

Chapter I

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL

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INTRODUCTORY NOTE

Article 30 of the United Nations Charter provides that "The Security Council shall adopt its own rules of procedure, including the method of selecting its President." The Preparatory Commission of the United Nations discussed at some length whether they should recommend provisional rules of procedure or whether they should be formulated *ab initio* by the Council. The text of the rules as recommended was a compromise between those who desired more comprehensive rules and those who considered that the whole subject should be left to the Security Council.¹

At the 1st meeting on 17 January 1946, the Council considered the provisional rules of procedure recommended by the Preparatory Commission and first adopted provisional rule 9, providing a method of selecting a President. After the representative of Australia had assumed the presidential chair in accordance with that rule, the Council adopted without change the remaining provisional rules of procedure as recommended by the Preparatory Commission. At the same meeting, the Council established a Committee of Experts composed of one expert for each member of the Council to examine and report on these rules of procedure.² At subsequent meetings, the Council considered and adopted recommendations made in reports of the Committee of Experts on alterations in the provisional rules of procedure, together with certain amendments proposed in the course of discussion in the Council.³ Information regarding the Committee of Experts, including the chronology of their reports will be found in chapter V: Subsidiary Organs of the Security Council. Passages from reports of the Committee of Experts bearing on the provisional rules of procedure, together with the discussion in the Council, are included in the sequence of cases in this chapter under the heading: "Consideration of the adoption or amendment of rule . . .".

This chapter contains material bearing upon the practice of the Security Council in relation to all the provisional rules of procedure with the exception of those rules which are dealt with in other chapters as follows: chapter II: Agenda (rules 6-12); chapter III: Participation in the Proceedings of the Council (rules 37-39); chapter VII: Admission of New Mem-

bers (rules 58-60); and chapter VI: Relations with other United Nations Organs (rule 61). Certain procedures of voting are dealt with in the present chapter. The application of Article 27 (rule 40) is dealt with in chapter IV.

The arrangement of each part is based upon the successive chapters of the provisional rules of procedure of the Security Council. In respect of each chapter of the provisional rules, the material is presented under two major headings. Attention is drawn under the first heading to the views expressed in the Council regarding the general purpose and scope of a relevant rule at the time it was provisionally adopted, when there was no concrete issue before the Council for determination under that rule; and to the consideration of such amendments to the provisional rules as have been suggested to, or approved by, the Council as a result of the experience of the Council in the working of a rule as provisionally adopted. Under the second heading are set out the proceedings of the Council when a question concerning the application of a rule has been raised during the consideration of a particular matter. The proceedings thus set out include, wherever appropriate, details of the discussion in the Council regarding the applicability of the rule, as well as information regarding the application of the rule as embodied in actual decisions taken by the Council. These proceedings have been collected together with a single rule as heading, even in cases where subsidiary or connected questions concerning the application of another rule, or of other rules, have been raised in the same case history. Each case history has been presented under that rule which appears to be principally at issue in the case.

The material entered in respect of each rule is necessarily limited to the evidence regarding the working of the rule which is afforded by the records of the Council. The view has been taken that practices in the operation of the provisional rules of procedure which are beyond the purview of the Official Records would not properly lie within the scope of the *Repertoire*.

The practice of the Council is guided by the provisional rules themselves. It has been considered inappropriate to record within this chapter the regular instances of the normal application of the rules. The inclusion of such cases would greatly expand the content of this chapter of the *Repertoire* without adding measurably to its utility. The case histories entered in respect of each rule are in the main those in which some question has arisen regarding the application of the rule, especially where discussion has taken place regarding a momentary variation of practice. The case histories in this chapter do not therefore constitute cumulative evidence of the practice of the Council, but are indications of the special problems which have arisen in the working of the Council under its provisional rules.

¹ For the full text of the rules recommended by the Preparatory Commission, see *O.R., 1st year, 1st series, Suppl. No. 1*, pp. 3-6.

² 1st meeting: p. 3.

³ S/29, S/6, S/35, S/57, S/71, S/88; *O.R., 1st year, 1 series, Suppl. No. 2*, pp. 1-8, 15-30, 39-40, 41-43.

31st meeting: pp. 100-118 (adoption of rules 1-23 and annex A).

41st meeting: pp. 253-267 (adoption of rules 24-54).

42nd meeting: pp. 271-277 (adoption of rules 55-57).

44th meeting: pp. 310-311 (adoption of additional rules 21-22).

48th meeting: p. 382 (adoption of additional rule 20).

138th meeting: pp. 949-952 (adoption of rule 61).

197th meeting: pp. 2256-2266 and 222nd meeting: p. 2771 (adoption of revised rules 58 and 60).

468th meeting: pp. 9-11 (adoption of amendment to rule 13).

Where no material is entered in respect of a rule, this indicates that the application of the rule has not been found to have given rise to instances of discussion such as would necessitate entry in this chapter.

Each part of this chapter is preceded by a note giving a general explanation of the arrangement of the material contained in that part in relation to the practice of the Council. In particular, this note draws attention to the character of the case histories as deviations from or special applications of the provisional rules.

Article 30 of the Charter

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Part I

MEETINGS (RULES 1-5)

NOTE

Chapter I of the provisional rules of procedure of the Security Council (rules 1-5) is entitled "Meetings", and reflects the provisions of Article 28 of the Charter. With a view to the fulfilment of the requirement of Article 28 that the Council "be so organized as to be able to function continuously", rule 1 provides that the interval between meetings shall not exceed fourteen days. Case 6 indicates that the 24th, 44th, 222nd, 357th and 424th meetings were held more than fourteen days after the date of the preceding meeting. Other meetings held more than fourteen days after the date of the preceding meeting were the 427th, 430th, 439th, 454th, 455th, 463rd, 471st, 472nd, 473rd, 477th, 531st, 532nd, 541st, 549th, 552nd, 559th, 566th and 567th meetings. It has become customary, when no particular item on the Council's agenda requires immediate consideration, for the President of the Security Council to consult with the representatives on the Council to ascertain whether there is any objection to his intention to waive rule 1. Case 6 refers to one such instance.

No periodic meeting, as provided for in rule 4, has been held during the period under review. General Assembly resolution 494 (V) of 20 November 1950, based upon the Secretary-General's Twenty-Year Programme for Achieving Peace through the United Nations (A/1304), was transmitted to the Security Council by the Secretary-General by letter dated 12 December 1950 (S/1948). The proposals of the Secretary-General which the Council was requested to consider included one calling for "Inauguration of periodic meetings of the Security Council, attended by Foreign Ministers, or Heads or other members of Governments, as provided by the United Nations Charter and the rules of procedure . . .". In this connexion, the Secretary-General stated in his memorandum that: "The periodic meetings of the Security Council provided for in Article 28 of the Charter have never been held. Such periodic meetings should be held semi-annually, beginning with the one in 1950."

PROVISIONAL RULES OF PROCEDURE REGARDING MEETINGS IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946 TO THE 31ST MEETING ON 9 APRIL 1946¹

"Rule 1

"The Security Council shall hold regular meetings at . . . intervals.

In view of the very large mass of material presented by the Official Records of the Security Council, some minor points of procedure have also, of necessity, been omitted. The outgoing President has, for example, fixed the date of a meeting to be held after the expiry of his term of office only after consulting the incoming President; it has also been the practice of the Council to make complimentary references to new representatives on the Council, and to the outgoing President on his relinquishing office. Material bearing upon these and similar minor points of procedure have not been included in the *Reper-toire*.

"Rule 2

"The Security Council shall hold the periodic meetings called for in the Charter (Article 28, paragraph 2) at quarterly intervals as soon after the first of the month as may be convenient.

"Rule 3

"The President may at any time call extraordinary meetings of the Security Council at . . . notice. He shall call such a meeting at the request of a member of the Security Council. He shall also call an extraordinary meeting as soon as he receives from any Member of the United Nations a communication drawing the attention of the Security Council to a dispute under the Charter, Article 35, paragraph 1."

RULES 1-5 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 31ST MEETING ON 9 APRIL 1946

"Rule 1

"Meetings of the Security Council shall, with the exception of the periodic meetings referred to in Rule 4, be held at the call of the President at any time he deems necessary, but the interval between meetings shall not exceed fourteen days.

"Rule 2

"The President shall call a meeting of the Security Council at the request of any member of the Security Council.

"Rule 3

"The President shall call a meeting of the Security Council if a dispute or situation is brought to the attention of the Security Council under Article 35 or under Article 11 (3) of the Charter, or if the General Assembly makes recommendations or refers any question to the Security Council under Article 11 (2), or if the Secretary-General brings to the attention of the Security Council any matter under Article 99.

"Rule 4

"Periodic meetings of the Security Council called for in Article 28 (2) of the Charter shall be held twice a year, at such times as the Security Council may decide.

¹ O.R., 1st year, 1st series, Suppl. No. 1, annex 1, p. 3.

"Rule 5

"Meetings of the Security Council shall normally be held at the seat of the United Nations.

"Any member of the Security Council or the Secretary-General may propose that the Security Council should meet at another place. Should the Security Council accept any such proposal, it shall decide upon the place, and the period during which the Council shall meet at such place."

1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 1-5

CASE 1

In the report of 5 February 1946 on the alterations made by the Committee of Experts in the provisional rules of procedure of the Security Council, the Chairman of the Committee stated:²

"The draft of the Preparatory Commission mentioned 'regular', 'periodic', and 'extraordinary' meetings. Certain divergences of opinion appeared within the Committee regarding the meaning to be attached to each one of these expressions. It was difficult, in connexion with the blanks left in rules 1, 3 and 5 of the original draft, to lay down a clear distinction between 'regular' and 'extraordinary' meetings. In order to overcome this difficulty the Committee adopted a new and more flexible wording which does not expressly provide for 'extraordinary' meetings, while, however, leaving to the President of the Council the power to call meetings:

"(a) When he deems it necessary (rule 1);

"(b) At the request of any member of the Council (rule 2);

"(c) When it is provided for by the Charter (rule 3).

"This reference in rule 3 to the initiative given to the Secretary-General under Article 99 of the Charter led the Committee to omit from the new text the former rule 15 of the Preparatory Commission's draft, which was now superfluous. The Committee was anxious to stress, in rule 1, the permanent nature of the Security Council and, with this end in view, provided that the interval between any two meetings should not exceed fourteen days..."

CASE 2

In the report of 5 April 1946 submitted by the Committee of Experts with regard to chapters I-IV of the provisional rules of procedure, the Chairman of the Committee stated:³

"The rules relating to meetings have been recast by the Committee. The rules now in force concerning meetings are based on a distinction between three types of meeting: regular, periodic and extraordinary. In the course of discussion it became apparent that no clear distinction between regular and extraordinary meetings could be drawn. The distinction is therefore abandoned in the rules attached to this report. The Committee has sought to

draw up rules which, by reason of the proposed frequency of meetings and of facility in the calling of meetings, may be deemed to give effect to the requirement of the Charter that the Security Council shall be so organized as to be able to function continuously. Rule 5, which makes provision for the application of Article 28 (3) of the Charter, has been added. The Committee has refrained from expressing any opinion as to the frequency of the periodic meetings provided for in Article 28 (2) of the Charter on the grounds that only representatives on the Security Council are qualified to form a judgment on this matter."

CASE 3

At the 31st meeting on 9 April 1946, on consideration of the report of the Committee of Experts, the representative of the USSR, supported by the representatives of Australia, United States, Egypt, Brazil, Mexico, United Kingdom and Poland, proposed that "two periodic meetings of the Security Council... should take place each year". The representative of Australia proposed that the words "at such times as the Council may decide" be added, so rule 4 would read:

"Periodic meetings of the Security Council called for in Article 28, paragraph 2 of the Charter shall be held twice a year, at such times as the Council may decide."

The Australian amendment was supported by the representatives of the United States, United Kingdom, Egypt, Poland, Brazil, Mexico and the USSR. The representative of France stated:

"I wonder if it would not be better to provide for three periodic meetings of the Security Council, in view of the fact that one of these meetings will take place during the General Assembly, when the Ministers of Foreign Affairs and certain Prime Ministers will be present; moreover the Assembly and the Security Council will inevitably be in contact.

"It would be well for the Security Council, in addition to the September meeting, to hold a meeting at the beginning of January... and one in May. This would be conducive to the orderly handling of the routine questions which we shall have in the future, such as reports submitted by the Council's auxiliary bodies."

The representative of Poland proposed that the following sentence be added to rule 4:

"One of the periodic meetings should take place during the session of the General Assembly."

The majority of the members of the Council supported the USSR and Australian proposals to hold two periodic meetings "at such times as the Council may decide". As to the French proposal to hold three periodic meetings, and the Polish amendment to hold one of the periodic meetings during the General Assembly session, the majority of the representatives raised objections in the following terms:

The representative of the United Kingdom said:

"...I think if we prescribe here and now three meetings a year, we may find that more than a sufficient, whereas, if we do find the need of more than two, I suppose that the Council can in its wisdom decide to increase the number..."

² S/6, O.R., 1st year, 1st series, Suppl. No. 2, pp. 1-2

³ S/29, p. 2.

The representative of Egypt said:

"...the Egyptian delegation shares the point of view of the Australian representative inasmuch as two sessions for the periodic meetings are sufficient. If the Council judges that there is some extraordinary matter which requires a further meeting, then the Council itself can fix the number of meetings necessary..."

Opinions along the same lines were expressed by the representatives of Australia, Brazil and Mexico. The representative of Poland said that he would not insist upon adding the sentence he had proposed to rule 4 to the effect that one of the meetings should be held during the session of the General Assembly, if the majority of the members felt that it was unnecessary. He was sure that that would happen anyhow, once the Council had the right to choose the date of the meetings. In reply to an inquiry by the President (China) as to his willingness to withdraw his proposal, the representative of France stated:

"I yield to the opinion of the majority. Nevertheless, I would remark that the Charter appears to me to be clear and that it would not be sufficient to say that periodic meetings will be held twice a year at the Council's discretion.

"By virtue of Article 28 of the Charter, the Security Council 'shall be so organized as to be able to function continuously', that is to say, to be able to meet any demand which may be made upon it from any source. That is the first point: the Security Council should be the sentry guarding the peace of the world.

"But there is a second paragraph to the effect that the Security Council 'shall hold periodic meetings'. I think it is rather a free interpretation of the Charter to say that the Council will meet twice a year when its members so desire.

"...I still believe that experience will show that from time to time it will be necessary to deal with an agenda drawn up a long time in advance at a session devoted to a study of all the Council's business, military, as well as political. Three such meetings a year would be preferable."⁴

Decision: *The Polish and French amendments having been withdrawn, rule 4, as amended by the representative of Australia, was adopted.*⁵

CASE 4

On 2 September 1947, the representative of the United Kingdom forwarded to the President of the Security Council a letter enclosing the following additional draft rules of procedure, designed to introduce "more order into the sittings of the Security Council".

"Meetings of the Security Council shall not normally extend beyond the hours of 1.00 p.m. in the case of a morning meeting and 6.30 p.m. in the case of an afternoon meeting. The meeting may be prolonged beyond those hours only by a vote of the Council.

⁴ For texts of relevant statements see:

31st meeting: Australia, pp. 103-104, 105-106, 107; Brazil, p. 106; Egypt, p. 105; France, pp. 104, 107; Mexico, p. 106; Poland, pp. 105-106; USSR, pp. 103, 106; United Kingdom, pp. 104-105; United States, p. 104.

⁵ 31st meeting: p. 107.

"If the meeting has not been so prolonged, and if a member of the Council is still speaking at 1.00 p.m. or 6.30 p.m., he may resume his speech at the beginning of the next meeting, or the Council, at his request, may vote to extend the meeting by one quarter of an hour, within which period the speaker must complete his speech, and the sitting shall then be adjourned. The translation of his speech must be made at the next meeting.

"The Security Council shall endeavour, so far as may be possible, so to arrange its business as to provide that for two periods of the year, of three weeks each, it shall not occupy itself with important business. It shall endeavour to determine these periods some time in advance, in order to enable Delegations and members of the Secretariat to make their leave arrangements. It would be an advantage if one of these periods could be in the month of August."⁶

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 1-5

a. Rule 1

CASE 5

At the 213th meeting on 22 October 1947, in connexion with the Indonesian question (II), the President (United Kingdom) suggested that the Council should adjourn and meet on 28 October to afford time to study certain lengthy documents the circulation of which was to be completed within three days. As the Council was divided, the President asked for a vote on whether a meeting should be held on 24 October. There were 5 votes in favour, and the proposal was not adopted. The President then ruled that the Council should meet on 27 October. After further discussion, the President put to the vote the convening of a meeting on Saturday, 25 October. The proposal was not adopted. The President then stated:

"I think I shall therefore fall back on rule 1 of the provisional rules of procedure, which reads: 'Meetings of the Security Council shall, with the exception of the periodic meetings referred to in rule 4, be held at the call of the President at any time he deems necessary...' I therefore ask the Council to meet here on Monday, 27 October, at 3 p.m."⁷

CASE 6

At the 424th meeting on 10 May 1949, in connexion with the appointment of a Governor for the Free Territory of Trieste, the representative of the USSR stated:⁸

"The USSR delegation considers that it is too long—more than a month now—since the Security Council last met. This is contrary to the Charter, particularly to that Article which states that the Security Council shall function continuously; it is equally contrary to the rules of procedure of the Security Council..."

⁶ S/540.

⁷ 213th meeting: pp. 2616-2621. On the question of the ruling, see Case 58.

⁸ 424th meeting: p. 2.

The representative of Egypt stated:⁹

"... In my capacity as President of the Security Council during the month of April, I was in constant touch with the members of the Council, and neither the representative of the Soviet Union nor any other representative asked that a meeting be held.

"The representative of the Soviet Union said that we have gone counter to the Charter. No matter how many times I examine the Charter, I cannot see against what Article we have transgressed. The Charter states that the Security Council shall function continuously, but I imagine that no one assumes that we sit here day and night. Unless there is a call for a meeting, we do not meet. All the members of the Council were here and ready to meet in the event that any matter requiring discussion arose.

"The representative of the Soviet Union also mentioned our rules of procedure. I should simply like to say that, if my memory is correct, this is at least the fourth time the Security Council has not met for a period lasting more than a fortnight.¹⁰ It happened once, I think, in connexion with the Council's meeting in London. I admit that that was before the adoption of rule 1 of the rules of procedure. But there have been at least two further precedents which took place after the adoption of that rule, in connexion with the Council's meetings in Paris last year."

b. Rule 2

CASE 7

At the 386th meeting on 17 December 1948, the representative of the USSR asked the President (Belgium) "to give members of the Council three days' notice in the event of an extraordinary meeting being called during the next few days". The President said that the Council's desire in the matter would be met to the fullest possible extent.¹¹ On 19 December

⁹ 424th meeting: p. 8.

¹⁰ The 24th, 44th, 222nd and 357th meetings were held more than fourteen days after the date of the preceding meeting. (See also the Note regarding part I of chapter I.)

¹¹ 386th meeting: p. 37. This meeting was held in Paris, where the Security Council was still sitting following the adjournment on 12 December of the first part of the third session of the General Assembly. According to a statement by the President (387th meeting, p. 5), the members of the Council had agreed informally that they would hold no meetings during the second fortnight of December unless urgent problems arose. At the 396th meeting on 29 December, the President stated (396th meeting: p. 47) that the Council would adjourn and resume its discussions the following week at Lake Success.

1948, the representative of the United States requested an emergency meeting in connexion with the Indonesian question (II), and a meeting was called by the President for 20 December 1948. At the 387th meeting on 20 December 1948 a telegram from the Minister of Foreign Affairs of the Soviet Union requesting postponement of the meeting to 22 December was considered in the absence of the representatives of Colombia, the USSR and the Ukrainian SSR. The representative of the United States referred to Article 28, and suggested that, in view of the urgency and gravity of the situation, absent representatives should be asked to be present at a meeting on 21 December. The President explained that "it was my understanding that the request of the USSR representative for three days' advance notice applied not to questions already under discussion, but precisely to urgent problems". The representative of France thought the simplest way would be to postpone the meeting. The representative of the United States suggested that the President, if he replied to the telegram from the Government of the Soviet Union, might "feel it appropriate to mention that the informal meeting which we have had today" had indicated the Indonesian question to be a matter of great urgency.¹²

Decision: *There being no objection to the request of the USSR Government, the meeting was adjourned until 22 December.*¹³

CASE 8

At the 390th meeting on 23 December 1948, in connexion with the Indonesian question (II), the representative of Australia* questioned the failure of the President (Belgium) to convene a meeting on the Indonesian question before 20 December although he had received a specific request from the representative of Indonesia* on 14 December.¹⁴ The President, replying to the criticism of the representative of Australia, pointed out that the request of the representative of Indonesia had been transmitted immediately to all members of the Council as an official document, but no member of the Council or the Australian delegation had seen fit to demand an extraordinary meeting of the Council or the inclusion of the question in the agenda for either of the meetings on 17 December.¹⁵

¹² For texts of relevant statements see:

387th meeting: President (Belgium), pp. 2, 5; China, p. 6; France, p. 7; Syria, pp. 2-3; United Kingdom, p. 5; United States, pp. 3-5.

¹³ 387th meeting: p. 8.

¹⁴ S/1120, *O.R.*, 3rd year, *Suppl. for Dec. 1948*, pp. 210-211.

¹⁵ For texts of relevant statements see:

390th meeting: President (Belgium), p. 17; Australia, p. 5.

Part II

REPRESENTATION AND CREDENTIALS (RULES 13-17)

NOTE

Case 15 exemplifies the practice of the Security Council before 1948 of including in the provisional agenda the report submitted by the Secretary-General in accordance with rule 15 of the provisional rules of procedure regarding his examination of the credentials of representatives on the Council, and, after the adop-

tion of the agenda, of approving the credentials if there had been no objection. Such reports were adopted after discussion at the 42nd, 43rd, 44th, 46th, 48th, 51st, 52nd, 76th, 88th, 92nd, 102nd, 105th, 169th, 220th, 222nd, 226th, 227th, 315th and 318th meetings. The reports of the Secretary-General on credentials have not appeared on the provisional agenda of the Security

Council since 1948. They have been circulated to all delegations on the Council, and, in the absence of any request that they be considered by the Council, have been considered approved without objection.

Case 16 exemplifies the practice of the Council before 1948 of including in the provisional agenda the report submitted by the Secretary-General, in accordance with rule 15 of the provisional rules of procedure, regarding his examination of the credentials of representatives appointed in accordance with rule 14, and, after the adoption of the agenda, of approving the credentials if there had been no objection. Such reports were also adopted after discussion at the 226th and 227th meetings. Case 17 exemplifies the approval of the Secretary-General's report without inclusion in the provisional agenda. Cases 12-14 represent the relaxation of the requirements of rule 14.

During the period under review, the question of the representation of China in the Security Council has been raised in the Council. This question impinged on certain matters the relationship of which to chapter III of the provisional rules of procedure has not been expressly determined in the course of the proceedings of the Council. For the purpose of the *Repertoire*, where material on this question appears to relate to a particular rule of procedure or is clearly relatable to the amendment of a rule, an appropriate case history has been arranged under that rule. For material where no such link is easily visible, however, it has been thought proper to give a brief account of the case as a whole, keeping its special features intact without endeavouring to assign details more precisely to other rules of procedure.

PROVISIONAL RULES OF PROCEDURE REGARDING REPRESENTATION AND CREDENTIALS IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946 TO THE 31ST MEETING ON 9 APRIL 1946

There were no rules of procedure on this subject at this time.

RULES 13-17 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 31ST MEETING ON 9 APRIL 1946, WITH AMENDMENT TO RULE 13, ADOPTED AT THE 468TH MEETING ON 28 FEBRUARY 1950

"Rule 13

"Each member of the Security Council shall be represented at the meetings of the Security Council by an accredited representative. The credentials of a representative on the Security Council shall be communicated to the Secretary-General not less than twenty-four hours before he takes his seat on the Security Council. [*The credentials shall be issued either by the Head of the State or the Government concerned or by its Minister of Foreign Affairs.*]¹ The Head of Government or Minister of Foreign Affairs of each member of the Security Council shall be entitled to sit on the Security Council without submitting credentials.

"Rule 14

"Any Member of the United Nations not a member of the Security Council and any State not a Member of the United Nations, if invited to participate in a meeting or meetings of the Security

Council, shall submit credentials for the representative appointed by it for this purpose. The credentials of such a representative shall be communicated to the Secretary-General not less than twenty-four hours before the first meeting which he is invited to attend.

"Rule 15

"The credentials of representatives on the Security Council and of any representative appointed in accordance with Rule 14 shall be examined by the Secretary-General who shall submit a report to the Security Council for approval.

"Rule 16

"Pending the approval of the credentials of a representative on the Security Council in accordance with Rule 15, such representative shall be seated provisionally with the same rights as other representatives.

"Rule 17

"Any representative on the Security Council, to whose credentials objection has been made within the Security Council, shall continue to sit with the same rights as other representatives until the Security Council has decided the matter."

I. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 13-17

Rule 13

CASE 9

In the report of 5 April 1946 submitted by the Committee of Experts with regard to chapters I-IV of the provisional rules of procedure, the Chairman of the Committee stated:²

"No rules relating to Credentials were submitted by the Preparatory Commission. The Committee recommends the addition to the Provisional Rules of a new chapter relating to the presentation and examination of credentials."

CASE 10

At the 31st meeting on 9 April 1946, the Chairman of the Committee of Experts stated:

"... The present body of rules now in force in the Security Council makes no provision for the examination of credentials. In the light of the experience gained in the meetings of the Security Council, however, the Committee considers it necessary to recommend these rules.

"In so doing the Committee desires (a) to facilitate the seating of the Prime Minister or the Minister of Foreign Affairs of a State which is a member of the Council, and (b) to distinguish between the credentials of representatives of members of the Council and representatives of States invited to participate in the discussions of the Council."³

² S/29, p. 3.

³ Rule 13, as proposed by the Committee of Experts, read: "Each member of the Security Council shall be represented at the meetings of the Security Council by an accredited representative. The credentials of a representative on the Security Council shall be communicated to the Secretary-General not less than 24 hours before he takes his seat on the Security Council. The Prime Minister or Minister of Foreign Affairs of each member of the Security Council shall be entitled to sit on the Security Council without submitting credentials."

¹ Amendment adopted at the 468th meeting on 28 February 1950. (See Case 11.)

The representative of Australia, supported by the representative of the United States, proposed that in rule 13, after the words "he takes his seat on the Security Council", the following words be added:

"A credential may be in the form of a telegram signed by the Minister of Foreign Affairs and confirmed in writing."

He was proposing this addition as he believed that there should be an indication in that rule as to what a minimum credential should be.

Upon the objection of the representatives of Egypt, the USSR and Poland to the necessity of the addition proposed to rule 13, the representative of Australia withdrew his amendment. The representative of the United States proposed that the words "the Prime Minister" in rule 13 be changed to "the Head of Government" so as to enable the President of any republic which was a Member of the United Nations to sit at the Council table.⁴

Decision: *At the 31st meeting on 9 April 1946, the Council unanimously adopted chapter III of the provisional rules of procedure with the United States amendment to rule 13.*⁵

CASE 11

At the 459th meeting on 10 January 1950, the representative of India said that the rules in chapter III seemed to him to be defective. With regard to the latter part of rule 13, he said:⁶

"... Suppose, for example, I come here and say that I am the Head of the Indian Government or the Foreign Minister of India. The rule says that I am entitled to sit in the Security Council without submitting credentials. The Council does not know whether I am the person I claim to be. Rule 15 does not help, because rule 15 refers to 'the credentials of representatives' which are to be examined by the Secretary-General, but I have put before the Council a case in which no credentials are required at all and in which rule 15 therefore does not apply. Nor does rule 17 help, because that applies only to a representative already seated . . . [but] whose right to continue to sit has been challenged" . . .

"The rules seem to me to be silent on this particular point. Clearly, in the hypothetical case that I have put, there must be some body, some authority, specifically designated to decide whether I am what I claim to be . . . I would suggest that the question of amending the rules might be studied in the meantime."

At the 460th meeting on 12 January 1950, the representative of India proposed that a "committee of experts be set up for the purpose of suggesting amendments to our rules of procedure regarding representation and credentials. In proposing amendments, the committee would doubtless take into account the desirability of so framing them that they might be adopted by the other organs of the United Nations . . ."⁷

At the 462nd meeting on 17 January 1950, the representative of India submitted the following draft amendment to chapter III of the provisional rules of procedure of the Security Council:⁸

"In rule 13, before the last sentence, insert the following:

"The credentials shall be issued either by the Head of the State or the Government concerned or by its Minister of Foreign Affairs."

"After rule 17 insert the following as rule 17-A:

"Where the right of any person to represent, or to continue to represent, a State on the Security Council, or at a meeting of the Security Council, is called in question on the ground that he does not represent, or has ceased to represent, the recognized government of that State, the President of the Council shall, before submitting the question to the decision of the Council, ascertain (by telegraph if necessary) and place before the Council, the views of the Governments of all the other Member States of the United Nations on the matter."

The Council decided to refer the proposal of the delegation of India to the Committee of Experts for study and report.⁹

At the 468th meeting on 28 February 1950, the Chairman of the Committee of Experts, in presenting the Committee's report,¹⁰ stated:¹¹

"With regard to the proposed amendment to rule 13, the Committee felt that it should be incorporated in that rule, although it is for the Security Council to decide whether it should be adopted now or at a later date."

With regard to proposed rule 17-A, the Committee agreed that:

"Some uniform procedure should be established which could be adopted by all the organs of the United Nations, in order to avoid the taking of separate decisions. It was the opinion of the majority of the Committee, however, that the nature of the question was such that it was appropriate for the General Assembly to consider it and to obtain uniformity and co-ordination in procedure with regard to representation and credentials.

"I should like to add that in the course of deliberations the Committee based itself on the assumption that the right of the Security Council to consider any question relating to the representation or the credentials of one of its members was indisputable.

"In view of those considerations, the Committee considered that the Security Council should not, for the moment, take any decision on the proposed amendment to rule 17 of the provisional rules of procedure of the Security Council."

The representative of India proposed that the recommendation of the Committee of Experts to incorporate the text of his amendment in rule 13 be adopted immediately.¹²

⁴ For texts of relevant statements see: 31st meeting: Australia, pp. 112, 115; Egypt, p. 113; Poland, p. 114; USSR, p. 114; United States, p. 112; Chairman of Committee of Experts, p. 102.

⁵ 31st meeting: p. 115.

⁶ 459th meeting: pp. 8-9.

⁷ 460th meeting: pp. 6-7.

⁸ S/1447, O.R., 5th year, Suppl. for 1 Jan.-31 May 1950, pp. 2-3.

⁹ 462nd meeting: p. 13.

¹⁰ S/1457 and Corr.1, O.R., 5th year, Suppl. for 1 Jan.-31 May 1950, p. 7.

¹¹ 468th meeting: p. 10.

¹² 468th meeting: pp. 10-11.

Decision: *The amendment to rule 13 was adopted without objection. Regarding the proposed Indian amendment to rule 17, the President suggested that the Council approve the conclusions of the Committee of Experts.*

Decision: *The President's proposal was adopted.*¹³

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 13-17

a. Rule 14

CASE 12

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), the representatives of the Netherlands and India took their seats at the Council table, immediately after being invited to participate in the discussion.

The President (Poland), after referring to the provision of rule 14 of the provisional rules of procedure regarding the submission of credentials, invited them to settle the matter with the Assistant Secretary-General.¹⁴

CASE 13

At the 181st meeting on 12 August 1947, in connexion with the Indonesian question (II), the representative of Poland moved that the representative of the Republic of Indonesia be invited to take part in the Council's discussion. The President (Syria) ruled that the question of the invitation of the representatives of the Republic of Indonesia could not be discussed, as it had not been included in the agenda. It was therefore necessary to submit a written proposal to that end;

"... moreover, the Secretary has not the credentials of the representatives of the Indonesian Republic, which would be necessary if they were to be recognized as representatives and invited to the Council table..."

The President then read a letter from the representative of the Indonesian Republic¹⁵ stating that, in connexion with his Government's request to participate in the Council's consideration of the Indonesian question, if such invitation were extended, the Republic would accept in advance, for the purpose of that dispute, the obligations of a Member of the United Nations. The representative of the USSR, supporting the invitation of the representative of the Indonesian Republic, said:

"... I do not know what the position is from the procedural point of view as regards credentials, etc., but it is apparent from the letter read just now by the President that the representatives who are here have been empowered to state the views of their Government..."

The representative of Australia, speaking in support of the participation of the Republic of Indonesia, remarked:

"The letter which the President himself read this afternoon (S/487) indicates that the State concerned [*Republic of Indonesia*] has already undertaken certain obligations; therefore, when I speak about cir-

cumventing the rules of procedure, I refer to rule 14 regarding the submission of credentials. I would point out that, in this dispute, that rule was dispensed with in respect both of the Netherlands and of India; it was waived.¹⁶ That is therefore a technicality."

The representative of the United States supported the participation of the representative of the Republic of Indonesia. As to the question of credentials, he said:¹⁷

"... I think it is entirely within the right of the Council, however, to satisfy itself that these persons do truly represent the Government of Indonesia. In that sense I think that the question of credentials, in whatever form they may be presented, or in whatever way the proper assurance may be given, is of prime importance... One cannot cursorily dismiss the matter of credentials by treating them as technicalities..."

Decision: *The Polish proposal to invite the representative of the Republic of Indonesia to participate in the Council's discussion was adopted by 8 votes to 3. A report regarding the credentials of the representative of the Indonesian Republic was submitted to the Council at the 184th meeting on 14 August 1947.*¹⁸

CASE 14

At the 184th meeting on 14 August 1947, in connexion with the Indonesian question (II), the representative of the Philippines was invited to participate in the discussion.¹⁹ After he had taken his seat, the Assistant Secretary-General made the following remarks:²⁰

"According to rule 14 of the provisional rules of procedure of the Security Council, the credentials of representatives who are invited to participate in a meeting or meetings of the Security Council shall be communicated to the Secretary-General not less than twenty-four hours before the first meeting which they are invited to attend. If we were to interpret this rule strictly, of course, the representative of the Philippines could not attend before the meeting following this one. But the exception was made in the case of the Netherlands and Indian representatives,²¹ when the Council treated this matter on the occasion of the first meeting which they attended, and the Council requested that they should take their seats at the Council table immediately and send their credentials to the Secretary-General as soon as possible.

"It is perhaps a deviation from the strict letter of this rule, but I suppose that the Council, in view of the special circumstances, decided to interpret the rule broadly. I make this statement because it is my duty to direct the attention of the Council to the rules of procedure, but I repeat that an exception was made on the occasion of seating of the Netherlands and Indian representatives.

"May I add that rule 16 of the provisional rules of procedure seems to point in the same direction as rule 14."

¹⁶ 171st meeting: p. 1618. See Case 12.

¹⁷ For texts of relevant statements see: 181st meeting: President (Syria), pp. 1918-1919; Australia, p. 1931; USSR, pp. 1919-1920; United States, p. 1932.

¹⁸ 184th meeting: p. 1979. See Case 17.

¹⁹ 184th meeting: p. 1980.

²⁰ 184th meeting: p. 1980.

²¹ 171st meeting: p. 1618.

¹³ 468th meeting: p. 11.

¹⁴ 171st meeting: p. 1618.

¹⁵ S/487, 181st meeting: p. 1919

b. Rule 15

CASE 15

At the 88th meeting on 31 December 1946, the reports by the Secretary-General to the President of the Security Council concerning the credentials of the representatives of Belgium, Syria and Colombia on the Security Council²² were included as items 2, 3 and 4 on the provisional agenda. After the adoption of the agenda, the President (United States), proposed with respect to item 2, that "if there is no objection the report by the Secretary-General is adopted, in the sense that the credentials are satisfactory." Similar proposals were made with respect to items 3 and 4, and the three reports were adopted without objection.²³

CASE 16

At the 147th meeting on 27 June 1947, the report of the Secretary-General on the credentials of representatives to the Security Council for the discussion of the Greek question was included in the provisional agenda as item 2 (a). After the adoption of the agenda the President (France), stated that the supplementary report regarding the credentials of the alternate representative of Greece should be added to the report, and as there were no remarks, the report of the Secretary-General and the additional report were adopted.²⁴

CASE 17

At the 184th meeting on 14 August 1947, in connexion with the Indonesian question (II), the President (Syria), after the adoption of the agenda, referred to the decision of the Council at the 181st meeting to invite a representative of the Indonesian Republic to take his place at the Council table, and stated: "His credentials have been distributed to the members of the Council and, in the opinion of the Secretariat, the credentials are in order". The representative of the Republic of Indonesia was then invited to the table.²⁵

CASE 18

A cablegram dated 20 January 1950, bearing the signature of the Minister of Foreign Affairs of the People's Republic of China, informed the Secretary-General and the Members of the United Nations and the Security Council that his Government had appointed Chang Wen Tien as Chairman of its delegation to attend the meetings and to participate in the work of the United Nations, including the meetings and work of the Security Council. He asked when "the Kuomintang representative" would be expelled from the United Nations and from the Security Council, and when the delegation of the People's Republic of China could participate in the work of the United Nations and the Security Council. During the month of February 1950, the Secretary-General requested the preparation of a confidential memorandum on the legal aspects of the problem of the representation of States in the United Nations. Some of the representatives on the Security Council asked to see the memorandum,

²² S/225, S/226, S/227, O.R., 1st year, 2nd series, Suppl. No. 13, pp. 233-234.

²³ 88th meeting: p. 709.

²⁴ S/385, S/385/Add.1, 147th meeting: p. 1116.

²⁵ 184th meeting: p. 1979.

and references to it appeared in the Press. On 8 March, the Secretary-General informed the President of the Council that he felt it appropriate that the full text be made available to all members of the Council. Accordingly, he circulated the memorandum to all members and released it to the Press.²⁶

c. Rules 13-17 in general

CASE 19

At the 459th meeting on 10 January 1950, the representative of the USSR informed the Council that his Government supported the position taken by the Government of the People's Republic of China in considering that "the Kuomintang delegation" was illegal and in demanding its expulsion from the Council. He submitted the following draft resolution:²⁷

"The Security Council,

"Having considered the statement made by the Central People's Government of the Chinese People's Republic on 8 January 1950 to the effect that it considers the presence in the United Nations Security Council of the representative of the Kuomintang group to be illegal and insists on the exclusion of that representative from the Security Council,

"Decides not to recognize the credentials of the representative referred to in the statement by the Central People's Government of the Chinese People's Republic and to exclude him from the Security Council."

The President (China) ruled that the proposal of the representative of the USSR should be circulated to members of the Council and considered at a subsequent meeting.

The representative of the USSR said that he could not regard as legal any ruling by a person who represented no one. He insisted that his proposal be put to the vote immediately, since the competence of the person concerned to remain in the Council and to serve as President had been challenged. The USSR delegation did not consider it possible that further meetings should be called under the presidency of a person who did not represent China and the Chinese people and whose presence in the Security Council was illegal.

Decision: *The President's (China) ruling was upheld by 8 votes to 2, with 1 abstention.*²⁸

The representative of the USSR said that he could not agree to the ruling which had been adopted. He considered that it would be abnormal for the Security Council to consider any political or other questions when five of its members had severed relations with the group represented by the President who, from the point of view of common sense and legal principle, represented no one.

The representative of Yugoslavia proposed that the Council should adjourn until it was in a position to deal with the USSR draft resolution, which was a preliminary question, since it concerned the very membership of the Council.

²⁶ S/1466, O.R., 5th year, Suppl. for 1 Jan.-31 May 1950, pp. 18-23.

²⁷ S/1443, 459th meeting: p. 3.

²⁸ 459th meeting: p. 4.

The representative of the United States, speaking on the attitude taken by the representative of the USSR, stated:

" . . . I should like to point out that decent respect for orderly procedure would seem to have dictated a different course than that which has been followed here by the representative of the Soviet Union. I am referring to rule 17 of the provisional rules of procedure of the Security Council . . . It seems to my delegation that this rule should have been complied with in this case. It is therefore a matter of concern and regret that the representative of the Soviet Union has seen fit to disregard this rule."

Regarding the Yugoslav motion for adjournment, the representative of the United States said that his delegation, although not agreeing with the arguments advanced by the representative of Yugoslavia, favoured adjournment but without the intention to

"indicate in any way that we believed it would be desirable or proper or politic to suspend our deliberations until a decision were taken by the Security Council upon the credentials of the representative of China.

" . . . we wish to suggest postponement of the discussion of the item on today's provisional agenda only until the Soviet Union motion has come before the Security Council in accordance with the ruling of the Chair, and the Security Council has considered what action, if any, to take upon that motion."

The representatives of the United Kingdom and Ecuador agreed with the representative of the United States as to the applicability of rule 17 of the provisional rules of procedure. With regard to the Yugoslav motion for adjournment, the representative of the United Kingdom said that he found

"it difficult to accept the implication of that proposal, which is that, until we have settled this other question raised by the representative of the Soviet Union, the Council can proceed with no business. In the view of my Government, the proposal made by the representative of the Soviet Union has been raised prematurely . . ."

The Council adjourned without a vote being taken on the Yugoslav motion for adjournment.

At the 460th meeting on 12 January 1950, the representative of France stated that rule 17 applied precisely to the case in point, and that the rights of the representative of China under that rule included the right to preside.

The representative of China said that, when he had taken his seat in the Council, more than two years previously, his credentials had been duly certified to the Council as adequate. They had not been challenged until the USSR draft resolution had been presented. If the question before the Council was a matter of credentials, there could be no real question at all. Although the USSR draft resolution spoke of credentials, what it called into question was really the right of his Government to be represented at all. That was not a question of mere procedure but a political question of the utmost importance, and he would treat it as such.

The representative of the USSR said that it was obvious that any reference to the rules of procedure in connexion with the matter under discussion was groundless and irrelevant. The point at issue was not whether the credentials of the representative of the

Kuomintang group on the Council were or were not in order, but that the latter had no credentials at all and no legal right or reason to sit in the Security Council, because the Central People's Government of the People's Republic of China had urged his exclusion from the Council on the ground that his presence there was illegal. Rule 17 in no way applied to the case in point, and any references to it were merely feeble attempts to disguise all the odium of the position taken by the representatives of the United States, the United Kingdom and France. He considered that any participation in the voting on the part of the representative of "the Kuomintang group" would be illegal and would have no juridical value, for the Government of the People's Republic of China, which represented China and the Chinese people in the international field and in their relations with other States, considered his presence in the Council illegal and insisted upon his exclusion. That was an entirely new and special problem not covered by the rules of procedure.

The representative of Ecuador noted that, while devoting some attention to the question of credentials, the representatives of the USSR and China both seemed to consider that the question under consideration was not, in fact, a question of credentials. However, credentials had been received for the representative of China, certified by the Secretary-General as valid and accepted by the Council. Whatever important considerations were involved and whatever motives there might be for unseating a representative, it would be absolutely indispensable first to withdraw recognition of his credentials.

The representative of Cuba considered that the USSR draft resolution bore not only upon the validity of the credentials but also upon the very representation of a Member State. He referred to resolutions 291 (IV) and 292 (IV) dealing with the situation in China which the General Assembly had adopted at its fourth session, and believed it "would be premature and inappropriate at the present time for the Security Council to take a decision on the legal standing of the delegation of China."²⁹

Decision: *At the 461st meeting on 13 January 1950, the USSR draft resolution³⁰ was put to the vote and was not adopted, having failed to obtain the affirmative vote of seven members. The result of the vote was 3 in favour, 6 against and 2 abstentions.³¹*

At the 480th meeting on 1 August 1950, the provisional agenda contained, as item 2:

"Recognition of the representative of the Central People's Government of the People's Republic of China as the representative of China."

The President (USSR) ruled that "the representative of the Kuomintang group seated in the Security Council does not represent China and cannot therefore take part in the meetings of the Security Council".

The President's ruling was challenged, the representative of the United Kingdom drawing the Presi-

²⁹ For texts of relevant statements see:

459th meeting: President (China), p. 3; Ecuador, p. 7; USSR, pp. 3, 4; United Kingdom, p. 6; United States, pp. 5, 9-10.

460th meeting: China, pp. 8-9; France, pp. 4-6; USSR, pp. 12, 15; United States, p. 6; Yugoslavia, pp. 2-3.

³⁰ S/1443, 459th meeting: p. 3.

³¹ 461st meeting: p. 9.

dent's attention to rule 17, and to the fact that "the Security Council has not decided that the credentials of the representative of China at this table are not in order". He regarded the ruling of the President as an effort to overrule "the majority view in regard to the representative of China on the Security Council".

The President, speaking as the representative of the USSR, stated:

"It is clear from the wording of this rule [17] that it refers to the representation in the Security Council of a State Member of the United Nations. The rule applies to plenipotentiary representatives of Member States of the United Nations—member States of the Security Council—who have been duly accredited to the Council in accordance with rule 13 of its rules of procedure. In the event of objections being raised to the credentials of such a repre-

sentative—an accredited representative—rule 17 is of course applicable.

"The question we are considering has, however, no bearing on that rule. We are not here concerned with the accredited representative of a Member State of the United Nations . . . in the Security Council but with an impostor . . . with the representative of a group which in fact represents no one but itself . . . It therefore goes without . . . saying that rule 17 . . . has no bearing whatsoever on this question . . ."³²

Decision: *The President's ruling was put to the vote and was overruled by 3 votes in favour and 8 against.*³³

³² For texts of relevant statements see:

480th meeting: President (USSR), pp. 1, 4; Cuba, p. 6; Ecuador, p. 7; Egypt, p. 6; France, p. 2; USSR, p. 4; United Kingdom, p. 2; United States, pp. 1-2.

³³ 480th meeting: p. 9.

Part III

PRESIDENCY (RULES 18-20)

NOTE

The exercise by the President of his function of presiding over the meetings of the Council affects the practice of the Security Council in all its aspects. In presiding over the meetings of the Council the President applies the provisional rules of procedure to the business under consideration. Consequently material relevant to the discharge by the President of his functions in respect of the various aspects of the practice of the Council will be found under the appropriate headings in other parts of the *Repertoire*, especially in part V [*Conduct of Business*] of the present chapter. Material relating to rulings by the President in connexion with rule 30 will be found in Cases 55-67 in this chapter and in Cases 17, 18 and 100-106 in chapter IV [*Voting*]. Cases 74, 81, 84, 97 and 110 of this chapter exemplify the settlement of disputed questions of procedure by vote of the Council on a motion formulated and put by the President. The functions of the President in connexion with the agenda are dealt with in chapter III [*Agenda*]. Regarding the reference of applications for membership to the Committee on the Admission of New Members, chapter VII, part IV, section A, should be consulted. For the role of the President in formulating conclusions reached in the course of debate or for other instances of the exercise of presidential functions in connexion with the question under consideration by the Council, chapter VIII should be consulted.¹

Part III of this chapter is accordingly confined to material bearing directly on the office of President: notably the adjustment of the President's term of office to fit in with the terms of office of elected members of the Council (Case 22); the rights of a representative under rule 17 in relation to the right of Presidency (Case 23); and the temporary cession of the Chair under rule 20. In connexion with rule 19 are presented certain instances in which the Council has availed itself of the services of the President with a view to bringing about agreement between the parties to a dispute under consideration by the Council.² Certain pro-

cedural complexities connected with discussion within the Council on proposals submitted by the President acting as rapporteur are illustrated by Case 53.

PROVISIONAL RULES OF PROCEDURE REGARDING THE
PRESIDENCY OF THE SECURITY COUNCIL, IN FORCE
FROM THE 1ST MEETING ON 17 JANUARY 1946, TO
THE 31ST MEETING ON 9 APRIL 1946³

"Rule 9

"The Presidency of the Security Council shall be held in turn by the members of the Security Council in the English alphabetical order of their names. Each President shall hold office for one calendar month.

"Rule 10

"The President shall preside over the meetings of the Security Council and, under the authority of the Council, shall represent it in its capacity as an organ of the United Nations.

RULES 18-20 OF THE PROVISIONAL RULES OF PROCEDURE
OF THE SECURITY COUNCIL ADOPTED AT THE 31ST
MEETING ON 9 APRIL 1946, WITH ADDITIONAL RULE
20 ADOPTED AT THE 48TH MEETING ON 24 JUNE 1946

"Rule 18

"The Presidency of the Security Council shall be held in turn by the members of the Security Council in the English alphabetical order of their names. Each President shall hold office for one calendar month.

"Rule 19

"The President shall preside over the meetings of the Security Council and, under the authority of the Security Council, shall represent it in its capacity as an organ of the United Nations.

"Rule 20

"Whenever the President of the Security Council deems that, for the proper fulfillment of the respon-

¹ See chapter VIII, pp. 301, 319 for instances.

² See also chapter X, Case 5.

³ O.R., 1st year, 1st series, Suppl. No. 1, annex 1, p. 4.

sibilities of the Presidency, he should not preside over the Council during the consideration of a particular question with which the member he represents is directly connected, he shall indicate his decision to the Council. The Presidential chair shall then devolve, for the purpose of the consideration of that question, on the representative of the member next in English alphabetical order, it being understood that the provisions of this Rule shall apply to the representatives on the Security Council called upon successively to preside. This Rule shall not affect the representative capacity of the President as stated in Rule 19 or his duties under Rule 7."

I. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 18-20

CASE 20

At the 31st meeting on 9 April 1946, the representative of Egypt asked for an explanation of the latter part of the draft rule proposed by the Committee of Experts which read:

"The President shall . . . represent it [*the Security Council*] in its capacity as an organ of the United Nations."

The Chairman of the Committee of Experts gave the following explanation:⁴

"The latter part of this sentence, rule 19 . . . means that the President . . . can act as a representative of the Security Council as an organ of the United Nations.

"The Charter provides in Article 7, Chapter III, under the heading 'Organs': 'There are established as the principal organs of the United Nations: a General Assembly, a Security Council,' *et cetera*. Now, the Security Council acts as an organ of the United Nations and the present rule authorizes the President to represent the Security Council as an organ of the United Nations. I do not think any other interpretation is possible in regard to this part of the sentence."

CASE 21

In his report of 17 June 1946 on the question of the temporary cession of the Presidency of the Security Council, the Chairman of the Committee of Experts stated:⁵

"The Committee felt that it was necessary to formulate a rule . . . which would provide for the eventuality that the President would prefer to step down from the Presidency for the consideration of a particular question.

"The Committee felt that this contingency would arise, for example, whenever the Member State represented by the President was a party to a dispute, or was directly involved in a situation which might lead to international friction or give rise to a dispute. In the Committee's opinion, the President of the Security Council, by invoking this rule, would be able to leave the Presidential chair, if he considers it advisable, in cases where the Member he represents has brought a matter to the attention of the

Security Council in accordance with Article 35, paragraph 1, of the Charter.

"It should be pointed out that, while the proposed text leaves it to the discretion of the President himself to decide whether or not to leave the chair, the Committee unanimously agreed that, since the obligation in question was essentially a moral one, such a wording was alone suitable for the conception which the representatives on the Security Council have of their duties. Likewise, the Committee agreed that the President could leave the chair for the discussion of the agenda, whenever such a discussion seemed likely to lead to observations or to a debate on the substance of the question.

" . . .

"Finally, should the President in office be unable to preside for a personal reason, such as illness or absence, the Committee felt that, since rule 18 of the provisional rules of procedure confers the Presidency on the Member State and not on the representative of that State personally, the Presidency shall still attach to the Member State which the President represents and shall be assumed by an accredited representative of the same State."

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 18-20

a. Rule 18

CASE 22

At the 84th meeting on 16 December 1946, the Security Council had before it the following proposal by the representative of Australia:⁶

"As the General Assembly has decided that the terms of office of the elected members of the Security Council should commence on 1 January and end on 31 December, it would seem desirable that the monthly rotation of the Presidency should be adjusted so that the rotation would commence and end on the same dates. To this end, the Security Council resolves that the operation of rule 18 of the rules of procedure be suspended for a sufficient period to allow the representative of the United States of America to remain in office as President of the Council from 17 December until 31 December 1946."

The representatives of Poland and China supported the Australian proposal.⁷

The representative of the USSR, although seeing no need for the proposed change, stated that he would raise no objection, if the majority was of the opinion that it was necessary. The representative of Australia stated that the reason which had prompted his delegation to propose the resolution arose.

" . . . from the fact that the General Assembly had altered the term of office of the non-permanent members of this Council to run from 1 January to 31 December, instead of from 17 January to 17 January of the following year. It appears necessary to make some corresponding alteration in the President's term

⁴ 31st meeting: pp. 115-116.

⁵ S/88, O.R., 1st year, 1st series, Suppl. No. 2, annex 1 (h), p. 42.

⁶ S/212, 84th meeting: pp. 1-2.

⁷ For texts of relevant statements see:

84th meeting: Australia, pp. 586-587; China, p. 586; Poland, p. 586; USSR, p. 586.

of office; otherwise, you might, in future years, reach a situation where a member who has accomplished half his term of office as President of the Security Council would have to retire on account of the expiration of his term as an elected member. Similarly, you might have a new member who would have to take up half a term of office as soon as he had taken his seat on the Council. So it seems to be appropriate, and also conducive to the better working of the Council, to make some arrangement of this kind, this one in particular."

Decision: *The Council adopted the Australian proposal by 9 votes to none, with 2 abstentions.*⁸

CASE 23

At the 461st meeting on 13 January 1950, in connexion with the question of the representation of China in the Security Council, the representative of Yugoslavia proposed:

"... that the Council should decide that rule 18 of the rules of procedure shall not apply in the present situation, and that it should take another decision...⁹

"..."

"To define my proposal more accurately, I suggest that the representative of Cuba should take up his duties as President of the Security Council, not on 1 February, but today, and should remain President until 15 February in order that his Presidency may last one month, and that the alphabetical rotation should then continue. The question of the Presidency of the Council thus would not arise again until 15 December..."

The representative of France considered that rule 18 had already been applied, "inasmuch as the representative of China has already taken office as President of the Council". It therefore seemed to him that the situation was now governed by rule 17; the words "with the same rights" in that rule meant "including the rights of Presidency". The President (China) asked the representative of Yugoslavia to submit his proposal in writing so that it could be distributed and a meeting set for its consideration.

At the 462nd meeting on 17 January 1950, the Council had before it, as the fourth item on the agenda, the following Yugoslav draft resolution:¹⁰

"The Security Council,

"Considering the serious objections raised against the validity of the credentials of the present Chinese representative to the Security Council,

"Decides to suspend rule 18 of the provisional rules of procedure of the Council;

"Invites the representative of Cuba to take over the Presidency of the Council immediately, and to preside until 28 February 1950;

"Decides to return to the application of rule 18 of the provisional rules of procedure of the Council on 1 March 1950."

The representative of Yugoslavia said that the draft resolution proposed by his delegation.

⁸ 84th meeting: p. 587.

⁹ See Cases 19 and 33.

¹⁰ S/1448/Rev.1, O.R., 5th year, Suppl. for 1 Jan.-31 May 1950, p. 3.

"... should have precedence over any other question of substance the Council may have to discuss or decide upon. It should have priority because it involves a decision regarding the Presidency which would affect our method of work."

He therefore moved that item 4 should become item 2 immediately following item 1, the adoption of the agenda.

The President (China) stated that the agenda items were arranged according to the order of their submission. As to the Yugoslav item, while it might be important in the opinion of the representative of Yugoslavia, "it cannot be considered by its nature to be a privileged resolution in a parliamentary sense..."

Decision: *The Yugoslav motion to replace item 2 of the agenda by item 4 was rejected by 7 votes to 1, with 2 abstentions.*¹¹

The representative of Cuba, speaking on the Yugoslav draft resolution, said that it involved a question definitely foreseen by the rules of procedure, so that, in order to accept that proposal, the Council would have to suspend not only the application of rule 18, but that of rule 17.¹²

"It is obvious that the Yugoslav proposal... raises once again... the question of the rights of the representative of China, the validity of whose powers has been questioned in the Council.

"In rejecting the USSR draft resolution [S/1443] at its 461st meeting, the Security Council settled the question and consequently the credentials of the said representative of China continue to be valid in this Council.

"For these reasons, the Cuban delegation considers that in the present circumstances any proposal intended to repudiate or limit the rights of the representative whose credentials have been questioned in certain quarters is out of order."

Decision: *At the 462nd meeting on 17 January 1950, the Council rejected the Yugoslav draft resolution by 6 votes to 1, with 3 abstentions.*¹³

CASE 24

At the 566th meeting on 10 November 1951, before the adoption of the agenda, the representative of the USSR stated that the representative of China in the United Nations could only be a person nominated by the Central People's Government of the People's Republic of China. His delegation therefore considered it illegal to confer the functions of President of the Security Council on the representative of "the Kuomintang group", who did not represent China and was illegally occupying a seat in the Security Council.

The President (China) ruled that:

"The Presidency of the Security Council is regulated by rule 18 of our rules of procedure. The remarks of the representative of the Soviet Union

¹¹ 462nd meeting: p. 3. One member (USSR) was absent.

¹² For texts of relevant statements see:

461st meeting: President (China), p. 15; France, p. 13; Yugoslavia, pp. 11-12.

462nd meeting: President (China), p. 3; Cuba, pp. 14-15; Yugoslavia, pp. 1-2.

¹³ 462nd meeting: pp. 15-16. One member (USSR) was absent.

are contrary to that rule. He is, therefore, out of order."

No further comment being made by the representative of the USSR on this point, the President proceeded to make arrangements regarding the system of interpretation.¹⁴

b. Rule 19¹⁵

CASE 25

At the 174th meeting on 4 August 1947, in connexion with the Indonesian question (II), the President (Syria) informed the Council of the cessation of hostilities. As there had been some delay in transmitting the Council's cease-fire resolution of 1 August 1947 to the Indonesian authorities, the representative of Australia proposed¹⁶ that in order to avoid such difficulties in the future and with a view to keeping the Council informed

"... the Presidency should be authorized to confer with the Secretary-General with a view to having some responsible officer of the Secretariat on the spot to keep the Security Council supplied with information and to assist in this settlement by peaceful means in accordance with the decision of the Security Council."

The President (Syria) stated:¹⁷

"The suggestion is duly noted, and the President of the Security Council will confer with the Secretary-General on the subject and see if arrangements can be made to keep the Security Council informed, in accordance with the resolution on this matter."

CASE 26

At the 229th meeting on 17 January 1948, in connexion with the India-Pakistan question, the representative of the United Kingdom, supported by the representatives of the United States and of the USSR, suggested that the President (Belgium) should invite the parties to meet under his chairmanship in order to find "some common ground on which the structure of a settlement may be built". The representatives of India* and Pakistan* supported the proposal.

Decision: *It was agreed that the President would get in touch with the parties and that the Council would meet again to hear from him, as well as from the parties, the result of the consultations.*¹⁸

At the 230th meeting on 20 January 1948, the President submitted a draft resolution¹⁹ on his own behalf as the representative of Belgium, and also on behalf of the parties. The representative of the United States inquired whether the consultations between the parties would continue under the President's guidance after the Council had disposed of the pending draft resolution. The President replied that the parties had agreed to continue the consultations and that he would be at their disposal for the resumption of the consultations.²⁰

¹⁴ 566th meeting: p. 1.

¹⁵ See also Case 20.

¹⁶ 174th meeting: pp. 1717-1718.

¹⁷ 174th meeting: p. 1718.

¹⁸ For texts of relevant statements see:

229th meeting: President (Belgium), pp. 126, 128; India, p. 126; Pakistan, p. 127; USSR, pp. 127-128; United Kingdom, p. 125; United States, p. 126.

¹⁹ S/654, 230th meeting: pp. 130-131.

²⁰ For texts of relevant statements see:

230th meeting: President (Belgium), pp. 132-133; United States, p. 132.

CASE 27

At the 235th meeting on 24 January 1948, in connexion with the India-Pakistan question, the representative of the United Kingdom, supported by the representatives of Canada, France, Syria and the United States, proposed that the parties should continue their negotiations under the auspices of the President (Belgium) and that this body should act "as a drafting committee of the Security Council" and present "a plan in outline" with a view to settling their differences. The President said:

"The wish has been expressed that the representatives of India and Pakistan should continue their discussions with a view to reaching a solution with the assistance of the President of the Council on the basis of any elements of agreement which may now exist... If that is the wish of the two parties and of the Council, I shall immediately approach the representatives of India and Pakistan again."

Decision: *It was so agreed.*²¹

CASE 28

By a resolution adopted on 1 April 1948, in connexion with the Palestine question, the Security Council called upon the parties²²

"... to make representatives available to the Security Council for the purpose of arranging a truce between the Arab and Jewish Communities of Palestine..."

At the 282nd meeting on 15 April 1948, the President (Colombia) indicated that he had met "to discuss the possible terms of the truce with the accredited representatives of the two parties" on two occasions.²³

CASE 29

At the 286th meeting on 21 April 1948, in connexion with the India-Pakistan question, the Security Council adopted a resolution which resolved that the UNCIP membership should be increased to five and that²⁴

"... if the membership of the Commission [to be chosen by the parties to represent them on the Commission] has not been completed within ten days from the date of the adoption of this resolution, the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five."

At the 289th meeting on 7 May 1948, the President (France) said:²⁵

"The exchanges of views that have taken place between the representatives of Argentina and Czechoslovakia [nominated by Pakistan and India respectively], with a view to completing the membership of the Commission, have been without result. As the

²¹ For texts of relevant statements see:

235th meeting: President (Belgium), p. 264; Canada, p. 262; France, p. 263; Syria, p. 263; United Kingdom, p. 259; United States, p. 262. In February, March and April 1948, the incoming President assumed the responsibilities of his predecessor regarding the negotiations, and associated with himself his predecessors for the months of January-March; 242nd meeting: p. 54; 255th meeting: pp. 77-78; 277th meeting: p. 2.

²² 277th meeting: p. 33.

²³ 282nd meeting: p. 2. See chapter VIII, p. 326.

²⁴ S/726, O.R., 3rd year, Suppl. for April 1948, pp. 8-12; 286th meeting: pp. 10-11. See chapter VIII, p. 346.

²⁵ 289th meeting: p. 8.

resolution of 21 April sets a time limit for the conclusion of this formality and makes the President of the Security Council responsible for it, I have nominated the United States of America to complete the membership of the Commission."

CASE 30

At the 387th meeting on 20 December 1948, in connexion with the Indonesian question (II) and before the adoption of the agenda, the representative of Syria proposed that the President should "obtain fresh information from the Committee of Good Offices with regard to the military operations which commenced on Saturday, 18 December", and should also "request the parties here that, if they have any documents to submit to the Security Council, they should hand them over to the Secretariat". The representative of the United States considered the "suggestion that the President—on his own initiative—might well ask the Committee of Good Offices for a further telegraphic report" to be "an excellent one". He said, "It is certainly within the powers of the President, and on previous occasions the Council, without taking formal action, has welcomed the initiative of the President in requesting reports from representatives in the field."

The President (Belgium) declared that, unless there was some objection, he would personally be quite willing to carry out the suggestion of the representative of Syria.²⁶

CASE 31

At the 457th meeting on 17 December 1949, in connexion with the India-Pakistan question, the representative of Norway, believing that it was necessary to make a new approach to the problem in order to make the mediation of the United Nations more successful, proposed:

"... that the President should meet informally with the two parties and examine with them the possibility of finding a mutually satisfactory basis for dealing with the Kashmir problem. This procedure was adopted at various times during the first four months of 1948 and led to the Council's resolution of 21 April of the same year [S/726]."

"..."

"In conclusion, may I say that if my suggestion is adopted we should request the President to report back to the Security Council for its consideration any proposal which might develop during his meetings with the parties."

The Norwegian proposal was supported by the representatives of the United Kingdom and France.

The representative of the USSR was of the opinion that the Council should hear the parties before deciding on the Norwegian proposal.

The President (Canada) considered the position taken by the representative of the USSR as a challenge to the decision the Council had reached "by consent" on the Norwegian suggestion. He therefore put it to a vote.²⁷

²⁶ For texts of relevant statements see: 387th meeting: President (Belgium), p. 5; Syria, p. 3; United Kingdom, p. 3; United States, p. 4.

²⁷ For texts of relevant statements see: 457th meeting: President (Canada), pp. 6-7, 8; France, p. 6; Norway, pp. 4-5; USSR, p. 8; United Kingdom, pp. 5-6.

Decision: *The Norwegian proposal was adopted by 9 votes to none, with 2 abstentions.*²⁸

CASE 32

At the 458th meeting on 29 December 1949, in connexion with the India-Pakistan question, the representative of Norway suggested that the President (Canada) should, if willing, continue his mediation efforts between India and Pakistan, even after the expiration of his term as President. The representatives of France and China supported the suggestion of the representative of Norway. The representative of the USSR was of the opinion that the Norwegian proposal entailed considerable difficulties of a procedural nature. The meaning of that suggestion was that

"... the present President of the Security Council, the Canadian representative, will be charged with carrying out the function of the President when he no longer will be President, in obvious disregard of the fact that after 1 January 1950 Canada will no longer be a member of the Security Council... This would surely be an unprecedented situation..."

"..."

"Consequently the USSR delegation can see no grounds for supporting the suggestion of the Norwegian representative."

The President (Canada) while appreciating the attitude of the representative of Norway and others, wished to ask "in all sincerity and with a regard for what I think is the proper and expeditious handling of this matter, that we defer consideration of these particular problems until the new Security Council is in office". The representative of the United Kingdom agreed with the representative of the Soviet Union as to the procedural difficulties involved in the suggestion of the representative of Norway. He wondered whether the Council, as well as the parties, would agree that the President should act as a rapporteur. The President asked if the following procedure were acceptable to the Council:

"... that, until the expiration of my mandate as President of this Council, my services are at the disposal of the two parties, to help them in any way which is open to me... and that, as the new Council may wish to arrange for my report to come before it, I shall be glad to come myself in any capacity which the Council may desire, in order that the information may go forward."

The representatives of Pakistan* and India* stated that their delegations would welcome the continuation of the task which had been entrusted to the President, even after his term of office had expired, in any manner decided by the Security Council.²⁹

c. Rule 20³⁰

CASE 33

At the 459th meeting on 10 January 1950, the representative of Ecuador proposed, in connexion with the question of the representation of China in the

²⁸ 457th meeting: p. 8.

²⁹ For texts of relevant statements see: 458th meeting: President (Canada), pp. 17-18, 19-20, 21; China, p. 15; France, p. 13; India, p. 22; Norway, p. 9; Pakistan, p. 21; USSR, pp. 16-17; United Kingdom, p. 18.

³⁰ See also Case 21. For a further instance of the application of rule 20 see: 361st meeting: pp. 1-2.

Security Council, that rule 20 should be considered by the Council. He felt sure that the President (China) had not

“...lost sight of the possibility of invoking that rule in order to facilitate the discussion and solution of the matter before us, the more so as the question in point directly and definitely concerns him as President...”

Rule 20 was invoked by the President (China) at the 460th meeting on 12 January 1950, when the Council began to consider the USSR draft resolution.³¹ The President asked the representative of Cuba to preside over the meetings during the consideration of that item. At the 461st meeting on 13 January 1950, after the

³¹ S/1443, 459th meeting: p. 3. See Case 19.

Council had rejected the USSR draft resolution, the Acting President (Cuba) ruled that:

“... since the vote has been taken on the proposal, submitted by the representative of the Soviet Union [S/1443], the Council has completed the item which led the representative of China to exercise the discretionary powers conferred by rule 20 of the rules of procedure and to vacate the chair. I therefore invite the representative of China to resume his place as President.”

The representative of China resumed the Presidential chair.³²

³² For texts of relevant statements see:
459th meeting: Ecuador, p. 8.
460th meeting: President (China), pp. 1-2.
461st meeting: President (Cuba), p. 15.

Part IV

SECRETARIAT (RULES 21-26)

NOTE

Chapter V, entitled “Secretariat”, of the provisional rules of procedure sets out in rules 21 to 26 the more specific functions and powers of the Secretary-General in connexion with the meetings of the Security Council. These rules reflect the provisions of Article 98 of the Charter in so far as they concern the requirements of the Security Council.

Other functions and powers of the Secretary-General in relation to the working of the Security Council, as, for example, the exercise of his powers under Article 99, the examination of the credentials of representatives, and the drawing up of the provisional agenda, are referred to elsewhere in the provisional rules of procedure. A special rule on the powers of the Secretary-General under Article 99 was contained in the provisional rules of procedure in force until the 31st meeting. Upon recommendation of the Committee of Experts,¹ this rule was replaced by the provision in rule 3 of the provisional rules.

The Security Council, within the period covered by this *Repertoire*, has not had recourse to rule 23, though the Secretary-General, in the case of certain specific or general questions that have come before the Council, has exercised his good offices or endeavoured in an informal manner to contribute to a settlement.

Under rule 24, the Secretary-General has provided the required staff to service meetings of the Security Council. He has also provided staff to service commissions and other subsidiary organs of the Council, both at Headquarters and in the field.² Clauses regarding the provision of staff have formed an element in resolutions of the Council establishing subsidiary organs in the field.

Certain other resolutions of the Security Council have imposed specific duties on the Secretary-General: to appoint a Plebiscite Administrator for Kashmir;³ to report to the Council on the status of negotiations

between the Governments of Iran and the USSR concerning the withdrawal of troops;⁴ to convene the Committee of Good Offices in Indonesia.⁵ On one occasion, as a measure of emergency, the Secretary-General, with the approval of the President of the Council, appointed a career official of the Secretariat to assume provisionally the responsibilities of the United Nations Mediator for Palestine.⁶

Unlike other cases in this chapter, the cases exemplifying rule 22 are illustrations more of the regular application of the rule than of any distinct variation. They are included by virtue of their possible relation to Article 99.

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL REGARDING THE SECRETARIAT, IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946 TO THE 31ST MEETING ON 9 APRIL 1946⁷

“Rule 11

“The Secretary-General shall act in that capacity in all meetings of the Security Council. The Secretary-General may authorize a deputy to act in his place at meetings of the Security Council.

“Rule 12

“The Secretary-General shall provide the staff required by the Security Council. This staff shall form a part of the Secretariat.

“Rule 13

“The Secretary-General shall give representatives notice of meetings of the Security Council and its committees and of matters on the agenda of these meetings.

“Rule 14

“The Secretary-General shall be responsible for the preparation of documents required by the Security Council and shall, except in urgent circumstances,

¹ O.R., 1st year, 1st series, Suppl. No. 2, annex 1 (a), p. 2.

² 286th meeting: pp. 29-30.

³ Regarding the provision of guards at the request of the Mediator, reference should be made to chapter XI, Case 19.

⁴ 28th meeting: pp. 75-76, 82. See chapter VIII, p. 304.

⁵ 207th meeting: p. 2503. See chapter VIII, p. 318.

⁶ 358th meeting: p. 2. See chapter VIII, p. 334.

⁷ O.R., 1st year, 1st series, Suppl. No. 1, annex 1, p. 4.

distribute them at least forty-eight hours in advance of the meeting at which they are to be considered.

"Rule 15"

"The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security."

RULES 21-26 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 31ST MEETING ON 9 APRIL 1946, WITH ADDITIONAL RULES 22 AND 23 ADOPTED AT THE 44TH MEETING ON 6 JUNE 1946

"Rule 21"

"The Secretary-General shall act in that capacity in all meetings of the Security Council. The Secretary-General may authorize a deputy to act in his place at meetings of the Security Council.

"Rule 22"

"The Secretary-General, or his deputy acting on his behalf, may make either oral or written statements to the Security Council concerning any question under consideration by it.

"Rule 23"

"The Secretary-General may be appointed by the Security Council, in accordance with Rule 28, as rapporteur for a specified question.

"Rule 24"

"The Secretary-General shall provide the staff required by the Security Council. This staff shall form a part of the Secretariat.

"Rule 25"

"The Secretary-General shall give to representatives on the Security Council notice of meetings of the Security Council and of its commissions and committees.

"Rule 26"

"The Secretary-General shall be responsible for the preparation of documents required by the Security Council and shall, except in urgent circumstances, distribute them at least forty-eight hours in advance of the meeting at which they are to be considered."

1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 21-26

CASE 34

In his report of 31 May 1946 on the question of the powers of the Secretary-General to make oral or written statements to the Security Council, the Chairman of the Committee of Experts stated that⁹ the Committee had taken "rule 48 of the provisional rules of procedure of the General Assembly and rule 24 of the provisional rules of procedure of the Economic and Social Council... as a basis for examining this matter". The text proposed [*present rule 22*] recognized

⁹ Regarding the omission of this text from the provisional rules of procedure adopted at the 31st meeting, see Case 1.

¹⁰ S/71, O.R., 1st year, 1st series, Suppl. No. 2, annex (f), p. 39.

"... that the Secretary-General may make oral or written statements to the Council regarding any matter submitted to it for consideration. The Committee unanimously agreed that this power should be extended to the Secretary-General's deputy whenever he acts on behalf of the Secretary-General, and included this point in the draft rule.

"Although the text of the rule as adopted does not mention committees, commissions, or other subsidiary organs of the Security Council, the Committee unanimously agreed that the Secretary-General or his deputy should have the same power in relation to these organs which he enjoys in relation to the Security Council, unless the Council should decide otherwise. This omission resulted from a desire not to decide in advance a question concerning bodies, the rules for which have not yet been established."

In the same report, on the question of the appointment of the Secretary-General as rapporteur, the Chairman of the Committee of Experts stated:¹⁰

"The Committee was of the opinion that the text of rule 25 [*present rule 28*] should be maintained as adopted by the Security Council at its meeting of 16 May 1946, and that there should be inserted in Chapter V, concerning the Secretariat, an additional rule providing explicitly that the Secretary-General may be appointed by the Security Council as rapporteur. The Committee unanimously agreed, however, that such an appointment should clearly be subject to the consent of the Secretary-General in each case.

"Moreover, the Committee felt that the general wording of rule 25 [*present rule 28*], as it stands should be interpreted in the sense that, in principle, only the representatives on the Security Council and the Secretary-General should be appointed as rapporteur. In the course of discussion, however, it was agreed that it would not be advisable to exclude the possibility that the Council might, in exceptional circumstances, appoint as rapporteur another person whose duties especially qualified him for the task. It is impossible, at the present stage of the Council's experience, to foresee whether such a need might not conceivably occur at some future date."

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 21-26

a. Rule 21

CASE 35

At the 207th meeting on 3 October 1947, in connexion with the Indonesian question (II), the representative of Australia submitted a draft resolution to request the Secretary-General "to act as convener of the Committee of Three and arrange for the organization of its work..."¹¹

Decision: *The Australian draft resolution was adopted by 9 votes to none, with 2 abstentions,¹² and the Secretary-General convened the Committee of Good Offices on 8 October 1947.¹³*

¹¹ *Ibid.*, p. 40. See also 41st meeting: p. 254; 44th meeting: pp. 310-311.

¹² S/574, 207th meeting: p. 2503.

¹³ 207th meeting: p. 2503.

¹⁴ 209th meeting: p. 2527.

b. Rule 22

CASE 36

At the 33rd meeting on 16 April 1946, the Secretary-General submitted a memorandum¹⁴ on the withdrawal of the Iranian question from the agenda of the Security Council.

Decision: *The Council decided unanimously to refer the Secretary-General's memorandum to the Committee of Experts for examination and report.*¹⁵

CASE 37

At the 70th meeting on 20 September 1946, in connexion with the Ukrainian complaint against Greece, the representative of the United States placed before the Council a draft resolution¹⁶ to establish a Commission of three individuals, to be nominated by the Secretary-General, to investigate the facts relating to the border incidents along the northern frontiers of Greece. During discussion of the draft resolution the Secretary-General stated:

"Just a few words to make clear my own position as Secretary-General and the rights of this office under the Charter. Should the proposal of the United States representative not be carried, I hope that the Council will understand that the Secretary-General must reserve his right to make such enquiries or investigation as he may think necessary, in order to determine whether or not he should consider bringing any aspect of this matter to the attention of the Council under the provisions of the Charter."¹⁷

Decision: *The United States draft resolution was not adopted. There were 8 votes in favour, 2 against (one vote against being that of a permanent member) and 1 abstention.*¹⁸

CASE 38

At the 91st meeting on 10 January 1947, in connexion with the question of the Free Territory of Trieste, the Secretary-General submitted a statement concerning the legal issues which had been raised.¹⁹

CASE 39

On 8 March 1950, in connexion with the question of the representation of China in the Security Council, the Secretary-General circulated a memorandum to members of the Council.²⁰

On 13 March, the representative of China lodged his Government's formal protest against the Secretary-General's memorandum. He considered that the question of Chinese representation could not be held to "threaten the maintenance of international peace and security" within the meaning of Article 99 of the Charter—the only Article that assigned a sphere of political action to the Secretary-General.²¹

¹⁴ S/39, 33rd meeting: pp. 143-145.

¹⁵ 33rd meeting: p. 145. For text of the memorandum, see chapter II, Case 56.

¹⁶ 70th meeting: p. 396.

¹⁷ 70th meeting: p. 404.

¹⁸ 70th meeting: p. 412.

¹⁹ 91st meeting: pp. 44-45. For text of statement, see chapter XII, Case 20.

²⁰ S/1466, O.R., 5th year, Suppl. for 1 Jan.-31 May 1950, pp. 18-23.

²¹ S/1470, O.R., 5th year, Suppl. for 1 Jan.-31 May 1950, pp. 23-26.

CASE 40

At the 473rd meeting on 25 June 1950, in connexion with the complaint of aggression upon the Republic of Korea, the Secretary-General stated:²²

"The report received by me from the Commission [United Nations Commission on Korea], as well as reports from other sources in Korea, make it plain that military actions have been undertaken by North Korean forces. These actions are a direct violation of the resolution of the General Assembly . . . as well as a violation of the principles of the Charter. The present situation is a serious one and is a threat to international peace. The Security Council is, in my opinion, the competent organ to deal with it. I consider it the clear duty of the Security Council to take steps necessary to re-establish peace in that area."

c. Rule 24

CASE 41

At the 284th meeting on 17 April 1948, in connexion with the India-Pakistan question, the representatives of Belgium, Canada, China, Colombia, the United Kingdom and the United States proposed that

"The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed the Plebiscite Administrator . . . and that the terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India . . ." ²³

Decision: *At the 286th meeting on 21 April the first part of the joint draft resolution was adopted by 8 votes to none, with 3 abstentions, and the second part by 9 votes to none, with 2 abstentions.*²⁴

CASE 42

At the 458th meeting on 29 December 1949, in connexion with the India-Pakistan question, the representative of the USSR in objecting to certain proposals put forward by the President (Canada), in accordance with the instructions given by the Council on 17 December 1949, and providing that

" . . . the mediator shall be appointed by the Secretary-General of the United Nations, while the Plebiscite Administrator in Kashmir shall be appointed and shall take up his duties in accordance with the resolution of the United Nations Commission for India and Pakistan of 5 January 1949."

stated:

"The USSR delegation believes that, should the appointment of a mediator or arbitrator be found expedient in the interests of the peaceful settlement of the dispute, it should be effected directly by the Security Council. As regards the functions and powers of such a mediator or arbitrator, they, too, should be determined by the Security Council."

He considered that the Security Council should not transfer or delegate these functions to "any other organ of the United Nations, including the Secretary-General".²⁵

²² 473rd meeting: p. 3.

²³ S/726, 284th meeting: pp. 28-30.

²⁴ 286th meeting: pp. 29-30.

²⁵ 458th meeting: p. 15.

Decision: At the 470th meeting on 14 March 1950 the Council resolved to "appoint a United Nations Representative" and, at the 471st meeting on 12 April 1950, approved the appointment of Sir Owen Dixon

as United Nations Representative for India and Pakistan by a vote of 8 to none, with 2 abstentions.²⁶

²⁶ 470th meeting: p. 4.

471st meeting: p. 5. One member (USSR) was absent.

Part V

CONDUCT OF BUSINESS (RULES 27-36)

NOTE

Part V sets out the cases bearing on rules 27 to 36. Cases relating to rules 37 to 39 are contained in chapter III: "Participation in the Proceedings of the Security Council". Chapter V, which deals with the subsidiary organs of the Council, should be consulted in connexion with rule 28.

Since the progress of discussion within the Security Council constitutes a continuous exemplification of the application of rules on the conduct of business, the observation in the introductory note to this Chapter that the case included are indicative mainly of the special problems which have arisen rather than of normal applications of the rules applies with special force both to this part and to part VII on Languages. No useful purpose would seem to be served by providing repetitive examples of the practical working of the clear letter of the rules. The effort has been made to assemble the cases of the following nature: decisions by the Council to depart from the rules; decisions on the conduct of business in situations not covered or not clearly covered by the rules; cases where the meaning or applicability of the rules was in doubt; and cases in which decisions were made between competing rules. The significance of the cases included can be correctly assessed only in the light of these observations.

Following the material bearing on the formulation and amendment of the rules (Cases 43-46), the cases are arranged in chronological order under references to the rules. To facilitate reference an indication is given here of the points on which they bear.

1. Rule 27

(a) The order of intervention in the debate (Cases 50, 51);

(b) Termination of the general debate (Cases 47, 48);

(c) Termination of discussion of proposals (Cases 49, 52).

2. Rule 28

(a) The appointment of a rapporteur (Case 46);

(b) The procedural position of proposals made by a rapporteur (Case 53).

3. Rule 29

Case 54 concerns precedence to be accorded to a rapporteur.

4. Rule 30

(a) The raising of points of order. Cases 55 and 67 relate to the interruption of a speech by the raising of a point of order. Cases 56 and 59 concern the definition of a point of order.

(b) Powers of the President with regard to rulings. Cases 58 and 61-65 bear on the proper circumstances and subject matter of rulings by the President.

(c) Challenge to a ruling. Case 57 bears on the refusal of the President to accept a challenge to a ruling, and Case 66 on the refusal to make a ruling after a point of order has been raised.

(d) Mode of putting the question for decision after a challenge to a ruling. Cases 60, 61 and 63 contain discussion of this problem. The central element of the problem is whether the ruling is to be put to the vote and upheld if seven or more votes are cast in favour, or whether the challenge is to be the subject of the vote. A listing of the occasions on which votes have been taken in connexion with rule 30 is given in a note at the outset of the material on rule 30. These instances do not permit presentation in consolidated form, owing to the varieties of terminology and procedure.

Cases regarding rule 30 in connexion with the question whether a matter is procedural are entered in chapter IV, Cases 100-106.

5. Rule 31

(a) Requirement that proposals be in writing (Cases 68, 70);

(b) Effect of failure to submit a proposal in writing (Case 69);

(c) Significance of the expressions "proposed resolutions" and "substantive motions" (Case 44).

6. Rule 32, para. 1

(a) Significance of the expression "principal motions and draft resolutions" (Case 44)

(b) Order of precedence (Cases 69, 71, 72, 77, 78);

(c) Changes in the order of precedence (Cases 79, 80, 81);

(d) Questions of procedure not covered by the rules. Case 74 is concerned with the problem whether priority should be granted to a draft resolution calling in question the competence of the Council.

7. Rule 32, para. 2

(a) Request for the separation of vote (Case 75);

(b) Bearing of the application of rule 32, para. 2 on vote on the whole. Cases 73, 76 and 82 concern the procedure of voting on a resolution as a whole after it has been voted on in parts. Reference should also be made to the introductory note to rule 40: Voting.

8. Rule 33, para 1, sub-paras. 1-6

Cases 83, 84-86, 88, 91, 92, 93 concern precedence of motions.

9. Rule 33, para. 2

Cases 87, 89, 90, 93 and 94 concern exclusion of debate after motions for suspension or simple adjournment. Reference should also be made to Case 59.

10. Rule 34

Case 95 indicates the initial occasion of dispensing with the seconding of a motion.

11. *Rule 35*

Case 96 concerns withdrawal of an amendment by the mover.

12. *Rule 36*

Case 97 concerns the distinction between a draft resolution and an amendment.

PROVISIONAL RULES OF PROCEDURE REGARDING THE CONDUCT OF BUSINESS OF THE SECURITY COUNCIL, IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946 TO THE 41ST MEETING ON 16 MAY 1946¹

“Rule 16

“Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.

“Rule 17

“The Security Council may invite members of the Secretariat, or any person whom it considers competent for the purpose, to supply it with information or to give assistance in examining matters within its competence.”

RULES 27-36 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 41ST MEETING ON 16 MAY 1946

“Rule 27

“The President shall call upon representatives in the order in which they signify their desire to speak.

“Rule 28

“The Security Council may appoint a commission or committee or a rapporteur for a specified question.

“Rule 29

“The President may accord precedence to any rapporteur appointed by the Security Council.

“The Chairman of a commission or committee, or the rapporteur appointed by the commission or committee to present its report, may be accorded precedence for the purpose of explaining the report.

“Rule 30

“If a representative raises a point of order, the President shall immediately state his ruling. If it is challenged, the President shall submit his ruling to the Security Council for immediate decision and it shall stand unless overruled.

“Rule 31

“Proposed resolutions, amendments and substantive motions shall normally be placed before the representatives in writing.

“Rule 32

“Principal motions and draft resolutions shall have precedence in the order of their submission.

“Parts of a motion or of a draft resolution shall be voted on separately at the request of any representative, unless the original mover objects.

“Rule 33

“The following motions shall have precedence in the order named over all principal motions and draft resolutions relative to the subject before the meeting:

“1. To suspend the meeting;

“2. To adjourn the meeting;

“3. To adjourn the meeting to a certain day or hour;

“4. To refer any matter to a committee, to the Secretary-General or to a rapporteur;

“5. To postpone discussion of the question to a certain day or indefinitely; or

“6. To introduce an amendment.

“Any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate.

“Rule 34

“It shall not be necessary for any motion or draft resolution proposed by a representative on the Security Council to be seconded before being put to a vote.

“Rule 35

“A motion or draft resolution can at any time be withdrawn, so long as no vote has been taken with respect to it.

“If the motion or draft resolution has been seconded, the representative on the Security Council who has seconded it may require that it be put to the vote as his motion or draft resolution with the same right of precedence as if the original mover had not withdrawn it.

“Rule 36

“If two or more amendments to a motion or draft resolution are proposed, the President shall rule on the order in which they are to be voted upon. Ordinarily, the Security Council shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed until all amendments have been put to the vote, but when an amendment adds to or deletes from the text of a motion or draft resolution, that amendment shall be voted on first.”

1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 27-36

CASE 43

In the report of 13 May 1946 on the work of the Committee of Experts, the Chairman stated:²

“The Committee of Experts was of the opinion that this chapter should contain some detailed provisions concerning the conduct of business, especially with respect to the order of speakers, points and motions of order, and the manner and order in which resolutions and amendments are to be introduced. The Committee also desired to provide that the Security Council may appoint a rapporteur for a specified question. Rules 24-30 [*now rules 27-33*] were drafted to take care of these points. During the consideration of the text relating to motions of order, the question of the closure of debate was raised.

¹ O.R., 1st year, 1st series, Suppl. No. 1, annex 1, pp. 4-5.

² S/57, O.R., 1st year, 1st series, Suppl. No. 2, p. 22.

Since this involved the very important problem of the limitation of the right of each representative to give full expression to his point of view, the Committee decided to postpone further examination of the question.

"Rules 29 and 33 [*now rules 32 and 36*] relate to the order in which principal resolutions and amendments are to be voted upon. Rule 32 [*now rule 35*] provides that the author of any motion or draft resolution may withdraw it at any time before a vote is taken with respect to it. It was pointed out in the course of discussion in the Committee that such withdrawal should not infringe the rights of the author of an amendment, who could still request that a vote be taken on the text as amended by his proposal, such text being then considered as a principal resolution taking precedence from the moment that the author of the amendment made the request."

CASE 44

At the 41st meeting on 16 May 1947, during the discussion of the Report of the Committee of Experts, the following views were stated as regards rules 28 and 29 (now rules 31 and 32).

The representative of the United Kingdom observed:

"... rule 28 refers to 'proposed resolutions' and 'substantive motions'. Rule 29 refers to 'principal motions and draft resolutions' . . . but if these two articles we are referring to mean the same thing, we ought to use the same words."

The Chairman of the Committee of Experts replied:

"Rule 29 speaks of 'principal motions' and this term covers both substantive motions and amendments. This expression fits into the context better since it enables a distinction to be made between principal motions and draft resolutions, on the one hand, and motions on points of order proper, on the other hand. It is quite true that there is a divergence in the terminology, but as the point to be decided is the order in which motions are to be put to the vote, we thought it preferable to use the expression 'principal motions' so as to bring out more clearly the distinction between principal motions and motions on a point of order proper."

The representative of the United Kingdom said:

"... might I ask . . . whether it excludes the use of the words 'principal motions' in rule 28 instead of 'substantive motions'. Could we not have 'principal motions' there, and then it would be in both rules . . ."

The representative of Australia said:

"... I am not quite clear what has happened regarding rules 28 and 29 as a result of the suggestion from the representative of the United Kingdom. But if the term 'substantive motions' in rule 28 has been changed to read 'principal motions', I think the sense of the rule has been altered.

"As I understand it, rule 28 means this: an attempt is made to list all the matters which might formally come before the Council in order to insist that those matters should be placed before it in writing. For that purpose the rule lists in order proposed resolutions, amendments and substantive motions. I think the meaning of 'substantive motions' is motions which

deal with matters of substance in contrast with proposed resolutions which might deal with any question.

"However, when we come to rule 29, the phrase 'principal motions' is intended in my opinion to refer to principal motions in contrast to amendments to principal motions. The purpose of using the phrase 'principal motions' there is to decide on the precedence in which motions shall be submitted. No precedence is determined with regard to the submission of amendments since that is not covered by this rule. The only question is precedence as between principal motions, that is, motions moved originally before any amendment is offered, and draft resolutions. If we alter 'principal motions' to read 'substantive motions' I think we shall have lost that distinction. If on the other hand, in rule 28 we alter 'substantive motions' to read 'principal motions', I think we shall have introduced a term which does not convey the sense of rule 28, because the purpose of rule 28 is simply to list all the sorts of matters which might come before the Council and to require that those matters be introduced in writing."

The representative of the United Kingdom said:³

"I am very grateful to the Australian representative for his explanation . . . This discussion will be on record, and I think that will explain the apparent conflict of terminology in the future."

CASE 45

At the 41st meeting on 16 May 1946, during the discussion of the Report of the Committee of Experts, the following points were made on rule 29 (now rule 32) as regards its second paragraph, which originally read:

"Parts of a motion or of a draft resolution shall be voted on separately if any representative requests that the motion or draft resolution be divided."

The representative of the Netherlands criticised the proposed rule

"because I can imagine many cases in which one part of a draft resolution or of a motion may be perfectly acceptable to every one, but on the other hand, that resolution or motion forms to such an extent an indivisible whole that you cannot really divide it and cut it into parts."

The representative of Poland considered the criticism valid and stated:

"... the proponent of a resolution may have good reason to object to his resolution being divided into parts. He may, for example, want the Council to go on record either as accepting the whole resolution he wants to put forward or as rejecting it, and it may be against his wishes that certain parts of it be taken and accepted and others be rejected."

He proposed the addition of the words "unless the proponent of the motion or draft resolution objects."

The representative of the United Kingdom proposed to substitute the word "mover" for the word "proponent", and the representative of China suggested the wording "parts of a resolution shall be voted on separately if any representative so requests, unless the original mover objects."

³ For texts of relevant statements see: 41st meeting: Australia, p. 257; United Kingdom, pp. 255, 256, 257; Chairman of Committee of Experts, p. 255.

The representative of the Netherlands pointed out a further difficulty:

" . . . I can very well imagine a situation in which a member of the Council who is not a mover of a resolution or of a motion is in favour of some part of that resolution or motion and nevertheless feels constrained to vote against it because he objects to the cutting up of that draft resolution or motion. That is not covered by this rule as it now stands, even after the Polish improvement."

The representative of the USSR stated:

"It seems to me that it would be a good thing if the Security Council confirmed the text of rule 29 as it now stands, taking into account the amendment proposed by the representative of Poland. As I see the matter, Mr. van Kleffens' proposal, if adopted, might create even more difficulties for the members of the Security Council. Suppose this proposal is adopted. Then suppose there is a discussion on a text submitted to the members of the Council and that it is impossible to divide the text into two or three parts and to vote on them separately. Some members of the Council may support the first part of the text of this proposal and object to the rest of it. If the text cannot be divided into two or three parts, according to the circumstances, those members of the Security Council who support the first part and object to the rest will be obliged to vote against the whole text for the simple reason that we are not permitted to divide it. That might create even greater difficulties."

The representative of the Netherlands stated:⁴

" . . . I shall be very glad to adopt this rule as amended by the Polish and Chinese representatives as a provisional rule of procedure, on the understanding that the question is not considered as settled but will be further studied by the Committee of Experts . . . "

Decision: *The text of rule 29, with the amendments (present rule 32), was adopted.*

CASE 46

At the 472nd meeting on 24 May 1950, the Security Council considered General Assembly resolution 268 B (III) of 28 April 1949,⁵ which recommended:

" . . . that the Security Council examine the utility and desirability of adopting the following practice:

"After a situation or dispute has been brought to the attention of the representatives on the Security Council in accordance with rule 6 of the provisional rules of procedure of the Security Council and not later than immediately after the opening statements on behalf of the parties concerned,

"(a) The parties shall be invited to meet with the President of the Security Council;

"(b) They shall attempt to agree upon a representative on the Security Council to act as rapporteur or conciliator for the case. The representative so agreed upon may be the President or any other representative of the Council who will thereupon be

appointed by the President to undertake the function of rapporteur or conciliator. The President shall inform the Security Council whether a rapporteur or conciliator has been appointed;

"(c) If a rapporteur or conciliator is appointed, it would be desirable for the Security Council to abstain from further action on the case for a reasonable interval during which actual efforts at conciliation are in progress;

"(d) The rapporteur or conciliator so agreed upon and appointed shall attempt to conciliate the situation or dispute, and shall in due course report to the Security Council."

The President (France) stated:

" . . . the Assembly's resolution means that the President will be asked to encourage the parties to agree upon the appointment of a member of the Council, who may be the President himself or any other member. As soon as the member is appointed, he shall carry out his work independently of his office, if he is President, and, if one judges by the discussions which took place here last December on the terms of reference to be given to General McNaughton, even independently of his membership in the Council."

The representative of the United Kingdom believed "that the general application of this practice would conduce to the good conduct of the proceedings of the Security Council, and would contribute to the solution of difficulties". He remarked, however, that the Council should not lay down "any too rigid or inflexible rule", since there might be instances when this practice could "even be undesirable". Such would be the case when hostilities have broken out or are threatened.

The representative of the United States stated:

" . . . The study of League of Nations experience showed that the practice of the League Council in using a rapporteur who had the function of a conciliator allowed for private conversations among parties, and hence avoided the crystallization of views at an early stage of the dispute, which often results from the taking of public positions. The General Assembly and the Interim Committee felt that similar advantages could be gained by the Security Council in building on this particular League experience . . . The discussion in the General Assembly and in the Interim Committee also disclosed the feeling that such a practice might result in the better preparation of cases brought before the Security Council, because the rapporteur would normally bring to the Security Council an analysis of the facts as presented by all the parties. He would follow the case in a more special and detailed way than his colleagues are able to do in the normal course, and he would study the documents related to the case and also have private talks with the parties. . .

" . . . As the President pointed out, we have . . . used that device effectively in the India-Pakistan case, in which General McNaughton, with energy, ability and understanding, worked with the parties on behalf of the Security Council . . . the parties themselves showed their feeling that this device was a useful one, in that they refrained from making detailed statements of their respective positions during the early meetings of the Security Council. This practice has developed in the Security Council . . .

⁴ For texts of relevant statements see:

41st meeting: President (Egypt), p. 256; China, p. 258; Netherlands, pp. 256, 258, 259; Poland, p. 256; USSR, p. 259; United Kingdom, p. 258; United States, p. 258.

⁵ *G.A.O.R., 3rd session, 2nd part, Resolutions, p. 12.*

quite informally. I believe that its usefulness depends to a considerable extent on that fact. I think that its usefulness also depends on the great flexibility of this device . . . ”

The representatives of Egypt and China also supported the principles contained in the General Assembly recommendation. The representative of China remarked that the Council should not draw up “detailed regulations in regard to this practice”, and should “always remain its own master in regard to procedure when a dispute is brought before it”.

The representative of Ecuador declared:

“ . . . It does not seem to us that such recourse should be compulsory and that the first step must be the preliminary action of the President of the Council or of a member appointed by the President. We do believe, however, that a restrained use of that measure will prove a most effective means of action by the Security Council . . . ”

The representative of Yugoslavia also referred to the fact “that the General Assembly resolution which we are discussing was not adopted unanimously by the General Assembly”, since apart from the USSR delegation, the representative of Yugoslavia had also raised objections, both “political and legal in nature”.

He added:

“Our main objection . . . was that, under the General Assembly resolution, the Security Council would be obliged to renounce some of its prerogatives in favour of the representative of a single country, not as an exceptional procedure or a measure decided upon in a particular case, but as a normal procedure which the Council would have to follow before having examined the substance of the question and the nature of the dispute brought before it. We might take note of the General Assembly resolution without taking a formal decision on this delicate matter . . . Such an attitude on the part of the Council would . . . correspond to the nature of our work, which consists in dealing with unforeseen and unforeseeable situations.”

After the representatives of Norway and India had expressed their general support for the principles embodied in the General Assembly recommendation, the President, as the representative of France, also declared his general agreement with those principles, as well as with the generally expressed “wish not to be bound to the letter of a text, not to assume obligations *ne varietur*, not to make new rules”. He also stressed the need “to maintain the highly desirable flexibility and the unofficial and confidential nature of the action to be taken by mediators”. The Council should not go into a detailed discussion and amendment of the text of the General Assembly recommendation. What the Council should do was “to reserve the possibility, without extensive debate, of resorting to that practice wherever it would appear useful and timely to do so,” and “to ensure greater freedom for ourselves in the selection of the rapporteur or conciliator and in setting a term of office for his task”. With these views in mind, the representative of France submitted the following draft resolution:⁶

“The Security Council,

“Having considered the communication from the Secretary-General of the United Nations dated 13 May 1949,

“Takes note of resolution 268 B (III) of the General Assembly dated 28 April 1949, and

“Decides, should an appropriate occasion arise, to base its action upon the principles contained therein.”⁷

Decision: *The French draft resolution was put to the vote and adopted.⁸*

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 27-36

a. Rule 27

CASE 47

At the 160th meeting on 17 July 1947, in connexion with the Greek frontier incidents question, the representative of the United States inquired whether the general debate had been closed and a detailed discussion of the resolution under consideration was to take place.

The President (Poland) stated:

“The rules of procedure do not give the President the power to close a debate, and I would be unable to prevent a speaker from discussing the general subject. . . .”

However, he requested the members of the Security Council to avoid expounding general views and to concentrate upon the specific issues before them.

The representative of the United States then asked whether it would be consistent with the rules of procedure to interpolate general debate during discussion on the resolution, or whether it was possible to proceed in an orderly manner and to exclude general debate when the resolution was being considered.

The President stated:

“The rules of procedure make no provision with regard to this question. There is no point mentioned in connexion with the closure of the debate. However, I think it is a good and normal practice that the general debate should come to an end at some time, and then the concrete resolutions can be taken up. I think this practice has been followed more or less in the past, and I trust that the members of the Council will automatically adjust themselves to it in this case.”

The representative of France stated:

“We might even go a little further in the interpretation of our rules of procedure. If I remember correctly, it is the duty of the President . . . to lead and conduct debates, the purpose of such direction being to assure their orderly procedure. It seems to me, therefore, that in view of this general rule, which applies to all Presidents, it would be possible to ask

⁷ For texts of relevant statements see:

472nd meeting: President (France), pp. 4, 15-16; China, p. 8; Ecuador, p. 11; Egypt, pp. 6-8, 16; India, p. 14; Norway, p. 14; United States, pp. 5-6; United Kingdom, pp. 4-5; Yugoslavia, p. 13.

⁸ 472nd meeting: p. 16.

⁶ S/1486, 472nd meeting: p. 15.

at tomorrow's meeting, for example, if any member of the Council or other representative at the Council table wishes to speak again in the general debate.

"If no one wishes to speak, the general debate could be considered closed and we could proceed to a discussion of specific points."

The President then stated that he would follow the proposal of the representative of France; and would therefore ask, at the beginning of the following meeting, whether any representative desired to speak in the general debate, and, if there were no speakers, he would declare the general debate closed.⁹

CASE 48

At the 193rd meeting on 22 August 1947, in connexion with the Indonesian question (II), the representative of Australia stated that he understood the President to have ruled ten days before that the general debate was concluded and that discussion of the Australian draft resolution¹⁰ was to take place. But, he added, the general debate seemed to have started again.

Later in the meeting, the President (Syria) made the following statement:¹¹

"Some of the members have been complaining about the delay but the rules of procedure and the tradition of this Council are that speakers shall continue to speak as long as they desire to do so. There is no way to stop the discussion and to put a draft resolution to the vote before we have heard all those who desire to speak . . ."

CASE 49

At the 281st meeting on 12 April 1948, in connexion with the Czechoslovak question, the President (Colombia) stated that, if there were no further speakers, he would declare the discussion closed.

The representative of the United States asked whether the President by his ruling "had closed the discussion on the resolution".

The President stated:¹²

"Yes, but perhaps I should not have said exactly that. I meant to enquire whether any of the members of the Security Council desired to have the resolution put to a vote."

CASE 50

At the 519th meeting on 8 November 1950, in connexion with the complaint of aggression upon the Republic of Korea, precedence to speak was granted to the United States, at whose request the meeting had been called.

The President (Yugoslavia) stated:¹³

" . . . it is the established practice in the Security Council—a practice confirmed by a series of prece-

dent— that the delegation requesting a meeting of the Council should be called upon to speak first so that he can give explanations. . . "

CASE 51

At the 525th and 526th meetings on 27 and 28 November 1950, in connexion with (a) the complaint of armed invasion of Taiwan (Formosa) and (b) the complaint of aggression upon the Republic of Korea, discussion took place as to whether the representative of the People's Republic of China should, in order to state his case before the Council, be granted precedence over other speakers.

The representative of the United States was first on the list of speakers, and the President (Yugoslavia) gave him the floor.

The representative of the USSR objected, stating that, when he had asked the President to call the meeting, he was acting at the request of the representative of the People's Republic of China, who had asked that the Security Council be convened immediately to give his delegation an opportunity of expressing its view on the question submitted by his Government. He further stated: *

"It is the agreed practice of the Security Council that when any State places an item on the Council's agenda, its representative is the first to outline his position. First, the accuser, and then the accused, should be heard."

The President cited rule 27 and stated that this rule and the rules referring to rapporteurs and points of order laid down no other principle than that representatives should be called upon in the order in which they requested the floor. The delegation of the People's Republic of China had not informed him of its wish directly. He had been in touch with the delegations in the preparation for the meeting, and had been requested by the representative of the United States to include him in the list of speakers.

The President continued:

"We must therefore choose between the request made later on Saturday, by the delegation of the People's Republic of China, to be allowed to speak first, and the provision of rule 27 which gives delegations the right to speak in the order in which their names are inscribed on the list. I leave it to the Council to take a decision. I shall not make a ruling since there are obviously arguments on both sides."

The representative of the USSR stated:

" . . . In all the history of the Security Council's work, the first speaker at any meeting of the Council has been the representative who requested the convening of the Council, the one on whose initiative the meeting had been convened.

"In this case, the meeting has been convened on the initiative of the People's Republic of China and its delegation. Thus, under rule 27, the delegation of the People's Republic of China is entitled to speak first because it was the first to signify its desire to speak and because the United States representative apparently signified a like wish later."

The representative of Egypt referred to a practice of the Security Council according to which members

⁹ For texts of relevant statements see: 160th meeting: President (Poland), p. 1387; France, p. 1388. ¹⁰ S/488, 181st meeting: pp. 1917-1918.

¹¹ For texts of relevant statements see: 193rd meeting: President (Syria), p. 2187; Australia, pp. 2172-2173.

¹² For texts of relevant statements see: 281st meeting: President (Colombia), pp. 24, 25; United States, p. 24.

¹³ 519th meeting: p. 14.

of the Council are called upon to speak before other participants.

The President put to the vote the question:

"... whether we should make an exception in this case to rule 27 of our rules of procedure, and whether we should ask the plaintiff with regard to sub-item (a) on our agenda, the representative of the People's Republic of China, to speak first."

The representative of the USSR expressed his dissent from the motion being called an exception.¹⁴ The President then reformulated the question as follows:

"... Does the Council wish the representative of the People's Republic of China to speak first?" The proposal was rejected.¹⁵

CASE 52

At the 555th meeting on 27 August 1951, in connexion with the Palestine question, the representative of Egypt* asked the President (United Kingdom) how much longer the meeting would last.

The President replied:¹⁶

"The President has no control over the wishes of the members of the Security Council. They have the right to ask for permission to speak at any time."

b. Rule 28¹⁷

c. Rule 29

CASE 53

At the 269th meeting on 18 March 1948, in connexion with the India-Pakistan question, the President (China), after consultation with the representatives of India and Pakistan, introduced a draft resolution¹⁸ in his capacity as the representative of China.

The representative of Pakistan* stated:

"... I would like some enlightenment on the following point: When the Kashmir matter was adjourned... the Security Council had before it two draft resolutions; one resolution sponsored by the representative of Canada, and the other... by the representative of Colombia. We now have this third draft resolution which has today been put forward by the representative of China.

"What exactly is the procedural position, so far as the Security Council sees it, with regard to the consideration of these draft resolutions?..."

The representative of Colombia asked for a clarification of the procedure. He understood the President's idea to be that the Council should go on to discuss his own draft resolution. Did that mean indefinite postponement or discarding of the other draft resolutions?

"I could understand the procedure if the President of the Security Council, acting on its behalf, had

conversations with the two delegations and they reached agreement as to the terms of settlement. A draft resolution containing those agreed points would naturally take precedence over the other ones. But as it happens, all we have been doing is accumulating draft resolutions presented by the President of the Security Council which... do not represent agreement between the two parties concerned."

The President, stating that there were indeed a number of draft resolutions before the Council, declared that all of them would be dealt with according to the rules of procedure. He added that he had inherited the present method from two predecessors, had consulted the Security Council on whether to continue it, and, for his part, would welcome its abandonment and a return to the usual method.

The representative of France expressed the hope that the Council, when it returned to the question, would deal with a draft resolution which was a kind of synthesis, as was the President's draft resolution, of draft resolutions previously submitted rather than with those draft resolutions themselves.

The representative of Colombia observed that the various proposals were not being dealt with according to the rules of procedure. He continued "The rules of procedure provide for the orderly discussion of the different proposals that are submitted. Then every delegation has the opportunity to say what amendments it thinks are necessary for the purpose of reaching an agreement and a satisfactory solution." He continued that it was desirable to be clear as to the procedure to be followed: whether the President's draft resolution was to be taken as the basis of discussion, and whether other draft resolutions were to be left in abeyance. He concluded:

"The primary object of the conversations of the President of the Security Council with the parties was to see if he could reach an agreement with them and come back with that news to the Security Council. What has actually happened is that, after every conversation, we get a new proposal, and thereby we have been accumulating proposals which we are not handling in the usual way."

The President stated:

"... so far as I am aware, the procedure adopted has not violated any particular rule of our rules of procedure.

"There is another minor difficulty which the representatives should keep in mind. Naturally, in this question the representatives of India and Pakistan are most directly concerned. Our rules of procedure limit their right to submit resolutions to the Security Council, since they are not members of this body. Unless a member of the Security Council sponsors their resolutions, they cannot be put to a vote. It is for this reason that I thought it might be useful for our present procedure to be continued. When I stated that I should appreciate it if the representatives of India and Pakistan would give me their ideas in writing, it was, of course, for the simple purpose of improving our work.

"I also stated that if members of the Security Council had any ideas in regard to the improvement of my draft resolution, I should welcome them. I did not mean by that statement that members should not submit their amendments to the Security Council."

¹⁴ For texts of relevant statements see: 525th meeting: President (Yugoslavia), pp. 22-23; USSR, p. 21.

¹⁵ 526th meeting: President (Yugoslavia), pp. 9, 10; Egypt, p. 7; USSR, pp. 2-4, 9-10.

¹⁶ 526th meeting: p. 10

¹⁷ 555th meeting: p. 5.

¹⁸ Reference should also be made to Case 46.

¹⁹ S/699, O.R., 3rd year, Suppl. for Jan., Feb. and March 1948, pp. 38-40.

cil in the usual way. That right always exists, and I certainly did not intend to abridge it in the least."

The representative of Canada stated that it was the belief in the possibility of an agreed settlement which had led his delegation to support the view that the procedure suggested by the President should be followed at that stage. So far as the draft resolution submitted by his delegation jointly with the delegation of Belgium was concerned, his view was that "those proposals might well be held in abeyance"; any part of their contents which would help to narrow the differences existing between the two parties would be available at the discretion of the President; and any member of the Security Council could make use of the material therein.

The representative of Colombia stated:

"As I understand it, both the proposal submitted jointly by Belgium and Canada and the Colombian proposal will be left in abeyance indefinitely."

The President stated:¹⁹

"Any member of the Security Council is free to discuss any of the proposals before the Security Council at any time."

CASE 54

At the 382nd meeting on 25 November 1948, in connexion with the India-Pakistan question, the point was raised whether the parties should be invited to the Council table before or after the presentation of a report from the United Nations Commission for India and Pakistan.

Following the extension of an invitation to the Rapporteur of the Commission, the representative of Syria proposed that the representatives of India and Pakistan be invited to the table.

The representative of Canada, supported by the representative of Colombia, stated that it would be well for the Council to hear the report of the Rapporteur of the Commission before inviting the parties to take their places at the table.

The representative of the Ukrainian SSR observed that whenever a question involving two parties had been discussed in the past, the Council had invited both parties to participate in the discussion. He saw no reason for the Council to deviate from that procedure.

The representative of China thought that while the Rapporteur of the Commission should be heard first, the representatives of India and Pakistan should be invited to the table.

The representatives of Canada and Colombia supported the suggestion of the representative of China.²⁰

Decision: *It was agreed that the representatives would be invited to the Council table, but that the Rapporteur of the Commission would be heard first.*²¹

¹⁹ For texts of relevant statements see:

269th meeting: President (China), pp. 134, 138, 140; Canada, p. 139; Colombia, pp. 133-134, 137-138, 140; France, p. 135; Pakistan*, p. 125.

²⁰ For texts of relevant statements see:

382nd meeting: Canada, pp. 3, 4; China, pp. 3-4; Colombia, pp. 3, 4; Syria, p. 3; Ukrainian SSR, p. 3.

²¹ 382nd meeting: p. 4.

d. Rule 30²²

CASE 55

At the 67th meeting on 16 September 1946, in connexion with the Ukrainian complaint against Greece, while the representative of the Ukrainian SSR was speaking the representative of the United Kingdom asked permission to raise a point of order.

Discussion ensued as to whether this was permissible under the rules of procedure.

The President (Poland) stated:

"I have asked the Assistant Secretary-General to go into the rules of procedure to see whether we have any rule as to whether a speaker can interrupt another speaker on a point of order. We have rule 30, which states that if a representative raises a point of order, the President shall immediately state his ruling."

The representative of the USSR stated:

"I consider that to interrupt any speaker is to act not only against the rules of procedure, but also against ordinary common sense . . ."

The President stated:²³

"According to the rules of procedure, as I interpret them, any representative can raise a point of order at any time, and it is a matter for his own judgment at what moment to do so.

Before the President asked the representative of the Ukrainian SSR to proceed, the representative of the United Kingdom was permitted by the President to make his point of order.²⁴

CASE 56

At the 185th meeting on 15 August 1947, in connexion with the Indonesian question (II), the President (Syria) made the following statement concerning the nature of points of order:²⁵

"A point of order is raised, as I understand it, when one of the members of the Council feels that the business of the Council is not being conducted in accordance with one of the rules of procedure. He therefore calls the President to order by citing that rule of procedure. If the procedure of the Council is in accordance with the rules of procedure, there is no point of order."

²² Prior to August 1950 the Official Records indicate that on four occasions when a Presidential ruling was challenged, the President put his ruling to the vote as a proposal to uphold the ruling (49th meeting, pp. 421-422; 57th meeting, p. 132; 224th meeting, pp. 2816-17; 459th meeting, pp. 3-4); and on three occasions the President put the ruling to the vote as a proposal to overrule (303rd meeting, pp. 26-27; 330th meeting, pp. 8-9; 443rd meeting, pp. 27-28). Beginning with the 480th meeting on 1 August 1950, all votes resulting from challenges to Presidential rulings have been entered in the Official Records as votes on proposals to overrule. (480th meeting, p. 9; 482nd meeting, pp. 19-20; 492nd meeting, p. 16; 494th meeting, pp. 8, 11.) At the 507th meeting the President put his ruling to the vote as a proposal to overrule pp. 7-8.

²³ For the consideration of the use of rule 30 of the provisional rules of procedure in determining whether a matter is procedural for the purpose of Article 27, see chapter IV, Cases 100-106.

²⁴ For texts of relevant statements see:

67th meeting: President (Poland), pp. 337, 338; USSR, pp. 337-338; United Kingdom, pp. 336, 337.

²⁵ 67th meeting: pp. 337, 338.

²⁶ 185th meeting: p. 2024.

CASE 57

At the 202nd meeting on 15 September 1947, in connexion with the Greek frontier incidents question, the representative of Yugoslavia* stated that he opposed a draft resolution submitted by the representative of the United States to the effect that the Greek question be dropped from the list of matters of which the Security Council was seized.

On a point of order, the representative of the United States observed that the representative of Yugoslavia did not have a right to engage in discussion as to the agenda of the Council, and asked the President (USSR) to rule that the representative of Yugoslavia should withdraw from that discussion at once.

The President refused to grant the request and stated:

"I cannot do this. I cannot grasp the full meaning of the statement of the representative of Yugoslavia. I ask him to continue."

The representative of the United States challenged the President's ruling. The President said that he could not accept the challenge. The representative of the United Kingdom said that the President must accept the challenge from the representative of the United States. The President replied that he did not know what the representative of Yugoslavia was saying; that, when the representative of Yugoslavia had spoken, he had not grasped the full meaning of the statement, but that when this was translated he had concluded that the statement did not touch on the substance of the question; so he did not see any convincing reasons for the warning of the representative of the United States.

The representative of the United Kingdom stated:²⁶

"Mr. President, you may be quite right in what you have just said, but there has, as I have seen, been a breach of our rules of procedure which I do not think should be allowed to pass in silence. Rule 30 states that if a representative raises a point of order the President immediately shall state a ruling. You remember the United States representative raised a point of order and you stated a ruling. If it—that is, the President's ruling—is challenged, the President shall submit his ruling to the Security Council for immediate decision, which will stand unless overruled. You refused to accept the challenge of the United States representative. You are not entitled to do that."

CASE 58

At the 213th meeting on 22 October 1947, in connexion with the Indonesian question (II), the President (United Kingdom) stated that the next meeting would be held the following Monday, 27 October.

The representative of Colombia was opposed and asked "to have a vote on the President's proposal".

The President stated that he had ruled that the Security Council should meet next Monday and that, since the representative of Colombia had challenged his ruling, he would put the question to the vote.

The representative of Australia then stated:

²⁶ For texts of relevant statements see: 202nd meeting: President (USSR), p. 2403; United Kingdom, pp. 2403-2404; United States, pp. 2402, 2403; Yugoslavia, p. 2402.

"I wish to raise a point of order. The President can rule only when a point of order has been raised. He cannot rule the date of the next meeting. I should like to know under what rule the President can rule that the next meeting shall be held on Monday."

The President then asked the representative of Australia to "suggest how the Council will fix the date for its next meeting".²⁷

Several possibilities were then discussed and finally the President invoked rule 1 and fixed the date of the following meeting.

There was no further objection.

CASE 59

At the 224th meeting on 19 December 1947, in connexion with a letter from the Chairman of the Committee of Experts reporting that it was not yet ready to report, the representative of Poland introduced a draft resolution containing instructions to the Committee of Experts.²⁸

The representatives of France and the United Kingdom stated that they would not be prepared to discuss the draft resolution at once and that it would be better to wait until the Security Council had received a report from the Committee of Experts. The representative of Belgium claimed that his proposal to adjourn discussion until the report was received was entitled to priority under the rules of procedure. The representative of the USSR denied this claim, stating:

"The Belgian representative's proposal is not a proposal on a point of order. The first part—about adjourning the discussion—indeed relates to a point of order; but the second part—adjournment of the discussion until the Committee of Experts has submitted its report—is not a proposal on a point of order but an ordinary proposal, a draft resolution. Consequently, if the Belgian representative will delete the second part, the Council will be able to give his proposal precedence and discuss it."

The representative of Poland expressed the same view—that since the Belgian motion did not specify postponement to a certain day, it was not entitled to precedence under rule 33, para. 1, sub-para. 5, but should be put to the vote after his own motion.

The President (Australia) stated that he found himself in difficulty concerning the various motions for adjournment. He then ruled that the introduction and discussion of the Polish draft resolution was out of order in relation to the item under discussion and that the Security Council should proceed to the following item. The representative of the USSR contested that view.

Decision: *The President put his ruling to the vote. The ruling was upheld.*²⁹

CASE 60

At the 303rd meeting on 24 May 1948, in connexion with the Czechoslovak question, a ruling of the Presi-

²⁷ For texts of relevant statements see: 213th meeting: President (United Kingdom), pp. 2620, 2621; Australia, pp. 2620, 2621; Colombia, p. 2620. See also Case 5.

²⁸ S/625, 224th meeting: p. 2812.

²⁹ For texts of relevant statements see: 224th meeting: President (Australia), pp. 2812, 2814, 2815, 2816; Belgium, p. 2815; France, p. 2813; Poland, pp. 2812, 2813, 2815-2816; USSR, pp. 2813, 2814, 2815, 2816; United Kingdom, pp. 2813-2814.

dent (France) as regards the interpretation of a vote to determine whether a matter was procedural or not, was challenged.

The President announced that he would put his ruling to the vote. The representative of Belgium asked the President what procedure would be followed in the vote upon the ruling.

The President quoted rule 30 and stated:

"If my interpretation of this text is correct, what I should put to the vote is the annulment of the ruling I have given.

"...

"... Nevertheless, I should point out that in certain other cases of disagreement, it was the President's ruling which was put directly to the vote."

The representative of Syria stated that he agreed "with the President's last interpretation, that is, to put his ruling to the vote, and to have it either sustained or rejected".

The President said that, in order to solve the difficulty, he would first put the following question to the vote:

"In applying rule 30 of our rules of procedure, if the ruling given by the President is to be overruled, must this be done by means of a positive vote against it and in favour of the annulment?"

The representative of Syria stated that the words of rule 30 "... the President shall submit his ruling to the Security Council for immediate decision" meant that the ruling, and not the challenge, should have the required majority in order to stand.

The representative of the USSR stated that, whenever a Presidential ruling had been challenged, the question had been put in such a way as to establish who was against the ruling and not who was for it.

The President stated:

"To enable the Security Council to give its verdict, I shall put the question to the vote in the following form: Is it agreed that I should put to the vote the proposal that my ruling should be annulled?"

The representative of the USSR stated that, in his view, this would be an added complication, and said:

"It seems to me that the matter should be conducted according to precedent. If anybody disagrees with the President's ruling, the question must be put in the following way: 'Who wishes the President's ruling to be overridden?' and not 'Who wishes the President's ruling to be maintained?'"

Finally, the President put the question to the vote in the following way:

"Will those who object to my interpretation raise their hands?"³⁰

CASE 61

At the 328th meeting on 1 July 1948, in connexion with the Indonesian question (II), the President (Ukrainian SSR) stated that, in view of the exchange of views that had taken place, he would request a certain document from the Chairman of the Committee of Good Offices. This course had been proposed

³⁰ For texts of relevant statements see: 303rd meeting: President (France), pp. 23, 24, 26; Syria, pp. 24, 25; USSR, pp. 25, 26.

in a Chinese draft resolution introduced earlier in the meeting.

The President's proposal was opposed by the representative of Belgium; consequently the President decided to put the Chinese draft resolution to the vote.

The representative of the USSR then stated:

"If the statement of the President is to be regarded as a ruling, then I think it would be more logical to vote on who is in favour of reversing the President's ruling rather than who is in favour of the Chinese proposal.

"I think that would be more logical, in so far as the President's statement constitutes a ruling. In that case, it goes without saying that, should there be seven votes against the President's ruling, the Chinese proposal would not be accepted. If, on the other hand, there should not be seven votes to reverse the President's ruling, then the President will send his request to the Committee of Three."

The representative of the United Kingdom stated that in his opinion this question did not come under rule 30.

The representative of Syria stated:

"The matter does not come under rule 30 of the rules of procedure, because rule 30 states that if a representative raises a point of order, the President should immediately state his ruling on the point of order, and that ruling may be overruled or confirmed by a vote of the members of the Council. However, this is not the case here. We have a suggestion or proposal made by one representative and it should be voted upon."

The representative of the United States stated that the Chinese proposal should be put to the vote, as it was not a question of procedure to be disposed of by a Presidential ruling.

Asked his opinion by the President, the representative of the USSR stated:³¹

"I think the President can best settle that question. I have tried to interpret his statement. If it is to be regarded as a ruling given by the President, then the procedure should of course be as I have already said: seven votes would be necessary to reject it. If it is not to be regarded as a ruling, then of course we must resort to the usual procedure and first ascertain by voting who supports the Chinese proposal."

The President put the Chinese draft resolution to the vote.

CASE 62

At the 329th meeting on 6 July 1948, in connexion with the Indonesian question (II), the representatives of Australia*, Indonesia*, China and the USSR proposed that the Security Council request from the Committee of Good Offices detailed information on the existing restrictions on the domestic and international trade of Indonesia.

The President (Ukrainian SSR) accepted the proposal. The representative of Belgium objected.

The President stated:

³¹ For texts of relevant statements see: 328th meeting: President (Ukrainian SSR), pp. 32, 34; Syria, p. 33; USSR, pp. 32-33, 34; United Kingdom, p. 33; United States, p. 33.

"The President has made a ruling accepting the request of the representative of the Indonesian Republic that a telegram should be sent to the Committee of Good Offices with a request for a detailed report on the blockade. The Belgian representative has made an objection. I must now put the President's ruling to the vote."

The representative of the United Kingdom stated:

"It seems to me that an extraordinary procedure is growing up in the Council, in accordance with which if a matter of procedure, as opposed to a matter of substance, is raised here, there is no need for a resolution to be submitted and voted upon; the President can apparently simply rule on a point of procedure. Now that, if I may be allowed to say so, is not in accordance with the rules of procedure. There is a great deal of difference between a question of procedure and a point of order. It seems to me that this question we are discussing today is not a point of order, and that the President has no right to make a ruling."

The representative of the United States agreed with the representative of the United Kingdom, but added that in his view the Security Council need not go into a procedural debate but ought rather to try and agree on the dispatch of the telegram to the Committee of Good Offices.

After further discussion, a draft resolution introduced by the representative of China, containing a text to be telegraphed to the Committee of Good Offices, was put to the vote.³²

CASE 63

At the 330th meeting on 7 July 1948, in connexion with the Palestine question, the President (Ukrainian SSR) stated at the beginning of the meeting:

"I now ask the representatives of the following States and interested parties to take their places at the Security Council table: the representatives of the States of Israel, Iraq, Egypt, and Lebanon; . . ."

Objections to the President's wording of this invitation, in so far as it referred to the State of Israel, were raised by the representatives of Belgium, Canada, China, Egypt*, France, Syria and the United Kingdom.

The representative of the United States supported the President's action.

The President stated:

"... my right as President is to make a ruling, and the Security Council will decide whether the President's ruling was correct or not. I am putting this question to the vote. Those in favour of the President's proposal will please raise their hands."

The representative of the USSR stated:

"It seems to me that the correct way to proceed would be exactly the reverse. We should vote on the question: Who is against the President's ruling? The results of the vote would decide that question. If I am not mistaken, this would be more consistent with the rules of procedure."

The ruling of the President was put to the vote in the form suggested by the representative of the USSR, and upheld.

After the voting, the following views were stated:

The representative of the United States:

"... I should merely like to reserve the position of my delegation on the question of the interpretation of our rules of procedure, to whether the question involved here was a point of order."

The representative of the United Kingdom expressed the same view.

The representative of Canada:

"... our conception of the proper procedure which should have been followed is that this matter should have been put in the form of an affirmative resolution."³³

CASE 64

At the 413th meeting on 3 March 1949, in connexion with the application of Israel for membership in the United Nations, the President (Cuba) put to the vote the question whether or not the application should be referred to the Committee on the Admission of New Members. The President declared that, as a result of the vote, the application would be dealt with by the Security Council.

The representative of China, on a point of order, invoked rule 59 as requiring the matter to be referred to the Committee on the Admission of New Members unless the Council decided otherwise—which, in his view, the Council had not done.

The representative of the United States stated that, in his view, the point of order was not well taken; that "the rule relates to what the President shall do". He added that the President had decided not to send the application to the Committee. The Council had voted on the motion to refer the matter back to the Committee and had decided not to do so.

The President ruled that Israel's application was under consideration and would continue to be discussed by the Security Council, as a sufficient number of votes had not been obtained for the motion to refer the application back to the Committee.

The representative of Egypt stated he agreed with the point of order made by the representative of China, and added that in his opinion no ruling had been made. He stated:

"What the President called 'a ruling', I consider to be an expression of opinion on his part. He is certainly entitled to this opinion, but I do not consider it a ruling. The President of the Security Council has no right to decide a question on which the Council has to vote. A vote has to be taken . . ."

The representative of the United States referred to rule 30 and stated:

"There is a ruling by the President, no matter what the representative of Egypt says about it; it cannot be changed simply by saying that it is not

³² For texts of relevant statements see: 329th meeting: President (Ukrainian SSR), pp. 18-19, 20; Australia, pp. 16-17; Belgium, pp. 19, 20; China, p. 17; Indonesia, pp. 11, 15; United Kingdom, pp. 20-21; USSR, pp. 20, 21-22; United States, p. 21.

³³ For texts of relevant statements see: 330th meeting: President (Ukrainian SSR), pp. 2, 3, 8, 9; Belgium, p. 3; Canada, pp. 6-7, 9; China, p. 4; France, pp. 2-3; Egypt, pp. 5-6, 8; Syria, pp. 3, 3-4; United Kingdom, pp. 2, 9; USSR, pp. 8, 9; United States, pp. 7, 9.

a ruling, but only an opinion. It was a ruling on a point of order. Rule 30 states that, if a representative wishes to challenge such a ruling, he has the right to do so . . .

"I have not heard anybody challenge the ruling as yet; I have only heard complaints about it."

The President declared that he did not consider that the Security Council was dealing with a new application.

The representative of Egypt stated:

"I do not think anybody can reasonably say that the President of the Council can make any ruling at any moment on any matter. There are certain matters which can be the subject of a ruling from the President, and others which cannot. Therefore, we cannot just take rule 30 as something absolute and isolated from anything else, including the other rules of procedure which we have before us."

The representative of the USSR stated:

"The application has already been considered by the Committee; the Council has received the Committee's report and is now continuing the discussion on the substance of the question of Israel's admission to membership in the United Nations; yet, despite all this, a new proposal has been put forward, namely, that the question should again be referred to the Committee on the Admission of New Members. That proposal was put to the vote; it failed to obtain a majority and was consequently rejected. The Security Council is therefore continuing to examine the substance of the Israeli Government's application for admission to the United Nations."

The President stated that he considered the point of order had been settled, and if no one challenged his ruling, the discussion on that subject was closed.³⁴

There was no further objection.

CASE 65

At the 480th meeting on 1 August 1950, in connexion with the question of the representation of China in the Security Council, the President (USSR) ruled, at the beginning of the meeting, that:

"... the representative of the Kuomintang group seated in the Security Council does not represent China and cannot therefore take part in the meetings of the Security Council."

The representative of the United States challenged the authority of any President "to rule by arbitrary fiat upon the status of the representative of a country that is a Member of the United Nations . . ."

The representative of the United Kingdom, citing rule 17, also challenged the ruling. The Security Council had not taken a decision that the credentials of the representative of China were not in order; consequently, it seemed to him essential to challenge the ruling.

The President declared that rule 17 could not limit in any degree the rights of the President in this instance.

"... Under the rules of procedure, the President has the right to rule on any question, and unless the

Security Council decides otherwise, that ruling remains in force . . ."

The representative of Egypt stated:

"The Egyptian delegation has always maintained that a question of the nature and importance of the one which the President raised at the beginning of this meeting cannot be disposed of by a mere ruling of the President, of any President of the Security Council . . ."

The representatives of Cuba and Ecuador made statements to the same effect. The representative of India indicated that he would "vote on the merits of the ruling apart from any considerations of procedure."³⁵

Decision: *The President's decision was put to the vote and overruled.*³⁶

CASE 66

At the 484th meeting on 8 August 1950, in connexion with the complaint of aggression upon the Republic of Korea, the representative of China raised the following point of order:

"Does the President consider it obligatory upon him to carry out the decision of the Security Council of 25 June (473rd meeting) by inviting the representative of the Republic of Korea to take his place at the Council table . . . That decision was not limited to any one meeting. It applied to all meetings at which the question of Korea was to be considered."

Citing rule 30, he requested the President to render a ruling immediately in regard to his point of order.³⁷

The President (USSR) stated that at the 483rd meeting the question of inviting both parties had been raised and a proposal to that effect had been introduced and discussed. The Security Council would undoubtedly continue the discussion of this question and it would be premature for the President to announce any conclusion.

The representative of China insisted that the President give his ruling and again invoked rule 30.

The President stated that the question raised at the previous meeting was that of inviting both parties concerned in the internal conflict in Korea in order to give them both a hearing at the Security Council table. In discussing that question some delegations maintained that the representative of South Korea should be invited on the basis of previous decisions by the Council; other delegations, in particular the delegation of the USSR, thought that both parties should be invited. He added:

"But the President could not invite, either at the last meeting or at the present meeting, a representative against whom a delegation had raised an objection. Consequently the President finds himself in a position in which he cannot announce his final conclusions on the question until the discussion of this question, started at the previous meeting, is concluded . . . The President's conclusion regarding

³⁵ For texts of relevant statements see:

480th meeting: President (USSR), pp. 1, 4; Cuba, p. 6; Ecuador, p. 7; Egypt, p. 6; India, p. 5; United Kingdom, p. 2; United States, pp. 1-2.

³⁶ 480th meeting: p. 9.

³⁷ For the invitation to the Republic of Korea, see chapter III, Case 53.

³⁴ For texts of relevant statements see:

413th meeting: President (Cuba), pp. 15, 17, 19, 21; China, p. 16; Egypt, pp. 17, 20; USSR, p. 21; United States, pp. 16-17, 18-19.

the point of order which has been submitted is, therefore, that the question should be discussed in order that a definite decision may be reached as a result of that discussion... The President is not making a final ruling but is merely summing up the position which has arisen..."

The representative of the United States challenged the ruling of the President and expressed his support of the point of order made by the representative of China.

The representative of China stated:

"Although technically the President has avoided making a ruling, he has actually made the ruling because he is proceeding to conduct the business of the Security Council without inviting the representative of Korea to this table. That conduct is in itself a ruling. In fact it is a ruling in execution, not only a ruling on paper. In refusing to reverse his procedure and to give my question an answer, the President has violated rule 30. I demand an immediate ruling in accordance with rule 30."

The President stated that he would speak on the point of order in his capacity of representative of the USSR.

The representative of China objected and stated that after a point of order was raised:

"... the President must render his ruling without giving the floor to any other representative."

Speaking as the representative of the USSR, the President stated that, in his view:

"... before taking a decision on the Korean question, the Security Council should hear representatives of the Korean people, i.e., representatives of both parties, of the North Koreans and of the South Koreans..."

The representative of China insisted on his request for a ruling, and restated his point of order:

"My point is: does the President feel that he should invite the representative of Korea to the Security Council table or not?"

The President stated:

"In the circumstances which have arisen, the President cannot give a ruling on this question."

Speaking as the representative of the USSR, he added that his delegation did not regard the decision adopted on 25 June—which in his view was not actually a decision but merely permission granted to the representative of South Korea to attend the Security Council meeting—as valid for the present meeting, since there was no special decision on this question.

The representative of the United Kingdom stated that:

"... a large majority of the members of the Security Council wish the representative of the Republic of Korea to take his place at this table without further delay unless the President ruled to the contrary and his ruling was sustained..."

He added:³⁸

"It is true, I think, that we cannot actually force our President to admit that he has made a ruling which, he says, he has not made, or to make a ruling which he declines to make..."

At the beginning of the 485th meeting the representative of China took up his point of order.

The representative of the United States supported the representative of China and requested the President "to rule upon the point of order..."

The President stated:

"As I mentioned in the short summary I made at the beginning of the meeting, the result of the unofficial exchange of views that has taken place between the members of the Security Council on questions arising at the previous meeting has been that the opinions of the parties have remained unchanged, and accordingly we have recognized that such unofficial exchanges of opinions would be advisable in the future. It is therefore hardly advisable to return to this question, for it is perfectly obvious to all members of the Security Council that, in the circumstances that have arisen, the President cannot possibly make the ruling upon which the representative of the United States and the representative of the Kuomintang group have been insisting so vehemently for the last two meetings."

The representatives of the United States and of the United Kingdom questioned the accuracy of the observations of the President.

To the reiterated request for a ruling, the President replied:

"The following situation has arisen. The representative of the United States has challenged a non-existent ruling. The President has made no ruling, and has announced very clearly and plainly that, in view of the situation which has arisen, he is unable to make a ruling. Therefore, as there is no ruling, the challenge cannot stand. Only a ruling can be challenged. In this case there was no ruling. The challenge therefore lacks an object."

The representative of Cuba observed:

"The ruling which the President has actually made is that he will not comply with the rules of procedure or take any account of the decision reached by the Council on 25 June. He says that he has taken no such decision, but it seems that in fact he has..."

"The delegation of Cuba therefore wishes to protest most strenuously... and insists... that the question before the Council should be solved in accordance with rule 30..."

The President declared that he had given no ruling, was not giving one and was not in a position to give one.³⁹

At the 486th meeting on 11 August 1950, the President stated that the Security Council had before it two proposals: one submitted by the USSR delegation to invite representatives of North and South Korea and another proposal "that the permission granted the authorities of South Korea on 25 June (473rd meeting) to attend the meeting of the Security Council should extend also to the present meeting".

Speaking as the representative of the USSR, he requested that these proposals be put to the vote and that the Security Council then proceed to consider the substance of the matter.

³⁸ For texts of relevant statements see: 484th meeting: President (USSR), pp. 5, 6, 7, 8, 9, 14; China, pp. 5, 8, 14; United Kingdom, pp. 15, 16; United States, p. 7.

³⁹ For texts of relevant statements see: 485th meeting: President (USSR), pp. 11, 12, 14, 15; China, pp. 1-3; Cuba, pp. 13-14; United Kingdom, p. 12; United States, pp. 3, 11, 14.

The representative of the United Kingdom stated he did not agree with this procedure and preferred the one favoured by the great majority of the members of the Security Council.

The President stated that the Council should now proceed to a vote unless the majority did not wish to.

The representative of the United States challenged the President's ruling.

The President stated:

"I should like to ask the United States representative to state precisely which ruling by the President he is challenging. The point is that there is no ruling by the President. There is only the USSR delegation's request that a vote should be taken on its proposal. The President, being responsible for the conduct of the meeting and having regard to the insistent requests of the USSR delegation, put the following question to the Council: Does the Council wish to take a vote on this proposal or does it not? As he has not given a ruling, he is leaving it to the Council to decide this question. Where is the ruling which is being challenged?"

The representative of the United States stated that the ruling of the President had been the following:

"Unless the speakers wish to speak first, I will put to a vote the proposal of the Soviet Union."

That, he said, was a ruling and one to which he objected, since it had the effect of setting aside the regular order, that is, the prior point of order raised by the representative of China at the 483rd meeting. He insisted that his challenge be put to the vote.

The President stated:⁴⁰

"The challenge cannot be accepted and put to the vote, as there has been no ruling. Only a ruling can be challenged, that is, provided one has been made."

At the 487th meeting on 14 August 1950 the representative of Ecuador protested that the rules of procedure had been repeatedly violated by the President. The representative of Norway stated:⁴¹

"By his unexplained refusal to discharge his duty under rule 30 of our rules of procedure, the President is preventing the Council from proceeding to an orderly discussion of the substantive matters before it..."

At the 488th meeting on 17 August 1950, the representative of China stated:⁴²

"... In spite of the President's arbitrary refusal to give a ruling, I wish to state that my point of order remains the first question before the Security Council..."

CASE 67

At the 525th meeting on 27 November 1950, in connexion with (a) the complaint of armed invasion of Taiwan (Formosa) and (b) the complaint of aggression upon the Republic of Korea, the representative of the USSR expressed the wish to make a point of order immediately after the representative of the United States had begun to speak.

⁴⁰ For texts of relevant statements see:

486th meeting: President (USSR), pp. 3, 4; United Kingdom, p. 2; United States, pp. 3, 4.

⁴¹ For texts of relevant statements see:

487th meeting: Ecuador, p. 1; France, p. 10; Norway, pp. 6, 7, 8.

⁴² 488th meeting: p. 9.

The President (Yugoslavia) then stated:

"Yes, but with the speaker's permission. During this month I have adhered to the practice which has been followed by many Presidents, which is not to call on a speaker on a point of order while a statement is being made. We are a political organ, and I think that every speaker must be given an opportunity to state his views without being interrupted. I have refused to call on many representatives who wished to make a point of order during a speech..."

The representative of the USSR stated:

"There is no such rule in the rules of procedure. It is for the President to decide whether he can let me speak on a point of order or not, and I do not want to have to depend for this on any speaker..."

The representative of the United States yielded the floor to the representative of the USSR, and stated:

"... I yield to the representative of the Soviet Union on his point of order."

The representative of the USSR stated that he would not refer to the substance of the matter, but only to procedural questions.⁴³

e. Rule 31⁴⁴

CASE 68

At the 328th meeting on 1 July 1948, in connexion with the Indonesian question (II), several proposals were introduced in oral form. The President (Ukrainian SSR) made the following statement:⁴⁵

"May I first point out that all proposals made under rule 35 [*sic: rule 31*] of the rules of procedure must be submitted in writing? Unfortunately not one of the speakers did submit his proposals in this way. As President, I can make allowances in this case because the President's duty is to sum up the debate and find a solution for this situation."

CASE 69

At the 329th meeting on 6 July 1948, in connexion with the Indonesian question (II), the representative of France observed that various proposals concerning a telegram to be sent to the Committee of Good Offices had been made orally.

The President (Ukrainian SSR) stated:

"In accordance with rule 31 of the rules of procedure, I must state I shall not put to the vote any oral proposals, as it is stipulated that proposals should be submitted in writing."

The representative of the USSR then introduced what he termed a "suggestion" that the Committee of Good Offices transmit information within five days if possible.

The representative of China formally moved that the Committee be asked for an "early report".

The President announced he would put the two draft resolutions to the vote in the order of submission, that is, first, the USSR draft resolution and second, the Chinese draft resolution.

⁴³ For texts of relevant statements see:

525th meeting: President (Yugoslavia), p. 20; USSR, pp. 20, 21; United States, p. 21.

⁴⁴ See also Case 44.

⁴⁵ 328th meeting: p. 25.

The representative of Canada stated:

"A few minutes ago, the President made a rule, which I think was very wise, that he would not entertain any further resolutions unless they were in writing. The only resolution in writing before the Security Council at the present moment is the resolution presented by the representative of China. Under the rules of procedure, I think, and I ask, that that resolution should now be put to the vote."

The representative of the USSR stated that he had no objection to the Chinese draft resolution being put to the vote first.

The President stated:⁴⁶

"I must point out to the representative of Canada that, according to the rules of procedure, resolutions are put to the vote in the order of their submission. The USSR representative's resolution was read out because it was the first to be submitted. Now the representative of the USSR has no objection if the Chinese representative's proposal is taken first, and I am putting it to the vote."

The Chinese resolution was voted upon.

CASE 70

At the 338th meeting on 15 July 1948, in connexion with the Palestine question, the representative of China withdrew a suggestion which he had submitted orally.

The President (Ukrainian SSR) stated:⁴⁷

"... In the future, in order to save time, may I ask that all amendments be submitted in writing; otherwise I shall not put them to the vote, as when they are first made orally and are then withdrawn or changed, our work is merely delayed."

f. Rule 32⁴⁸

CASE 71⁴⁹

At the 16th meeting on 11 February 1946, in connexion with the Indonesian question (I), a draft resolution was introduced by the representative of the Ukrainian SSR to set up a commission to carry out an enquiry on the spot, establish the facts and report to the Security Council.

At the 17th meeting on 12 February 1946, the representative of Egypt introduced another proposal as an amendment.

At the 18th meeting on 13 February 1946, the President (Australia) stated that he did not regard the proposal made by the representative of Egypt as an amendment to the draft resolution submitted by the representative of the Ukrainian SSR, since they seemed to be strictly independent in character.

⁴⁶ For texts of relevant statements see: 329th meeting: President (Ukrainian SSR), pp. 27, 29, 30; Canada, p. 29; China, p. 28; USSR, pp. 28, 29.

⁴⁷ For texts of relevant statements see: 338th meeting: President (Ukrainian SSR), p. 42; China, pp. 41, 42.

⁴⁸ Reference should also be made to Cases 44, 45, 69. For a listing of occasions on which draft resolutions have been voted upon in parts, see Introductory Note to part VI.

⁴⁹ This Case arose before the adoption of rule 32.

He added:⁵⁰

"... There are as yet no rules of procedure governing a case where the Council has two independent proposals before it. However, having carefully considered both proposals, I think that we should put to the vote the proposals of the representative of the Ukraine..."

In the absence of any objection, the President then put the Ukrainian draft resolution to the vote.

CASE 72

At the 132nd meeting on 30 April 1947, in connexion with the application of Hungary for membership in the United Nations, the representative of Australia moved that the Council note the application and defer its consideration to "the appropriate time".

The representatives of Syria and the USSR objected to the Australian motion and suggested that the application should be referred to the Committee on the Admission of New Members.

The President (China) suggested that the representatives of Syria and the USSR submit their objections as amendments to the Australian proposal.

The representative of Poland formally moved that "... the application of Hungary be referred to the Committee on the Admission of New Members..."

At this point the agenda was adopted.

The President put the Australian proposal to the vote, whereupon the representative of Colombia raised the point of order that, in his opinion and according to rule 33, the motion submitted by the representative of Poland should have precedence.

The President stated:⁵¹

"The Chair rules that the Australian resolution has priority because it was submitted even before the meeting began. I shall ask the Council to vote on it first."

No further objection was raised.

CASE 73

At the 174th meeting on 4 August 1947, in connexion with the Greek frontier incidents question, a draft resolution introduced by the representative of the USSR was put to the vote paragraph by paragraph at his request. Before the voting was started, discussion took place as to whether the draft resolution should later be voted upon as a whole.

The representative of France referred to the precedent of the 170th meeting when such a procedure was followed.⁵²

The President (Syria) also referred to this precedent, but pointed out that, if all the paragraphs of the USSR draft resolution were adopted, it would not be necessary to vote later upon it as a whole.

The representative of Australia expressed opposition to the proposed procedure, and asked the President whether it was his decision that a vote on the draft resolution as a whole should be taken later.

⁵⁰ For texts of relevant statements see: 16th meeting: Ukrainian SSR, p. 223. 17th meeting: Egypt, p. 251; United States, p. 251. 18th meeting: President (Australia), p. 257.

⁵¹ For texts of relevant statements see: 132nd meeting: President (China), pp. 818, 821; Australia, pp. 814, 819, 821; Colombia, pp. 820-821; Poland, p. 819; Syria, p. 818; USSR, p. 818.

⁵² See 170th meeting: p. 1612.

The President stated that he was making no ruling on the point but left it to the Security Council to decide.

The representative of the United Kingdom stated:

"I hope we shall not depart from the general custom which has been followed in the past in cases where we vote on a resolution paragraph by paragraph. Almost always we have voted on the resolution as a whole at the end. There are good reasons for this. There may be certain paragraphs of the resolution of which I entirely approve, but which I do not accept in the context in which they stand. If we voted paragraph by paragraph, I should be free to indicate my approval of certain paragraphs, and I should have an opportunity at the end to condemn the whole resolution.

"Similarly, one may vote against a particular paragraph because one sees some objection to it, and yet, because of the context and because of the importance of getting the whole resolution, one may vote for the whole resolution.

"I think it is essential that we should vote on the whole resolution. I am sure that that has been the general practice here, although there may be exceptions."

The representative of the USSR suggested that, after the vote paragraph by paragraph had been taken, the vote on the whole should be taken on what was left of the draft resolution after deletion of the paragraphs rejected.

The representative of Australia stated that he agreed to proceed in the manner suggested in this particular case, but he would not like to see this procedure established as an immutable practice.⁵³

The President announced that the draft resolution would be voted upon paragraph by paragraph and then as a whole.⁵⁴

There was no objection.

CASE 74

At the 194th meeting on 25 August 1947, in connexion with the Indonesian question (II), the representative of Belgium requested that his draft resolution⁵⁵ to ask the International Court of Justice for an advisory opinion on the jurisdiction of the Security Council on this matter, be voted upon before other draft resolutions submitted earlier which dealt with the substance of the question. He stated:

"... The question of jurisdiction is a preliminary question, a question which takes priority over all others... So long as this motion has not been discussed and put to the vote the Council cannot usefully pursue its consideration of certain motions pending before it. Those motions assume in advance that the question of jurisdiction has been decided in the affirmative. It would, therefore, be neither logical nor normal to put them to the vote before the Belgian motion suggesting that the Court should be consulted on this point had been discussed and decided upon..."

⁵³ For texts of relevant statements see:

174th meeting: President (Syria), pp. 1723, 1724; Australia, pp. 1723, 1725; France, pp. 1723, 1725; USSR, pp. 1723, 1725; United Kingdom, p. 1724.

⁵⁴ 174th meeting: pp. 1724, 1726.

⁵⁵ S/517, 194th meeting: p. 2193.

The President (Syria) stated:

"The Belgian representative has raised a point of order in connexion with the order of priority which the Chair has given to the resolutions presented. I must justify the way in which I have acted by quoting rule 32 of the rules of procedure..."

"The draft resolution submitted by the representative of Belgium was presented after the other resolutions which are now before the Council and I wish to act according to the rules of procedure.

"Rule 33 of the rules of procedure states which motions shall have precedence over all others and divides them into six categories. The Belgian resolution does not fall within any of these categories..."

"At the same time, I believe that the viewpoint put forward by the Belgian representative in regard to the priority of a motion of non-competence is adopted in practice by courts of justice or by any organs of justice though not by the Security Council. A motion of this type should have priority because, if it is agreed that the organ has no competence or jurisdiction in the case, then there is no use in continuing the discussion or in making proposals which would be out of order and cancelled afterwards.

"As our rules of procedure do not mention that category, I had intended to adhere to them, but if the Council now agrees that I should give priority to the Belgian proposal and dispose of it before dealing with the other proposals, I shall accept that suggestion because the principle underlying is not strange to us."

The representative of the USSR stated:

"I consider that the Belgian resolution should be taken in the general order of voting and that we should be guided in this matter only by the rules of procedure..."

The representative of Belgium cited rule 32 and stated:⁵⁶

"As the motion which I have presented concerns the jurisdiction of the Security Council it should be considered as a principal motion, and I think that on that account it takes priority over the other draft resolutions."

Decision: *The President then put to the vote the motion to vote first on the Belgian draft resolution. The motion was not adopted.*

CASE 75

At the 206th meeting on 1 October 1947, in connexion with the question of admission of new Members to the United Nations, the representative of Belgium introduced a proposal that the Security Council resolve "to hold a separate and final vote on each application for membership".

At a previous meeting, the representative of Poland had introduced a draft resolution to recommend the admission of all five applicants.⁵⁷

The representative of Poland stated that he could not see any possibility of dividing into five different

⁵⁶ For texts of relevant statements see:

194th meeting: President (Syria), pp. 2194-2195; 2195-2196; Belgium, pp. 2193-2194, 2195; USSR, p. 2195.

⁵⁷ See 204th meeting: p. 2412.

parts his draft resolution which he had submitted as a whole. He also opposed the procedure, suggested by the representative of the United Kingdom at the 205th meeting, that a vote should be taken to decide whether or not the Security Council should vote on the Polish draft resolution. He further proposed that, in order to meet the difficulties encountered by some representatives in deciding their votes, a vote should be taken first on the Polish draft resolution; and if this were defeated, then the Council should vote on each application separately.

The President (United Kingdom) stated that, by its very terms, the Belgian draft resolution had to be put to the vote first.

The representative of France referred to a previous decision of the Council that the applications should be discussed and voted upon separately, but stated that it was indifferent to him whether the Polish draft resolution was put to the vote before or after the separate votes had taken place.

The representative of Poland stated that since the Polish draft resolution would be put to the vote in any case, he felt that, if the separate votes on each application were taken first, it would be very difficult, after certain applications had been rejected or accepted, to proceed to a vote on the draft resolution as a whole.

The representative of Syria stated:

"I do not agree with the representative of Poland on the procedure which he suggested. I know there is a general principle according to which, when the whole is rejected, its component parts are rejected with it. If we took it that, by associating the applications of the States concerned, there was a unity of destiny or a unity of principle between the applicants, we could consider and vote on their applications *en bloc*. But there is no relation between them. If a vote is taken on their applications, and if these are rejected by the Security Council, we shall not fail to hear objections to the effect that parts of this draft resolution have been rejected and that we have no right to vote on them again. I do not want the Security Council to be exposed to such objections."

The representative of the USSR stated that in his opinion, no matter in which order the draft resolutions were voted upon, the practical result would be the same, but he thought it would be more logical to vote first on the Polish draft resolution, for the reason that this was of a more general nature than the Belgian draft resolution. He would, however, oppose voting upon the Belgian draft resolution before the Polish one, if this were intended to preclude a vote on the latter at any stage.

The representative of Poland stated:

"Rule 32 of the provisional rules of procedure of the Security Council provides that a draft resolution shall be divided into parts and those parts shall be voted on separately only when the original mover agrees thereto . . ."

He then insisted that the Polish draft resolution, which had been submitted first, should be voted upon in the first place, and "*in toto*, not in parts".

The President (United Kingdom) stated:

"The Polish representative has suggested, in fact, he has demanded, that his draft resolution should be voted on before we proceed to the separate votes

on the various applications. I personally should not mind doing that, provided it is quite understood that the rejection of the Polish draft resolution, if that occurred, would not debar us subsequently from electing one or more of the applicants . . ."

The representative of Brazil stated:

" . . . It is customary for the Council to vote separately on the different paragraphs of a draft resolution and then to take a final vote on the resolution as a whole; that is in accordance with rule 32 of our provisional rules of procedure. That holds true, however, only in the case of a draft resolution which has a certain unity of character, a resolution of which the different paragraphs are parts of a homogeneous whole.

"The Polish draft resolution, however, is not in that category. The Polish draft resolution is not homogeneous; on the contrary, it is a plurality of resolutions. That is why most of the members of the Council find it impossible to take a single vote on that draft resolution."

The representative of Poland stated that he could not agree that a vote be taken on the Belgian draft resolution, which he considered a violation of rule 32 in that, under that rule, any original mover had the right to object to having his draft resolution voted on in separate parts. He was, however, prepared to submit to the President's ruling as to the vote on the separate applications first. He reserved his right as to a proposal on the action to be taken with regard to the Polish draft resolution.

The representative of Belgium stated his disagreement with the representative of Poland's interpretation of rule 32. After quoting the rule, he stated:

" . . . This means that any proposal may be split up, which does not require a decision by the Council unless the original mover objects. But the Council is perfectly free to decide to split up the proposal."

The representative of Poland stated his opposition to the views expressed by the representative of Belgium, and said that he believed that rule 32 stated very clearly that no draft resolution might be voted upon in parts, unless the original mover agreed.

The representative of France stated:⁵⁸

"We have two working languages; they are complementary and one serves to clarify the other. The French text of rule 32 is perfectly clear and, in my opinion, allows of no other interpretation than that given by the Belgian representative. The French text says: *La division est de droit, si elle est demandée, à moins que l'auteur de la proposition . . . ne s'y oppose*. That means that, if the mover of a proposal objects, division does not follow. It does not mean that the Council cannot decide to effect it.

"There is one guarantee for the mover of the proposal; he can always withdraw it if he prefers to do so rather than see it divided. But if he maintains his proposal, the Council can always decide to vote on its parts separately. I reserve the right to come back to this point if necessary later on."

⁵⁸ For texts of relevant statements see:

206th meeting: President (United Kingdom), pp. 2466, 2470, 2473; Belgium, p. 2472; Brazil, pp. 2470-2471; France, pp. 2466, 2473; Poland, pp. 2465, 2466, 2468-2469, 2471, 2472; Syria, p. 2467; USSR, pp. 2467-2468.

The President (United Kingdom) ruled that the Belgian draft resolution be voted upon forthwith. The ruling was not challenged.⁵⁹

CASE 76

At the 286th meeting on 21 April 1948, in connexion with the India-Pakistan question, after a draft resolution had been voted upon paragraph by paragraph, the President (Colombia) stated that a vote would be taken on the draft resolution as a whole.

The representatives of France and Argentina objected to this procedure.

The President stated:⁶⁰

"I find that there is no rule which would require the Security Council to take a vote on this draft resolution as a whole unless some representative calls for it. Therefore, we shall proceed as suggested by the representatives of France and Argentina."

CASE 77

At the 381st meeting on 16 November 1948, in connexion with the Palestine question, a draft resolution⁶¹ was introduced jointly by the representatives of Canada, Belgium and France. The President (Argentina) stated that he considered that the suggestions of the Acting Mediator⁶² had been submitted by the representative of the USSR as his own draft resolution⁶³ at an earlier date.

The representative of Canada objected that only after the joint draft resolution had been introduced had the representative of the USSR sponsored the Acting Mediator's suggestions.

The President stated that the representative of the USSR had in fact adopted the Acting Mediator's suggestions as his own during previous private meetings. He added:⁶⁴

"... I cannot, therefore, in all fairness admit that the proposal of the USSR was not made before the proposal of the representatives of Belgium, Canada and France, because I myself presided at both the private and the public meetings."

The representative of Canada accepted the President's ruling.⁶⁵

The USSR draft resolution was put to the vote first.

CASE 78

At the 407th meeting on 7 February 1948, in connexion with the question of the general regulation and reduction of armaments, the representative of the USSR introduced a draft resolution containing instructions to be given the Commission for Conventional Armaments and the Atomic Energy Commission.⁶⁶

At the 408th meeting on 10 February 1948, the representative of the United States introduced a draft resolution to transmit resolution 192 (III) of the

General Assembly to the Commission for Conventional Armaments "for action according to its terms".⁶⁷

The President (China) then stated that he would put the USSR draft resolution to the vote.

The representative of the USSR stated that, as it appeared that the members of the Security Council did not wish to discuss the USSR draft resolution, he wished to introduce a procedural draft resolution to transmit the USSR draft resolution together with General Assembly resolution 192 (III) to the Commission for Conventional Armaments and to the Atomic Energy Commission.

The President asked:

"In view of this draft resolution with regard to procedure which has just been submitted by the representative of the USSR, do the members wish to proceed to a vote or do they wish to have further time for consideration?"

The representative of the United Kingdom objected; and then the President stated:

"My understanding is the following: the representative of the USSR is asking us to transmit his draft resolution to the Commission for Conventional Armaments and to the Atomic Energy Commission without voting on that resolution here. His resolution, therefore, becomes a procedural resolution. I ask therefore whether the Council wishes to vote on this procedural resolution or whether it wishes more time to consider it."

The representative of the USSR stated that both the United States draft resolution and the new USSR draft resolution were of a procedural nature. Since the latter referred to the previous USSR draft resolution, which had been introduced before the United States draft resolution, it should be voted upon first.

The President stated:⁶⁸

"The proposal made by the representative of the USSR for the transmission of his draft resolution is identical in nature with the draft resolution presented by the United States delegation. When the Security Council has before it two proposals of the same category, that which was submitted first shall be voted upon first. That is my ruling and if the representative of the USSR wishes to challenge it, I shall be glad to put it to the vote."

The representative of the USSR did not challenge the ruling of the President.⁶⁹ The United States draft resolution was voted upon first.

CASE 79

At the 492nd meeting on 29 August 1950, in connexion with the complaint of armed invasion of Taiwan (Formosa), the President (USSR), in his capacity as representative of the USSR, submitted a draft resolution to invite the Central People's Government of the People's Republic of China to send representatives to attend the meetings of the Security Council at which this question was to be discussed, and proposed that, by way of exception, this draft resolution be dealt with and voted upon immediately, before

⁵⁹ S/1248, 408th meeting: p. 2.

⁶⁰ For texts of relevant statements see:

408th meeting: President (China), pp. 3, 16, 17, 19; Canada, pp. 2, 3; USSR, pp. 16-17, 18; United Kingdom, pp. 17-18.

⁶¹ 408th meeting: p. 19.

⁵⁹ 206th meeting: pp. 2473, 2475.

⁶⁰ 286th meeting: President (Colombia), p. 40.

⁶¹ S/1079, 380th meeting: pp. 4-5.

⁶² S/1076, 378th meeting: pp. 62-63.

⁶³ S/1077, 379th meeting: p. 64.

⁶⁴ For texts of relevant statements see:

381st meeting: President (Argentina), pp. 48, 50-51; Canada, p. 49.

⁶⁵ 381st meeting: p. 51.

⁶⁶ S/1246/Rev.1, 407th meeting: pp. 2-4.

proceeding with the normal course of discussion on the agenda items. He stated that in submitting this draft resolution, the USSR delegation made the express reservation that it was doing so as an exception, with no intention of violating the rules of procedure.

The representative of the United States opposed the proposal to give precedence to the draft resolution as out of order.

The President stated:⁷⁰

"Since there has been a challenge of the President's ruling that the USSR proposal, submitted as an exception, should be put to the vote, the President must submit his ruling to the judgment of the Security Council."

Decision: *The ruling was upheld.*⁷¹

CASE 80

At the 497th meeting on 7 September 1950, in connexion with the complaint of bombing by air forces of the territory of China, the representative of the USSR requested a decision on his draft resolution to invite a representative of the People's Republic of China, before consideration was given to two other draft resolutions dealing with the substance of the matter, although these had been introduced at earlier dates.

The President (United Kingdom) enumerated the various draft resolutions that had been introduced, cited rule 32, paragraph 1, and stated:

"... A strict interpretation of that rule would suggest that we should take these draft resolutions in the order in which they were submitted, and that therefore we should proceed to an investigation of the substance of the matter before discussing whether we should or should not invite a representative of the Chinese People's Republic. It seems to me that it is for the Council to decide on that point as a previous question..."

The President then consulted the Security Council about the matter.

The representative of the United States said that his Government would have no objection to a change in the order of the consideration of the draft resolutions, if that was the will of the Council.

The representative of the USSR stated:

"It would be a highly unusual procedure for us first to discuss the substance of the question, first to adopt or reject the two preceding substantive draft resolutions, and then to proceed to consider the third draft resolution inviting a representative of the People's Republic of China to the Security Council at a stage when the questions of substance had already been discussed. I think it would be preferable to adhere to the customary procedure in such cases by first considering and reaching a decision on the question of an invitation, and then proceeding to consider the substance of the question."

The President stated his agreement with the views of the representative of the USSR and put the question to the vote.

⁷⁰ For texts of relevant statements see: 492nd meeting: President (USSR), pp. 15-16; China, p. 16; United States, p. 15.
⁷¹ 492nd meeting: p. 16.

Before the vote was taken, the representative of the USSR observed that in his view there was no need to put this procedural question to the vote if there were no objections.⁷²

The vote was taken and it was decided to deal first with the USSR draft resolution to invite a representative of the People's Republic of China.⁷³

CASE 81

At the 501st meeting on 12 September 1951, in connexion with the complaint of bombing by air forces of the territory of China, two draft resolutions were under consideration: (a) a USSR draft resolution⁷⁴ introduced on 31 August "Condemning the ... illegal acts of the Government of the United States of America, and placing on the Government of the United States full responsibility for the above-mentioned acts..."; and (b) a United States draft resolution⁷⁵ to establish a commission to investigate the incident on the spot.

The President (United Kingdom) stated:

"It was suggested by the representative of the United States ... that the best and most logical way of handling this problem would be first to take the United States draft resolution ... which suggests that the Council should establish a commission to investigate the incident on the spot. That, of course, would be a departure from our rules of procedure, but of course it could be done if the Security Council so desires. The rules of procedure are not immutable and if the majority of the Council desired the United States draft resolution to be taken up first, that can be done, provided that the Security Council indicates by vote that is its wish."

The representative of the USSR stated that he had insisted, "in accordance with the rules of procedure, to put the draft resolutions to the vote in the order in which they were submitted, that is to say, to vote first on the USSR draft resolution and then on the United States draft resolution, independently of their provisions".

The representative of Egypt stated:

"... I should like to express the hope that our Soviet Union colleague will not insist on a mechanical interpretation by the Council of the apparently mandatory terms of rule 32 of our rules of procedure. The Security Council always is master of its own procedure, and it can, in logic, if it so deems fit and proper, take in one order or the other the draft resolutions which are submitted to it."

The representative of France referred to the two draft resolutions under consideration, and stated:

"Nobody, I believe, is questioning the meaning of rule 32. This rule provides, in perfectly clear terms, that draft resolutions shall have precedence in the order of their submission. Nor would anyone, I am sure, think of questioning the Council's right to waive a rule which it has itself established. A rule must be followed unless the Council decides otherwise."

⁷² For texts of relevant statements see: 497th meeting: President (United Kingdom), pp. 27, 28, 29; USSR, pp. 28, 29; United States, p. 28.
⁷³ 497th meeting: p. 29.
⁷⁴ S/1745/Rev.1, 501st meeting: p. 3.
⁷⁵ S/1752, 501st meeting: pp. 4-5.

"... the French delegation considers that the provisions of rule 32 should be waived and that the United States draft resolution should be given priority. Consequently we shall support the United States draft resolution unless a better method of conducting the investigation is proposed."

The representative of the USSR stated:

"The Security Council is of course master of its procedure, but it should be a good and wise master and use its rights rationally..."

and insisted that, in this case, rule 32 should be observed.

The President put the motion to the vote in the following way: "that we should vote first on . . . the draft resolution submitted by the United States, and then on . . . the draft resolution submitted by the Soviet Union."⁷⁶

Decision: *The motion was adopted.*⁷⁷

CASE 82

At the 530th meeting on 30 November 1950, in connexion with the question of (a) complaint of armed invasion of Taiwan (Formosa); (b) complaint of aggression upon the Republic of Korea, a draft resolution⁷⁸ submitted by Cuba, Ecuador, France, Norway, the United Kingdom and the United States was voted upon in parts and rejected.

The President (Yugoslavia) then called upon the Security Council to vote on the draft resolution as a whole.

The representative of the USSR objected to this procedure and stated:

"We have nothing to vote on. Both parts of the draft resolution have been rejected. According to the general practice followed by the Security Council and by other United Nations organs, when all parts of a draft resolution have been rejected, the resolution is not put to the vote as a whole."

The President stated:

"The practice may have been as Mr. Malik says, but our rules of procedure contain no such provision and do not prohibit a vote. Moreover, I remember that on a number of occasions the representatives of the Soviet Union have asked the General Assembly to vote on a resolution as a whole even after all its parts had been rejected."

The representative of the USSR stated that the precedent cited by the President had no relation to the situation under consideration.

The President stated that he considered the intervention by the representative of the USSR as an objection and not as a point of order requiring a decision by the Council. He then renewed his invitation to the Security Council to vote on the resolution as a whole.

There was no further objection.⁷⁹

⁷⁶ For texts of relevant statement see: 501st meeting: President (United Kingdom), pp. 2, 13; Egypt, pp. 9-10; France, pp. 11-12; USSR, pp. 9, 12.

⁷⁷ 501st meeting: p. 13.

⁷⁸ S/1894, 530th meeting: pp. 22-23.

⁷⁹ For texts of relevant statements see: 530th meeting: President (Yugoslavia), pp. 24, 25; USSR, pp. 24, 25.

g. Rule 33

CASE 83⁸⁰

At the 18th meeting on 13 February 1946, in connexion with the Indonesian question (I), before a vote was taken on a draft resolution introduced by the representative of Egypt at the 17th meeting, the representative of the USSR introduced, as an amendment, a paragraph proposing that a commission be sent to Indonesia with a view to clarifying the situation and hastening the re-establishment of normal conditions.

The representative of the United Kingdom stated that, in his view, the text of the proposed amendment was the same as the draft resolution introduced by the representative of the Ukrainian SSR at the 17th meeting, which had already been rejected. The representative of the USSR said that his amendment differed from the Ukrainian draft resolution in that it contained only one provision; and that it was for the members of the Security Council to decide on that amendment, but he could see no grounds for objecting to its submission.

The President (Australia) made the following statement:⁸¹

"I should like to say to the Council, as its President, that in the absence of rules of procedure which might guide me in regard to the acceptance or otherwise of motions and amendments, I am not afforded the powers which are essential if I am to determine whether an amendment which has been submitted, or maybe even a motion, conforms to any terms of order. That being so, it means that, if any amendment which is proposed does not strictly conform to the provision for an amendment, and furthermore if it may be said to be, in substance, the same as a proposal already made, it can be only upon the resolution of some member of the Council that such an amendment or proposition is rejected. Therefore, I would say that, unless there is objection to my reception of the amendment that has been proposed by the representative of the Union of Soviet Socialist Republics, there is no alternative to having it placed before the meeting as an amendment to the resolution that has been moved by the representative of Egypt."

The amendment proposed by the representative of the USSR was then put to the vote.

CASE 84 (RULE 33, PARA. 1, SUB-PARA. 5)

At the 55th meeting on 28 August 1946, in connexion with the question of admission of new Members to the United Nations, a motion to defer action on the applications of Albania and the Mongolian People's Republic was made by the representative of the United States.

The general debate and the debate on individual applications continued. The representative of the United States acquiesced in this with the reservation, agreed to by the President (Poland), that

"... before any vote is taken as to whether or not the Security Council would recommend to the

⁸⁰ This Case occurred before the adoption of rule 33.

⁸¹ For texts of relevant statements see: 18th meeting: President (Australia), p. 262; USSR, pp. 260, 261-262; United Kingdom, pp. 260-261.

Assembly the admission of Albania, a vote be taken on my proposal to postpone consideration."

At the 57th meeting on 29 August 1946, after all applications had been examined, the representative of the United States recalled his motion to postpone voting on Albania's and Mongolia's applications and indicated that his motion should have priority in the voting.

The representative of the USSR contended that eight months prior to the submission of the United States motion, the Yugoslav Government had proposed in written form the admission of Albania to the United Nations and that the proposals should be voted in the order in which they were submitted.

The President (Poland) stated:

"... We have here two questions which should be kept separately. We have, first, a resolution by the representative of Mexico, which, as he explains to us, recommends the admission of all States which have applied for admission, the emphasis being on the admission of all States together. It seems to me clear by logic that this resolution must be voted upon before we decide whether to proceed to vote on the particular members which we want or do not want to admit.

"The other question is that if we should vote on applicants separately, we have, in two cases, a motion to postpone action. It seems again clear by logic that the motion to postpone a vote must come before the vote itself..."

The representatives of Australia and France stated that in their view a proposal to postpone voting should be put to the vote before a vote was taken on the application itself.

The representatives of the Netherlands and France considered that if by virtue of rule 33 a mere motion to postpone discussion had precedence, a motion to postpone voting must *a fortiori* be given precedence.

The President put to the vote the question whether the United States draft resolution should be voted upon before the application of Albania. The result of the vote was affirmative.⁸²

CASE 85 (RULE 33, PARA. 1, SUB-PARA. 5)

At the 93rd meeting on 15 January 1947, in connexion with the question of the general regulation and reduction of armaments and information on armed forces of the United Nations, the representative of the United States proposed to defer further consideration of the items under discussion to a later date.

The representative of Poland asked whether acceptance of the United States proposal would mean that representatives who were listed to speak at that meeting on the substance of the matter, "would have to postpone expression of their views..."

The representative of the United States stated that he had no objection to consideration of his proposal for postponement at the end of the meeting, "so that those members of the Council who had wished to speak

this afternoon and had expected to do so, may continue with the programme". He accordingly withdrew his proposal until a later hour.

In connexion with the above, the representative of the United Kingdom raised the following point:

"If the representative of the United States provisionally withdraws his resolution, does that mean that we are not able to discuss it until he suggests it again, or does it mean simply that the substance of the matter is open for discussion as well as the proposal which he has made?"

The President (Australia) stated:

"Of course, if the representative of the United States withdraws his resolution for postponement, then we proceed to the general discussion. But there is no rule that I know of that would deny to any member in the course of the general discussion, to indicate whether he feels this matter should be deferred until some later time, although it would not be in order to anticipate the resolution that was to be proposed at a later hour by the United States representative. It must be a part of the general discussion that takes place on the resolution itself. That being so, we would not be entitled to base a speech upon the questions that might be introduced by reason of the motion for deferment, but as a possible reference in a speech that might be made by any representative upon the question of substance."

The representative of the United States stated:

"The only object I had in suggesting the temporary withdrawal of this motion was that our resolution should not act as a bar to the statements which members of the Council wished to make."

The President (Australia) concluded:

"As the representative of the United States has said, the actual proposal of such a resolution would deny to representatives who wish to speak on the general resolution an opportunity to express their views in a more substantial way..."

"... If there is no objection, the motion for deferment of the discussion on this matter until a later time is adopted."

At a later stage during the same meeting, the representative of the United States reintroduced his proposal for deferment, consideration of which had been postponed at the suggestion of the President.

At the 95th meeting on 20 January 1947, consideration of the proposal for deferment took place.

The President (Australia) then stated:

"... a resolution has been submitted which, under the rules of procedure, has priority of consideration.

"... I should like to say from the Chair that when this item was previously before the Council, it will be remembered that I indicated I would be reluctant to interrupt the speech of any member who was speaking on the substance of the question.

"..."

"As the representative of the United States, at that stage, withdrew his resolution in order that those speeches might be completed, and as all members of the Council have already spoken on the substance of the question, I shall now ask members of the Council to speak strictly on the question which is now being submitted and which has priority of

⁸² For texts of relevant statements see:

55th meeting: United States, pp. 55, 68.
57th meeting: President (Poland), p. 119; Australia, p. 117; France, pp. 117, 118; the Netherlands, p. 117; USSR, p. 116; United States, p. 116.

consideration: namely, as to whether items 2, 3 and 4 on the agenda shall be deferred until 4 February . . . ”⁸³

CASE 86 (RULE 33, PARA. 1, SUB-PARA. 2 AND RULE 33, PARA. 2)

At the 121st meeting on 21 March 1947, in connexion with the Corfu Channel question, after a motion for the simple adjournment of the meeting had been introduced, the representative of Australia asked permission to speak.

The President (Brazil) stated that, since a representative had asked for an adjournment, he could not “consider any other matter or accept any other statement.”

The representative of Australia explained that his intention was to raise a point of order, and his request was then granted. The President stated: “If it is a point of order, you may speak.”⁸⁴

CASE 87 (RULE 33, PARA. 1, SUB-PARA. 2 AND RULE 33, PARA. 2)

At the 122nd meeting on 25 March 1947, in connexion with the Corfu Channel question, after the representative of the United Kingdom and the President had suggested the simple adjournment of the meeting, the floor was given to the representative of the USSR on a point of order.

The President (Brazil) stated:

“The Chair will allow the representative of the USSR to speak, in conformity with the liberal interpretation of rules always observed by this Council.”

At the same meeting, the representative of Syria was also permitted to speak on a point of order, though the President had repeated his proposal for adjournment.⁸⁵

CASE 88 (RULE 33, PARA. 1, SUB-PARA. 6)

At the 169th meeting on 29 July 1947, while discussing a United States draft resolution in connexion with the Greek frontier incidents question, the representative of France suggested that a vote be taken on that draft resolution first, and that, if it were not adopted, attempts be made to find a substitute formula. The representatives of Syria and Colombia expressed an opposite view as to the procedure.

The representative of Syria said:

“If any delegation wishes to present an amendment, it should be presented now before we proceed to vote on the original text.”

The President (Poland) said:

“I shall follow the wishes of the representatives of Australia and France. If they wish to make a formal amendment, I shall submit it to the Council for discussion. If they prefer the other course, then we shall vote in due time on the paragraph of the

United States proposal in question. If it is not adopted, I shall then give them the opportunity to present any amendments they may desire.”

The representative of Colombia stated:

“It seems to me rather important to decide whether or not we are establishing a precedent in the way in which we are conducting this discussion. If I interpret our rules correctly, the proper course of action to follow, after a proposal has been presented, is to submit amendments, if any, and to vote on the amendments first. Therefore, if there is a French or Australian amendment to the original United States proposal, according to our rules of procedure such an amendment should be formally submitted and voted on before a vote is taken on the proposal itself.

“Of course, we have been following a rather unprecedented procedure, because both the President and the Security Council have decided to overlook the rules. Whenever an amendment is introduced, our first step is to ask the United States delegation whether the amendment is acceptable to it. But the rules really provide that the Security Council itself should make the decision.

“ . . . I believe it is extremely important for the Council to decide whether we are going to follow that procedure in other cases, or whether this procedure applies only to the discussion of the Greek question.

“With regard to the point under consideration, I also find that entirely different results may follow from different voting procedures . . . ”

The President stated:

“ . . . I do not think that we have in any way deviated from our rules of procedure. Whenever there is a formal proposal for an amendment, it is voted before the text of the resolution. Thus far not a single formal amendment to the United States text has been proposed, so that we could not have a vote on non-existent amendments.

“Furthermore, whenever any suggestion is made, whether formally or informally, it is quite natural for the original author of the resolution to be given the chance to accept or reject it, because it is his resolution. That is the procedure which we have usually adopted.”

The representative of France then suggested certain modifications to the substance of the proposal, and the representative of the United Kingdom inquired:

“May I ask the French representative whether he intends to propose an amendment on this point before we finally vote on the text of the United States resolution; because if not, I wonder whether, in accordance with our rules of procedure, we can vote on his suggestion?”

The President stated:⁸⁶

“The procedure will be to vote in due course upon this particular paragraph of the United States resolution. If it is accepted, the question is settled; if it is not accepted, then what the representative of France would present would not be an amendment but a new proposal. The same is true with regard to the representative of Australia.”

⁸³ For texts of relevant statements see: 93rd meeting: President (Australia), pp. 95, 85-86; Poland, p. 84; United Kingdom, p. 85; United States, pp. 85, 86.

⁸⁴ 95th meeting: President (Australia), pp. 117-118.

⁸⁵ 121st meeting: p. 590.

⁸⁶ For texts of relevant statements see:

122nd meeting: President (Brazil), pp. 609, 610, 611; Syria, p. 611; USSR, pp. 610, 611; United Kingdom, p. 609.

⁸⁶ For texts of relevant statements see: 169th meeting: President (Poland), pp. 1590, 1594, 1595; Australia, p. 1590; Colombia, p. 1591; France, pp. 1589, 1595; Syria, pp. 1589, 1590; United Kingdom, p. 1595.

The representative of France agreed, and no further objection was raised.

CASE 89 (RULE 33, PARA. 2)

At the 170th meeting on 29 July 1947, in connexion with the Greek frontier incidents question, the representative of the United States moved for "an immediate adjournment of the meeting".

The President (Poland) said that the representative of the USSR had asked to be recognized, but, before granting him the floor, he would "point out that according to rule 33 of our rules of procedure a motion for adjournment has priority over any other motion".

The representative of Australia then raised the point of order that "there is no debate on a motion to adjourn".

The President cited rule 33, para. 2, and put the motion of adjournment to the vote.⁸⁷

CASE 90 (RULE 33, PARA. 2)

At the 202nd meeting on 15 September 1947, in connexion with the Greek frontier incidents question, a United States draft resolution to refer the matter to the General Assembly was discussed.

The representative of Poland proposed "postponing this discussion until the next meeting".

The President (USSR) stated that a vote had to be taken on the Polish proposal first, in accordance with the rules of procedure.

The representative of the United States stated that, since there were no more speakers, he did not see why the Security Council could not proceed to a vote on the United States draft resolution.

The President stated that he wished to speak as the representative of the USSR, and would do so, unless the representative of Poland insisted on a vote being taken on his proposal immediately.

The representative of Poland agreed to modify his proposal in the following manner:

"...that the USSR representative should present his statement and, if there is any further discussion on it, that we then adjourn."

The President, speaking as the representative of the USSR, made his statement and, as new discussion ensued, the representative of Poland insisted on his proposal for adjournment. This was put to the vote and not adopted.

The representative of Syria then proposed to postpone the voting to another meeting.

The President asked whether the representative of Syria was repeating the proposal for adjournment on which a vote had already been taken.

The representative of Syria stated:⁸⁸

"No. I am proposing that we should postpone the voting only, whereas the original proposal was to adjourn the meeting."

⁸⁷ For texts of relevant statements see: 170th meeting: President (Poland), p. 1612; Australia, p. 1612; United States, p. 1612.

⁸⁸ For texts of relevant statements see: 202nd meeting: President (USSR), pp. 2389, 2391, 2392, 2393, 2394; Australia, p. 2393; Poland, pp. 2389-2390, 2391; Syria, pp. 2391, 2393-2394; United States, p. 2394.

The President stated that in accordance with the rules of procedure he would put the Syrian proposal to the vote immediately, unless the representative of Syria agreed to hear the representatives of the United States and Australia—who had previously asked for the floor—before a vote was taken on his proposal.

The representative of Syria agreed.

CASE 91 (RULE 33, PARA. 1, SUB-PARA. 5)

At the 384th meeting on 15 December 1948, in connexion with the application of Israel for admission to membership in the United Nations, two motions to defer consideration were introduced: one by the representative of France, to defer consideration until a later day in the same week; and another by the representative of the United Kingdom, to postpone consideration indefinitely.

The question arose as to which of the two motions should be voted on first.

The representative of Colombia stated:

"I wish to speak on a point of order. According to rule 33, the suspension of the meeting *sine die* has precedence over adjournment to a certain day. In this case, however, there is no question of adjourning the meeting since neither the representative of France nor the representative of the United Kingdom has proposed that. They have proposed the deferment of a particular question, and that is dealt with under the fifth provision of rule 33, which states: 'to postpone discussion of the question to a certain day or indefinitely'.

"Thus no precedence of any sort is laid down in the rule, and therefore the proposal which was submitted first, namely, that of the representative of France, must be discussed first."

The President (Belgium) stated that he agreed with the interpretation of rule 33 by the representative of Colombia.

The French proposal was put to the vote first.⁸⁹

CASE 92 (RULE 33, PARA. 1, SUB-PARA. 6)

At the 447th meeting on 16 September 1949, in connexion with letter of 29 July 1949 from the Chairman of the Atomic Energy Commission,⁹⁰ two draft resolutions were introduced in the following order: (a) a Canadian draft resolution to transmit the letter to the General Assembly and the Member nations;⁹¹ (b) a USSR draft resolution to request the Atomic Energy Commission to continue its work with a view to fulfilling the tasks entrusted to it by the General Assembly.⁹²

The representative of the USSR requested that his draft resolution be voted upon first because in his view it would, if adopted, produce exactly the opposite result from that of the Canadian draft resolution.

The representative of Canada, citing paragraph 1 of rule 32, insisted that his draft resolution be voted on first; he added that the draft resolution submitted

⁸⁹ For texts of relevant statements see: 384th meeting: President (Belgium), pp. 23, 24; Colombia, pp. 22-23; Syria, pp. 23-24.

⁹⁰ S/1377, O.R., 4th year, Suppl. for Sept., Oct., Nov., Dec. 1949, p. 8.

⁹¹ S/1386, 445th meeting: pp. 47-48.

⁹² S/1391/Rev.1, 446th meeting: p. 19.

by the representative of the Soviet Union, was in no sense an amendment to the Canadian draft.

The President (United Kingdom) stated:⁹³

"I think there is great force in what the representative of Canada has just said. In addition, I would say to the representative of the USSR that I do not think there is a conflict between these two draft resolutions, or that they are mutually exclusive.

"If the Canadian delegation's draft resolution were put to the vote first, and if the Council approved it, I should see no objection to a vote being taken thereafter on the draft resolution presented by the delegation of the Soviet Union."

CASE 93 (RULE 33, PARA. 2)

At the 459th meeting on 10 January 1950, in connexion with the representation of China in the Security Council, the representative of Yugoslavia proposed "that the Council should meet again after an interval which will allow the requirements of the rules of procedure regarding the distribution of documents to be observed".

There followed a general exchange of opinion with regard to adjournment, during which the representatives of Ecuador, India, the United Kingdom and the United States stated their views.

The representative of the United Kingdom stated:

"I only want to explain my vote. I emphasize that I am speaking only for that purpose because rule 33 states that: 'any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate'. I think that that does not exclude short explanations of vote..."

The representative of Egypt stated:

"I have noticed for quite a while, as has the representative of the United Kingdom, that we were proceeding without regard to rule 33, paragraph 2, of our rules of procedure concerning motions for adjournment, upon which a decision should be taken immediately without debate."

The President (China) stated:

"I find that the general sentiment of the Council is for adjournment, although delegations do not quite agree on the reasons for adjournment. Unless I hear objection from the Council, I shall soon adjourn the meeting without putting the motion to a vote."

There was no objection.⁹⁴

CASE 94 (RULE 33, PARA. 2)

At the 503rd meeting on 26 September 1950, following consideration of the application for membership of the Republic of Indonesia, and before consideration of the next item on the agenda, the representative of Cuba proposed to adjourn the meeting.

The President (United Kingdom) stated:

"In accordance with our rules of procedure, a motion for adjournment should be voted on without discussion. I shall therefore put it to the vote."

⁹³ For texts of relevant statements see: 447th meeting: President (United Kingdom), p. 23; Canada, p. 22; USSR, pp. 22, 23.

⁹⁴ For texts of relevant statements see: 459th meeting: President (China), p. 11; Ecuador, pp. 6-8; Egypt, p. 10; India, pp. 8-9; United Kingdom, pp. 6, 10; United States, pp. 5-6, 9-11; Yugoslavia, pp. 4-5.

The representative of the USSR raised the following point of order:

"It has been decided by the majority to consider the second item today. The Cuban representative's proposal is, therefore, contrary to that decision. The rules of procedure do not apply to this case."

The President read rule 33, last paragraph, and added: "I therefore beg my colleagues not to debate this matter but to vote on it."

There was no further objection, and the vote on the motion to adjourn was then taken.⁹⁵

h. Rule 34

CASE 95⁹⁶

At the 7th meeting on 4 February 1946, in connexion with the Greek question, the President (Australia) asked whether there was a seconder to a motion introduced by the representative of the USSR. He added:

"Seeing that we have really no rules to guide us in regard to the acceptance of a seconder to propositions, I think, perhaps, that I should first of all ask the Council whether it regards it as essential that the proposals that have been submitted to the Council for consideration should be supported by a seconder."

The representative of Brazil stated that he did not think seconders were necessary since,

"In such a small group, when a proposal is made, it is almost a matter of courtesy that it should be discussed."

No opposite view having been expressed, the President declared adopted the principle that:⁹⁷

"... it is the wish of the Council that we should not seek a seconder to a resolution but that we should accept as a matter for submission to the Council a resolution upon the motion of any member of the Council."

i. Rule 35

CASE 96

At the 131st meeting on 18 April 1947, in connexion with the Greek frontier incidents question, the representative of Poland, in view of the fact that some representatives had found difficulty in deciding how to vote on an amendment introduced by him to a USSR draft resolution, asked that his amendment be considered as a separate draft resolution, if this were agreeable to a majority of the Security Council.

The President (China) did not accede to the request of the representative of Poland and stated:

"The Polish amendment, having been submitted to the Council, has become the property of the Council, and we have to take the view of the Council as to whether a separate vote can be taken on it, as a separate resolution, or as a part of the Soviet resolution."

⁹⁵ For texts of relevant statements see: 503rd meeting: President (United Kingdom), pp. 28, 29; Cuba, p. 28; USSR, p. 28.

⁹⁶ This Case arose before the adoption of rule 34.

⁹⁷ For texts of relevant statements see: 7th meeting: President (Australia), p. 124; Brazil, p. 124.

The Polish motion was put to the vote as an amendment to the USSR resolution.⁹⁸

j. Rule 36

CASE 97

At the 49th meeting on 26 June 1946, in connexion with the Spanish question, the point was raised whether a proposal introduced by the representatives of Australia and the United Kingdom was an amendment to a Polish draft resolution or was to be regarded as a separate draft resolution.

The President (Mexico) stated that the Australian-United Kingdom proposal was an amendment to the Polish draft resolution.

⁹⁸ For texts of relevant statements see: 131st meeting: President (China), p. 807; Poland, p. 807.

The representative of Poland opposed the President's view and stated that the Australian-United Kingdom proposal should be considered as a separate draft resolution.

The President said he did not wish to impose his own opinion and would therefore put it to the Security Council to decide by a vote, whether the proposal in question was an amendment or a separate draft resolution.

Decision: *The Security Council decided that the Australian-United Kingdom proposal was an amendment to the Polish draft resolution.*⁹⁹

⁹⁹ For texts of relevant statements see: 49th meeting: President (Mexico), pp. 410, 411, 412, 413; Australia, pp. 411, 412-413; Poland, pp. 410-411; USSR, pp. 410, 411, 413; Assistant Secretary-General, p. 411.

Part VI

VOTING (RULE 40)

NOTE

Rule 40 of the provisional rules of procedure makes no attempt to set forth detailed provisions covering the mechanics of the vote or the majorities by which the various decisions of the Council should be taken. Attention is simply invited to the relevant articles of the Charter and of the Statute of the International Court of Justice. Material concerning the practice of the Security Council under the Charter as regards the majorities by which the various decisions of the Council should be taken will be found in chapter IV: Voting. Material concerning certain matters regarding the mechanics of voting has already been presented elsewhere in this chapter. Part VI is concerned solely with that aspect of the mechanics of voting that concerns the recording of votes, covering the classification by the President of the categories of voting and the identification in the official records of the representatives voting.

It has not been the practice of the Council to vote by roll call. When an objection has been raised, the vote has been taken by show of hands, and, in the absence of rules governing the recording of votes, the proceedings of the Council indicate that the current practice is for the President to ask for the votes of those in favour, those against and those abstaining.¹

From the 1st to 47th meetings of the Council inclusive, the President, in most instances, requested only those in favour to raise their hands, and the President then proceeded to draw his conclusion from the votes in favour. The official records for these meetings did not identify the members raising their hands. Thus, they afford no information whether the affirmative votes included those of the permanent members, or whether those not voting in favour would have abstained or voted against. Occasions on which attention was drawn to the necessity of fully counting the votes are to be found in Cases 99, 100 and 104. From the 48th meeting, members voting have been identified on

¹ The first request for all 3 votes was made by the President (Australia) at the 3rd meeting on 28 January 1946; 3rd meeting: p. 26. For abstention in relation to Article 27 (3) see also Case 101.

other than minor proposals, together with a numerical summary of the votes in the official record.

In the recording of votes, the official records have identified members as absent, as well as those in favour, those against, and those abstaining.² On one occasion the Council accepted the President's statement that an absent non-permanent member "must be counted as having abstained".³

Members have also been recorded as "not participating" in the vote.⁴ On certain occasions members have explained that they had not received their instructions.⁵ On certain occasions members accompanied non-participation in the vote by a protest against the validity of the proceedings,⁶ or have questioned the manner in which the business of the Council was being conducted.⁷

Many decisions of the Council have been taken without votes. On many occasions the President has, when putting a proposal to the Security Council, asked if there were any objections, and has in the absence of objection, declared the proposal adopted. In such proceedings members have on occasion registered disagreement with the proposals and have requested the inclusion of their disagreement in the records of the meeting, but without raising objection to the pronouncement of the President that the proposal had

² For absence in relation to Article 27 (3) see chapter IV, part III.

³ See Case 101.

⁴ 122nd meeting: p. 609; 127th meeting: p. 727; 198th meeting: pp. 2302-2305 (United Kingdom); 201st meeting: p. 2362 (United Kingdom); 286th meeting: pp. 11-12 (United Kingdom); 354th meeting: p. 37 (United Kingdom); 462nd meeting: pp. 7-9 (Yugoslavia); 474th meeting: pp. 16-17 (Egypt and India); 494th meeting: pp. 11, 12, and 21 (Egypt); 501st meeting: pp. 13 and 28 (China); 503rd meeting: p. 23 (Norway); 505th meeting: p. 27 (France); 507th meeting: pp. 7-8 (none of the members were recorded as voting); see Case 111; 530th meeting: pp. 21, 22 and 23-25 (India).

⁵ 474th meeting: pp. 14-17 (Egypt and India); 530th meeting: pp. 20-25 (India).

⁶ 501st meeting: pp. 13, 27 and 28 (China); 507th meeting: p. 8 (China).

⁷ 462nd meeting: pp. 7-9 (Yugoslavia); 353rd meeting: pp. 23-24; 354th meeting: p. 37 (United Kingdom).

been unanimously adopted.⁸

Votes on draft resolutions as a whole have with some frequency been taken after votes on parts, especially when a draft resolution was modified during the vote on parts or when a representative requested a vote on the whole text.⁹ Nevertheless, certain Presidential rulings have been made to the effect that a vote on the text as a whole is not required after a vote on parts.¹⁰

PROVISIONAL RULE OF PROCEDURE REGARDING VOTING IN THE SECURITY COUNCIL, IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946, TO THE 41ST MEETING ON 16 MAY 1946

"Rule 19

"Voting in the Security Council shall be in accordance with the relevant Articles of the Charter and of the Statute of the International Court of Justice."

RULE 40 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 41ST MEETING, ON 16 MAY 1946

"Voting in the Security Council shall be in accordance with the relevant Articles of the Charter and of the Statute of the International Court of Justice."

I. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULE 40

CASE 98

In the report of 13 May 1946 on the work of the Committee of Experts the Chairman of the Committee stated:¹¹

"It was the view of certain members of the Committee that this chapter should contain detailed pro-

⁸ 453rd meeting: p. 4.

⁹ (a) For the adoption of draft resolutions by a vote on parts only (without vote on the whole text) see:

49th meeting: p. 442; 82nd meeting: p. 559; 143rd meeting: p. 1061; 173rd meeting: p. 1712; 286th meeting: p. 40; 295th meeting: p. 47; 310th meeting: p. 63; 354th meeting: p. 51; 367th meeting: p. 38; 381st meeting: p. 56; and 406th meeting: p. 33.

(b) For the rejection of draft resolutions by a vote on parts only (without vote on the whole text) see:

70th meeting: p. 409; 200th meeting: p. 2340; 310th meeting: p. 37; 377th meeting: p. 46; 381st meeting: p. 53; 392nd meeting: p. 42; 456th meeting: p. 34.

(c) For votes on the whole text following favourable voting on parts see:

87th meeting: p. 700-701; 104th and 105th meetings: pp. 274; 124th meeting: p. 680; 170th meeting: p. 1612; 263rd meeting: p. 43-44; 283rd meeting: p. 41; 302nd meeting: p. 66; 338th meeting: p. 66; 377th meeting: p. 43; 392nd meeting: p. 38; 396th meeting: pp. 25-26; 473rd meeting: p. 18; and 506th meeting: p. 5.

(d) For votes on the original text after all parts had been rejected by votes on parts see:

47th meeting: p. 379; 174th meeting: pp. 1726-1730; 177th meeting: p. 1801; 445th meeting: p. 45; and 530th meeting: p. 25.

¹⁰ At the 286th meeting, the President ruled that the Council was not required to vote on the draft resolution as a whole unless a member called for it. The ruling was not challenged. 286th meeting: pp. 39-40. See also 354th meeting: p. 51 and 377th meeting: p. 43.

Discussion on the point at the 286th meeting is given in Case 76; and discussion at the 174th and 530th meetings in Cases 73 and 82. These Cases are dealt with in relation to rule 32, para. 2.

¹¹ S/57, O.R., 1st year, 1st series, Suppl. No. 2, p. 23.

visions covering both the mechanics of the vote and the majorities by which the various decisions of the Council should be taken. There was a full and free exchange of views on this subject in the Committee. It was agreed to postpone the further study of this question and to recommend the retention for the time being of rule 27 of the provisional rules of procedure (document S/35), which now becomes rule 37."¹²

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULE 40

CASE 99

At the 7th meeting on 11 February 1946, the President (Australia) asked those in favour of a proposal to raise their hands. His request for the votes against was interrupted by a statement by a member. The President then recalled that "we have not completed the voting." He continued, however, that "since there were only two supporting votes . . . that suggestion is not proceeded with."

The representative of the USSR objected:

"I consider the procedure irregular, since there was only a vote in favour of this proposal. No vote was taken to see who was against and who abstained. I request that this vote should be taken."

The President quoted Article 27(3), and explained:

"... if there are not more than two who are expressing themselves in the affirmative, then the resolution definitely is lost."

The representative of the USSR agreed with the President.¹³

CASE 100

At the 48th meeting on 24 June 1946, in connexion with the Spanish question, the Security Council voted upon a draft resolution submitted by the representative of Poland. After asking for the votes of those in favour, the President (Mexico) announced that the number of votes was "not sufficient to carry the motion".

The representative of Australia stated:¹⁴

"Does not the President propose to take the votes against as well as those for? I ask that that be done because although four affirmative votes is not sufficient to carry the resolution, I think, in the interests of the record of the Security Council, that there should be a record of votes for, votes against and abstentions."

The President granted the request.

CASE 101

At the 392nd meeting held in Paris on 24 December 1948, in connexion with the Indonesian question (II), the Council voted upon a draft resolution in the absence of the representative of the Ukrainian SSR, who had been delayed in New York. After the President (Belgium) had announced the results of the

¹² On 2 September 1947, provisional draft rules of procedure relating to voting were submitted by the representative of the United States on the Committee of Experts (S/C.1/160).

¹³ 7th meeting: pp. 125-126.

¹⁴ 48th meeting: p. 388.

vote on the first paragraph of the draft resolution, the representative of the United States asked whether an absent member was to be counted as having abstained. In reply, the President asked the Council whether it was agreed that the absent member "must be counted as having abstained". There were no objections. The President continued to count the absent representative of the Ukrainian SSR as having abstained.¹⁵

CASE 102

At the 480th meeting on 1 August 1950, the Security Council voted upon the ruling of the President (USSR) concerning the question of the representation of China in the Security Council. After the vote had been taken, the President declared:¹⁶

"The results of the vote are as follows: 7 against the President's ruling and 3 in favour of the ruling. I am not counting the vote of the representative of the Kuomintang group."

The representative of the United States challenged the President's ruling on the vote and stated that "there were eight votes against the ruling of the Chair".

The President then stated:¹⁷

"From my announcement as President it follows that eight votes were cast against the President's 'ruling', including the vote of the representative of the Kuomintang group..."

The representative of the United States thereupon stated that there was no necessity to vote upon his challenge since the President had corrected his statement to eight votes.¹⁸

CASE 103

At the 505th meeting on 28 September 1950, in connexion with the complaint of armed invasion of Taiwan (Formosa), the representative of the United States stated that he would vote against the draft resolutions submitted by the representatives of Ecuador and the USSR on the understanding that they were procedural matters. He continued that, should the Security Council consider them non-procedural, he reserved the right to change his negative vote to an abstention. The representative of Egypt stated that he knew of "no precedent for voting in one way and reserving for one's delegation the right to change one's vote". The President (United Kingdom), while agreeing with the representative of Egypt "that it is a dubious point—and indeed an important one", requested that the Council consider the problem if and when the question arose after the vote was taken.

The Ecuadorian draft resolution was rejected. There were 6 votes in favour, 4 against and one abstention (Yugoslavia).

Immediately after the vote, the representative of Yugoslavia stated that, in view of the result of the voting, he wished to change his abstention to a vote in favour of the operative part of the draft resolution. The President recalled the statements of the representatives of Egypt and the United States, and declared:

"I should think that it would be in order for the Council—if it desires, naturally—to allow any representative to change his vote, more especially if it happens immediately—within a minute or two—after he had voted... Unless any representative wishes to say anything to the contrary, I shall assume that the procedure will be acceptable."

The representative of Egypt expressed "great doubt" regarding the procedure. He stated:

"It is not a question of a simple error which has been committed out of distraction and which should naturally, among gentlemen, be corrected without any hesitation. It is a question of a conscious, deliberate, calculated act... But then, after the vote is counted, he says: 'Well, considering the result, I want to change my vote.'"

The representative of Egypt suggested that, had the representative of Yugoslavia voted in favour with the result that the draft resolution had passed, he would not have been free to change his vote, since approval of the resolution would have become "an acquired thing".

The representative of the United States expressed himself in favour of re-voting in order to solve the problem raised by the representative of Yugoslavia. He indicated that his own earlier reservation was justified to avoid "being cast into a vetoing position" and that these "unique circumstances" were not necessarily creating a precedent for the general process of the changing of votes.

The representative of Yugoslavia suggested the submission of a new operative part of the Ecuadorian draft resolution with a slight change, in order to justify a new vote. In view of the late hour, the President declined to give a ruling on the point, but stated:

"I should have thought that we might leave it that he will reintroduce the draft resolution and then we can have another vote."

At the 506th meeting on 29 September 1950, the draft resolution was resubmitted by the representative of Ecuador.¹⁹

CASE 104

At the 521st meeting on 10 November 1950, the Security Council voted upon an amendment to change the order of items on the agenda. After one vote had been cast in favour, the President (Yugoslavia) declared that the proposal had been rejected. In reply to the request of the representative of the USSR that negative votes and abstentions be counted, the President stated:

"... I only asked for votes in favour of the amendment and not for those against because a minimum of seven votes in favour is required for a decision to be adopted."

The President, however, complied with the request of the representative of the USSR and asked those voting against to raise their hands.²⁰

¹⁵ For texts of relevant statements see:

505th meeting: President (United Kingdom), pp. 20, 24-25, 29; Egypt, pp. 20, 24, 25-26; USSR, pp. 25, 28; United States, pp. 20, 25; Yugoslavia, pp. 23-24.

506th meeting: Ecuador, p. 2.

²⁰ 521st meeting: p. 15.

¹⁶ 392nd meeting: pp. 30-33.

¹⁷ 480th meeting: p. 9.

¹⁸ 480th meeting: p. 10.

¹⁹ 480th meeting: p. 10.

Part VII

LANGUAGES (RULES 41-47)

NOTE

The observation in the introductory note to this chapter that the cases entered are exceptional cases concerning the application of the rules and not the regular instances of normal application applies in special degree to part VII on Languages. Rules 42 and 43 regarding interpretation into the two working languages have been consistently applied; the innovation of simultaneous interpretation has, however, affected the practice with regard to the interpretation of the speeches of representatives invited to participate.

Where the Council's concern not to protract a meeting or to expedite discussion of a question has resulted in the omission of consecutive interpretation into French or English, or both, of a speech made by a member of the Council, the waiver for the occasion has been the subject of agreement within the Council, and care has been taken to have the view recorded that the exception would not constitute a precedent.

Since the 41st meeting on 16 May 1946 when the rules of procedure were provisionally adopted, technical facilities for interpretation have considerably improved. It is now possible to provide not only consecutive interpretation into the other working language after a speech has been made, but also simultaneous interpretation into the other four official languages while a speech is being delivered. Rules 42 and 43 require interpretation from, but not into, Chinese, Russian and Spanish. The improvement of facilities has made it possible for the Secretariat to provide simultaneous interpretation from one official language into all other four official languages, in addition to the interpretation into the working languages envisaged by rules 42 and 43. This technical advance has facilitated on occasion the waiver of consecutive interpretation.

The material may therefore be briefly summarized to the effect that it presents ten cases of waiver of consecutive interpretation into French (Case 108), two cases of waiver of such interpretation into English (Case 111), five cases of waiver of all consecutive interpretation,¹ and four cases in which consecutive interpretation was maintained and simultaneous interpretation was dispensed with, owing to shortages of staff.²

The general practice now is for speeches made by members of the Council in any one of the official languages to be interpreted not only consecutively into both working languages (or into the other working language if the original speech was made in a working language), but also simultaneously into the other four official languages. Although on occasions a different procedure has been followed, it is the general practice for speeches made by representatives who are invited to participate in the proceedings to be interpreted simultaneously into the other four official languages,

without being subsequently interpreted into a working language or languages (Case 114).³

The records do not always indicate precisely how certain speeches have been interpreted. There have been occasions on which invited representatives have participated in the discussion and no decisions regarding the interpretation of their statements have been recorded.⁴

PROVISIONAL RULES OF PROCEDURE REGARDING LANGUAGES IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946, TO THE 41ST MEETING ON 16 MAY 1946

“Rule 18⁵”

“The rules adopted at the San Francisco Conference regarding languages shall prevail until other wise decided.”

RULES 41-47 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 41ST MEETING ON 16 MAY 1946

“Rule 41 [formerly Rule 38]”

“Chinese, English, French, Russian and Spanish shall be the official languages of the Security Council, and English and French the working languages.

“Rule 42 [formerly Rule 39]”

“Speeches made in either of the working languages shall be interpreted into the other working language.

“Rule 43 [formerly Rule 40]”

“Speeches made in any of the three other official languages shall be interpreted into both working languages.

“Rule 44 [formerly Rule 41]”

“Any representative may make a speech in a language other than the official languages. In this case he shall himself provide for interpretation into one of the working languages. Interpretation into the other working language by an interpreter of the Secretariat may be based on the interpretation given in the first working language.

“Rule 45 [formerly Rule 42]”

“Verbatim records of meetings of the Security Council shall be drawn up in the working languages. At the request of any representative a verbatim record of any speech made in an official language other than the working languages shall be drawn up in the original language.

³ For subsequent occasions on which the same procedure was followed see: 552nd, 555th, 556th, 558th, 559th, 564th, 565th and 566th meetings.

⁴ See, for examples: 261st, 263rd, 266th, 270th, 282nd, 286th, 287th, 352nd, 354th, 359th, 373rd, 374th, 376th, 392nd, 393rd, 394th, 395th and 396th meetings.

⁵ In connexion with rule 18, as adopted at the 1st meeting on 17 January 1946, the attention of the members of the Security Council was drawn to the Summary Record of the 8th meeting of the Technical Committee on the Security Council of the Preparatory Commission of the United Nations (*O.R., Suppl. No. 1, annex 1 (b)*, pp. 6-8). See Case 105.

¹ 384th meeting: p. 2; 427th meeting: p. 10; 444th meeting: p. 2; 523rd meeting: pp. 12-15; 567th meeting: p. 1.

² 374th meeting: p. 6; 392nd meeting: pp. 1-2; 503rd meeting: p. 2; 524th meeting: p. 2.

"Rule 46 [formerly Rule 43]

"All resolutions and other important documents shall forthwith be made available in the official languages. Upon the request of any representative any other document shall be made available in any or all of the official languages.

"Rule 47 [formerly Rule 44]

"Documents of the Security Council shall, if the Security Council so decides, be published in any language other than the official languages."

1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 41-47

CASE 105

An extract from the summary record of the 8th meeting of the Technical Committee on the Security Council was included in the report of 23 December 1945 on the recommendations of the Preparatory Commission concerning the Security Council. It read, in part:⁶

"...the Steering Committee recommended that the language rules... should be replaced in each case by the following paragraph:

"The rules adopted at the San Francisco Conference regarding languages shall prevail until otherwise decided."

"..."

"The representative of the United Kingdom moved that rules 17 to 25, inclusive, be deleted and replaced by the following rule: 'The rules adopted at the San Francisco Conference regarding languages shall prevail until otherwise decided.'... The suggested rule did not prejudice the question of principle, which was left open for decision by the Security Council. It was, however, necessary to formulate a provisional rule to operate until the Security Council was able to make permanent provisions.

"..."

"The proposal made by the representative of the United Kingdom was supported on the ground that it would enable the Security Council to start its work without delay. In favour of rules 17 to 25, it was observed that they had the merit of being clear, and they had provided a code of the San Francisco rules.

"The representative of the Soviet Union said that the question of working languages was especially important for the proceedings of the Security Council. In settling this question, one must bear in mind not only its practical side... but above all the question of principle. The Soviet Union and China were permanent members of the Security Council, which would also probably include Spanish-speaking countries; for this reason, French and English should not be given a preferential position. The use of English and French as working languages in the preparatory stages of the United Nations was perhaps rational, but different considerations applied once the permanent organs had been set up, more particularly in the case of the Security Council, in view of the limited number of its members. The procedure of the Security Council must be considered quite apart from that of the Gen-

eral Assembly. The whole section of the rules dealing with languages should be consequently referred to the Security Council itself, for decision at its first meetings.

"In support of this proposal, it was argued that in practice the San Francisco rules had not resulted in equality between the official languages...

"In opposition to the Soviet motion to insert no rules whatsoever, it was argued that the compromise rule unanimously agreed upon by the Steering Committee already left the language question to be decided by the Security Council... All that the Steering Committee had desired was to provide a rule of procedure for the Security Council to begin with...

"The Committee agreed with the Soviet representative that the rule proposed by the Steering Committee implied that the Security Council itself should decide its own rules on languages at one of its first meetings. On this understanding, the representative of the USSR agreed to accept the United Kingdom motion.

Decision: *It was unanimously agreed to delete rules 17 to 25 inclusive, and to replace them, in accordance with the motion of the representative of the United Kingdom, by the rule recommended by the Steering Committee.*

CASE 106

In the report of 5 February 1946 on the alterations made by the Committee of Experts in the provisional rules of procedure, the Chairman of the Committee stated:⁷

"It was decided... to adopt for the Council the rules proposed to the Assembly by the First Committee. The Committee therefore included... rules 21 to 29—which, in a text fitted to the requirements of the Council, are in accordance with the rules mentioned above. Rule 26 has been included for the sake of uniformity in the text of the language rules.

CASE 107

In the report of 13 May 1946 on the work of the Committee of Experts, the Chairman of the Committee stated:⁸

"...The provisional rules of procedure adopted by the Security Council in London provided that the Council should follow in this regard the practice of the San Francisco Conference. This practice, after having been reviewed in both its technical and political aspects, was embodied in the rules of procedure of the General Assembly. The Committee of Experts examined the matter on the basis of these facts. It also wished to bring about the

⁷ At the 31st meeting on 9 April 1946 the Council considered only rules 1 to 20 of the draft rules attached to the report of 5 February 1946 (S/6, O.R., 1st year, 1st series, Suppl. No. 2, pp. 1-8), in which rules 21 to 29 related to languages. The Committee of Experts later prepared the further report of 13 May 1946 (S/57) in which rules 38 to 44 related to languages. These rules were adopted by the Council at its 41st meeting, and constitute the present text. In consequence, however, of the insertion of additional rules at the 44th and 48th meetings, the rules of procedure relating to languages became rules 41 to 47. The present text corresponds with the text recommended in the report of 5 February 1946, except that rules 26 and 27 were deleted and that the text of rule 25 (rule 42 as adopted at the 41st meeting and rule 45 in the present text) was modified.

⁸ S/57, O.R., 1st year, 1st series, Suppl. No. 2, pp. 23-24.

⁶ O.R., 1st year, 1st series, Suppl. No. 1, pp. 6-8.

greatest possible uniformity in the rules of the various organs of the United Nations, while bearing in mind at the same time the special needs of the Security Council. The proposed text, therefore, differs only slightly from that which was adopted by the General Assembly and accepted by the Committee of Experts in London.

"Something new is, nevertheless, introduced by rule 42; this rule provides that, in addition to the verbatim records drawn up in the working languages, a verbatim record in the original language of any speech made in an official language other than the working languages shall be prepared at the request of any representative on the Security Council. This addition was considered necessary in order to ensure faithful reporting of such a speech.

"Furthermore, the Committee thought it unnecessary to include rule 26, relating to summary records, which was proposed by the Committee of Experts in London, since the records of Security Council meetings should, in principle, be verbatim."

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 41-47

a. Rules 42 and 43

1) Occasions on which the Security Council has made decisions regarding the method of interpretation of speeches made by representatives on the Council

CASE 108

At the 288th meeting on 29 April 1948, in connexion with the Czechoslovak question, after a statement by the representative of the Ukrainian SSR, the President (Colombia) said:

"We will dispense with the French translation."

The representative of France stated:

"It is very late, and I shall forego the French interpretation of the statement made by the representative of the Ukraine in order to take time, without unduly delaying the proceedings of the Security Council, to comment once again on his remarks."

At a later point in his speech he stated:⁹

"... I may have misunderstood the English interpretation... If I failed to understand the English, I should not have foregone the French interpretation and I shall have to ask for it to be given."

CASE 109

At the 344th meeting on 4 August 1948, in connexion with the question of the Free Territory of Trieste, after the speech by the representative of the Ukrainian SSR had been interpreted consecutively into English, the representative of the Ukraine said that he would not insist on its consecutive interpretation into French. With reference to the system of interpretation, however, he asked to have "some definite rules fixed independently of the technical aspects".

The representative of France declared that in principle both interpretations into English and French should be given in the same way, but in the present

⁹ 288th meeting: p. 14. For other instances when representatives on the Security Council discussed whether to waive consecutive interpretation into French, see:

322nd meeting: pp. 13-14; 344th meeting (Case 109); 346th meeting: pp. 40-41; 408th meeting and 410th meeting (Case 118); 445th and 446th meetings (Case 112); 455th meeting: p. 28; 456th meeting (Case 113).

case he would have no objection to the French interpretation being simultaneous only to facilitate the work of the Council.

The President (USSR) said:

"In accordance with the rules of procedure and established practice, speeches by Council members must be interpreted consecutively into both working languages—English and French—no matter in what language they are made. With regard to speeches made by representatives of States invited to participate in the discussion of any matter in the Security Council, these are interpreted simultaneously into both working languages and into all other official languages.

"Recently, in special cases, it has been the practice to make exceptions owing to lack of time or other reasons. Such exceptions may be made in the future, too. But the firm rule of procedure that speeches by members of the Security Council must be interpreted into both working languages, remains in full force..."

It was agreed that the consecutive interpretation into French would not be given, but that "the basic rule that speeches by members of the Security Council are translated into both working languages" would be kept in the future.¹⁰

CASE 110

At the 361st meeting on 4 October 1948 (in Paris), prior to the consideration of the identic notifications dated 29 September 1948, the representative of Colombia proposed:

"In order to facilitate this discussion, I should like to ask that we should use the system of simultaneous interpretation—without prejudice, of course, to using consecutive interpretation—should representatives so desire."

During the discussion of this proposal there was an expression of views on the system of interpretation in general. The representative of France felt that in view of the importance of the matter that was about to be discussed, the Council should abide by the usual rule and have consecutive interpretation.

The representative of the USSR disagreed that consecutive interpretation was desirable in view of the importance of the matter under discussion. He said:

"... If simultaneous interpretation is inadequate for the discussion of serious questions, then how is it that the General Assembly uses simultaneous interpretation for the discussion of all questions with which it deals, including important ones? And again, how can simultaneous interpretation hamper the discussion of important problems? On the contrary this form of interpretation facilitates the discussion of such questions..."

The representative of Syria proposed that the Council adhere to the "practice... adopted in the United States", which was to have one consecutive interpretation, either into English or into French. A speech in Chinese, Russian or Spanish would be interpreted simultaneously into one working language, and consecutively into the other, while a speech in English or French would be interpreted into the other working language.

¹⁰ For texts of relevant statements see: 344th meeting: President (USSR), p. 17; France, p. 16; Ukrainian SSR, p. 16.

The representative of France was "quite willing" to admit the argument regarding the practice followed in the General Assembly, put forward by the representative of the USSR. He pointed out, however, that the Security Council had always adhered to a different practice, because it was felt that in simultaneous interpretation "the interpreter often found it difficult to follow the rhythm of the speaker's words, so that there was a risk that gaps might occur". Moreover, consecutive interpretation "usually enables the speaker to some extent to follow and check up on the interpretation made". He was in favour of the Syrian proposal "to follow the practice observed in New York".

The representative of the United States agreed with the reasons adduced by the representative of France, for the practice of the Council which "pointed to the desirability of retaining consecutive interpretations even when simultaneous interpretations were also used".

The representative of the United Kingdom said:

"I am generally an advocate of simultaneous interpretation, which has many advantages. I recognize, however, that it is an innovation and that it was not foreseen in our original procedure. If representatives take exception to its adoption I do not think that we would wish to force it upon them. At the same time, I should like to support the suggestion made by the representative of Syria that in a case where a speech is made neither in French nor in English there should be one simultaneous interpretation into one of the working languages and then a consecutive interpretation into the other language. As far as I am concerned, as the representative of an English-speaking Government, I would say that if it were decided that the English interpretation should be given simultaneously, I should be quite content if that were the desire of the other members of the Council."

The representative of Canada proposed that . . .

" . . . one of the additional languages into which simultaneous interpretation was given should be Spanish so as to help the President in his deliberations and the conduct of this meeting."

The representative of the USSR considered this proposal unacceptable "on the grounds that, if it is a matter of departing from the usual procedure in the common interest, then there should be no discrimination against the other official languages", and he termed the Canadian proposal a "fresh attempt" at such discrimination.

The representative of Colombia further clarified his proposal "that simultaneous interpretation should be introduced, but that consecutive interpretation could be used if requested". He said if his proposal were adopted there would be consecutive interpretation into French since it had been requested by the representatives of France and Syria. If English consecutive interpretation were requested it would also be rendered. "This was the method employed on former occasions in the Security Council. Simultaneous interpretation was used and consecutive interpretation was given when suggested."

In reply to a query by the representative of the Ukrainian SSR, the President (Argentina) said the simultaneous interpretation would be into all the five official languages. He then put the Colombian proposal to the vote in the following terms:

"Will those representatives in favour of the proposal that simultaneous interpretation shall be used, without prejudice to consecutive interpretation into French or English if requested, raise their hands?"

Decision: *The proposal was adopted by unanimous vote.*¹¹

CASE 111

At the 362nd meeting on 5 October 1948, (in Paris), in connexion with the identic notifications dated 29 September 1948, the representative of the United Kingdom said that "if the other English-speaking delegations agree, I would suggest that we might forego the consecutive interpretation into English when a simultaneous interpretation into that language has already been given". The representative of the United States and Canada agreed with the suggestion, reserving the "right to request a consecutive interpretation into English on future occasions".

The President (Argentina) declared that "from now on, there will be no consecutive interpretation into English at meetings concerned with the discussion of this question".¹²

CASE 112

At the 445th meeting on 15 September 1949, in connexion with the question of admission of new Members to the United Nations, there was to be no consecutive interpretation in accordance with a decision of the previous meeting.¹³

The representative of France proposed however that the Council should again have consecutive interpretation so that there would be more time to follow the rather complicated discussion.

The President (United Kingdom) thereupon said:

"If any member of the Security Council finds the system of simultaneous interpretation unsuitable or inconvenient, I think that probably we shall have to revert to the system of consecutive interpretation. I don't think it is a matter we can put to the vote."

After discussion the Council adopted an arrangement whereby speeches in English or French would be interpreted simultaneously into all other official languages and consecutively only into the other working language. Speeches in either Russian, Chinese or Spanish would be interpreted simultaneously into all other official languages but consecutively only into English.¹⁴

This procedure was also adopted at the 446th meeting on 16 September 1949.¹⁵

CASE 113

At the 456th meeting on 13 December 1949, in connexion with the Indonesian question (II), the Security

¹¹ For texts of relevant statements see:

361st meeting: President (Argentina), pp. 7, 8, 9; Belgium, p. 3; Canada, pp. 3, 6; Colombia, pp. 2, 7-8, 8-9; France, pp. 3, 4-5; Syria, pp. 4, 8; Ukrainian SSR, pp. 8-9; USSR, pp. 3-4, 6-7; United Kingdom, p. 6; United States, pp. 5-6, 7.

¹² 362nd meeting: p. 4. For another instance when representatives on the Security Council discussed whether to waive consecutive interpretation into English, see 361st meeting (Case 110).

¹³ 445th meeting: pp. 30-31.

¹⁴ For texts of relevant statements see:

445th meeting: President (United Kingdom), pp. 30-31; France, p. 30; Ukrainian SSR, p. 31; USSR, p. 31.

¹⁵ 446th meeting: p. 2.

Council agreed with the President's (Canada) proposal "that simultaneous interpretation be used for all statements made by representatives on the Council, and that consecutive interpretations be used for procedural matters and for the actual voting on the various draft resolutions before us. Simultaneous interpretations will, of course, be used as usual for statements by all representatives other than members of the Security Council."

Later, at the same meeting, the President said:

"We now come to the vote, for the purpose of which I request that consecutive interpretation be resumed for the remarks of members of the Council."

After a statement by the representative of the USSR, the representative of the United Kingdom inquired whether the consecutive interpretation into French was necessary "in view of the fact that we had the French version simultaneously". The representative of France stated, "I will willingly forego it", and the meeting was adjourned.¹⁶

ii) Occasions on which the Security Council has made decisions regarding the method of interpretation of speeches other than those by the representatives of members of the Council

CASE 114

At the 227th meeting on 15 January 1948, in connexion with the India-Pakistan question, the President (Belgium) said:

"I think that the statements which the representatives of India and Pakistan intend to make will, naturally, be rather lengthy. It has been suggested that for these first statements, and for these first statements only, we should use simultaneous interpretation."¹⁷

b. Rule 46

CASE 115

At the 159th meeting on 17 July 1947, the President (Poland) read out the English original text of a letter from the Prime Minister and Minister of Foreign Affairs of Egypt to the Secretary-General. The representative of Australia suggested that "As we have the document before us both in English and French, it would hardly seem necessary to have the translation read."

There being no objection on the part of the representatives of Belgium and France, the Council dispensed with the translation.¹⁸

CASE 116

At the 463rd meeting on 7 February 1950, in connexion with the India-Pakistan question, the Security

¹⁶ For texts of relevant statements see:

456th meeting: President (Canada), pp. 2, 33; France, p. 38; United Kingdom, pp. 37-38.

¹⁷ 227th meeting: pp. 9-10, 30. For further illustrations of similar procedures for interpretation of statements by those invited to participate in the Council's proceedings, see:

228th meeting: p. 35; 232nd meeting: pp. 171, 203; 236th meeting: p. 271; 257th meeting: p. 343; 258th meeting: p. 344; 269th meeting: pp. 117-131; 271st meeting: pp. 168-170; 272nd meeting: pp. 175-191; 276th meeting: pp. 254-271; 284th meeting: p. 23; 285th meeting: p. 2; 313th meeting: pp. 22, 27; 328th meeting: p. 2; 367th meeting: p. 2; 457th meeting: p. 2; 469th meeting: p. 2; 470th meeting: p. 1 (illustrating an exception); 494th meeting: pp. 27-28; 524th meeting: p. 4; 550th meeting: p. 1.

¹⁸ S/410, 159th meeting: pp. 1343-1345.

Council had before it a report submitted by the former President, General McNaughton (Canada). The President (Cuba) proposed "to read it immediately". The representative of Egypt enquired whether the report which consisted "of sixteen closely written pages" might be interpreted simultaneously. The President replied that there would be simultaneous interpretation for the reading of the report, and proceeded to read the text of the document in English.¹⁹

c. Postponement of interpretation

CASE 117

At the 398th meeting on 11 January 1949, in connexion with the Indonesian question (II), it was agreed after some discussion that the French consecutive interpretation of the speech by the representative of the USSR should be postponed until the next meeting, in view of the late hour.²⁰

CASE 118

At the 409th meeting on 15 February 1949, the President (China) proposed that "the French interpretation of the statement of the representative of the USSR be given at the beginning of our next meeting" and, there being no objection, it was so decided.²¹

At the 410th meeting on 16 February 1949, the representative of France stated that, as far as he was concerned, he would not ask for the French interpretation, in order to facilitate the Council's work. The USSR representative said he would not press for the interpretation if there was a rule in the Council that it was given only for the French representative. He had believed, however, that French was a working language and speeches should be interpreted into French. The representative of France recalled previous occasions when the Council had modified its practice in relation to the rules of procedure in the matter of interpretation. He said:

"... Our rules of procedure are thus subject to very wide interpretation and the President has complete authority in that field."

The Council turned to the item on the agenda, and the French interpretation was not given.²²

CASE 119

At the 502nd meeting on 18 September 1950, in connexion with the complaint of aggression upon the Republic of Korea, after the representative of the USSR had ended his speech, the President (United Kingdom) inquired of the Council if it would not be best, in view of the late hour, to postpone the English and French consecutive interpretations to the next meeting. The representative of the USSR suggested that the English interpretation be given at that meeting, and the French interpretation be postponed to the next. The representative of France was in agreement with the President's proposal, but since the representative of the USSR insisted on his own proposal, it was put to the vote.

¹⁹ S/1453, 463rd meeting: p. 3.

²⁰ 398th meeting: pp. 26-27. For other occasions when consecutive interpretation in one or more languages of a statement has been postponed until the following meeting, see: 486th meeting: p. 24; 489th meeting: pp. 16-18; and the Cases which follow.

²¹ 409th meeting: pp. 13, 14.

²² 410th meeting: pp. 7-8.

Decision: *The proposal of the representative of the USSR was rejected, there being 1 vote in favour, 6 against and 4 abstentions. The Council then adjourned sine die.*²³

At the next meeting on 26 September 1950, the item "Complaint of aggression upon the Republic of Korea" was not included in the provisional agenda. The President (United Kingdom) stated that "though the usual facilities for simultaneous and consecutive interpretations are available today, it may be very difficult for the Secretariat to provide these facilities during the period of the session of the General Assembly". He therefore put forward the "daring suggestion" that there should be simultaneous interpretation only, during the period of the General Assembly, in which case the interpretations of the statement of the representative of the USSR held over from the last meeting could be dispensed with. The representatives of China, France and the USSR were in favour of retaining consecutive rather than simultaneous interpretation, if a choice had to be made, and the President then asked for "the two interpretations of the speech which the representative of the Soviet Union made at the end of the last meeting". After some further discussion, the Council decided to hear the two interpretations on the understanding that "Complaint of aggression upon the Republic of Korea" would be item 1 on the provisional agenda.²⁴

CASE 120

At the 528th meeting on 29 November 1950, in connexion with the complaint of armed invasion of Taiwan

²³ For texts of relevant statements see: 502nd meeting: President (United Kingdom), p. 36; France, p. 36; USSR, p. 36.

²⁴ 503rd meeting: pp. 1-8.

(Formosa) and the complaint of aggression upon the Republic of Korea, the President (Yugoslavia) proposed that, to save time, interpretation of the speech made by the representative of the USSR might be waived since "translations into English and French will appear in the provisional verbatim records and the USSR delegation will be able to check their accuracy there." The representative of the USSR preferred to "hear the interpretation now" and stated:

"I have always held the view that my statements should always be interpreted, if only into English, since it is necessary to correct the interpretation."

The President inquired whether the Council agreed to "hold a meeting tomorrow morning devoted almost entirely to listening to interpretations". The representative of the USSR reminded the President that the question was not open to discussion since "according to the rules of procedure, speeches must be interpreted into the working languages". The representative of Egypt appealed to the Council to agree to waive both interpretations, "in the very grave circumstances which confront us". Since the representatives of the USSR and France were unable to agree to waive interpretations, it was decided to continue the established procedure, and to hear both interpretations at the next meeting.²⁵ At the 529th meeting on 30 November 1950, after the adoption of the agenda, the English and French translations of the speech made by the representative of the USSR at the 528th meeting were read, and the meeting was adjourned.²⁶

²⁵ For texts of relevant statements see:

528th meeting: President (Yugoslavia), pp. 33, 34, 35; Egypt, p. 34; France, pp. 34, 35; India, p. 34; USSR, pp. 33, 34, 35; United Kingdom, p. 34.

²⁶ 529th meeting: *passim*.

Part VIII

PUBLICITY OF MEETINGS, RECORDS (RULES 48-57)

NOTE

The verbatim records of each meeting are made available to representatives on the Security Council, and to the representatives of any other States which have participated in the meeting, with a note showing the time and date of distribution, and the time limit for corrections. Corrections are requested in writing, preferably incorporated in mimeographed copies of the record, within two working days, and "should be accompanied by, or incorporated in a letter on headed note-paper, bearing the appropriate symbol number and enclosed in an envelope marked 'URGENT'". If there is no objection, these corrections are included in the official record of the meeting, which is printed and distributed as soon as possible after the expiration of the time limit for corrections.

PROVISIONAL RULES OF PROCEDURE REGARDING PUBLICITY OF MEETINGS IN FORCE FROM THE 1ST MEETING, ON 17 JANUARY 1946, TO THE 41ST MEETING, ON 16 MAY 1946¹

"Rule 20

"Unless it decides otherwise, the Security Council shall meet in public.

"Rule 21

"At the close of each private meeting, the Security Council shall issue a communiqué through the Secretary-General.

"Rule 22

"The verbatim record of public meetings and the documents relating thereto shall be published as soon as possible."

PROVISIONAL RULES OF PROCEDURE REGARDING RECORDS OF THE SECURITY COUNCIL IN FORCE FROM THE 1ST MEETING, ON 17 JANUARY 1946, TO THE 41ST MEETING, ON 16 MAY 1946

"Rule 23

"Subject to the provisions of rule 24, the Secretary-General shall keep a verbatim record of all meetings and shall send it as soon as possible to the representatives on the Council, who shall within forty-eight hours inform the Secretariat of any corrections they wish to have made.

¹ O.R., 1st year, 1st series, Suppl. No. 1, annex 1, p. 5.

"Rule 24"

"The Security Council may decide that, for a private meeting, a summary record in a single copy shall alone be made. This record shall be kept by the Secretary-General, and the representatives of States which have taken part in the meeting may have corrections made in their own speeches within a period of ten days. On the expiry of this period, the record shall be considered as approved, and shall be signed by the Secretary-General."

RULES 48-57 OF THE PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL ADOPTED AT THE 41ST MEETING, ON 16 MAY 1946

"Rule 48"

"Unless it decides otherwise, the Security Council shall meet in public. Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.

"Rule 49"

"Subject to the provisions of Rule 51, the verbatim record of each meeting of the Security Council shall be made available in the working languages to the representatives on the Security Council and to the representatives of any other States which have participated in the meeting not later than 10 A.M. of the first working day following the meeting. The verbatim record of any speech made in any other of the official languages, which is drawn up in accordance with the provisions of Rule 45, shall be made available in the same manner to any of the above mentioned representatives at his request.

"Rule 50"

"The representatives of the States which have participated in the meeting shall, within two working days after the time indicated in Rule 49, inform the Secretary-General of any corrections they wish to have made in the verbatim record.

"Rule 51"

"The Security Council may decide that for a private meeting the record shall be made in a single copy alone. This record shall be kept by the Secretary-General. The representatives of the States which have participated in the meeting shall, within a period of ten days, inform the Secretary-General of any corrections they wish to have made in this record.

"Rule 52"

"Corrections that have been requested shall be considered approved unless the President is of the opinion that they are sufficiently important to be submitted to the representatives on the Security Council. In the latter case, the representatives on the

Security Council shall submit within two working days any comments they may wish to make. In the absence of objections in this period of time, the record shall be corrected as requested.

"Rule 53"

"The verbatim record referred to in Rule 49 or the record referred to in Rule 51, in which no corrections have been requested in the period of time required by Rules 50 and 51 respectively or which has been corrected in accordance with the provisions of Rule 52, shall be considered as approved. It shall be signed by the President and shall become the official record of the Security Council.

"Rule 54"

"The official record of public meetings of the Security Council, as well as the documents annexed thereto, shall be published in the official languages as soon as possible.

"Rule 55"

"At the close of each private meeting the Security Council shall issue a communiqué through the Secretary-General.

"Rule 56"

"The representatives of the Members of the United Nations which have taken part in a private meeting shall at all times have the right to consult the record of that meeting in the office of the Secretary-General. The Security Council may at any time grant access to this record to authorized representatives of other Members of the United Nations.

"Rule 57"

"The Secretary-General shall, once each year, submit to the Security Council a list of the records and documents which up to that time have been considered confidential. The Security Council shall decide which of these shall be made available to other Members of the United Nations, which shall be made public, and which shall continue to remain confidential."

I. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 48-57

CASE 121

At the 1st meeting on 17 January 1946, in connexion with the presentation of the section of the Report of the Preparatory Commission which related to the Security Council, the representative of Poland said that, when drafting the provisional rules of procedure as regards access to records of private meetings of the Council, the Preparatory Commission had omitted the last sentence which read "Representatives of members who have taken part in the meeting shall have the right at all times to consult the records at the Secretariat," because they felt that the Security Council should define for itself the right of consulting the records of private meetings.³

The provisional rules of procedure, as adopted on the recommendation of the Preparatory Commission, and revised by the Committee of Experts, were con-

³In connexion with rule 24, as adopted at the 1st meeting, on 17 January 1946, the attention of the members of the Security Council was drawn to the Summary Record of the fourth, sixth and seventh meetings of the Technical Committee on the Security Council of the Preparatory Commission of the United Nations (*O.R., 1st year, 1st series, Suppl. No. 1, annex 1 (c), pp. 8-16*).

³1st meeting: p. 3.

sidered at the 41st meeting on 16 May 1946. The Committee of Experts brought together in one chapter the rules relating to the publicity of meetings and to records, since these matters were closely allied.

The representative of Australia, with regard to the holding of private meetings, said that it was his understanding that the decision whether or not a private meeting was to be held would be taken by the Council itself at a public meeting.⁴

CASE 122

In his report of 13 May 1946, in connexion with the provisional rules of procedure on the publicity of meetings and records recommended to the Security Council for adoption, the Chairman of the Committee of Experts stated:⁵

"As regards the publicity of meetings, rule 45 [*present rule 48*] reproduces the content of rule 28 of the provisional rules of procedure, with the addition, as was explained at the beginning of this report, of the text relating to the consideration in a private meeting of the appointment of the Secretary-General.

"Rules 46, 47, 49, 50 and 51 of the attached text [*present rules 49, 50, 52, 53 and 54 respectively*] reaffirm the principle that verbatim records of public meetings should be kept. They established, in addition, a procedure for making the records available to the representatives of the States which have participated in the discussions and also for such corrections as may be requested and accepted.

"With respect to corrections, the Committee was of the opinion that, in principle, the formal approval of records is the prerogative of the Security Council itself, but that it would be appropriate for the Council to delegate this power to the President except when a major difficulty necessitates an exchange of views within the Council. The above-mentioned rules lay down the limits within which these powers may be delegated.

"Rules 48 and 53 [*present rules 51 and 56 respectively*] refer to records of private meetings. The

⁴ 41st meeting: p. 261.

⁵ S/57, O.R., 1st year, 1st series, Suppl. No. 2, annex 1 (d), pp. 24-25.

procedure to be followed for their correction is the same as that for verbatim records, but the time limit for requesting corrections is extended to ten days, owing to the difficulty of consulting the record in those instances when the Council has decided that only a single copy of the record shall be kept.

"Rule 53 gives representatives of Members of the United Nations which have participated in a private meeting the right to consult the record. It also takes into account the need which may arise in certain cases to authorize other Members of the United Nations to consult the record. A special decision must be taken in each case. Any such decision may authorize consultation by one or more specified Members of the United Nations.

"Moreover, the Committee of Experts believed that the Council should review annually its records and documents, particularly with a view to authorizing the publication of those which have lost their confidential character. A special provision was drafted for this purpose and included as rule 54 [*present rule 57*]."

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 48-57

Rule 52

CASE 123

At the 524th meeting on 17 November 1950, in connexion with the complaint of aggression upon the Republic of Korea, the President's attention was drawn by the representative of the USSR to the fact that the provisional record of the previous meeting (523rd) did not include the text of a statement by the representative of the People's Republic of China which he had read at that meeting. He asked that it be included in the official record.

The President (Yugoslavia) said:

"The verbatim record which has been circulated is only provisional. The text will be included in the official record."⁶

⁶ 524th meeting: President (Yugoslavia), p. 2; USSR, p. 2.

Part IX

APPENDIX TO PROVISIONAL RULES OF PROCEDURE

NOTE

Part IX contains only cases relating to the adoption or amendment of the procedure for dealing with communications from private individuals and non-governmental bodies. There are no cases concerning the application of this procedure, since it has given rise to no discussion in the Security Council. Periodically a list is circulated to all representatives on the Security Council of communications from private individuals and non-governmental bodies relating to matters of which the Council is seized. Thereafter the communications so listed are kept available for consultation by any representative who so requests. This procedure has occasionally been varied, when a representative on the Security Council has transmitted a communication

from a non-governmental body with the request that it be circulated to all representatives. On such occasions the communication in question plus the letter of transmittal have either been reproduced as a document of the Security Council or have been transmitted to all Member Governments by the Secretary-General.

PROVISIONAL PROCEDURE FOR DEALING WITH COMMUNICATIONS FROM PRIVATE INDIVIDUALS AND NON-GOVERNMENTAL BODIES ADOPTED BY THE SECURITY COUNCIL AT THE 31ST MEETING ON 9 APRIL 1946

"A. A list of all communications from private individuals and non-governmental bodies relating to matters of which the Security Council is seized shall be circulated to all representatives on the Security Council.

“B. A copy of any communication on the list shall be given by the Secretariat to any representative on the Security Council at his request.”

**CONSIDERATION OF THE ADOPTION OR AMENDMENT
OF THE PROCEDURE**

CASE 124

At the 6th meeting on 1 February 1946, in connexion with items 2 and 3 of the agenda, the President (Australia) brought to the notice of the Security Council that a number of communications had “been received from non-governmental bodies and persons who have written regarding matters associated with the situation that is referred to in items 2 and 3 of the agenda”. He proposed that the Committee of Experts be requested to indicate how they might be dealt with. The representative of Poland suggested that representatives of the Governments concerned with the matters referred to in the communications should be consulted. The President pointed out that all countries were represented on the Committee of Experts, and that the Committee would suggest only the procedure to be adopted regarding their receipt, and would not deal with the communications themselves.

Decision: *The procedure suggested by the President was adopted without objection.*¹

¹ 6th meeting: p. 72.

CASE 125

At the 31st meeting on 9 April 1946, in connexion with the report of the Chairman of the Committee of Experts with regard to the provisional rules of procedure, the representative of Australia suggested, with reference to Annex A, first, that a list of all important communications should be drawn up, second, that there should be some indication of the subject matter, the person or the organization from which the communication emanates, and third, that the frequency of the circulation of the list should be determined. The Chairman of the Committee of Experts explained that the list would be considerably restricted by excluding communications relating to matters of which the Council was not seized, and by giving the Secretariat directions to exclude communications of a frivolous nature. He stated that the Committee was “quite convinced that these rules are workable rules” giving representatives on the Council the opportunity of referring to the communications and at the same time protecting the Secretariat “from the burden of having to handle thousands, or even tens of thousands, of documents, pamphlets, photographs, etc.”. He also stated that the rules were substantially the same as those adopted by the Council of the League of Nations.

Decision: *Annex A was adopted without objection.*²

² 31st meeting: pp. 117-118.