

Chapter III

PARTICIPATION IN THE PROCEEDINGS OF THE SECURITY COUNCIL

CONTENTS

	<i>Page</i>
INTRODUCTORY NOTE	45
 PART I. BASIS OF INVITATIONS TO PARTICIPATE	
Note	45
A. In the case of persons invited in an individual capacity	46
** B. In the case of representatives of United Nations organs or subsidiary organs	47
C. In the case of Members of the United Nations	
1. Invitation when the Member brought to the attention of the Security Council	
(a) A matter in accordance with Article 35, paragraph 1 of the Charter	47
** (b) A matter not being either a dispute or a situation	49
2. Invitations when the interests of a Member were considered specially affected	
(a) To participate without vote in the discussions	49
** (b) To submit written statements	51
3. Invitations denied	51
D. In the case of non-member States and other invitations	
1. Invitations expressly under Article 32	51
2. Invitations expressly under rule 39 of the provisional rules of procedure	52
3. Invitations not expressly under Article 32 or rule 39	53
** 4. Invitations denied	53
 ** PART II. CONSIDERATION OF THE TERMS AND PROVISIONS OF ARTICLE 32 OF THE CHARTER	 54
 PART III. PROCEDURES RELATING TO PARTICIPATION OF INVITED REPRESENTATIVES	
Note	54
A. The stage at which invited States are heard	54
** B. The duration of participation	55
C. Limitations of a procedural nature	
1. Concerning the order in which the representatives are called upon to speak	55
2. Concerning the raising of points of order by invited representatives	55
3. Concerning the submission of proposals or draft resolutions by invited representatives	56
D. Limitations on matters to be discussed by invited representatives	
** 1. Adoption of the agenda	57
** 2. Extension of invitations	57
3. Postponement of consideration of a question	57
4. Other matters	57
E. Effect of the extension of invitations	58

INTRODUCTORY NOTE

As indicated previously in the *Repertoire*, Articles 31 and 32 of the Charter and rules 37 and 39 of the provisional rules of procedure provide for invitations to non-members of the Security Council in the following circumstances: (1) where a Member of the United Nations brings a dispute or a situation to the attention of the Security Council in accordance with Article 35, paragraph 1 (rule 37); (2) where a Member of the United Nations or a State which is not a Member of the United Nations is a party to a dispute (Article 32); (3) where the interests of a Member of the United Nations are specially affected (Article 31 and rule 37); and (4) where members of the Secretariat or other persons are invited to supply information or give other assistance (rule 39). Of these four categories, only category (2) involves an obligation of the Council. In extending invitations, the Council, as earlier, has made no distinction between a complaint involving a dispute within the meaning of Article 32, or a situation, or a matter not of such nature.

The classification of material relevant to participation in the proceedings of the Security Council is designed to facilitate the presentation of the varieties of

practice to which the Council has had recourse, adhering where possible to a classification based on Articles 31 and 32 of the Charter and rules 37 and 39 of the provisional rules of procedure. The reasons why the material cannot be satisfactorily arranged within a classification derived directly from the texts of these Articles and rules of procedure have been set forth in the *Repertoire, 1946-1951*.

The relevant material is assembled under parts I and III of the present chapter. During the period under review there has been no discussion of the terms and provisions of Article 32; consequently, there are no entries in part II.

Part I includes a summary account of the proceedings of the Council in the consideration of those proposals to extend an invitation to participate in the discussion where objections or other questions were raised with special emphasis on consideration of the basis on which the invitation might be deemed to rest. Included also in this part is a tabulation of invitations extended by the Council.

Part III presents a summary account of procedures relating to the participation of invited representatives after the Council had decided to extend invitations.

Part I

BASIS OF INVITATIONS TO PARTICIPATE

NOTE

Part I includes all instances in which proposals to extend invitations to participate in the discussion have been put forward in the Security Council. The types and varieties of practice to which the Council has had recourse in connexion with the extension of invitations are dealt with in three sections: section A: Invitations to persons invited in an individual capacity;¹ section C: Invitations to Members of the United Nations;² section D: invitations to non-member States and other invitations. Presented in case histories are those instances in which special problems arose regarding a request for an invitation to participate in the proceedings of the Council. In each case history the general features of the proceedings together with the decision of the Council and the main positions taken in the course of the debate are outlined.

In most instances in which Member States submitting matters to the Council in accordance with Article 35, paragraph 1 have asked to participate in the deliberations of the Council, the invitations have been extended as a matter of course and without discussion. This has been true also of invitations under Article 31 to Members of the United Nations to participate in the discussion of a question when their interests were considered by the Council to be specially affected.

Of the fifty-eight instances in which routine invitations have been extended forty-seven have been recorded in tabular form in section C.1 (a), whereas the other eleven appear in section C.2 (a). As indicated in the previous volume, the tabulation is chronologically arranged to provide information on the following points: (1) agenda item; (2) State invited; (3) request for invitation; and (4) decision of the Council. Two of the three case histories following the tabulation are concerned with the question of extending invitations to States whose interests were claimed to be specially affected by the situation under consideration. In one instance questions were raised as to whether a State requesting an invitation had established to the satisfaction of the Council that its interests had been affected by the item under discussion.³ In the second case it was contended that the question under consideration was of such scope as to affect the interests of two neighbouring States which, although they had not requested invitations, should be invited to participate in the Council's deliberations.⁴ The third case presents an instance in which a request to extend an invitation to an individual in a personal capacity had not been accepted by the Council.⁵

In section D are reported proceedings involving the extension of an invitation to non-member States of the

¹ See Case 1.

² See tabulations C.1 (a), C.2 (a).

³ Case 2.

⁴ Case 3.

⁵ Case 4.

United Nations as well as other invitations. In the first of the three cases presented,⁶ the invitation was extended expressly under Article 32 of the Charter while in the second case,⁷ although reference had been made to Article 32, it was not specified whether the invitation had been extended expressly under Article 32. In the third case, an invitation was extended expressly under rule 39 of the provisional rules of procedure.^{7a}

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

CASE 1

At the 1207th meeting on 13 May 1965, in connexion with the situation in the Dominican Republic, the representative of the USSR called attention to a telegram dated 13 May from Mr. Jottin Cury, "Minister for Foreign Affairs of the Dominican Republic, who states therein . . . that the Constitutional Government of the Dominican Republic has appointed Mr. Ruben Brache as Permanent Representative of that country in the United Nations" and requesting that Mr. Brache be accepted in that capacity by the Security Council. Since the telegram had a direct bearing on the question on the agenda, the representative of the USSR requested the President to provide the necessary explanations to the Council on the matter.

The President (Malaysia) drawing attention to the provisions of rules 14 and 15 of the provisional rules of procedure explained that the problem in his view was essentially a matter of credentials and that prior to the meeting he had indicated to Mr. Brache, that he should have his credentials approved and be accepted as permanent representative of the Dominican Republic, after which he would have the right to participate in the Council's proceedings.⁸

The representative of France wondered whether the situation was as had been described by the President and contended that under rule 16 of the provisional rules of procedure, the question of recognition of the validity of credentials did not necessarily have to be decided upon before the representative concerned had been invited to participate in the debate. He suggested that the question with which the Council should concern itself was not whether Mr. Brache's credentials were valid for the purpose of accrediting him in the capacity of permanent representative, but simply whether the Council wished that he should be seated at its table to supply information.

The President, disagreeing with the applicability of rule 16 to the present case, then suggested that rule 39 might be applicable although he himself had doubts having regard to the contents of the telegram which requested that Mr. Brache be received in his capacity as the permanent representative of the Dominican Republic.

The representative of the United States cautioned the Council against taking any action under rule 39 at that stage. He recalled that the situation in the Dominican Republic remained confused and that to embroil the Council in a "long and tendentious" discussion as to who was the representative of the Dominican Republic could hardly contribute constructively to the disposition of the case. Moreover, it should be

noted that there were two persons claiming to represent the Dominican Republic and in such circumstances it would be unwise for the Council to invite contending spokesmen to appear before it. In any event, Mr. Brache would hardly be in a position to supply a first-hand report of the situation in that country since he had been a resident in New York for many years and had not been in the Dominican Republic since the rebellion began. In view of the fact that the discussion of the question under consideration concerned current affairs in the Dominican Republic and the activities of the Organization of American States, his delegation questioned whether Mr. Brache "is personally in a position to provide first-hand information in any case, or should be invited to do so under rule 39".

The President, noting that the Council had exhaustively discussed all the rules relevant to the problem, stated that it was for the Council to decide what it wanted to do. He recalled that he had drawn attention to rule 39 which put the obligation on the Council itself for inviting any person whom it considered competent for that purpose and asked whether it was the wish of the Council "that this particular representative, as an individual who may in the view of some members be in a position to contribute useful information, should be invited to participate and whether we should hear a statement from him".

At the 1209th meeting on 14 May 1965 the representative of Jordan, noting that in his report⁹ the Secretary-General had been unable to formulate any opinion as to the adequacy of the provisional credentials¹⁰ which have been submitted, suggested that the Security Council could follow one of two courses: either to invite both persons to speak or to decline to invite either. His delegation felt that it would be beneficial to the discussion if the Council became acquainted with the views of both sides, and that they therefore should be heard "in accordance with the relevant rule of procedure applicable in this case".

The representative of the Ivory Coast, recalling a "precedent" in the discussion of the Cyprus question in which the Council in granting a hearing to persons representing certain communities or certain authorities had always invited them in accordance with rule 39 of the provisional rules of procedure, supported the view of the representative of Jordan, and suggested that the two persons from the Dominican Republic should be heard under rule 39.

The representative of the United States, recalling that the Council previously had decided to request the Secretary-General to send a representative to the Dominican Republic "to bring back to us some first-hand and disinterested information" was of the opinion that it would be more advisable for the Council to refrain from deciding to hear anyone else, until it had received that information from its own sources. On the other hand, if the Council should wish to hear the two gentlemen, his delegation agreed with the representative of the Ivory Coast that they should be heard as individuals, competent to provide the Council with information. Thus, despite its reservations, his delegation would not raise any formal objection to their being heard in accordance with rule 39 of the provisional rules of procedure.

⁹ S/6353, O.R., 20th yr., Suppl. for April-June 1965, pp. 118-120.

¹⁰ See chapter I, Case 14.

⁶ Case 5.

⁷ Case 7.

^{7a} Case 6.

⁸ For discussion on the question of credentials see chapter I, Case 14.

In reply to a request by the representative of the USSR for a clarification of the procedural developments at that stage, the President explained that as he understood it, two gentlemen wanted to make a statement to the Council and some members of the Council felt that it might be worth while to listen to those statements. "It is for that reason that we have to take a decision on rule 15, so that we might go to the escape clause, as I would call it — rule 39."

The representative of Ivory Coast, noting that his reference to the Cyprus "precedent" had created some confusion, explained that although the Government of Cyprus was fully represented by its accredited minister in the Security Council, the Council did hear under rule 39 a gentleman from one of the communities in Cyprus.

The President, after inquiring whether any member

wished to make a statement on the applicability of rule 39 stated:

"I hear no objection, and I assume therefore that the consensus is that these two gentlemen who have asked to participate should be invited under rule 39, bearing in mind the readiness of some delegations and the reluctance of others to see rule 39 applied. In substance, however, all members have agreed that the two gentlemen might be given an opportunity to place whatever facts they have before the Security Council."¹¹

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

¹¹ For the text of relevant statements see 1207th meeting: President (Malaysia), paras. 9-10, 40, 43-46, 94-95; France, paras. 23-27; USSR, paras. 4-5; United States, paras. 69-73; 1209th meeting: President (Malaysia), paras. 41, 50-51; Ivory Coast, paras. 24, 27-28, 49; Jordan, paras. 20-22; USSR, paras. 38-39; United States, paras. 30-31.

C. IN THE CASE OF MEMBERS OF THE UNITED NATIONS

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

(a) A MATTER IN ACCORDANCE WITH ARTICLE 35, PARAGRAPH 1 OF THE CHARTER

Question *	State invited	Initiation by *	Request for invitation	Decision of the Council: Invitations extended and renewed *
1. Complaint by Panama	Panama		S/5510, O.R., 19th yr., Suppl. for Jan.-Mar. 1964, p. 19	1086th meeting
2. The India-Pakistan question	Pakistan		S/5517, ^d O.R., 19th yr., Suppl. for Jan.-Mar. 1964, pp. 26-34	1087th meeting (1088th-1093rd, 1104th-1105th, 1112th-1117th, 1237th-1242nd, 1244th, 1245th, 1247th-1249th, 1251st meetings)
	India		S/5522, ^d O.R., 19th yr., Suppl. for Jan.-Mar. 1964, pp. 38-47	1087th meeting (1088th-1105th, 1112th-1117th, 1237th-1242nd, 1244th, 1245th, 1247th-1249th, 1251st meetings)
3. Complaint by the Government of Cyprus *	Cyprus		S/5490, O.R., 18th yr., Suppl. for Oct.-Dec. 1963, p. 114	1094th meeting (1095th-1103rd, 1136th-1139th, 1142nd 1143rd, 1146th, 1147th, 1151st, 1153rd-1159th, 1180th meetings)
4. Complaint by Yemen *	Yemen		S/5637, O.R., 19th yr., Suppl. for April-June 1964, p. 3	1106th meeting, (1107th- 1111th meetings)
5. Complaint by Cambodia	Cambodia		S/5714, O.R., 19th yr., Suppl. Apr.-June 1964, p. 153	1118th meeting (1119th- 1126th meetings)
6. Question of race conflict in South Africa	India		S/5729, O.R., 19th yr., Suppl. for Apr.-June 1964, p. 179	1127th meeting (1128th- 1135th meetings)
	Indonesia		S/5725, <i>ibid.</i> , pp. 172-173	1127th meeting (1128th- 1135th meetings)
	Liberia		S/5739, <i>ibid.</i> , pp. 188-189	1127th meeting (1128th- 1135th meetings)
	Madagascar		S/5718, <i>ibid.</i> , p. 156	1127th meeting (1128th- 1135th meetings)
	Pakistan		S/5745, <i>ibid.</i> , p. 196	1127th meeting (1128th- 1135th meetings)
	Sierra Leone		S/5733, <i>ibid.</i> , p. 183	1127th meeting (1128th- 1135th meetings)
	Tunisia		S/5751, <i>ibid.</i> , p. 201	1127th meeting (1128th- 1135th meetings)
7. Complaint by Malaysia *	Malaysia		S/5930, O.R., 19th yr., Suppl. for July-Sept., 1964, p. 263	1144th meeting (1145th, 1148th- 1150th, 1152nd meetings)

Question ^a	State invited	Initiation by ^b	Request for invitation	Decision of the Council: Invitations extended and renewed ^c
8. Question of Relations between Greece and Turkey *	Greece		S/5938	1146th meeting (1147th meeting)
	Turkey		S/5949, <i>O.R.</i> , 19th yr., <i>Suppl. for July-Sept. 1964</i> , p. 279	1146th meeting (1147th meeting)
9. The Palestine Question	Israel		S/6047, <i>O.R.</i> , 19th yr., <i>Suppl. for Oct.-Dec. 1964</i> , p. 60	1162nd meeting (1164th-1169th, 1179th meetings)
	Syria		S/6051, <i>ibid.</i> , p. 61	1162nd meeting (1164th-1169th, 1179th meetings)
10. Situation in the Democratic Republic of the Congo	Algeria		S/6090, <i>ibid.</i> , p. 212	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Belgium		S/6081, <i>ibid.</i> , p. 202	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Congo (Brazzaville)		S/6086, <i>ibid.</i> , p. 210	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Democratic Republic of the Congo		S/6095, <i>ibid.</i> , p. 217	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Ghana		S/6080, <i>ibid.</i> , p. 202	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Guinea		S/6079, <i>ibid.</i> , p. 201	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Mali		S/6093, <i>ibid.</i> , p. 215	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Nigeria		S/6097, <i>O.R.</i> , 19th yr., <i>Suppl. for Oct.-Dec. 1964</i> , p. 219	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Sudan		S/6091, <i>ibid.</i> , p. 213	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	United Arab Republic		S/6098, <i>ibid.</i> , p. 219	1170th meeting (1171st-1178th, 1181st-1189th meetings)
	Burundi		S/6099, <i>ibid.</i> , pp. 219-220	1171st meeting (1172nd-1178th, 1181st-1189th meetings)
	Kenya		S/6100, <i>ibid.</i> , p. 220	1171st meeting (1172nd-1178th, 1181st-1189th meetings)
	Central African Republic		S/6101, <i>ibid.</i> , p. 220	1172nd meeting (1173rd-1178th, 1181st-1189th meetings)
	Uganda		S/6110, <i>ibid.</i> , p. 316	1177th meeting (1178th, 1181st-1189th meetings)
	Tanzania		S/6112, <i>ibid.</i> , p. 318	1178th meeting (1181st, 1183rd-1189th meetings)
	11. Situation in Southern Rhodesia *	Algeria		S/6304, <i>O.R.</i> , 20th yr., <i>Suppl. for Apr.-June 1965</i> , pp. 53-54; and S/6904, 11 November 1965
Senegal			S/6297, <i>ibid.</i> , p. 49	1194th meeting (1195th, 1197th, 1199th, 1201st, 1257th-1265th meetings)
Ghana			S/6907, 11 November 1965	1257th meeting (1258th- 1265th meetings)
India			S/6905, 11 November 1965	1257th mtg. (1258th- 1265th meetings)
Mali			S/6913, 12 November 1965	1257th meeting (1258th- 1265th meetings)
Nigeria			S/6912, 12 November 1965	1257th meeting (1258th- 1265th meetings)
Pakistan			S/6906, 11 November 1965	1257th meeting (1258th- 1265th meetings)

Question *	State invited	Initiation by ^b	Request for invitation	Decision of the Council: Invitations extended and renewed ^c
11. Situation in Southern Rhodesia (continued)	Senegal		S/6911, 12 November 1965	1257th meeting (1258th-1265th meetings)
	Sierra Leone		S/6910, 12 November 1965	1257th meeting (1258th-1265th meetings)
	Tanzania		S/6912, 12 November 1965	1257th meeting (1258th-1265th meetings)
	Zambia		S/6909, 12 November 1965	1257th meeting (1258th-1265th meetings)
	Ethiopia		S/6922, 12 November 1965	1259th meeting (1259th-1265th meetings)
	Gambia		S/6933, 15 November 1965	1261st meeting (1261st-1265th meetings)
	Guinea		S/6919, 12 November 1965	1258th meeting (1258th-1265th meetings)
	Jamaica		S/6934, 15 November 1965	1261st meeting (1261st-1265th meetings)
	Mauritania		S/6932, 15 November 1965	1261st meeting (1261st-1265th meetings)
	Somalia		S/6941, 17 November 1965	1263rd meeting (1263rd-1265th meetings)
	Sudan		S/6944, 17 November 1965	1263rd meeting (1263rd-1265th meetings)
12. Complaint by Senegal *	Senegal		S/6349, <i>O.R.</i> , 20th yr., <i>Suppl. for Apr.-June 1965</i> , p. 114	1205th meeting (1206th, 1210th-1212th meetings)
13. Situation in Territories in Africa under Portuguese administration *	Liberia		S/6860, 2 November 1965	1250th meeting (1253rd-1256th, 1266th-1268th meetings)
	Madagascar		S/6868, 3 November 1965	1250th meeting (1253rd-1256th, 1266th-1268th meetings)
	Sierra Leone		S/6871, 4 November 1965	1250th meeting (1253rd-1256th, 1266th-1268th meetings)
	Tunisia		S/6861, 2 November 1965	1250th meeting (1253rd-1256th, 1266th-1268th meetings)

* Questions entered in this tabulation are arranged under agenda items. The items appearing herein are listed chronologically according to the sequence of the first meeting held on each item. Any reconsideration of an item or discussion of a subitem under the general heading at subsequent meetings does not reappear as a new agenda item, but has been grouped under the item which first appeared. Questions in respect of which invitations were extended to other Members because their interests were considered to be specially affected are indicated by an asterisk and the invitations are listed separately in a tabulation entitled: *Invitations when the interests of a Member were considered specially affected*, as explained in the introductory note (see C.2 below).

^b In this column are listed only those invitations which were extended at the initiative of a member, not those routinely initiated by the President.

^c The meetings at which the invitations were renewed are indicated by parentheses.

^d No specific request was included in the letter of submission herein indicated. However, at the 1087th meeting on 3 February 1964, the President (Brazil) referred to past occasions when the parties concerned had been invited to participate, and to rule 37 of the provisional rules of procedure, and with the consent of the Council invited the parties to the Council table.

**** (b) A MATTER NOT BEING EITHER A DISPUTE OR A SITUATION**

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

(a) TO PARTICIPATE WITHOUT VOTE IN THE DISCUSSIONS

Question *	State invited	Initiation by	Request for invitation	Decision of the Council: Invitations extended and renewed ^b
1. Complaint by the Government of Cyprus	Turkey		S/5493, <i>O.R.</i> , 18th yr., <i>Suppl. for Oct.-Dec., 1963</i> , p. 116	1094th meeting (1095th-1103rd, 1136th-1139th, 1142nd, 1143rd, 1146th, 1147th, 1151st, 1153rd, 1159th, 1180th meetings)
	Greece		S/5494, <i>ibid.</i> , p. 116	1094th meeting (1095th-1103rd, 1136th-1139th, 1142nd, 1143rd, 1146th, 1147th, 1151st, 1153rd, 1159th, 1180th meetings)
2. Complaint by Yemen	Iraq		S/5638, <i>O.R.</i> , 19th yr., <i>Suppl. for Apr.-June 1964</i> , p. 3	1106th meeting (1107th-1111th meetings)
	United Arab Republic		S/5639, <i>ibid.</i>	1106th meeting (1107th-1111th meetings)
	Syria		S/5643, <i>ibid.</i> , p. 4	1107th meeting (1108th-1111th meetings)

Question ^a	State invited	Initiation by	Request for invitation	Decision of the Council: Invitations extended and renewed ^b
3. Complaint by Malaysia	Indonesia		S/5936, <i>O.R.</i> , 19th yr., <i>Suppl. for July-Sept.</i> , 1964, p. 270	1144th meeting (1145th-1148th-1150th, 1152nd meetings)
	Philippines		S/5953	1145th meeting (1146th-1148th, 1150th-1152nd meetings)
4. Question of Relations between Greece and Turkey	Cyprus		S/5962, <i>O.R.</i> , 19th yr., <i>Suppl. for July-Sept.</i> , 1964, p. 370	1147th meeting
5. Situation in the Dominican Republic	Cuba		S/6318, <i>O.R.</i> , 20th yr., <i>Suppl. for Apr.-June</i> , 1965, p. 72	1195th meetings, (1198th, 1200th, 1202nd-1204th, 1207th-1209th, 1212th-1223rd, 1225th-1233rd meetings)
6. Complaint by Senegal	Portugal		S/6348, <i>O.R.</i> , 20th yr., <i>Suppl. for Apr.-June</i> , 1965, p. 114	(1205th, 1206th, 1210th-1212th meetings)
7. Situation in Territories in Africa under Portuguese administration	Portugal		S/6859, 2 November 1965	1250th meeting (1253rd-1256th, 1266th-1268th meetings)
8. Situation in Southern Rhodesia	Portugal	Jordan	1257th meeting, paras. 110, 112	1257th meeting
	South Africa	Jordan	1257th meeting, paras. 110, 112	1257th meeting

^a Questions entered in this tabulation are arranged under agenda items. The items appearing herein are listed chronologically according to the sequence of the first meeting held on each item. Any reconsideration of an item or discussion of a subitem under the general heading at subsequent meetings

does not reappear as a new agenda item, but has been grouped under the item which first appeared.

^b The meetings at which invitations were renewed are indicated by parentheses.

CASE 2

At the 1106th meeting on 2 April 1964 in connexion with the complaint by Yemen, the President (Czechoslovakia) called attention to a request ¹² from the representative of Iraq for an invitation under rule 37 of the provisional rules of procedure to participate in the discussion and asked whether any member of the Council objected to the granting of that request. After the representative of Iraq had taken a seat at the Council table, the representative of the United Kingdom drew attention to the provisions of rule 37 and asserted that in extending invitations under this rule, the Council was "specifically enjoined to consider whether the interests of the Member which has made application are, in fact, specially affected". He recalled that in the past the Council had felt that the rules of procedure should be "very strictly interpreted and observed" and wondered whether in the light of this practice the request from Iraq satisfied the required conditions.

The representative of Iraq ^a asserted that the interest of his Government in the situation "arising from the British military action in Yemen" was based first on Iraq's membership in the League of Arab States. Consequently, the peace of the area and the interests of the Arab countries are of vital interest to Iraq. Secondly, Iraq had always had very close relations and "acknowledged interests" in the whole area starting from the Persian Gulf down to the rim of the Arabian Peninsula. It was therefore natural that his Government sought to make its views known before the Council on a question which directly affected the interests of that part of the Arab world. ¹³

CASE 3

At the 1257th meeting on 12 November 1965

¹² S/5638, *O.R.*, 19th yr., *Suppl. for Apr.-June* 1964, p. 3.

¹³ For texts of relevant statements, see 1106th meeting: President (Czechoslovakia), para. 2; United Kingdom, paras. 4-5; Iraq, ^a paras. 6-8.

during consideration of the situation in Southern Rhodesia, the representative of Jordan suggested that the Council invite "the two Member States which voted against resolution 2024 (XX) of the General Assembly yesterday, namely Portugal and South Africa to come and participate with us in these deliberations". He reasoned that "they are neighbouring States. They have their own responsibilities, and their presence will help us in our deliberations here", and explained that his proposal was based on rule 37 of the provisional rules of procedure.

The representative of Malaysia doubted that either the Charter or the rules of procedure provided for the situation mentioned by the representative of Jordan. Noting that the representative of Jordan had referred to the first part of rule 37, he pointed out that in his view the second part of that rule "controls the first part". After calling attention to the provisions of Articles 31 and 32, he observed that Article 32 "which is the foundation for rule 37" limited participation to parties to a dispute under consideration by the Council. On the other hand, under rule 37 which contained a "permissive provision" and which required a decision of the Council, a State might be invited provided, however, that the interests of the Member to be invited were especially affected. While he was prepared to grant that the position of the two States mentioned by the representative of Jordan might significantly affect the situation under consideration, he felt that it would be difficult to say that their position was affected "as a result of any debate on the question of Southern Rhodesia".

The representative of the Ivory Coast observed that there was a precedent regarding the extension of an invitation to South Africa, which occurred in connexion with the same question, and suggested that "subject to verification of that by the Secretariat", that precedent could be followed in connexion with the matter at issue.

The representative of Jordan asserted that "rule 37

is a rule of the Council's provisional rules of procedure and that the Council is the master of its own procedure". Consequently, it could interpret that rule as it saw fit, or it could "freeze its effectiveness or decide otherwise".

The representative of the USSR maintained that the proposal of the representative of Jordan was made mandatory by the "special position" taken by Portugal and the Republic of South Africa during both the debate and the vote in the General Assembly.¹⁴

The representative of Uruguay, noting that the proposal by Jordan was essentially a question of invitation, asserted that an invitation might be either accepted or rejected and did not entail any juridical undertaking. Since, however, the presence and opinion of the two Governments in question might be of significance, his delegation would support the proposal that the Council, seeking information that might be of help in its deliberation, should extend the invitation.

The representative of the United States observed that while his delegation would not oppose an invitation to the two Governments in question, it should be recognized that an invitation is "not a demand" and might be accepted or not accepted.

The President (Bolivia) noting the proposal by the representative of the Ivory Coast that the question of invitation was "a question falling within the competence of the Security Council and one for which there are precedents", queried whether there was any objection to an invitation being addressed to the Governments of Portugal and South Africa. There was no objection.¹⁵

** (b) TO SUBMIT WRITTEN STATEMENTS

3. Invitations denied

CASE 4

At the 1112th meeting on 5 May 1964, during consideration of the India-Pakistan question, the representative of Pakistan * after disputing India's statement that the people of Kashmir had already expressed their wishes on the question of accession, suggested that Sheik Abdullah be invited under rule 39 of the provisional rules of procedure to appear before the Council "as he should be able to give it information which will be of assistance in examining the question". He noted that the precedent had been established by the Council by inviting persons under the said rule without concerning itself with legal and constitutional questions.

At the 1113th meeting on 7 May 1964, the representative of India, * commenting on the suggestion by the representative of Pakistan, remarked that Sheik Abdullah was a citizen of India and like any other Indian citizen had the right to approach his Prime Minister and report to him what change he thought should be made in the political and administrative set-up in Kashmir, "but with all that he is no more than a private citizen", whereas the parties before the Council were India and Pakistan and they alone had the right to appear through their official delegations.

At the 1115th meeting on 12 May 1964, the representative of Czechoslovakia stated that having studied the suggestion by the representative of Pakistan that

an invitation be extended under rule 39 to Sheik Abdullah, his delegation had come to the conclusion that the use of that procedure would not be appropriate.¹⁶

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

1. Invitations expressly under Article 32

CASE 5

At the 1118th meeting on 19 May 1964, in connexion with the complaint by Cambodia, the President (France), informed the Council of a request from the Minister for Foreign Affairs of the Republic of Viet-Nam, subsequently confirmed in a letter from the observer of the Republic of Viet-Nam to the United Nations, asking for permission to participate through a representative of his Government in the debate arising out of the Cambodian complaint. He further stated that while he had not then received the credentials required under rule 14 of the provisional rules of procedure, nevertheless, the Council was required to take a decision regarding the invitation which it may address to the Government of the Republic of Viet-Nam under Article 32 of the Charter.

The representative of the USSR considered it unnecessary to invite the representative of the "South Viet-Nam régime" to be present during the consideration of the agenda item, whatever credentials might be issued by "Saigon", as it was well known that the responsibility for the acts of aggression complained of rested with the United States of America which, in essence, controlled the actions of the South Viet-Nam armed forces and authorities.

The representative of the United States observed that the Cambodian Government had lodged a charge of acts of aggression by the Government of the United States and the Government of the Republic of Viet-Nam. Noting that the Charter and the rules of procedure provided for invitations to non-members, he maintained that there could be no question of the authority of the Council to invite the Republic of Viet-Nam to participate in the discussion. The Republic of Viet-Nam had for many years been represented by an observer at the United Nations. Besides, it was only equitable that one of the parties to the complaint was given an opportunity to present its views to the Council.

The representative of Czechoslovakia objected to the participation of the Republic of Viet-Nam on the grounds that the Council, by admitting a representative of "the so-called South Viet-Nameese Government" would be permitting participation by a private individual pretending to be a representative of a people whom his government did not represent. Furthermore, since the foreign power responsible for the grave situation regarding the frontier between Cambodia and South Viet-Nam was a member of the Council, it could easily give all pertinent information.

Decision: *A formal proposal by the representative of the United States to invite the representative of the Republic of Viet-Nam to participate without vote in the discussion of the question was voted upon and adopted by 9 votes to 2.*¹⁷

¹⁶ For texts of relevant statements see 1112th meeting, Pakistan, * para. 90; 1113th meeting, India, * para. 59; 1115th meeting, Czechoslovakia, para. 117.

¹⁷ For texts of relevant statements see 1118th meeting, President (France) paras. 2, 13, Czechoslovakia, para. 11, USSR, paras. 3-6, United States, paras. 8-10.

¹⁴ See Case 18 below.

¹⁵ For texts of relevant statements, see: 1257th meeting, President (Bolivia), para. 165; Ivory Coast, para. 122; Jordan, paras. 128-132; United States, paras. 141, 144; Uruguay, para. 137.

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

CASE 6

At the 1098th meeting on 27 February 1964, during consideration of the complaint by the Government of Cyprus, the President (Brazil) called attention to a communication dated 19 February from the representative of Turkey containing a request from the Vice-President of Cyprus that Mr. Rauf Denktas be allowed to address the Council "in the name of the Turkish Cypriots".¹⁸

The representative of the USSR observed that the Council had already invited the accredited delegation of the Republic of Cyprus to participate in its proceedings, and since there were no grounds to doubt the competence and character of that delegation, there was no need for the Council to grant hearing to anyone else.

The representative of Morocco was of the opinion that if the Council considered it necessary "to hear this Cypriot personality on the basis of rule 39 of our provisional rules of procedure" such a hearing might be particularly useful to the debate and might considerably facilitate the discussion.

The representative of Bolivia expressed the fear that if the Council granted the request to give a hearing to the "so-called" representative of the Turkish community in Cyprus, as that request had been worded, such action would inevitably constitute interference in the domestic affairs of Cyprus. He reminded the Council that the Minister for Foreign Affairs of Cyprus was participating not as a representative of the Greek majority but as the representative of the Republic of Cyprus. On the other hand, Mr. Küçük, like anyone else who was considered competent, could appear before the Council to supply information in the capacity specified in rule 39 "as a competent person, not as representative of any community".

After the President, noting that "there is no consensus among the members of the Security Council with regard to the question raised by the letter of the Acting Permanent Representative of Turkey", had drawn the Council's attention to rule 39 of the provisional rules of procedure, the representative of the USSR recalled that Mr. Denktas was seeking to address the Council "as the representative of the Turkish Cypriot community, one of the interested parties in the Cyprus question". Moreover, since that was the only request before the Council, the Soviet delegation expected some clarification of the matter.

The President then explained that "a decision has to be taken strictly within the terms of rule 39", but since there was no consensus among the members, a formal proposal from the members was needed.

After the representative of Morocco had moved that the Council invite Mr. Denktas to present his views, before the Council, in accordance with rule 39 of the provisional rules of procedure, the representative of Czechoslovakia observed that there was nothing in that rule "which specifies the form" in which the information might be supplied to the Council, and consequently such information "may be supplied in a form other than that of an oral statement".

Taking into account the fact that a letter containing Mr. Denktas' views, along with certain other information was already in the possession of the Council, his delegation considered that information sufficient and could see no reason why it was necessary for Mr. Denktas personally to appear before the Council and make an oral statement.

The representative of the United Kingdom supported the proposal by the representative of Morocco that the representative of the Turkish Cypriot community should be invited in accordance with rule 39 of the provisional rules of procedure to make a statement concerning the matter under consideration and to hold himself available thereafter to supply the Council with any additional information if the Council considered that desirable and appropriate. He recalled that the Council had decided on the merits of each case in which a proposal had been made to issue an invitation under rule 39, and in his view, the Council should "continue to give very careful scrutiny to any such proposal".

The representative of France maintained that rule 39 "gives the Security Council complete latitude to decide who may be invited", to supply information during consideration of questions within its competence and in hearing Mr. Denktas the Security Council was within the terms of that rule. Moreover, "the wording of that rule clearly shows that legal, or more precisely, constitutional questions do not have to be examined". The Council "makes its decisions solely on the basis that the person invited is in a position to supply information likely to enlighten it".

Before a vote on the proposal was taken, the representative of the USSR stated that it was his understanding that the Council was rejecting the request that Mr. Denktas be allowed to address it as the representative of the Turkish Cypriot community, one of the interested parties in the Cyprus question, "since there cannot be any other party in the question of Cyprus than the Government of Cyprus represented here by the delegation headed by Mr. Kyprianou, the Minister for Foreign Affairs of Cyprus".

The representative of the United States disagreed with the interpretation by the representative of the USSR noting that "there is only one proposal that has been made and that is the proposal by the representative of Morocco to invite the representative of the Turkish Cypriot community in Cyprus to address the Council under rule 39", and that a motion had been made to that effect.

The representative of the USSR observed that whereas rule 39 stated that the Security Council "may" invite persons whom it considered competent for the purpose of supplying it with information, that rule did not in any way state that such persons must necessarily be heard by the Council. To adopt the point of view that the Security Council would hear "all persons who apply to it" might in itself create a kind of precedent. Moreover, he wondered what would be the criterion by which in the discussion of other questions, the Council would be able in the future to decide that it should not hear as an individual a particular representative, official or other person. In that regard, he felt that the Council should realize the responsibility it was assuming in "throwing open the door in advance to any person who might wish to address the Security Council". The representative then

¹⁸ S/5556, O.R., 19th yr., Suppl. for Jan.-Mar. 1964, pp. 76-77.

expressed doubt that Mr. Denktas would be capable of supplying "any really valuable or new information on the situation in Cyprus" since he had been absent from that territory for a number of weeks.

The representative of Czechoslovakia contended that the request from the Acting Permanent Representative of Turkey had not been submitted under rule 39 of the provisional rules of procedure. Consequently, before dealing with the proposal made under that rule the Council should first decide that the above-mentioned request could not be considered, since there were no substantive or procedural grounds for hearing Mr. Denktas as representative of a party to a dispute.

The representative of Morocco cautioned against forcing the Council into the position of having to take a decision on a request by a Member State, and saw a way of getting around the difficulty in deciding the question under rule 39 as he had proposed.

The Moroccan proposal was adopted without objection.¹⁹

3. Invitations not expressly under Article 32 or rule 39

CASE 7

At the 1140th meeting on 5 August 1964, in connexion with the complaint by the United States (Tonkin Gulf incident), the representative of the USSR observed that the Council, which had just heard a statement by the representative of the United States "still has only one-sided information about the alleged attacks by torpedo-boats of the Democratic Republic of Viet-Nam against the United States destroyers". An objective discussion of the dispute, particularly in the light of circumstances which must be clarified, would require that the Government of the Democratic Republic of Viet-Nam be asked for information on the substance of the matter involved in the United States complaint. After drawing the attention of the Council to Article 32 of the Charter, the representative of the USSR asserted that if the Government of the Democratic Republic of Viet-Nam wished to take part in the discussion of the question, it would be the obligation of the Council, in accordance with Article 32, to invite forthwith a representative of that Government. In that connexion, he submitted a draft resolution²⁰ under which the Council *inter alia*:

"1. Requests the President of the Security Council to ask the Government of the Democratic Republic of Viet-Nam to supply the Council urgently with the necessary information relating to the United States complaint;

"2. Invites the representatives of the Government of the Democratic Republic of Viet-Nam to take part without delay in the meetings of the Security Council."

The representative of China contended that inviting the "North Viet-Nameese" to come to the Council would be to confer on the "Hanoi régime" a status it had not therefore enjoyed in the United Nations and would give it an opportunity to abuse and obstruct the proceedings of the Council.

¹⁹ For texts of relevant statements see 1098th meeting: President (Brazil), paras. 2, 11, 16, 35, 41, 61; Bolivia, paras. 8-10; Czechoslovakia, paras. 21-23, 55; France, para. 28; Morocco, paras. 7, 17, 20, 59-60; USSR, paras. 3, 4-6, 12-14, 31-33, 37, 49-52; United Kingdom, paras. 24-25; United States, paras. 19, 38.

²⁰ This proposal later circulated in writing was distributed as document S/5851.

The representative of France considered it as self-evident and in line with the Charter and the Council's tradition that the parties to a dispute should be enabled to state their case. The representative of the Democratic Republic of Viet-Nam should therefore be invited as a matter of urgency to participate in the debate without vote. He further suggested that rather than taking a vote on a draft resolution the terms of which might lead to controversy and prolong the debate, the President be entrusted with the task of taking action on any wishes the Council might express.

The representative of the United States had no objection to the authorities of North Viet-Nam being heard by the Council "to answer for their grave use of military force". He believed, however, that if "the North Viet-Nameese are invited the Republic of Viet-Nam should also be invited to appear". He felt that the best way to handle the matter would be to provide an opportunity for informal consultation among the members so that appropriate invitations could go forward.

With regard to the United States suggestion that a representative from the Republic of Viet-Nam be invited to participate, the representative of the USSR saw no practical justification "for relating the invitation of a representative of South Viet-Nam . . . to the content and framework of the item now being considered by the Security Council". At the same time he would have no objection to the procedure proposed by the representative of France if the President took the steps required of him in accordance with operative paragraphs 1 and 2 of his draft resolution.

The President (Norway) observed that if it was the desire of the members of the Council that he consult with them informally on the basis of the proposal made by the representative of France and in the light of the comments made thereon by the representatives of the USSR and the United States, he would attempt to undertake such informal consultations.

At the 1141st meeting on 7 August 1964, the President (Norway) reported that as a result of consultations among the members the Council had arrived at the following understanding: "The Security Council, for its further consideration of the complaint against the Democratic Republic of Viet-Nam referred to in the letter dated 4 August 1964 from the Permanent Representative of the United States of America to the President of the Security Council, would welcome such information relating to this complaint as the Democratic Republic of Viet-Nam²¹ would desire to make available to the Council, either through taking part in the discussion of the complaint in the Council, or in the form which it might prefer. Furthermore, the Security Council would receive in the same manner such information relating to the complaint as the Republic of Viet-Nam would desire to make available to the Council".²²

** 4. Invitations denied

²¹ The Democratic Republic of Viet-Nam did not accept the invitation of the Council to participate in its proceedings, but its views on the incident were circulated as a Security Council document at the request of the USSR, S/5888, O.R., 19th yr., Suppl. for July-Sept. 1964, pp. 170-174.

²² For texts of relevant statements, see 1140th meeting: President (Norway), para. 106; China, para. 86; France, paras. 88-90; USSR, paras. 56-57, 60-61, 72-74, 101-102, 104; United States, paras. 95-96; 1141st meeting: President (Norway), para. 22.

Part II

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

Part III

PROCEDURES RELATING TO PARTICIPATION OF INVITED REPRESENTATIVES

NOTE

Part III is concerned with procedures relating to the participation of invited representatives after an invitation has been extended and comprises material on participation by Members and non-members of the United Nations.

Section A includes proceedings concerned with the related questions of the opportune moment for the Council to extend invitations to participate and the timing of the initial hearing of the invited representative. This section includes one instance²³ in which as an exception to its usual practice the Council had agreed to hear invited representatives while it was discussing a point of procedure.

No question concerning the duration of participation (section B) has arisen during the period under review. The practice has been maintained according to which the President, when consideration of a question has extended over several meetings, has renewed the invitation at each consecutive meeting immediately after the adoption of the agenda.²⁴

Section C deals with limitations of a procedural nature affecting invited representatives throughout the process of participation in the proceedings of the Security Council. During the period under review there were two instances²⁵ illustrative of the limitations concerning the order in which invited representatives were called upon to speak. On one occasion an individual who had previously been invited under rule 39 to address the Council was denied an opportunity to speak before certain members who had previously inscribed their names on the list of speakers. In the second instance, after consultation with members of the Council, the President explained the order in which invited representatives would be heard.

Two cases are included concerning the raising of points of order by invited representatives. In the first instance²⁶ no objections were raised to hearing an invited representative on a point of order, while the second case²⁷ involved extensive discussion on the raising of a point of order by an invited representative during a statement by another invited representative.

One case is included²⁸ in which the procedure concerning the submission of a draft resolution by invited representatives was discussed.

Section D is concerned with those limitations connected with aspects of the business of the Council in

which it has been deemed inappropriate that invited representatives should participate. The discussion in the two cases included under the subheading "Postponement of the consideration of the question" dealt primarily with the question whether an invited representative may propose adjournment until he had had time to communicate with his Government²⁹ or to study statements made during the discussion.³⁰

Under the subheading "Other matters" one case³¹ is included in which an invited representative sought clarification on the procedure concerning his participation after the Council had reached that point in the debate when it was considering the question of voting on a draft resolution and explanation of votes.

The two cases included under section E are concerned with the "effect of extension of invitations". The first case involves the withdrawal of an invited representative from the Council table prior to the conclusion of discussion of the item.³² In the second case³³ certain members contended that an invitation did not entail any juridical undertaking and was not legally binding.

A. THE STAGE AT WHICH INVITED STATES ARE HEARD

CASE 8

At the 1105th meeting on 20 March 1964, in connexion with the India-Pakistan question, after the list of speakers had been exhausted, the President (Bolivia) recalling the proposal made at the previous meeting by the representative of Czechoslovakia that the Security Council discussion on that item should be adjourned until 5 May 1964,³⁴ observed that the Council was at a point of procedure with regard to the proposed adjournment. Although he was aware of the practice of the Council of confining discussion on procedural questions to members of the Council, he had, in view of the special circumstances, recognized the representatives of Pakistan and India. He further observed that while he would like to confine the discussion to the procedural point of adjournment as proposed by the representative of Czechoslovakia, the matter was in the hands of the members. The Council being master of its own procedure could discuss the question further if the members so wished.

The representative of Pakistan * explained that he wished only to assist "in the formulation of the procedure" and in the debate. Earlier he had noted that the representative of Brazil had conditioned his support of the proposal for adjournment on the understanding that an urgent meeting would be called should new

²⁹ Case 14.³⁰ Case 15.³¹ Case 16.³² Case 17.³³ Case 18.³⁴ 1104th meeting, Czechoslovakia, paras. 64, 65.²³ Case 8.²⁴ In this connexion see tabulation above, part I, C.1 (a), footnote c, and part I, C.2 (a), footnote b.²⁵ Cases 9 and 10. In another instance, the question of the order in which invited representatives would be called upon to speak was raised in connexion with the discussion on the order of consideration of the items in the agenda (see chapter II, Case 1).²⁶ Case 11.²⁷ Case 12.²⁸ Case 13.

developments occur that would alter or worsen the situation.

The proposal to adjourn the meeting until 5 May 1964 was adopted without objection.³⁵

** B. THE DURATION OF PARTICIPATION

C. LIMITATIONS OF A PROCEDURAL NATURE

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

CASE 9

At the 1225th meeting on 16 June 1965, in connexion with the situation in the Dominican Republic, the President (Netherlands) before calling on the first speaker on his list informed the Council that he had received from Mr. Ruben Brache who had previously been invited under rule 39 to address the Council³⁶ a letter requesting an opportunity to present to the Council information he had shortly before received concerning certain grave events which had occurred in his country on the day before. The President inquired whether in view of the Council's previous decision of granting Mr. Brache a hearing the Council would have any objection to his asking him to make a statement before it on the same basis as before, "the order of speakers being decided later on in the sense that we would first hear the members of the Council and would then give Mr. Brache an opportunity to make a statement".

The representative of Uruguay suggested that since the events which had taken place in the Dominican Republic on the previous day were one of the subjects to be considered by the Council, Mr. Brache, who intended to provide information on those events, might be heard before starting on the debate.

The representative of the United States reminded the Council that his delegation was inscribed as the first speaker and since he also had some information to convey to the Council about the events of the previous day he preferred "to hold that place".

The representative of the USSR in supporting the suggestion of the representative of Uruguay maintained that before presenting their own views on the substance of the matter, it would be appropriate that members "hear and give due weight to a primary source of information". In that connexion the USSR delegation which had also previously indicated its desire to speak was prepared to yield its turn in order to hear first Mr. Brache. This would serve to assist an appropriate and objective analysis and evaluation of the situation then obtaining in the Dominican Republic.

The President, noting that the suggestion of the representative of Uruguay was contingent upon obtaining the consent of any member who might be inscribed on the list of speakers, recalled that the United States had expressed its preference to speak first. It was therefore to be assumed that the suggestion of the representative of Uruguay no longer applied. In addition he pointed out that it had been the tradition of the Council to have its members speak before invited representatives.

³⁵ For texts of relevant statements, see: 1105th meeting, President (Bolivia), paras. 43, 51; Brazil, paras. 6-7; Pakistan,* para. 44.

³⁶ See Case 2.

The representative of the USSR while appreciating the President's attitude of "respect for a procedure" reiterated his argument that the Council should first hear the representative of the constitutional government of the Dominican Republic and repeated his offer to yield his turn to that representative.

The President, noting that the representative of the USSR had not made a formal motion stated that "the President, whether he likes it or not, is bound by the rules of procedure, which say that speakers shall be given the floor in the order in which they have asked to be given the floor and, furthermore, by certain traditions of the Council which I have mentioned before".³⁷

CASE 10

At the 1230th meeting on 20 July 1965 in connexion with the situation in the Dominican Republic, the President (USSR) informed the Council that two members had indicated their desire to speak. He stated further that requests had also been received from Mr. R. Brache and Mr. G. Velazquez of the Dominican Republic to be heard in accordance with a decision under rule 39 taken earlier by the Council and that the representative of Cuba, who had been invited by the Council to take part in the consideration of the question on the agenda, would also like to speak. He then proposed that in accordance with the consultations in which the President had taken part the speakers be heard in the following order: first, Mr. Brache; then Mr. Velazquez; then the representative of Cuba; and then "the members of the Council in the order in which they appear on the list of speakers". There was no objection to the President's proposal, and the Council proceeded accordingly.³⁸

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

CASE 11

At the 1142nd meeting on 8 August 1964 in connexion with the complaint by the Government of Cyprus, the President (Norway) in response to a point of order raised by the representative of Cyprus* expressing his desire to make a statement at that juncture, queried whether any member of the Council had any objection to the request, "Cyprus being a State Member of the United Nations but not a member of the Security Council".

The representative of Bolivia stated that the delegation of Cyprus had suggested to him that he should ask the President and the other members of the Council to allow it "to make a brief statement to inform us of a situation which, in that delegation's opinion, is extremely serious, and which will affect the opinion of the Council when it hears the latest developments". As there was no objection the President called on the representative of Cyprus on a point of order.³⁹

CASE 12

At the 1247th meeting on 25 October 1965 during consideration of the India-Pakistan question, the Presi-

³⁷ For texts of relevant statements, see: 1225th meeting: President (Netherlands), paras. 9-11, 18, 21; USSR, paras. 15-16, 19-20; United States, para. 14; Uruguay, paras. 12-13.

³⁸ For texts of relevant statements, see 1230th meeting, President (USSR), paras. 8-9.

³⁹ For texts of relevant statements, see: 1142nd meeting: President (Norway), paras. 51, 53; Bolivia, para. 52; Cyprus,* para. 50.

dent (Uruguay), noting that the representative of India had asked for the floor, queried whether that representative had wished to raise a point of order. If not he would request that he wait until the representative of Pakistan, who was in the process of speaking, had completed his statement. After the representative of India * had made his point of order, the President stated that: "As for points of order, within a strict interpretation of the provisional rules of procedure of the Security Council, they may be raised only by the members of the Security Council".

After the representative of Pakistan * had resumed his statement, the President observed that the representative of India had again asked for the floor, but that he was not sure whether he wished "to raise a point of order or a marginal question".⁴⁰

Raising a "point of order" the representative of Pakistan * remarked that having been invited to participate in the debate, under the rules of procedure, neither he nor the representative of India had the authority to raise a point of order.

The President replying to the representative of Pakistan, stated that the Chair had no way of knowing what the representative of India wished to say and that he proposed to call upon him to find out what problem he wished to raise. If it were out of order the Chair had the right to tell him that he had no right to raise it.

The representative of Jordan observed that a party can only be interrupted by a point of order raised by one of the members of the Security Council. "He cannot be interrupted otherwise. Only a member can interrupt the representative of Pakistan — and only on a point of order."

The President, seeking to ascertain the nature of the problem which the representative of India sought to raise, called on that representative advising him that under the rules of procedure he was not entitled to raise points of order in the Council, as only members of the Council were entitled to do so.

The representative of India * observed that while it had been claimed that non-members of the Security Council may not raise a point of order, the representative of Pakistan had been permitted to intervene on a point of order.

The representative of France supported the position that only members of the Council had the right to raise a point of order and to participate, under the authority of the President, in decisions on the agenda and on the conduct of the debates. "On these two points the Council is sovereign, and no rule of procedure, no precedent, and no past practice can be invoked in opposition to the rule that I have just mentioned." Nevertheless, the Council had just witnessed the consequence of a failure to observe that principle and that practice. He then cautioned against the repetition of such departures from established practices which might undermine the authority of the Security Council.

In concurring with the observations of the representative of France, the President explained that when the Foreign Minister of India had asked for the floor and commented on the attitude of the representative of Pakistan, he had pointed out that his remarks were

inappropriate and when he was given the floor the second time, it was because the President had no way of knowing what he was about to say.

The representative of the United States observed that the Council had always heard "everything that anybody has to say". He further expressed his delegation's respect for "the right of free speech not only of members of the Council but also of anybody who appears before this body at our invitation". Bearing that in mind, his delegation was prepared to hear anything which the representative of either India or Pakistan had to say.

The representative of Malaysia noting that the President had accepted the observations of the representative of France concerning the raising of points of order by non-members of the Council stated that while he had no wish to give the impression that he was challenging that ruling, the provisions of rules 14 and 30 might offer some guidance. Quoting rule 30, which states that if a representative raised a point of order the President shall immediately state his ruling, he then raised the question "who is a representative for the purpose of raising points of order." Quoting rule 14, he explained that once a party is invited under that rule, "he puts on the garb of a representative", and the limitations on the right of a representative so invited were defined in Articles 31, 32 of the Charter and rules 37 and 38 of the provisional rules of procedure. After remarking that there were ample possibilities in which the ability of an invited representative to participate in a discussion might be hampered or prevented if points of order might not be raised, he concluded that under the terms of the above-mentioned provisions, there were only two things which an invited representative cannot do, "first he cannot vote and, secondly, though he may submit a draft resolution, he cannot have it voted upon unless a member of the Council so requests." His full participation in the discussion was permitted.

The representative of France recalled that the President had approved the interpretation that he had advanced and in the light of the importance of the item under consideration his delegation would wish that the procedural discussion could be considered as closed.⁴¹

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

CASE 13

At the 1188th meeting on 30 December 1964, in connexion with the situation in the Democratic Republic of the Congo, the President (Bolivia) called attention to an amendment⁴² submitted by eighteen African States to the joint draft resolution⁴³ under consideration before the Council. The President then explained that under rule 38 of the provisional rules of procedure, the amendment could be put to the vote only at the request of a representative of the Security Council.

The representative of the USSR after commenting

⁴¹ For texts of relevant statements, see 1247th meeting: President (Uruguay), paras. 77, 86, 102, 104, 108; France, paras. 112, 115, 138-140; India, * para. 109; Jordan, para. 105; Malaysia, paras. 129-134; Pakistan, *, paras. 103, 107; United States, paras. 120-121.

⁴² S/6128.

⁴³ S/5123/Rev.1.

⁴⁰ See also chapter I, Case 42.

on the draft resolution requested that the amendment of the eighteen African States be put to the vote.⁴⁴

D. LIMITATIONS ON MATTERS TO BE DISCUSSED BY INVITED REPRESENTATIVES

** 1. Adoption of the agenda

** 2. Extension of invitations

3. Postponement of consideration of a question

CASE 14

At the 1143rd meeting on 9/11 August 1964 in connexion with the complaint by the Government of Cyprus, the representative of Cyprus, * commenting on a joint draft resolution (S/5866/Rev.1) submitted by the United Kingdom and the United States, observed that he could not associate himself with the draft resolution without having the consent of his Government. He therefore requested a brief adjournment of the debate until the afternoon to allow him to communicate with his Government.

The President (Norway), after recalling the gravity of the situation under consideration by the Council enquired whether members "... feel we should therefore adjourn, or as suggested by me, inasmuch as the views of the members of the Council with respect to the draft resolution are known, proceed to vote".

The representative of Cyprus * pointed out that an appeal by the President, similar in tone to that of the draft resolution, had already been directed to the parties, and repeated his request for adjournment. This position was supported by the representatives of the USSR and Czechoslovakia.

The representative of Turkey * observed that since Cyprus was not a member of the Council it was not called upon to associate itself with its resolutions, but instead to comply with its recommendations. He therefore urged the Council to proceed to the vote without further delay.

The representative of Morocco sought clarification as to whether the representative of Cyprus was asking for a suspension of the meeting for a few minutes or for an adjournment, since in the case of the former his delegation would have no objection to the meeting being recessed "for a few minutes or even an hour".

The representative of Cyprus * replied that his hope was that "within an hour or two" he would be able to establish communication with his Government, and suggested that the meeting "be suspended without being adjourned, for some such period".

The President again suggested that in view of the gravity of the situation it would be most appropriate for the Council not to adjourn but simply to suspend its proceedings and remain at the disposal of the President in case developments in the area should warrant a call at short notice.

He further appealed to the representative of Cyprus to consider the possibility of not pressing his suggestion for another suspension "but of having the Council proceed to the vote now, it being fully understood that the Council would not adjourn thereafter but would simply suspend its proceedings".

The representative of Cyprus again stated that the purpose of his appeal for adjournment was to obtain instructions from his Government before passage of

⁴⁴ For texts of relevant statements see 1188th meeting: President (Bolivia), para. 2; USSR, para. 13.

the draft resolution and informed the Council that he was at that moment being called to the telephone and that that might be what he had been waiting for.

The President stated that the meeting would be suspended in the meantime.⁴⁵

CASE 15

At the 1250th meeting on 4 November 1965 during consideration of the situation in Territories in Africa under Portuguese administration, the representative of Portugal * suggested that since his delegation needed time to study the statements which had been made that afternoon, the Council might adjourn the meeting and meet again on the following Monday afternoon at which time the Portuguese delegation would be fully prepared to present its point of view.

The list of speakers having been completed, the President (Bolivia) explained that he planned to consult with members of the Council on the date and time for resumption of debate on that item.

The representative of the Ivory Coast, noting that the representative of Portugal had requested an adjournment of the meeting until Monday recalled that the President had proposed there would be "consultations" to determine the date of the next meeting, and sought clarification from the President on the matter.

The representative of Portugal * acknowledged that his delegation not being a member of the Security Council was not in a position to make a formal proposal or even an informal proposal to the Council. That being the case, he had been merely presenting a "request" which he thought would be useful to the Council, if it wished to have the point of view of his Government which could not be presented before the following Monday.

The representative of the Ivory Coast stated that he did not understand the position taken by the Minister for Foreign Affairs of Portugal. The representative of Portugal was entitled to make his statement whenever he wished; the Council could not tell him on which day he could speak and has never compelled any party invited to attend a meeting to speak on a particular day.

In accordance with the President's suggestion concerning consultations to be held prior to a resumption of debate on the question the meeting was adjourned.⁴⁶

4. Other matters

CASE 16

At the 1134th meeting on 17 June 1964, in connexion with the question of race conflict in South Africa, the representative of Indonesia * noting that the Council had decided to take a vote the following day on the draft resolution before it, inquired whether the Council had reached the stage of explanation of votes. As his delegation wished to speak on the draft resolution it would like to be informed whether those who were participating without the right to vote would be

⁴⁵ For texts of relevant statements, see 1143rd meeting: President (Norway), paras. 129, 144-147, 150; Czechoslovakia, para. 143; Cyprus, * paras. 128, 130, 141, 149; Morocco, para. 140; Turkey, * paras. 136-137; USSR, paras. 131-134.

⁴⁶ For texts of relevant statements, see 1250th meeting: President (Bolivia), paras. 141, 151; Ivory Coast, paras. 146, 150; Portugal, * paras. 140, 148.

given the opportunity to speak at the meeting on the following day.

The President (Ivory Coast) explained that under the procedural decision recently adopted the vote on the draft resolution before the Council would be taken the following day, after those representatives wishing to explain their votes had done so. Thereafter, further explanations would be heard by those delegations who had indicated their desire to make such explanations after the vote. At the conclusion of those proceedings the Council would then allow invited representatives to express their views on the draft resolution voted upon.

At his request, the representative of Indonesia was allowed to make a statement at that stage, not "merely to explain" his vote "but to influence those who are going to vote on the draft resolution".⁴⁷

E. EFFECT OF THE EXTENSION OF INVITATIONS

CASE 17

At the 1248th meeting on 27 October 1965 in connexion with the India-Pakistan question, the President (Uruguay) after recalling that at the previous meeting the Council had decided to invite the representatives of India and Pakistan to participate in the discussion of the item under consideration, stated that since the delegation of India was not present in the Council chamber at that time, he intended to invite the representative of Pakistan to take a seat at the Council table. He added that "at any time during the meeting, the delegation of India is invited to take a seat at the table".

Observing that a situation had arisen in the Council in which one of the parties had found it necessary to leave the meeting of the Security Council the representative of the USSR expressed the view that without the participation of one of the parties directly concerned, the Council discussion of the question could hardly lead to any positive results.

The representative of the Ivory Coast, deploring the fact that "the two parties" were not taking seats at the Council table and taking part in the discussion, noted that it was not the first time that such a situation had arisen in the Council. While expressing his expectation that South Africa would, as usual, not participate in the meeting of the Council when the Council would discuss the problem of apartheid, he pointed out that its absence had in the past not prevented the Council from taking appropriate decisions. Hence he was of the view that in the case under consideration the Council could usefully continue its deliberation and take decisions which would be carried out.

Expressing his support for the position of the Ivory Coast, the representative of Jordan remarked that if the absence of one of the parties could stop the Council from deliberating a question, taking decisions or finding constructive solutions, such an action would in effect "amount to a veto" over the work of the Council.

In the absence of observations to the contrary, the representative of Pakistan was invited to take a place at the Council table.⁴⁸

⁴⁷ For texts of relevant statements, see 1134th meeting: President (Ivory Coast), paras. 49, 51; Indonesia, paras. 48, 50.

⁴⁸ For texts of relevant statements, see 1248th meeting: President (Uruguay), paras. 1 and 8; Ivory Coast, para. 5; Jordan, para. 7; USSR, para. 3.

CASE 18

At the 1257th meeting on 12 November 1965 in connexion with the situation in Southern Rhodesia the representative of Jordan proposed under rule 37 of the provisional rules of procedure that invitations be extended to South Africa and Portugal to participate in the Council consideration of the question.

During discussion concerning the interpretation of that rule⁴⁹ and the effect of the extension of invitations, the representative of the USSR maintained that the proposal by the representative of Jordan was made mandatory by the special position taken by Portugal and the Republic of South Africa during both the debate and the vote in the General Assembly. Noting that the conduct of both Governments had been a challenge to the authority of the Organization, he observed that it was quite legitimate for the representative of Jordan to raise the question of having the Council decide to ensure their participation in the debate.

The representative of Uruguay asserted that whereas the presence and comments of the representatives of the two Governments in question might be of significance, his delegation was of the view that an invitation did not imply any juridical undertaking. It was not legally or institutionally binding and might be either accepted or rejected. His delegation would support the proposal, however, if it were understood that the Council, seeking information which might be of help in its deliberations had thus extended the invitation.

While his delegation would not oppose an invitation to the Governments of South Africa and Portugal, the representative of the United States took the position that "this is an invitation and may be accepted or not accepted; it is not a demand".

At the 1261st meeting on 15 November 1965, the representative of the USSR recalled that at the 1257th meeting, a proposal that the Council hear the representatives of Portugal and the Republic of South Africa in connexion with the question under consideration had been adopted and requested that the President inform the members what position had been taken by the two countries with regard to the Council's invitation.

The President (Bolivia) explained that immediately after the said meeting the Secretary-General sent a cabled invitation to the Governments of South Africa and Portugal asking them to be represented at the discussion. He stated that "a few minutes ago a reply was received from the Permanent Representative of South Africa to the United Nations, stating in substance, that the Government of South Africa does not see its way to accepting the invitation to attend the discussions in the Security Council". With respect to Portugal he had been informed by the Secretariat that no reply had been received so far.

At the 1262nd meeting on 16 November 1965, the President further informed the Council that Portugal had replied to the invitation to be represented at the debate and had in essence stated that while reiterating its desire for collaboration, it regretted its inability to accept the invitation.⁵⁰

⁴⁹ For discussion concerning rule 37 see Case 4 above.

⁵⁰ For texts of relevant statements, see: 1257th meeting: Jordan, paras. 110, 112; USSR, paras. 131-132; United States, paras. 140, 147; Uruguay, para. 137; 1261st meeting: President (Bolivia), para. 64; USSR, para. 63; 1262nd meeting, President (Bolivia), para. 35.