of the Korean and Indochinese Wars were neither Trust Territories nor Non-Self-Governing Territories; they were "other territories which [had] not yet attained independence" (paragraph 5 of the Declaration above mentioned). After having examined all the new States we could conclude that the post-war independence was attained by peaceful means under the auspices of the United Nations, except a few cases such as Algeria, Bangladesh... It resulted from "la décolonisation pacifique."

1970-1980

<i>Name</i>	<i>Former Status</i>	<i>Date of Independence</i>	<i>Date of U. N. Membership</i>
Tonga	British Protectorate	4.VI.1970	--
Fiji	British	10.X.1970	13.X.1970
Bangladesh	East Pakistan	26.III.1971	17.IX.1974
Bahrain	British Protectorate	14.VIII.1971	21.IX.1971
Qatar	British Protectorate	3.IX.1971	21.IX.1971
United Arab Emirates	British Protectorate	2.XII.1971	9.XII.1971
Bahamas	British	10.VII.1973	18.IX.1973
Guinea-Bissau	Portuguese	26.IX.1973	17.IX.1974
Grenada	British	7.II.1974	17.IX.1974
Mozambique	Portuguese	25.VI.1975	16.IX.1975
Cape Verde	Portuguese	5.VII.1975	16.IX.1975
Comoros	French	6.VII.1975	12.XI.1975
São Tomé & Príncipe	Portuguese	12.VII.1975	16.IX.1975
Papua New Guinea	Australian & Aust. Trusteeship	16.IX.1975	10.X.1975
Angola	Portuguese	11.XI.1975	1.XII.1976
Surinam	Netherlands	25.XI.1975	4.XII.1975
Seychelles	British	29.VI.1976	21.IX.1976
Djibouti	French	26.VI.1977	20.IX.1977
Solomon Islands	British	7.VII.1978	19.IX.1978
Tuvalu	British	1.X.1978	--
Dominica, Commonwealth of	British	3.XI.1978	18.XII.1978
Saint Lucia	British	22.II.1979	18.IX.1979
Kiribati	British	12.VII.1979	--
St. Vincent & the Grenadines	British	27.X.1979	16.IX.1980
Zimbabwe	British	18.IV.1980	25.VIII.1980
Vanuatu	U. K.-France Condominium	30.VII.1980	15.IX.1981

II. Recognition accorded by Japan to the States which achieved independence before the entering into force of the Treaty of Peace with Japan

Burma, Cambodia, Ceylon (Sri Lanka), India, Indonesia, Israel, Jordan, Laos, Lebanon, Libya, Pakistan, Philippines, Syria and Vietnam achieved independence before the entering into force of the Peace Treaty of San Francisco with Japan on 28 April 1952. Of these States India, Lebanon, Philippines and Syria were parties to the

United Nations Declaration of 1 January 1942 and India was counted even among the original members. All these are signatory States of the Peace Treaty of San Francisco except Israel, Libya and Jordan, and also except Burma and India which concluded separately a bilateral Treaty of Peace with Japan according to Article 26 of the Treaty of Peace with Japan. These signatory States are also State Parties to the Treaty of Peace except Indonesia which concluded a bilateral Treaty of Peace with Japan on 20 January 1958. Besides, Ceylon, Indonesia, Pakistan and Philippines are among 11 States mentioned in Article 23 (a) of the Treaty of Peace with Japan.

Japan, "recognizing the independence of Korea, renounce(d) all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet" in Article 2 (a) of the Treaty of Peace of 8 September 1951. This "Korea" was taken to mean the Republic of Korea. However, Article 10 of the Military Armistic Agreement of 27 July 1953, of which the Democratic People's Republic of Korea was a signatory, but the Republic of Korea was not, accepted "civil and relief jurisdiction" of each side with respect of its territory. On 22 June 1965 Japan concluded the Treaty on Basic Relations between Japan and the Republic of Korea and in its article 3 "it is confirmed that the Government of the Republic of Korea is the only lawful Government in Korea as specified in the Resolution 195 (III) of the United Nation General Assembly." It is clear that there now exist two Korean States, but at what time the Democratic People's Republic of Korea became a separate State is less clear.

The Public record discloses no acts of express recognition of these States becoming independent before the entry into force of the Treaty of Peace with Japan. Express recognition of States accorded by Japan is normally expressed by issuing a written document addressed to a newly independent State including a sentence "the Government of Japan recognizes (or recognized, has decided to recognize)" Exceptions to this formula are the cases of recognition of States accorded to the States achieving independence before 1952, to the divided States and to certain States.⁽¹⁾

(i) *Implied recognition by a special act*

As to three States of Israel, Jordan and Libya which were not at war with Japan or which did not previously form a part of the territory of a State named in article 23 of the Treaty of Peace of 1951, Japan, after the entry into force of the Treaty,

(1) Implied recognition by establishment of the diplomatic relations: German Democratic Republic (15.V.1973), Democratic Republic of Vietnam (North Vietnam) (21.IX.1973) and Comoros (14.XI.1977); by acceptance into the United Nations: Mongol (27.X.1961), Equatorial Guinea (12.XI.1968) and Bhutan (21.IX.1971).

agreed to establish the diplomatic relations with Israel, Jordan and Libya, respectively on 15 May 1952, 14 July 1954 and 2 June 1957. That is to say, Japan recognized these States impliedly.

Among the States which were at war with Japan or which previously formed a part of the territory of a State named in article 23 of the Peace Treaty, Japan took a special act for Ceylon, India, Indonesia, Pakistan and the Philippines.

For Ceylon the Japanese Ministry of Foreign Affairs issued a statement on 3 May 1952: as a result of the fact that the Government of Ceylon deposited the instrument of ratification on 28 April 1952, the diplomatic relations were established between the two countries; Ceylon recognized that the Japanese Government Overseas Agency in Colombo would be raised to the status of Legation and head of the Agency chargé d'affaires ad interim as from 28 April; the Government of Ceylon would propose to the Parliament held directly after the general election to set up its Legation in Tokyo. For India the letters regarding the termination of state of war and the letters regarding the establishment of formal diplomatic relations were exchanged on 28 April 1952 between Japan and India; as from that day both the Indian Liaison Mission in Tokyo and the Japanese Government Overseas Agency in New Delhi were raised to the status of Embassy. For Pakistan the Japanese Ministry of Foreign Affairs issued a statement on 18 April 1952: as a result of the fact that the Government of Pakistan deposited the instrument of ratification on 17 April 1952, the diplomatic relations would be established between Japan and Pakistan on the day of entering into force of the Peace Treaty, the two countries agreed to exchange the ambassador as soon as possible, and the Japanese Government Overseas Agency in Karachi would be raised to the status of Embassy as from that day. Consequently it seems that Japan accorded implied recognition to Ceylon, India and Pakistan on 28 April 1952.

For Indonesia and the Philippines Japan recognized the special status and privileges of the Indonesian and the Philippino missions to the SCAP respectively on 28 April and on 17 May 1952. The agreements were reached on the basis of reciprocity so that Japanese Overseas Agencies were recognized the special status and privileges.⁽²⁾ Japan seems to have recognized these two countries impliedly on the date which Japan recognized the special status and privileges to their missions to the SCAP.

Burma, which did not participate in the Peace Conference at San Francisco, uni-

(2) The Embassies were established between Japan and Indonesia by the exchange of letters dated on 15 April 1958, and between Japan and the Philippines by the Joint Communiqué of 23 July 1956.

laterally declared the termination of state of war on 30 April 1952, and Japan accepted it on 2 May 1952. Later on 8 December 1953 a trade agreement was concluded, and on 5 November 1954 a treaty of Peace, between the two countries. According to the documents presented to the Parliament, it seems that Japan accorded implied recognition to Burma on the date of accepting the termination of state of war.

For "Korea" Japanese Government issued a formal document to the Government of the Republic of Korea on 28 April 1952, the date of the entry into force of the Treaty of Peace. That act seems to mean that Japan recognized the Republic of Korea impliedly on that date.

The public record discloses no acts relevant to recognition of States but the conclusion of the Treaty of Peace for the other countries, that is, Cambodia, Laos, Lebanon, Syria and Vietnam.

(ii) *Implied recognition by the conclusion of the Treaty of Peace*

A As mentioned above already, express recognition refers to a written statement on the part of the Japanese Government in which the word "recognition" are expressly used, and that leaves no doubt about the intention of the Government; it takes place through formal notification or by a declaration of the intention to recognize. Implied recognition, on the contrary, is usually extended by some act that contains a clearly perceived intention to recognize a specified entity but that does not involve an expression of this intention. Besides the formal initiation of diplomatic relations, is it included among legitimate occasions for implying recognition, the conclusion of a bilateral treaty which regulates comprehensively the relations between the two States (and which must be distinguished from temporary arrangements and agreements for limited purposes).⁽³⁾ The question may arise, however, at what stage of the treaty-making process must recognition be regarded as accomplished? There exist varying State practices and doctrines. The exchange of ratifications is necessarily a sufficient indication of recognition. As to stages prior to that, as T. C. Cheng has pointed out⁽⁴⁾, the indication is not so certain. According to the widely held opinion, the signing of the treaty is also sufficient to indicate recognition, regardless of the eventual validity of the treaty. For example, in the case of the independence of the Philippines, on 4 July 1946, "The United States of America and the Republic of the Philippines, being animated by the desire . . . to provide for the recognition of the independence of

(3) H. Lauterpacht, p. 406.

(4) T. C. Cheng, p. 195.

the Republic of the Philippines as of July 4, 1946 and the relinquishment of American sovereignty over the Philippine Islands," signed at Manila a Treaty of General Relations, not legally effective until 22 October 1946, which provides: "The United States of America further agrees to recognize, and does hereby recognize, the independence of the Republic of the Philippines as a separate self-governing nation..." (Article 1). And at the same time, by an "Interim Agreement Effected by Exchange of Notes, signed at Manila, July 10 and 12, 1946, Effective July 4, 1946," the United States and the Republic of the Philippines agreed to observe the provision of Articles II and III of the Treaty, pending the final ratification thereof. As Herbert W. Briggs has pointed out⁽⁵⁾, it would appear to be significant that the drafters of the Interim Agreement omitted to stipulate that Article 1 of the Treaty providing for the recognition of the Republic of the Philippines should be observed as from 4 July, 1946; the implication would seem to be that by signing the Treaty and concluding the Interim Agreement the United States had already recognized the independence of the Republic.

Some writers, such as J. B. Moore⁽⁶⁾, have even gone so far as to assert that the mere entering into negotiations with a new State for the purpose of concluding a treaty, and, indeed, the mere appointment of agents for that purpose, imply recognition. J. B. Moore rested his argument on some United States' practices. For example, Paraguay was recognized by the United States as separate and independent on 27 April 1852, by the issuance to the American chargé d'affaires at Buenos Ayres of a full power to negotiate a treaty of commerce with the Paraguayan Government; similarly, Greece by empowering the American minister at London to negotiate with that power a treaty of commerce and navigation on 7 November 1837., Ecuador by the appointment of the American chargé d'affaires to the Peru-Bolivian Confederation to negotiate a treaty of commerce and navigation on 15 June 1838.⁽⁷⁾ The British Government, however, as T. C. Cheng has pointed out⁽⁸⁾, refused to regard the Soviet Government as recognized, though it had received the Soviet negotiator for the Trade Agreement. This shows that it is difficult to regard the United States Practice as generally accepted. Consequently, the signing of a bilateral treaty or the exchange of ratifications thereof may imply recognition.

(5) H. W. Briggs, "Recognition of States: Some Reflections on Doctrine and Practice," 43 AJIL 113, 116 (1949).

(6) J. B. Moore, *International Law Digest*, Vol. I, p. 73

(7) Paraguay, *ibid.*, p. 91; Greece, *ibid.*, p. 112; Ecuador, *ibid.*, p. 90.

(8) T. C. Cheng, *op. cit.*, p. 195.

B. In the next place the question arises whether the conclusion of a multilateral treaty constitutes recognition or not. A distinction must be first drawn between the participation in an international conference for concluding a multilateral treaty, the participation in a multilateral treaty adopted by such a conference, and the participation in a multilateral treaty adopted by an international organization such as the United Nations. Secondly, a distinction must be made between "open" and "closed" treaties.

Participation in an international conference is to a multilateral treaty what negotiation is to a bilateral treaty. As mentioned above if the mere entering into negotiations for a bilateral treaty does not constitute an act of recognition, *a fortiori* participation in an international conference may not be considered as constituting recognition. In the preponderant view the mere fact of the representation of an unrecognized State at an international conference does not mean that it is recognized by every other participant⁽⁹⁾. This view is also supported by precedents and it is true, we can say, of present-day practices.

It seems that the signature of the documents, such as a final act, of a conference is equivalent to signing a treaty, so far as the question of recognition is concerned. Greater caution was therefore exercised where an international conference resulted in the conclusion of a multilateral treaty. Although Temperley adopts the date of participation in the Peace Conference (18 January 1919) as the date of the recognition of Poland, the Serb-Croat-Slovene State and Czecho-Slovakia, he himself accepts at the same time the date of the signing of the Treaty (28 June 1919) for Poland and the Serb-Croat-Slovene State or the dates of individual acts of States as possible alternatives⁽¹⁰⁾. It shows at least that the signing of the Peace Treaties of 1919 by Czecho-

(9) Lauterpacht, *op. cit.*, p. 380; Manley O. Hudson, "Recognition and multipartite treaties," 23 AJIL 126, 129 (1929).

(10) H. W. V. Temperley, *A History of the Peace Conference of Paris*, Vol. 5, London, 1921, pp. 158-160. For Poland, the Serb-Croat-Slovene State and Czecho-Slovakia he writes as follows respectively:

Poland

It might reasonably be held that the formal admission of Poland's plenipotentiaries to the Peace Conference (18th January 1919) was the earliest date at which such recognition really came into force. Some authorities even place that date as late as the signature of the German treaty (28th June 1919).

Serb-Croat-Slovene State

On the 1st May credentials for the German treaty were verified, and these were accepted in the name of the Serb-Croat-Slovene State, not of Serbia. This was done in the absence of Italy, but on the 2nd and 6th June respectively Great Britain and France publicly recognised the new state, and the recognition of Italy and all other signatory Powers of the treaty with Germany must date from the signature of that treaty (28th

slovakia and Poland was considered as recognition of them by other signatories. Thus, a comprehensive treaty which necessitates the plenitude of relations between States would, no doubt, be regarded as warranting the inference of recognition. The participation in multilateral law-making treaties, however, need not imply recognition, because it does not involve diplomatic contact⁽¹¹⁾. In practice, the United States of America ratified the Peace Pact of Paris of 1928 on 17 January 1929 without any reservation with regard to recognition after the adhesion of the Union of Soviet Socialist Republics on 6 September 1928. For recognition, notes were exchanged, dated 16 November 1933, stating the mutual decision of the two Governments to establish normal diplomatic relations⁽¹²⁾. Consequently, the participation in multilateral law-making treaties adopted by an international organization does not constitute an act of recognition even without any express reservation concerning recognition.

In the case of the closed treaties adherence cannot be effected without the consent of the original State parties, the presumption for recognition is much stronger than in the case of adherence to open treaties.

C Now, after such a brief survey of the implications in the State recognition involved by the conclusion of a treaty, we will return to the subject of the Japanese practice. As stated above, Cambodia, Laos, Lebanon, Syria and Vietnam have to be regarded as impliedly recognized through the conclusion of the Treaty of Peace with Japan. The question arises, however, at what time recognition was accomplished: at the date

June 1919), which mentions the Serb-Croat-Slovene State by name in the Preamble and in certain articles thereof. In practice, however, recognition would appear to have been really accorded on the 1st May.

Czecho-Slovakia

As regards recognition therefore it seems safe to contend that all the utterances of the Powers, previous to the 28th of October or the 5th November, were in truth anticipations of the fact of statehood and not a recognition of a *fait accompli*. It cannot be contended that any of these utterances coincided with the actual fact of liberation. It might, however, be held that some of them [particularly the utterances of Mr. Balfour (9th August), President Wilson (3rd September), M. Pichon (15th October) and Baron Sonnino (24th October)] came into force as a recognition of the Czecho-Slovak State at the moment that the actual liberation was accomplished (28th of October or 5th November). If that hypothesis be not adopted, full, final, and complete recognition was accorded on the 18th January 1919 by admission of Czecho-Slovak Plenipotentiaries to the Plenary Session of the Peace Conference.

(11) A. D. McNair, "The functions and differing legal character of treaties", 11 BYIL 100, 108-109 (1930).

(12) Hackworth, *op. cit.*, pp. 304-305.

of participation in the Peace Conference, or of signing of the Peace Treaty, or of entering into force of the Treaty, or of entering into force of the Treaty for an individual State party. Doctrines and a precedent of the Peace Treaty of Versailles show us that it is very natural to regard that the Japanese recognition would have been accomplished on the date of signing of the Peace Treaty with Japan, that is, on 8 September 1951. However, in addition to the fact that Japanese Government took certain acts as mentioned above, Japanese Government seem to regard the relevant act taken after the entry into force of the Peace Treaty as the act of recognition by Japan. It results therefrom that, in Japanese practice, neither the signing of the Peace Treaty, nor the depositing of the instrument of ratification by Japan (and the entering into force of the Peace Treaty) is presumed to have constituted the Japanese recognition impliedly accorded to the newly independent States. Consequently, in so far as Japan did not take any act relevant to recognition except the conclusion of the Peace Treaty, we can not but regard that Japanese recognition of Cambodia, Laos, Lebanon, Syria and Viet-Nam would have been accomplished on the respective date of the depositing of their instruments of ratification of the Peace Treaty, that is, on the date of the entering into force of the Peace Treaty for the respective State since those States did not deposit their instrument of ratification before the entering into force of the Peace Treaty on 28 April 1952.

Finally, having considered the Japanese recognition of all the new States becoming independent before the entering into force of the Peace Treaty of San Francisco, we would like to estimate the Japanese recognition Practice in relation to the implied recognition by the conclusion of a treaty. So stated above, Japan seems to deny Japanese presumed recognition of the new States by signing the Peace Treaty of San Francisco which would be very clear and sufficient indication of recognition. Japanese practice seems to us to connect the State recognition, on the one hand, with some special act independent of the Peace Treaty of San Francisco, such as the establishment of the diplomatic relations and, on the other hand, with the depositing of the instrument of ratification by an individual new State and the entering into force of the treaty for this State. It results from these facts that Japanese practice is in fact tantamount to a negation of the implied recognition by the conclusion of a general multilateral treaty.