

Chapter I

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL

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INTRODUCTORY NOTE

The present chapter of this Supplement covering the period 1959-1963 contains material pertaining to the practice of the Security Council in relation to all the provisional rules of procedure with the exception of those rules which are dealt with in other chapters as follows: Chapter II: Agenda (rules 6-12); chapter III: Participation in the proceedings of the Council (rules 37-39); chapter VII: Admission of new Members (rules 58-60); and chapter VI: Relations with other organs (rule 61). Certain procedures of voting are dealt with in this chapter, while material relating to the application of Article 27 (rule 40) is presented in chapter IV.

The major headings under which the material is entered in this chapter follow the classification previously adopted for the Repertoire. The arrangement

of each part is based on the successive chapters of the provisional rules of procedure of the Security Council.

During the period under review, the Council has not considered the adoption or amendment of rules of procedure. Consequently, the case histories entered in respect of each rule are confined entirely to those proceedings of the Council in which a question has arisen regarding the application of the rule, especially where discussion has taken place regarding a temporary variation from the usual practice. As was noted in the previous volumes, the case histories in this chapter do not constitute cumulative evidence of the practice of the Council, but are indicative of special problems which have arisen in the proceedings of the Council under its provisional rules.

Part I

MEETINGS (RULES 1-5)

NOTE

The material assembled in this section reflects the provisions of Article 28 of the Charter and indicates the special instances in which the interpretation or application of rules 1-5 was challenged, discussed or otherwise questioned. During the period under review, questions arose concerning:

- (a) The authority of the President to call meetings under rule 1 (Case 1);
- (b) The Presidential practice of consultation with members of the Council on the calling of meetings and the dates and times of such meetings (rule 1, Cases 2 and 3; rule 2, Case 4);
- (c) Request for meetings to be held at sites other than the seat of the Council (rule 5, Cases 7 and 8).

On one occasion, one of the few instances in which he invoked Article 99, the Secretary-General requested an urgent meeting of the Council under rule 3 of the provisional rules of procedure (Case 6). On another, a situation arose in which the Secretary-General, in requesting an urgent meeting of the Security Council, explicitly stated that he was not asking for a meeting under rule 3 of the provisional rules of procedure (Case 5).

There were no cases concerning the application of rule 4.

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

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

a. Rule 1

CASE 1

At the 847th meeting on 7 September 1959, in connexion with the report by the Secretary-General relating to Laos, the President (Italy) explained that his call for a meeting had been based on rule 1 of the provisional rules of procedure. It had followed a formal request by the Secretary-General and consultations with Council members. The representative of the USSR claimed that the applicable rule was not rule 1, but rules 2 and 3, which specified the conditions under which meetings of the Council were to be called. Rule 1 referred only to the intervals at which meetings of the Security Council were to be called.^{1/} The President repeated that his request had been based not on rule 2 or rule 3, but on rule 1,

"... a rule which, in my opinion and according to my judgement, and to the literal interpretation of the rule, gives to the President of the Security Council complete discretion in calling meetings at any time he deems necessary. It is true that there is a second clause related to the interval between meetings, but that clearly is not intended

^{1/} For a further development of these arguments, see Cases under rules 6 (chapter II) and 22 (this chapter).

to imply a limitation of the powers of the President to call a meeting at any time he deems necessary."^{2/}

CASE 2

At the 911th meeting on 3/4 December 1960, in connexion with the admission of new Members, a revised provisional agenda was circulated which included as a second sub-item an application^{3/} on behalf of the Mongolian People's Republic. The President, speaking as the representative of the USSR, proposed that this sub-item be considered before the first sub-item, the application of the Republic of Mauritania. In support of his proposal, he referred to the fact that "the Mongolian People's Republic submitted its first application for admission to the United Nations over fourteen years ago" and cited a number of documents^{4/} in which that country had repeatedly raised the question of its admission to the United Nations.

In reply, the representative of Italy said: "... may I remind you, Mr. President, that it is the constant practice of the Chair to consult the members of the Council whenever a meeting is going to take place." He said, further, that although he did not wish to inject a personal note at that point, the President (USSR) should certainly remember that during the whole month of September, he had made considerable efforts to consult each and every member every time they were going to meet, on the three different subjects they had to debate. In conclusion, he added that on one occasion he went to

"... considerable pains to try to accommodate everybody so that, knowing what was the subject of the agenda, we could properly meet at the right time. This is not a rule but it is a practice and I think it is a practice of courtesy which should prevail in our proceedings and for our deliberations."^{5/}

CASE 3

At the 973rd meeting on 13 November 1961, in connexion with the situation in the Republic of the Congo, the representative of the United States, after acknowledging the President's authority to call meetings whenever he deemed necessary, said that "... the practice has grown up over the years that the time for meetings is set only after adequate consultation between the President and the Council members" and observed that "While there was general consultation to the effect that there should be a Council meeting sometime this week, we, at least, were not

^{2/} For texts of relevant statements, see:

847th meeting: President (Italy), paras. 5-8, 30; USSR, para. 20.

In a memorandum submitted later, the representative of the USSR noted that the way in which the question of Laos had been brought to the Council was illegal as no member of the Council had requested that the matter be brought before it. S/4222, O.R., 14th year, Suppl. for July-Sept. 1959, pp. 13-18, paras. 3, 4.

^{3/} Letter dated 3 December 1960 from the Deputy Permanent Representative of the USSR to the President of the Security Council (S/4569, O.R., 15th year, Suppl. for Oct.-Dec. 1960, p. 66).

^{4/} S/95, O.R. 1st year, Second Series, Suppl. No. 4; S/1035 and Add.1, *ibid.*, 4th year, Suppl. for June 1949; S/3873 and Add.1, *ibid.*, 12th year, Suppl. for July-Sept. 1957.

^{5/} For texts of relevant statements, see:

911th meeting: President (USSR), paras. 3-5; Italy, para. 31. See also chapter II, part II, Case 5.

consulted about the specific date for a meeting", although there had been ample time and opportunity for such consultations.

The President (USSR) explained that the day following receipt of a letter dated 3 November 1961 from the representatives of Ethiopia, Nigeria and the Sudan, he held consultations with the Acting Secretary-General which led him to the conclusion that the Council should be convened at a very early date: after further consultations with the representative of Ethiopia and with individual members of the Council, he thought that the meeting should be called for the middle of the following week, not later. He then requested the Secretariat to "sound" the members as to the possibility of convening the Council on 9 or 10 November. He added that, according to information given to him by the Secretariat, most members of the Council advocated that a meeting of the Council should not be called for 10 November but should be deferred to the beginning of the following week. By that time he had received a request from the representative of Belgium that the meeting should be held not on 10 November but on 13 November and this seemed agreeable to the representative of Ethiopia. With "both sides" favouring the meeting on 13 November, the President said, he thought it entirely reasonable to convene the Council on that date, and so informed all the members. He added that he would continue to consult all the members of the Council on the calling of meetings and he thought that all the members would co-operate.^{6/}

b. Rule 2

CASE 4

At the 1034th meeting on 7 May 1963, in connexion with the admission of new Members, when the application of Kuwait for membership in the United Nations was considered, the representative of Morocco commented on a statement of the representative of Iraq, who expressed his disappointment at the meeting of the Council being held contrary to the wishes of several directly concerned Members of the United Nations, including Morocco, which was also a member of the Council, and in departure from the practice of the Council of taking into consideration the views held by such Members in deciding the timing of meetings. He said that he had expressed in the preliminary consultations preceding the meeting his delegation's wish and that of other delegations, which he represented, that the meeting be postponed until a later date.

"Usually, however, in the course of preliminary consultations a general trend of opinion makes itself felt, and it is because we are sensitive to this courteously expressed general trend that my delegation has decided that it would not be right to press for a postponement of this meeting."

He added that while members of the Council had given the request for postponement their sympathetic consideration, when a "certain trend of opinion" is

^{6/} For texts of relevant statements, see:

973rd meeting: President (USSR), paras. 17-20; United States, para. 8.

detected in preliminary consultation "it is likewise a proof of courtesy to take it into account".^{7/}

c. Rule 3

CASE 5

In response to a letter^{8/} from the Foreign Minister of Laos requesting that an emergency force be dispatched to that country to halt an aggression involving elements from the Democratic Republic of Viet-Nam and that the Secretary-General take the appropriate procedural action, the Secretary-General by letter^{9/} dated 5 September 1959 requested that the President convene urgently the Security Council for the consideration of an item entitled:

"Report by the Secretary-General on the letter received from the Minister for Foreign Affairs of the Royal Government of Laos, transmitted on 4 September 1959 by a note from the Permanent Mission of Laos to the United Nations."

At the 847th meeting on 7 September 1959, when the Council was considering the adoption of the agenda, the Secretary-General observed that his request for the meeting was

"not based on the explicit rights granted to the Secretary-General under Article 99 of the Charter. If it had been so based, the Council, under rule 3 of the provisional rules of procedure, would not have been free to refuse the Secretary-General to address it—as it is now free to do—and it would have meant the inscription by the Secretary-General of a substantive issue on the agenda."

and this in turn would have involved a judgement of the facts for which, in the present situation, the Secretary-General did not have a sufficient basis.

He said he was instead basing his request on the practice which had developed over the years in the Council. According to that practice, the Secretary-General, when he requested it, was granted the floor to make such statements on subjects within the range of the responsibility of the Council as he considered necessary under the terms of his own responsibilities; in so doing he did not introduce formally on the agenda anything beyond his own wish to "report" to the Council.^{10/}

CASE 6

By letter dated 13 July 1960 requesting an urgent meeting of the Security Council, the Secretary-General informed the President that he wished to bring to the attention of the Council a matter which, in his opinion, "... may threaten the maintenance of international peace and security". He suggested that the meeting be called at 8.30 p.m. the same night to hear

^{7/} For texts of relevant statements, see: 1034th meeting: Iraq, paras. 11-12; Morocco, paras. 20-21.

^{8/} S/4212, O.R., 14th year, Suppl. for July-Sept. 1959, pp. 7-8.

^{9/} S/4213, *ibid.*, p. 8.

^{10/} For texts of relevant statements, see:

847th meeting: Secretary-General, paras. 11, 12. See also: Cases 1 and 17; chapter II, Case 1.

his report on a demand for United Nations action in relation to the Republic of the Congo.^{11/}

d. Rule 5

CASE 7

By telegram dated 8 September 1960,^{12/} the Prime Minister of the Republic of the Congo urged that, in order to give members of the Security Council an opportunity to see for themselves the situation existing in the Republic of the Congo as a result of the United Nations authorities' interference in the Congo's domestic problems, the Secretary-General "... agree to Leopoldville as the venue of the Security Council's next meeting, when the problem of the Congo [will] be taken up for the fifth time".

At the 896th meeting on 9/10 September 1960, the representative of the USSR introduced a draft resolution^{13/} in support of the Congo's request, suggesting, *inter alia*, that leading personalities of the Congo would find it difficult to attend meetings in New York since the situation in the country remained very complex and demanded the constant presence of the Head of Government and his aides.

"It would therefore appear advisable for the Security Council—for the additional reason of helping the Government of the Congo to re-establish law and order in the country as soon as possible—to hold its meeting at Leopoldville, the capital of the Republic."

The representative of Argentina contended that while the provision which enabled the Council to travel to places where its work and its judgement could be more effective was a "very wholesome provision", if the Council "... were to go ahead now and act favourably on the Soviet proposal, its action would somehow be interpreted as an endorsement and confirmation of the terms" of the telegram of the Congo Government, "even though such may not have been the actual intention of the author of the proposal". The representative of Ceylon, on the other hand, while disagreeing with the language in which the telegram had been couched, observed that "... by accepting the draft resolution submitted by the representative of the Soviet Union, we are not subscribing to the wording of this telegram from the Prime Minister of the Republic of the Congo". The representative of the USSR then expressed his willingness to delete from the draft resolution everything that the representative of Argentina found disturbing, leaving only the portion which read:

"The Security Council,

"Decides, in accordance with Article 28 of the Charter of the United Nations, to hold immediately a special meeting of the Security Council on the question of the situation in the Congo at Leopoldville, the capital of that State."

^{11/} S/4381, O.R., 15th year, Suppl. for July-Sept. 1960, p. 11. Reference should also be made to letter dated 7 September 1960, by which the Secretary-General again requested a meeting of the Security Council for consideration of his fourth report on the question of the Congo (S/4488, *ibid.*, p. 145).

^{12/} S/4486, O.R., 15th year, Suppl. for July-Sept. 1960, p. 145.

^{13/} S/4494, 896th meeting: para. 13.

After several representatives had expressed views both favouring and opposing the Soviet draft resolution, the representative of the United States reminded the Council that it had convened at the request of both the Secretary-General and the representative of Yugoslavia on a note of urgency but was now confronted with a suggestion that would further delay consideration of the substance of the matter. Besides, he concluded, "if we should decide to go [to Leopoldville] in the present circumstances, we would be casting serious doubt on the conduct of the United Nations operations in the Congo up to this point . . ." ^{14/}

Decision: *The draft resolution was rejected by 3 votes in favour to 6 against, with 2 abstentions.* ^{15/}

CASE 8

At the 941st meeting on 20 February 1961, in connexion with the situation in the Republic of the Congo,

^{14/} For texts of relevant statements, see:

890th meeting: Argentina, paras. 36, 37, 39, 40; Ceylon, paras. 43, 44, 47, 48; China, paras. 51, 52; Poland, paras. 64, 67, 68; Tunisia, paras. 57, 60, 61; USSR, paras. 11, 12, 32, 34, 54; United States, paras. 71, 72.

^{15/} 896th meeting: para. 81.

the representative of Liberia submitted a draft resolution ^{16/} to have the Council

"... hold its next sitting in the Congo, or in any nearby country upon the invitation of that Government, for the purpose of meeting the political leaders of the Congo with a view to establishing the United Nations prestige and authority as well as reaching some point of reconciliation in that turbulent country, the Congo".

The President (United Kingdom) suggested that the Council continue discussions of the draft resolutions which were already before it and take up the Liberian draft resolution after there had been time to study it.

At the close of the 942nd meeting on 20/21 February 1961, the President, after noting the suggestion of Liberia that a special meeting be called to discuss the possibility of a Council's visit to the Congo, declared that he would enter into consultations with other members of the Council with a view to calling such a meeting if that was the general desire. ^{17/}

^{16/} 941st meeting: para. 23.

^{17/} For texts of relevant statements, see:

941st meeting: President (United Kingdom), para. 25; Liberia, paras. 23, 24;

942nd meeting: President (United Kingdom), para. 247.

Part II

REPRESENTATION AND CREDENTIALS (RULES 13-17)

NOTE

Since 1948, the reports of the Secretary-General on the credentials of the representatives on the Security Council have been circulated to the delegations of all the Council members and, in the absence of a request that they be considered by the Council, have been considered approved without objection.

In one instance during the period under review, the question of the validity of the credentials of the representative of a Member State invited to participate in the discussions of the Council was raised. The discussion centered on three questions: (a) which of two communications referred to in the Secretary-General's letter could be considered as credentials of an officially appointed representative of the Government in question; (b) whether the authority to issue such credentials was vested in the Head of State or the Prime Minister of the Government concerned in a case where the real effectiveness of their exercise of authority was open to question; and (c) whether rule 39 was applicable in this regard.

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 13-17

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

Rules 13-17 in general

CASE 9

At the 899th meeting on 14 September 1960, in connexion with the situation in the Republic of the

Congo, ^{18/} the Security Council had before it a letter ^{19/} of 11 September from the Secretary-General informing it of the receipt of two communications. The first, a cable from the Prime Minister of the Republic of the Congo, Mr. Lumumba, informed the Secretary-General that Minister Thomas Kanza had been designated as representative of the Central Government of the Republic of the Congo to attend the Council meetings. The second, a cable from the President of the Republic of the Congo, Mr. Kasavubu, informed the Secretary-General of the appointment of Mr. Bomboko, Minister for Foreign Affairs, as official delegate of the Republic of the Congo and asserted that no one else represented the "legal Government" of the Republic.

The representative of the USSR maintained that the Council was dealing with the Government of the Republic of the Congo, represented by the delegation sent by Prime Minister Lumumba, and considered that it was not possible to recognize any other delegation. The delegation referred to in Mr. Kasavubu's cable did not represent the Republic of the Congo and was not legitimate.

The representative of the United States observed that since there was no question concerning the identity of the Head of State of the Republic of the

^{18/} The agenda comprised the following documents:

S/4381, O.R., 15th year, Suppl. for July-Sept. 1960, p. 11.

S/4482 and Add. 1-3, *ibid.*, pp. 135-142.

S/4485, *ibid.*, pp. 143-144.

S/4506, *ibid.*, pp. 160-162.

^{19/} S/4504, *ibid.*, p. 157.

Congo it was proper to look to the Head of State for authoritative information concerning the Government of the Congo. The President of the Republic of the Congo had given a perfectly clear expression on this and had informed the Council that Mr. Bomboko was the representative of the Congo. The representative of the United States added, however, that it would be argued that under the Council's rules credentials could be signed by the Prime Minister as well as the Chief of State and the Foreign Minister. He thought the Council should not delay discussions of the substance of the matter in order to argue the propriety of asking either or both of the delegations to participate. The United States was inclined to favour an agreement by the Council, on an informal basis, that for the time being neither delegation should be invited to the table.

The representative of Poland submitted that the question of representation was an artificial one since there was and, from the beginning, had been only one lawful Government in the country, the Central Government headed by Mr. Lumumba, to which the Council had promised assistance. Moreover, the governmental system in the Congo was a parliamentary one; the Prime Minister had repeatedly obtained votes of confidence from the Parliament. What more was needed to prove the lawfulness of his Government? The Council should proceed to invite to the Council table Mr. Kanza, the officially appointed representative of the Central Government of the Republic, who had, from the beginning of the conflict in the Congo, participated and spoken in the Council as a representative of his Government.

The representative of Argentina observed that the question of the legitimacy of the Government of the Congo was outside the competence of the Council, which had before it simply the question whether or not it was right and fitting to invite to the Council table one or both of the delegations claiming to represent the Government of the Congo. He continued:

"For a State to obtain international recognition, it is axiomatic that only two conditions are required to be fulfilled: it must be able to exercise authority effectively and it must be in a position to fulfil its international obligations. It does not have to prove that it came into being legitimately in accordance with its national institutions."

Since the real effectiveness of the exercise of authority in the Congo was open to question and was not clearly established, the Council could not invite the participation of delegations which were not in a position to establish that at least one of the requirements was fulfilled.

At the 900th meeting on the same day, the representative of Poland stated that what he had submitted at the previous meeting was a formal proposal to

invite to the Council table Mr. Kanza, the officially appointed representative of the Central Government of the Republic of the Congo.

The representative of the USSR supported the Polish proposal. He maintained that the question of the representation of the Republic of the Congo should not have given rise to the controversy because the Council throughout had dealt only with one Government, that from which it received a request for assistance. He further cited a letter from the Minister-Delegate to the President of the Security Council stating that both Legislative Chambers of the Republic of the Congo had given overwhelming support to the Prime Minister, Mr. Patrice Lumumba, and declared outlawed any other Central Government which might claim to exist in the Republic of the Congo. He believed this statement was of great importance to the Council in resolving this question. The representative of Ceylon, speaking in favour of the Polish proposal, observed that it was difficult to go into the question of the legitimate Government of the Congo. In any case, the Council should not reject the representative it had invited many times before to take part in its deliberations. The representative of China, on the other hand, opposed the Polish proposal. He thought it impossible at that moment to determine who constituted the Government of the Republic of the Congo, whether *de facto* or *de jure*. A decision of the kind proposed by the representative of Poland would prejudice that question and be tantamount to Security Council interference in the domestic affairs of the Republic of the Congo.

The representative of Argentina held the view that the Council must leave open the question of who was exercising lawful authority. In order that the representatives of the Congo could be heard, his delegation would not oppose a proposal to hear both delegations under rule 39 of the provisional rules of procedure, not as representatives but as persons whose opinions the Council wished to hear. The representative of Poland, however, contended that the question was not whether the Council should hear a person just arrived from the Congo to give the Council information for which only he would be responsible; the question to be decided was the representation of the Government of the Republic of the Congo.^{20/}

Decision: At the 900th meeting on 14 September 1960, the Polish proposal was not adopted. There were 3 votes in favour, none against, with 8 abstentions.^{21/}

^{20/} For texts of relevant statements, see: 899th meeting: President (Italy), paras. 5, 21; Argentina, paras. 35-38; Poland, paras. 24, 26, 27, 34; USSR, paras. 8, 22; United States, paras. 10-14; Yugoslavia, paras. 17-18.

900th meeting: President (Italy), para. 52; Argentina, paras. 75-79, 81-82; Ceylon, paras. 71-73; China, paras. 65, 67; Poland, paras. 53-54, 86; USSR, paras. 57-58, 61-64.

^{21/} 900th meeting; para. 87.

Part III

PRESIDENCY (RULES 18-20)

NOTE

Part III of this chapter is confined to the proceedings of the Council relating directly to the office of the

President. Material relevant to other aspects of the practice of the Council in relation to the exercise by the President of his functions under the rules of procedure is presented in part V of this chapter.

The functions of the President in connexion with the agenda are dealt with in chapter II.

The only case falling within the scope of rules 18-20 relates to the question of the temporary cession of the Chair (rule 20).

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 18-20

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

Rule 20

CASE 10

At the 912th meeting on 7 December 1960, in connexion with the situation in the Republic of the Congo, the provisional agenda read:

"2. Urgent measures in connexion with the latest events in the Congo:

Statement dated 6 December 1960 by the Government of the Union of Soviet Socialist Republics concerning the situation in the Congo (S/4573);

Note by the Secretary-General (S/4571)."^{22/}

The representative of the United States, invoking rule 20 of the provisional rules of procedure of the Council, said that in view of the statement (S/4573) issued by the USSR delegation when requesting the meeting, it was hard to see how the representative of the USSR could preside over the Council. He suggested that the President disqualify himself under rule 20 of the provisional rules of procedure. The President (USSR) observed that since rule 20 dealt with the occupancy of the presidential chair during the Council's consideration of a particular question, a reply to the point raised by the representative of the United States would be premature until the agenda had been adopted. He then asked the members of the Council whether they had any objections to the adoption of the provisional agenda. The representative of the United States contended that since the language used in the statement by the USSR Government related to the item on the provisional agenda, the United States was justified in questioning the fairness and lack of prejudice of the presiding officer while the adoption of the agenda was being discussed. He therefore felt that his suggestion was in order and that, if rule 20 was to be considered in any way by

^{22/} S/4571, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 67-73. S/4573, *ibid.*, pp. 75-80.

the President, it should be considered before the discussion on the agenda.

Following the adoption of the agenda,^{23/} the President, reverting to the point raised by the representative of the United States, observed:

"Let me draw your attention to two points. First, the question whether he should preside or not is left to the decision of the President. Secondly, the President can raise the matter and take his decision on it during the consideration of a particular question with which the State he represents is directly concerned. And in that event, under rule 20, 'The Presidential chair shall then devolve, for the purpose of the consideration of that question, on the representative of the member next in English alphabetical order.'"

The USSR was concerned with the latest events in the Congo in the same way as other members of the Security Council with an interest in strengthening peace in the Congo. Events in the Congo had absolutely nothing to do with the activities of the USSR Government; they were the result of the activities of other Governments, including that of the United States. He noted that during the Council's consideration of the Suez question in 1956, France had presided, although the question under discussion was directly connected with the activities of the French Government; yet the representative of the United States did not then question the propriety of having France preside. In the present case, however, there were absolutely no grounds for challenging the occupancy of the presidential chair by the representative of the USSR. The USSR Government had committed no act of aggression and had no direct part in any of the latest events in the Congo. The President, therefore, speaking as the representative of the USSR, saw no justification for altering his decision to preside over the Security Council. The President then declared that, on the basis of rule 20 of the provisional rules of procedure, as President of the Security Council, he saw no reason for altering his decision to preside over the meeting.

The representative of the United States did not press the matter further.^{24/}

^{23/} For discussion of the phrasing of the item on the agenda, see chapter II, Case 9.

^{24/} For texts of relevant statements, see: 912th meeting: President (USSR), paras. 1, 5, 11-13, 101-116, 122; Poland, para. 10; United States, paras. 3-4, 7-8, 16, 117-119.

Part IV

SECRETARIAT (RULES 21-26)

NOTE

Part IV relates to rules 21-26 of the provisional rules of procedure, which delineate the more specific functions and powers of the Secretary-General in connexion with the meetings of the Security Council.

Under rule 21 are included certain proceedings of the Council bearing upon these functions of the Secretary-General by virtue of their possible relationship to Article 98 of the Charter in so far as it provides that "the Secretary-General shall act in that

capacity in all meetings . . . of the Security Council".^{25/}

Other proceedings are summarized under rule 22, empowering the Secretary-General to make "either oral or written statements to the Security Council concerning any question under consideration by it".

Those proceedings are divided into two categories:

(i) The first category contains proceedings^{26/} relating to the activities of the Secretary-General which appear to fall under Article 98 of the Charter in so far as it provides that the Secretary-General "shall perform such other functions as are entrusted to him" by the Security Council.^{27/}

(ii) In the second category are included proceedings^{28/} by virtue of their possible relationship to Article 99 of the Charter.

The statements of the Secretary-General included in the first category under rule 22 were made in connexion with the mandate conferred upon him by the Council to report or to implement specific decisions of the Security Council. In those instances^{29/} where the statements of the Secretary-General could be considered to have a bearing on those decisions, or *vice versa*, the decisions are referred to in a summarized form.

The views of the Secretary-General on the applicability and/or interpretation of specific Articles of the Charter are recorded in chapters X-XII of the present Supplement.

Within the period under review, the Security Council has authorized the Secretary-General to provide the Government of a Member State with necessary military assistance in consultation with the Government concerned;^{30/} to take necessary action concerning the withdrawal of military troops of one State from the territory of another;^{31/} to determine modalities for an immediate withdrawal of foreign troops from a defined territory of a State, and to implement a resolution of the Council;^{32/} to take vigorous action, including the use of the requisite measure of force, if necessary, for the apprehension, detention and deportation of all foreign military and paramilitary personnel, political advisers not under the United

Nations Command, and mercenaries from the territory of a State and to take all necessary measures to prevent the entry or return of such elements, and also of arms, equipment or other material in support of secessionist activities.^{33/} In another instance the Secretary-General was requested by the Council to establish an observation operation called for by the terms of a "disengagement" agreement entered into by certain Member States.^{34/} In connexion with a question involving race conflict in a Member State, the Secretary-General was requested to make such arrangements, in consultation with the Government of that State, as would adequately help in upholding the purposes and principles of the Charter;^{35/} subsequently he was requested to establish under his direction a group of experts to examine methods of resolving the current situation in that State.^{36/} In another instance, in connexion with the situation in the territories under administration of a Member State, the Secretary-General was requested to ensure the implementation of the provisions of the resolution and to furnish such assistance as he might deem necessary.^{37/}

Under rule 23 is included a possible instance^{38/} of the Security Council's recourse to that rule in connexion with a mandate given to the Secretary-General under a resolution of the Council. In the report on the implementation of this resolution, and in the course of further discussion in the Council, an indication was given of the role of the Secretary-General in initiating contacts between the parties, and in the "conversations" or "negotiations" that ensued.

Under rule 24, the Secretary-General has provided the required staff to service the meetings of the Council, as well as the commissions and subsidiary organs, both at Headquarters and in the field. This rule might be considered as relevant also in connexion with the provision by the Secretary-General of civilian and military personnel for the United Nations Operation in the Congo, including the United Nations Force in the Congo, and for the observation operation in Yemen.

Under rule 26, the Secretary-General prepared documents for consideration by the Council and distributed them, except in urgent circumstances, at least forty-eight hours in advance of the meeting at which they were to be discussed.^{39/}

The material included in this part of the Repertoire is only a selection determined by the fact that the Repertoire "constitutes essentially a guide to the proceedings of the Council".^{40/}

^{25/} Cases 11-17. Not included are instances when the Secretary-General performed functions of a routine nature, such as drawing the attention of the Council to a certain communication (904th meeting, para. 73); stating that a report could not yet be circulated (913th meeting, paras. 12-14); informing the Council about a communication received (914th meeting, para. 7); announcing when a report will be circulated (915th meeting, paras. 149-151, 169); reading a communication (920th meeting, paras. 3, 4); or stating that communications would be distributed immediately (976th meeting, para. 110).

^{26/} Cases 18-43.

^{27/} Article 98 provides that the Secretary-General "shall perform such other functions as are entrusted to him" by the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council.

^{28/} Cases 44-51.

^{29/} Cases 12, 23, 29, 36.

^{30/} Resolutions S/4387, operative paragraph 2, and S/4426, operative paragraph 1 (O.R., 15th year, Suppl. for July-Sept. 1960, pp. 16, 92).

^{31/} Resolutions S/4405, operative paragraph 1, and S/4426, operative paragraph 1 (*ibid.*, pp. 34, 92).

^{32/} Resolution S/4426, operative paragraphs 2, 6 (*ibid.*, p. 92).

^{33/} Resolution S/5002, operative paragraphs 4, 5 (O.R., 16th year, Suppl. for Oct.-Dec. 1961, p. 149).

^{34/} Resolution S/5331, operative paragraph 1 (O.R., 18th year, Suppl. for April-June 1963, p. 53).

^{35/} Resolution S/4300, operative paragraph 5 (O.R., 15th year, Suppl. for April-June 1960, p. 2).

^{36/} Resolution S/5471, operative paragraph 6 (O.R., 18th year, Suppl. for Oct.-Dec. 1963, p. 103).

^{37/} Resolution S/5380 (O.R., 18th year, Suppl. for July-Sept. 1963, pp. 63-64), and resolution S/5481 (O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 110-111).

^{38/} Case 52.

^{39/} For a statement of the Secretary-General outlining criteria for the circulation of documents, see chapter II, Note, p. 39.

^{40/} Repertoire, 1946-1951, p. 1.

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

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

a. Rule 21

CASE 11

At the 896th meeting on 9/10 September 1960, in connexion with the situation in the Republic of the Congo, the representatives of the USSR and of Ceylon, commenting upon the telegram^{41/} from the Prime Minister of the Republic of the Congo urging the Secretary-General to agree to Leopoldville as the place for the next meeting of the Security Council, pointed out that no representatives of the Republic of the Congo were present at the Council's meeting.

The Secretary-General observed:

"One or two speakers have mentioned that it is regrettable that there is no representative of the Congo here present. I should like to inform the members of the Security Council that, by letter of 22 August to the Foreign Minister, I invited the Government to station here in New York a liaison officer who could maintain contact with the Secretariat and with the Advisory Committee. By letter of 27 August I repeated and amplified this invitation. So far I have not received any reply."^{42/}

CASE 12

At the 933rd meeting on 13 February 1961, in connexion with the situation in the Republic of the Congo, the Secretary-General stated that he had received information from Elisabethville of such a character as to render necessary a full and impartial investigation and requested that the report^{43/} of his Special Representative in the Congo regarding Mr. Lumumba be added to the agenda.

At the 934th meeting on 15 February 1961, the representative of the USSR submitted a draft resolution^{44/} providing:

"The Security Council,

"...

"5. Deems it essential to dismiss Dag Hammarskjöld from the post of the Secretary-General of the United Nations as a participant in and organizer of the violence committed against the leading statesmen of the Republic of the Congo."

^{41/} S/4486, O.R., 15th year, Suppl. for July-Sept. 1960, p. 145.

^{42/} For texts of relevant statements, see: 896th meeting: Ceylon, para. 46; USSR, para. 33; Secretary-General, para. 49.

For the statements of the Secretary-General, see also Cases 27, 28 and 29. For the consideration of the provisions of Article 2 (7), see chapter XII, Case 13; for the consideration of the provisions of Articles 25 and 49, see chapter XII, Case 23, and chapter XI, part IV, Note.

^{43/} S/4688 and Add.1, O.R., 16th year, Suppl. for Jan.-Mar. 1961, pp. 88-97.

^{44/} S/4706, 934th meeting: para. 112.

At the 935th meeting on 15 February 1961, the Secretary-General quoted the statement^{45/} by Mr. Khrushchev in the General Assembly on 3 October 1960 and his reply^{46/} to Mr. Khrushchev, and stated:

"What I thus said in reply to Chairman Khrushchev I can restate today. And so as to leave no ambiguity, I want to point out that in line with what I stated^{47/} during the Suez crisis, I would consider the withdrawal of the confidence of one of the permanent members of the Security Council as a reason why the Secretary-General should resign, were it not for the fact that in this case the Soviet Union, while refusing its confidence to the Secretary-General, has at the same time taken a stand which makes it absolutely clear that, were the present Secretary-General to resign, no new Secretary-General could be appointed, and the world would have to bow to the wish of the Soviet Union to have this Organization, on its executive side, run by a triumvirate which could not function and which most definitely would not provide the instrument for all the uncommitted countries of which they are in need.

"... Whatever the Members of this Organization may decide on the subject will, naturally, be my law.

"I said in the intervention in the General Assembly to which I have referred that I deplored that the attitude of the Soviet Union had tended to personalize an issue which, in fact, concerns an institution. In doing so again, the Soviet Union has again forced me to speak about my own attitude. I regret that I have had to do so, as the issue remains one concerning the institution and not the man. And I regret it even more in a situation in which much more is at stake than this or that organization of the United Nations or this or that organ of the United Nations. Indeed, the United Nations has never been and will never be more than an instrument for Member Governments in their effort to pave the way towards orderly and peaceful co-existence. It is not the man, it is not even the institution, it

^{45/} "... I should like to repeat: we do not, and cannot, place confidence in Mr. Hammarskjöld. If he himself cannot muster the courage to resign in, let us say, a chivalrous way, we shall draw the inevitable conclusions from the situation" (Fifteenth Session (Part I), Plenary Meetings, vol. I, 882nd meeting: para. 30).

^{46/} "I said the other day that I would not wish to continue to serve as Secretary-General one day longer than such continued service was considered to be in the best interests of the Organization. The statement this morning seems to indicate that the Soviet Union finds it impossible to work with the present Secretary-General. This may seem to provide a strong reason why I should resign. However, the Soviet Union has also made it clear that if the present Secretary-General were to resign now, it would not wish to elect a new incumbent but insist on an arrangement which—and this is my firm conviction based on broad experience—would make it impossible to maintain an effective executive. By resigning I would, therefore, at the present difficult and dangerous juncture throw the Organization to the winds. I have no right to do so because I have a responsibility to all those Member States for which the Organization is of decisive importance—a responsibility which overrides all other considerations." (Ibid., 883rd meeting: para. 10.)

^{47/} For the statements of the Secretary-General at the 751st meeting on 31 October 1956 and the 754th meeting on 4 November 1956, see Repertoire, Supplement 1956-1958, chapter I, Cases 12 and 13.

is that very effort that has now come under attack..."^{48/}

At the 942nd meeting on 20/21 February 1961, the USSR draft resolution was rejected by 1 vote in favour to 8 against, with 2 abstentions.^{49/}

CASE 13

At the 982nd meeting on 24 November 1961, in connexion with the situation in the Republic of the Congo, the Acting Secretary-General stated:^{50/}

"I must... say, without opening up any new debates or entering into a defence of the United Nations Secretariat—for I think it needs none—that I welcome constructive criticism of the Secretariat and that I will be the first to admit its faults and errors and try to do all possible to correct them. Without specific reference to persons or events and without admitting any particular charge, I would grant that mistakes have undoubtedly been made in the Congo; no operation of that scope and complexity could be free of them. But to allege discrimination is quite a different matter, for it is a harsh and ugly charge. I am sorry that it has been made at all, and especially that it should be done publicly without any prior reference to me. I do not think that that charge is justified."

CASE 14

At the 1057th meeting on 23 August 1963, in connexion with the Palestine question,^{51/} after the representatives of Israel and Syria had made their introductory statements, the Secretary-General said^{52/} that he was "deeply concerned about the new troubles that have arisen in a long-troubled area" and that he would submit to the Council a report from the Chief of Staff of the United Nations Truce Supervision Organization in Palestine on the investigation made by the UNTSO Observers in the incidents referred to in the complaints of the two parties.

CASE 15

At the 1058th meeting on 28 August 1963, in connexion with the Palestine question, the Secretary-General, referring to his statement made at the 1057th meeting, said^{53/} that in general the cease-fire was

^{48/} For texts of relevant statements, see:

933rd meeting: Secretary-General, paras. 2, 3;

935th meeting: Secretary-General, paras. 17-22.

For the statement of the Secretary-General, see also Cases 39 and 40; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi); for the consideration of the provisions of Article 2 (7), see chapter XII, Case 15.

^{49/} 942nd meeting: para. 89.

^{50/} 982nd meeting: para. 109. For the statement of the Acting Secretary-General, see also Case 41; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vii); in connexion with his authorization in oper. paras. 4 and 5 of resolution S/5002, see chapter VIII, p. 183.

^{51/} The item consisted, under sub-item (a) of letters dated 20 and 21 August 1963 from the acting Permanent Representative of Israel (S/5394, S/5396) and, under sub-item (b) of a letter dated 21 August 1963 from the Permanent Representative of the Syrian Arab Republic (S/5395).

^{52/} 1057th meeting, para. 71.

^{53/} 1058th meeting, paras. 3-4.

being observed and that the Chief of Staff had informed him of the completion on 26 August of the inspection visits to the defensive areas and the demilitarized zone. The purpose of the inspection

"was to determine whether or not either party had developed a concentration of troops, equipment and weapons in the areas concerned. No evidence of a military build-up on either side was found in the demilitarized zone nor of any build-up or concentration by either side in the defensive areas in excess of the military strength permissible under the Israel-Syrian General Armistice Agreement."

CASE 16

At the 1063rd meeting on 3 September 1963, in connexion with the Palestine question, the representative of Morocco stated that it would be useful for the Security Council if the Secretary-General were to instruct the Chief of Staff of the United Nations Truce Supervision Organization in Palestine to prepare a report describing in detail how far the Armistice Agreements were being applied along the demarcation lines and in all the demilitarized zones, and how far the Armistice had been observed by the parties concerned.

The Secretary-General stated:

"I have listened carefully to the request just made by the representative of Morocco. If my understanding is correct, he proposes a report on the actual status, and state of observance by the parties concerned, of the Armistice Agreements. I take note with satisfaction that it is an entirely factual, and not a political, report that is sought. I will, of course, on the assumption that there is no objection by this Council, ask the Chief of Staff of UNTSO to have such a report prepared and submitted to me for transmission by me to this Council. In view of the fact that General Bull and his colleagues have much daily work to do, and that the preparation of such a report is a time-consuming work, I would not wish to promise submission of the report to the Council in less than two months."

The representative of the United States observed that he would not consider the proposal of the representative of Morocco and the Secretary-General's statement "in any sense binding on the Council" and would study the proposal as soon as it was issued in writing.^{54/}

CASE 17

At the 847th meeting on 7 September 1959, the Security Council had before it the following provisional agenda:

"Report by the Secretary-General on the letter received from the Minister for Foreign Affairs of the Royal Government of Laos, transmitted by a note from the Permanent Mission of Laos to the United Nations, 4 September 1959 (S/4212, S/4213, S/4214)."

^{54/} For texts of relevant statements, see:

1063rd meeting: Morocco, para. 72; United States, para. 100; Secretary-General, para. 78.

Before proceeding to the adoption of the agenda, the President (Italy) called upon the Secretary-General to make an explanatory statement.

In his statement the Secretary-General said:^{55/}

"In asking for the inscription on the agenda of the item entitled 'Report by the Secretary-General on the letter received from the Minister for Foreign Affairs of the Royal Government of Laos, transmitted by a note from the Permanent Mission of Laos to the United Nations, 4 September 1959,' I have based my action on a practice which has developed over the years in the Security Council. According to this practice, the Secretary-General, when he requests it, is granted the floor in the Council in order to make such statements on subjects within the range of the responsibility of the Council as he considers called for under the terms of his own responsibilities. Just as the Secretary-General can ask for, and is granted the floor in the Council, I feel that he is entitled to request an opportunity to address the Council publicly on a matter which he considers necessary personally to put before the Council. In doing so within the framework to which I have just referred, the Secretary-General does not introduce formally on the agenda of the Council anything beyond his own wish to report to the Council. Naturally, the Council retains the same rights in relation to such initiative of the Secretary-General as it has regarding any request of his to address the Council.

"What I said should be enough to clarify the constitutional situation when, in this case, I have asked for an opportunity to report to the Council. It should, thus, be clear that the request is not based on the explicit rights granted to the Secretary-General under Article 99 of the Charter. If it had been so based, the Council, under rule 3 of the provisional rules of procedure, would not have been free to refuse the Secretary-General to address it—as it is now free to do—and it would have meant the inscription by the Secretary-General of a substantive issue on the agenda. In this latter respect it would necessarily also have involved a judgement as to facts for which, in the present situation, I have not a sufficient basis."

Subsequently, in reply to an intervention by the representative of the USSR, who quoted rule 22 of the provisional rules of procedure and said that the question proposed to be dealt with by the Council was not yet under consideration and consequently rule 22 was not fully applicable to the case, the Secretary-General stated: "As I think it is clear from my initial statement, I do not request the right to make a statement to the Security Council until and unless the Security Council has decided to take up the question I have raised for consideration."^{56/}

^{55/} 847th meeting: paras. 11, 12. See also Case 5, and chapter II, Case 1.

^{56/} For texts of relevant statements see:

847th meeting: USSR, para. 19, Secretary-General, para. 26.

b. (i) Rule 22

CASE 18

At the 847th meeting on 7 September 1959, in connexion with the report by the Secretary-General relating to Laos, after the adoption of the agenda, the Secretary-General made a statement in which he said^{57/} that in order to meet the demand of the Government of Laos to apply the appropriate procedure to the request for the dispatch of an emergency force to Laos, he had to report to the Council for such considerations and initiatives as the Council might find called for, and continued:

"I have found that this could not be done simply by circulating the letter to the Secretary-General as a Security Council document, but that I should, to the information thus given to the members of the Council, add orally the information regarding my previous contacts with the question, which I have now put before you.

"I have, in the best form available to me, briefed the Council on those aspects of the question which have been and are within the purview of the Secretary-General, thus enabling the Council to consider what should be its approach to the problem which has arisen for the United Nations, and to do so with as complete knowledge of it as I can provide."

CASE 19

At the 877th meeting on 20/21 July 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{58/} that, although the Council had not authorized or requested him to take specific steps for the implementation of withdrawal, his representatives in the Congo had taken the initiative for the co-ordination of the implementation of the Council's decision on the United Nations Force with the implementation of its decision on withdrawal. Although he did not consider it necessary, the Council might find it useful to clarify his mandate on this point.

At the 879th meeting on 21/22 July 1960, the Security Council adopted a resolution^{59/} whereby it called upon the Government of Belgium "... to implement speedily the Security Council resolution of 14 July 1960 on the withdrawal of its troops and authorizes the Secretary-General to take all necessary action to this effect" (oper. para. 1).

CASE 20

At the 877th meeting on 20/21 July 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated:^{60/}

^{57/} 847th meeting: paras. 54, 55. For the rest of the statement, see chapter VIII, p. 155.

^{58/} 877th meeting: para. 18. For the statement of the Secretary-General, see also Case 20: in connexion with the definition of the area of operation of the United Nations Force, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (1).

^{59/} S/4405, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 34-35.

^{60/} 877th meeting: para. 19.

"Through the decision of the Security Council of last Wednesday, the United Nations has embarked on its biggest single effort under United Nations colours, organized and directed by the United Nations itself. I already had reason to pay a tribute to Member Governments for what they have done to render the task of the Organization possible. May I say here and now that I will have—as a spokesman for the Security Council and on behalf of the United Nations—to ask for much, much more from Member nations, in the military field as well as in the civilian field. There should not be any hesitation, because we are at a turn of the road where our attitude will be of decisive significance, I believe, not only for the future of this Organization, but also for the future of Africa. And Africa may well, in present circumstances, mean the world. I know these are very strong words, but I hope that this Council and the Members of this Organization know that I do not use strong words unless they are supported by strong convictions."

CASE 21

At the 884th meeting on 8 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{61/} that "what temporarily may appear as a deadlock" required the consideration of the Council. The Central Government had shown great impatience and distrust and it did not help the United Nations effort if it had to live under a threat of any one, or more, contributing Governments breaking away from the United Nations Force and pursuing unilateral policies. These were the main difficulties encountered by the United Nations in the Congo. However, it was necessary that this effort be carried to a successful conclusion. In his second report^{62/} the Secretary-General had given his views as to the direction in which the Council might take useful action:

"The Council should, for the sake of clarity, reaffirm its aims and demands as stated in the previous resolutions. It may wish to clarify its views on the methods to be used and on the time-limits which should be our target. It may also wish to state explicitly what so far has been only implied . . . that its resolutions apply fully and in all parts also to Katanga. It should . . . request the immediate and active support by all Member Governments, no one excluded. It should also find its way to formulate principles for the United Nations presence, which, in accordance with the Purposes and Principles of the Charter, would safeguard democratic rights and protect the spokesmen of all different political views within the large entity of the Congo so as to make it possible for them to make their voice heard in democratic forms . . ."

^{61/} 884th meeting: paras. 10, 14-17, 27-31, 34. For the statement of the Secretary-General, see also Cases 22 and 45 in connexion with the definition of the area of operation of the United Nations Force, see chapter V, Case 2: in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (iii); for the consideration of the provisions of Articles 25 and 49, see chapter XII, case 21, and chapter XI, part IV, Note.

^{62/} S/4417, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 45-53.

Thus, the Secretary-General envisaged a result which guaranteed the speedy and complete withdrawal of the Belgian troops and through which the basic unity of the whole Congo was made manifest in the presence of the United Nations all over its territory. It was in accordance with the intentions of the Council that everywhere in the Congo the withdrawal of Belgian troops should be immediately followed, or even preceded, by the entry of the United Nations troops, shouldering the responsibility for the maintenance of security and order. So it had been everywhere outside Katanga, where

"this principle has led to the development of a vicious circle. The entry of the United Nations troops is obstructed and, correspondingly, the withdrawal of the Belgian troops is rendered impossible if the principle is to be maintained that, at the withdrawal, the responsibility for security must be taken over at once by United Nations troops. However, the opposition to the United Nations is raised in the shadow of the continued presence of the Belgian troops."

This vicious circle had to be broken and further delays in the entry of United Nations troops, due to armed opposition, could not any longer be permitted to delay the withdrawal of the Belgian troops. The initiative lay with the members of the Council and the Council itself.

CASE 22

At the 884th meeting on 8 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General called for a successful conclusion to the United Nations effort in the Congo. He stated:^{63/}

"By a 'successful conclusion' I mean a conclusion preserving the unity of the Congo people, while protecting the democratic rights of everybody to let his influence bear, in democratic forms, on the final constitution for the Republic to be determined only by the Congolese people themselves.

"I further mean by that term the speediest possible withdrawal of Belgian troops in accordance with the Security Council resolutions, as the presence of those troops now is the main cause of continued danger, a withdrawal that must be complete and unconditional; once the end in this respect is definitely in hand—and that should be possible immediately—methods and time-tables are practical matters which must be considered in the light of, for example, the fact that a Congolese population of some 15,000 depends economically on the Kamina base and that, therefore, with the return of Belgian troops from the base to Belgium, immediate arrangements must be made by the United Nations for the maintenance of this big population.

"Finally, I mean by a satisfactory solution one which will permit the Congolese people to choose freely its political orientation in our world of today, independent of any foreign elements the presence and role of which would mean that through the Congo we might get conflicts extraneous to the African world introduced on the continent."

^{63/} 884th meeting: paras. 16-20.

CASE 23

At the 885th meeting on 8 August 1960, in connexion with the situation in the Republic of the Congo, the representative of the USSR stated that, according to the second report of the Secretary-General on the implementation of Security Council resolutions S/4387 of 14 July 1960 and S/4405 of 22 July 1960,^{64/} the Command of the United Nations Force had refrained from sending its troops into Katanga. He stated further that it appeared that the question of sending troops into Katanga was not to be decided by the Central Government of the Congo in conjunction with the Secretary-General as required by the Security Council resolutions but by "the Belgian aggressor through its puppet" Tshombé. In the event of failure by the Command of the United Nations Force in the Congo to abide by the Security Council's decision to act in consultation with the Central Government of the Republic of the Congo and to provide it with necessary military assistance, the Command should be replaced by a new one which would carry out honestly the obligations laid upon it by the Security Council's decisions.

The Secretary-General in his reply expressed the belief that the statement of the representative of the USSR with regard to the first point was based on a misunderstanding and stated:

"The order to stop the entry of the United Nations forces into Katanga was given by me, not by the Command, as the Command is under instructions of the Secretary-General acting on the authority of the Security Council. The Command would have taken any kind of order which I gave. I have reported the matter in my report to the Security Council and I would shoulder, naturally, full responsibility if the Security Council were to find that my order was wrong."

The Secretary-General stated further that the limits to his authority were found in his first report, which had been commended by the Security Council with the concurring vote of the Soviet delegation. He did not remember having heard any objection to his interpretation of the status, functions and competence of the Force.^{65/} He stated further that the Force should assist the Central Government in the maintenance of order, but not as a political instrument. That had never been the intention and went against the very principle on which the Force had been established.^{66/}

At the 886th meeting on 8/9 August 1960, the Security Council adopted a resolution^{67/} wherein, having noted the second report of the Secretary-General on the implementation of the resolutions of 14 and 22 July 1960 and his statement before the Council (preamble,

^{64/} S/4417, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 45-53.

^{65/} See chapter V, Cases 2 (i) and 2 (ii).

^{66/} For texts of relevant statements, see:

855th meeting: USSR, paras. 93, 97, 110; Secretary-General, paras. 122, 123, 126-128, 130.

For the statement of the Secretary-General in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (iii); in connexion with a proposal concerning the establishment of a group of observers in the Congo, see chapter V, Case 6 and chapter XI, Case 4.

^{67/} S/4426, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 91-92.

second para.), it (a) confirmed the authority given to the Secretary-General by the Security Council resolutions of 14 July and 22 July 1960 and requested him to continue to carry out the responsibility placed on him thereby; and (b) reaffirmed that the United Nations Force in the Congo "will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise" (oper. paras. 1, 4).

CASE 24

At the 887th meeting on 21 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{68/} that during his first visit to Leopoldville the Council of Ministers had preferred that the contact of the United Nations with Mr. Tshombé be established not by the Secretary-General but by his personal representative.^{69/} Thus, the question of the United Nations contact with Mr. Tshombé, which had been recognized as desirable,

"... was then regarded as a question of form and presentation. The question arose in this form, if I understood the situation correctly, in large part because of the ambiguity regarding Katanga which still might be said to be found in the resolutions of the Security Council."

During the discussion^{70/} on the Katanga problem after the failure of the mission of the Secretary-General, the words "vicious circle" had been used. To break the "vicious circle" two things had been necessary: the first one was not to separate the civilian approach from the military one; the second was to make the civilian approach on a level where the full weight of the United Nations had been brought to bear on the issue, this "irrespective of any objections as to the form". An approach of this type had been facilitated by the fact that the resolution of 9 August 1960^{71/} had eliminated all ambiguity and that, therefore, no question of presentation should any longer exist in the way which had hampered the United Nations at the previous stage. The Secretary-General had felt that he had had to try to achieve a speedy withdrawal of Belgian troops by staging a break-through for the United Nations Force into Katanga with token units accompanying him personally. The approach had worked and, currently, the resolu-

^{68/} 887th meeting: paras. 14-22. For the statement of the Secretary-General, see also Cases 25, 26 and 46; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic affairs, see chapter V, Case 2 (ii) with regard to the use of force, see chapter V, Case 2 (iv); in connexion with a proposal concerning the establishment of a group of observers in the Congo, see chapter V, Case 6; in connexion with the legal status of the Kamina and Kitona bases, see chapter XI, part I, Note.

^{69/} In his letter dated 14 August 1960 to the Secretary-General, the Prime Minister of the Republic of the Congo stated that the Secretary-General had dealt with the rebel government of Katanga in violation of the Security Council's resolution of 14 July 1960 which did not permit him to deal with the local authorities until after he had consulted with the Central Government of the Congo. The Secretary-General was acting as though the Central Government, which was the repository of legal authority and was alone qualified to deal with the United Nations, had not existed. S/4417/Add.7, document II, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 71-73.

^{70/} 886th meeting: para. 95.

^{71/} S/4426, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 91-92.

tion of the Council was being "fully implemented in Katanga".

CASE 25

At the 887th meeting on 21 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General pointed out that the actions and attitudes of the United Nations and, in particular, of the Secretary-General had come "under severe criticism" from the Prime Minister of the Congo^{72/} and stated:^{73/}

"In order to carry out my mandate, I have been forced to act with great firmness in relation to many parties. One of them has been the Central Government itself. . . . I do not excuse myself for having stated clearly the principles of the Charter and for having acted independently on this basis, mindful of the dignity of the Organisation—and to have done so whether it suited all those we are trying to help or not. Nor have I forgotten that the ultimate purpose of the United Nations services to the Congo is to protect international peace and security and that, to the extent that the difficulties facing the Republic are not of a nature to endanger international peace, they are not of our concern."

CASE 26

At the 887th meeting on 21 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General, reporting on the withdrawal of Belgian troops, stated^{74/} that before the break-through into Katanga, all Belgian troops had been withdrawn from the five other provinces of the Congo, except for the Kitona base. In Katanga, they had been reduced from 8,600 to 3,600, including 1,000 technicians essential to civilian activities in Kamina. The Secretary-General had received the formal assurance of the Belgian Government of the completion of the withdrawal of all its combat troops within, at the most, eight days. Thus, this question could be regarded as definitely resolved. Some delay in the evacuation from Kamina and Kitona of non-combatant personnel would result from the United Nations responsibility of assisting the country in the maintenance of the substantial Congolese population fully dependent on the bases for the security of their work and income. The United Nations should, however, ensure that the bases would not be used and that the personnel retained would not engage in political activities and that there would be no interference in the internal affairs of the State.

CASE 27

At the 896th meeting on 9/10 September 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General introduced his fourth

^{72/} See: Letter dated 14 August 1960 and letters dated 15 August 1960 from the Prime Minister of the Republic of the Congo to the Secretary-General, S/4417/Add.7, documents II, IV, VI, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 71-76.

^{73/} 887th meeting; paras. 8, 11.

^{74/} 887th meeting; paras. 27-30. In connexion with the withdrawal of Belgian troops, see also the statement of the Secretary-General at the 888th meeting, para. 89; in connexion with the question of the Kamina and Kitona bases, see 887th meeting, para. 31.

report^{75/} on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960. He stated^{76/} that on 5 September 1960 the Head of State had revoked the mandate of Prime Minister Lumumba and had charged the President of the Senate with the task of forming a new Cabinet, while the Prime Minister had dismissed the Head of State on the grounds that he had acted illegally. In this situation the instructions to the United Nations representatives in the Congo had been "... to avoid any action by which, directly or indirectly, openly or by implication, they would pass judgement on the stand taken by either one of the parties in the conflict". They had had to act "on their own responsibility, within their general mandate, in order to meet the emergency which they were facing". In that situation, "as an emergency measure under the mandate, for the maintenance of law and order", the United Nations representatives had closed the radio station and the airports for all but United Nations operations in order that "the United Nations would be able to operate in fulfilment of its mandate, whatever happened".

"The two far-reaching steps of an emergency nature which were taken by the United Nations representatives were ... not preceded by a consultation with the authorities. Nor could they have been. But further, they were not preceded by any reference of the matter to me, because of the extreme urgency of the problem our people were facing on the spot ...

"As I said, I was not consulted, but I fully endorse the action taken and I have not seen any reason so far to revise the decisions of my representatives. Naturally, I assume full personal responsibility for what has been done on my behalf, and I do it convinced of the wisdom of the actions and of their complete accordance with the spirit and the letter of the Security Council decisions, adjusted to a situation of unique complication and, of course, utterly unforeseeable when the resolutions of the Council were adopted.

"It was my hope, after the votes taken in the House of Representatives and in the Senate, and with the resulting pressure for a reconciliation of differences and a compromise solution, that matters

^{75/} In the report the Secretary-General requested the establishment, within the United Nations, of an international account for contributions by States willing to help in the restoration of economic life in the Congo, this financial assistance to be channelled through the United Nations. He also requested that the Council urge the parties concerned within the Congo to seek by peaceful means a solution to their internal problems, and appealed for the reaffirmation by the Council of its request to all States to refrain from any action which might tend to impede the restoration of law and order or to aggravate the differences. The Secretary-General appealed further for a clarification of the mandate of the United Nations Force, special emphasis to be placed on the interests of all to assist towards a peaceful solution of the conflicts without further disruption and threats to civilian life. Secondly, emphasis was to be put on the protection of the lives of the civilian population, which might necessitate the temporary disarming of those military units which were obstacles to the re-establishment of law and order. S/4482, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 135-139.

^{76/} 896th meeting; paras. 83-98. For the statements of the Secretary-General, see also Cases 11, 28 and 29; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 13; for the consideration of the provisions of Articles 25 and 49, see chapter XII, Case 23 and chapter XI, part IV, Note.

would become stabilized and that, therefore, the two steps by the United Nations . . . could be cancelled, and that thus the airports and the radio station could have been opened without delay. However, the situation remains such that I feel that I have to submit the question of the closing of the airports and the closing of the national radio to the Security Council for its consideration and instruction. . . ." ^{77/}

CASE 28

At the 896th meeting on 9/10 September 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General referred to difficulties in implementing the wish of the Security Council that, in fulfilment of its mandate, the Secretary-General should act in consultation with the Central Government, and stated ^{78/} that in the United Nations there were rich experiences of such consultations in all parts of the world and for all purposes within the sphere of its responsibilities. So far any difficulties in consultations had been easily overcome. When the matter had been arranged with a responsible minister, the government had honoured its word.

"Or when we had helped responsible ministers to favourable results in a negotiation, we were not accused of plotting against the government. . . . When we had, correctly, informed the Foreign Minister about our moves, we were not said to have neglected the government . . . while we had to wait for reactions on which we could build, life did not stand still and urgent action . . . finally had to be taken—in the very interest of those for whose support we had appealed in vain."

CASE 29

At the 896th meeting on 9/10 September 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated ^{79/} that, as regards the authorities in Katanga, he had in important cases not been able to enforce the rules flowing from the general obligations of the United Nations in the Congo.

^{77/} At the 897th meeting on 10 September 1960, the Secretary-General, recalling his statement made at the 896th meeting with regard to the order closing the airports in the Congo and the radio station in Leopoldville, said:

"I told the Council that, for my part, I would be happy to see it reversed as soon as possible but that, frankly, I did not feel that the situation was such that I should take the responsibility upon myself, with all the consequences that move might have.

"The members of the Council are in a position to judge for themselves. They have before them communications (S/4504, annexes I and II, *O.R.*, 15th year, Suppl. for July-Sept. 1960, p. 157) from two authorities in the country, from two authorities that are still in sharp opposition to each other. I have referred my responsibility, as I think I should, to the Security Council, and I think that the Security Council should shoulder its responsibility." (897th meeting: paras. 63, 66.)

At the 904th meeting on 16 September 1960, the Secretary-General, commenting on a statement (para. 51) by the representative of Poland that the United Nations Force Command had found it "possible and opportune" to hand over the radio station in Leopoldville to "rebel elements", said:

"If the situation has to be described as a handing over to any body, it was thus a case of the handing over of the radio station to Parliament, represented by Mr. Kasongo and Mr. Okito . . ." (paras. 70, 71).

^{78/} 896th meeting: para. 99.

^{79/} 896th meeting: paras. 100-102, 104, 108, 110.

The Secretary-General referred further to actions by the personnel of the Armée nationale congolaise in the Kasai region, which involved a most flagrant violation of elementary human rights and had the characteristics of the crime of genocide, since they appeared to be directed towards the extermination of a specific ethnic group, the Balubas, and asked whether it should be supposed that the duty of the United Nations to observe strict neutrality in the domestic conflicts and to assist the Central Government meant that the United Nations could not take action in such cases.

As regards the situation in Katanga, the Secretary-General said that he had to protest against the import of arms, contrary to the Security Council resolutions, and deplored the continued use of foreign elements in the forces organized in Katanga. However, the Belgians were not alone in supplying assistance to Katanga. Others also followed a similar line, justifying their policy as assistance to the constitutional Government of the country. Although there was a difference between the two actions and the latter actions were not covered by explicit requests in the Security Council decisions, it should be recognized that

"this is no longer a question of form and legal justification, but a question of very hard realities, where the use to which the assistance is put is more important than the heading in an export list under which it is registered, or the status of the one to whom it is addressed".

The Security Council had thus come to a point "where it must take a clear line as regards all assistance to the Congo". It would achieve its aims only if it requested that

"... such assistance should be channelled through the United Nations, and only through the United Nations. It would, thereby, solve the problem of military assistance to Katanga, and it would also solve the problem of abuse of technical assistance in other parts of the Congo, thus at the same time serving the vital interest in a localization of the conflict and the interest in a peaceful solution of the domestic problems of the Congo, without any interference from outside influencing the outcome."

At the 906th meeting on 17 September 1960, after the rejection ^{80/} of a USSR draft resolution, ^{81/} and the failure to adopt ^{82/} a Ceylonese-Tunisian draft resolution ^{83/} (one of the negative votes being that of a permanent member), while a United States draft resolution ^{84/} was not pressed to a vote, ^{85/} the Security Council adopted ^{86/} a draft resolution ^{87/} whereby it decided to call an emergency special session of the General Assembly, as provided in General Assembly

^{80/} 906th meeting: para. 148.

^{81/} S/4519, 903rd meeting: para. 93.

^{82/} 906th meeting: para. 157.

^{83/} S/4523, *O.R.*, 15th year, Suppl. for July-Sept. 1960, pp. 172-173.

^{84/} S/4516, 902nd meeting: para. 45.

^{85/} 906th meeting: para. 169.

^{86/} 906th meeting: para. 198.

^{87/} Resolution S/4526, *O.R.*, 15th year, Suppl. for July-Sept. 1960, p. 174.

resolution 377 A (V), in order to make appropriate recommendations.

CASE 30

At the 896th meeting on 9/10 September 1960, in connexion with the situation in the Republic of the Congo, the representative of Yugoslavia stated that because of

"a certain interpretation of the non-interference of the United Nations in the internal discords of a constitutional or other character in the Republic of the Congo, the United Nations Command has not found . . . ways of preventing military and other outside help from being given to the secessionist ringleaders in Katanga".

The Secretary-General, exercising his right of reply, stated:

"The representative of Yugoslavia addressed a criticism against the United Nations Command. The Command had, according to him, not implemented correctly the resolutions of the Security Council. The address is mistaken, because the Command has acted under my instructions, and if there are any mistakes in the interpretation of the resolutions, they are mine."^{88/}

CASE 31

At the 901st meeting on 14/15 September 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated:^{89/}

"I maintain the rule in the debates of various organs of the United Nations, including the Security Council, not to enter into the debate, but to limit myself to explanations and clarifications of facts."

The Secretary-General thought that the members of the Council would understand if, in view of the circumstances, he departed for a few minutes from that rule.

CASE 32

At the 901st meeting on 14/15 September 1960, in connexion with the situation in the Republic of the Congo, the representative of the USSR stated that under the resolution of 14 July 1960,^{90/} the Secretary-General had been authorized to take, in consultation with the Government of the Republic of the Congo, measures of a military character in the Congo which had been planned only "'until,'" as provided in the resolution, "'through the efforts of the Congolese Government with the technical assistance of the United Nations, the national security forces may be able, in the opinion of the Government"—and not in the opinion of Mr. Hammarskjöld—"to meet fully their tasks' ". The representative of the USSR stated further that in his fourth report the Secretary-General had asked that neither of the "parties" in the Congo should receive any help from abroad, one of the "parties" supposedly being the Central Government.

^{88/} For texts of relevant statements, see:

^{89/} 896th meeting: Yugoslavia, para. 136; Secretary-General, para. 153.

^{89/} 901st meeting: para. 71. For the statement of the Secretary-General, see also Case 32.

^{90/} S/4387, O.R., 15th year, Suppl. for July-Sept. 1960, p. 16.

Such an approach to the question was clearly a distortion of the Security Council resolutions, which ruled out the granting of assistance to the enemies of the Government of the Congo but not to the Government itself.

At the same meeting the Secretary-General, exercising his right of reply, stated:

"Another criticism was based on the fact that, according to the resolution of 14 July, it is for the Government only to decide when the troops shall be withdrawn. Obviously it was felt that I now somehow had reserved that right to myself. I have not. But the Security Council may wish to remember not only Article 2, paragraph 2, of the Charter and the first report commended by it at its meeting on 22 July, but also the basic agreement concluded with the Government of the Congo.^{91/} All these three documents bind the Government of the Congo to a good faith interpretation of the purposes of the United Nations measures."

The Secretary-General stated further:

"In reference to the fourth report it was mentioned that I considered it desirable that all assistance should be channelled through the United Nations, but it was not mentioned that this has a background in the first report, which was commended by the Council with the concurring vote of the Soviet Union."^{92/}

CASE 33

At the 913th meeting on 7 December 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{93/} that the United Nations had sent troops and civilian technicians to the Congo for clearly defined Charter aims and under clearly defined Charter principles. These aims and principles had been strictly maintained by the Secretary-General and his collaborators all through the operation. There had been no shifts in policy or changes of approach.

"Of course, we have been accused of all this, and from all sides. . . ."

"However, this is no excessive price to be paid for avoiding the thing for which no one in my position should be forgiven: to compromise, in any political interest, with the aims and principles of this Organization. It has not been done and it will not be done with my knowledge or acquiescence. I can only repeat what I said in the General Assembly, that I would rather like to see the Office of the Secretary-General break on this principle than drift on compromise . . ."

^{91/} S/4389 and Add.5, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 16-24, 27-28.

^{92/} For texts of relevant statements, see: ^{901st meeting}: USSR, paras. 18, 40, 41; Secretary-General, paras. 79, 83.

^{93/} 913th meeting: paras. 15, 17-19, 22, 44, 47, 50-54, 57-60. For the statement of the Secretary-General in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (v); for the consideration of Chapter VII of the Charter, see chapter XI, Case 4; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 14.

The Secretary-General stated further that "the change in the political alignments both in Leopoldville and in the provinces has given an entirely new and different setting for the operation of the United Nations". Referring to statements that the United Nations operation in the Congo had failed or was facing failure, he said that of its two original objectives, the withdrawal of Belgian troops had been achieved before the end of August, and the maintenance of protection for life and property was "reasonably well achieved at about the same time as the last Belgian troops departed". Therefore criticism of the operation could refer only to the period beginning in early September and "... seems based on the idea that it was for the United Nations to create a stable government within the framework of the Constitution". This task was not the one envisaged by the Council in July 1960, nor could it be, as, according to the Charter of the United Nations, only the people of the Congo itself were entitled to create such a government. The duty of the United Nations could only be

"to unburden the authorities of the immediate responsibility for the protection of life and security and to eliminate foreign military intervention so as, in those respects, to create a framework within which the people of the Congo could find its way to a stable government, enjoying adequate nation-wide authority".

The failure to create normal political life within the country was not that of the United Nations, but that of the leaders of the Congo and its people.

The real problem, he stated, was one of "... what the true functions are of the United Nations in the changed situation". The need for the United Nations military presence in the Congo which had existed in July still existed, and renewed efforts were required to make the Army capable of taking care of the situation itself. The United Nations could not, however, contribute to this result if the Army were to play a political role outside the Constitution and override democratic rules of government. The Secretary-General concluded that it was necessary for the United Nations to stand by the mandate already laid down, interpreted strictly in accordance with the principles of the Charter, "but adjusted to the peculiar circumstances at present prevailing in the Congo. This adjustment unavoidably leads to a serious curtailment for the present of our activities and to great restraint as regards the assistance we can grant."^{24/} Only through the efforts of the Congolese people themselves could the United Nations assistance make its full contribution.

CASE 34

At the 917th meeting on 10 December 1960, in connexion with the situation in the Republic of the Congo, the representative of Ceylon stated that the United Nations Command seemed to have changed

^{24/} In explanation of this last statement, the Secretary-General, at the 916th meeting on 9/10 December 1960, stated that the need for "great restraint" referred

"to very practical circumstances, which I think I can most easily illustrate by saying that, of course, we cannot continue the training of an army which has become a political instrument, nor can we help financially with the budget if expenditure is partly of a character which runs counter to our aims" (paras. 132, 133).

its policy, having taken action to protect the people whose lives had been threatened in Stanleyville.

At the same meeting the Secretary-General, exercising his right of reply, stated:

"... It is not a change of policy. It is exactly the same stand which we took regarding Mr. Lumumba when he requested protection, regarding Mr. Kamitatu when he requested protection, regarding Mr. Gizenga, in Stanleyville, when he did the same, and regarding Mr. Welbeck, the Chargé d'Affaires of Ghana at Leopoldville, when he did the same. That is to say it is, in that respect, a constant policy which we have adopted, and if the representative of Ceylon is satisfied with the present stand I understand that he is satisfied with the interpretation we have given to our duty to protect law and order in the sense of protection of life and property."

Referring to statements concerning the liberation by the United Nations Force of Mr. Lumumba, disarming of "illegal armies" as well as furthering the meeting of both houses of Parliament and a round-table conference, the Secretary-General stated that "in all these various respects it is quite obvious that the Council—and, may I add, the Secretary-General—is bound by the Charter provisions. I am sure that the members of the Council wish to take that into account."^{25/}

CASE 35

At the 919th meeting on 12 December 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{26/} that it had been hinted by a speaker in the debate that there might be an element of discrimination, the United Nations having shown greater concern for the group threatened in the Stanleyville situation than for other ethnic groups. He could assure the members of the Council that

"the protection which we tried to give to the population in Stanleyville, who happen to be white, was exactly the same as that which, for example, we tried to give at an earlier stage to the Baluba. I cannot agree that we, any of us, have ever made any racial distinctions in the policy which has been developed."

CASE 36

At the 920th meeting on 13/14 December 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{27/} that strong

^{25/} For texts of relevant statements, see:

917th meeting: Ceylon, para. 30; Secretary-General, paras. 61, 63, 65, 66.

For the statement of the Secretary-General in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (v); for the consideration of Chapter VII of the Charter in general, see chapter XI, Case 4; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 14.

^{26/} 919th meeting: para. 168.

^{27/} 920th meeting: paras. 61-62, 85, 97. For the statement of the Secretary-General, see also Cases 37 and 47; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (v); for the consideration of chapter VII of the Charter, see chapter XI, Case 4; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 14.

statements had been made regarding the responsibility of the Secretariat as well as of the Belgians and of other foreign Powers alleged to be supporting them.

"But few words have been heard about the responsibility of those major organs of the United Nations which have formulated the mandate and which, if the interpretation of the mandate now put forward by the critics were correct, would at least have had the responsibility to state it explicitly—not to speak about their obvious responsibility, in such circumstances, to provide the executive organs with the means by which such a broader mandate could be handled.

"Nor have we, from the same quarters, heard anything about any responsibility for the political leaders in the Congo."

With regard to the legal rights of the Security Council to liberate Mr. Lumumba, disarm forces or recall Parliament, the Secretary-General "... can use and has used, all diplomatic means at his disposal, to achieve results in line with the resolutions of the Security Council".

The Secretary-General stated further that he would ask the Security Council to clarify its mandate; whether it was its collective view that an extension was necessary beyond the current one; and he would invite the Council to consider certain arrangements whereby Member nations would assume formally their part of the responsibility for the policy pursued from day to day in the Congo.

At the same meeting a joint draft resolution^{98/} submitted by Argentina, Italy, the United Kingdom and the United States failed of adoption^{99/} (one of the negative votes being that of a permanent member). A draft resolution^{100/} submitted by the USSR was rejected.^{101/}

A Polish draft resolution,^{102/} subsequently submitted, was rejected.^{103/}

CASE 37

At the 920th meeting on 13/14 December 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General referred^{104/} to his two "démarches" dated 8 October 1960, to the Government of Belgium and Mr. Tshombé personally. In those communications^{105/} which were circulated to the Members of the United Nations, the Secretary-General had given his interpretation of operative paragraph 5 (a) of General Assembly resolution 1474 (ES-IV) of 20 September 1960. On the basis of that paragraph, the Secretary-General had pressed for the elimination of the Belgian political element in Katanga and for a switch-over from the bilateral assistance from Belgium to assistance within the

^{98/} S/4578/Rev.1, O.R., 15th year, Suppl. for Oct.-Dec., 1960, pp. 82-83.

^{99/} 920th meeting: para. 156.

^{100/} S/4579, 914th meeting: para. 62.

^{101/} 920th meeting: para. 159.

^{102/} S/4598, 920th meeting: para. 169.

^{103/} 920th meeting: para. 177.

^{104/} 920th meeting: paras. 68, 69.

^{105/} S/4557, part B, sections 1, 2, 4 and 5, O.R., 15th year, Suppl. for Oct.-Dec., 1960, pp. 44, 45, 47-49.

framework of the United Nations operation. His stand had been met from the Belgian side with the most emphatic criticism. In this connexion the Secretary-General stated:

"However, I am certain of the correctness of my interpretation of the intentions of the General Assembly, and back of the General Assembly, the Security Council. But so far my 'démarches' have received no formal support from any one of those two organs. Admittedly, I have not asked for such support but the lack of it should be noted and on record when criticism is voiced against my policy in relation to Belgium."

He added that unless the United Nations disposed of the necessary funds, it could not insist on the withdrawal of Belgian technicians provided on a bilateral basis to meet essential needs and claim that they should be employed under the United Nations flag or that the United Nations should in other forms provide the necessary assistance.

CASE 38

At the 928th meeting on 1 February 1961, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{106/} that the task of the United Nations in the Congo was to deal only with interference from outside the country and with the maintenance of law and order within the country. With regard to these two points, the Organization had to stay strictly within the limits established by the Charter, just as the Secretary-General and the United Nations Force had, in their turn, to stay strictly within the limits of the mandate established by the Security Council and the General Assembly. The Organization could not be blamed for an attitude in the past which had been dictated by its wish to avoid any interference in the domestic affairs; it could be blamed, however, if it had not reassessed its policy in the light of experience and had not considered whether, in the interest of peace and security, more far-reaching measures were not called for to overcome the increasing lack of cohesion, even if such measures might be felt by some as coming close to a kind of interference. While the withdrawal of all Belgian combat troops was accomplished at the end of August, "outside interference has recurred in new and subtler but not less dangerous forms". The military potential of various factions both as regards arms and men had been reinforced from outside and foreign mercenaries had been recruited on an increasing scale; this development, it should be assumed, had "at least been tolerated by some foreign Governments". It was necessary that such interference be stopped but the Secretary-General had not so far found "a sufficient legal basis in the resolutions for effective counter-measures by the United Nations". He wondered whether it was too much to hope

"that at the present serious phase of the development the United Nations will be able to count on

^{106/} 928th meeting: paras. 67, 69-72, 75, 76, 79, 83-85, 88, 90, 91. For the statement of the Secretary-General, see also Case 48, in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi); for the consideration of the provisions of Article 2 (7), see chapter XII, Case 15.

all its Members so that they would not only avoid giving any military assistance themselves but, furthermore, take the necessary steps, which undoubtedly are within their power, to stop any such assistance in other forms, less accessible for counter-action through the United Nations and its organs".

As regards the internal situation, from the point of view of law and order, the disintegration of the "force publique" had continued and even the loyalties of various private armies must be put in question. In this situation "military assistance in men and 'matériel', on a governmental or non-governmental basis, given to any one of the various factions of the army at present is a dangerous and negative element" leading away from conciliation and the creation of national unity. In these circumstances

"the Council should give serious consideration especially to what the United Nations line should be regarding the ANC, in all its factions . . . [and] must provide a basis for arrangements which would eliminate the present threat from the army, or units thereof, against efforts to re-establish a normal political life and against law and order".

The Secretary-General stated further that the most important contribution in the direction of conciliation in the interest of national unity

"would be to revert to the initial stand of the United Nations and get it enforced with the co-operation of the leaders concerned. This would mean to return the army to its proper role and to give it as quickly and effectively as possible a chance to fulfil it."

If this effort proved successful, it would mean that the army had stepped out of the current political conflicts and had devoted itself to its own reorganization to become again a national instrument of a government representing the central authority of the Republic. For the United Nations to revive this original concept would mean to express in positive terms its neutrality in relation to all domestic conflicts in the Congo and to make an effective contribution towards reconciliation. For these reasons the Secretary-General would welcome

"a decision by the Council requesting the Secretary-General to take urgently appropriate measures for assistance in the reorganization of the national army, preventing it, or units thereof, from intervening in the present political conflicts in the Congo".

Referring to requests for an armed intervention by the United Nations Force, the Secretary-General observed that it was clear what problems would arise were the mandate of the Force to be widened as proposed. Such a widening of the mandate

"could not be considered without a much clearer and fuller definition of the objectives to be pursued by the United Nations. Nor, of course, could the mandate be changed in relation to earlier decisions short of giving countries which have contributed troops on the basis of those first decisions an opportunity to withdraw were they not to approve of the new stand."

The Secretary-General concluded his statement by saying that the risk of a civil war had come closer.

"Were it to break out in spite of the restraining influence of the presence of the United Nations . . . the right thing to do would be for the United Nations Force to withdraw, as it cannot interpose itself effectively and permit itself to become a third party between contending forces."

CASE 39

At the 935th meeting on 15 February 1961, in connexion with the situation in the Republic of the Congo, the Secretary-General in his statement dealt with "the points" which "should determine the judgement regarding the relations of the United Nations to the fate of Mr. Lumumba" and, in consequence, the responsibility of the Organization or its various organs. He stated^{107/} that Mr. Lumumba had been protected by the United Nations at the place of his residence in keeping with the principle upheld by the United Nations as regards domestic conflicts. When he had escaped from his residence in a way unknown to the United Nations and had travelled east, there had been no possibility for the Organization to protect him. He had been arrested in the country without any possibility for the United Nations to stop this action. The United Nations had neither the power nor the right to liberate Mr. Lumumba from his imprisonment in Thysville. The action of the Organization had to be concentrated on the efforts to give Mr. Lumumba all possible legal and humanitarian protection. Mr. Lumumba's transfer to Katanga had been entirely outside the control of the United Nations organs. When, on 10 February, the authorities in Elisabethville announced that Mr. Lumumba had, in their words, escaped from his place of detention, the instructions had been issued, on 11 February, that if Mr. Lumumba were to seek protection from any United Nations unit, he would immediately be given asylum. It did not seem to the Secretary-General to be asking too much if those who talked about the responsibility of the United Nations or more especially of its Secretary-General, were requested to state clearly when and how the representatives of the Organization had not used all the means put at their disposal, in accordance with the mandate as established by the Members of the United Nations and the Security Council. It was not the Secretary-General who had determined the mandate, nor was it the Secretariat which had decided on what means they should use to fulfil it. There was no escape from the responsibility which flowed from this. The statements to the effect that this or that Member gave the mandate another interpretation could not change the decision of a major organ.

CASE 40

At the 935th meeting on 15 February 1961, in connexion with the situation in the Republic of the Congo, the Secretary-General outlined^{108/} measures

^{107/} 935th meeting: paras. 4, 7-14. For the statement of the Secretary-General, see also Cases 12 and 40; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi), for the consideration of the provisions of Article 2 (7), see chapter XI, Case 15.

^{108/} 935th meeting: paras. 25-35.

to be pursued with regard to the solution of the Congo problem. He had already suggested an international investigation of the circumstances concerning the assassination of Mr. Lumumba and his colleagues, given instructions that the United Nations Force should protect the civilian population against attacks from Congolese armed units, that in case of a threat of a clash between armed units, the United Nations should use all means, short of force, to forestall such a clash. Should such a clash develop, the United Nations could not permit itself to become a third party to such a conflict. However, the use of force in support of a cease-fire arrangement should not be excluded. He had further proposed at the 928th meeting that the United Nations take appropriate steps for the reorganization of the Armée nationale congolaise and lastly, on 8 October 1960, he had addressed himself to the Government of Belgium and to Mr. Tshombé, pointing out the necessity to eliminate the Belgian political element in the Congo.^{109/} On these points the Secretary-General would like to have an endorsement that only in part had been forthcoming in the past.

He went on to state that the United Nations had no right to inspect trains and aircraft coming to the Congo so as to see to it that no arms were imported and movements of funds and capital were definitely outside its control and asked what authority, if any, was the Council prepared to give its representatives in this field. He further pointed out that there was also a constitutional question. It was important as a basis for reorganization of the political life of the nation to get Parliament together. However, he asked whether, if the Conciliation Commission had not succeeded by means of persuasion, the Council was prepared to override the sovereign rights of the Republic of the Congo and in the interest of peace and security to order the reconvening of Parliament. With regard to the first five points, no legal mandate was required; the last three points were, however, of a different nature.

"They are points on which it is for this Council and only for this Council to decide what it feels entitled to do and what it wants to do. The Secretary-General cannot act short of a clear decision by the Council. In this case, at least, there is no question about where the responsibility lies. As regards arms imports, as regards the transfer of funds, as regards enforced constitutional measures, it is for the Security Council to determine the ends and to decide on the means, in full awareness of its responsibility for the maintenance of peace and security, but also of its duty to respect the sovereignty of a Member nation. It cannot shirk its responsibilities by expecting from the Secretariat action on which it is not prepared to take decisions itself."

CASE 41

At the 982nd meeting on 24 November 1961, in connexion with the situation in the Republic of the Congo, after the adoption of resolution S/5002,^{110/} the

^{109/} S/4557, part B, sections 1 and 5, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 44, 48-49.

^{110/} O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 148-150, see also chapter VIII, p. 183.

Acting Secretary-General made this statement:^{111/}

"All the United Nations responsibilities flowing from past resolutions on the Congo continue with new emphasis, since these resolutions have all been reaffirmed in the action just taken. Assistance must be given to the Central Government in the maintenance of law and order. Everything possible must be done to avert civil war, even by the employment of force, should this prove necessary as a last resort. This, I believe, necessarily implies a sympathetic attitude of a part of ONUC towards the efforts of the Government to suppress all armed activities against the Central Government and secessionist activities. Supporting the territorial integrity of the country, the United Nations position, it seems to me, is automatically against all armed activities against the Central Government and against secessionist forces. This, of course, is reinforced by our confidence in Mr. Adoula and his Government. More determined and effective steps must be taken with regard to the training and reorganization of the Congolese armed forces under the terms of the previous resolutions adopted by this Council. The United Nations programme of technical assistance should be steadily expanded, particularly as conditions in the country permit the military assistance to be reduced."

The Acting Secretary-General went on to say that it might be a useful step for him to designate a special representative of high standing to devote his energies exclusively to the purpose of national reconciliation for a limited time, if the Government of the Republic of the Congo so desired. He stated further that it was his duty to give full effect to the resolutions of the General Assembly and of the Council relating to the Congo and he would devote himself to that purpose.

CASE 42

At the 1037th and 1038th meetings on 10 and 11 June 1963, when the Security Council considered the Reports by the Secretary-General concerning Yemen,^{112/} the Secretary-General made statements^{113/} in which he referred to his four reports on consultations held with the representatives of the Arab Republic of Yemen, Saudi Arabia and the United Arab Republic with regard to the situation in Yemen. According to these reports, the consultations had been undertaken with a view to ensuring against "any developments in that situation which might threaten the peace of the area". Certain measures involving United Nations action might, in his view, urgently need to be taken in fulfilment of the terms of disengagement accepted by the parties. These measures would entail a United Nations observation function which would be provided on the basis of the agreement of the parties concerned

^{111/} 982nd meeting: paras. 104, 106, 107. For the statement of the Secretary-General, see also Case 13; in connexion with the Secretary-General's authorization in operative paragraphs 4 and 5 of resolution S/5002, see chapter VIII, p. 183.

^{112/} S/5298, O.R., 18th year, Suppl. for April-June 1963, pp. 33-34; S/5321, *ibid.*, pp. 46-48; S/5323, *ibid.*, pp. 48-50; S/5325, *ibid.*, pp. 50-51. For a complete outline of the Council's proceedings, see chapter VIII, part II, pp. 207-208.

^{113/} 1037th meeting: paras. 6-7.
1038th meeting: paras. 3-6.

which would bear the cost of the operation for a period of two months and possibly for a total of four months, should it become necessary. As a result of informal consultations with the Council members, the Secretary-General held that "everyone agrees that the observation function called for should be provided". On his part, he was prepared to commence the operation immediately. He added:

"The Council is already aware that it will be a modest mission, not exceeding 200 people, including some carefully selected and experienced military officer-observers and a small number of other ranks. Its duration should not exceed four months, and it could be concluded in two. In the event more than two months should be required, I would certainly report this fact to the Council in advance.

"Finally, I should like to warn that there is growing evidence that the agreement on the terms of disengagement may be jeopardized if the United Nations observation personnel are not on the spot. I earnestly hope, therefore, that the Council will find it possible to achieve prompt agreement on this matter."

At the 1039th meeting on 11 June 1963, a Ghana-Morocco draft resolution^{114/} was adopted^{115/} which contained in its first and third operative paragraphs the following mandate:

"The Security Council,

"...

"1. Requests the Secretary-General to establish the observation operation as defined by him;

"...

"3. Requests the Secretary-General to report to the Security Council on the implementation of this decision."

CASE 43

At the 1057th meeting on 23 August 1963, in connexion with the Palestine question, the Secretary-General stated^{116/} that the Chief of Staff had obtained the agreement of both parties to a simultaneous investigation by the UNTSO Observers of the defensive areas on both sides. The parties had also responded favourably to the Chief of Staff's appeal that the cease-fire be observed. The Secretary-General stated further:

"I take this opportunity to request the Governments of Israel and Syria to exert every possible precaution to ensure that the cease-fire will be actually and fully observed and to prevent the occurrence of any further incidents. This would have the additional advantage of enabling the Council to consider this issue in an atmosphere free of any new tension."

b (ii). Rule 22

CASE 44

At the 873rd meeting on 13/14 July 1960, in connexion with the situation in the Republic of the Congo, the

^{114/} S/5331, O.R., 18th year, Suppl. for April-June 1963, pp. 52-53, see also chapter V, Case 3.

^{115/} 1039th meeting: para. 7.

^{116/} 1057th meeting: paras. 72, 73.

President of the Security Council (Ecuador) stated that the meeting had been called at the request of the Secretary-General in order to hear his report on a request for United Nations assistance made to him by the Government of the Republic of the Congo.

The Secretary-General stated:^{117/} "The reason for my request, under Article 99 of the Charter, for an immediate meeting of the Security Council is the situation which has arisen in the newly independent Republic of the Congo."

CASE 45

At the 884th meeting on 8 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General stated^{118/} that:

"The resolutions of the Security Council of 14 July [S/4387] and 22 July [S/4405] were not explicitly adopted under Chapter VII, but they were passed on the basis of an initiative under Article 99 . . . and I repeat what I have already said in this respect: in a perspective which may well be short rather than long, the problem facing the Congo is one of peace or war—and not only in the Congo."

CASE 46

At the 887th meeting on 21 August 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General reported^{119/} on the Belgian withdrawal and stated:^{120/}

"Indeed, with this short summary of the Belgian withdrawal, and with the resulting vacuum filled by the United Nations, we should be entitled to regard the chapter of the Congo story which describes the situation as one of a threat to international peace and security as being close to the end. This is said in the firm expectation, of course, that we need not envisage a risk from any new developments in the Congo outside the framework firmly established by the Security Council and contrary to the attitude on action by foreign troops that the Council has taken in this as in other cases. It is said also in the firm expectation that the Government of the Republic will take such measures as are within its power to assist the United Nations Force in carrying out the Council's decision and, thus, helping to bring about the order and stability necessary to avoid future eruptions."

CASE 47

At the 920th meeting on 13/14 December 1960, in connexion with the situation in the Republic of the Congo, the Secretary-General replied^{121/} as follows

^{117/} 873rd meeting: para. 18. For the statement of the Secretary-General in connexion with the establishment and composition of the United Nations Force in the Congo, see chapter V, Case 2; in connexion with the action recommended by the Secretary-General to the Security Council, see chapter VIII, p. 162; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (1); with regard to the use of force, see chapter V, Case 2 (11).

^{118/} 884th meeting: paras. 21, 26. See also chapter XI, Case 4.

^{119/} 887th meeting: paras. 28-30.

^{120/} 887th meeting: para. 32.

^{121/} 920th meeting: para. 76.

to an assertion that from the telegrams of Mr. Kasavubu and Mr. Lumumba (S/4382) it appeared that the aims of the operation had been distorted by him:

"These telegrams were what provoked me to action under Article 99. The resolution of 14 July [S/4387] was in response to my proposals and the main operative paragraph was in fact, for all practical purposes, a quote from my statement. I believe that it is, in these circumstances, appropriate to ask those who talk about distortion to look again at my proposal as being at least of equal significance as the cables which, by the way, did not even figure on the agenda."

CASE 48

At the 928th meeting on 1 February 1961, in connexion with the situation in the Republic of the Congo, the Secretary-General stated ^{122/} that the serious divisions of the Congo continued and had in some respects been widened and reinforced. The army remained broken up in factions with varying loyalties and partly outside the control of any responsible authority. Foreign backing and support had led to a strengthening of military potentials, offensive steps had been taken and alliances between groups discussed. In these circumstances the risk of a civil war had come closer. Civil war would be unavoidable if the United Nations Force were withdrawn.

"Were it to break out in spite of the restraining influence of the presence of the United Nations . . . the right thing to do would be for the United Nations Force to withdraw, as it cannot interpose itself effectively and permit itself to become a third party between contending forces."

In this situation several Member States had withdrawn, or had stated their intention to withdraw, their contingents in the Force. As a result of such withdrawals, the United Nations Force would be clearly insufficient.

"That also would be a reason for withdrawal unless a fundamental change could be brought about in the situation, which would permit us to continue. Such a change would result if the various factions of the ANC were brought back to their normal role as parts of a unified, disciplined army, outside politics and under the ultimate control of a functioning constitutional government. This would also be an effective step in support of national reconciliation. It may also be a necessary step if new withdrawals are to be prevented.

"Certainly nobody overlooks the difficulties ahead of the United Nations along the lines which circumstances now seem to point out, but the alternative is forbidding, as a breakdown would open the door to a wider conflict and might well threaten all with the dangers against which this Organization and its Members have mobilized their best efforts since 14 July 1960, when this Council unanimously decided to step in in order to avert the developing threat to peace and security."

^{122/} 928th meeting: paras. 90-93.

CASE 49

At the 962nd meeting on 22 July 1961, in connexion with the complaint of Tunisia, the President (Ecuador) called on the Secretary-General for a statement immediately after opening the meeting.

The Secretary-General made the following statement: ^{123/}

"News reaching us from Tunisia indicates that the serious and threatening development which the Council took up for consideration yesterday continues, with risks of irreparable damage to international peace and security. In view of the obligations of the Secretary-General under Article 99 of the Charter, I consider it my duty in the circumstances to make an urgent appeal to this Council. Whatever the problems which may arise in an effort to get a complete and definitive resolution, there is need for immediate action which cannot wait for the more time-consuming consideration necessary in order to reach an agreed conclusion to this debate.

"I therefore take the liberty to appeal to the Council to consider without delay, taking an intermediary decision pending the further consideration of the item and conclusion of the debate. Such a decision should not prejudice the final outcome of the deliberations of the Council, as it should, in my view, only request of the two sides concerned an immediate cessation, through a cease-fire, of all hostile action. Naturally, this demand should be combined with a demand for an immediate return to the *status quo ante*, as otherwise the cease-fire would be likely to prove too unstable to satisfy the urgent needs of the moment. I repeat that this is an appeal which is related exclusively to the immediate dangers and does not pretend to indicate the direction in which a solution to the wider conflict should be sought."

CASE 50

At the 964th meeting on 28 July 1961, in connexion with the complaint of Tunisia, the representative of Liberia requested ^{124/} the President (Ecuador) to call upon the Secretary-General to make a statement in relation to his visit to Tunisia.

The Secretary-General pointed out that the scope and character of his visit had been defined: (1) by the invitation ^{125/} of the President of Tunisia for a direct and personal exchange of views regarding the developments following the interim resolution of the Security Council of 22 July 1961 and (2) by his own reply ^{126/} that he considered the question of substance to fall outside his personal competence since it was pending before the Council. He added: ^{127/}

"Quite apart from the fact that it is naturally the duty of the Secretary-General to put himself at the

^{123/} 962nd meeting: paras. 2, 3.

^{124/} 964th meeting: para. 83.

^{125/} S/4885, section I, O.R., 16th year, Suppl. for July-Sept. 1961, p. 26.

^{126/} S/4885, section II, O.R., 16th year, Suppl. for July-Sept. 1961, p. 26.

^{127/} 964th meeting: para. 86. For the rest of the statement, see chapter VIII, p. 195.

disposal of the Government of a Member State, if that Government considers a personal contact necessary, my acceptance of the invitation falls within the framework of the rights and obligations of the Secretary-General, as Article 99 of the Charter authorizes him to draw to the attention of the Security Council what, in his view, may represent a threat to international peace and security, and as it is obvious that the duties following from this Article cannot be fulfilled unless the Secretary-General, in case of need, is in a position to form a personal opinion about the relevant facts of the situation which may represent such a threat."

CASE 51

At the 1024th meeting on 24 October 1962, in connexion with complaints by the representatives of Cuba, the USSR and the United States (22-23 October 1962), the Acting Secretary-General stated^{128/} that at the request of the permanent representatives of a large number of Member Governments who had discussed the matter with him, he had sent identically worded messages to the President of the United States of America and the Chairman of the Council of Ministers of the USSR,^{129/}

In the course of his statement the Secretary-General also addressed an urgent appeal to the President and Prime Minister of the Revolutionary Government of Cuba.

He went on to say:

"It is after considerable deliberation that I have decided to send the two messages to which I have referred earlier, and likewise I have decided to make this brief intervention tonight before the Security Council including the appeal to the President and Prime Minister of Cuba."

c. Rule 23

CASE 52

At the 1049th meeting on 31 July 1963, in connexion with the situation in territories in Africa under Portuguese administration, an amended draft resolution was adopted^{130/} under which the Security Council, *inter alia*, after determining that the situation in the territories under Portuguese administration was seriously disturbing peace and security in Africa, urgently called upon Portugal to undertake certain measures. The last operative paragraph of the resolution read:

"The Security Council,

"...

"7. Requests the Secretary-General to ensure the implementation of the provisions of this resolution, to furnish such assistance as he may deem necessary and to report to the Security Council by 31 October 1963."

^{128/} 1024th meeting, paras. 119-125.

^{129/} For the text of the messages, see chapter VIII, part II, under the agenda item.

^{130/} S/5380, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 63-64.

In pursuance of this mandate, the Secretary-General submitted a report^{131/} on 31 October 1963 in which he gave an account of his initial consultations with the Government of Portugal, followed by "talks" held upon his initiative and under his auspices between the representatives of Portugal and nine African Member States, as a measure to ensure the implementation of the resolution.

At the 1079th meeting on 6 December 1963, the Security Council resumed its consideration of the question in the light of the report of the Secretary-General and of the letter^{132/} to the President of the Council from twenty-nine African Member States.

In the course of the discussion of the question, the President (United States) and several other members of the Council, as well as the representatives of Liberia, Madagascar, Portugal, Sierra Leone and Tunisia, who had been invited to participate, made repeated references to the exploratory contacts initiated by the Secretary-General and the "conversations" or "negotiations" in which nine African States participated on one side, and Portugal on the other. The issues dealt with in the course of such negotiations—which, Portugal stressed, should be regarded as mere "conversations"—constituted the substance of the discussion in the Council.

Speaking at the 1081st meeting, the representative of Portugal* extended an invitation to the Secretary-General to visit the territories of Angola and Mozambique "at his discretion and convenience", on the understanding that he would be accorded "all facilities required for him to carry out those visits".

At the 1082nd meeting, the representative of Ghana, in introducing a draft resolution, submitted jointly by Ghana, Morocco and the Philippines, emphasized the meaning of paragraph 7 which requested the Secretary-General to continue with his efforts and report to the Council not later than 1 June 1964, and stated that the Council would "leave it to the discretion of the Secretary-General to adopt what measures he may deem necessary to bring about the desired results".

At the 1083rd meeting on 11 December 1963, the Council adopted the joint draft resolution,^{133/} which included the following paragraphs:

"The Security Council,

"Having considered the Secretary-General's report as contained in document S/5448 and addenda,

"...

"Noting with appreciation the efforts of the Secretary-General in establishing contact between representatives of Portugal and representatives of African States,

^{131/} S/5448, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 55-80. In three addenda (S/5448/Add.1-3), *ibid.*, pp. 80-84, the Secretary-General further communicated information submitted by Member States concerning action taken or proposed to be taken by their Governments in the context of the resolution.

^{132/} S/5460, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 94-95.

^{133/} S/5480, same text as S/5481, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 110-111: 1083rd meeting, para. 158.

"1. Regrets that this contact has not achieved the desired results, because of failure to reach agreement on the United Nations interpretation of self-determination;

"...

"7. Requests the Secretary-General to continue with his efforts and report to the Council not later than 1 June 1964."

At the same meeting, after the adoption of the resolution, other references were made concerning further consultations and renewed negotiations to be held, through the continued efforts of the Secretary-

General, to ensure the implementation of the Council's resolutions.^{134/}

^{134/} For texts of relevant statements, see:

1049th meeting: Ghana, paras. 25-26;
1079th meeting: President (United States), paras. 3-5; Liberia,* paras. 9-11; Tunisia,* paras. 44-49, 64, 66, 75;
1080th meeting: Madagascar,* paras. 5-7; Sierra Leone,* paras. 22-23, 29-30;
1081st meeting: Ghana, paras. 52-56, 77; Portugal,* paras. 11-12, 27-34, 48-49;
1082nd meeting: Ghana, paras. 103-105; Liberia,* paras. 29-32; Morocco, paras. 3-9;
1083rd meeting: President (United States), paras. 139-142, 147, 154; Brazil, paras. 91-100; China, para. 109; Ghana, para. 160; Norway, paras. 112-117; Portugal,* paras. 174-175; Tunisia,* paras. 167-168; Venezuela, paras. 84-86.

Part V

CONDUCT OF BUSINESS (RULES 27-36)

NOTE

As in the previous volumes of the Repertoire, the material assembled in this part is indicative of the special problems which have arisen in the application of rules on the conduct of business, rather than of the routine practice of the Security Council. The special cases which have been entered here relate to such matters as the following: decisions by the Council to depart from the rules; decisions on the conduct of business in situations not covered or not clearly covered by the rules; instances where the meaning or applicability of the rules was in doubt; and cases in which decisions were made between competing rules. The cases, arranged in chronological order under the respective rules, concern the following points:

1. Rule 27

The order of intervention in the debate (Cases 53-58).

2. Rule 28

The procedural nature of a decision to establish a sub-committee (Case 59).^{135/}

3. Rule 30

(a) Challenge to a ruling: the President's interpretation that once his ruling has been challenged it should be put to the vote immediately, without discussion (Case 60).^{136/}

(b) Mode of putting the question for decision after a challenge to a ruling (Cases 61 and 62).

4. Rule 31

Vote on formal amendments not submitted in writing (Cases 63 and 64).

5. Rule 32, para. 2

Request for a separation of vote (Case 65).^{137/}

^{135/} Rule 33 was also mentioned in this connexion. For discussion on whether the matter was procedural, see chapter IV, Case 6.

^{136/} For an occasion when the President's ruling, although challenged, was discussed and not put to a vote since the challenge was withdrawn, see also under rule 31 (Case 63).

^{137/} Reference should also be made to chapter III, Case 7.

6. Rule 33

Discussion held after motion to adjourn had been adopted (Cases 66 and 67). These instances are not strict applications of rule 33 since they do not relate to precedence or debate of procedural motions.

7. Rule 33, para. 2

Precedence of motion to adjourn the meeting over the adoption of the agenda (Case 68).^{138/}

8. Rule 33, para. 3

Debate of a motion to adjourn to a certain day or hour (Cases 69-71).

9. Rule 35

Case 72 concerns an occasion when an amendment was not pressed to the vote but not withdrawn by the mover. Case 73 deals with an attempt at withdrawal of the remainder of a draft resolution after a part had been voted upon.^{139/}

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

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

a. Rule 27

CASE 53

At the 873rd meeting on 13/14 July 1960, in connexion with the situation in the Republic of the Congo, the President (Ecuador), after a vote had been taken on several amendments to a draft resolution submitted by Tunisia, stated that the Council would proceed to vote on the draft resolution itself.

The representative of France requested that a separate vote be taken on each paragraph of the draft resolution.

The representative of Tunisia, the sponsor of the draft resolution, invoking rule 32 of the provisional

^{138/} Reference should also be made to: Case 60; chapter II, part III, Note, foot-note 25.

^{139/} Reference should also be made to chapter III, rule 38, Case 7.

rules of procedure, objected to the proposal for a separate vote.

The President thereupon declared that the Council would vote on the draft resolution as a whole.

The representative of France stated:

"I am not challenging the President's decision, which it is for him, as President, to take. I should simply like to make this explanation . . ."

He then proceeded to make a statement on the substance of the matter before the Council.

The representative of Tunisia objected:

"I apologize for speaking again after the President has made his decision and the voting has begun. I regret, however, that the representative of France offered an explanation of his vote while the voting was in progress, for the vote on the amendments had already been taken and the vote on the draft resolution itself should have followed . . ."

The President proceeded to put to the vote the draft resolution as a whole.^{140/}

CASE 54

At the beginning of the 874th meeting on 18 July 1960, in connexion with the complaint by Cuba (Letter of 11 July 1960), the President (Ecuador), after inviting the representative of Cuba to the Council table, stated:

"Before we begin considering this matter I should also like to say that several members of the Council have already placed their names on the list of speakers and will speak after the Cuban Minister for Foreign Affairs has made his statement.

"In order to expedite the proceedings I intend to give the floor to the members of the Council who have placed their names on the list of speakers and not to call on representatives wishing to exercise the right of reply until after the list has been exhausted."^{141/}

CASE 55

At the 893rd meeting on 8 September 1960, in connexion with the letter of 5 September 1960 from the USSR (Action of the OAS relating to the Dominican Republic), the representative of Venezuela* requested the opportunity to make a statement.

The President (Italy) stated:

"I am aware that the usual practice in the circumstances would be for members of the Council to speak first, but since I have consulted those representatives whose names are inscribed on the list of speakers for today and they are willing to yield, I shall, if I hear no objection from the Council, call upon the representative of Venezuela now."

^{140/} For texts of relevant statements, see: 873rd meeting: President (Ecuador), paras. 226, 229, 232; France, paras. 227, 230; Tunisia, paras. 228, 231.

^{141/} For texts of relevant statements, see: 874th meeting: President (Ecuador), paras. 4, 5.

The representative of Venezuela then made a statement.^{142/}

CASE 56

At the 975th meeting on 16 November 1961, in connexion with the situation in the Republic of the Congo, the President (USSR) stated that it had been proposed that the meeting be adjourned until the next day, when the consecutive interpretation of his remarks would be heard. He added that the request of the Foreign Minister of Belgium* for the floor could not be granted since the Council was postponing the interpretation of the previous statement until the next day.

The representatives of the United Kingdom and France observed that the representative of Belgium had asked to exercise his right of reply, and suggested that he be given an opportunity to do so before the Council decided on its adjournment.

The President then stated:

"I see no reason to depart from the usual procedure of the Council. If the majority of Council members think it necessary to change that procedure, I shall of course bow to that opinion on the part of the majority. And if the members of the Council insist on changing the procedure and giving the floor to the Belgian representative—out of turn, so to speak—I shall of course not object, particularly as he is only asking for two minutes. Let us not argue, then, but let him have the two minutes for which he asks."

The representative of Belgium* expressed his readiness to postpone his statement until the next day.^{143/}

CASE 57

At the 993rd meeting on 15 March 1962, in connexion with the letter of 8 March 1962 from the representative of Cuba concerning the Punta del Este decisions, it was proposed that the consecutive interpretation of a statement made by the representative of the USSR in exercise of his right of reply should be postponed until the next meeting. The President (Venezuela) observed that since the representative of Cuba* had also asked to speak in exercise of the right of reply at that meeting, a right which he could not grant that representative before the interpretation of the Soviet statement, he had no alternative but to request that the consecutive interpretation be given forthwith.

The representative of Chile observed that the order to be followed for the interpretation and the right of reply could not be altered. He suggested adjournment of the meeting, if the representative of Cuba* had no objection, on the understanding that at the next meeting the interpretation of the

^{142/} See also chapter III, Case 12.

For texts of relevant statements, see: 893rd meeting: President (Italy), paras. 27, 71; Venezuela, paras. 72-83.

^{143/} For texts of relevant statements, see: 975th meeting: President (USSR), paras. 118-120, 123, 126; Belgium,* paras. 127-129; France, para. 124; United Kingdom, para. 122.

USSR statement would be heard first, and then the reply of the representative of Cuba.

The representative of Ghana, when moving the adjournment of the meeting, suggested that if there was no objection the President might inquire of the representative of Cuba* whether he agreed with what had been proposed.

The representative of Cuba* agreed to defer the exercise of his right of reply to the next meeting.

The President then adjourned the meeting.^{144/}

CASE 58

At the 1022nd meeting on 23 October 1962, in connexion with the complaints by the representatives of Cuba, the USSR and the United States (22-23 October 1962), after the initial statements by these three representatives, the representative of Ghana suggested that in the absence of objection those representatives who wished to attend a meeting on "this grave situation" with other delegations outside the Council chamber, might leave, and have their deputies remain at the Council table while the consecutive interpretation was being given. He made the suggestion on the assumption that no one else would speak.

The President (USSR) stated that the Council could agree with the suggestion provided that a decision be also taken to resume the meeting next morning at 10.30 a.m.

The representative of the United States requested permission to speak before some representatives left the Council chamber.

The President stated:

"I find myself in some difficulty for I can only call on representatives to speak on a point of order. If the substance of the matter is to be dealt with, we shall have to wait for the interpretation, after which I shall, of course, call on the representative of the United States."

After a further request to speak by the representative of the United States, the President (USSR) observed that the general practice of the Security Council made this request objectionable. He, himself, as representative of the USSR also objected to the granting of this request.

The Council agreed to postpone the consecutive interpretation until its next meeting, and adjourned without the representative of the United States being granted an opportunity to make a further statement.^{145/}

b. Rule 28

CASE 59

At the 848th meeting on 7 September 1959, in connexion with the report by the Secretary-General

^{144/} For texts of relevant statements, see:

⁹⁹3rd meeting: President (Venezuela), paras. 165, 174, 178; Chile, para. 166; Cuba,* para. 176; Ghana, para. 173.

^{145/} For texts of relevant statements, see:

1022nd meeting: President (USSR), paras. 188, 191, 193, 200, 201; France, para. 196; Ghana, paras. 186, 187; United States, paras. 190, 192, 199.

relating to Laos, the President (Italy) stated that he considered that the draft resolution before the Council clearly fell within the scope of Article 29 of the Charter. That Article appeared under the heading of "Procedure"; in consequence, the question was procedural.

After the draft resolution was voted upon the President stated that he considered it adopted.

The representative of the USSR asserted that the President's statement was not in accordance with the Charter-prescribed voting procedure. The draft resolution dealt with a substantive question; a vote had been cast against it by a permanent member of the Council. It could not therefore be regarded as adopted.

The representative of the United States, who concurred with the President's view, added that a further evidence of the procedural nature of the resolution was offered by rules 28 and 33 of the rules of procedure which treated the appointment of a committee and referral of matters to it as procedural.^{146/}

c. Rule 30

CASE 60

At the 989th meeting on 30 January 1962, in connexion with the situation in the Republic of the Congo, the agenda had not yet been adopted when the representative of the United States formally proposed the adjournment of the meeting under rule 33.

After an exchange of views between the President (United Kingdom) and the representative of the USSR concerning the propriety at that stage of a motion to adjourn, the former stated that the rules of procedure of the Council left him no choice but to put to the vote the motion for adjournment.

The representative of the USSR held the ruling of the President to be at variance with the rules of procedure. He continued:

"As he insists on his ruling, I challenge it, and in accordance with rule 30 of the provisional rules of procedure he must give us the floor, since the challenged ruling must be submitted to the Security Council. Every member of the Council should have full opportunity to discuss this matter on the basis of rule 30... With that understanding I shall express my views concerning the President's ruling..."

The President observed:

"I hesitate to interrupt the representative of the Soviet Union once again, but it is quite clear that, under rule 30, if the ruling of the President is challenged, he must submit his ruling for immediate decision. I understand that the representative of the Soviet Union now wishes... to challenge my ruling. I therefore have no option but to put his challenge to the vote."

^{146/} See also chapter V, Case 9.

For texts of relevant statements, see:

848th meeting: President (Italy), paras. 127, 132; USSR, paras. 133-134, 158, 161; United States, paras. 149-150.

The representative of the USSR remarked that rule 30, in the Russian version, read as follows:

"If a representative raises a point of order, the President shall immediately state his ruling. If it is challenged, the President shall submit his ruling for consideration by the Security Council for immediate decision. . . ."

He then inquired:

"If the submission of the ruling is to be 'considered' by the Security Council, how can this be done without the ruling being discussed by the Council? That is incomprehensible. It is therefore my understanding that rule 30 affords full opportunity for a discussion of this question, after which the President will be entitled to call for a vote on his ruling and on the challenge to that ruling."

The President then stated:

"The representative of the Soviet Union has read out the Russian text of rule 30. The English text of rule 30, which governs our present discussion, as well as the French text, make it quite clear that the President is bound, once his ruling has been challenged, to submit the matter for the immediate decision of the Security Council. Accordingly, I now put to the vote the motion made by the representative of the Soviet Union who has contested my ruling. . . ." ^{147/}

Decision: The President put the motion challenging his ruling to the vote. It was rejected by 2 votes in favour to 7 against, with 2 abstentions. ^{148/}

CASE 61

At the 998th meeting on 23 March 1962, in connexion with the letter of 8 March 1962 from the representative of Cuba concerning the Punta del Este decisions, a ruling of the President interpreting rule 35 ^{149/} was challenged by the representative of the USSR. The President (Venezuela) stated that he would put his ruling to the Council for its consideration under rule 30 of the provisional rules of procedure in the following form: "Will those who are in agreement with the Soviet representative's objection please raise their hands?"

The representative of the USSR objected to the President's formulation, declaring that "Since this Organization was founded . . . the practice has always been to put the President's ruling to the vote, and not challenges to such a ruling."

The President agreed with the representative of the USSR:

"According to rule 30 of the provisional rules of procedure, it is the President's ruling which should be voted on, and that is what I shall do. . . . I therefore put to the vote the ruling on rule 35 which has already been stated by the President."

^{147/} For texts of relevant statements, see:

^{989th meeting:} President (United Kingdom), paras. 49, 62, 71, 74; USSR, paras. 52, 56-57, 69-70, 72-75; United States, para. 30. See also Case 74.

^{148/} ^{989th meeting:} para. 74.

^{149/} For the discussion concerning rule 35, see Case 73.

The Council then proceeded to vote on the President's ruling, which was upheld by 7 votes in favour, 2 against, with 2 abstentions. ^{150/}

CASE 62

At the 1016th meeting on 22 June 1962, in connexion with the India-Pakistan question, after the draft resolution submitted by Ireland had been voted upon and rejected, the representative of the United States made a statement concerning the vote. The representative of the USSR, on a point of order, asked the President (France) to use his powers as President of the Council to request the representative of the United States to remain within the item on the agenda.

The President stated that he did not have the power to call the representative of the United States to order, since it was the practice of the Council to allow its members to express their views after a vote had been taken. He appealed, however, to all members of the Council to keep to the subject under discussion.

After the representative of the United States had resumed his statement, the representative of the USSR again raised a point of order, observing that the representative of the United States was discussing the reasons for the vote of the USSR in explanation of his own vote. This, he remarked, was something no one had any right to do. He challenged the ruling of the President in refusing to call the representative of the United States to order, and he requested that it be put to the vote.

The President then stated that the representative of the Soviet Union had challenged the interpretation of the practice of the Council, which he gave. His ruling had been challenged and, hence, in accordance with rule 30, he had to submit this to the vote.

Therefore, he requested those members of the Council who disagreed with his interpretation of the Council's practice to be good enough to signify the same by raising their hands.

The representative of the USSR requested the President to put his ruling to the vote in positive form, as required by rule 30 of the provisional rules of procedure. The ruling had to receive seven votes in favour for it to be upheld.

The President referred to the proceedings at the 330th meeting of the Security Council as a precedent for his formulation. On that occasion the representative of the USSR had contended that the question to be put should be who opposed the President's ruling, and the results of the vote would decide that question. ^{151/}

He would, therefore, put to the vote his challenge to the President's ruling that "there are no rules in the rules of procedure on this question of speakers who take the floor after a vote". He added:

" . . . I see nothing that can oblige me, or that even makes it my duty, to prevent these speakers from taking the floor if they so request.

^{150/} For texts of relevant statements, see:

^{998th meeting:} President (Venezuela), paras. 148, 150-151, 155-156; USSR, paras. 147, 149, 154.

^{151/} S.C., O.R., Third year, No. 93; 330th meeting: page 8.

"This was the interpretation I gave. I shall put this interpretation to the vote. . . . These are the exact provisions of rule 30. That is my decision."

The representative of the USSR stated that in order to put an end to the question, he withdrew his challenge.^{152/}

d. Rule 31

CASE 63

At the 942nd meeting on 20/21 February 1961, in connexion with the situation in the Republic of the Congo, the President (United Kingdom) proposed to put to the vote an amendment to a draft resolution proposed verbally by the representative of the United States.

The representative of the USSR observed that he had the right, like other members of the Council, to receive the written text of any amendment or resolution. However, since the President had directed that a vote be taken, in violation of the rules of procedure, he wished to know on what the vote was to be taken.

The President in his reply stated:

" . . . I do not think I am in breach of the provisional rules of procedure. . . . There have been a number of instances where amendments have been made which were not in writing and which were accepted."

After reading the text of the amended paragraph once more and stating wherein the amendment consisted, the President put the United States amendment to the vote.^{153/}

CASE 64

At the 966th meeting on 29 July 1961, in connexion with the complaint by Tunisia, before the Council proceeded to vote on the draft resolutions before it the representative of the USSR asked the representative of Turkey whether he would accept the addition, as a result of the discussion, of two amendments to operative paragraphs 1 and 2 of his draft resolution (S/4905). The representative of Turkey was not, however, prepared to accept any amendments at that stage.

The representative of the USSR thereupon declared that he formally submitted the amendments on behalf of his delegation. He added:

"Since they are very simple, I think there is no need for me to submit a written text. If, however, you wish me to submit a written text, I am prepared to do so."

The President (Ecuador) informed the representative of the USSR that the formal proposals he had made would be duly taken into account when the vote was taken.

^{152/} For texts of relevant statements, see:

1016th meeting: President (France), paras. 106, 107, 119, 120, 134, 141, 142; USSR, paras. 102, 104; United States, paras. 94-98, 114-116, 128, 129, 143.

^{153/} For texts of relevant statements, see:

942nd meeting: President (United Kingdom), paras. 167-168, 171-172, 175; USSR, paras. 170, 174; United States, paras. 128, 169.

When the vote was being taken, the President put to the vote the two amendments submitted orally by the representative of the USSR.^{154/}

e. Rule 32

CASE 65

At the 998th meeting on 23 March 1962, in connexion with the letter of 8 March 1962 from the representative of Cuba concerning the Punta del Este decisions, the representative of Ghana requested a separate vote on the third paragraph of a draft resolution submitted by Cuba* and sponsored by the representative of the USSR, in accordance with rule 38.

The representative of the UAR suggested that the President ask whether the mover of the question was agreeable to having a separate vote. The President (Venezuela), noting the provisions of the second paragraph of rule 32 and the fact that it was the USSR delegation that had requested that the Cuban draft resolution be put to the vote, asked the representative of the USSR whether he had any objection to the separate vote requested by the representative of Ghana.

The representative of the USSR was unable to find anything in the rules which would end the participation of an invited representative at the time when the Council started voting.^{155/} The fact that he had requested that the draft resolution be put to the vote did not make him its sponsor; nor did it make him responsible and accountable in respect of all questions which related to the text of the resolution or the procedure for voting upon it.

The President submitted the question to the Council. Several representatives expressed agreement with the President's interpretation of the rules of procedure, but took the position that out of courtesy to the representative of Cuba, and as an exceptional measure, not setting a precedent, he should be given the opportunity to express himself on the matter.

The President stated:

"I should like to thank the representatives who have expressed their views on this question of procedure. Since there are no objections as an exception and with the reservations which I have already formulated, I shall call upon the representative of Cuba to say whether, in accordance with the provisions of rule 32 of the provisional rules of procedure, he agrees to a separate vote on paragraph 3 of his draft resolution, as proposed by the representative of Ghana."

The representative of Cuba agreed to the request, and paragraph 3 of the draft resolution was put to the vote separately.^{156/}

^{154/} For texts of relevant statements, see:

966th meeting: President (Ecuador), paras. 63, 66; Turkey, para. 61; USSR, paras. 59, 62.

^{155/} See also: chapter III, Case 1.

^{156/} For texts of relevant statements, see:

998th meeting: President (Venezuela), paras. 85-86, 91-92, 97, 102, 108, 113; Chile, paras. 105, 106; France, paras. 98, 99; Ghana, para. 78, 80; Ireland, para. 101; USSR, paras. 88-89, 94-95; United Arab Republic, paras. 83, 103, 112; United Kingdom, para. 100.

f. Rule 33

CASE 66

At the 897th meeting on 10 September 1960, in connexion with the situation in the Republic of the Congo, the representative of Tunisia proposed, in accordance with rule 33, sub-paragraph 3, of the provisional rules of procedure, that the Council adjourn until 3 p.m. on 12 September.

Following the adoption of the motion, the President (Italy) made a statement in his capacity as President of the Council. He said he was making the statement in consideration of the decision to adjourn the meeting and of the responsibility assumed by the Council in postponing its deliberations. He was certain that he interpreted the consensus of opinion of the members of the Council in making the statement.

The representative of the USSR thereupon expressed the position of his delegation in connexion with the statement by the President. The latter then declared the meeting adjourned.

The representative of Poland having asked for the floor, the President reminded the members of the Council that the meeting was adjourned. The representative of Poland asked whether he might explain the position of his delegation in connexion with the statement made by the President.

The President stated:

"If there is no objection, I will grant that right to the representative of Poland. I hear no objection, and I give the floor to the representative of Poland."

The representative of Poland made his observations, following which the President made another brief statement before closing the meeting.^{157/}

CASE 67

At the 898th meeting on 12 September 1960, in connexion with the situation in the Republic of the Congo, before the adoption of the agenda, the representative of the United States formally proposed a simple adjournment of the meeting under rule 33, sub-paragraph 2, of the provisional rules of procedure.

After the proposal had been adopted, the representative of the USSR formally moved that the Council meet again at 8.30 in the evening.

On a point of order the representative of the United States contended that with the adoption of his motion the meeting had adjourned; a further proposal such as that of the representative of the USSR was out of order.

The representative of the USSR replied that since the President had not adjourned the meeting, it was therefore still in progress; he requested that his formal motion be put to the vote.

The representative of the United States took the following position:

^{157/} For texts of relevant statements, see:

897th meeting: President (Italy), paras. 80, 82-85, 88, 90, 92, 96-97; Poland, paras. 89, 91, 93-95; Tunisia, para. 79; USSR, paras. 81, 86-87.

"Upon adoption of the motion to adjourn, no further motions are in order. When a motion to adjourn has been adopted under rule 33, sub-paragraph 2, the Council... can be called into session again by the President—not as a result of a motion made during the same meeting at which the motion of adjournment was adopted."

The President (Italy) stated that the procedural position was as follows:

"The Council has adopted a motion for adjournment, and therefore the Council must consider itself adjourned. I do not think that any further motion can be submitted after the motion for adjournment has been adopted. Therefore, my ruling is that the meeting is adjourned. I am sure that the representative of the Soviet Union can convey his wishes through the normal channels, those channels being either the Secretariat or the President of the Security Council, and that they will be considered in the light of the circumstances.

"I therefore consider the meeting adjourned."^{158/}

CASE 68

At the 989th meeting on 30 January 1962, in connexion with the situation in the Republic of the Congo, before the adoption of the agenda, the representative of the United States, speaking on a point of order, formally moved the adjournment of the meeting under rule 33:

The President (United Kingdom) stated:

"The representative of the United States has... moved the simple adjournment of the meeting. This is covered by rule 33 of the provisional rules of procedure, and I am bound by those rules to put the motion to the vote without further debate."

The representative of the Soviet Union asked to speak on a point of order, and the President gave him the floor on the understanding that his remarks would be strictly limited to the question of the vote. The representative of the USSR began to speak on the adoption of the agenda, and was interrupted twice by the President on the ground that his remarks were not within the President's ruling.

When the President indicated that he would put to the vote the motion before the Council, the representative of the USSR again asked to speak on a point of order. Citing rule 9 in chapter II of the rules of procedure he said:

"Thus we should have proceeded to the adoption of the agenda.

"The United States representative, however, has submitted a proposal on the basis of rule 33. That rule relates to the stage of the Council's work when the agenda has already been adopted, for chapter VI comes after chapter II, and it is not until chapter VI that the conduct of the business is dealt with. We have not, however, reached the

^{158/} For texts of relevant statements, see:

898th meeting: President (Italy), paras. 9, 25-26; USSR, paras. 16, 22; United States, paras. 8, 13, 19, 24.

stage of conducting our business, for we have not yet discussed the agenda. Hence the President's ruling that we should proceed in accordance with rule 33 and not discuss the United States representative's proposal is contrary to the rules of procedure. That is why I say that the President has acted incorrectly as regards both substance and procedure, and we have every justification for discussing the agenda first. Afterwards, the United States representative or anyone else may move the adjournment of the meeting—they are entitled to do so—but that is not supposed to be done before the adoption of the agenda."

The President stated:

"Rule 9 of the provisional rules of procedure... relates to the drawing up of the agenda. Rule 33, on the other hand, appears in that portion of the rules which govern the conduct of business, and is the governing rule for present purposes. My ruling is that the motion to adjourn, of the representative of the United States, which was made under rule 33, must be put to the vote without delay."

The representative of the USSR drew attention to the exact text of rule 33 and stated:

"This means principal motions and draft resolutions submitted in the course of a meeting which has already opened and adopted its agenda.

"The President wishes to apply this rule 33 to our preliminary exchange of views on the agenda at a stage when the agenda has not yet been adopted and when, of course, there are not and cannot be any principal motions or draft resolutions inasmuch as the substance of the item has not been discussed. Is it not clear that the President is violating the rules of procedure and seeking to apply rule 33 to the situation which we have here at this meeting although the meeting has not yet formally begun and there is still no agenda? He is seeking to apply a rule that relates to a meeting which has already approved its agenda and at which principal motions and draft resolutions can be submitted."^{159/}

The representative of the USSR, having challenged the President's ruling, asked the challenge to be put to the vote.

Decision: *The challenge was rejected*^{160/} *by 2 votes in favour to 7 against, with 2 abstentions.*^{161/}

CASE 69

At the 913th meeting on 7 December 1960, in connexion with the situation in the Republic of the Congo, the representative of Argentina moved formally, under rule 33, para. 3, of the rules of procedure, that the meeting be adjourned and resumed the following day at 3 p.m. He added that his motion should be put to the vote without debate.

^{159/} See chapter II, Part III, footnote 25 e.

^{160/} 989th meeting; para. 74. In connexion with the challenge to the President's ruling, see also Case 60.

^{161/} For texts of relevant statements, see: 989th meeting: President (United Kingdom), paras. 31, 62, 75; USSR, paras. 56-57, 63-64, 69; United States, para. 30.

The President (USSR) asked the representative of Argentina whether he insisted on having his proposal put to the vote immediately or whether the Council could discuss his proposal and perhaps other proposals concerning the further proceedings of the Council.

The representative of Argentina felt that discussion of his proposal would violate the rules of procedure, and therefore requested the President to put his motion to the vote without further delay and without giving the floor to any other speaker.

The representative of Poland, speaking on a point of order, said:

"the motion under rule 33, sub-paragraph 3, 'to adjourn the meeting to a certain day or hour' is subject to debate. The last paragraph of rule 33 reads: 'Any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate.' But this concerns only two sub-paragraphs of rule 33. Now, as I understand it, the representative of Argentina made his motion under sub-paragraph 3, which is debatable".

The President stated:

"I am bound to point out that the Polish representative's reminder regarding the last paragraph of rule 33 of the Provisional Rules of Procedure, which makes it perfectly clear that 'any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate', is entirely correct. Since what is being proposed is the adjournment of the meeting and the convening of a new meeting at a specific date and hour, then, in accordance with the provisions of rule 33, the debate is now open."^{162/}

A debate on the substance of the motion followed.

CASE 70

At the 979th meeting on 21 November 1961, in connexion with the situation in the Republic of the Congo, the representative of the United States indicated that failing agreement on certain proposals before the Council it might be better to adjourn. After further discussion he moved adjournment under the "last paragraph" of rule 33. The President thought there should be a decision concerning the time for resumption of the debate and declared that there was a proposal to meet again the same day at 8.30 p.m. The representative of the United States observed that it was not necessary to fix the time of the next meeting then and suggested that the President put to the vote his motion for adjournment *sine die*.

The representative of Liberia invoking rule 33, paragraph 3, then proposed that the Council adjourn to meet again on 24 November.

When the President invited discussion of the Liberian proposal, the representative of Ecuador stated that since the United States motion was made under rule 33, paragraph 2, and the Liberian motion under rule 33, paragraph 3, the former had precedence. Only if

^{162/} For texts of relevant statements, see:

913th meeting: President (USSR), paras. 68, 70, 75; Argentina, paras. 66, 67, 71; Poland, para. 73.

the United States motion were rejected would the motion of the representative of Liberia be considered.

The representative of the United States thought the interpretation of the representative of Ecuador correct. However, he welcomed and accepted the Liberian proposal.

The President (USSR) invited discussion on the matter, since motions under rule 33, paragraph 3, might be debated.

The President then declared that in the absence of objection he would adjourn the meeting and hold the next one on 24 November 1961.

Before adjourning the meeting the President drew attention to comments relating to a matter other than the one on the agenda. After some discussion concerning the best time to meet, the President announced that he would convene the Council the following day. The meeting then rose.^{163/}

CASE 71

At the 982nd meeting on 24 November 1961, in connexion with the situation in the Republic of the Congo, following the vote on several amendments to a draft resolution before the Council, the representative of the United States moved under rule 33 to suspend the meeting for ten minutes before the vote on the draft resolution, as amended.

The representative of Liberia stated his understanding of the rules of procedure to be that once a vote had commenced it could not be interrupted except in respect of the conduct of voting. If the object of the suspension was to secure unanimity he could perhaps concede the request of the representative of the United States but he much preferred to proceed with the vote. The representative of the United States asked for such a concession by the representative of Liberia.

The President (USSR) stated:

"Under the provisional rules of procedure I am supposed to continue the voting, since it has already begun. If any member insists on a suspension of the meeting, I shall have to put his motion to the vote, but the rules of procedure do not allow for the suspension of meetings during the voting. If no one insists on suspension, we shall proceed to vote on the draft resolution."

The representative of the United States insisted that his motion for suspension of the meeting be put to the vote, and the motion was adopted by 9 votes in favour to 1 against, with one abstention.^{164/}

The meeting was suspended for 15 minutes.

^{163/} For texts of relevant statements, see:

979th meeting: President (USSR), paras. 57, 60, 65, 67, 73, 74, 79; Ecuador, paras. 61-63; Liberia, para. 59; United States, paras. 53, 56, 58, 66.

^{164/} For texts of relevant statements, see:

982nd meeting: President (USSR), paras. 88, 92, 94; Liberia, para. 90; United States, paras. 87, 91, 93.

Rule 35

CASE 72

At the 863rd meeting on 27 May 1960, in connexion with the letter of 23 May 1960 from the representatives of Argentina, Ceylon, Ecuador and Tunisia, before the Council took a vote on amendments submitted by the USSR^{165/} and on a revised four-Power draft resolution^{166/} the President (Ceylon) stated:

"Before proceeding, I would advise the Council that I have been informed that the Soviet Union does not wish to press its third amendment to the vote, and we may therefore consider that the amendment in paragraph 3 of document S/4326 is withdrawn."

The representative of the USSR noted that his delegation had in fact agreed not to press for a vote on its third amendment, but this did not mean its withdrawal. The rules of procedure provided that a proposal did not have to be pressed to a vote if a delegation did not insist on it, but this did not mean that the proposal was withdrawn.

The President stated his agreement with the interpretation of the representative of the USSR.^{167/}

CASE 73

At the 998th meeting on 23 March 1962, in connexion with the letter of 8 March 1962 from the representative of Cuba concerning the Punta del Este decisions, following rejection by the Council of operative paragraph 3 of a draft resolution^{168/} sponsored by Cuba and put to the vote at the request of the USSR, the representatives of Cuba and the USSR indicated that they did not wish to press the remainder of the draft resolution to a vote.^{169/}

The representative of the United States objected to the withdrawal of the draft resolution and stated that the rules of procedure were very clear:

"Rule 35 says that a motion or draft resolution can at any time be withdrawn, so long as no vote has been taken with respect to it. A vote has been taken with respect to it. Therefore, the draft resolution can no longer be withdrawn and I move that it be put to a vote, as a whole, forthwith."

The representative of the USSR contended that the first paragraph of rule 35 applied to the withdrawal of a draft resolution on which a vote had been taken and not to withdrawal of a draft resolution following a vote as a result of which no part of the draft resolution had yet been adopted. He stated:

"If at the beginning of the vote the Cuban representative, or anyone else, had said: 'I wish to interrupt the conduct of the voting because I want to withdraw the draft resolution and not put any part of it to the vote', that situation would indeed have fallen under the provision of the first paragraph of

^{165/} S/4326, O.R., 15th year, Suppl. for April-June 1960, pp. 18-19.

^{166/} S/4323, *ibid.*, pp. 13-14.

^{167/} For texts of relevant statements, see:

863rd meeting: President (Ceylon), paras. 43, 46; USSR, para. 45.

^{168/} S/5095, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 96-97.

^{169/} See also chapter III, Case 6.

rule 35, and the United States representative would have been justified in his anxiety on this occasion to ensure that the legality of our United Nations procedures should prevail.

"The situation, however, is different; this situation is not covered by the first paragraph of rule 35."

Asserting that the objection to withdrawal was unprecedented, he added that it would be the first attempt in the history of the United Nations to put to the vote a draft resolution against the will of its sponsor while certain provisions by which the sponsor set great store had been rejected, and the remaining part of the draft resolution was in a form unacceptable to the sponsor.

The President (Venezuela) stated:

"According to the very explicit terms of the first paragraph of rule 35, that time [i.e., when the right of withdrawal may be exercised] has already expired because a vote has already been taken on the draft resolution and rule 35 states quite clearly

that a motion or draft resolution can be withdrawn at any time, as long as no vote has been taken on it.

"Consequently, since a vote has already been taken with respect to the draft resolution and since one of its paragraphs has been voted on and rejected, the President considers that at this point no one is entitled to withdraw the draft resolution. I shall therefore put the rest of the draft resolution to the vote."

The representative of the USSR challenged the ruling of the President on the ground that the first paragraph of rule 35 related to a motion or draft resolution as a whole, and not to parts of any proposal^{170/}

Decision: The ruling of the President was put to the vote and upheld by 7 votes in favour to 2 against, with 2 abstentions.^{171/}

^{170/} For texts of relevant statements, see:

^{998th meeting:} President (Venezuela), paras. 142-145; Cuba*, para. 123; USSR, paras. 129-131, 136, 147, 149; United States, paras. 124-125.

^{171/} 998th meeting: para. 156.

Part VI

VOTING (RULE 40)

NOTE

Rule 40 of the provisional rules of procedure contains no detailed provisions concerning the mechanics of the vote or the majorities by which the various decisions of the Council should be taken. It simply provides that voting in the Council shall conform to the relevant Articles of the Charter and of the Statute of the International Court of Justice. Material concerning the majorities by which the decisions of the Council should be taken will be found in chapter IV: Voting. Material concerning certain aspects of the mechanics of voting has already been presented elsewhere in this chapter.

As previously in the *Repertoire*, part VI concerns that aspect of the mechanics of voting that concerns the recording of votes. An occasion on which attention was drawn by a non-member of the Council to the necessity of fully counting the votes is to be found in Case 76. Another case, perhaps not strictly involving the mechanics of voting, turns on the question of whether in the absence of formal objection a procedural proposal is to be submitted to the Council for decision by vote or may be regarded by the President as approved in the absence of such formal objection (Case 74). The remaining cases in part VI throw light on other aspects of the practice of the Council relating to the taking of decisions without votes.

On certain occasions^{172/} members of the Council have referred to a rule—which does not appear in the provisional rules of procedure of the Council but in

the rules of the General Assembly—under which once voting is in progress it may not be interrupted except for reasons relating to the actual conduct of the voting.

On certain other occasions,^{172a/} members of the Council have been recorded, as in the past, as not participating in the vote on resolutions declared to have been adopted.

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULE 40

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULE 40¹

CASE 74

At the 899th meeting on 14 September 1960, in connexion with the situation in the Republic of the Congo, the President (Italy) drew the Council's attention to the request for the floor made by the representative of Guinea, a non-member of the Council who had been invited to participate in the discussion.

At the 900th meeting, held on the same day, the President stated that since there was a divergence of opinions on the question he had no choice but to put it to a vote and ask those in favour of the request made by the representative of Guinea so to signify.

^{172a/} 868th meeting: para. 52 (Argentina); 962nd meeting: para. 58 (France); 971st meeting: para. 70 (China); 998th meeting: para. 158 (Ghana).

^{172/} See Cases 53 and 71.

The representative of the USSR observed:

"... if someone is proposing that the representative of Guinea should not be allowed to speak, we should like it to be indicated who has made such a proposal, and then we can proceed to a vote. But if there is no proposal to refuse him the right to speak, it follows that there are no objections and that the President may allow him to do so without opposition from the members of the Security Council."

The President replied:

"... I am bound from the Chair to take a decision on the next course to take, and the next course for me is to take under advice the request of the representative of Guinea to speak. Therefore, the formulation of the vote to be taken, as I put it before, responds, in the opinion of the Chair, to the present status of the situation, the formulation being: those who are in favour of this request of the representative of Guinea, please raise their hands."

The representative of the USSR stated:

"Under the rules of procedure, all those invited to take part in meetings of the Security Council have the right to speak on any question... This means that if the representative of Guinea has asked to speak, then, according to the rules of procedure, the President must allow him to do so..."

"But the President says that the representatives of some States—the United Kingdom, the United States and France—have expressed objections. I agree they have expressed their opinion, but they are not requesting a vote on a proposal that the representative of Guinea should not be allowed to speak..."

"..."

"In these circumstances it seems to me that it is the President's simple duty to observe the rules of procedure and not to try and create new rules. Under the rules of procedure someone has asked him for permission to make a statement; no one has made a formal proposal that such permission should not be granted; hence he is obliged to grant it, since no formal objections have been raised."

The representative of China remarked that the President could have settled the discussion by a ruling from the Chair. However, he had a perfect right to put the matter to the vote, as he proposed to do.

The President commented further:

"In proceeding to a vote, I have to be guided by the character of the question as governed by the actual circumstances, which is a request by the representative of the Republic of Guinea to be given the floor now."

"I would add that in listening to all the various opinions, I never heard the word 'formally' but once, which was from the representative of the Soviet Union who stated... that his delegation

'formally requests that the representative of the Republic of Guinea should be invited to speak on the question now before us.'" [899th meeting, para. 67.]

"I feel, therefore, that the representative of the Soviet Union should not take offence if I translate this formal request of his in the following way to the members in proceeding to a vote: Those in favour of the request of the representative of the Republic of Guinea to speak at the present juncture, please raise their hands. That is my ruling and I will now proceed to the vote."^{173/}

Decision: The result of the vote was 4 in favour, 5 against, and 2 abstentions. The motion was not adopted.^{174/}

CASE 75

At the 958th meeting on 5 July 1961, in connexion with the Complaints by Kuwait and by Iraq, the Security Council considered a request by Kuwait^{175/} to participate in the proceedings.

The representative of the USSR held that Kuwait could not be considered as properly a sovereign State; the Council should therefore not invite the Kuwait delegation to the Council table.

The President (Ecuador) stated his understanding of the opposition expressed by the representative of the USSR as simply a denial of his support to the proposal to invite the representative of Kuwait, and declared:

"As there is no objection to the request... I consider that the request for the representative of Kuwait to take a place at the Council table has been granted."

The representative of the USSR then remarked:

"Is it your interpretation, Mr. President, that all the members of the Council are voting in favour of inviting the representative of Kuwait except for the representative of the Soviet Union, who has expressed his opinion in this matter? If so, we shall, of course, regard this as being on the record unless there are any objections."

The President stated:

"The representative of the Soviet Union made a statement which he and all of us here considered to be sufficiently clear. At my request, he then repeated his opinion, which has been recorded. I therefore consider that all the members of the Council, with the exception of the representative of the Soviet Union, agree that the representative

^{173/} For texts of relevant statements, see:

899th meeting: President (Italy), paras. 39, 45; Ceylon, paras. 51, 53; France, paras. 55-56; Poland, paras. 42-43; USSR, paras. 65-67; United Kingdom, paras. 40-41; United States, paras. 48-49.

900th meeting: President (Italy), paras. 9, 12, 14-15, 20-22, 35-38; Ceylon, paras. 6-7; China, paras. 32-34; Poland, paras. 16-17; USSR, paras. 10-11, 13, 18-19, 23-31; United Kingdom, paras. 2-4.

^{174/} 900th meeting: para. 38.

^{175/} S/4851, O.R., 16th year, Suppl. for July-Sept. 1961, p. 4.

of Kuwait should be invited to take a place at the Council table.^{176/}

At the invitation of the President, the representative of Kuwait took a place at the Council table.^{177/}

CASE 76

At the 962nd meeting on 22 July 1961, in connexion with the complaint by Tunisia, when the Council was about to proceed to the vote on a draft resolution^{178/} submitted by Liberia, the representative of France declared that his delegation would abstain and added a statement of the reasons.

The President (Ecuador) stated:

"I have taken note of the French representative's statement. If there is no objection from other members of the Council, I shall consider that the draft resolution would be approved on the conditions already explained, that is, taking note of the statement made by the representative of France."

The representative of Tunisia observed:

"Since I am not entitled to participate in the vote I do not intend to intervene on this point. I should merely like to point out to the President... that it might be advisable to hold a formal vote and to count the votes."^{179/}

Decision: The Liberian draft resolution was voted upon and adopted by 10 votes in favour and none against. France did not participate in the voting.^{180/}

^{176/} For texts of relevant statements see: President (Ecuador), paras. 14, 17, 19, 21; USSR, paras. 15-16, 18, 20.

^{177/} 958th meeting, para. 21.

^{178/} S/4880, 962nd meeting, para. 43.

^{179/} For texts of relevant statements, see: 962nd meeting: President (Ecuador), paras. 56, 58; France, para. 55; Tunisia, para. 57.

^{180/} 962nd meeting: para. 58.

CASE 77

At the 968th meeting on 26 September 1961, in connexion with the admission of new Members, the Security Council voted upon proposals to change the order of sub-items of the provisional agenda, which included, in that order, the applications of Mauritania, Outer Mongolia and Sierra Leone. After the Council had decided that sub-item (c), dealing with the application of Sierra Leone, should become sub-item (a), the Council voted upon and rejected a proposal that sub-item (b), relating to the application of Outer Mongolia, should remain in the second place on the provisional agenda. Instead it adopted a proposal that the application of Mauritania should come second.

The President (Liberia) then proposed to put to the vote the agenda as a whole.

The representative of the USSR suggested that the question remained to be decided whether the application of Outer Mongolia was to be included in the agenda at all.

The President observed that in the absence of objection to the inclusion of the application of Outer Mongolia in the agenda, no vote was needed. That was why he had proposed a vote on the agenda as a whole. However, if the Council considered that the agenda had been adopted as a whole he would so rule.

The representative of the USSR stated that if it was understood by all members of the Council that the application of Outer Mongolia was included in the agenda, he would agree with the President's ruling.

The President thereupon stated that since there had been no objection to the inclusion of the application of Outer Mongolia in the agenda, he declared the agenda, as amended, adopted.^{181/}

^{181/} For texts of relevant statements, see:

968th meeting: President (Liberia), paras. 63-68, 70, 73-74, 76, 78; USSR, paras. 69, 71-72, 75, 77.

Part VII

LANGUAGES (RULES 41-47)

NOTE

During the period under review, Rules 42-43 regarding interpretation into the working languages (English and French) have been generally applied. On certain occasions consecutive interpretation was either waived or postponed as an exceptional measure in order to expedite discussion or lighten the heavy work schedule at the time. Case 78 is an illustration of an exception to rule 43, when the consecutive interpretation into both working languages was dispensed with. Other instances of waiver of interpretation required by rule 42 and rule 43, are collected in a footnote to that case. An instance of postponement of interpretation is reported in case 79. References to other cases of postponement will be found in a footnote to case 79.

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 41-47

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 41-47

Rules 42-43

CASE 78

At the 946th meeting on 15 March 1961, in connexion with the situation in Angola, the President (United States) inquired whether in view of the late hour and the desirability of reaching a vote at that meeting, the representative of the USSR would consider waiving the interpretation of his statement into English and French.

The representative of the USSR stated that he would agree to this procedure as an exception.

It was so decided.^{182/}

^{182/} 946th meeting, paras. 152-154. At the same meeting, the President inquired of the representative of Liberia whether he would forego the interpretation of his remarks. There was no objection and it was so decided, paras. 163-165. Similar decisions related to either rule 42 or 43 were taken by the Council at the 956th meeting, paras. 135-137; 971st meeting, paras. 152-153; 982nd meeting, paras. 156-157; 998th meeting, paras. 56-57, 71-72, 96, 107, 120, 168; 1016th meeting, paras. 177-179; 1036th meeting, paras. 142, 149; 1045th meeting, paras. 97, 105; 1052nd meeting, para. 84; 1054th meeting, paras. 59, 95-96, 108-109; 1056th meeting, para. 12; 1068th meeting, para. 81; 1076th meeting, para. 58; 1078th meeting, paras. 131, 136; 1082nd meeting, paras. 71-72; 1083rd meeting, paras. 56-57, 81-82, 110-111, 122-123, 134-135, 155.

CASE 79

At the 894th meeting on 9 September 1960, in connexion with the letter of 5 September 1960 from the USSR (Action of the OAS relating to the Dominican Republic), the President (Italy) stated that, in view of the late hour and since other members of the Council had expressed a desire for adjournment, the interpretation into the French language of the statement made by the representative of the USSR would be postponed until the next meeting.^{183/}

^{183/} 894th meeting, para. 77. Similar decisions related to rule 43 were taken by the Council at the 994th meeting, para. 79; 1022nd meeting, para. 197; and 1028th meeting, para. 145.

Part VIII

**PUBLICITY OF MEETINGS, RECORDS (RULES 48-57)

Part IX

**APPENDIX TO PROVISIONAL RULES OF PROCEDURE