

Chapter III

PARTICIPATION IN THE PROCEEDINGS OF THE SECURITY COUNCIL

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INTRODUCTORY NOTE

The texts of the relevant provisional rules of procedure of the Security Council and Articles of the Charter¹ particularize the following circumstances for invitations to non-members of the Security Council.

1. Where a Member of the United Nations brings a matter to the attention of the Council in accordance with Article 35 (1) (rule 37).

2. Where a Member of the United Nations, or any State which is not a Member of the United Nations, is a party to a dispute (Article 32).

3. Where the interests of a Member of the United Nations are specially affected (Article 31 and rule 37).

4. Where members of the Secretariat or other persons are invited to supply information or give other assistance (rule 39).

Of these four categories, 1 and 2 apply only to the proceedings of the Council in connexion with disputes and situations. Categories 3 and 4 are of general application. Categories 1, 2 and 3 have been applied to Members of the United Nations, and categories 2 and 4 to non-Members. Categories 1, 3 and 4 do not limit the discretion of the Council, whereas category 2 involves an obligation of the Council.

The material relevant to participation in the proceedings of the Council cannot, however, be satisfactorily arranged within a classification derived directly from these texts, since on many occasions the Council has considered itself called upon to extend an invitation in circumstances the correspondence of which to those envisaged in these texts has been the subject of no definite pronouncement by the Council. The classification adopted is designed to facilitate the presentation of the varieties of practice to which the Council has had recourse, while adhering where possible to a classification based on the texts of the provisional rules or of the Charter.

Part I consists of summary accounts of the proceedings of the Council in the consideration of all the proposals to extend an invitation, with emphasis more especially on consideration of the basis on which the invitation might be deemed to rest. Part II presents discussion relating to the terms and provisions of Article 32. Part III deals with procedures relating to the participation of representatives once the Council has decided to extend an invitation.

Articles of the Charter

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

Provisional rules of procedure of the Security Council

PROVISIONAL RULE OF PROCEDURE, IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946 TO THE 41ST MEETING ON 16 MAY 1946:²

"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."

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL:³ ADOPTED AT THE 41ST MEETING ON 16 MAY 1946

"Rule 37 [34]⁴

"Any Member of the United Nations which is not a member of the Security Council may be invited,

as the result of a decision of the Security Council, to participate, without vote, in the discussion of any question brought before the Security Council when the Security Council considers that the interests of that Member are specially affected, or when a Member brings a matter to the attention of the Security Council in accordance with Article 35 (1) of the Charter.

"Rule 38 [35]

"Any Member of the United Nations invited in accordance with the preceding Rule or in application of Article 32 of the Charter to participate in the discussions of the Security Council may submit proposals and draft resolutions. These proposals and draft resolutions may be put to a vote only at the request of a representative on the Security Council.

"Rule 39 [36]

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

¹ Rules 37 and 39, Articles 31 and 32.

² O.R., 1st year, 1st series, Suppl. No. 1, annex 1, p. 5.

³ S/62, O.R., 1st year, 1st series, Suppl. No. 2, p. 35.

⁴ The numbering of these provisional rules was changed as from the 48th meeting, on 24 June 1946.

Part I

BASIS OF INVITATIONS TO PARTICIPATE

NOTE

Part I includes all cases in which proposals to extend an invitation to participate in the discussion have been put forward in the Security Council. The general features of each case are shown, together with the decisions of the Council and the main positions taken in the course of debate. The instances are grouped to distinguish between invitations to persons invited in an individual capacity in section A; invitations to representatives of subsidiary organs or other United Nations organs in section B; invitations to Members of the United Nations in section C; and invitations to non-Member States, together with other invitations, in section D. The grouping is so arranged in order to bring together in section D a range of invitations within which the official records reveal no clear distinctions based on differentiation of status.

IN THE CASE OF MEMBERS OF THE UNITED NATIONS

The arrangement of section C is derived from rule 37 of the provisional rules of procedure of the Council. In the case of Members of the United Nations, Article 31 makes provision for their participation when their interests are considered by the Council to be specially affected and Article 32 for their participation when parties to a dispute. At an early stage in the work of the Council, it was found expedient to have recourse to the intent of Article 31 as a basis of invitation to Members of the United Nations at whose instance a dispute or situation was brought before the Council. The practice so initiated was subsequently embodied in rule 37 of the provisional rules of procedure adopted at the 41st meeting on 16 May 1946.¹ Section C.1.a. therefore brings together the occasions on which Members of the United Nations submitting matters in accordance with Article 35 (1) have been invited to participate without vote in the discussion.

Rule 37 thus provides the basis for the separate classification of invitations in connexion with the submission of a dispute or situation by a Member of the United Nations in accordance with Article 35 (1). Matters may also be submitted by a Member that fall outside the provisions of Article 35 (1). Such cases have been entered separately in section C.1.b. Article 31 was expressly invoked in certain of these cases.²

Rule 37, in embodying the provisions of Article 31, also relates to invitation to Members of the United Nations on the ground that their interests are specially affected. Cases of invitation where a Member brought a matter to the attention of the Council having been included in section C.1., all other cases of invitation when the interests of a Member were considered specially affected are brought together in section C.2. Article 31 was expressly invoked in certain of these

cases also,³ and in one case Article 32 was expressly invoked in conjunction with rule 37.⁴

When extending an invitation to a Member on the grounds that its interests were specially affected, the Council has made no distinction as to whether the matter involved was a dispute or situation, or a matter not of such nature. Nor do Article 31 or rule 37 make such a distinction. Therefore, all cases of invitations to Members whose interests were specially affected are grouped together in section C.2.

Instances of invitations denied are provided for in section C.3.

IN THE CASE OF NON-MEMBER STATES AND OTHER INVITATIONS

Article 32 provides for the invitation of any non-Member State when it is a party to a dispute under consideration by the Council. Section D commences with the cases of invitation to non-Member States expressly under Article 32. The Council, however, has not always found it possible to invoke the letter of Article 32. The difficulties in this connexion are dealt with in part II, where discussion related to the interpretation of the terms and provisions of Article 32 is set out in detail.

The problem of the applicability of Article 32 to the varied circumstances which have confronted the Council has been interlinked in discussion with consideration of the applicability of rule 39 of the provisional rules of procedure in the case of invitations to non-Members. The cases listed in section D.2. exemplify the application of rule 39 in cases which are clearly distinguished from the instances of invitation to persons in their individual capacity, which are listed in sections A and B. The applicability of rule 39 in circumstances in which hesitation has been expressed regarding the application of Article 32 has been the subject of extensive consideration on several occasions.⁵

The procedural limitations which may be consequent on invitations expressly under rule 39 are indicated in part III.⁶

There have also been instances in which the Security Council has, for reasons which have varied from case to case, refrained from invoking the letter of either Article 32 or rule 39, but has extended invitations in the spirit of the rules or of the Charter. These cases have therefore been listed separately in section D.3. Section D.3.a. comprises two instances in which representatives of non-Member States were invited for the restricted purpose of making statements or declarations.

In section D.3.b. are entered other cases in which invitations to participate without vote in the discussion have been extended without the invocation of Article 32 or rule 39. In section D.4. are entered the cases in which proposals to invite have been rejected by the Council.

¹ In submitting rule 37 the Committee of Experts reported: "The Committee did not consider it advisable to provide in this rule for Members invited in accordance with Article 32 of the Charter because the invitation to a Member under this Article is mandatory." S/57, O.R., 1st year, 1st series, Suppl. No. 2, annex 1 (d), p. 22.

² Cases 11, 13 and 17.

³ Cases 24-30, 32-37 and 40-47.

⁴ Case 48.

⁵ Cases 54, 55, 56, 59, 61, 65 and 66. See also Case 70 of part II.

⁶ See part III, Note, together with Cases 90, 93, 94, 96, 109 and 113.

The main argumentation with regard to the impediments in the application of the texts of the Charter, notably of Article 32, took place in connexion with the cases in section D.3. In order to maintain uniform brevity in the case histories in part I, the discussion bearing on the text of Article 32 is presented separately in part II of the chapter. This discussion occupies a significant part in the development of the practice of the Council, but its outcome is not crystallized in the decisions of the Council. No need has arisen to present separately discussion relating to Article 31, since the significance of Article 31 in the practice of the Council is fully represented by the decisions recorded in the case histories of part I.

A. IN THE CASE OF PERSONS INVITED IN AN INDIVIDUAL CAPACITY

CASE 1

At the 268th meeting on 17 March 1948, in connexion with the Czechoslovak question, the representative of Chile,* who had been invited to participate in the discussion, suggested that the Security Council under rule 39 invite Mr. Papanek, the former representative of Czechoslovakia to the United Nations, to supply the Council with information on the question. At the 272nd meeting on 22 March 1948, the representative of Argentina, in support of the suggestion made by the representative of Chile, proposed that the Council invite Mr. Papanek to the Council table. The representative of Canada supported the proposal of the representative of Argentina. The representative of the Ukrainian SSR opposed an invitation to Mr. Papanek on the ground that the Council should not hear or consider "slandorous statements" by private individuals. The representative of the USSR also protested against the proposal.⁷

Decision: *The proposal of the representative of Chile was adopted by 9 votes in favour and 2 against, and, at the invitation of the President (China), Mr. Papanek took his place at the Council table.*⁸

CASE 2

At the 360th meeting on 28 September 1948, in connexion with the Hyderabad question, the President (United Kingdom) referred to two documents⁹ which raised doubts regarding "the validity of the credentials of the representative of Hyderabad", and invited the observations of the Security Council on whether the representative of Hyderabad should nevertheless be invited to take part in the discussion as before. After statements had been made by the representatives of Syria, China, Colombia and Argentina, the President suggested that the representative of Hyderabad should appear "under rule 39 of the rules of procedure, as an individual", and that the Council should hear Nawab Moin, who represented Hyderabad at the last meeting, on the point of credentials and on that point alone. The representative of China stated that if the President

should invite "the former representative of Hyderabad" under rule 39, his delegation would not raise any objection. The representative of France supported the suggestion of the President and observed that a precise indication of the rule under which the invitation was being issued would prejudice the very question on which the Council wanted his observations.¹⁰

Decision: *The President invited, without objection, the Nawab Moin Nawaz Jung of Hyderabad to take his place at the Council table in his individual capacity and to make a statement on the question of the validity of his credentials.*¹¹

CASE 3

At the 517th meeting on 30 October 1950, in connexion with the Palestine question, the representative of the Hashemite Kingdom of Jordan* requested that the Security Council invite Dr. Bunche, the former United Nations Acting Mediator, to enlighten the Council on certain aspects of the armistice negotiations.¹²

Decision: *The President's (United States) proposal to invite Dr. Bunche was unanimously adopted,¹³ and at the 518th meeting on 6 November 1950, the President invited, without objection, the former United Nations Acting Mediator to the Council table.*¹⁴

B. IN THE CASE OF REPRESENTATIVES OF UNITED NATIONS ORGANS OR SUBSIDIARY ORGANS

CASE 4

On the following occasions the Security Council invited the Chairman, the Rapporteur, or members of one of its subsidiary organs to the table in order that they might give any information which the Council might require when considering a report from the subsidiary organ:

1. Committee of Experts of the Security Council

At the 31st meeting on 9 April 1946.¹⁵

At the 41st meeting on 16 May 1946.¹⁶

At the 42nd meeting on 17 May 1946.¹⁷

At the 44th meeting on 6 June 1946.¹⁸

At the 76th meeting on 15 October 1946.¹⁹

At the 80th meeting on 15 November 1946.²⁰

At the 197th meeting on 27 August 1947.²¹

At the 320th meeting on 15 June 1948.²²

At the 432nd meeting on 27 July 1949.²³

At the 468th meeting on 28 February 1950.²⁴

¹⁰ For texts of relevant statements see: 360th meeting: President (United Kingdom), pp. 3, 4, 9; Argentina, p. 8; China, pp. 5, 10; Colombia, pp. 5, 11-12; France, p. 13; Syria, pp. 3-4.

¹¹ 360th meeting: p. 13.

¹² 517th meeting: p. 23.

¹³ 517th meeting: p. 31.

¹⁴ 518th meeting: p. 6.

¹⁵ 31st meeting: p. 100.

¹⁶ 41st meeting: p. 253.

¹⁷ 42nd meeting: p. 270.

¹⁸ 44th meeting: p. 310.

¹⁹ 76th meeting: p. 466.

²⁰ 80th meeting: pp. 501-502.

²¹ 197th meeting: p. 2256.

²² 320th meeting: p. 13.

²³ 432nd meeting: p. 1.

²⁴ 468th meeting: p. 9.

⁷ For texts of relevant statements see:

268th meeting: Chile, pp. 110-111.

272nd meeting: Argentina, pp. 173-174; Canada, p. 174; Ukrainian SSR, p. 174; USSR, pp. 174-175.

⁸ 272nd meeting: p. 175.

⁹ S/1011 and S/1019, O.R., 3rd year, Suppl. for Sept. 1948, pp. 7 and 9.

2. *Committee on the Admission of New Members*

At the 54th meeting on 28 August 1946.²⁵
 At the 186th meeting on 18 August 1947.²⁶
 At the 279th meeting on 10 April 1948.²⁷
 At the 351st meeting on 18 August 1948.²⁸

3. *The United Nations Commission of Investigation Concerning Greek Frontier Incidents*

At the 147th meeting on 27 June 1947.²⁹

4. *The Security Council Committee of Good Offices on the Indonesian question*

At the 247th meeting on 17 February 1948.³⁰
 At the 248th meeting on 17 February 1948.³¹
 At the 249th meeting on 18 February 1948.³²
 At the 251st meeting on 20 February 1948.³³
 At the 252nd meeting on 21 February 1948.³⁴
 At the 256th meeting on 26 February 1948.³⁵
 At the 259th meeting on 28 February 1948.³⁶

5. *The United Nations Commission for India and Pakistan*

At the 382nd meeting on 25 November 1948.³⁷
 At the 399th meeting on 13 January 1949.³⁸
 At the 457th meeting on 17 December 1949.³⁹
 At the 463rd meeting on 7 February 1950.⁴⁰
 At the 464th meeting on 8 February 1950.⁴¹
 At the 465th meeting on 9 February 1950.⁴²
 At the 466th meeting on 10 February 1950.⁴³
 At the 467th meeting on 24 February 1950.⁴⁴
 At the 468th meeting on 28 February 1950.⁴⁵
 At the 469th meeting on 8 March 1950.⁴⁶
 At the 470th meeting on 14 March 1950.⁴⁷
 At the 471st meeting on 12 April 1950.⁴⁸
 At the 564th meeting on 18 October 1951.⁴⁹
 At the 570th meeting on 17 January 1952.⁵⁰
 At the 571st meeting on 30 January 1952.⁵¹
 At the 572nd meeting on 31 January 1952.⁵²

²⁵ 54th meeting: p. 39.
²⁶ 186th meeting: p. 2030.
²⁷ 279th meeting: p. 2.
²⁸ 351st meeting: p. 3.
²⁹ 147th meeting: p. 1116.
³⁰ 247th meeting: p. 135.
³¹ 248th meeting: pp. 152-153.
³² 249th meeting: p. 172.
³³ 251st meeting: p. 210.
³⁴ 252nd meeting: p. 237.
³⁵ 256th meeting: p. 303.
³⁶ 259th meeting: p. 367.
³⁷ 382nd meeting: p. 2.
³⁸ 399th meeting: p. 1.
³⁹ 457th meeting: p. 2.
⁴⁰ 463rd meeting: p. 2.
⁴¹ 464th meeting: p. 1.
⁴² 465th meeting: p. 1.
⁴³ 466th meeting: p. 1.
⁴⁴ 467th meeting: p. 1.
⁴⁵ 468th meeting: p. 1.
⁴⁶ 469th meeting: p. 1.
⁴⁷ 470th meeting: p. 1.
⁴⁸ 471st meeting: p. 5.
⁴⁹ 564th meeting: p. 1.
⁵⁰ 570th meeting: p. 3.
⁵¹ 571st meeting: p. 2.
⁵² 572nd meeting: p. 1.

6. *Chief of Staff, Truce Supervision Organization in Palestine*

At the 517th meeting on 30 October 1950.⁵³
 At the 518th meeting on 6 November 1950.⁵⁴
 At the 522nd meeting on 13 November 1950.⁵⁵
 At the 542nd meeting on 25 April 1951.⁵⁶
 At the 544th meeting on 2 May 1951.⁵⁷
 At the 545th meeting on 8 May 1951.⁵⁸

CASE 5

On the following occasions the Security Council invited the representative of a subsidiary organ, established by the General Assembly, the terms of reference of which included provision for reports to be made to the Council:

1. *Chairman of the United Nations Palestine Commission*

At the 253rd meeting on 24 February 1948.⁵⁹

2. *The United Nations Mediator for Palestine*

At the 333rd meeting on 13 July 1948.⁶⁰

3. *The United Nations Acting Mediator for Palestine*

At the 365th meeting on 14 October 1948.⁶¹
 At the 367th meeting on 19 October 1948.⁶²
 At the 373rd meeting on 26 October 1948.⁶³
 At the 374th meeting on 28 October 1948.⁶⁴
 At the 433rd meeting on 4 August 1949.⁶⁵

CASE 6

At the 9th meeting on 6 February 1946, during the voting on the election of Judges for the International Court of Justice, a difference of opinion arose regarding the procedure to be followed. The President (Australia) inquired if the Council wished to hear Mr. Spaak, the President of the General Assembly, with regard to the procedure that had been followed in the Assembly on this matter. He stated:

"It is, of course, necessary, if the President is to be able to speak, that it be at the request of the Council, in order that he might afford to us such information as possible."⁶⁶

Decision: *The President invited, without objection, the President of the General Assembly to the Council table.*⁶⁷

⁵³ 517th meeting: p. 2.
⁵⁴ 518th meeting: p. 6.
⁵⁵ 522nd meeting: p. 2.
⁵⁶ 542nd meeting: p. 3.
⁵⁷ 544th meeting: p. 2.
⁵⁸ 545th meeting: p. 3.
⁵⁹ 253rd meeting: p. 257.
⁶⁰ 333rd meeting: p. 1.
⁶¹ 365th meeting: p. 4.
⁶² 367th meeting: p. 1.
⁶³ 373rd meeting: p. 2.
⁶⁴ 374th meeting: p. 1.
⁶⁵ 433rd meeting: p. 2.
⁶⁶ For texts of relevant statements see:
 9th meeting: President (Australia), p. 147; Egypt, pp. 147-148; Netherlands, pp. 148-149.
⁶⁷ 9th meeting: p. 150.

CASE 7

At the 142nd meeting on 18 June 1947, in connexion with special agreements under Article 43 of the Charter and organization of the United Nations armed forces, the President (France) proposed to invite the Chairman of the Military Staff Committee, or his representative, in order that he might furnish any explanation required and give the Committee's own interpretation of a particular article in the report which had been submitted by the Committee. The representative of the USSR had no objections to the Chairman of the Committee being invited to the meetings of the Council when necessary, but he doubted whether the Chairman would be in a position to give an interpretation on behalf of the other delegations in the Committee, since these delegations had not agreed on a common interpretation on the question. The President suggested the following procedure: first to reach a decision regarding the invitation to the Chairman of the Military Staff Committee; then to ask the representative of Australia to formulate his question for the information of the Council; and then to adjourn, to enable a reply to be given at a later meeting.⁶⁸

Decision: *The Council decided, by 10 votes to none with 1 abstention, to invite the representative of the Chairman of the Military Staff Committee to the Council table.*⁶⁹

CASE 8

At the 462nd meeting on 17 January 1950, the President (China) requested the authorization of the Security Council to invite General McNaughton, who had undertaken consultations with India and Pakistan at the request of the Council during the previous December,⁷⁰ to take a seat at the Council table during the meeting which was to be called on the India-Pakistan question.⁷¹

Decision: *The President was authorized to extend the invitation to General McNaughton.*⁷²

C. IN THE CASE OF MEMBERS OF THE UNITED NATIONS

1. Invitation when the Member brought to the attention of the Security Council

a. A matter in accordance with Article 35 (1) of the Charter

CASE 9

At the 2nd meeting on 25 January 1946, after communications from Iran, the USSR and the Ukrainian SSR had been placed on the agenda, the representative of Egypt proposed that "the States which have presented complaints should be invited to participate in the work, in the sittings of the Security Council". After quoting Article 31, the representative of Egypt added:

⁶⁸ For texts of relevant statements see:

142nd meeting: President (France), pp. 1037, 1040; USSR, pp. 1038, 1039-1040.

⁶⁹ 142nd meeting: pp. 1040-1041.

⁷⁰ General McNaughton, the representative of Canada, was President of the Council in December 1949. Canada, however, ceased to be a member of the Council on 1 January 1950.

⁷¹ 462nd meeting: p. 16.

⁷² At the 463rd meeting on 7 February 1950, the President announced that General McNaughton had preferred to submit a written rather than an oral report.

"Surely, there is more reason when the question brought before the Council is brought before it at the instance of a certain Member of the United Nations. That would certainly be a case much stronger than the one provided for by Article 31, and the presence of such complaining States would be considered as absolutely necessary."

Other members of the Council supported the viewpoint of the representative of Egypt.⁷³

Decision: *The Egyptian proposal was adopted without vote.*⁷⁴

At the 3rd meeting on 28 January 1946, when the Iranian question was considered, the President (Australia) drew the attention of the Security Council to that decision, and he invited, without objection, the representative of Iran "to come to the table".⁷⁵ Before inviting the representative of Iran, the President stated:

"I think it was the intention of the Council to act under Article 31 of the Charter. If the Council had not already decided to issue an invitation, it might have been necessary to consider at this stage, in view of the Iranian communication of 26 January, whether an invitation should be issued under Article 32 . . . I merely mention it so that our records will show that we have not been unmindful of it."

CASE 10

At the 12th meeting on 7 February 1946, in connexion with the Indonesian question (I) to which the representative of the Ukrainian SSR had, by letter dated 21 January 1946,⁷⁶ drawn the attention of the Security Council under Article 35 (1), the President (Australia) stated:

"I should like to suggest that the procedure we adopt in regard to this item might be the same as that which we have adopted previously in regard to the cases concerning Iran and Greece; that is, that I should invite to the table the representative of the Ukrainian SSR delegation so that he may take part in the deliberations upon this matter. Is that the pleasure of the Council? Since there are no objections then it is adopted."⁷⁷

Decision: *The President invited, without objection, the representative of the Ukrainian SSR to the Council table.*⁷⁸

At the 16th meeting on 11 February 1946, the President, when referring to the circumstances in which an invitation had been extended to the Ukrainian SSR, stated:

"I take it to be the opinion of the Council that Article 32 has no application to the present matter. Indeed, the Council has not expressly decided whether Article 31 applies either.

"In inviting the representative of the Ukraine to take a seat at the Council table, the Council did not formally consider whether or not the interests of the

⁷³ For texts of relevant statements see:

2nd meeting: Egypt, pp. 18-19; USSR, p. 19; United Kingdom, pp. 16-17; United States, p. 18.

⁷⁴ 2nd meeting: p. 19.

⁷⁵ 3rd meeting: p. 31. For invitations to Greece and the Ukrainian SSR, see Cases 24 and 10 respectively.

⁷⁶ *O.R.*, 1st year, 1st series, Suppl. No. 1, annex 4, p. 76.

⁷⁷ 12th meeting: p. 174.

⁷⁸ 12th meeting: p. 174.

Ukrainian Soviet Socialist Republic are especially affected by or in the matter now under discussion. The Council acted by general consent upon the broad proposition submitted by Mr. Bevin that any State which makes a claim before the Council has a right to come to the Council and be heard."⁷⁹

CASE 11

At the 19th meeting on 14 February 1946, in connexion with the Syrian and Lebanese question, the President (Australia) referred to the letter from the Heads of the Lebanese and Syrian delegations⁸⁰ as an exercise of "their right as Members of the United Nations under Article 35, paragraph 1, of the Charter to bring a certain matter to the attention of the Council". After explaining, with regard to Articles 32 and 27 (3), the possible effects on procedure of a decision that a question was a dispute or a situation, the President suggested that

"It would be most inconvenient to attempt in any way, at this stage, to give an answer to the question whether, in the present case, a situation exists. It would be much more satisfactory, indeed in my opinion it is necessary, first to hear what the States immediately concerned have to say."

He stated that whether or not a dispute in the technical sense existed, Syria and Lebanon were manifestly States whose interests were specially affected by the discussion of the question before the Security Council. Therefore, he proposed that the Council should, under Article 31 of the Charter, "invite Syria and Lebanon, as we did in the case of Iran and Greece, to participate without vote in our discussion of this question". Statements were made by the representatives of Brazil, China, Egypt, Mexico and the Netherlands to the effect that, before deciding whether a question was a dispute or a situation, the Council should hear the invited Members.⁸¹

Decision: *The proposal of the President was adopted without vote, and the representatives of Syria and Lebanon were invited to the Council table.*⁸²

CASE 12

At the 25th meeting on 26 March 1946, in connexion with the Iranian question, the Security Council considered a proposal by the representative of the USSR that the Iranian communication dated 18 March 1946,⁸³ bringing to the attention of the Council a dispute between Iran and the USSR which had arisen by reason of developments after the adoption of the Council resolution of 30 January 1946, should not be placed on the agenda. The representative of the United States enunciated the principle that the Security Council could not deny to a Member, which had stated that a condition existed likely to threaten international peace and security, the opportunity to present its case. He considered that the question should be placed on the agenda and the Iranian Government given an opportunity to state whether an agreement with the USSR had been

reached. The representative of Egypt expressed the view that the Council should receive the Iranian communication and should hear the representative of Iran before deciding whether to include the matter on the agenda.

At the 26th meeting on 26 March 1946, the representative of Mexico considered that the question of the participation of the Iranian representative in the discussion would only arise after the adoption of the agenda. The representative of the USSR agreed with this view.

The USSR proposal was rejected, and the Iranian question was placed on the agenda by 9 votes to 2. The representative of the USSR proposed that consideration be forthwith postponed until 10 April.

The representatives of Egypt, Mexico, the Netherlands, the United Kingdom and the United States considered that the Council should first hear the representative of Iran concerning the procedural question of postponement, since Iran was specially affected by such a decision. The representative of the USSR maintained that the question of postponement was a procedural one in a discussion of which the representative of Iran, as a non-member of the Security Council, could not take part. As the representative of the USSR, he could not participate in a discussion of the question should the Iranian representative be invited to the Council table, for the participation of the Iranian representative in the debate would amount to the opening of the discussion on the substance of the question.

At the 27th meeting on 27 March 1946, the USSR proposal to postpone consideration was rejected, having failed to obtain the affirmative votes of 7 members. The representative of Egypt proposed that:

"The Council receive the complaint of the Iranian Government . . . and ask that the Iranian representative appear at the Council so that we may hear his point of view concerning the question of postponement requested by the USSR representative."

The representative of the USSR stated that for reasons which he had explained in the two preceding meetings, he could not take part in a discussion of the Iranian question after his proposal had been rejected.⁸⁴

Decision: *At the 27th meeting on 27 March 1946, the Egyptian proposal was adopted by 8 votes in favour.*⁸⁵

CASE 13

At the 60th meeting on 4 September 1946, in connexion with the Ukrainian complaint against Greece which had been submitted to the Council under Article 35 (1),⁸⁶ the President (Poland), after quoting Article 31, stated that unless there was objection, he would ask the representative of the Ukrainian SSR "to come to the table".⁸⁷ The Minister of Foreign Affairs of the Ukrainian SSR had stated, by letters dated 29 August and 1 September 1946, that he would be ready,

⁷⁹ For texts of relevant statements see:

25th meeting: Egypt, p. 16; USSR, pp. 10-13, 19-20; United States, pp. 13-14.

26th meeting: Egypt, pp. 40-41; Mexico, pp. 25, 35-36; Netherlands, p. 36; USSR, pp. 27, 30, 37; United Kingdom, pp. 33-34; United States, pp. 30-31, 36-37.

27th meeting: Egypt, pp. 57-58; USSR, pp. 54-55, 58.

⁸⁰ 27th meeting: pp. 60-61.

⁸¹ S/137, O.R., 1st year, 2nd series, Suppl. No. 5, p. 150.

⁸² 60th meeting: pp. 200-201.

⁷⁹ 16th meeting: President (Australia), p. 223.

⁸⁰ S/5, O.R., 1st year, 1st series, Suppl. No. 1, pp. 82-83.

⁸¹ For texts of relevant statements see:

19th meeting: President (Australia), pp. 272, 281-282; Brazil, pp. 274-275; China, p. 275; Egypt, p. 274; Mexico, p. 281; Netherlands, pp. 277-278.

⁸² 19th meeting: p. 282.

⁸³ S/15, O.R., 1st year, 1st series, Suppl. No. 2, pp. 43-44.

in accordance with rule 37, to give any necessary explanations regarding his application.⁸⁸

Decision: *The representative of the Ukrainian SSR was invited by the President, without objection, to the Council table.*⁸⁹

CASE 14

At the 82nd meeting on 10 December 1946, in connexion with the Greek frontier incidents question, the communication dated 3 December 1946 from the Government of Greece,⁹⁰ drawing the attention of the Security Council under Articles 34 and 35 to the situation in northern Greece, was placed on the agenda. The President (United States) assumed that since the Greek Government had brought the matter to the Security Council, the Council would wish to invite the representative of Greece to the Council table to participate in the discussion without a vote. The representative of China also referred to the submission of the complaint as the basis for an invitation to Greece. The representatives of Australia, the Netherlands and Poland supported the invitation on the basis of Article 31, on the general ground that the interests of Greece were specially affected. The representative of Mexico was of the opinion that all the parties concerned should be invited in accordance with Article 32, because that was the only Article applicable to both Members and non-Members of the United Nations.⁹¹ The representative of the Netherlands submitted a draft resolution the first paragraph of which read:

"The representatives of Greece and of Yugoslavia are invited to participate in the discussion without vote."⁹²

Decision: *The Council unanimously adopted the first paragraph of the Netherlands draft resolution.*⁹³

CASE 15

At the 159th meeting on 17 July 1947, the Security Council considered the letter dated 8 July 1947 from the Government of Egypt, submitting their dispute with the Government of the United Kingdom to the Council under Articles 35 and 37 of the Charter, and stating that the Egyptian Government would submit the necessary documentation when so invited according to Article 32.⁹⁴ The representative of the United Kingdom requested the Council not to begin the discussion of the question before 5 August 1947, in order to allow sufficient time for necessary preparations. The Council agreed with the President's (Poland) proposal to include the item in the agenda, but to delay the discussion of the Egyptian question until the date which had been indicated by the representative of the United Kingdom.

At the 175th meeting on 5 August 1947, the representative of the United States expressed confidence "that the Council will feel that it must accord a hearing

⁸⁸ S/145 and S/148.

⁸⁹ 60th meeting: p. 201. For invitation to Greece, see Case 27.

⁹⁰ S/203, O.R., 1st year, 2nd series, Suppl. No. 10, pp. 169-172.

⁹¹ For texts of relevant statements see:

82nd meeting: President (United States), pp. 530-531, 547-548; Australia, pp. 546-547; China, pp. 539-540; Egypt, pp. 533-534; Mexico, pp. 534-536; Netherlands, pp. 532-533; Poland, pp. 538-539; USSR, p. 555.

⁹² 82nd meeting: pp. 549-550, 558.

⁹³ 82nd meeting: p. 558. For invitation to Yugoslavia, see Case 28.

⁹⁴ S/410, 159th meeting: pp. 1343-1345.

this morning to the Egyptian Prime Minister, as this day was fixed some time ago for that purpose".⁹⁵

Decision: *The President (Syria) invited, without objection, the representative of Egypt to the Council table.*⁹⁶

CASE 16

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II) to which the Government of India had by letter dated 30 July 1947⁹⁷ drawn the attention of the Council under Article 35 (1), the representative of Belgium proposed that India "be called upon immediately to take part in our work".⁹⁸

Decision: *The Belgian proposal was adopted without vote, and, at the invitation of the President (Poland), the representative of India took his seat at the Council table.*⁹⁹

CASE 17

At the 226th meeting on 6 January 1948, after the letter dated 1 January 1948¹⁰⁰ from the Government of India drawing the attention of the Security Council under Article 35 (1) to the situation in Jammu and Kashmir, had been included in the agenda, the President (Belgium) inquired whether there were any objections to India "being allowed under Article 31 to take part without voting in the discussion of the question".¹⁰¹

Decision: *The representative of India was invited by the President, without objection, to the Council table.*¹⁰²

CASE 18

At the 268th meeting on 17 March 1948, in connexion with the Czechoslovak question, the Security Council considered the letter dated 12 March 1948¹⁰³ from the representative of Chile requesting the Secretary-General, in accordance with Article 35, to refer to the Council the question of Czechoslovakia raised in a letter from Mr. Papanek, and asking the Council for permission, in conformity with Article 31, to participate in the discussion. The representative of Argentina proposed that the representative of Chile be invited to make a statement. The representative of the Ukrainian SSR objected on the ground that the Chilean letter was not a valid reason for an invitation and that Chile had no concern "with past and present events in Czechoslovakia". The President (China) said, "It has been our usual practice to accede to such requests for participation", and put the question to the vote.¹⁰⁴

⁹⁵ For texts of relevant statements see:

159th meeting: President (Poland), pp. 1345-1346; United Kingdom, p. 1345.

175th meeting: United States, p. 1744.

⁹⁶ 175th meeting: p. 1745.

⁹⁷ S/447, O.R., 2nd year, Suppl. No. 16, p. 150.

⁹⁸ 171st meeting: pp. 1617-1618.

⁹⁹ 171st meeting: p. 1618. For invitation to the Netherlands, see Case 31.

¹⁰⁰ S/628, O.R., 3rd year, Suppl. for Nov. 1948, pp. 139-144.

¹⁰¹ 226th meeting: p. 5.

¹⁰² 226th meeting: p. 5. For invitation to Pakistan, see Case 35.

¹⁰³ S/694, O.R., 3rd year, Suppl. for Jan., Feb. and March, 1948, pp. 31-34.

¹⁰⁴ For texts of relevant statements see:

268th meeting: President (China), p. 102; Argentina, p. 102; Ukrainian SSR, p. 102.

Decision: *The Council decided, by a vote of 9 in favour and 2 against to grant the request of the representative of Chile¹⁰⁵ and, at the invitation of the President, the representative of Chile took his place at the Council table.¹⁰⁶*

CASE 19

At the 344th meeting on 4 August 1948, in connexion with the question of the Free Territory of Trieste, the President (USSR) after stating that "in accordance with the rules of procedure, representatives of Member States of the United Nations who have brought a matter to the notice of the Security Council are invited to participate in the discussion of that matter by the Security Council," proposed to call for a vote to determine whether the representative of Yugoslavia should be invited to the Council table to participate in the discussion of the problem which the Government of Yugoslavia had submitted to the Council. The representative of the Ukrainian SSR said that "according to established practice in the Security Council and on the basis of rules 37 and 38 of the rules of procedure, representatives of States which had lodged a complaint with the Security Council are invited to the Council table. In view of this, I think it unnecessary to put the question to the vote."

Decision: *The representative of Yugoslavia was invited by the President, without objection, to "participate in the discussion of the matter", and he took his seat at the Council table.¹⁰⁷*

CASE 20

At the 511th meeting on 16 October 1950, in connexion with the Palestine question, the Security Council considered four complaints by Israel against Egypt and Jordan based upon the Armistice Agreements. The representative of Israel in his communication to the Council requested that he be enabled to take part in any discussion in connexion with these matters, in accordance with Article 32 of the Charter.¹⁰⁸

Decision: *The President (United States) invited, without objection, the representative of Israel to the Council table.¹⁰⁹*

CASE 21

At the 549th meeting on 26 July 1951, in connexion with the Palestine question, the Security Council considered a complaint by Israel against Egypt concerning restrictions on the passage of ships through the Suez Canal. The President (United Kingdom) proposed to invite the representative of Israel to participate without vote in the Council's discussions.¹¹⁰

Decision: *The proposal of the President was adopted without vote, and the representative of Israel took his place at the Council table.¹¹¹*

b. ...A matter not being either a dispute or a situation

CASE 22

At the 55th meeting on 28 August 1946, in connexion with the question of admission of new Members to

¹⁰⁵ 268th meeting: p. 102.

¹⁰⁶ 268th meeting: p. 102.

¹⁰⁷ 344th meeting: pp. 1-2.

¹⁰⁸ S/1794.

¹⁰⁹ 511th meeting: p. 2.

¹¹⁰ 549th meeting: pp. 1-2.

¹¹¹ 549th meeting: p. 2. For invitations to Egypt and Iraq, see Case 47.

the United Nations, the Security Council considered the application of Albania which had been submitted through the delegation of Yugoslavia. By letter dated 9 February 1946, the Government of Yugoslavia had requested that its delegation be heard at the meeting of the Council "at which its proposal has to be examined".¹¹²

Decision: *The Council unanimously agreed to invite the representative of Yugoslavia to the Council table.¹¹³*

CASE 23

At the 432nd meeting on 27 July 1949, during discussion of the letter¹¹⁴ dated 17 June 1949 from the representatives of Australia, Belgium, Colombia and France concerning travelling expenses and subsistence allowances of alternate representatives on the Security Council commissions, the representative of Belgium asked to be given the floor in order to supply additional information, if it were desired. The representative of Argentina proposed that the representative of Belgium, "who is here in the Council Chamber and who is moreover an expert", should be invited to the table.

Decision: *The proposal of the representative of Argentina was adopted without vote, and the President (the Ukrainian SSR) invited the representative of Belgium "to take a seat at the Council table and to state his point of view".¹¹⁵*

2. Invitations when the interests of a Member were considered specially affected

CASE 24

At the 2nd meeting on 25 January 1946, in connexion with the Greek question, which had been brought to the attention of the Security Council under Article 35 by the USSR,¹¹⁶ the representative of Egypt, after citing Article 31, proposed that "the States which have presented complaints should be invited to participate in the work, in the sittings of the Security Council". The President (Australia) expressed the view that the Egyptian proposal might indirectly affect Greece. The representative of the United Kingdom observed that although Greece had not submitted the complaint, it would be affected and thus must be heard.¹¹⁷

Decision: *The Egyptian proposal was adopted without vote.¹¹⁸ At the 6th meeting on 1 February 1946, when the Greek question was considered, the President (Australia) reminded the members of the Council of their decision, and he invited, without objection, the representative of Greece to the Council table.¹¹⁹*

CASE 25

At the 50th meeting on 10 July 1946, in connexion with consideration of the provisional rules of procedure

¹¹² S/8, O.R., 1st year, 2nd series, Suppl. No. 4, p. 19.

¹¹³ 55th meeting: p. 64. For invitation to Greece, see Case 26.

¹¹⁴ S/1338, O.R., 4th year, Suppl. for July 1949, p. 1.

¹¹⁵ 432nd meeting, p. 11.

¹¹⁶ O.R., 1st year, 1st series, Suppl. No. 1, annex 3, pp. 73-74.

¹¹⁷ For texts of relevant statements see:

2nd meeting: President (Australia), pp. 15-16, 17-18; Egypt, pp. 18-19; USSR, p. 16; United Kingdom, pp. 16-17, 19; United States, p. 18.

¹¹⁸ 2nd meeting: p. 19.

¹¹⁹ 6th meeting: p. 72. For invitations to Iran and the Ukrainian SSR, see Cases 9 and 10 respectively.

of the Atomic Energy Commission, the Security Council considered a request from the Government of Canada to participate, in accordance with Article 31 of the Charter, in the discussion. The representative of Australia proposed that Canada be invited "considering that the interests of Canada as a member of the Atomic Energy Commission are specially affected by the matter now before the Security Council". The representative of the USSR suggested that a decision should be deferred to the next meeting, since he did not wish to discuss the substance of the question without preparatory examination. After quoting Article 31, he stated:

"But before deciding the question whether the representative of Canada should be invited to participate in the meetings of the Security Council . . . , the question of whether the special interests of Canada as a State are really affected should be decided first . . . A number of other questions arise, as for instance, until when should we consider that the special interests of Canada in these matters are affected? As long as Canada is in the Atomic Energy Commission, or for some other period of time?"¹²⁰

Decision: *The Australian proposal was adopted by 9 votes in favour, 1 against and 1 abstention. After the President (Mexico) had ruled it a question of procedure under the Charter, he invited the representative of Canada to the Council table.*¹²¹

CASE 26

At the 55th meeting on 28 August 1946, in connexion with the application of Albania for admission to the United Nations, the President (Poland) read the letter dated 21 August 1946 from the representative of Greece,¹²² requesting that he be invited to participate under Article 31, in the discussion on that matter, since the question of Albania's admission was a matter specially affecting the interests of Greece.¹²³

Decision: *The President invited, without objection, the representative of Greece to the Council table.*¹²⁴

CASE 27

At the 60th meeting on 4 September 1946, in connexion with the Ukrainian complaint against Greece, the President (Poland), after quoting Article 31, stated that unless there was objection, he would ask the representative of Greece "to come to the table".¹²⁵ The representative of Greece, in the telegram dated 26 August 1946 had stated that, in accordance with Article 31, Greece wished to participate in the debate of the Security Council concerning the application of the Ukrainian SSR.¹²⁶

Decision: *The representative of Greece was invited by the President, without objection, to the Council table.*¹²⁷

¹²⁰ 50th meeting; pp. 6-7.

For texts of relevant statements see:

50th meeting: Australia, pp. 2, 3; USSR, pp. 2-3, 4, 6-7.

¹²¹ 50th meeting; p. 4.

¹²² S/134, O.R., 1st year, 2nd series, Suppl. No. 4, pp. 42-43.

¹²³ 55th meeting; pp. 63-64.

¹²⁴ 55th meeting; p. 64. For invitation to Yugoslavia, see Case 22.

¹²⁵ 60th meeting; pp. 200-201.

¹²⁶ S/142.

¹²⁷ 60th meeting; p. 201. For invitation to the Ukrainian SSR, see Case 13.

CASE 28

At the 82nd meeting on 10 December 1946, in connexion with the Greek frontier incidents question, the President (United States) raised the question of how the Security Council would like to proceed in connexion with requests from Albania, Bulgaria and Yugoslavia to be heard by the Council. He assumed that the Council would wish, under Article 31, to invite the Government of Yugoslavia, as a Member of the United Nations, to participate without vote in the discussion of the question on the ground that its interests were specially affected. The representative of Mexico contended that all the parties concerned should be invited under Article 32. The representatives of Australia, China, Egypt, the Netherlands and Poland supported the President.¹²⁸ The representative of the Netherlands submitted a draft resolution the first paragraph of which read: "The representatives of Greece and of Yugoslavia are invited to participate in the discussion without vote".¹²⁹

Decision: *The Security Council unanimously adopted the first paragraph of the Netherlands draft resolution.*¹³⁰

CASE 29

At the 105th meeting on 13 February 1947, the President (Belgium) drew the attention of the Security Council to a request from the Government of Canada¹³¹ to participate, under Article 31, in the discussion of the first report of the Atomic Energy Commission. The representative of the United States proposed that Canada be invited to the Council table when it considered the item.¹³²

Decision: *The President invited, without objection, the representative of Canada to the Council table.*¹³³

The representative of Canada,* on being invited to the Council table, expressed his "appreciation that this Council has given recognition to the fact that Canada's interests are specially affected, in the meaning of Article 31 of the Charter, in connexion with the consideration of the first report of the Atomic Energy Commission . . ."¹³⁴

CASE 30

At the 116th meeting on 7 March 1947, in connexion with the United States draft trusteeship agreement for the former Japanese mandated islands, the representative of Australia stated that, before a final decision was made on the question of administering these territories, all the Allies that were victorious belligerents in the Pacific war should be consulted. He was of the opinion that Article 31 of the Charter would enable the Security Council to invite the participation of those Members of the United Nations whose interests were affected by the question. The representatives of Bel-

¹²⁸ For texts of relevant statements see:

82nd meeting: President (United States), pp. 530-531, 547-548; Australia, pp. 546-547; China, pp. 539-540; Egypt, pp. 533-534; Netherlands, pp. 532-533; Mexico, pp. 534-536; Poland, pp. 538-539; USSR, p. 555.

¹²⁹ 82nd meeting; pp. 549-550.

¹³⁰ 82nd meeting; p. 558. For invitation to Greece, see Case 14.

¹³¹ S/242, O.R., 2nd year, Suppl. No. 5, annex 2, p. 57.

¹³² 105th meeting; p. 275.

¹³³ 105th meeting; p. 275.

¹³⁴ 105th meeting; p. 276.

gium and the United States observed that no request to be heard had been received from those States.¹⁸⁵

At the 118th meeting on 12 March 1947, the President (Brazil) brought to the attention of the Council the cablegram dated 13 March 1947 from the Prime Minister of New Zealand requesting that New Zealand participate, under Article 31, in the discussions on the draft trusteeship agreement. The New Zealand Government considered that the question was "a matter of interest" to those States which had taken an active part in the war against Japan, and, therefore, requested that those members of the Far Eastern Commission not represented on the Security Council (namely, the Netherlands, Canada, New Zealand, India and the Philippines, be invited to participate, if they so desired, in the discussions.¹⁸⁶ At the same meeting, the President received a letter dated 12 March 1947 from the Indian Liaison Officer of the Delegation of India to the United Nations, asking "for the privileges under Article 31 of the Charter, to enable the Council to be acquainted with the views of the Government of India whose interest in the matter is unquestioned".¹⁸⁷

Decision: *The Security Council agreed that the Governments of India and New Zealand should be invited to participate in the "discussion concerning the former Japanese Mandated Islands", and also agreed that any other member of the Far Eastern Commission who might ask to be heard should be invited.*¹⁸⁸ At the 119th meeting on 17 March 1947, the President (Brazil) invited the representatives of Canada, India, the Netherlands, New Zealand and the Philippines to the Council table.¹⁸⁹

CASE 31

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), after communications from Australia and India¹⁴⁰ had been placed on the agenda, drawing attention to hostilities in progress between armed forces of the Netherlands and the Republic of Indonesia, the representative of Belgium proposed that the Netherlands "be called upon immediately to take part in our work".

Decision: *The Belgian proposal was adopted without vote, and, at the invitation of the President (Poland), the representative of the Netherlands took his seat at the Council table.*¹⁴¹

CASE 32

At the 184th meeting on 14 August 1947, the Security Council considered a new¹⁴² application from the Philippines requesting permission to participate in the discussion of the Indonesian question (II), in accordance with Article 31, and setting forth in greater detail the factors which, in the opinion of that Govern-

ment, justified the conclusion that its interests were specially affected by that question.

The request drew attention to the procedure followed in connexion with the trusteeship of the Japanese mandated islands when the requests of New Zealand and India had been granted without the latter having been required to give proof of special interest. The memorandum further drew attention to the statement by the representative of the United States, who had supported the invitation to New Zealand without having assented to the view advanced by New Zealand that, since the disposition of the islands was an essential part of any plan for the control of Japan and of the peace settlement, the interests of the co-belligerents were specially affected. The representative of the United States on this occasion had stated that the question was of the "highest ethical character" and that consequently the procedure of the Council should be free from too rigid an application of rules.¹⁴³ The representatives of Belgium and the United Kingdom expressed their support for inviting the representative of the Philippines in view of the detailed information that had been conveyed by the Philippine Government.¹⁴⁴

Decision: *The President (Syria) put to a vote the question of inviting the representative of the Philippines, in accordance with the new application. The proposal was adopted by 9 votes in favour with 2 abstentions.*¹⁴⁵

CASE 33

At the 186th meeting on 18 August 1947, in connexion with the application of Pakistan for membership in the United Nations, the Security Council considered the letter dated 18 August 1947¹⁴⁶ from the permanent Liaison Officer of the Government of India with the United Nations, stating that his Government, whose interests in that matter were well known, had appointed a representative to present its views under Article 31. The representatives of Australia and the United States expressed doubt as to whether Article 31 of the Charter applied in the case. The representative of Belgium maintained that in order to avoid the risk of creating a precedent, the Council should ascertain if the interests of India were particularly affected by this question. He thought that the Council should invite the representative of India on the basis of rule 39 of the provisional rules of procedure, and not on that of Article 31 of the Charter. The representative of France had no doubt that India was particularly concerned in the question, and he thought that, under the circumstances, the Council should accede to the request of the representative of India.¹⁴⁷

Decision: *The President (Syria) invited, without objection, the representative of India to the Council table.*¹⁴⁸

¹⁸⁵ For texts of relevant statements see: 116th meeting: Australia, pp. 465-466; Belgium, p. 480; United States, pp. 482-483.

¹⁸⁶ S/297, 118th meeting: p. 513.

¹⁸⁷ S/299, 118th meeting: p. 514.

¹⁸⁸ 118th meeting: p. 515.

¹⁸⁹ 119th meeting: p. 523.

¹⁴⁰ S/447, O.R., 2nd year, Suppl. No. 16, p. 150.

¹⁴¹ S/449, O.R., 2nd year, Suppl. No. 16, pp. 149-150.

¹⁴² 171st meeting: pp. 1517-1618. For invitation to India, see Case 16.

¹⁴³ For the rejection of the Philippines request at the 178th meeting, see Case 49.

¹⁴⁴ S/485, 181st meeting: pp. 1914-1916.

¹⁴⁵ For texts of relevant statements see: 184th meeting: President (Syria), p. 1979; Belgium, pp. 1979, 1980; United Kingdom, p. 1979; United States, pp. 1979-1980.

¹⁴⁶ 184th meeting: p. 1980.

¹⁴⁷ S/499, 186th meeting: p. 2053.

¹⁴⁸ For texts of relevant statements see: 186th meeting: President (Syria), pp. 2053, 2054; Australia, p. 2053; Belgium, pp. 2053, 2054; France, p. 2054; United States, pp. 2053-2054.

¹⁴⁹ 186th meeting: p. 2054.

CASE 34

At the 222nd meeting on 9 December 1947, in connexion with the Palestine question, the Security Council considered the telegrams dated 8 December 1947¹⁴⁹ from the Governments of Egypt and Lebanon, requesting permission, under Article 31 of the Charter and rules 14, 37, and 38 of the provisional rules of procedure, to participate in the sessions of the Council when the Palestine question was being discussed. The representative of Syria asked that the applications from the Governments of Egypt and Lebanon be considered and adopted before any discussions were held on the Palestine question.¹⁵⁰ The representative of the United States, who had proposed that the Council postpone the discussion of the Palestine question, stated that, whenever the Council discussed the question, it would need to grant the requests of the Governments of Egypt and Lebanon. The representative of Colombia, supported by the representative of Syria, suggested that the extension of invitations to the two Governments be included in the understanding agreed upon regarding the recommendation of the General Assembly as follows:

"The Security Council takes note of the resolution adopted by the General Assembly concerning the future government of Palestine, and decides to invite the representatives of Egypt and Lebanon to participate in the meetings of the Security Council at which the question of Palestine will be discussed."¹⁵¹

Decision: *The President (Australia) made the following statement:*

"There is no objection by the members of the Security Council to the participation of the two Governments which have already submitted requests, and if that were included in our understanding today, it would also be included that this action would not result in the exclusion of the consideration of further applications.

"As there is no objection, this formula is accepted."¹⁵²

At the 253rd meeting on 24 February 1948, the representative of Syria proposed that Egypt and Lebanon be invited to participate, without vote, in the discussion.

Decision: *The President (Canada), referring to the original request that had been granted at the 222nd meeting, stated:*

"As there is no objection to the proposal of the representative of Syria to accept the applications of the Governments of Egypt and Lebanon, I take it the Security Council concurs."¹⁵³

CASE 35

At the 226th meeting on 6 January 1948, after the letter dated 1 January 1948¹⁵⁴ from the Government of India drawing the attention of the Security Council under Article 35 (1) to the situation in Jammu and Kashmir had been included in the agenda, the Presi-

¹⁴⁹ S/617, 222nd meeting: p. 2777.

S/618, 222nd meeting: p. 2777.

¹⁵⁰ 222nd meeting: pp. 2779, 2781.

¹⁵¹ 222nd meeting: p. 2782.

¹⁵² 222nd meeting: p. 2789.

¹⁵³ For texts of relevant statements see:

253rd meeting: President (Canada), p. 255; Syria, p. 256.

¹⁵⁴ S/628, O.R., 3rd year, Suppl. for Nov. 1948, pp. 139-144.

dent (Belgium) inquired if there were any objections to Pakistan "being allowed, under Article 31 of the Charter, to take part without voting in the discussion of the question..."

Decision: *The representative of Pakistan was invited by the President, without objection, to the Council table.*¹⁵⁵

CASE 36

At the 247th meeting on 17 February 1948, in connexion with the Indonesian question (II), the Security Council considered the letter dated 12 February 1948, from the representative of Australia, requesting permission, under Article 31, to participate in the discussion of the question, since the interests of Australia were specially affected by the situation in Indonesia and Australia was a member of the Committee of Good Offices though no longer a member of the Council.¹⁵⁶

Decision: *The representative of Australia was invited by the President, without objection, to the Council table.*¹⁵⁷

CASE 37

At the 278th meeting on 6 April 1948, in connexion with the Czechoslovak question, the representative of the United States submitted the following draft resolution:

"Pursuant to Article 31, the Government of Czechoslovakia is invited to participate without vote in the discussion of the Czechoslovak question now under consideration by the Security Council, and the Secretary-General is instructed to notify the Czechoslovak representative to the United Nations accordingly."¹⁵⁸

When submitting the draft resolution, the representative of the United States pointed out that it had been a consistent practice for a State, non-member of the Security Council, against which charges had been made or the interests of which had been specially affected, to request permission to take part in the proceedings, but thus far no such request had been made by Czechoslovakia. The representative of Syria contended that, inasmuch as Czechoslovakia was a party to the dispute, Article 32 might be substituted for Article 31 in the draft resolution. While the representative of the United States could not agree to the substitution, he amended the draft resolution so as to omit the words "Pursuant to Article 31".¹⁵⁹

Decision: *The draft resolution as amended was adopted by 9 votes in favour, with 2 abstentions.*¹⁶⁰ (The representative of Czechoslovakia to the United Nations was notified accordingly by the Secretary-General, and in his reply¹⁶¹ stated that his Government did not find it possible in any way to take part in the discussions, for the matters involved were exclusively within the domestic jurisdiction of Czechoslovakia.)

¹⁵⁵ 226th meeting: p. 5. For invitation to India, see Case 17.
¹⁵⁶ S/674, O.R., 3rd year, Suppl. for Jan., Feb. and March 1948, p. 29.

¹⁵⁷ 247th meeting: p. 135.

¹⁵⁸ 278th meeting: p. 3.

¹⁵⁹ For texts of relevant statements see:

278th meeting: Argentina, pp. 3-4; Syria, pp. 4-5, 6; United States, pp. 1-3.

¹⁶⁰ 278th meeting: pp. 6-7.

¹⁶¹ S/718, O.R., 3rd year, Suppl. for April 1948, p. 6. See chapter XII, Case 16.

CASE 38

At the 301st meeting on 22 May 1948, in connexion with the Palestine question, the Security Council considered inviting representatives of the Arab countries to which a questionnaire on the situation had been addressed.

Decision: *The representative of Iraq, being present in the Council chamber when the matter was discussed, was invited by the President (France), without objection, to the Council table.*¹⁶²

CASE 39

At the 357th meeting on 16 September 1948, the provisional agenda for which included the communications dated 21 August, 12 and 13 September 1948¹⁶³ from the Government of Hyderabad, reporting on the outbreak of hostilities and requesting urgent consideration by the Security Council, the representative of the USSR observed that the Council had at its disposal information from one party only, the Government of India not having submitted any information on the substance of the question placed before the Council. He considered it essential to obtain complete information before including the question on the agenda.¹⁶⁴

Decision: *After the agenda had been adopted by 8 votes in favour and 3 abstentions, the President (United Kingdom) invited, without objection, the representative of India to the Council table.*¹⁶⁵

CASE 40

At the 382nd meeting on 25 November 1948, in connexion with the Hyderabad question, the Security Council considered the letter dated 6 October 1948 from the Government of Pakistan,¹⁶⁶ requesting permission to participate, under Article 31 and rule 37 of the provisional rules of procedure, in the discussion of the question. The representative of Syria proposed that the request to participate be granted. Consideration of the item was postponed.¹⁶⁷ At the 384th meeting on 15 December 1948, the President (Belgium) inquired if there were any objections to permission being granted to the representative of Pakistan to participate in the debate.¹⁶⁸

Decision: *The President invited, without objection, the representative of Pakistan to the Council table.*¹⁶⁹

CASE 41

At the 397th meeting on 7 January 1949, in connexion with the Indonesian question (II), the President (Canada) brought to the attention of the Security Council the letter dated 6 January 1949 from the representative of Belgium requesting permission, pursuant to Article 31, to participate in the discussion of the question.¹⁷⁰ The President observed that the re-

¹⁶² 301st meeting: p. 6.

¹⁶³ S/986, O.R., 3rd year, Suppl. for Sept. 1948, pp. 5-6.

¹⁶⁴ S/998, O.R., 3rd year, Suppl. for Sept. 1948, p. 6.

¹⁶⁵ S/1000, O.R., 3rd year, Suppl. for Sept. 1948, pp. 6-7.

¹⁶⁶ 357th meeting: p. 9.

¹⁶⁷ 357th meeting: p. 11. For invitation to the representative of Hyderabad, see Case 60.

¹⁶⁸ S/1027.

¹⁶⁹ 382nd meeting: p. 29.

¹⁷⁰ 384th meeting: p. 40.

¹⁷¹ 384th meeting: p. 41.

¹⁷² S/1192, O.R., 4th year, Suppl. for Jan. 1949, p. 18.

quest "arises in consequence of Belgium's continued membership on the Committee of Good Offices and on the Consular Commission in Batavia".¹⁷¹ Belgium had continued to be a member of the Committee of Good Offices after having ceased to be a member of the Security Council.

Decision: *The President invited, without objection, the representative of Belgium to the Council table.*¹⁷²

CASE 42

At the 398th meeting on 11 January 1949, in connexion with the Indonesian question (II), the Security Council considered the letter dated 11 January 1949, from the representative of Burma requesting permission, under Article 31 of the Charter, to participate in the discussion. In his letter, the representative of Burma referred to the fact that India, the Philippines and Australia, which were not members of the Security Council, had already been allowed to participate.¹⁷³

Decision: *The representative of Burma was invited by the President, without objection, to the Council table.*¹⁷⁴

CASE 43

At the 417th meeting on 11 March 1949, in connexion with the Indonesian question (II), the Security Council considered the letter dated 9 March 1949 from the representative of Pakistan requesting permission, under Article 31 and rule 37 of the provisional rules of procedure, to participate in the discussion of the question.¹⁷⁵

Decision: *The President (Cuba) declared, without objection, that "the request of the representative of Pakistan will be granted".*¹⁷⁶

CASE 44

At the 433rd meeting on 4 August 1949, in connexion with the Palestine question, the Security Council considered the letter dated 28 July 1949 from the representative of Israel requesting permission to participate in accordance with Article 31 and rules 37 and 38 of the provisional rules of procedure, "in any discussion which may take place on the report of the Acting Mediator".¹⁷⁷

Decision: *The representative of Israel was invited by the President (USSR), without objection, to the Council table.*¹⁷⁸

CASE 45

At the 434th meeting on 4 August 1949, in connexion with the Palestine question, the Security Council considered the letter dated 4 August 1949 from the representative of Syria requesting permission, under Article 31 and rules 37 and 38 of the provisional rules of procedure, "to participate without vote in the discussions of the Council in connexion with the Report of the Acting Mediator..."¹⁷⁹

¹⁷³ 397th meeting: p. 3.

¹⁷⁴ 397th meeting: p. 4.

¹⁷⁵ S/1200, O.R., 4th year, Suppl. for Jan. 1949, pp. 47-48.

¹⁷⁶ 398th meeting: p. 2.

¹⁷⁷ S/1283, 417th meeting: p. 2.

¹⁷⁸ 417th meeting: p. 2.

¹⁷⁹ S/1360, O.R., 4th year, Suppl. for Aug. 1949, p. 8.

¹⁸⁰ 433rd meeting: p. 2.

¹⁸¹ S/1363.

Decision: *The representative of Syria was invited by the President (USSR), without objection, to the Council table.*¹⁸⁰

CASE 46

At the 453rd meeting on 25 October 1949, in connexion with the Palestine question, with special reference to the demilitarization of the Jerusalem area, the President (United States) informed the Security Council that he had received "a request in proper form, from the representative of Israel to be allowed to participate, without the right to vote, in any discussion on this subject".¹⁸¹

Decision: *The representative of Israel was invited by the President, without objection, to the Council table.*¹⁸²

CASE 47

At the 549th meeting on 26 July 1951, in connexion with the Palestine question, with special reference to the complaint regarding restrictions on the passage of ships through the Suez Canal, the President (United Kingdom) remarked:¹⁸³

"In dealing with the Palestine question, it has been the practice of the Security Council to invite those representatives of States in the area, who wish to do so, to participate without vote in the discussions of the Council, if they are not already members of the Council. The aspect of the Palestine question with which we are about to deal concerns a complaint by Israel against Egypt. Therefore, it follows that the representatives of Israel and of Egypt should be present when this matter is under discussion.

"The representative of Iraq has also asked, in a letter¹⁸⁴ which I received yesterday, to be allowed to participate. Although Iraq is, if I may say so, less directly concerned with the present complaint, I think it would be in accordance with the past practice of the Security Council, to which I have already referred, to grant this request."

Decision: *The representatives of Egypt and Iraq were invited by the President, without objection, "to participate without vote in the Council's discussion on the agenda item before it".*¹⁸⁵

CASE 48

At the 559th meeting on 1 October 1951, after the inclusion of the Anglo-Iranian Oil Company case in the agenda, the President (Brazil) stated:

"For the decision of the Security Council, I put the question whether the representative of Iran shall be invited in accordance with rule 37 of our provisional rules of procedure and Article 32 of the Charter, and also in keeping with previous decisions of the Security Council."

Decision: *The President invited, without objection, the representative of Iran to the Council table.*¹⁸⁶

¹⁸⁰ 434th meeting: p. 19.

¹⁸¹ S/1411. The request of Israel was submitted "in accordance with Article 31 and rule 37 of the provisional rules of procedure".

¹⁸² 453rd meeting: p. 1.

¹⁸³ 549th meeting: pp. 1-2.

¹⁸⁴ S/2262, O.R., 6th year, Suppl. for July, Aug. and Sept. 1951, p. 16. Article 31 was cited in the request by Iraq.

¹⁸⁵ 549th meeting: p. 2. For invitation to Israel, see Case 20.

¹⁸⁶ 559th meeting: p. 11.

3. Invitations denied

CASE 49

At the 178th meeting on 7 August 1947, the President (Syria) drew the attention of the Security Council to the telegram dated 1 August 1947 from the permanent representative of the Philippines requesting permission to participate in the discussion of the Indonesian question (II). The representative of the Philippines stated that his Government had made this request "because it is vitally interested in the maintenance of peace in that area and because of its humanitarian desire to prevent further bloodshed".¹⁸⁷ The representative of Belgium, calling the attention of the Council to the importance of the precedent which acceptance of the request of the Philippines would entail, maintained that it was the duty of the Council to ascertain whether "the interests of the Philippines are in this case specially affected within the meaning of Article 31 of the Charter". The representative of the United Kingdom did not think that "the document before us sufficiently shows that the Philippines is specially affected in the sense of Article 31". All Members of the United Nations would be "specially affected" by the first criterion, and the second was shared by a considerable number of States. He was of the opinion that the Council should be careful of the manner in which it applied Article 31. The representatives of Australia, India*, and Colombia made statements in support of the Philippine request.¹⁸⁸

Decision: *The President put to the vote the question of granting the request of the Philippines to participate in the discussion. The proposal was rejected by 6 votes in favour, and 5 abstentions.*¹⁸⁹

D. IN THE CASE OF NON-MEMBER STATES AND OTHER INVITATIONS

1. Invitations expressly under Article 32

CASE 50

At the 95th meeting on 20 January 1947, in connexion with the Corfu Channel question, the President (Australia) commenced consideration of the question by quoting Article 32 and proposing that the Security Council "invite Albania to participate, without vote, in the discussion relating to the dispute...".¹⁹⁰

Decision: *The Council adopted the proposal to invite Albania to participate, without vote, in the discussion relating to the question.*¹⁹¹

By cable dated 20 January 1947, the Acting Secretary-General informed the Republic of Albania of the decision, and stated that the decision was taken "in accordance with Article 32 of the Charter".¹⁹²

CASE 51

At the 511th meeting on 16 October 1950, in connexion with the Palestine question, the provisional

¹⁸⁷ S/458, 178th meeting: p. 1837.

¹⁸⁸ For texts of relevant statements see: 178th meeting: President (Syria), p. 1837; Australia, p. 1838; Belgium, p. 1837; Colombia, p. 1839; India, pp. 1838-1839; United Kingdom, pp. 1837-1838.

¹⁸⁹ 178th meeting: p. 1839. For the approval of the invitation to the Philippines at the 184th meeting, see Case 32.

¹⁹⁰ 95th meeting: p. 123. See Case 81.

¹⁹¹ 95th meeting: p. 124.

¹⁹² S/258 and S/258/Corr.1.

agenda contained items in which complaints were made by Israel against the Hashemite Kingdom of the Jordan (items c, d, e) and by Jordan against Israel (item f).

Decision: *After the adoption of the agenda, the President (United States) invited, without objection, the representative of the Hashemite Kingdom of the Jordan to the Council table.*

The President then informed the Security Council that an appropriate document had been filed by Jordan, in conformity with Articles 32 and 35 (2), wherein that State had undertaken the obligations of pacific settlement provided in the Charter.¹⁹³

2. Invitations expressly under rule 39 of the provisional rules of procedure

CASE 52

At the 253rd meeting on 24 February 1948, the President (Canada) drew the attention of the Security Council to the letter dated 11 December 1947 from the Jewish Agency for Palestine,¹⁹⁴ requesting permission to be heard in any discussions which might take place in the Council regarding the Palestine question. He recalled that, at the second session of the General Assembly, the Jewish Agency had been granted the opportunity to participate in the work of the Ad Hoc Committee on the Palestine question. The President, referring to rule 39 of the provisional rules of procedure, made the following suggestion:¹⁹⁵

"... Applying this rule, and in order that the Security Council may have the fullest information, I propose that an invitation be extended by the Security Council to the Jewish Agency for Palestine to have its representative sit during the deliberations of the Security Council on the Palestine question, for the purpose of supplying such information and rendering such assistance as the Security Council may require..."

"I would add the suggestion that if an application is received from the Arab Higher Committee to be admitted to these discussions in the Security Council, it should be given the same consideration as that given to the application of the Jewish Agency for Palestine."

Decision: *The President's proposal was adopted, without discussion, and the representative of the Jewish Agency for Palestine took his place at the Council table.¹⁹⁶ At the 282nd meeting on 15 April 1948, the President (Colombia) invited, without objection, the representative of the Arab Higher Committee "to participate in the discussion" on the Palestine question.¹⁹⁷*

At the 330th meeting on 7 July 1948, the representative of the Arab Higher Committee stated that since the President (Ukrainian SSR) had referred to the representative of the Jewish Agency as "the representative of the State of Israel", he could not "assist in these deliberations" as long as that denomination

¹⁹³ 511th meeting: pp. 1-2.

¹⁹⁴ S/619.

¹⁹⁵ 253rd meeting: pp. 256-257.

¹⁹⁶ 253rd meeting: p. 257.

¹⁹⁷ 282nd meeting: pp. 1, 2. At the 277th meeting on 1 April 1948, the Security Council had unanimously adopted a resolution calling upon the Jewish Agency for Palestine and the Arab Higher Committee "to make representatives available to the Security Council for the purpose of arranging a truce".

277th meeting: pp. 33, 34.

was being used by the President. Thereupon, the representative of the Arab Higher Committee withdrew from the Council table.¹⁹⁸ By letter dated 8 July 1948, addressed to the President of the Security Council, the Vice Chairman of the Arab Higher Committee set forth the reasons for the withdrawal of the Committee from the deliberations of the Council, and contended that "in order to invite an alleged different person or body, so-called Provisional Government of Israel, which legally, morally or factually does not exist, a fresh proposal should have been submitted to invite such person, in accordance with rule 39..."¹⁹⁹

CASE 53

At the 473rd meeting on 25 June 1950, in connexion with the complaint of aggression upon the Republic of Korea, the representative of the United States proposed that "the representative of the Government of the Republic of Korea be permitted to sit at the Council table during consideration of this case". The President (India) stated:

"It is open to us to permit this under rule 39 of the Security Council rules of procedure. If there is no objection, I propose that we grant the necessary permission."

Decision: *The President invited, without objection, the representative of the Republic of Korea to the Council table.²⁰⁰*

At the 487th meeting on 14 August 1950, the President, speaking as the representative of the USSR, stated that the decision of 25 June 1950 violated Article 32, because both sides had not been invited.²⁰¹

CASE 54

At the 503rd to 507th meetings, between 26 and 29 September 1950, in connexion with the complaint of armed invasion of Taiwan (Formosa), the Security Council considered the question of inviting a representative of the People's Republic of China. At the 503rd meeting the representative of the USSR re-introduced his earlier draft resolution,²⁰² and at the 504th meeting drew attention to a telegram, dated 17 September 1950, from the Minister of Foreign Affairs of the People's Republic of China, which stated:²⁰³

"... the initiator of the proposal and the accuser in this case, has the right and necessity to send its delegation to attend and join the United Nations Security Council.

"..."

"Should the Security Council proceed to the above-mentioned item on the agenda without the attendance and participation in the discussion of the representative of the People's Republic of China, all its resolutions adopted will be illegal and therefore null and void."

The representative of the USSR supported that point of view and added that the Council was required, under Article 32 of the Charter, to invite the party lodging a complaint of aggression.

¹⁹⁸ 330th meeting: pp. 2, 10.

¹⁹⁹ S/880, O.R., 3rd year, Suppl. for July 1948, p. 35.

²⁰⁰ 473rd meeting: p. 4.

²⁰¹ 487th meeting: p. 14.

²⁰² S/1732, 492nd meeting: p. 15; 503rd meeting: p. 21.

²⁰³ S/1795, 504th meeting: pp. 4-5.

At the 504th meeting the representative of Ecuador submitted, as an amendment to a pending Chinese draft resolution concerning the deletion of the item from the agenda, the following:²⁰⁴

"The Security Council,

"...

"Considering that, in view of the divergency of opinion in the Council regarding the representation of China and without prejudice to this question, it may, in accordance with rule 39 of the rules of procedure, invite representatives of the Central People's Government of the People's Republic of China to provide it with information or assist it in the consideration of these matters,

"...

"Decides:

"(a) To defer consideration of this question until the first meeting of the Council held after 1 December 1950;

"(b) To invite a representative of the said Government to attend the meetings of the Security Council held after 1 December 1950 during the discussion of that Government's declaration regarding an armed invasion of the Island of Taiwan (Formosa)."

In submitting this proposal the representative of Ecuador contended that the representative of the People's Republic of China could not be heard under Article 32 of the Charter, since China was already represented on the Security Council. In his view rule 39 was applicable. He also explained that he would not have made a proposal to invite a representative of the People's Republic, if it had been engaged in an act of aggression against the United Nations. The representative of the United Kingdom expressed the view that, although the People's Republic of China had every right in equity, as opposed to law, to be present when its complaint was being considered, the invitation should legally be based on rule 39 rather than on Article 32 of the Charter. The representative of China contended that rule 39 was not applicable since his Government was in a position to give all necessary information regarding Taiwan; and Article 32 was not applicable because China was already a member of the Security Council. He also observed that the actions of the party making the complaint were against the principles of the Charter. The representative of the United States was of the opinion that the Council should create a commission of investigation, and that the question of inviting the Chinese People's Republic, under rule 39, should be considered after a report had been made by the commission on the facts. The representative of France stated that it was reasonable that a representative of the authorities submitting a complaint should be permitted to explain that complaint to the Council and reply to questions.²⁰⁵

Decision: At the 505th meeting on 28 September 1950, the draft resolution submitted by the representa-

²⁰⁴ S/1817/Rev.1, 504th meeting: pp. 12-13.

²⁰⁵ For texts of relevant statements see:

503rd meeting: USSR, pp. 21, 31, 34.

504th meeting: China, pp. 13-15, 17; Ecuador, pp. 7, 9-13; USSR, pp. 4-5; United Kingdom, pp. 18-19.

505th meeting: Ecuador, pp. 13, 15; USSR, p. 6; United States, pp. 8-9.

506th meeting: India, p. 8; United States, pp. 12-14.

507th meeting: France, p. 12.

tive of the USSR²⁰⁶ was rejected, having failed to obtain the affirmative votes of seven members. There were 6 votes in favour, 3 against, and 2 abstentions.²⁰⁷

The Ecuadorean amendment to the Chinese draft resolution was voted upon paragraph by paragraph. The operative part was rejected, having failed to obtain the affirmative vote of seven members. There were 6 votes in favour, 4 against, and 1 abstention.²⁰⁸

The representative of Ecuador reintroduced his proposal at the 506th meeting on 29 September 1950 as a separate draft resolution which was voted upon paragraph by paragraph and adopted as a whole, with the deletion of the last paragraph of the preamble, by 7 votes in favour, 3 against, and 1 abstention.²⁰⁹

CASE 55

At the 519th meeting on 8 November 1950, in connexion with the complaint of aggression upon the Republic of Korea and with reference to the special report of the United Nations Command in Korea transmitted by the letter dated 6 November 1950 from the representative of the United States,²¹⁰ the Security Council considered two draft resolutions concerning the invitation to a representative of the People's Republic of China.

The representative of the USSR submitted a draft resolution²¹¹ proposing that "during the discussion of the Korean question it should be necessary to invite the representative of the People's Republic of China". He maintained that, in order to form a definite opinion, it was necessary to hear both sides in a spirit of sovereign equality. The representative of the United Kingdom introduced an amendment,²¹² to "invite, in accordance with rule 39 of the rules of procedure, a representative of the Central Government of the People's Republic of China to be present during the discussion by the Council of the special report..." In presenting his counter-draft, the representative of the United Kingdom observed:

"...the Security Council should extend such an invitation on a general matter of equity and without any long and possibly contentious debate on the exact Article of the Charter on which an invitation should be based or on the exact meaning, for instance, of Article 32 in its application to present circumstances."

He thought that the attitude of the Government of the Chinese People's Republic toward the action taken by the United Nations to repel aggression in Korea could not justify the extension of a general invitation to be present at the Council table whenever the item was under consideration. However, the Chinese People's Republic, having been arraigned by the United Nations Command, ought in his view to be allowed to make a statement on its own behalf. The representative of China opposed the invitation on the ground that the Chinese communists were aggressors. Objections to the extension of an invitation of the sort characteristically tendered in disputes were voiced by the representative of the United States, who believed that the Communist

²⁰⁶ S/1732, 505th meeting: p. 21.

²⁰⁷ 505th meeting: p. 21.

²⁰⁸ 505th meeting: p. 23.

²⁰⁹ 506th meeting: p. 5. See chapter I, Case 103.

²¹⁰ S/1884, 518th meeting: pp. 4-5.

²¹¹ S/1889, 519th meeting: p. 16.

²¹² S/1890, 519th meeting: p. 16.

authorities ought to be summoned to afford explanations. The President, speaking as the representative of Yugoslavia, stated that the People's Republic of China was an interested party in the Korean question.

Decision: *At the 520th meeting on 8 November 1950, the USSR draft resolution was rejected by 2 votes in favour, 3 against, and 6 abstentions.*²¹³

After the rejection of the USSR draft resolution, the representative of the USSR proposed an amendment to the United Kingdom draft resolution replacing the words "special report of the United Nations Command in Korea (S/1884)" by the words "the question submitted by the delegation of the United States of America (S/1884)".

Decision: *The USSR amendment was rejected by 1 vote in favour, 2 against, and 8 abstentions.*²¹⁴

Before the United Kingdom draft resolution was put to the vote, the representative of the USSR stated that, while he would vote in favour of the draft resolution, his delegation did not recognize the United Nations Command.²¹⁵

Decision: *The United Kingdom draft resolution was adopted by 8 votes in favour, 2 against, and 1 abstention.*²¹⁶

3. Invitations not expressly under Article 32 or rule 39

a. Restricted in relation to the agenda item

CASE 56

At the 62nd and 64th meetings on 5 and 9 September 1946, in connexion with the Ukrainian complaint against Greece, the Security Council considered the letter dated 5 September 1946²¹⁷ from the representative of the People's Republic of Albania requesting permission, in accordance with Article 32, to present a factual statement before the Council. The President (Poland) explained that, since the case had been classified as a situation by the Ukrainian SSR, Article 32 could not be applied "unless we classify the subject as a dispute". He interpreted rule 39 as giving "the Council freedom to invite whomever it chooses to supply it with information or other assistance, as distinguished from participation in the discussion", stating that "it follows that the matter has to be considered on the basis of rule 39".

At the 64th meeting, the representatives of China and the Netherlands agreed that a State which was not a Member of the United Nations could not be invited to participate in the discussion unless the question under consideration was a dispute to which the non-Member was a party.²¹⁸ The representatives

of China, Mexico, the Netherlands, the United Kingdom and the United States observed that rule 39 was not applicable. The representatives of Mexico and the United States, however, added that to grant the Albanian request would be in the spirit of the Charter. The representative of China stated that he would support an invitation to Albania if some rule or method could be found to enable the representative of Albania to come to the Council table. The representative of the USSR supported the invocation of rule 39 to invite the representative of Albania. The representative of Australia maintained that, although rule 39 could be applied, it should follow a decision to investigate, which in itself might avoid the procedural difficulties. The President put to the vote the question "to invite the representative of Albania to come to the table for the purpose of making a factual statement".²¹⁹

Decision: *The Council decided by 9 votes in favour, 1 against, with 1 abstention, to invite the representative of Albania. After the vote had been taken, the President stated:*

"I shall ask the representative of Albania to come to the table to make a factual statement. I also want to advise him that this does not imply the right to participate in the discussion."²²⁰

CASE 57

At the 82nd meeting on 10 December 1946, in connexion with the Greek frontier incidents question which had been brought before the Security Council by Greece as a "situation", the Council considered requests from the Governments of Albania, Bulgaria and Yugoslavia to attend the meetings of the Council when the question was under consideration.²²¹ The President (United States) assumed that the Council would invite Yugoslavia, as a Member of the United Nations, under Article 31. He observed that inasmuch as Albania and Bulgaria were not Members, they could not be dealt with on the same basis. He suggested:

"...at an appropriate stage in the proceedings, the Albanian and Bulgarian Governments should be invited to the Council table to present any facts bearing on the issues before the Council."

The representative of the USSR considered that all parties should be invited to participate equally in discussion of disputes and situations. The representative of the Netherlands observed that non-Members could not be invited under Article 32 unless the question was a dispute.²²² Several members were of the opinion that all States concerned should be heard before a decision was taken on whether the question was a dispute. The representative of Mexico observed that unless Article 32 was applied, the treatment of Albania

²¹³ 520th meeting: p. 5.

²¹⁴ 520th meeting: pp. 6-7.

²¹⁵ For texts of relevant statements see:

519th meeting: China, pp. 14-15; USSR, pp. 12-13; United Kingdom, pp. 15-16.

520th meeting: President (Yugoslavia), p. 5; Ecuador, pp. 7-8; Egypt, p. 8; France, pp. 4-5; USSR, pp. 2-4; United States, pp. 1-2.

²¹⁶ 520th meeting: pp. 7-8.

²¹⁷ S/151, 62nd meeting: p. 250.

²¹⁸ For consideration of whether a dispute existed, see Case 70.

²¹⁹ For texts of relevant statements see:

62nd meeting: President (Poland), pp. 249-250; Australia, pp. 250-252; USSR, pp. 252-254.

64th meeting: President (Poland), pp. 261, 266; Australia, pp. 263-264; China, pp. 261-262; Mexico, pp. 265-266; Netherlands, pp. 262-263; United Kingdom, pp. 260-261, 265; United States, p. 265.

²²⁰ 64th meeting: pp. 266-267.

²²¹ S/207 (Albania), O.R., 1st year, 2nd series, Suppl. No. 10, annex 17, p. 191, and S/208 (Bulgaria), O.R., 1st year, 2nd series, Suppl. No. 10, annex 18, p. 191.

²²² For consideration of whether a dispute existed, see Case 71.

and Bulgaria might be "unjust and unfair".²²³ The representative of the USSR submitted the following draft resolution:²²⁴

"The Security Council resolves:

"To invite the representatives of Greece, Yugoslavia, Bulgaria and Albania to participate in the consideration of the question raised by the Greek Government."

Decision: *The USSR draft resolution was rejected, having failed to obtain the affirmative vote of 7 members.*²²⁵

The representative of the Netherlands submitted a draft resolution to invite the representatives of Greece and Yugoslavia "to participate in the discussion without vote". As regards Albania and Bulgaria, the draft resolution provided:²²⁶

"2. That the representatives of Albania and Bulgaria will be invited to enable the Security Council to hear such declarations as they may wish to make.

"3. Should the Security Council find at a later stage that the matter under consideration is a dispute, the representatives of Albania and Bulgaria will be invited to participate in the discussion without vote."

The representative of Poland asked that the phrase "will be invited" in paragraph 2 be amended to read: "are invited". The representative of the Netherlands accepted the amendment.²²⁷

Decision: *Paragraph 2 of the Netherlands draft resolution, as amended, was adopted unanimously. Paragraph 3 was declared adopted "by a majority vote" and the representative of the USSR explained why he had voted against.*²²⁸

b. Unrestricted in relation to the agenda item

CASE 58

At the 84th meeting on 16 December 1946, in connexion with the Greek frontier incidents question, after the Security Council had heard the representatives of Albania, Bulgaria, Yugoslavia and Greece in accordance with the decision reached at the 82nd meeting,²²⁹ the President (United States) raised the question as to the future participation of the representatives of Albania and Bulgaria in the discussion. He proposed that, in accordance with the spirit of Article 32 and with the spirit of justice with which the Charter was inspired, the Council invite Albania and Bulgaria to participate, without vote, during the remainder of the discussion, should these Governments accept in advance, for purposes of the case, the obligations of pacific settlement provided in the Charter.

The representatives of Mexico, the Netherlands, Poland and the USSR considered that Article 32

²²³ For texts of relevant statements, see:

82nd meeting: President (United States), pp. 530-531; Australia, pp. 546-547; China, pp. 539-540; Egypt, pp. 533-534; Mexico, pp. 534-535; Netherlands, pp. 532-533, 543-544; Poland, pp. 538-539; USSR, pp. 542-543, 555; United Kingdom, p. 552; United States, p. 548.

²²⁴ 82nd meeting: p. 556.

²²⁵ 82nd meeting: p. 556.

²²⁶ 82nd meeting: pp. 556-557. For invitations to Greece and Yugoslavia, see Cases 14 and 28.

²²⁷ 82nd meeting: pp. 556, 558.

²²⁸ 82nd meeting: pp. 558-559.

²²⁹ See Cases 14, 28 and 57.

clearly applied to the case. The President stated that he had purposely avoided making reference to any Articles except to invoke the spirit of Article 32.²³⁰

Decision: *The Council unanimously adopted the proposal of the President to invite the representatives of Albania and Bulgaria to participate, without vote, during the remainder of the discussion, provided that they accepted the obligations of pacific settlement.*²³¹

CASE 59

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), the representatives of Australia and the USSR proposed that an invitation be sent to the Republic of Indonesia, the former contending that this should be done pursuant to Article 32. The representative of the Netherlands*, who had been invited to take part in the discussion without vote, opposed the proposal, stating that an invitation would prejudice the question, especially with reference to the competence of the Security Council, since the Republic of Indonesia was not a sovereign State.²³² In reply to a question from the representative of the United States, the President (Poland) stated that, according to rule 39, the Council could invite anybody for consultation, and that it was possible to invite the representative of the Indonesian Republic and later decide his legal status. Accepting suggestions made by the representatives of China and Colombia, the President ruled that the question of invitation would be postponed until after consideration of the Australian draft resolution concerning a cease-fire.

At the 181st meeting on 12 August 1947, after the adoption of the Australian draft resolution, the representative of Poland formally proposed to invite the representative of the Republic of Indonesia to take part in the discussion. The President (Syria) read a letter from the representative of the Republic of Indonesia, requesting permission to participate without vote in the discussion, and accepting, for the purpose of the dispute, the obligations of a Member of the United Nations.²³³

The representative of Colombia observed that it would be unjust to continue to address resolutions to both parties and to hear only one. The representatives of Belgium and the United Kingdom opposed the invitation because it would indirectly accord recognition to the Republic of Indonesia by admitting it as a sovereign and independent State. The representative of Australia stated that at times the Council had extended invitations in accordance with equity and justice. The representative of the United States supported the viewpoint that the proposal was in accordance with the spirit of Article 32, but added that, if members did not wish to apply Article 32, the representative of Indonesia could be invited in accordance with rule 39, if that rule were given a generous interpretation. The representative of the USSR was in favour of an unqualified invitation, and the representatives of China and India* favoured a practical

²³⁰ For texts of relevant statements see:

84th meeting: President (United States), pp. 607-608, 608-609, 610; Australia, pp. 608, 611, 612; Egypt, pp. 609-610; Mexico, pp. 611-612; Netherlands, p. 609; Poland, p. 611; USSR, pp. 609, 613.

²³¹ 84th meeting: p. 613. See also Case 80.

²³² For consideration of this provision of Article 32, see Case 67.

²³³ S/487, 181st meeting: p. 1919.

rather than legal approach so that a representative of Indonesia might submit his observations in writing, thus reserving the legal question. The representative of the Netherlands*, in addition to opposing an invitation under Article 32, drew attention to the terms of rule 39, the invocation of which he opposed. He pointed out that the rule provided that the Security Council could invite persons to supply it "with information or to give other assistance in examining matters within its competence", thus implying recognition of the Council's competence. In putting the matter to the vote, the President (Syria) stated:

"... we consider that the presence of representatives from Indonesia would be necessary and helpful for the just solution of this problem. For that reason I shall put to the vote only the question of extending an invitation to the representatives of the Indonesian Republic to appear before the Security Council during the discussion of this question, without any definition or determination of the sovereignty of that Republic."

Decision: *The proposal to invite the representative of the Republic of Indonesia was adopted by 8 votes in favour and 3 against.*²³⁴

After the vote had been taken a discussion took place regarding the legal basis of the decision. The representative of the Netherlands maintained that the Council had not invited the representative of the Republic of Indonesia under Article 32 or rule 39. The representative of Belgium stated that the invitation was based on general grounds of equity and justice. The representatives of Australia, Poland and the USSR regarded the invitation as an application of Article 32.

At the 184th meeting on 14 August 1947, the representative of the United Kingdom maintained that the action was a violation of Article 32. The representative of Colombia contended that the invitation had been extended because the Republic of Indonesia was a party to the dispute and hostilities had occurred. The representative of the United States was of the opinion that the President's remarks prior to the voting accurately expressed the views of the Council. The President observed that the proposal had been adopted on the basis of the principles which he had enunciated.²³⁵

CASE 60

At the 357th meeting on 16 September 1948, the provisional agenda included communications from the Government of Hyderabad, bringing to the attention of the Security Council, in accordance with Article 35 (2), a dispute which had arisen between Hyderabad and India.²³⁶ In the communication, the Government

²³⁴ 181st meeting: p. 1940. See also Case 82.

²³⁵ For texts of relevant statements see:

171st meeting: President (Poland), pp. 1630, 1632-1633; Australia, pp. 1618, 1627; Belgium, p. 1633; China, p. 1633; Colombia, p. 1630; India, pp. 1627-1628, 1639; Netherlands, pp. 1619-1620; USSR, p. 1618; United States, p. 1632.

181st meeting: President (Syria), pp. 1920, 1939-1940, 1941; Belgium, pp. 1930, 1941, 1943; China, pp. 1935-1936; Colombia, pp. 1928-1929; France, pp. 1936-1939; Netherlands, pp. 1921-1923, 1940-1941; Poland, pp. 1918-1919, 1927-1928, 1941-1942; United Kingdom, p. 1923; United States, pp. 1931-1933, 1942-1943.

184th meeting: President (Syria), p. 1992; Australia, p. 1985; Colombia, pp. 1988-1989; United Kingdom, pp. 1984-1985.

²³⁶ S/986, S/998, S/1000, O.R., 3rd year, Suppl. for Sept. 1948, pp. 5-7.

of Hyderabad had stated its acceptance "for the purpose of the dispute, of the obligations of pacific settlement provided in the Charter of the United Nations".

Decision: *After the agenda had been adopted, by 8 votes in favour and 3 abstentions, the President (United Kingdom) invited, without objection, the representative of Hyderabad to the Council table.*²³⁷

4. Invitations denied

CASE 61

At the 181st and 184th meetings on 12 and 14 August 1947, in connexion with the Indonesian question (II), after the representative of the Republic of Indonesia had been invited to participate in the discussion, the representative of Belgium proposed that the Security Council invite, for similar reasons of equity, the representatives of East Indonesia and Borneo. The President (Syria) observed that, since East Indonesia and Borneo were neither parties to the dispute nor participants in the hostilities, the basis for invitations could not be the same. The representative of the Netherlands* contended that the invitations should be extended for reasons of equity and justice without prejudice to juridical questions, since all three authorities were considered equal by his Government. The representatives of Australia, Colombia, Poland, Syria and the USSR questioned whether an invitation could be extended without the authority of an Article of the Charter or a rule of procedure. Support for the invocation of rule 39 of the rules of procedure was expressed by the representatives of Australia, Colombia and the United States, while the representatives of Poland and the USSR contended that rule 39 could not apply to representatives of Governments. At the close of the discussion, the representative of Belgium requested that the words "on the same grounds as the representative of the Indonesian Republic" be deleted from his proposal.²³⁸

Decision: *The Belgian draft resolution was rejected by 4 votes in favour with 7 abstentions.*²³⁹ *At the 193rd meeting on 22 August 1947, a second draft resolution to the same effect was also rejected.*²⁴⁰

CASE 62

At the 473rd meeting on 25 June 1950, in connexion with the complaint of aggression upon the Republic of Korea, after the Security Council had heard a statement by the representative of the Republic of Korea, the representative of Yugoslavia submitted a draft resolution to invite "the Government of North Korea to state its case before the Security Council".²⁴¹ While voicing no opinion regarding the merits of the case, the representative of Yugoslavia observed that, before passing final judgment, the Council should hear a

²³⁷ 357th meeting: p. 11. For invitation to the representative of India, see Case 39.

²³⁸ For texts of relevant statements see:

181st meeting: President (Syria), p. 1943; Australia, pp. 1942, 1943-1944; Belgium, pp. 1941-1943; Netherlands, pp. 1940, 1941.

184th meeting: President (Syria), p. 1983; Australia, p. 1985; Belgium, pp. 1981, 1992; Colombia, pp. 1981, 1982, 1988-1989; Netherlands, pp. 1981-1982, 1987; Poland, p. 1990; USSR, pp. 1986-1987; United Kingdom, pp. 1984-1985; United States, pp. 1985-1986.

²³⁹ 184th meeting: p. 1992.

²⁴⁰ 193rd meeting: p. 2172.

²⁴¹ S/1500, 473rd meeting: p. 15.

representative of the party which had been accused of aggression.²⁴²

Decision: *The Yugoslav draft resolution was rejected by 1 vote in favour, 6 against, and 3 abstentions.*²⁴³

CASE 63

At the 474th meeting on 27 June 1950, in connexion with the complaint of aggression upon the Republic of Korea, the representative of Yugoslavia submitted a draft resolution "to invite the Government of the People's Republic of Korea to send immediately a representative to the Headquarters of the United Nations with full powers to participate in the procedure of mediation".²⁴⁴

Decision: *The Yugoslav draft resolution was rejected by 1 vote in favour, 7 against and 2 members of the Council not voting.*²⁴⁵

CASE 64

At the 483rd meeting on 4 August 1950, in connexion with the complaint of aggression upon the Republic of Korea, the President, as the representative of the USSR, submitted a draft resolution, the first paragraph of which read:²⁴⁶

"(a) To consider it necessary, in the course of the discussion of the Korean question, to invite the representative of the People's Republic of China and also to hear representatives of the Korean people."

The USSR draft resolution was discussed, without a decision being taken, during the month of August 1950 (483rd to 493rd meetings), in conjunction with the United States draft resolution²⁴⁷ to condemn the North Korean authorities for continued defiance of the United Nations, and the point of order raised by the representative of China concerning the "standing decision" which the Council had taken, at its 473rd meeting on 25 June 1950 (see Case 53), to invite the representative of the Republic of Korea to participate in the discussions on the Korean question.

The representative of the USSR observed that it was the tradition and practice of the Council to invite both parties involved in hostilities, as well as the representatives of the States concerned, and that this procedure was in accordance with Article 32 of the Charter. The representatives of China, Cuba, Ecuador, India, Norway, the United Kingdom and the United States stressed the difference between the case of a dispute and the Korean case of aggression in violation of the Security Council's call for cessation of hostilities and withdrawal to the 38th parallel.²⁴⁸ Objections were also raised against the USSR draft resolution by the representatives of China, Cuba, Egypt, France, India, Norway, United Kingdom and the United States on the ground that the decision of 25 June 1950, to invite the representative of the Republic of Korea, bound the President (USSR) first to invite the representative of the Republic of Korea, unless that decision was reversed by the Council. The representative of Ecuador

maintained that the People's Republic of China was not connected directly or indirectly with the question before the Council.²⁴⁹

At the 494th meeting on 1 September 1950, the President (United Kingdom), in accordance with the decision taken by the Council on 25 June, invited the representative of the Republic of Korea to take his place at the Council table.²⁵⁰ After the President's ruling, on being put to the vote, had been upheld, the representative of the USSR introduced the following new draft resolution:²⁵¹

"The Security Council

"Decides that during the discussion of the Korean question it shall be necessary to invite and hear at its meetings the representatives of the Korean people, i.e., the representatives of North and South Korea."

The President ruled, and his ruling was upheld by 8 votes to 1, with 1 abstention and one member not participating, that if the USSR draft resolution was rejected, such a rejection should not prejudice the right of the representative of the Republic of Korea to be present at the Council table during the discussion of the Korean question.²⁵²

Decision: *At the 494th meeting, the second USSR draft resolution (S/1751) was rejected by 2 votes in favour, 8 against, with one member not participating in the voting.*²⁵³ *At the 496th meeting on 6 September 1950, the President, in putting the first USSR draft resolution (S/1668) to the vote, made the same ruling which he had applied with regard to the second USSR draft resolution (S/1751).*²⁵⁴ *The first USSR draft resolution (S/1668) was rejected by 1 vote in favour, 8 against, with 2 abstentions.*²⁵⁵

CASE 65

At the 492nd meeting on 29 August 1950, immediately after the adoption of the agenda, in which the complaint of aggression upon the Republic of Korea and the complaint of armed invasion of Taiwan (Formosa) figured respectively as items 2 and 3, the President, as the representative of the USSR, submitted a draft resolution to invite the representative of the People's Republic of China to attend the meetings of the Security Council, in connexion with item 3 of the agenda.²⁵⁶ He stated that his delegation was guided by Article 32 and the "previous experience and practice" of the Council, which, in considering disputes and conflicts

²⁴⁹ For texts of relevant statements see:

483rd meeting: USSR, pp. 2-4, 14-17; United Kingdom, pp. 7-8; United States, pp. 4-6.

484th meeting: USSR, pp. 8-10.

485th meeting: China, p. 3.

486th meeting: United Kingdom, p. 8.

487th meeting: Ecuador, pp. 2-3; Norway, p. 7; USSR, p. 14.

488th meeting: Cuba, p. 2; Norway, pp. 14-16.

489th meeting: United Kingdom, pp. 21, 27; United States, p. 27.

492nd meeting: Ecuador, p. 20.

494th meeting: President (United Kingdom), p. 21; Cuba, p. 16; Ecuador, pp. 21-22; France, p. 20; India, pp. 15-16; USSR, p. 8.

²⁵⁰ 494th meeting: p. 2.

²⁵¹ S/1751, 494th meeting: p. 8.

²⁵² 494th meeting: p. 11.

²⁵³ 494th meeting: p. 21.

²⁵⁴ 496th meeting: pp. 19-20.

²⁵⁵ 496th meeting: p. 21.

²⁵⁶ S/1732, 492nd meeting: p. 15.

²⁴² 473rd meeting: pp. 14-15.

²⁴³ 473rd meeting: p. 18. One member (USSR) was absent.

²⁴⁴ S/1509, 474th meeting: p. 7.

²⁴⁵ 474th meeting: p. 17. One member (USSR) was absent.

²⁴⁶ S/1668, 483rd meeting: pp. 1-2.

²⁴⁷ S/1653, 479th meeting: pp. 7-8.

²⁴⁸ For consideration of whether a dispute existed, see Case

likely to prove a threat to international peace and security, had invited representatives of both sides. He explained that the request for extending the invitation, in advance of the consideration of the item on the agenda, was made as an exception because the length of time that would be required for the journey of the representative of the People's Republic of China from Peking. The representative of the United States opposed the USSR proposal and said that he could not agree with an exceptional and premature treatment of the item. He stated that the first order of business was item 2 of the agenda, and the question for immediate consideration was the invitation to the representative of the Republic of Korea. The representative of Ecuador could not accept the argument of the representative of the USSR based on Article 32, since his Government did not recognize the Government at Peking as the legitimate Government of China, but he did not rule out the applicability of rule 39. The representative of the United Kingdom was in favour of a representative of the Central People's Republic being present when the complaint was under discussion, but was of the opinion that the proper course would be to wait until the Council knew exactly when the question would be discussed.²⁶⁷ The President's ruling that the USSR proposal could be considered as an exception and should be put to the vote immediately, was upheld, the challenge having failed to secure the affirmative votes of seven members.²⁶⁸

Decision: *The USSR draft resolution, with the addition of the words "when this question is under discussion" as suggested by the United Kingdom, was put to the vote and rejected by 4 votes in favour, 4 against, with 3 abstentions. The representative of the USSR reserved the right to reintroduce the draft resolution when the Council considered the complaint.*²⁶⁹

CASE 66

At the 495th meeting on 5 September 1950, in connexion with the complaint of bombing by air forces of the territory of China, the representative of the USSR submitted a draft resolution, "to invite the representative of the People's Republic of China to the meetings of the Security Council".²⁶⁰

At the 497th meeting on 7 September 1950, the representative of the USSR, referring to Article 32, drew the attention of the Council to the USSR draft resolution and proposed that, before considering the substance of the question, the Council should take a decision on inviting the representative of the People's Republic of China. After the USSR proposal had

been adopted by 7 votes to 3, with one abstention,²⁶¹ the representative of Ecuador stated that the States which had recognized the Nationalist Government of China did not feel bound, under Article 32, to invite at that time the representatives of the authorities in control of the territory concerned, for to compel those States to adopt a resolution in application of Article 32 would be tantamount to forcing them to take a decision on the question of the representation of China.

At the 499th meeting on 11 September 1950, the representative of China, supported by the representatives of Cuba, Ecuador and the United States, maintained that Article 32 was inapplicable to the case, since China was already a member of the Council and there was no question of dispute for consideration.²⁶² He said that the Council should not give a hearing to a party which had proclaimed its sympathies with an aggressor and had created difficulties for the United Nations in the execution of its duties. The representative of the USSR observed that any State which had approached the Council with a communication about aggression should be heard during the consideration of the communication. He stressed that this was the basic rule in the work of the Council, as provided in Article 32 as well as rule 39. The representative of Norway was of the opinion that the proposed invitation seemed reasonable and in conformity with the practice of the Council. He was unable, however, to agree with the contention that such an invitation was obligatory under Article 32, for the situation had not yet crystallized into a dispute. The representative of France observed that, having agreed to consider the complaint submitted by the People's Republic, the Council could not very well refuse to admit a representative of those authorities to defend their case, and that Article 32 was applicable. The representative of India, supporting the USSR draft resolution, stated that rule 39 could be applied to the case, even if some members of the Council regarded Article 32 inapplicable. The President, speaking as the representative of the United Kingdom, observed that so long as the Security Council held the view that the Central People's Government should not represent China in the Council, Article 32 could not be invoked with full effect. Neither did rule 39 of the rules of procedure oblige the Council to invite a representative of the Central People's Government, though it provided a good justification for inviting him if the Council so desired. He believed that, in equity, the right of the People's Government to submit its views to the Council, if it so wished, was undoubted.²⁶³

Decision: *The USSR draft resolution was rejected by 6 votes in favour, 3 against, and 2 abstentions.*²⁶⁴

²⁶⁷ For texts of relevant statements see: 492nd meeting: President (USSR), pp. 14-15; Ecuador, p. 20; Egypt, p. 21; United Kingdom, pp. 15, 20-21; United States, pp. 15, 17-18.

²⁶⁸ 492nd meeting: p. 16.

²⁶⁹ 492nd meeting: p. 21. For the reintroduction of the USSR draft resolution, see Case 54.

²⁶⁰ S/1759, O.R., 5th year, Suppl. for Sept.-Dec. 1950, p. 148; 495th meeting: p. 2.

²⁶¹ 497th meeting: p. 29.

²⁶² For consideration of the term "Member" in Article 32, see Case 68.

²⁶³ For texts of relevant statements see: 497th meeting: Ecuador, pp. 29-30; USSR, pp. 20, 26-27. 499th meeting: China, pp. 2-3; Cuba, p. 15; Ecuador, p. 14; France, pp. 14-15; India, p. 16; Norway, pp. 12-13; USSR, pp. 3, 4-5; United Kingdom, pp. 17-18; United States, pp. 9-10.

²⁶⁴ 499th meeting: p. 19.

Part II

CONSIDERATION OF THE TERMS AND PROVISIONS OF ARTICLE 32 OF THE CHARTER

NOTE

Part II singles out for separate presentation discussion which has taken place within the Security Council relating to the terms of Article 32. Article 32 is the only provision of the Charter which provides for invitations to non-Member States. When invitations to non-Members have been in question, certain implications of the terminology of Article 32 have on various occasions precluded a decision based explicitly on the Article. The terms of Article 32 provide the headings of part II. The discussion on Article 32 should be considered within the context of the proceedings summarized in part I. For this reason, each case of part II has attached, in the footnotes, a reference to the relevant case in part I.

Section A contains discussion arising in connexion with the significance of the phrase "Member of the United Nations"¹ and the meaning of the term "State" as applied to non-Members.²

Section B is concerned with the discussion of the limited applicability of Article 32 to the consideration of disputes. A formal decision by the Council to characterize the question before it as a dispute has been avoided.³ Nevertheless, consideration of the terms of Article 32 has included discussion of the following three related problems:

1. Whether participation by a non-Member State was conditional on a finding that the question under consideration was a dispute.⁴

2. Whether a non-Member State might be heard with a view to enabling the Council to reach a finding on whether the case before it was a dispute.⁵

3. Whether Article 32 was applicable only in respect of questions relating to Chapter VI of the Charter.⁶

In section C is set forth the discussion relating to the phrase "shall be invited". Statements have been made in the Council as to whether the Council was obliged to invite non-Member States under the terms of Article 32,⁷ and whether the Council must receive a request for such an invitation.⁸

In section D are given the cases in which the Council has discussed and made decisions regarding the conditions of participation which it is required to lay down under Article 32 when inviting non-Member States.⁹

In connexion with the discussion on the application of Article 32, consideration has been given to the meaning of the words "other persons" in rule 39 of the provisional rules of procedure. Where such discussion has been directly related to the problem of applying Article 32, it has been included.¹⁰ Other discussion regarding rule 39 has been summarized in part I.¹¹

The question whether an invitation by the Council implied recognition on the part of the members of the Council has also arisen in connexion with Article 32. Where discussion on this point has taken place, appropriate references have been made in the cases of parts I and II, and in the footnotes to these cases will be found the references to the texts of relevant statements.¹²

A. "ANY MEMBER OF THE UNITED NATIONS WHICH IS NOT A MEMBER OF THE SECURITY COUNCIL OR ANY STATE WHICH IS NOT A MEMBER OF THE UNITED NATIONS..."

CASE 67

At the 171st and 181st meetings on 31 July and 12 August 1947, in connexion with the Indonesian question (II), discussion centered on the question whether the Republic of Indonesia was a State within the meaning of Article 32. The representative of the Netherlands* opposed an invitation under Article 32 to the Republic of Indonesia on the grounds that Indonesia was not a sovereign State.

The representative of Australia contended that the hostilities in progress constituted in fact armed conflict between two States in international law. The representative of India*, in supporting the Australian position, quoted the following legal opinion:

"The requirement that, in order that it may be regarded as a State within the meaning of international law, the society must be a sovereign independent State is however in no way essential to the conception of juridical relations between States."

He distinguished between statehood within the meaning of Article 32 and "sovereign equality" referred to in Article 2 (1). He stated:

"The distinction that I make is that there can be States without full sovereignty which are States for the purposes of Chapter VII of the Charter."

The representatives of Australia, China, Syria, the USSR and the United States concurred in the view that the Charter did not stipulate that a State must be fully sovereign in order to be invited to participate in the discussion.

The representative of the United States stated:

"Article 32 refers to States, but the plain intent of that Article and of the authors of the Charter was that justice should be done to both parties to a dispute..."

"... the United States expressly reserves its position on the question of whether or not the Republic of Indonesia is a State in international law in the sense in which the matter has been discussed at this table. We shall also refrain from taking any position on the question as to whether or not we recognize the right of the Council to decide that point."

The representative of France observed:

"Although the expression 'sovereign State' is not used in Article 32, this obviously does not mean that

¹ Case 68.

² Case 67.

³ For consideration of this problem in connexion with Article 27 (3), see chapter IV, part III.

⁴ Cases 69, 70, 71, 72 and 74.

⁵ Cases 69, 70 and 71.

⁶ Case 73.

⁷ Cases 75, 76 and 78.

⁸ Case 77.

⁹ Cases 79, 80, 81, 82 and 83. See also Case 60.

¹⁰ Case 70.

¹¹ Cases 54, 55, 56, 59, 65 and 66.

¹² Cases 52, 54, 55, 59, 60, 61, 65, 66 and 68.

the word 'State' should be understood otherwise than in its meaning in international law."

In summing up the discussion immediately prior to the voting on the draft resolution, the President (Syria) stated:

"... the invitation to participate in this discussion and to study the problem now presented to the Security Council does not necessitate that this State should enjoy all the prerogatives and exercise all the functions of sovereignty. The word 'State', which appears in Article 32, does not indicate what type of 'State' is being referred to."

Following the extension of an invitation to the Republic of Indonesia,¹³ the matter was again discussed, at the 181st and 184th meetings on 12 and 14 August 1947, in connexion with a proposal by the representative of Belgium to invite representatives of East Indonesia and Borneo to participate in the discussion.¹⁴

The representatives of Australia and Colombia raised the question of the status of those Governments. The representative of the Netherlands* replied:

"... the Netherlands Government has recognized those two Governments for what they are, namely, States in exactly the same positions as the Republic of Indonesia with which they are ultimately to take their place in the United States of Indonesia."

The representative of Poland stated:¹⁵

"I believe that under the Charter, East Indonesia and Borneo can be treated only as Non-Self-Governing Territories, and that is another reason why they cannot be dealt with under Article 32."

CASE 68

At the 497th and 499th meetings on 7 and 11 September 1950, in connexion with the complaint of bombing by air forces of the territory of China, the representative of the USSR submitted a draft resolution to invite the representative of the People's Republic of China¹⁶ and based his proposal, in part, on Article 32.

The representative of China analysed the draft resolution at the 499th meeting. He stated:

"The present proposal is made on the strength of Article 32 of the Charter..."

"That Article is obviously not applicable to the present item. That Article speaks, first of all, of 'any Member of the United Nations which is not a member of the Security Council'. China is a member of the Security Council. China is a permanent member of the Security Council. Therefore that part of the Article is certainly irrelevant.

"Then Article 32 goes on to refer to 'any State which is not a Member of the United Nations'. China is a Member of the United Nations. Therefore

¹³ For invitation to the Republic of Indonesia, see Case 59.

¹⁴ For the rejection of the Belgian proposal, see Case 61.

¹⁵ For texts of relevant statements see:

171st meeting: Australia, p. 1623; India, p. 1628; Netherlands, pp. 1619-1620; Syria, pp. 1628-1629.

181st meeting: President (Syria), p. 1939; Australia, pp. 1930, 1942; China, p. 1935; Colombia, p. 1928; France, p. 1937; India, p. 1924; Netherlands, p. 1923; Poland, pp. 1919, 1927-1928; United States, p. 1932; USSR, pp. 1933-1934.

184th meeting: Colombia, p. 1981; Netherlands, p. 1981; Poland, p. 1990.

¹⁶ For the rejection of the USSR draft resolution, see Case 66.

that part of the Article is also inapplicable to the present case."

At the 497th meeting, the representative of Ecuador stated:

"It is clear that the countries which recognize the Nationalist Government of China do not feel bound under Article 32 of the Charter to invite at this time the representatives of the authorities which are now in control of the territories in which the damages from air bombings are supposed to have occurred. To compel us to adopt a resolution in application of this Article would, in the opinion of my delegation, be tantamount to forcing us to take a decision on the question of the representation of China."

At the 499th meeting, the President, speaking as the representative of the United Kingdom, stated:

"So long as the Security Council in fact holds the view that the Central People's Government should not represent China at this table, it seems to us that Article 32 of the Charter cannot be invoked with full effect in the present case."

In support of his draft resolution, the representative of the USSR stated:¹⁷

"It is wrong to assert that Article 32 essentially provides that invitations should be extended to Members of the United Nations which are not members of the Security Council, or to States which are not Members of the United Nations. This is not the whole substance of Article 32, and those who try to stress only the one point are deliberately distorting the meaning of the Article.

"Article 32 essentially provides that when international disputes are under consideration by the Security Council, both parties must be invited to be heard at its meetings."

B. "... IF IT IS A PARTY TO A DISPUTE UNDER CONSIDERATION BY THE SECURITY COUNCIL..."

CASE 69

At the 19th meeting on 14 February 1946, in connexion with the Syrian and Lebanese question, the Security Council considered whether the question was a dispute or a situation. The representative of Mexico was of the opinion that the question could not be decided before the parties had been heard. He stated:¹⁸

"... as far as the application of Article 32 is concerned, the right position is... A decision between a situation and a dispute can be made only after a party has exercised his right to be heard. If we, before listening to the facts and the statements of the parties concerned, decide here that this is a situation, then Article 32, I mean the letter of Article 32, can be applied and one of the parties concerned can be deprived of the right to come to the Council and state his case. For that reason, I think that it would be unwise to decide a question of this kind as a preliminary question, and that the party that has sent this letter should be invited to participate and state his case."

¹⁷ For texts of relevant statements see:

497th meeting: Ecuador, pp. 29-30.

499th meeting: President (United Kingdom), p. 17; China, pp. 2-3; Ecuador, p. 14; USSR, p. 4.

¹⁸ 19th meeting: p. 281. For invitations to Syria and Lebanon, see Case 11.

CASE 70

At the 62nd and 64th meetings on 5 and 9 September 1946, in connexion with the Ukrainian complaint against Greece, the Security Council discussed whether an invitation to Albania was conditional on the finding that the question under consideration was a dispute. By letter dated 5 September 1946, the representative of Albania requested that he be invited "on the basis of Article 32 . . . for the purpose of presenting [his] factual statement . . .".¹⁹

At the 62nd meeting, the President (Poland) recalling the provisions of Articles 31 and 32 of the Charter and rule 39 of the provisional rules of procedure, stated:

"The case before us which has been brought by the Minister of Foreign Affairs of the Ukrainian Soviet Socialist Republic has been classified by him as a situation under Article 34. Accordingly, unless we classify the subject as a dispute, Article 32 cannot be applied."

The President considered that the Council could invite Albania under rule 39.

At the 64th meeting, the representative of the United Kingdom observed:

"Article 32 of the Charter is the one that relates to this particular case, because it is under Article 32 that a State which is not a Member of the United Nations may be summoned to the Council table. That may happen, in the words of Article 32, 'if it is a party to a dispute under consideration by the Security Council'. What the Security Council is today considering is explicitly not a dispute. The representative of the Ukraine has brought attention, in his original communication which is before us, to consideration of the existence of a situation. Therefore, on a strict reading of Article 32 of the Charter, it seems quite clear to me that we could not invite any Albanian representative to come to the Council table."

The representative of Mexico recalled his remarks in connexion with the Syrian and Lebanese question and reiterated his point of view.²⁰ Regarding the position of Albania, he stated:

"We have heard the Greek representative declare that a state of war exists between Greece and Albania. We have received claims of Greece against Albania, and we have heard of border incidents blamed on Albania, or on Greece. I think that, intrinsically, this question certainly has the characteristics of a dispute."

In view of the disagreement regarding the applicability of Article 32, the Council considered whether, in those circumstances, Albania could be invited under rule 39.

At the 62nd meeting, the President stated:

"My interpretation of rule 39 is that it gives the Council freedom to invite whomever it chooses to supply it with information or other assistance, as distinguished from participation in the discussion."

The representative of the United Kingdom disagreed with the President, and, at the 64th meeting, expressed the following opinion:

¹⁹ S/151, 62nd meeting: p. 250.

²⁰ For the statement of the representative of Mexico at the 19th meeting, see Case 69.

"I do not think that that rule [39] was meant to override in any way the Charter itself, nor can I think that its wording would warrant us in believing that it was intended that under it, a representative of a Government not a Member of the United Nations could be summoned to the Council table. You will notice that it says: 'The Security Council may invite . . . other persons . . . to supply it with information . . .'."

The President maintained his opinion that rule 39 permitted an invitation to "any person". He stated:

"In the letter of the Albanian representative, we have a request to be allowed to present to us a factual statement. There is no request for participation in the discussion. As I interpret rule 39, it seems that it is entirely a matter of our opinion as to whether we think that allowing such a factual statement, or rather inviting him to make such a factual statement, is conducive to the clearing up of our debates or not."

"I should like to explain further that in case the Council should decide to allow the Albanian representative to make the factual statement, this in no case would imply that he has the right to participate in the discussion or present resolutions, as stated in rule 39."

The representative of China was of the opinion that the phrase "other persons" in rule 39 "does not include representatives of States". The representative of the Netherlands was of the opinion that the rule was drafted with experts in mind.²¹

CASE 71

At the 82nd and 84th meetings on 10 and 16 December 1946, in connexion with the Greek frontier incidents question, the Security Council considered whether invitations to Albania and Bulgaria were conditional on the finding that the question under consideration was a dispute. In opening the discussion, the President (United States) recalled the "precedent" of the 64th meeting²² and suggested that, "at an appropriate stage in the proceedings", those States should be invited "to present any facts bearing on the issues". The President distinguished between the position of Greece and Yugoslavia as Members and Albania and Bulgaria as non-Members.

The representative of the USSR expressed the view that a non-Member State should participate in the discussion of any question which concerns it regardless of a decision on the question whether it was a dispute or a situation.

The representative of the Netherlands, referring to the application of Article 31 in the cases of Greece and Yugoslavia, stated that, with regard to Albania and Bulgaria:

"Article 31, which refers only to Member States, does not apply in their case because it cannot. But there is Article 32. While Article 31 refers to any question brought before the Security Council, Article

²¹ For texts of relevant statements see:

62nd meeting: President (Poland), p. 250; Australia, p. 251. 64th meeting: President (Poland), p. 261; Australia, p. 263; China, pp. 261-262; Mexico, p. 266; Netherlands, p. 262; United Kingdom, p. 260.

For invitation to Albania, see Case 56.

²² See Cases 56 and 70.

32 refers to disputes . . . In the light of this text, the question as to whether Albania and Bulgaria should be admitted seems to me to hinge completely and exclusively on the point of whether or not there is a dispute.

"It is a fact that the Greek representative has drawn our attention not to a dispute, but to a situation, as results clearly from his letter to the Secretary-General. I therefore venture to suggest that, until and unless the Council decides that it is not a situation, but a dispute—and we have not decided that yet—Albania and Bulgaria cannot be invited to participate in the discussion."

The representative of Mexico observed that, if the action of the Council were to be based on the views expressed by the representative of the Netherlands, the representatives of Albania and Bulgaria might not be heard if the Council did not decide that the question was a dispute. He stated:

"My idea is that those States should be heard. If, after they have been heard, this Council decides that this is just a situation and that, therefore, those States should not take part without vote in the discussion, that is another matter. But I believe that we cannot decide the secondary question of whether or not this is a dispute."

The representatives of Australia, China, the Netherlands, Poland and the United States also supported the view that all parties would have to be heard before a decision could be taken as to whether the question was a dispute.

As regards the possibility of inviting the representatives of Albania and Bulgaria to "participate" before a decision as to whether the question was a dispute was taken, the representative of Australia stated:

"It seems to us that the Charter is quite clear that a non-Member of the United Nations can participate—and I stress the word 'participate'—only if it is a party to a dispute. That status of 'party to a dispute' is not simply a description of a condition; it is a status that carries obligation."

The representative of the Netherlands submitted a draft resolution to invite the representatives of Albania and Bulgaria forthwith to make such declarations as they might wish to make with the further provision that they be invited to participate in the discussion without vote at a later stage if the Council should find that the matter under consideration was a dispute. After the adoption of the Netherlands draft resolution, the representative of the USSR stated that he had voted against paragraph 3

" . . . because this paragraph also provides that in the event of the Security Council deciding that this is not a dispute but a situation, the representatives of Albania and Bulgaria will not be admitted to any further participation during the examination of this question."

In reply, the President, speaking as the representative of the United States, stated:

"May I observe . . . that there is no provision in the Charter which provides for the participation of non-Member States in discussion unless there is a dispute. I state that simply as my opinion of the meaning of the Charter."

At the 84th meeting, after preliminary statements had been made by all parties concerned, the President stated the following opinion:²³

" . . . the case before the Council is of a nature which makes it appropriate for the Council to invite Albania and Bulgaria to participate, without vote, in our future discussions on the matter. Charges have been made against these Governments, and these Governments have contested these charges and made counter-charges. It seems to me that the principle contained in Article 32 of the Charter is clear—namely, that when non-Members of the United Nations are contesting charges made against them before the Security Council, equity and sound practice require that they 'be invited to participate without vote in the discussion' of the Council. I suggest that the case before us comes within the spirit and meaning of Article 32, whether or not it is technically labelled a situation or a dispute."

The representatives of Mexico, the Netherlands, Poland and the USSR were of the opinion that the question before the Council was a dispute.²⁴

CASE 72

At the 184th meeting on 14 August 1947, in connexion with the Indonesian question (II), a Belgian proposal to invite the representatives of East Indonesia and Borneo on the same basis as the Republic of Indonesia gave rise to the question whether those Governments were parties to the dispute.

In response to the opinion of the representative of the United Kingdom that all parties ought to participate in the discussion, the President (Syria) observed:

"I think the representative of the United Kingdom omitted to mention that the Indonesian Republic is a party to the dispute under consideration."

The representative of the Netherlands* maintained that all three were on a "footing of complete equality". In response to this remark, the representative of Colombia stated:²⁵

"In the eyes of the Security Council, the Indonesian Republic is a party to an international dispute. We are acting in the matter of the Indonesian Republic because there is a threat to the peace. There are active hostilities between the Indonesian Republic and the Netherlands Government; but we have not heard that they extend to the territory of the other two members of the future Federation.

" . . .
 "I believe that when one is a party to an international dispute which is under consideration by the Security Council, there is a very substantial difference between being involved in actual open hostilities and not being involved in such hostilities."

²³ For texts of relevant statements see:

82nd meeting: President (United States), pp. 530-531, 548, 559; Australia, p. 545; China, pp. 539-540; Mexico, pp. 535-536, 541, 546; Netherlands, pp. 533, 544; Poland, pp. 538-539; USSR, pp. 531, 536-537, 542, 551-552, 553, 559.

84th meeting: President (United States), p. 607; Netherlands, p. 609; Poland, p. 611; USSR, p. 609.

²⁴ For the decision to permit participation, see Case 58. The Security Council, however, took no decision on the question whether the matter was a dispute.

²⁵ For texts of relevant statements see: 184th meeting: President (Syria), p. 1985; Colombia, p. 1988; Netherlands, p. 1987.

For the rejection of the Belgian proposal, see Case 61.

CASE 73

At the 483rd to 496th meetings, between 4 August and 6 September 1950, in connexion with the complaint of aggression upon the Republic of Korea, the Security Council considered two draft resolutions submitted by the representative of the USSR to invite and hear the representatives of "the Korean people".²⁶

At the 483rd meeting the President, speaking as the representative of the USSR, declared that it was "the practice of the Security Council as a rule to invite both parties involved in the hostilities to participate in the consideration and discussion of such questions". At the 487th meeting, he maintained that those who supported the decision of 25 June 1950 violated Article 32 since a representative of the Government of North Korea was not invited.

Referring to the statement on Article 32, the representative of Cuba, at the 488th meeting, stated that the right of any State which is a party to a dispute to be heard was not applicable in cases of aggression.

Citing the provisions of Article 32, the representative of Norway observed that the Council had been concerned with the Korean question under Chapter VII. He stated:

"No dispute has been submitted to the Council, and no dispute is under consideration. For the time being, the Council is concerned merely with the urgent task of repelling lawless aggression and the re-establishment of law and order . . . I would say that the Council is still acting merely as a policeman and not as judge or jury. That is why Article 32 of the Charter is not applicable."

At the 494th meeting, the representatives of Ecuador, France, India and the United Kingdom expressed similar views. In support of his draft resolutions, the representative of the USSR stated:²⁷

"It is impossible to agree that Article 32 of the Charter is applicable only in the consideration of questions relating to Chapter VI. Article 40, in Chapter VII, provides that in case of international conflict, the Security Council should not rush headlong into that conflict, that it should not make the situation more complicated or allow aggression or military action to spread . . .

" . . . where in Chapter VII or elsewhere is it said that the representative of the party which, rightly or wrongly, legitimately or illegitimately, is accused of aggression has no right to be present at the meetings of the Council? . . . when questions falling within Chapters VI and VII are discussed, the representative of the party against which charges of aggression have been brought must attend in order that the Council may better clarify the facts of the dispute and take all the necessary measures to halt aggression and to prevent the war from spreading."

²⁶ For the rejection of the USSR draft resolutions (S/1751), see Case 64.

²⁷ For texts of relevant statements see:

483rd meeting: USSR, p. 2.

487th meeting: USSR, pp. 14-16.

488th meeting: Cuba, p. 2; Norway, pp. 15-16.

494th meeting: President (United Kingdom), p. 21; Cuba, p. 16; Ecuador, pp. 21-22; France, p. 20; India, pp. 15-16; USSR, p. 17.

CASE 74

At the 499th meeting on 11 September 1950, in connexion with the complaint of bombing by air forces of the territory of China, the representative of China opposed the USSR draft resolution to invite the representative of the People's Republic of China.²⁸ He stated:

"Article 32 . . . contains the words 'if it is a party to a dispute'. What is this dispute? We have here a case of the forces of the United Nations, in the execution of duties imposed by the United Nations, making a mistake. The party which made the mistake has declared that it is ready to make compensation for this mistake. No dispute should be allowed to exist."

The representative of Norway observed:

"In accordance with its clear wording, Article 32 applies only when a dispute is under consideration by the Security Council. In the present case, however, the Council is faced with what Article 34 calls a 'situation which might lead to international friction or give rise to a dispute'. The situation has not as yet crystallized into a dispute."

The representative of Cuba was of the opinion that since the charge was not denied by the United States there was no ground for stating that there was a dispute within the exact meaning of Article 32.²⁹

C. "... SHALL BE INVITED TO PARTICIPATE, WITHOUT VOTE, IN THE DISCUSSION RELATING TO THE DISPUTE."

CASE 75

At the 95th meeting on 20 January 1947, in connexion with the Corfu Channel question, which had been submitted to the Security Council by the representative of the United Kingdom as a "dispute . . . under Article 35",³⁰ the President (Australia), after quoting Article 32, stated:³¹

" . . . there would seem to be an obligation on the Council to invite Albania to participate in the discussion of this item of the agenda."

CASE 76

At the 181st meeting on 12 August 1947, in connexion with the Indonesian question (II), the President (Syria) observed:³²

"There is no necessity for a special application to be made by the nation which is not a Member if it is a party to the dispute under consideration. The Security Council is bound to invite such a State to participate, even if it does not apply for participation, because the Article of the Charter dealing with the matter does not insist that such a request should be made."

²⁸ For the rejection of the USSR draft resolution (S/1759), see Case 66.

²⁹ For texts of relevant statements see:

499th meeting: China, p. 3; Cuba, p. 15; Norway, pp. 12-13.

³⁰ S/247, O.R., 2nd year, Suppl. No. 3, pp. 35-36.

³¹ 95th meeting: p. 123. For invitation to Albania, see Case 50.

³² 181st meeting: p. 1920. For invitation to the Republic of Indonesia, see Case 59.

CASE 77

At the 278th meeting on 6 April 1948, in connexion with the Czechoslovak question, the Security Council considered a United States draft resolution to invite the representative of Czechoslovakia under Article 31.³³ The representative of Syria stated:

" . . . Article 32 states that such members 'shall be invited to participate . . .'. The Security Council should not wait until such a party to a dispute makes an application to be heard. That party should be invited *ipso facto* without any request on its part. I consider that Article 32 was formulated to provide, in cases when a State which is a party to a dispute does not apply to be heard, that such State should be invited to participate in the discussion by the Security Council without waiting for its application."

CASE 78

At the 494th meeting on 1 September 1950, in connexion with the USSR draft resolution to invite "the representatives of North and South Korea," the representative of India, referring to statements in support of the draft resolutions based on Article 32, stated:³⁴

"It has been urged that Article 32 of the Charter requires us to invite the North Korean representative.

" . . . three conditions must be satisfied if the Article is to apply to the present case: North Korea must be a State; so must South Korea; and the Security Council must be considering a dispute between the two."

D. "THE SECURITY COUNCIL SHALL LAY DOWN SUCH CONDITIONS AS IT DEEMS JUST FOR THE PARTICIPATION OF A STATE WHICH IS NOT A MEMBER OF THE UNITED NATIONS."

CASE 79

At the 64th meeting on 9 September 1946, in connexion with the Ukrainian complaint against Greece, when the question of inviting Albania under rule 39, if Article 32 was not applicable, was being discussed, the representative of the Netherlands stated that Albania should be required, under Article 35, to accept in advance the obligations provided in the Charter. He further observed:³⁵

" . . . if a non-Member is required to accept such an obligation, it surely should have his acceptance. It will have this great advantage: a non-Member who makes this request to the United Nations in the Security Council for this purpose is not placed in a position which, as compared to that of a Member, is a privileged position, in that it is not bound by our findings."

CASE 80

At the 82nd meeting on 10 December 1946, in connexion with the discussion of whether the Greek frontier incidents question was a dispute for the pur-

pose of Article 32, the representatives of Australia and Mexico commented on the provision of Article 32 which requires the Council to lay down such condition as it deems just in connexion with an invitation to a non-Member State. The representative of Australia observed:

"That status of 'party to a dispute' is not simply a description of a condition; it is a status that carries obligations. If a State is described as a 'party to a dispute', it means that that State may be called upon by this Council to take certain action under Article 33. That State may also be expected to receive and consider most earnestly any recommendations made under Article 36. A party to a dispute accepts obligations by accepting that status."

The representative of Mexico, referring to the obligations under Article 35 (2) of a non-Member State which submits a dispute to the Council, stated:

" . . . the conditions to which the last paragraph of Article 32 refers cannot be heavier or more arduous, or furthermore any different from those imposed upon a State not a Member of the United Nations which itself brings a dispute before the Council."

The Council decided to issue invitations to the representatives of Albania and Bulgaria to make factual statements to the Council, and provided that, should the existence of a dispute be subsequently established, those States would be invited to participate in the discussion without vote.³⁶

At the 84th meeting on 16 December 1946, the Council considered the question of the future participation of Albania and Bulgaria in the discussion, and the conditions which those States should be called upon to accept. In connexion with his proposal that Albania and Bulgaria be invited to participate "in the spirit of Article 32", the President (United States) stated:

"I suggest that the most appropriate condition for the Council to lay down would be the one suggested at our previous meeting by several members of the Council, namely, that Albania and Bulgaria should accept in advance, for the purposes of the case, the obligations of pacific settlement provided in the Charter."

He indicated that he would issue invitations to the representatives of Albania and Bulgaria as soon as the Secretary-General had received letters accepting these obligations on behalf of their Governments for the purposes of the case.

The proposal of the President was supported by other members of the Council. The representative of Australia requested further clarification of the meaning of the phrase: "accept the obligations of pacific settlement".

He said:

"I assume that this would mean that they accept the obligations, wherever they are found in the Charter, in respect to peaceful settlement, and not merely the obligations contained in Chapter VI."

The President replied:

"In making this suggestion to the Council, I had hoped that, by avoiding any specific reference, it would assist the Council to keep away from a technical discussion on this proposal. I do not wish to

³³ For invitation to Czechoslovakia, see Case 37.
³⁴ 278th meeting: p. 5. See also statement by the representative of Syria in connexion with the Hyderabad question at the 360th meeting on 28 September 1948, p. 4.
³⁵ 494th meeting: p. 15. For the rejection of the USSR draft resolutions, see Cases 64 and 66.
³⁶ 64th meeting: p. 263. For invitation to Albania, see Case 56.
³⁷ For invitations to Albania and Bulgaria, see Cases 57 and 58.

convey the impression that the obligations of Bulgaria and Albania would be in any way limited, but that they would be bound to accept the obligations, wherever found in the Charter, for pacific settlement, and that they would be in no more favorable position than the other two parties to this case which are Members of the United Nations. For that purpose, they should be on terms of equality . . .”

The representative of Australia explained that one of “the most important obligations” of a Member in the case under consideration was contained in Article 25. He observed:

“One of the things that may happen in the course of the process of pacific settlement, under Chapter VI, is that the Security Council may reach a decision. If it does reach a decision—and that is only one of the possibilities open to us—in that case, I suggest that Article 25 does apply, and that non-Members, as well as Members, are under an obligation to accept and carry out the decision made in respect of this matter of pacific settlement.”

The representative of Egypt concurred that it was “a matter of deduction that the conditions stated in Article 35 should apply in the case of Article 32”. The representatives of Mexico and the USSR³⁷ indicated that in their opinion Article 25 was not applicable.³⁸

The Council adopted the proposal of the President that the representatives of Albania and Bulgaria be invited to participate without vote after delivering to the Secretary-General a letter accepting, on behalf of their Governments, for the purposes of the case, the obligations for pacific settlement provided in the Charter.

CASE 81

At the 95th meeting on 20 January 1947, in connexion with the Corfu Channel question, the President (Australia) commenced consideration of the question with the following statement:³⁹

“Following the lead given by the Council in the recent complaint brought by Greece, it would seem appropriate that the conditions required from Albania should in this present case be that Albania should accept all those obligations which would apply to a Member of the United Nations in such a case.”

By cable dated 20 January 1947, the Acting Secretary-General informed the Republic of Albania of the Council’s decision to invite Albania under Article 32, in the following terms:⁴⁰

“ . . . the Security Council decided to invite the Albanian Government to participate, without a vote,

³⁷ For texts of relevant statements see:

82nd meeting: Australia, p. 545; Mexico, p. 547.

84th meeting: President (United States), pp. 608, 610; Australia, pp. 608, 611, 612-613; Egypt, pp. 609-610; Mexico, pp. 611-612; Poland, p. 611; USSR, pp. 609, 613.

³⁸ See Case 71. Earlier in the discussion, the representative of Albania stated that his Government was prepared “to accept all the obligations coming within the framework of the United Nations Charter”, 84th meeting: p. 609.

³⁹ 95th meeting: p. 123. For invitation to Albania, see Case 50.

⁴⁰ S/258 and S/258/Corr.1.

in the proceedings with regard to this dispute, on condition that Albania accepts, in the present case, all the obligations which a Member of the United Nations would have to assume in a similar case.”

In reply, the Minister of Foreign Affairs of Albania stated that the “Albanian Government accepts the Security Council decision.”⁴¹

At the 127th meeting on 9 April 1947, before the Council voted upon the United Kingdom draft resolution to refer the question to the International Court of Justice, the President (China) observed:⁴²

“ . . . as Albania is not a Member of the United Nations, it could not be compelled to appear before the International Court of Justice. However, since its acceptance of the obligations of Members of the United Nations, as contained in the Council’s invitation to it to participate in a discussion of this case, Albania is now, like any Member of the United Nations, obliged to comply with the provisions both of the Charter and of the Statute of the International Court of Justice.”

CASE 82

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), when the question of inviting a representative of the Republic of Indonesia⁴³ was being discussed, the representative of Australia suggested that the invitation should be extended under Article 32,⁴⁴

“ . . . that is, on the same terms and conditions as those of the invitations extended to Albania and Bulgaria—namely, that the Republic of Indonesia accepts the obligations of settlement provided for in the Charter of the United Nations.”

By letter dated 12 August 1947, the representative of the Republic of Indonesia stated:⁴⁵

“ . . . I am authorized by my Government to advise that, if an invitation is extended to the Republic of Indonesia to participate, the Republic of Indonesia accepts in advance, for the purposes of this dispute, the obligations of a Member of the United Nations.”

CASE 83

At the 511th meeting on 16 October 1950, in connexion with the Palestine question, the President (United States), after inviting the representative of the Hashemite Kingdom of the Jordan to the table, stated:⁴⁶

“An appropriate document has been filed by the representative of the Hashemite Kingdom of the Jordan, in conformity with Article 32, and Article 35, paragraph 2, of the Charter, wherein this State has undertaken the obligations for pacific settlement provided in the Charter.”

⁴¹ S/258.

⁴² 127th meeting: p. 726.

⁴³ For invitation to Indonesia, see Case 59.

⁴⁴ 171st meeting: p. 1627.

⁴⁵ S/487, 181st meeting: p. 1919.

⁴⁶ 511th meeting: p. 2. For invitation to the Hashemite Kingdom of the Jordan, see Case 51.

Part III

PROCEDURES RELATING TO PARTICIPATION OF INVITED REPRESENTATIVES

NOTE

Part III is concerned with procedures with regard to the participation of invited representatives after an invitation has been extended. It includes material relevant to participation by all invited representatives, whether Members of the United Nations or not.

With the exception of the provisions of rule 38 of the provisional rules of procedure regarding the right of proposition, the only explicit limitation upon Members is contained in the Charter itself; that is, that their participation shall be without vote, subject to the exception contained in Article 44.¹ Material relevant to the nature of the participation when the invited representatives have taken their places at the Council table has, therefore, in the case of Member and non-Member States and in the case of other invitations entered in part I, section D, been grouped together in part III.

Section A of part III concerns the timing of the initial hearing of invited representatives. Material is also included bearing on the connected question of the opportune moment for the Council to decide on the question of the representatives to be invited.

The precedent established in the early meetings of the Security Council that Members of the United Nations, whether invited by reason of having submitted a question or by reason of their special interest, should be heard at the commencement of the consideration of the question and before the initiation of general debate, has been followed.² Requests to be invited to participate have, however, in certain instances been received from the Members during a later phase of the Council's consideration of a question.³ Members of the United Nations have also requested participation after ceasing to be members of the Security Council.⁴ The representatives of non-Member States have been heard, but not invariably, at the commencement of the consideration of the agenda item.⁵ The cases included in section A relate mainly to certain exceptional circumstances in which, for varied reasons, the question of not hearing an invited representative at the commencement of consideration or at the stage in question arose and discussion ensued regarding the practice of the Council.

Section B deals with the duration of the participation of representatives who have been invited to participate.

¹ Article 44: "When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces."

² See Case 84.

³ e.g., In the Indonesian question (II) from the Philippine Republic (Cases 32 and 49); from Burma (Case 42); from Pakistan (Case 43).

⁴ e.g., In the Indonesian question (II) Australia (Case 36) and Belgium (Case 41).

⁵ In the Ukrainian complaint against Greece, the President (Poland) called attention at the 62nd meeting, to the request of Albania to participate, after the Council had heard statements at the 60th, 61st and 62nd meetings by the Ukrainian SSR, Greece and the United Kingdom. The representative of Albania made his statement at the 64th meeting (Case 56). In the Greek frontier incidents question the decision to hear Albania and Bulgaria was taken at the outset at the 82nd meeting (Case 57). For the initial hearing of the Republic of Indonesia in the Indonesian question (II), see Case 86.

The cases included are exceptional cases where discussion has arisen regarding the question of duration. These cases need to be considered within the context of the more normal course of the Council's proceedings.

Members of the United Nations invited to participate have continued to attend the meetings at which the question, in connexion with which the invitation was extended, was considered. Non-Member States invited to participate under Article 32 have also continued to attend meetings for the consideration of the question in connexion with which they were invited. The same duration was attached to certain invitations not expressly under Article 32.⁶ Invitations under rule 39 have extended over the meetings at which the relevant question was considered where the terms of the invitation have so provided.⁷ In the case where the invitation under rule 39 was limited to a specific aspect, the Council deemed it appropriate to remove the limitation in connexion with the combination of agenda items.⁸

Sections C and D are composed of cases indicative of certain limitations upon the participation of invited representatives other than the limitation imposed by Articles 31 and 32 of the Charter and rule 39 or by the invitation itself.⁹ A distinction has been drawn between limitations of a procedural nature applicable throughout the process of participation, which are dealt with in section C, and limitations connected with aspects of the business of the Council in which it has been deemed inappropriate that invited representatives should participate, which are dealt with in section D.

These cases also need to be considered within the context of the regular proceedings of the Council which cannot be satisfactorily exemplified by case histories. Only one type of limitation among those presented have been incorporated in the provisional rules of procedure: viz., that relating to the right of proposition. The procedure of according, in the consideration of a question, a hearing first to the State submitting the matter to the Council, and then to the other State or States directly concerned in an adverse sense, was

⁶ See part I, section D.3.b. The representatives of Albania and Bulgaria did not participate at the 123rd meeting on 28 March 1947, when the Security Council resumed its consideration of the Greek frontier incidents question. At the 126th meeting on 7 April 1947, the President (China) stated that the representatives of Albania and Bulgaria had not been invited to participate at the previous meeting by mistake. In the absence of objection, he invited them forthwith. 126th meeting: p. 697. Regarding the non-participation of the representatives of Albania and Bulgaria at the 100th and 101st meetings on 10 February 1947, when a communication from the Greek Frontier Incidents Commission was considered, see Case 120.

⁷ See Case 52. For the question of the participation of the representative of the Republic of Korea, see Cases 53 and 93.

⁸ The representative of the People's Republic of China, in pursuance of the invitations extended at the 506th meeting on 29 September 1950, and 520th meeting on 8 November 1950, participated at the 525th-530th meetings from 27 to 30 November 1950, at which the complaint of armed invasion of Taiwan (Formosa) and the complaint of aggression upon the Republic of Korea were listed together as part of the same agenda item. During the 525th-530th meetings, the representative of the People's Republic of China reiterated that the Republic would not participate in the discussion concerning the complaint of aggression upon the Republic of Korea. See Cases 54 and 55.

⁹ Cases 52, 54, 55, 56 and 57 (of part I) concern instances of invitations expressly limiting the nature of participation.

initiated at the 3rd meeting of the Council.¹⁰ When these statements had been made, the opportunity of a supplementary statement was afforded to each State. Thereafter the general debate commenced, and the initial hearing of the States directly concerned was followed by their participation in the general debate. The precedent established in connexion with the Iranian question was followed, on the proposal of the President, in connexion with the further questions which came before the Council.¹¹

A. THE STAGE AT WHICH INVITED STATES ARE HEARD

CASE 84

At the 3rd meeting on 28 January 1946, in connexion with the Iranian question, after the decision of the Security Council to invite the representative of Iran "to participate, without vote, in the discussion", the President (Australia) invited him to the Council table, and then stated:¹²

"This is the first occasion on which the Security Council has been called upon to act under Chapter VI of the Charter . . . Our proceedings are likely to serve as a precedent for the Council's future action. Eventually, rules of procedure will no doubt be worked out on the basis of what the Council has actually done in this and similar matters . . .

"At present, our provisional rules do not deal at all with these matters. Today, therefore, we shall be obliged to decide on our procedure *ad hoc*. The matter is before the Council itself to determine . . . I shall venture to offer a suggestion which can serve as a basis for discussion. On the subject matter of this item, the Council has received certain written communications from the delegations of Iran and the Union of Soviet Socialist Republics, respectively. The world has the right to expect of this Security Council that it will deal with all such matters in a regular way, and in accordance with the principles of justice and fair play which are stated in the Charter. My suggestion, therefore, is first, that the Council should commence its consideration of this item by giving to the delegation for Iran, and then to the delegation for the USSR, an opportunity to make oral observations, either in explanation of or in supplementation of their written communications. In this way, the Council will be fully seized of the matter under consideration.

"The adoption of some such practice, as a general procedure initiating the discussion of matters such as this, may be thought to establish best the impartiality and the objectivity of the Council's consideration of the item.

¹⁰ See Case 84.

¹¹ 6th meeting: p. 73; 7th meeting: pp. 91-92; 12th meeting: p. 174; 19th meeting: p. 281.

¹² 3rd meeting: pp. 31-32. The representative of Iran thereupon made his opening statement followed by the representative of the USSR (3rd meeting, pp. 32-43). The President then proposed, and the Council agreed (5th meeting, p. 46) that each representative be granted the opportunity to make a supplementary statement. After the supplementary statement by the representative of the USSR, the representative of Iran was again granted permission to address the Council in order to make a certain correction, but with the express restriction "that no fresh matter must be introduced at this stage" (5th meeting, p. 54). The President then stated that the matter was "open for discussion and for such proposals as the Council may think proper" (5th meeting, p. 54).

"Then, certainly, after these statements have been completed, the suggestion is that I should throw the subject open to discussion by the Council. It will then be the right of any member to move any relevant resolution within the powers conferred on the Council by the Charter."

The procedure proposed by the President was adopted without vote.

CASE 85

At the 95th meeting on 20 January 1947, in connexion with the Corfu Channel question, after the decision of the Security Council to invite Albania to participate in the discussion, the representative of the United Kingdom indicated that he would be prepared to begin his statement before the arrival of the representative of Albania. Discussion arose as to whether the Council would meet within a week and, even if the representative of Albania were not yet present, proceed to hear the statement of the representative of the United Kingdom. The representative of the USSR objected to beginning the consideration of the dispute with only one party present.

At the 96th meeting, the President (Australia) observed:

"Neither the Charter nor the principles of justice require us to defer the hearing of the case indefinitely until such time as the Albanian Government wishes the Council to proceed. It is for the Council to decide, having regard to all the circumstances, when it wishes to commence the hearing of this case and whether or not it will commence the hearing in the absence of the Albanian representative."¹³

At the 96th and 97th meetings on 28 and 31 January 1946 the Council decided to defer further discussion of the question to a date to be determined by the President.¹⁴

At the 107th meeting on 18 February 1947, when the representative of Albania had taken his seat at the table, the representative of the United Kingdom made his opening statement.¹⁵

CASE 86

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), the representative of Belgium, after the adoption of the agenda, stated:

"... the Council obviously cannot proceed further without the participation of the three States concerned . . . I think the Council should postpone all discussion until the Netherlands and India are represented on it, unless such representation can be arranged immediately. In that event, the question could be discussed without delay. Justice demands that these States should be able to make their views known to the Council from the outset."

The representatives of India and the Netherlands were thereupon invited to the table, and the Security Council proceeded to discuss the question of inviting a representative of the Republic of Indonesia.¹⁶

¹³ For texts of relevant statements see: 95th meeting: President (Australia), pp. 126-127; USSR, pp. 126-127; United Kingdom, pp. 124-125.

¹⁴ 96th meeting: President (Australia), p. 133.

¹⁵ 96th meeting: pp. 135-136; 97th meeting: pp. 141-142.

¹⁶ 107th meeting: pp. 293, 294. For invitation to Albania, see Case 50.

¹⁷ 171st meeting: Belgium, pp. 1617-1618. For invitation to India, see Case 16; to the Netherlands, see Case 31.

The representative of the USSR stated:

"... The Council, therefore, should take a decision about inviting a representative of the Government of the Republic of Indonesia. Having settled the question of inviting all the Governments concerned to participate in the discussion of this question, the Security Council, I think, could go on discussing it even before the representative of the Republic of Indonesia arrives, on the understanding, of course, that he will arrive before we finish discussing this question. I do not think it would be expedient to postpone discussion on this matter until such time as the representative of the Republic of Indonesia arrives..."

The representative of Australia, after suggesting that an invitation should be extended to the Republic of Indonesia, submitted a draft resolution concerning the cessation of hostilities, which he proceeded to discuss apart from any consideration of the merits of the case. He stated that if the Council were going to discuss the merits of the case, it must await the arrival of the representative of the Republic of Indonesia.

The Council adopted a suggestion of the President (Poland), originally put forward by the representative of Colombia, that the question of inviting the Republic of Indonesia be deferred until after consideration of the Australian draft resolution.¹⁷ At the 173rd meeting on 1 August 1947, the Council adopted a resolution calling upon the parties to cease hostilities and to settle their dispute by peaceful means. At the 181st meeting on 12 August 1947, the Republic of Indonesia was invited to participate in the discussion,¹⁸ and the representative of the Republic of Indonesia made his statement at the 184th meeting.¹⁹

CASE 87

At the 492nd meeting on 29 August 1950, in connexion with the complaint of aggression upon the Republic of Korea, the President, as the representative of the USSR, proposed "as an exception, and with no intention of violating the rules of procedure", that the Security Council should take a decision regarding participation of the representative of the People's Government of China in the discussion of the Council in advance of consideration of the relevant item on the agenda, in order to make it possible for the representatives invited to arrive in time to participate in discussion on that item. He stated:

"... it is Security Council practice, and strictly in accordance with the Charter, that the representatives of both sides should be present and be heard at meetings of the Security Council when an international dispute is being considered."

The representative of the United States stated:

"The first item on the regular order of business is 'Complaint of aggression upon the Republic of Korea' . . . The business which ought to be transacted immediately is the invitation to the representative of the Republic of Korea. No other business is in order."

¹⁷ For texts of relevant statements see:

171st meeting: President (Poland) p. 1630; Australia, pp. 1618, 1622-1627, 1639; Colombia, p. 1630; USSR, pp. 1618-1619.

¹⁸ 181st meeting: pp. 1939-1940. For invitation to the Republic of Indonesia, see Case 59.

¹⁹ 184th meeting: pp. 1995-2003.

The representative of the United Kingdom stated "the proper course, in any case, is to wait until we know exactly when the question, which is now item 3 on the agenda, will come up for discussion and then take a vote as regards the representation of the Central People's Government".²⁰

The President's ruling that the USSR proposal, submitted as an exception, should be put to the vote, was upheld, the challenge having failed to secure the affirmative votes of seven members. The USSR draft resolution was rejected by 4 votes in favour, 4 against, and 3 abstentions.²¹

CASE 88

At the 499th meeting on 11 September 1950, in connexion with the complaint of bombing by air forces of the territory of China, the Council discussed whether a representative of the People's Republic of China should be heard during the discussion of the United States draft resolution to establish a commission of investigation.²² The representative of the USSR considered that such questions as creating a commission and sending it to a country could not be decided without the participation of a representative of that country's Government. The representative of the United States was of the opinion that, after the commission had submitted its findings, it would be open to the Council to decide whether it wished to invite the representative of the People's Republic, under rule 39, to give the Council such information or assistance as the latter might require in considering the commission's report. The representative of Yugoslavia maintained that the Council was not in a position to consider incidents which had occurred on a territory over which a government exercised *de facto* control, or to send a commission, without having consulted that government by inviting it to send representatives to participate in the discussion. The representative of Norway observed that it would be advantageous for the Council to have a representative of the People's Government present during the discussion of the United States draft resolution, but he did not agree that it would be necessary or expedient to defer the establishment of the proposed commission until after the arrival of that representative.²³

The United States draft resolution to establish a commission of investigation was put to the vote and not adopted.²⁴

CASE 89

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, when discussing proposals to invite a representative of the People's Republic of China, was of the opinion that the question whether the representative should be heard in the Security Council under rule 39 should be considered only after the facts had been ascertained by the establishment of a committee or commission of the Council.²⁵

²⁰ For texts of relevant statements see:

492nd meeting: President (USSR), p. 15; United Kingdom, pp. 20-21; United States, p. 15.

²¹ 492nd meeting: p. 21. For consideration of the USSR draft resolution, see Case 65.

²² S/1752, 501st meeting: pp. 4-5.

²³ For texts of relevant statements see:

499th meeting: Ecuador, p. 14; Norway, pp. 12-13; USSR, p. 7; United States, p. 12; Yugoslavia, p. 16.

²⁴ 501st meeting: p. 28.

²⁵ 505th meeting: pp. 9-10.

The Council adopted a revised Ecuadorian draft resolution deferring consideration of the complaint and inviting a representative of the People's Republic of China to assist in the consideration of the matter.²⁶

CASE 90

At the 520th meeting on 8 November 1950, in connexion with the complaint of aggression upon the Republic of Korea, after the decision had been taken to invite representatives of the People's Republic of China, the President (Yugoslavia) raised the question whether the Security Council would go into the substance of the question in the absence of the representative of that Government.

The representative of the United States considered that the business of the Council was "not to be delayed to await the coming of the witness or witnesses". The representative of the USSR saw no point in discussing the question in the absence of the representative of the State against which the charges were being brought, and objected, at the 521st meeting on 10 November 1950, to the inclusion of the question in the agenda on the ground that the Council could not discuss the report of the United Nations Command containing an accusation against the People's Republic of China without the participation of the representative of that Republic. The representative of India considered that the People's Republic of China should be given a reasonable time in which to send a representative. A guiding consideration was that in view of the dangerous and explosive situation existing in Korea, the Council could not commit itself not to discuss the item before their arrival.²⁷

The proposal of the representative of the USSR not to include item 3 (Complaint of aggression upon the Republic of Korea) in the agenda was rejected by 10 votes to 1, and the proposal of the representative of France to take up the Korean question first was adopted by 9 votes in favour, 1 abstention and 1 member not voting.²⁸

B. THE DURATION OF PARTICIPATION

CASE 91

At the 64th meeting on 9 September 1946, in connexion with the Ukrainian complaint against Greece, the representative of the United States agreeing with the President (Poland), was of the opinion that the representative of Albania should not be permitted by the Security Council "to ask any questions or to bring forward any proposals in any form for the consideration of the Council" but should simply be "permitted to make his statement".²⁹

Decision: *The representative of Albania, having been invited to come to the table for the purpose of making a factual statement, withdrew from the Council table after he had made his statement.*³⁰

²⁶ 50th meeting: pp. 3-5. See Case 54.

²⁷ For texts of relevant statements see:

520th meeting: President (Yugoslavia), p. 9; USSR, p. 11; United States, p. 9.

521st meeting: India, p. 12; USSR, p. 11.

²⁸ 521st meeting: p. 15. For invitation to the People's Republic of China, see Case 55.

²⁹ 64th meeting: p. 265.

³⁰ 64th meeting: pp. 267, 271. For invitation to Albania, see Case 56.

CASE 92

At the 360th meeting on 28 September 1948, in connexion with the Hyderabad question, the President (United Kingdom) referred to certain documents from the Nizam of Hyderabad and from the delegation of Hyderabad which raised some doubt as to the rights to future participation of the representative of Hyderabad. He stated:

"In the normal course, before opening the discussion on this question, with the consent of the Security Council, I should have invited the representatives of the two parties to come to the table. Before I do that, however, in view of the doubt which has been cast on the credentials of the representatives of Hyderabad, I would ask the Security Council to consider that particular point, and I should like to ask the members whether they think that, in these circumstances, the representative of Hyderabad should be invited to take part in the discussion in the same way and on the same terms as at our former discussions of this question."

The representative of China considered that the delegation of Hyderabad should not be invited to the Council table. The representative of Colombia did not consider that the Council should reverse its decision with regard to the representation of the two parties.³¹

Decision: *After further discussion, the Council accepted the suggestion of the President to invite the Nawab Moin Mawaz Jung of Hyderabad to come to the table in his individual capacity to speak on the question of credentials.*³²

CASE 93

At the 483rd meeting on 4 August 1950, in connexion with the complaint of aggression upon the Republic of Korea, after the representative of the USSR had introduced a draft resolution to "...hear representatives of the Korean people", the representative of China, supported by the representative of Egypt, recalled the "standing decision" taken by the Security Council on 25 June to invite the representative of the Republic of Korea under rule 39 to participate in the meetings during the consideration of the Korean question.³³ They considered that the practice of extending such an invitation when the question was being discussed should be continued.

The representative of the United States stated:

"A decision was made on 25 June (473rd meeting) that throughout the hearing of this item, ... the representative of the Republic of Korea should sit at this table ... The decision to have him sit here has been made. Therefore the very first business in the regular order is to invite him to the table, and that ought to be done by the President. It is the President's duty."

The representative of the United Kingdom stated:

"The position with regard to the appearance at this table of the representative of the Republic of Korea is, I suggest, quite clear. I believe it is the

³¹ For texts of relevant statements see:

360th meeting: President (United Kingdom), pp. 3, 12; Argentina, p. 8; China, p. 5; Colombia, pp. 11-12; Syria, pp. 3-4, 5-6. For invitation to Hyderabad, see Case 2.

³² 360th meeting: pp. 12-13.

³³ For invitation to the Republic of Korea, see Case 53.

normal practice of the Council to repeat the invitation to a representative to come to the table at each meeting at which the subject with which he is concerned is to be discussed. I do not suggest, however, that the representative of the Korean Republic, once invited, has the automatic right to take his place at the table at all subsequent meetings on the subject of Korea. But the Council has followed the practice that, once it has decided at one meeting to invite a representative to the table, thereafter at meetings on the same subject it never disputes the President's suggestion at the opening of one of those subsequent meetings that the representative concerned should be invited. That certainly has been the precedent up to now."

The President (USSR) stated:

"... I am following the same course as my predecessor, who said: 'If there are no objections...'. I should have followed his example, had there been no objections to inviting a representative of South Korea. However, an objection has been raised by the USSR delegation. It is therefore my duty to place this question before the Security Council for discussion and it is the Security Council's duty to discuss the matter and to come to a decision. I am therefore taking the course which has been followed so far by all our Presidents."

The representative of Norway, who had been President of the Council during the month of July, stated:

"... I completely agree with the representative of China that the question was definitely dealt with in our meeting of 25 June, and during my presidency I acted accordingly: I never asked the opinion of the Council, I simply invited the representative of the Republic of Korea."

The representative of India stated:

"... the question to be put in this connexion is not really whether the representative of the Republic of Korea should be invited, but rather the reverse question, namely, whether the invitation which we decided to extend to him on that day should now be cancelled."

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

"As regards the statements of the representatives of India and Norway, the delegation of the Soviet Union considers that the decision of 25 June did not apply to all subsequent meetings. It was not meant to be of permanent validity.

"The question whether the representative of such and such a country concerned with the discussion of a question on the agenda should be invited arises at every meeting of the Security Council... I do not recollect any exception to this rule—the President announces: 'There is a proposal that the representatives of such and such countries should be invited. Are there any objections? If there are none, I invite...'. This is the usual, common form used at each meeting of the Security Council, and the Council decides whether to invite the sides or representatives of States not members of the Security Council; or, in accordance with rule 39 of its rules of procedure, the Security Council decides in each separate case at each separate meeting whether to invite 'members of the Secretariat or other persons'."

At the 484th meeting on 8 August 1950, the representative of China asked the President on a point of order:

"Does the President consider it obligatory upon him to carry out the decision of the Security Council of 25 June by inviting the representative of the Republic of Korea to take his place at the Council table?"

The President (USSR) stated:

"In the circumstances which have arisen, the President cannot give a ruling on this question."³⁴

Decision: At the 494th meeting on 1 September 1950, the President (United Kingdom) ruled that:

"... In view of the decision taken by the Security Council at its [473rd] meeting of 25 June, the President considers that he is obliged to invite the representative of the Republic of Korea to take his place at the Council table."

The representative of the USSR objected to this ruling "on the basis of the precedents which have been established by the Council", stating that the President had omitted to make the usual reservation "provided there are no objections". The ruling was upheld by 9 votes in favour, 1 against with 1 abstention.³⁵

CASE 94

At the 519th meeting on 8 November 1950, in connexion with the complaint of aggression upon the Republic of Korea, the representative of the United Kingdom, referring to a draft resolution submitted by the representative of the USSR, observed that the invitation to the People's Republic of China should not be a general invitation to be present whenever this general item was under discussion. He submitted a counter-draft resolution to invite, under rule 39, a representative of the People's Republic of China "during discussion by the Council of the special report of the United Nations Command in Korea [S/1884]".³⁶ At the 520th meeting, on 8 November 1950, the representative of France supported the United Kingdom draft resolution, observing that the People's Republic of China should be heard as the accused party on the actual facts of the accusation and not on the question of Korea as a whole. The United Kingdom draft resolution was adopted by 8 votes in favour, 2 against and 1 abstention.³⁷

At the 525th meeting on 27 November 1950, at which the representative of the People's Republic of China was present, the President (Yugoslavia) proposed to combine as one item on the agenda the complaint of aggression upon the Republic of Korea, and the complaint of armed invasion of Taiwan (Formosa). He noted that rule 39 under which the invitation had been extended did not provide for any restriction, and

³⁴ For texts of relevant statements see:

483rd meeting: President (USSR), p. 4, 8, 10, 15; China, pp. 2, 4, 9; Egypt, p. 2; India, p. 11; Norway, pp. 10, 11; United Kingdom, pp. 7, 12; United States, pp. 4-5.

484th meeting: President (USSR), pp. 14-15; China, pp. 4-5.

485th meeting: China, pp. 1-3.

487th meeting: Norway, p. 7.

494th meeting: President (United Kingdom), p. 5; USSR, pp. 2, 5-7.

³⁵ 494th meeting: p. 8.

³⁶ S/1890, 519th meeting: p. 16. For consideration of the United Kingdom and USSR draft resolutions, see Case 55.

³⁷ 520th meeting: pp. 7-8.

that the particular document S/1884 had never become a separate item on the agenda. The representative of the USSR objected that, although he had been in favour of full, not limited, participation, the resolution of 8 November had limited participation and he, accordingly, proposed that only the complaint of armed invasion of Taiwan (Formosa) be considered. The representative of the United Kingdom considered that the combination of the two items was in effect a modification of the original invitation made to the Peking Government.³⁸

Decision: *The President's proposal to combine the two items was adopted after the USSR proposal had been rejected by 1 vote in favour, 7 against and 3 abstentions.*³⁹

C. LIMITATIONS OF A PROCEDURAL NATURE

I. Concerning the order in which the representatives are called upon to speak

CASE 95

At the 330th meeting on 7 July 1948, in connexion with the Palestine question, the President (Ukrainian SSR), after inviting the representatives of Egypt, Iraq, Israel and Lebanon and the representative of the Arab Higher Committee to the Council table, proposed to call first on those members of the Security Council who wished to speak, and then on the invited non-members. The representative of Egypt objected to this procedure and stated:

"...the rules of procedure do not say any such thing. There is rule 37 which gives representatives of States which are not members of the Security Council the right to participate, when they are invited, in the discussions of the Council in a matter concerning them; the only limitation is that they will have no right to vote. Also they cannot present proposals, in that their proposals will not be voted upon except when they are submitted by a member of the Security Council. Outside of that, there is no limitation; this is as far as the rules of procedure concern us.

"Then there is the other point of putting the representatives of States Members of the United Nations on a footing of complete inequality instead of on one of equality with the other Members of the United Nations. In addition, there is the result, if such a procedure is followed, of impeding the representative of a State which is not a member of the Security Council from submitting his remarks or making his statement at the proper moment. This applies both logically and psychologically. If a representative of a State which is not a member of the Security Council is forced every time to defer his statement and his remarks and his answers until the Security Council, and also the President of the Security Council, make their remarks and conclusions and rulings, and then the representative of a State not a member of the Security Council is somehow asked to speak, that, I think, is not right and should not be followed."

³⁸ For texts of relevant statements see: 519th meeting: USSR, p. 13; United Kingdom, p. 16. 520th meeting: France, pp. 4-5. 525th meeting: President (Yugoslavia), pp. 6, 7; USSR, p. 12; United Kingdom, p. 18. ³⁹ 525th meeting: p. 19.

The representative of the USSR proposed that the Council hear first the representatives of the parties concerned.⁴⁰

Decision: *There being no objection, the procedure proposed by the representative of the USSR was adopted.*⁴¹

CASE 96

At the 526th meeting on 28 November 1950, in connexion with the complaint of armed invasion of Taiwan (Formosa) and the complaint of aggression upon the Republic of Korea, the question arose of the application of rule 27 to the representative of the People's Republic of China.⁴² The representative of Egypt observed:⁴³

"...the usual practice of the Council... is to the effect that the members of the Council are first asked whether they want to speak and, as long as some of them have something to say about the matter on the agenda, they are allowed to speak first, and then the other participants in the Council's debate are allowed to speak."

Decision: *The proposal to grant precedence to the representative of the People's Republic of China was rejected by 1 vote in favour, 8 against with 2 abstentions.*⁴⁴

CASE 97

At the 540th meeting on 2 April 1951, in connexion with the India-Pakistan question, after a vote had been taken, the President (Netherlands), on a request of the representative of Pakistan*, considered

"...it in order that the representative of Pakistan—who, under rule 37 of our rules of procedure, had been invited to participate without vote...—should be given an opportunity now to state the attitude of his Government towards the resolution⁴⁵ which has been adopted and concerning which the debate proper is closed."

During the speech of the representative of Pakistan, the representative of India raised a point of order:

"The discussion of the Indo-Pakistan question, as particularized in our agenda, was closed when the vote was taken. At this stage, even a member of the Security Council does not have the right to make any further address except possibly for the purpose of explaining his vote. Therefore, in inviting the representative of Pakistan to the table, the Council gave him a right which even a member of the Council does not enjoy: to make a speech other than for the purpose of explaining his vote. Pakistan has no vote to explain. Having been allowed an opportunity to state his Government's views, I submit to the President that the representative of Pakistan should confine himself strictly to that purpose. It would not be in order for him to go into matters of controversy which, if he had so chosen,

⁴⁰ For texts of relevant statements see: 330th meeting: President (Ukrainian SSR), p. 2; Egypt, pp. 5-6; USSR, p. 9.

⁴¹ 330th meeting: p. 10.

⁴² See chapter I, Case 51.

⁴³ For texts of relevant statements see: 526th meeting: President (Yugoslavia), pp. 2, 4-5, 9; Egypt, pp. 7-8; USSR, pp. 2-4, 5-7, 8-9, 9-10.

⁴⁴ 526th meeting: p. 10.

⁴⁵ S/2017/Rev.1, 539th meeting: p. 15.

he could have entered into before the vote was taken."

The President stated that, in view of what the representative of India had said, the representative of Pakistan wished to clarify his position briefly. Subsequently, the President reminded the representative of Pakistan to confine himself to the explanation of the attitude of his Government with regard to the resolution.⁴⁶

CASE 98

At the 545th meeting on 8 May 1951, in connexion with the Palestine question, the President (Turkey), in referring to the order of speakers, said that the representatives of the United States, United Kingdom, France, and Turkey had asked for permission to speak as co-sponsors of a draft resolution, and that the representative of Brazil had also asked for permission to speak. He declared his intention of calling upon the representatives of Israel* and Syria*, in the order of their requests for permission to speak, if no other member of the Security Council should indicate a desire to take part in the discussion. After the representatives of the United States, United Kingdom, France, Turkey and Brazil had spoken, the President called upon the representative of the Netherlands, before calling upon the representatives of Israel and Syria.⁴⁷

2. Concerning the raising of points of order by invited representatives

CASE 99

At the 82nd meeting on 10 December 1946, in connexion with the Greek frontier incidents question, the representative of Australia expressed the following opinion regarding the participation of Greece and Yugoslavia:⁴⁸

"... By participation, we understand that they will have the right to speak whenever recognized by the President, that they will have the right to move resolutions and will even have the greatest privilege of all members of this Council, to raise points of order..."

CASE 100

At the 192nd meeting on 22 August 1947, in connexion with the Indonesian question (II), the President (Syria) ruled that an invited State did not have the privilege of raising points of order. With regard to an intervention by the representative of the Philippines, the President stated:⁴⁹

"I am sorry but the raising of points of order is limited to members of the Council. I shall put the name of the representative of the Philippines on my list of speakers."

⁴⁶ For texts of relevant statements see: 540th meeting: President (Netherlands), pp. 2, 4, 6; India, pp. 3-4; Pakistan, pp. 2-3, 4-6.

⁴⁷ For texts of relevant statements see: 545th meeting: President (Turkey), pp. 4, 8-9; Brazil, pp. 9-10; France, pp. 6-8; Israel, pp. 11-18; Netherlands, pp. 10-11; Syria, pp. 18-27; United Kingdom, pp. 4-5; United States, pp. 4-5.

⁴⁸ 82nd meeting: p. 545.

⁴⁹ 192nd meeting: p. 2152.

3. Concerning the submission of proposals or draft resolutions by invited representatives

a. Before adoption of rule 38 of the provisional rules of procedure

CASE 101

At the 16th meeting on 11 February 1946, in connexion with the Indonesian question (I), the representative of the Ukrainian SSR, having been invited to participate without vote in the discussion, submitted a draft resolution to set up a commission of inquiry. The President (Australia), after explaining that there were no rules of procedure regarding the right of proposition by a non-member of the Security Council, invited the members of the Council to express their views. The representative of China, observing that Article 31 should be read in connexion with Article 35, considered that the representative of the Ukrainian SSR was entitled to full participation in the discussion without the right to vote. The representative of the USSR maintained that neither Article 31 nor Article 35, nor even Article 32 provided a solution, and that the Council must apply logic and common sense. It was inconceivable that the representative of the Ukrainian SSR should be given the right to participate in the discussion and draw attention to a situation, but not given the right to propose a solution. The representative of the United States, while believing that a formal draft resolution should only be submitted by a member of the Council, did not press his objection in this case.⁵⁰

The Council decided that there was no objection to the right of the representative of the Ukrainian SSR to submit a draft resolution.

CASE 102

At the 19th meeting on 14 February 1946, in connexion with the Syrian and Lebanese question, the President (Australia) proposed to decide in advance the question which arose "at a late stage in our consideration of the Indonesian matter" and to give the invited representatives the right of proposition "without prejudice to any view which the Council may form on other occasions".

Decision: *The President's proposal was adopted without objection.*⁵¹

b. After adoption of rule 38² of the provisional rules of procedure

CASE 103

At the 392nd meeting on 24 December 1948, when the representative of the Netherlands had requested that a certain paragraph of a draft resolution be split

⁵⁰ For texts of relevant statements see: 16th meeting: President (Australia), pp. 223-224, 225, 226, 229, 231, 232; China, pp. 224-225; Egypt, pp. 224, 225, 226; France, p. 227; Netherlands, pp. 225-226, 231; Poland, p. 226; USSR, pp. 227-229, 230-231; United States, pp. 229, 231, 232.

⁵¹ 19th meeting: pp. 272-273.

⁵² For cases of application of rule 38, see:

(i) At the 268th meeting on 17 March 1948 and subsequent meetings, two draft resolutions presented by the representative of Chile in connexion with the Czechoslovak question were put to the vote upon the request of the representative of

into two parts to be voted upon separately, the representative of the United States made the following statement:⁵³

"As a point of order, and as a matter of the precedent to be established in the Security Council, I should like to say that it is my understanding that non-members of the Council do not have the privilege of suggesting ways in which the Council should actually transact its business. It is only in the event of a member of the Council espousing the view of a non-member who is participating in a discussion that a proposal by the non-member could actually come before the Council for action."

The President (Belgium) thereupon referred to rule 38 of the provisional rules of procedure and stated:⁵⁴

"The point at issue is whether the request made a little while ago by the representative of the Netherlands can be considered a proposal. It seems to me to be a proposal affecting procedure. I think the Council would be taking a very strict view of the matter if it considered such a proposal inadmissible in the circumstances..."

The ruling of the President was not challenged.

CASE 104

At the 282nd meeting on 15 April 1948, in connexion with the Palestine question, the representative of the Jewish Agency for Palestine made certain suggestions for amending a draft resolution before the Security Council. The representative of Syria thought that rule 39 of the rules of procedure was applicable, and that⁵⁵

"... those who are invited under rule 39 of the rules of procedure are not to submit proposals or amendments of any kind; they may simply give advice or information when asked to do so. Only States Members which are invited to participate may submit proposals or resolutions and these may be supported by one of the members of the Security Council..."

At the 283rd meeting on 16 April 1948, the representative of the United States supported the amendments which had been suggested by the representative of the Jewish Agency.⁵⁶

Argentina (268th meeting: p. 111; 272nd meeting: p. 175; 281st meeting: p. 2; 288th meeting: p. 15).

(ii) At the 375th meeting on 29 October 1948, in connexion with the Palestine question, an amendment presented by the representative of Egypt was put to the vote on the request of the representative of Syria (375th meeting: pp. 6-7).

(iii) At the 381st meeting on 16 November 1948, a request by the representative of Egypt for postponement of the debate on the Palestine question was put to the vote upon the request of the representative of Syria (381st meeting: pp. 45-46).

(iv) At the 390th meeting on 23 December 1948, and at the 392nd meeting on 24 December 1948, two amendments presented by the representative of Australia to draft resolutions on the Indonesian question (II) were put to the vote upon the request of the representative of Syria (390th meeting: pp. 15-16; 392nd meeting: pp. 33, 52 and 56).

(v) At the 400th meeting on 14 January 1949, a request by the representative of Belgium for a French interpretation of a speech by the representative of the USSR was supported by the representative of France (400th meeting: p. 2).

⁵³ 392nd meeting: p. 35.

⁵⁴ 392nd meeting: p. 36.

⁵⁵ 282nd meeting: p. 22.

⁵⁶ 283rd meeting: pp. 10, 14 and 26. For the invitation to the Jewish Agency for Palestine, see Case 52.

CASE 105

At the 381st meeting on 16 November 1948, the Security Council had before it two draft resolutions: (a) the suggestions which had been submitted, in the form of a draft resolution by the Acting Mediator at the 378th meeting on 9 November 1948,⁵⁷ and supported, with certain amendments, by the representative of the USSR at the 379th meeting of 10 November 1948,⁵⁸ and (b) a Canadian draft resolution which had been submitted at the 380th meeting on 15 November 1948.⁵⁹

The representative of the USSR proposed that the draft resolution S/1076 should be put to the vote, the first four paragraphs together and the fifth paragraph with the amendments. In response to the request of the representative of the United States for clarification, the President (Argentina) confirmed that the representative of the USSR had made the draft resolution S/1076 his own motion. The representative of Canada observed that, in accordance with the rules of procedure, motions took precedence in the order of their submission. In his opinion, the recommendations which had been submitted by the Acting Mediator did not constitute a draft resolution before the Council, until the representative of the USSR had made them his own. Consequently, the draft resolution (S/1079) submitted by the representatives of Canada, Belgium and France had precedence before the Council. The President replied:

"... the representative of the Soviet Union submitted as his own the Acting Mediator's suggestions in document S/1076, with the modifications he proposed in document S/1077. That happened before the representative of Canada presented his draft proposal jointly with the delegations of Belgium and France."

In the opinion of the representative of France, however, the fact that the representative of the USSR had proposed amendments to the Acting Mediator's text did not seem precisely to mean that he had sponsored it, for only at the 380th meeting the representative of the USSR had stated that he would sponsor the Acting Mediator's text, subject to the amendments contained in document S/1077. The representative of Canada, quoting the verbatim record of the 380th meeting, maintained that the USSR delegation had expressed its readiness to sponsor the Acting Mediator's text after the Canadian delegation had submitted the draft resolution S/1079 which had, consequently, precedence under rule 32. The representative of the USSR observed that his delegation had supported the Acting Mediator's draft at a closed meeting of the Council and had moved thereto a number of amendments.⁶⁰ After further discussion, the President ruled, and the representative of Canada accepted the ruling, that the draft resolution (S/1076), which the delegation of the USSR had adopted as its own, should be put to the vote first.⁶¹ The draft resolution was

⁵⁷ S/1076, *G.A.O.R.*, 4th session, *Suppl. No. 2*, p. 47. 378th meeting: pp. 62-63.

⁵⁸ S/1077, *G.A.O.R.*, 4th session, *Suppl. No. 2*, p. 47. 379th meeting: pp. 63-64.

⁵⁹ S/1079, 380th meeting: pp. 4-5.

⁶⁰ 379th meeting: pp. 63-64.

⁶¹ For texts of relevant statements see:

381st meeting: President (Argentina), pp. 46, 47, 51; Canada, pp. 47, 49; France, pp. 48-49; USSR, pp. 46, 49-50; United States, p. 46.

voted on in parts and was rejected. The vote on all paragraphs was 2 in favour with 9 abstentions.⁶²

CASE 106

At the 405th meeting on 27 January 1949, in connexion with the Indonesian question (II), the representative of the Netherlands* requested adjournment of the debate. The President (Canada) pointed out that, although a motion for adjournment was put to the vote without debate, in this case rule 38 applied, by which a motion by a non-member of the Council could be voted upon only at the request of a member. In the absence of such a request, the debate continued.⁶³

CASE 107

At the 434th meeting on 4 August 1949, in connexion with the Palestine question, with special reference to the draft resolution suggested by the Acting Mediator,⁶⁴ the representative of Canada stated that his delegation would sponsor that draft resolution. He submitted a draft resolution of his own which included, with some modifications, the text suggested by the Acting Mediator.⁶⁵ The representative of France submitted a number of amendments to the draft resolution suggested by the Acting Mediator.⁶⁶ At the 435th meeting on 8 August 1949, the representative of Canada withdrew his draft resolution and submitted a joint Canadian-French draft resolution, which had been prepared through consultations between the representatives of Canada and France and the Acting Mediator.⁶⁷ The representative of France withdrew the amendments which he had submitted at the previous meeting.⁶⁸

At the 437th meeting on 11 August 1949, the representative of the USSR submitted several amendments to the joint draft resolution.⁶⁹ The Council rejected the USSR amendments, paragraph by paragraph, and adopted the Canadian-French draft resolution by a vote of 9 in favour with 2 abstentions.⁷⁰

CASE 108

At the 496th meeting on 5 September 1950, in connexion with the complaint of aggression upon the Republic of Korea, the representative of the Republic of Korea, who had been invited to the table under rule 39, expressed the "hope that the members of the Council will support the United States draft resolution". The representative of the USSR thereupon requested the President (United Kingdom), to inform him that "he has been permitted, although illegally, to attend the meetings of the Council in order to make statements, and not to pass judgment on the draft resolutions submitted by members of the Council."⁷¹

CASE 109

At the 527th meeting on 28 November 1950, the representative of the People's Republic of China made three proposals to the Security Council.⁷²

⁶² 381st meeting: pp. 51-53.

⁶³ 405th meeting: p. 32.

⁶⁴ S/1357, O.R., 4th year, Suppl. for August 1949, p. 7.

⁶⁵ S/1365, 434th meeting: p. 28.

⁶⁶ S/1364, 434th meeting: pp. 34-35.

⁶⁷ S/1367, 435th meeting: pp. 2-3.

⁶⁸ 435th meeting: p. 3.

⁶⁹ S/1375, O.R., 4th year, Suppl. for August 1949, p. 9; 437th meeting: pp. 10-11.

⁷⁰ 437th meeting: p. 13.

⁷¹ 496th meeting: p. 14.

⁷² 527th meeting: p. 25.

At the 530th meeting on 30 November 1950, the President (Yugoslavia) "put to the vote the draft resolution submitted by the representative of the Central People's Government of the People's Republic of China and sponsored by the Union of Soviet Socialist Republics".⁷³

D. LIMITATIONS ON MATTERS TO BE DISCUSSED BY INVITED REPRESENTATIVES

1. Adoption of the agenda

CASE 110

At the 58th meeting on 30 August 1946, in connexion with the Ukrainian complaint against Greece, the President (Poland) proposed that representatives of Greece and the Ukrainian SSR should be invited to answer such questions as the Security Council might wish to put to them, before deciding to include the item in the agenda. The representative of the United Kingdom considered that discussion of the adoption of the agenda was preliminary and procedural, and that, if representatives of Greece and the Ukrainian SSR were invited, a discussion of the substantive question might ensue. The representative of the USSR stated that, since the propriety of including the item in the agenda had been questioned on the ground that the application was unsubstantiated, it would logically result that the representative of the Ukrainian SSR should be invited to submit additional facts to the Council. The representative of France thought that the Council could not invite States not members of the Security Council to the table before first deciding to put the question on the agenda.⁷⁴

Decision: *The President's proposal was rejected, having failed to obtain the affirmative votes of 7 members.*⁷⁵

CASE 111

At the 202nd meeting on 15 September 1947, in connexion with the Greek frontier incidents question, the representative of Yugoslavia, who had been invited to the Council table, made a statement during the discussion of a United States draft resolution to take the dispute off the list of matters of which the Council was seized.⁷⁶ The representative of the United States then stated:⁷⁷

"In my opinion the discussion was on a simple motion of the United States to drop the matter from the agenda. That is something which solely concerns the Security Council and in my opinion the Yugoslav representative had no status for speaking when that matter was under discussion."

CASE 112

At the 231st meeting on 22 January 1948, the provisional agenda included the "India-Pakistan question" which had previously been designated as "The Jammu and Kashmir question". The representative of India had indicated his dissatisfaction with that description. At the beginning of the meeting, the President (Belgium) stated:⁷⁸

⁷³ S/1921, 530th meeting: p. 22.

⁷⁴ For texts of relevant statements see: 58th meeting: President (Poland), pp. 152, 153; France, p. 156; USSR, p. 153; United Kingdom, pp. 153, 156.

⁷⁵ 58th meeting: p. 156.

⁷⁶ 202nd meeting: p. 2402.

⁷⁷ 202nd meeting: p. 2404.

⁷⁸ 231st meeting: p. 144.

"It is not usual for parties not members of the Security Council to take part in the discussions on the adoption of the agenda. I propose, however, that the Security Council make an exception to this custom, in view of the delicate nature of the question that the Indian representative has raised."

Decision: *The representatives of India and Pakistan were thereupon invited to the table.*⁷⁹

CASE 113

At the 525th meeting on 27 November 1950, in connexion with the complaint of armed invasion of Taiwan (Formosa) and the complaint of aggression upon the Republic of Korea, the President (Yugoslavia) proposed that the two problems should be discussed together. To this, the representative of the USSR was opposed, one reason being his belief that, if the President really wished to take into consideration the wishes of the Government of the People's Republic of China, he would have formulated the item in the way proposed by that Government. He submitted an amendment to the provisional agenda to substitute for the two sub-items a single item: "Complaint of armed invasion of Taiwan (Formosa)". The representative of the United States interpreted rule 39 as conferring upon those invited no right to participate in the making of the agenda, not even to the extent of a member of the Council putting through a plan or scheme on behalf of a person invited under rule 39 "that would control what is to be considered by the Security Council".⁸⁰

Decision: *The amendment submitted by the representative of the USSR was rejected by 1 vote in favour, 7 against with 3 abstentions.*⁸¹

CASE 114

At the 559th meeting on 1 October 1951, in connexion with the Anglo-Iranian Oil Company case, objection was raised to the inclusion of the item in the agenda on the ground that the question fell within the domestic jurisdiction of Iran.

The representative of Yugoslavia stated:

"What is the way out of this contradiction: the desire of the Council to listen to the parties, its doubts whether it is competent or not and the dispute on its competency? I think that the only way out is to invite the Government of Iran to participate in our debate not on item 2 of our provisional agenda but on item 1—the adoption of this agenda—we shall thus really have dealt to a great extent with the question of our competence.

"I think that this would be in the spirit of our rules of procedure..."

The representative of the United Kingdom observed:

"... To my knowledge the Council never has—and I hope it never will—called upon a non-member of the Council to help it make up its mind on what is admittedly a pure question of procedure. I should have thought that it would be an extremely bad

precedent to create, and I am quite confident that my colleagues will not adopt it."⁸²

Decision: *After the agenda had been adopted by 9 votes to 2, the President (Brazil) invited the representative of Iran to take a place at the Council table.*⁸³

2. Extention of invitations

CASE 115

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), the representative of Australia indicated that he assumed that the Security Council, after granting the Netherlands and India the right to participate, would also immediately authorize the sending of an invitation to the Republic of Indonesia. The representative of Belgium did not think the question raised by the Australian representative should be discussed in the absence of the representatives of the Netherlands and India. The question of inviting the representative of Indonesia was postponed in order to give immediate consideration to the Australian draft resolution.⁸⁴

CASE 116

At the 382nd meeting on 25 November 1948, in connexion with the Hyderabad question, the Security Council considered a request from the Government of Pakistan to participate in the discussion. The representative of Syria was of the opinion that such a question could be decided by the Council in the absence of the representatives of India and Hyderabad, who were not present, although they had been invited to participate at previous meetings. He considered that the question had no connexion with the two parties.⁸⁵

Decision: *At the 384th meeting on 15 December 1948, the President (Belgium) invited, without objection and in the absence of representatives of India and Hyderabad, the representative of Pakistan to the Council table.*⁸⁶

CASE 117

At the 514th meeting on 20 October 1950, in connexion with the Palestine question, when the President (United States) asked whether the Security Council consented to General Riley being invited to the next meeting, the representative of Israel, who had been invited to the Council table, wished to raise a point regarding the invitation. The President stated:

"I do not think that it is within the rights of visitors at this table to participate in the discussion of a question concerning the procedure of the Security Council, but if there is no objection to hearing the representative of Israel on this matter of procedure, I shall permit him to make a brief statement."

The representative of Egypt raised an objection:

"I have not the slightest desire to take advantage of my position as the representative of a member of

⁷⁹ For texts of relevant statements see:

559th meeting: United Kingdom, p. 10; Yugoslavia, p. 9.

⁸⁰ 559th meeting: pp. 10-11. For invitation to Iran, see Case 48.

⁸¹ For texts of relevant statements see:

171st meeting: Australia, p. 1618; Belgium, p. 1618. For invitation to Indonesia, see Case 59.

⁸² 382nd meeting: p. 29.

⁸³ 384th meeting: pp. 40-41.

⁷⁹ For original invitations to India and Pakistan, see Cases 17 and 35.

⁸⁰ For texts of relevant statements see:

525th meeting: President (Yugoslavia), pp. 1, 5-6; USSR, pp. 1-5, 17-18; United States, pp. 6-10.

⁸¹ 525th meeting: p. 19.

the Security Council as distinct from the position of those who are invited to the table, but the President will, of course, understand that our procedure is not a matter for any single member of the Council or for any group of members. We have to adhere to the procedure as laid down. If the President wishes to hear any of those who are invited to the table of the Security Council on other matters I shall not object, but I have a definite objection to anyone other than members of the Security Council participating in the discussion of matters of procedure."⁸⁷

3. Postponement of consideration of a question

CASE 118

At the 26th meeting on 26 March 1946, the representative of the USSR proposed that consideration of the Iranian question be postponed until 10 April 1946, and urged that, since the procedural aspect of the question was under discussion, no invitation should be extended to the representative of Iran. The representatives of Egypt, Mexico, the Netherlands, the United Kingdom and the United States supported an invitation to the representative of Iran to make a statement concerning the question of postponement, since Iran was specially affected by such a decision.⁸⁸

Decision: *At the 27th meeting on 27 March 1946, the USSR proposal for postponement was rejected, and the Security Council adopted the Egyptian proposal to invite the representative of Iran.*⁸⁹

In the course of the statement by the representative of Iran*, the representatives of Poland and the United States suggested that the statement be confined to the question of postponement.⁹⁰

CASE 119

At the 226th meeting on 6 January 1948, in connexion with the India-Pakistan question, the Security Council considered a request for postponement from the Government of Pakistan. The President (Belgium), after inquiring whether the Council considered it necessary to invite the representatives of India and Pakistan to participate in the consideration of this request for a postponement, stated:

"I think I am justified in saying that the presence of these two representatives would enable us to ask the Pakistan representative to specify the extent of the postponement requested by his Government and would, moreover, give the Indian representative an opportunity to state the views of his Government on this subject."

Decision: *The President invited, without objection, the representatives of India and Pakistan to the Council table.*⁹¹

⁸⁷ For texts of relevant statements see: 514th meeting: President (United States), p. 19; Egypt, p. 19. No statement was made by the representative of Israel.

⁸⁸ For texts of relevant statements see: 26th meeting: Egypt, p. 41; Mexico, pp. 35-36; Netherlands, p. 38; USSR, p. 37; United Kingdom, pp. 33-34; United States, pp. 23, 31.

⁸⁹ 27th meeting: pp. 56, 61, 62.

⁹⁰ 27th meeting: pp. 66, 67.

⁹¹ 226th meeting: p. 5. See also Cases 17 and 35.

4. Other matters

CASE 120

At the 100th meeting on 10 February 1947, in connexion with the Greek frontier incidents question, the President (Belgium) raised the question whether the representatives of Albania, Bulgaria, Greece and Yugoslavia should be invited to participate in a meeting which had been called to consider a communication from the Secretary of the Greek Frontier Incidents Commission.⁹² The representative of the USSR considered that the Council should adopt the view that the question of the participation of the representatives of those countries in the discussion should be settled automatically, because the relevant decision had already been taken. He was of the opinion that this was not a new question, but merely a stage in the consideration of the question. The representative of Australia considered that Article 32 did not apply and that the Council's previous decision did not automatically have effect. What was being discussed was not the substance of the dispute, but something related to the functioning of a subsidiary organ of the Council. The President (Belgium) also thought that the communication did not entail discussion of the substance of the dispute. The representative of France considered that if each request from the Commission were to raise a debate in the Security Council on the substance of the Balkan question, the Council's function would be completely paralysed and it would be unable to continue its work.⁹³

Decision: *The proposal of the representative of the USSR to invite the representatives of Albania, Bulgaria, Greece and Yugoslavia to the Council table was rejected by 3 votes in favour and 8 against.*⁹⁴

CASE 121

At the 519th meeting on 8 November 1950, in connexion with the complaint of aggression upon the Republic of Korea, the representative of the United Kingdom proposed that the invitation to the Central Government of the People's Republic of China under rule 39 should not be a general invitation to be present "whenever this general item is under discussion", but "during discussion by the Council of the special report of the United Nations Command in Korea (S/1884)". The representative of France supported the proposal, observing that the authorities would be heard as the accused party on the actual facts of the accusation and not on the question of Korea as a whole. The United Kingdom proposal was adopted by 8 votes to 2 with 1 abstention.

At the 525th meeting on 27 November 1950, the President (Yugoslavia) proposed to combine as one item on the agenda the complaint of aggression upon the Republic of Korea, and the complaint of armed invasion of Taiwan (Formosa). He noted that rule 39, under which the invitation had been extended, "does not provide for any restriction", and that the particular document S/1884 had never become a separate item on the agenda. The representative of the

⁹² For the invitations extended in connexion with this question, see Cases 14, 28 and 57.

⁹³ For texts of relevant statements see: 100th meeting: President (Belgium), p. 175; Australia, pp. 174-175, 179; France, p. 178; USSR, pp. 174, 177; United States, p. 178.

⁹⁴ 100th meeting: pp. 179-180.

USSR objected that, although he had been in favour of full, not limited, participation, the resolution of 8 November had limited participation; he accordingly proposed that only the complaint of armed invasion of Taiwan (Formosa) be considered. The representative of the United Kingdom observed that representatives of the People's Republic of China had been invited to be present for the discussion of a specific point, but they had refused. The intention of combining the two items was to allow the invited representatives "complete liberty to say whatever they like on the whole subject of Korea". The representative of the United Kingdom concluded that the combina-

tion of the two items was in effect a modification of the original invitation made to the Communist Chinese Government.⁹⁵

Decision: *The agenda as proposed by the President was adopted after the USSR amendment had been rejected by 1 vote in favour, 7 against and 3 abstentions.*⁹⁶

⁹⁵ For texts of relevant statements see:

519th meeting: USSR, p. 13; United Kingdom, p. 16.

520th meeting: France, pp. 4-5.

525th meeting: President (Yugoslavia), p. 6; USSR, p. 12; United Kingdom, p. 18.

⁹⁶ 525th meeting: p. 19.