Chapter VI

RELATIONS WITH OTHER UNITED NATIONS ORGANS

TABLE OF CONTENTS

INTRODUCTORY NOTE

As previously in the *Repertoire*, the present chapter, dealing with the relations of the Security Council with all the other organs of the United Nations, is broader in scope than chapter XI of the provisional rules of procedure of the Security Council (rule 61) which governs only certain procedures related to the election by the Council of members of the International Court of Justice.

The present chapter presents material bearing on the relations of the Security Council with the General Assembly (part I) and also brings up to date the account given in the previous volume of the *Repertoire* of the transmission by the Trusteeship Council to the Security Council of questionnaires and reports (part III). No material has been found for the period under review which would require entry in parts II, IV and V relating respectively to relations with the Economic and Social Council, the International Court of Justice and the Military Staff Committee.

The functions of the Secretariat in relation to the Security Council, to the extent that they are governed by the provisional rules of procedure of the Council, are covered in chapter I, part IV. Proceedings regarding the appointment of the Secretary-General under Article 97 are treated in part I of this chapter.

Part I

RELATIONS WITH THE GENERAL ASSEMBLY

NOTE

In part I, concerning relations of the Security Council with the General Assembly, the arrangement of the material remains the same as before. In Section B appears a new sub-heading under which certain proceedings of the Security Council relating to the convocation of emergency special sessions of the General Assembly have been treated.[1]

In accordance with the previous arrangement of material, part I is mainly concerned with instances where the responsibility of the Security Council and of the General Assembly is, under the provisions of the Charter or the Statute of the Court, either exclusive or mutual; that is, where a final decision is or is not to be taken by one organ without a decision to be taken in the same matter by the other. The proceedings in these instances fall into three broad categories.

The first includes proceedings where the relations between the two organs are governed by provisions of the Charter (Article 12, paragraph 1) limiting the authority of the General Assembly in respect of any dispute or situation while the Security Council is exercising the functions assigned to it by the Charter. During the period under review, there was discussion in the Council bearing on the mutual relationships of the Security Council and the General Assembly when the latter was exercising its functions with regard to matters concerning the maintenance of international peace and security. This has been treated[2] in section A. The second category comprises instances where the decision by the Council must be taken before that of the General Assembly; e.g., appointment of the Secretary-General, and conditions of accession to the Statute of the International Court of Justice. The third group includes cases where the final decision depends upon action to be taken by both the organs concurrently, such as the election of members of the International Court of Justice. Proceedings in the second and third categories have been dealt with[3] in sections C and D respectively.

A continuation of the tabulation of recommendations to the Security Council adopted by the General Assembly in the form of resolutions will be found in part I, section F, and references to the annual and special reports of the Security Council submitted to the General Assembly in section C.

A. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLE 12 OF THE CHARTER

"*Article 12 of the Charter*

"1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

"2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General

[1] Cases 2 and 3.

[2] Case 1.

[3] Cases 5-7.

Assembly is not in session, immediately the Security Council ceases to deal with such matters."

[*Note:* During the period under review, discussion arose in the Council on the question of the respective competence of the Security Council and the General Assembly to deal with a matter relating to the maintenance of international peace and security, which the Council had considered and then referred to the General Assembly. In connexion with a proposal that the Council should consider an item relating to non-compliance with a decision of the first emergency special session of the Assembly, and take action under Chapter VII, it was maintained, on the one hand, that should the Council concern itself with the matter, the Assembly would be prevented from continuing the peace-making process it had initiated, and on the other hand, that the fact that the General Assembly was dealing with a question did not relieve the Security Council of the obligation to act under Chapter VII of the Charter, should circumstances necessitate, since the General Assembly, in any case, could not act under that Chapter of the Charter.

Notifications to the General Assembly under Article 12 (2) by the Secretary-General, with the consent of the Security Council, of "matters relative to the maintenance of international peace and security which are being dealt with by the Security Council", and of matters with which the Council has ceased to deal, have been drafted on the basis of the "Summary Statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration" which is circulated each week by the Secretary-General in accordance with rule 11 of the provisional rules of procedure.

The notification issued before each session of the General Assembly contains the same agenda items as those in the current Summary Statement, except that certain items in the Statement which are not considered as "matters relative to the maintenance of international peace and security" for the purpose of Article 12 (2) are excluded from the notification; e.g., rules of procedure of the Council, applications for membership, and the application of Articles 87 and 88 with regard to strategic areas. In addition, the notification contains a list of any items with which the Council has ceased to deal since the previous session of the General Assembly.[4]

Matters being dealt with by the Security Council have been listed in the notification, since 1951, in two categories: (1) matters which are being dealt with by the Council and which have been discussed during the period since the last notification; and (2) matters of which the Council remains seized but which have not been discussed since the last notification.[5]

Since 1947, the consent of the Council required by Article 12 (2) has been obtained through the circulation by the Secretary-General to the members of the Council of copies of draft notifications.]

Case 1

At the 755th meeting on 5 November 1956, the Security Council rejected the provisional agenda which included a cablegram[6] from the Minister of Foreign Affairs of the USSR concerning "Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt". The cablegram contained a draft resolution under which the Council would take action in accordance with Article 42 of the Charter.

Prior to the vote, the Secretary-General reported to the Council on his efforts to achieve a cessation of hostilities in Egypt, in accordance with the authorization contained in General Assembly resolution 997 (ES-I).

After the vote,[7] the representative of the United States, in explaining his vote, stated:

> "... The fact is that the United Nations, through the General Assembly, has acted and is acting on the situation in Egypt... The Secretary-General is bending every effort to arrange a cease-fire.... The question of the hostilities in Egypt is being actively dealt with by the General Assembly and the Secretary-General. We here should lend every assistance, and, in the judgement of the United States, the course proposed by the Government of the Soviet Union would run counter to everything the General Assembly and the Secretary-General are doing. For these reasons, we cannot possibly support the proposal of the Soviet Union."

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[4] In the notification issued before the convening of the thirteenth session of the General Assembly (A/3919, 16 September 1958) there were no items listed as matters with which the Security Council had ceased to deal. In a later notification to the thirteenth session of the General Assembly (A/4008, 26 November 1958) the Secretary-General informed the General Assembly that the Security Council had decided, at its 840th meeting on 25 November 1958, to delete from the list of matters of which the Council was seized the complaint submitted on 22 May 1958 by the Government of Lebanon.

[5] In the notification issued before the convening of the thirteenth session of the General Assembly (A/3919, 16 September 1958) there appeared listed among the matters discussed by the Security Council during the period since the previous notification, the following agenda items: (1) "Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council", and (2) "Letter dated 17 July 1958 from the representative of Jordan addressed to the President of the Security Council". Both these items were dealt with at the third emergency special session of the General Assembly. Among the matters which had not been discussed by the Security Council during the period since the previous notification, but of which the Council remained seized, the following agenda items appeared: (1) "The situation in Hungary", which was dealt with at the second emergency special session, and at the eleventh, twelfth and thirteenth sessions of the General Assembly; and (2) "Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council". This item was dealt with, in substance, at the first emergency special session and at the eleventh and twelfth sessions of the General Assembly.

[6] S/3736, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, pp. 128-130.

[7] 755th meeting: para. 27.

The representative of Cuba expressed the view that the Security Council was not competent to consider this question since it was then pending consideration by the General Assembly.

The representative of Belgium, after noting that the General Assembly had discussed and adopted recommendations on the same question in pursuance of a resolution adopted by the Council, stated:

"... If the Security Council were to deal with the matter, as it has been requested to do, it would paralyse the General Assembly, for the Charter clearly seeks to prevent the confusion and possible conflict which would arise if these two bodies were to take up the same question at the same time."

The representative of China expressed apprehension that consideration of the proposal made by the USSR "would only serve the purpose of hampering the peace-making process which the special session of the General Assembly has so auspiciously inaugurated".

The representative of Peru maintained that "overlapping competence or double jurisdiction" should be avoided. He added:

"... Just as the General Assembly cannot consider a question of which the Security Council is seized, so the Security Council obviously cannot logically consider a question which is pending before the General Assembly, particularly one referred to it by virtue of a procedural resolution adopted by the Council itself.

"... Nothing, not even the Charter, much less the specific provisions of General Assembly resolution 377 (V) entitled 'Uniting for peace' and those of us who participated in the extensive debate which resulted in the adoption of that resolution are familiar with its provisions—nothing, I say, would authorize the Council at this stage to declare itself competent in the matter and so to provoke an unwarranted and in every respect undesirable suspension of the action initiated by the General Assembly..."

The representative of the USSR, in replying to the above objections, stated:

"... Only when it became clear that the moral pressure of the General Assembly had no effect on the aggressor countries, did the Soviet Union submit its proposal. So this proposal cannot paralyse the decision adopted by the General Assembly. On the contrary it would only help to clarify it."

He further stated:

"... the proposal does not violate the Charter in any way; nor is there any conflict of jurisdiction between the General Assembly and the Security Council. The fact that the General Assembly is taking action on any question does not relieve the Security Council of the obligation to act if the circumstances demand it.

"... The General Assembly cannot act under Chapter VII; this is set forth explicitly in Article 11 of the Charter.... In the present case, when reference is made to the use of the armed forces of other Members of the Organization, we are dealing with 'action' in connexion with a threat to the peace, and Article 42 speaks of such action. Any objections based on the Charter are therefore unfounded..."[8]

B. PRACTICES AND PROCEEDINGS IN RELATION TO THE CONVOCATION OF A SPECIAL SESSION OF THE GENERAL ASSEMBLY

"Article 20 of the Charter

"The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations."

[*Note*: No special session of the General Assembly was convened at the call of the Security Council during the period under review.[9] On three occasions the Security Council has called emergency special sessions of the General Assembly. In the first two instances,[10] specific reference to resolution 377 A (V)[11] was made in the decisions adopted by the Council. In the third instance,[12] no such reference was made in the resolution adopted by the Council. In all three instances, the decisions stated that the lack of unanimity of the permanent members of the Security Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security. The relevant proceedings of the Council on each occasion are set forth in the case histories entered below.

Under the "Uniting for peace" resolution, emergency special sessions of the Assembly are convened upon the request of the Security Council, on the vote of any seven of the members. In the first two cases presented below, negative votes were cast by permanent members of the Council while in the third case the vote to make the request was unanimous. In the first case,[13] recourse to the "Uniting for peace" resolution was opposed by

[8] For texts of relevant statements, see:

755th meeting: Belgium, para. 53; China, para. 56; Cuba, para. 47; Peru, paras. 57-58; USSR, paras. 66, 70-71; United States, para. 29.

[9] See Case 8 below for a presidential statement concerning special sessions.

[10] Cases 2 and 3.

[11] The relevant passage from resolution 377 (A) (V) follows: "*The General Assembly*, ... 1. *Resolves* that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;"

[12] Case 5.

[13] Case 2.

two of the permanent members of the Council on the following grounds: (1) that there had been no fulfilment of the condition in resolution 377 A (V) of a previous determination by the Council that there existed a threat to the peace, a breach of the peace, or an act of aggression; (2) that the question to be brought before the General Assembly at the proposed emergency special session was not specified; (3) that the agenda item before the Council was not the one in respect of which the permanent members had disagreed; and (4) that the agenda item in respect of which there had been lack of unanimity among the permanent members fell within the scope of Chapter VI rather than Chapter VII of the Charter. In the second case,[14] a permanent member of the Council objected to the proposal to summon an emergency special session on the ground that Article 2 (7) of the Charter barred consideration of the matter by the United Nations. In the third case,[15] two draft resolutions were submitted to the Council which had the common purpose of calling an emergency special session, but differed in formulating the question to be brought before the General Assembly and in specifying the basis of such convocation. The resolution adopted by the Council defined the matter to be dealt with only by reference to the agenda of the Council and omitted reference to resolution 377 A (V).]

Case 2

At the 748th meeting on 30 October 1956, in connexion with the letter[16] dated 29 October 1956 from the representative of the United States concerning "The Palestine question: steps for the immediate cessation of the military action of Israel in Egypt", the representative of the United States contended that it was imperative that the Council act in the promptest manner to determine that a breach of the peace had occurred in the area of the Sinai Peninsula, and to order the cessation of the military action by Israel and the withdrawal of its armed forces behind the established armistice lines. To this effect he announced that he would introduce a draft resolution.

At the 749th meeting held on the same date, the representative of the United Kingdom reported to the Council that the Governments of France and the United Kingdom intended to despatch armed forces to occupy temporarily key positions in the area of the Suez Canal. This action had been made necessary because of the lack of implementation of the Charter articles providing for a military arm of the Security Council.

The representative of the United States introduced a draft resolution[17] calling upon Israel immediately to withdraw its armed forces, and calling upon all members to refrain from the use of force, or threat of peace in the area. He later accepted[18] an amendment to his draft resolution to insert a new paragraph containing an injunction to Israel and Egypt immediately to cease fire.

Decision: *The United States draft resolution, as amended, was not adopted. There were 7 votes in favour, 2 against, with 2 abstentions (the negative votes being those of permanent members of the Council).*[19]

At the same meeting, the representative of the USSR submitted[20] a modified text of the draft resolution that had not been adopted. He later accepted[21] amendments proposed by the representatives of China and Iran.

At the 750th meeting, held on the same date, the Council adopted an agenda which included, as item 2, the letter[22] dated 29 October 1956 from the representative of the United States, and as item 3 the letter[23] dated 30 October 1956 from the representative of Egypt. Objections to the inclusion in the agenda of item 3 had been raised by the representatives of Australia and the United Kingdom, on the grounds that the substance of the matter had been before the Council at the 749th meeting, during its consideration of item 2.

The representative of the USSR, in connexion with agenda item 2, submitted[24] a revised text of his draft resolution to insert a new paragraph calling upon all the parties concerned immediately to cease fire. Upon suggestions from several members, he later reverted[25] to the draft resolution, as amended, previously placed before the Council.

Decision: *The USSR draft resolution was not adopted. There were 7 votes in favour, 2 against, with 2 abstentions (the negative votes being those of permanent members of the Council).*[26]

At the same meeting, the Council proceeded to the consideration of agenda item 3, on the substance of which no proposals had been submitted.

The representative of Yugoslavia, after remarking the unwillingness of two permanent members of the Council to support the cease-fire, stated that a situation had been created in which the Security Council had been rendered powerless through the use of the veto. He suggested that the members of the Council should consider the possibility of calling an emergency special session of the General Assembly under the terms of General Assembly resolution 377 (V) entitled "Uniting for peace".

At the 751st meeting on 31 October 1956, the representative of Yugoslavia submitted the following draft resolution[27] to call for an emergency special session

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[14] Case 3.

[15] Case 5.

[16] S/3706, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, p. 108.

[17] S/3710, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, p. 110.

[18] 749th meeting: para. 125.

[19] 749th meeting: para. 186.

[20] 749th meeting: para. 188.

[21] 749th meeting: paras. 192, 199 and 201.

[22] S/3706, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, p. 108.

[23] S/3712, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, pp. 111-112.

[24] 750th meeting: para. 15.

[25] 750th meeting: para. 22.

[26] 750th meeting: para. 23.

[27] S/3719, 751st meeting: para. 71.

of the General Assembly, in accordance with rule 8 (*b*) of the rules of procedure of the General Assembly:

"*The Security Council,*

"*Considering* that a grave situation has been created by action undertaken against Egypt,

"*Taking into account* that the lack of unanimity of its permanent members at the 749th and 750th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"*Decides* to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations."

The representative of the United Kingdom, in opposing the draft resolution, stated that it was out of order because the "Uniting for peace" resolution of the General Assembly could only be invoked under certain conditions, one of which was that a lack of unanimity among its permanent members should have prevented the Council from taking a decision. This fact clearly presupposed that a draft resolution on the item being considered by the Council should have been submitted, circulated and voted upon, but this had not been the case. Furthermore, the two draft resolutions which had been voted upon and not adopted at the 749th and 750th meetings of the Council under another agenda item were not within the compass of the "Uniting for peace" resolution, and therefore could not be invoked to support the Yugoslav proposal.

The representative of Yugoslavia stated, in reply to the representative of the United Kingdom, that the problem in respect of which it was proposed that an emergency special session of the General Assembly be convened was fully covered by the draft resolution[28] submitted by the United States at the 749th meeting of the Council. That draft resolution, in effect, also covered the question of the intervention in Egypt of forces other than Israel forces, which was the substance of the matter before the Council. As had been recognized by the representatives of Australia and the United Kingdom during the discussion on the inclusion in the agenda of the item before the Council, the question dealt with by the Council was in substance the same as that in respect of which the two draft resolutions had been submitted, voted upon and not adopted on the previous day. The provisions of the "Uniting for peace" resolution were therefore fully applicable to the Yugoslav draft resolution.

The representative of the United Kingdom further contended that the "Uniting for peace" resolution could only be invoked following action under Chapter VII of the Charter. He added:

"Action under Chapter VII is dependent upon a determination by the Council of the existence of a threat to the peace, a breach of the peace or an act of aggression. The draft resolutions which were before the Council yesterday contained no such findings."

The President, speaking as the representative of France, noted that the draft resolution before the Council did not specify the question which would be brought before the General Assembly. He stated further that there had been no evidence of a lack of unanimity among the permanent members at the 749th meeting of the Council. He also observed that the voting which had taken place at the 750th meeting was related to an agenda item which was no longer being considered by the Council and, moreover, that that voting had not come within the terms of Chapter VII of the Charter. Therefore the Yugoslav draft resolution was inconsistent with the texts on which it was based.

The representative of Yugoslavia, in commenting on this statement, recalled that the draft resolution which had not been adopted at the 750th meeting called for the immediate withdrawal of armed forces, expressed grave concern at the violation of the Armistice Agreement and requested a cease-fire. He added:

"... It would seem to me, according to my understanding of the Charter, that all of this is covered by Chapter VII, Articles 40 and 41."

The representatives of Cuba and Peru agreed that, although listed separately, the problems dealt with under the agenda item being presently discussed by the Council, and under the agenda item discussed the day before, were essentially the same, and that a breach of the peace had occurred. In the circumstances, the United Nations had to pursue its peaceful efforts at an emergency special session of the General Assembly.

The President (France) put to the vote a motion by the representative of the United Kingdom to the effect that the Yugoslav draft resolution should be ruled out of order.

Decision: *The motion was rejected by 4 votes in favour to 6 against, with 1 abstention.*[29]

Before the Yugoslav draft resolution was put to the vote, a brief discussion took place as to what agenda item the Security Council was to refer to the General Assembly.

The representative of Yugoslavia observed that the General Assembly, if convened, was the master of its own procedure and business.

The representative of the United States stated that the draft resolution which he had submitted and which had not been adopted at the 749th meeting should be the one to be referred to the General Assembly, and that its text was adequate to meet all the needs of the situation.[30]

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[28] S/3710, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, p. 110.

[29] 751st meeting: para. 127.

[30] For texts of relevant statements, see:

748th meeting: United States, para. 8.

749th meeting: United Kingdom, paras. 2-11.

750th meeting: Australia, para. 10; United Kingdom, paras. 3-4; Yugoslavia, paras. 79-84.

751st meeting: President (France), paras. 96-98, 137, 141, 143, 146, 151; Cuba, para. 20; Peru, para. 117; United Kingdom, paras. 82-86, 94, 125-126, 144, 149; United States, paras. 101, 145; Yugoslavia, paras. 71, 88-92, 106-107, 129, 140, 142.

Decision: *At the 751st meeting on 31 October 1956, the Council adopted the Yugoslav draft resolution by 7 votes in favour to 2 against, with 2 abstentions.*[31]

Case 3

At the 754th meeting on 4 November 1956, in connexion with the situation in Hungary, after the Security Council had voted upon, and not adopted, a United States draft resolution[32] on the substance of the question, the representative of the United States stated that the USSR, by the use of the veto, had thwarted the Council as the main organ for the maintenance of international peace and security. He then submitted the following draft resolution[33] to call an emergency special session of the General Assembly in accordance with rule 8 (*b*) of the rules of procedure of the General Assembly:

"*The Security Council,*

"*Considering* that a grave situation has been created by the use of Soviet military forces to suppress the efforts of the Hungarian people to reassert their rights,

"*Taking into account* that because of the lack of unanimity among its permanent members the Security Council has been unable to exercise its primary responsibility for the maintenance of international peace and security,

"*Decides* to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations concerning the situation in Hungary."

The representative of the USSR stated that he had objected to any examination of the situation in Hungary by the Security Council on the grounds that it was unjustified and constituted an act of intervention in the domestic affairs of Hungary. The same criticism applied, in his view, to the proposal to refer the question to the General Assembly.[34]

Decision: *The Council adopted the United States draft resolution by 10 votes in favour to 1 against.*[35]

Case 4

At the 838th meeting on 7 August 1958, in connexion with the letter dated 22 May 1958 from the representative of Lebanon and the letter dated 17 July 1958 from the representative of Jordan, the Security Council had before it two draft resolutions, one submitted by the United States[36] and the other by the USSR,[37] to decide to call an emergency special session of the General Assembly in view of the Council's inability, because of the lack of unanimity of its permanent members, to exercise its primary responsibility for the maintenance of international peace and security.[38] The operative paragraphs of the two draft resolutions differed. The call for an emergency special session in the United States revised draft resolution referred to General Assembly resolution 377 (V), but that in the USSR revised draft resolution contained no such reference. The draft resolutions differed also in describing the question considered by the Security Council and to be submitted to the General Assembly. The first preambular paragraph of the United States draft resolution referred to the complaints of Lebanon and Jordan. The USSR draft resolution referred to the situation in the Near and Middle East resulting from the introduction of United States armed forces into Lebanon and of United Kingdom armed forces into Jordan, and proposed that the General Assembly should be called to consider the question of the immediate withdrawal of those forces.

Following some discussion of whether the Security Council could call an emergency special session to consider a question formulated otherwise than it had been in the agenda of the Council, as was done in the USSR revised draft resolution, the President (France) proposed to proceed to the vote on the United States draft resolution.

The representative of the USSR, thereupon, moved two amendments[39] to the United States draft resolution. The first amendment, calling for the deletion of the first preambular paragraph, was opposed by the representatives of the United States and the United Kingdom, the first of whom observed that the paragraph in question contained the "basic fact on which we are proceeding". The second amendment proposed by the USSR would have deleted the reference to General Assembly resolution 377 (V) and replaced it with the words "rule 8 (*b*) of the rules of procedure of the General Assembly".[40] The representative of the United States observed that inasmuch as rule 8 (*b*) contained a reference to resolution 377 (V), he had no objection to the proposed amendment. The representative of the

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[31] 751st meeting: para. 147. Concerning the procedural character of the vote, see chapter IV, part I, Case 4.

[32] S/3730/Rev.1, *O.R., 11th year, Suppl. for Oct.-Dec. 1956*, pp. 125-126; 754th meeting: para. 68.

[33] 754th meeting: para. 70.

[34] For texts of relevant statements, see:

754th meeting: USSR, para. 71; United States, paras. 69-70, 77; Yugoslavia, para. 74; Secretary-General, para. 78.

[35] 754th meeting: para. 75. Concerning the procedural character of the vote, see chapter IV, part I, Case 6.

[36] S/4056/Rev.1.

[37] S/4057 Rev.1.

[38] The Security Council had previously voted upon four draft resolutions on the substance of the question, which failed of adoption because of the lack of unanimity of the permanent members: S/4047/Rev.1; S/4050/Rev.1; S/4054; S/4055/Rev.1; for the proceedings at which these votes were taken, see chapter VIII under Complaint of Lebanon and Complaint of Jordan.

[39] 838th meeting (PV): pp. 111-115, 131.

[40] Rule 8 (*b*) follows: "Emergency special sessions pursuant to General Assembly resolution 377 A (V) shall be convened within twenty-four hours of the receipt by the Secretary-General of a request for such a session from the Security Council, on the vote of any seven members thereof, or of a request from a majority of the Members of the United Nations expressed by vote in the Interim Committee or otherwise, or of the concurrence of a majority of Members as provided in rule 9."

United Kingdom opposed the USSR amendment on the ground that, in calling an emergency special session, the Security Council did so in virtue of the General Assembly resolution and not in virtue of rule 8 (*b*). He suggested as a possible compromise inclusion of a reference both to the rule and the resolution. This was not acceptable to the representative of the USSR.

A recess followed after which the representative of Panama proposed[41] that the first preambular paragraph be amended to read "having considered the points on its agenda (S/Agenda/838)". Revised[42] to substitute the words "items 2 and 3" for the words "the points" this amendment was accepted by the representative of the United States.

The representative of the United Kingdom suggested that the last paragraph should read "decides to call an emergency special session of the General Assembly".[43] The representative of the United States accepted this suggestion "because there is only one way an emergency special session of the General Assembly can be called, and that is in accordance with the Uniting for Peace resolution".[44]

Decision: *The draft resolution, as amended, was adopted unanimously.*[45]

C. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLES OF THE CHARTER INVOLVING RECOMMENDATIONS BY THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

1. Appointment of the Secretary-General

"*Article 97 of the Charter*

"The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization."

[*Note:* In accordance with rule 48 of the provisional rules of procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of the Secretary-General have been held in private, and the Council has voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, has indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted a recommendation of this kind (Case 5).]

[41] 838th meeting (PV): pp. 128-130.

[42] 838th meeting (PV): p. 131.

[43] 838th meeting (PV): pp. 132-135.

[44] For texts of relevant statements, see:

838th meeting (PV): Iraq, pp. 51, 55; Panama, pp. 86-95, 128-130; USSR, pp. 83, 111-115, 121, 131, 136-138; United Kingdom, pp. 116-120, 131-135; United States, pp. 31, 112-116, 122-125, 127, 131, 136-138.

[45] 838th meeting (PV): pp. 139-140; for the final text of the resolution, see S/4083.

CASE 5

At the 792nd meeting held in private on 26 September 1957, the Security Council considered the question of the recommendation for the appointment of Secretary-General of the United Nations, and unanimously decided to recommend to the General Assembly that Mr. Dag Hammarskjold be appointed as Secretary-General of the United Nations for a new five-year term of office.[46] On the same date, the President (Cuba) transmitted this recommendation to the President of the General Assembly[47] and by letter dated 26 September 1957 communicated to Mr. Hammarskjold the Council's decision to recommend his appointment as Secretary-General for a new five-year term.[48]

**2. Conditions of accession to the Statute of the International Court of Justice

**3. Conditions under which a non-member State, party to the Statute, may participate in electing Members of the International Court of Justice

D. PRACTICES AND PROCEEDINGS IN RELATION TO THE ELECTION OF MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

"*Article 4*

"1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration..."

"*Article 8*

"The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court."

"*Article 10*

"1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

"2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

"3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected."

[46] See Official Communiqué of the 792nd meeting of the Security Council held in private on 26 September 1957.

[47] A/3682, *a.i. 17, Annexes, 12th session*, p. 1.

[48] 792nd meeting: pp. 1-2 (annex).

"*Article 11*

"If, after this first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place."

"*Article 12*

"1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

"2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

"3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

"4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote."

"*Article 14*

"Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council."

PROVISIONAL RULES OF PROCEDURE

Rule 61

Relations with other United Nations Organs

"Any meeting of the Security Council held in pursuance of the Statute of the International Court of Justice for the purpose of the election of members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority of votes."

CASE 6

At the 733rd meeting on 6 September 1956, the Security Council noted with regret the death of Judge Hsu Mo and decided, under Article 14 of the Statute, that an election to fill the vacancy for the remainder of the term of Judge Hsu Mo should take place during the eleventh session of the General Assembly.[49]

At the 757th meeting on 19 December 1956, the Council had before it an agenda item: "Election of a member of the International Court of Justice to fill the vacancy caused by the death of Judge Hsu Mo".[50] The representative of China expressed surprise at the inclusion of the names of Mr. Tien-Hsi Cheng and Mr. Yuen-li Liang in the ballot paper distributed by the Secretariat, since these two gentlemen had already indicated their unwillingness to be candidates and their refusals had already been communicated to the Council by the Secretary-General in documents S/3662/Add.2 and Add.5 respectively.[51]

In reply, the President (Peru) explained that the documents circulated by the Secretariat had been drawn up in accordance with Article 7 of the Statute and that the inclusion of the names of Mr. Cheng and Mr. Liang was a formality which had to be observed. In voting, however, members would take into account the facts indicated by the representative of China. The President noted that Mr. Plinio Bolla of Switzerland had also withdrawn his candidacy.[52]

At the 757th, 758th and 759th meetings, on 19 December 1956, the Council elected Mr. Wellington Koo to fill the vacancy, but he did not receive the required majority of votes in the General Assembly.[53]

At the 760th meeting on 11 January 1957, the Council elected the same candidate for the fourth time. The same candidate also received an absolute majority of votes in the General Assembly.[54]

CASE 7

At the 793rd meeting on 1 October 1957, the Security Council proceeded to the election of five members of the International Court of Justice to fill five seats which were to fall vacant on 5 February 1958. Prior to the balloting, the President (France) stated:

> "In regard to the voting procedure, I think I should remind the members of the Council that if, after the first vote, more than five candidates have an absolute majority, the Council will have to vote again. If, on the other hand, fewer than five candidates receive such a majority, the Council will likewise have to vote again, but only to fill the places that remain vacant. The meeting will continue until five candidates have been elected with the required majority."

A vote was then taken by secret ballot and five candidates obtained the required majority. After stating that

[49] 733rd meeting: para. 2.

[50] 757th meeting: preceding para. 1.

[51] 757th meeting: para. 6.

[52] 757th meeting: paras. 9-10.

[53] 757th meeting: paras. 12-13; 758th meeting: paras. 1-3; 759th meeting: paras. 1-3, 8.

[54] 760th meeting: paras. 38-39.

he would inform the President of the General Assembly of the result of the voting, the President reminded the members that the Council must remain in session until the President of the Assembly had informed the Council of the result obtained in the Assembly. The meeting was then suspended. When it was resumed, the President announced that he had been notified by the President of the General Assembly that at its 695th meeting on the same date, five candidates had obtained an absolute majority of votes. Four of these candidates had also obtained the required majority in the Council and were therefore declared elected. The President announced that both the General Assembly and the Security Council would hold new meetings that afternoon to fill the remaining vacancy.

At the 794th meeting on 1 October 1957, the Security Council proceeded with a special ballot for the purpose of filling the fifth vacancy. The President (France) reminded the members of the Council that they were to vote for one candidate only and that ballot sheets on which more than one name appeared would be considered invalid. As no candidate obtained the required majority, the Council proceeded to another vote, at which it elected a candidate to fill the vacant seat. The President then suspended the meeting. When it was resumed, he announced that he had been notified by the President of the General Assembly that the same candidate had also obtained the required majority of votes in the Assembly and had therefore been declared elected.[55]

Case 8

At the 840th meeting on 25 November 1958, the Security Council noted with regret the death of Judge José G. Guerreno and decided, under Article 14 of the Statute, that an election to fill the vacancy for the remainder of the term of Judge Guerrero should take place during the fourteenth session of the General Assembly, or during a special session before the fourteenth session.[56] In submitting the relevant draft resolution,[57] which was adopted unanimously, the President (Panama) observed that:[58]

> "When it is stated in the operative part of the draft resolution that the election shall take place at the fourteenth session of the General Assembly or during a special session before the fourteenth session, we mean to refer to a special session as provided for under rule 8, paragraph (*a*), of the rules of procedure of the General Assembly. I say this in order to avoid any possible misunderstanding as to the meaning of that term 'special session', which is not to be understood as one that would cover the cases where an emergency session would be convened. It is a special session as described in rule 8, paragraph (*a*), of the rules of procedure."

**E. RELATIONS WITH SUBSIDIARY ORGANS ESTABLISHED BY THE GENERAL ASSEMBLY

F. RECEPTION OF RECOMMENDATIONS TO THE SECURITY COUNCIL ADOPTED BY THE GENERAL ASSEMBLY IN THE FORM OF RESOLUTIONS[59]

[*Note:* The Security Council, in agreeing to consider a General Assembly recommendation, has done so by placing the recommendation of the Assembly on the Council's agenda. There have been only two such recommendations during the period under review.[60]]

[55] For texts of relevant statements, see:

793rd meeting: President (France), paras. 6, 8-10; 794th meeting: President (France), paras. 1-5.

[56] 840th meeting (PV): p. 11.

[57] S/4118.

[58] 840th meeting (PV): p. 11.

[59] For previous tabulations, see *Repertoire of the Practice of the Security Council, 1946-1951*, p. 22; and *Supplement, 1952-55*, p. 80.

[60] By letter dated 2 January 1958 to the President of the Security Council, the Secretary-General drew attention to General Assembly resolution 1235 (XII) which requested him "subject to any objection which may be received from the Security Council to take appropriate steps to effect the integration of the civilian staff of the Military Staff Committee with the Secretariat of the United Nations". In his letter, the Secretary-General also referred to the administrative arrangements implied in the proposed personnel integration and suggested that the Council might consider the question. The matter has not been considered by the Council.

Tabulation of recommendations

Entry No.	*General Assembly resolution*	*Subject of recommendation*	*Initial Proceedings of the Security Council*
1.	1017 A and B (XI) 28 February 1957	Admission of new Members to the United Nations (Republic of Korea and Viet-Nam)	Included as sub-paragraph (*a*) under the heading of Admission of new Members in the agenda at the 790th meeting on 9 September 1957
2.	1114 A and B (XII) 23 October 1957	Admission of new Members to the United Nations (Republic of Korea and Viet-Nam)	Included as sub-items (*b*) and (*c*) under the headings of Admission of new Members in the agenda at the 843rd meeting on 9 December 1958

G. REPORTS OF THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

"Article 24 (3) of the Charter

"The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration."

[*Note:* In accordance with Article 24 (3), the Security Council has continued, during the period under review, to submit annual reports to the General Assembly.[61] In addition to transmitting to the General Assembly its recommendations concerning several applications for membership,[62] pursuant to paragraph 2 of rule 60 of its provisional rules of procedure, the Security Council has twice, following its 790th meeting on 9 September 1957, and its 843rd meeting on 9 December 1958, submitted special reports[63] to the General Assembly concerning the question of admission of new Members, in accordance with paragraph 3 of rule 60 of the provisional rules of procedure.]

[61] Annual reports approved by the Security Council at the following meetings held in private: 11th Report, 733rd meeting, 6 September 1956; 12th Report, 785th meeting, 21 August 1957; 13th Report, 839th meeting, 28 August 1958.

[62] Sudan (A/3125, 16 May 1956); Morocco (A/3152, 27 July 1956); Tunisia (A/3153, 27 July 1956); Japan (A/3447, 12 December 1956); Ghana (A/3567, 7 March 1957); Malaya (A/3654, 5 September 1957); and Guinea (A/4060, 9 December 1958).

[63] A/3662 and A/4067.

Part II

**RELATIONS WITH THE ECONOMIC AND SOCIAL COUNCIL

Part III

RELATIONS WITH THE TRUSTEESHIP COUNCIL

**A. PROCEDURE UNDER ARTICLE 83 (3) IN APPLICATION OF ARTICLES 87 AND 88 OF THE CHARTER WITH REGARD TO STRATEGIC AREAS UNDER TRUSTEESHIP

B. TRANSMISSION TO THE SECURITY COUNCIL BY THE TRUSTEESHIP COUNCIL OF QUESTIONNAIRES AND REPORTS

During the period under review, no questionnaires have been transmitted to the Security Council by the Trusteeship Council. The report of the latter body on the exercise of its functions in respect of the strategic areas under trusteeship have, therefore, continued to be based on the revised questionnaire transmitted to the Security Council on 24 July 1953.[64]

[64] S/3065.

Between 1 January 1956 and 31 December 1958, the Secretary-General transmitted to the Security Council the following reports of the Trusteeship Council on the Trust Territory of the Pacific Islands, which has continued to be the only territory designated as a strategic area:

Eighth Report adopted during the eighteenth session of the Trusteeship Council, 10 August 1956.[65]

Ninth Report adopted during the twentieth session of the Trusteeship Council, 12 July 1957.[66]

Tenth Report adopted during the twenty-second session of the Trusteeship Council, 1 August 1958.[67]

[65] S/3636, *O.R., 11th year, Special Suppl. No. 1*, pp. 1-88.

[66] S/3852, *O.R., 12th year, Special Suppl. No. 1*, pp. 1-45.

[67] S/4076, *O.R., 13th year, Special Suppl. No. 1*, pp. 1-47.

Part IV

**RELATIONS WITH THE INTERNATIONAL COURT OF JUSTICE

Part V

**RELATIONS WITH THE MILITARY STAFF COMMITTEE