

KAMPUCHEA AND ASEAN

Australia's failure to co-sponsor the 1983 ASEAN UNGA resolution condemning the Vietnamese invasion and occupation of Kampuchea has been the subject of a diplomatic exchange between Australia and certain members of the ASEAN group. Australia however did in fact vote for the resolution, indicating its reservations as to the role of the Khmer Rouge in the coalition supported by ASEAN.

The question raises some important issues. First, whether a government which is in effective control of a territory should be recognised, second, whether recognition should be refused to express disapproval of some activities of that government, e.g. U.S. disapproval of the government of the Peoples' Republic of China in 1949, or widespread disapproval of the excesses of the Khmer Rouge in its treatment of the Kampuchean population when in government. Third, whether a government which comes to power in breach of international law should be recognised. Examples include the refusal by the U.S. and other powers to recognise the government of Manchukuo, a Japanese puppet state imposed on Manchuria prior to the Second World War, or the refusal of most states to recognise the government presently imposed on Kampuchea by the Vietnamese.

Recognition is of course a problem associated with the questions which were in issue in the United Nations resolution. The Australian Government seems to support the general Western disapproval of the invasion of Kampuchea and at the same time expresses its revulsion for the former Khmer Rouge regime. In addition it seems to wish to adopt a mediating role in relation to Vietnam which it sees as excessively isolated, its only friends presently being the USSR and its allies. The ASEAN powers, however, place greater emphasis on the illegality of the Vietnamese intervention. The situation in Kampuchea appears to have been of considerable importance, along with the need to harmonise practice within the EEC, for the recent UK change of practice on recognition: (1981) 30 1 & CLQ 568 see also 77 AJIL 31 (1983). Australia has as yet given no indication of a change in law practice on recognition. Generally, she has followed UK practice, but did not follow the UK in an early recognition of the Peoples' Republic. The recent release of Cabinet papers of the period indicates the decision not to recognize was done more out of respect for the Australian - U.S. alliance, and not because of any change of recognition policy.

Recognition can raise very difficult political issues. This may arise in relation to the recognition of governments, e.g., Kampuchea, entities which claim to be states, e.g. Biafra, Bangladesh (which is now clearly a state), and more recently the Turkish Republic of Northern Cyprus; and recognition of the incorporation of territories into another state, e.g. the Baltic Republics, Goa, the old city of Jerusalem, and Timor. Frequently, of course, these difficult political issues will also involve equally difficult legal questions.

In November 1983, M. Claude Cheysson, French Minister for Foreign Affairs, immediately after a visit to Australia, indicated full French accord with the Australian position in relation to Kampuchea - disavowal of the Vietnamese invasion but complete disapproval of the Khmer Rouge. By the conclusion of the Delhi Commonwealth Conference, it seemed that relations between Australian and ASEAN had been restored to their former state of equilibrium.

D.F.