

**Chapter I**

**PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL**

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## INTRODUCTORY NOTE

The present chapter contains material bearing upon the practice of the Security Council in relation to all the provisional rules of procedure with the exception of those rules which are dealt with in other chapters, as follows:

Rules 6-12, in chapter II, "Agenda"; rule 28, in chapter V, "Subsidiary organs of the Security Council"; rules 37-39, in chapter III, "Participation in the proceedings of the Security Council"; rule 40, in chapter IV, "Voting"; rules 58-60, in chapter VII, "Practice relative to recommendations to the General Assembly regarding membership in the United Nations"; and rule 61, in chapter VI, "Relations with other United Nations organs".

The major headings under which the material is entered in this chapter are the same as in previous *Supplements*. 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 Security Council has not adopted amendments to its provisional rules of procedure. However, there were two instances that might be viewed as observations on or calls for amendments to the Council's provisional rules of procedure. In the first instance, during the proceedings at the Council's commemorative meeting held in celebration of the fortieth anniversary of the United Nations,<sup>1</sup> the representative of Egypt referred to a "vast spectrum of mechanisms" that were at the disposal of the Council in tackling situations and conflicts that might threaten international peace and security, and stated that those mechanisms would be enriched and rendered more effective by updating and rationalizing the Council's rules of procedure. He also said that the rules of procedure, despite their adoption 40 years earlier, remained "provisional" and were not comprehensive or final, and that the time had come to update them and make them flexible enough to meet the requirements of international relations, taking into account the experience that had been acquired over the years.<sup>2</sup>

<sup>1</sup>The agenda for the meeting (2608th mtg., held on 26 September 1985) was "United Nations for a better world and the responsibility of the Security Council in maintaining international peace and security".

<sup>2</sup>S/PV.2608, Egypt, pp. 85 and 86.

In the second instance, before the adoption of the agenda for the 2666th meeting, held on 24 February 1986, the representative of France referred to the end of the previous meeting, during which, he said, "some shocking words" had been used that had called into question the Security Council's authority and reputation, which was unacceptable.<sup>3</sup> The representative of the United Kingdom of Great Britain and Northern Ireland associated his delegation with the remarks by the representative of France; and said that, when the Council met, they heard many "violent" speeches, some of which were strong but were within the bounds of propriety. He added that there were other statements, including the one to which the representative of France had referred, which, as far as the choice of words and the way in which the Council was treated were concerned, were beyond the bounds of propriety irrespective of what political view was being put forward. He then stated, without pretending that the Council was a court of law, that a court of law was protected by rules about contempt of court; that a parliament was protected by rules about contempt of parliament; and that the Council, he submitted, should build up a body of practice that protected it against "contempt of Council". He concluded by stressing that they should insist that whatever the political problems that were brought before the Council, which in the eyes of the world was a central body dealing with great international issues of peace and security, those problems should be dealt with in a mannerly, orderly and respectful way.<sup>4</sup>

The rest of the material in this chapter is concerned with questions that arose regarding the application of a certain rule, especially when there was a discussion regarding variations from the Council's usual practice. The case histories presented here do not constitute cumulative evidence of the practice of the Council, but are indicative of special problems that have arisen in the proceedings of the Council under its provisional rules of procedure.

<sup>3</sup>The agenda for the 2666th meeting was "The situation between Iran and Iraq". For the statement, see S/PV.2665, pp. 37 and 38.

<sup>4</sup>S/PV.2666, France, p. 2; United Kingdom of Great Britain and Northern Ireland, p. 6; United States of America, p. 6. For the statement by the United States at the previous meeting, see S/PV.2665, United States of America, p. 41. See also chapter XII, under Article 24 of the Charter.

### Part I

#### MEETINGS (RULES 1-5)

##### NOTE

The material assembled in the present section reflects the provisions of Article 28 of the Charter and indicates special instances of the interpretation or application of rules 1-5. During the period under review, there were cases

falling under rule 4 (cases 1, 2 and 3); there were no special instances of the application of rules 1-3 and 5.

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

## B. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 1-5

### Rule 4

#### CASE 1

On 29 August 1985, after informal consultations, the President issued a statement on behalf of the members of the Security Council.<sup>5</sup> The contents of the statement intimated that the members of the Council had agreed to hold a commemorative meeting of the Council at the level of Foreign Ministers to celebrate the fortieth anniversary of the United Nations and that the agenda for the meeting, which should be held on 26 September 1985, would be "United Nations for a better world and the responsibility of the Security Council in maintaining international peace and security". Furthermore, it had been agreed, taking into account practical considerations, that the meeting would be open for statements by the members of the Council.

#### CASE 2

At the 2608th meeting of the Security Council, which was a commemorative meeting held on 26 September 1985 at the level of Foreign Ministers to celebrate the fortieth anniversary of the United Nations, there were both explicit and implicit references to Article 28, paragraph 2, of the Charter. The representative of India, speaking on the subject of enhancing the special responsibility of the Security Council and its role on behalf of the international community in the collective maintenance of peace and security, thereby bringing it closer to the position that had been prescribed for it in the Charter, stressed the importance of holding regular periodic meetings of the Council under Article 28, paragraph 2, of the Charter. He further expressed the hope that their meeting at the level of Ministers would be followed by regular contacts at a high political level.<sup>6</sup>

<sup>5</sup>S/17424, OR, 40th yr., *Resolutions and Decisions of the Security Council*, 1985.

<sup>6</sup>S/PV.2608, p. 67.

At the same meeting, the representative of Trinidad and Tobago stated that the Council should convene high-level meetings more frequently, as had been envisaged in the Charter, and that the meetings should review the efforts to facilitate the resolution of current or potential disputes and to analyse the prevailing international environment. He also said that convening high-level meetings more frequently would serve to encourage exchanges of views and help to overcome "the misconceptions and distrust" that had so often led to stalemate and conflict.<sup>7</sup>

Finally, the representative of Egypt, while highlighting what he called the "vast spectrum of mechanisms" available to the Council in tackling situations and conflicts that might threaten international peace and security, noted the possibility in the rules of procedure of holding periodic meetings of the Council to review the international situation and to monitor grave incidents within the framework of what had come to be known as "preventive diplomacy".<sup>8</sup>

#### CASE 3

At the 2787th meeting, on 28 January 1988, in connection with the situation in the occupied Arab Territories, the representative of the Union of Soviet Socialist Republics reiterated his Government's proposal that the members of the Security Council proceed to consultations to consider the relevant questions and that the initiative for those consultations could belong to the permanent members of the Council. He stated that, while the consultations could give added thrust to efforts to find a way out of the Middle East impasse, the conclusions and recommendations emerging from those consultations could be considered at a formal meeting of the Council, which, in view of the importance of the question for the maintenance of international security, should be held at the level of Foreign Ministers.<sup>9</sup> The same proposal had previously been made in a letter dated 20 January 1988 from the representative of the USSR addressed to the Secretary-General.<sup>10</sup>

<sup>7</sup>Ibid., p. 34.

<sup>8</sup>Ibid., p. 86.

<sup>9</sup>S/PV.2787, p. 18.

<sup>10</sup>S/19442, OR, 43rd yr., *Suppl. for Jan.-March 1988*.

## Part II

### REPRESENTATION AND CREDENTIALS (RULES 13-17)

#### NOTE

Since 1948, the reports of the Secretary-General on the credentials of the representatives of members of the Security Council have been circulated to the delegations of all members of the Council and, in the absence of a request that they be considered by the Council, have been considered approved without objection. In practice, however, the credentials under rule 13 have been submitted and reported on by the Secretary-General only at times when changes in the representation of members of the Council have been made and when, at the beginning of each year, the representatives of the newly elected non-permanent members of the Council have been designated. That practice was followed during the period under review.

In one instance, during the period under review, a Member State that was participating in the discussion under rule 37 of the provisional rules of procedure challenged the legitimacy and representation of the Government of another Member State, also participating in the discussion under rule 37 (case 4). The President reaffirmed the international recognition of the Government in question. Subsequently, following a letter of protest at the position he had taken, the President sought and obtained a legal opinion on the credentials of the representative of the Government concerned from the Office of Legal Affairs of the Secretariat.

#### \*\*A. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 13-17

## B. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 13-17

### CASE 4

At the 2567th meeting, on 30 January 1985, in connection with the letter dated 28 January 1985 from the representative of Chad, the representative of the Libyan Arab Jamahiriya referred to a letter dated 28 January 1985<sup>11</sup> in which, he said, his Government's position had been made clear. He stated that there was a legitimate Government of National Unity under Goukouni Oueddei and that the purpose of convening the meeting of the Security Council by the rebel regime of Hissein Habre in N'Djamena was, *inter alia*, to belittle the military importance and power of the legitimate Government and to give legitimacy to the rebel regime. He added that, in the effort to end the civil war in Chad, the Lagos Agreement had been signed by the 11 Chadian parties and that the Agreement had led to the formation of the Government that had been recognized by the Organization of African Unity. He maintained that the head of an army, Hissein Habre, who had sent a representative to address the Council, represented only one of 11 factions that had signed the Lagos Accord on National Reconciliation and that, therefore, the international community could not be deceived into giving legitimacy to a Government of only one faction, which had come to power through rebellion and force of arms, with the support of mercenary and foreign forces.<sup>12</sup>

The President (France) reminded the representative of the Libyan Arab Jamahiriya that the complaint that was being considered by the Security Council came from the internationally recognized Government of Chad and that its legitimacy could not be challenged in the Council. The President further stated that it had been at the request of the same Government that the President of the Council, speaking on behalf of its members, had made the statement of 6 April 1983,<sup>13</sup> in which she had declared the recommendations of the Council regarding the settlement of the dispute between Chad and the Libyan Arab Jamahiriya.<sup>14</sup>

Subsequently, in a letter dated 1 February 1985 addressed to the President of the Council,<sup>15</sup> the representative of the Libyan Arab Jamahiriya referred to the verbatim record of the 2567th meeting and categorically "denied" the remarks that had been made by the President, which Libya

had considered as representing the viewpoint of France alone, thus exceeding the role and the powers of the Presidency of the Council.

In a letter dated 5 February 1985 addressed to the President of the Council,<sup>16</sup> the representative of France acknowledged the letter from the Libyan Arab Jamahiriya in which there was a reference to the position he had taken at the 2567th meeting as President of the Council, and attached the note he had received from the Office of Legal Affairs of the Secretariat containing the latter's legal opinion on the question. In the note annexed to the letter from France, it was stated that, on 12 October 1984, the Credentials Committee of the current, thirty-ninth session of the General Assembly had submitted its first report to the Assembly, and that the report had included the credentials of the delegation of Chad, which had been signed by Hissein Habre, President of the Republic of Chad, Chief of State, and had named as head of delegation Mr. Gouara-Lassou, Minister for Foreign Affairs and Cooperation. Moreover, the report of the Credentials Committee revealed that no member of the Committee had raised any question whatsoever regarding the credentials of Chad and that the Committee had adopted without a vote a resolution accepting all the credentials that were therefore in it, including those of Chad. When, on 17 October 1984, the General Assembly, at its 32nd plenary meeting, had taken up the first report of the Credentials Committee, a number of delegations—including that of the Libyan Arab Jamahiriya—had placed on record reservations concerning certain credentials that had been approved in the report of the Committee, but none of those delegations had entered any reservation whatsoever concerning the credentials of the delegation of Chad or the legitimacy of the Government that had issued the credentials. The note then concluded that, at its thirty-ninth session, the General Assembly had accepted, without any dissent, credentials for Chad that had been signed by President Hissein Habre and that the Assembly had therefore recognized the right of the Government concerned currently to represent Chad in the United Nations. The note from the Office of Legal Affairs finally drew attention, in the light of the letter dated 1 February 1985 from the representative of the Libyan Arab Jamahiriya, to the provisions of General Assembly resolution 396 (V) of 14 December 1950, regarding "Recognition by the United Nations of the representation of a Member State".

<sup>11</sup>S/16912, *OR*, 40th yr., *Suppl. for Jan.-March 1985*.

<sup>12</sup>S/PV.2567, pp. 22-27 and 31 (second intervention).

<sup>13</sup>S/15688, see *Repertoire, Suppl. 1981-1984*, chap. VIII, part II.

<sup>14</sup>S/PV.2567, p. 29.

<sup>15</sup>S/16922, *OR*, 40th yr., *Suppl. for Jan.-March 1985*.

<sup>16</sup>S/16942, *ibid.*

## Part III

### PRESIDENCY (RULES 18-20)

#### NOTE

Part III of the present chapter is confined to the proceedings of the Security Council relating directly to the Office of the President. Material relevant to the exercise by the President of his functions in connection with the agenda is

dealt with in chapter II. The exercise by the President of his functions in the conduct of a meeting is reflected in the material included in part V of this chapter.

During the period under review, there was one case falling within the purview of rule 19, which deals with the

conduct of the Presidency (case 5). There were no special instances of the application of rules 18 and 20.

The Council continued to use informal consultations as a procedure for reaching decisions. In some instances, the President presented the results of such consultations to the Council in the form of a statement of consensus<sup>17</sup> or as a draft resolution, which the Council then adopted without further debate.<sup>18</sup> In other instances, the President announced the agreement or consensus in a note or letter circulated as a Council document. In one of those instances the letter from the President conveying the "provisional agreement" of the members of the Council to a set of proposals by the Secretary-General, in connection with the situation relating to Afghanistan, included the proviso that

that particular exchange of letters "not be regarded as a precedent for the future".<sup>19</sup>

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

**B. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 18-20**

**Rule 19**

**CASE 5**

Subsequent to the 2567th meeting, on 30 January 1985, in the course of which the President (France) had responded to the challenge by reaffirming the international legitimacy of the Government of the Republic of Chad (case 4),<sup>13</sup> the representative of the Libyan Arab Jamahiriya addressed a letter dated 1 February 1985<sup>15</sup> to the President (India) refuting the remarks by the Council's President at the 2567th meeting, which his Government considered as representing the viewpoint of France alone. He further noted in the letter that it was the second occasion on which the President of the Council had exceeded his or her power and had used the Presidency to express the point of view of his/her own country. He then referred, in that connection, to the statement by the President of the Council at the 2430th meeting, on 6 April 1983<sup>13</sup> and said that his Government believed that such behaviour might have adverse consequences for the work of the Council and for its credibility as a neutral organ that merely transmitted the decisions of the members.

<sup>17</sup>For the texts of such statements, see S/17004, S/17036, S/17050, S/17130, S/17151, S/17206, S/17215, S/17408, S/17413, S/17424, S/17486, S/17501, S/17554, S/17575, S/17635, S/17653 and S/17702, OR, 40th yr., *Resolutions and Decisions of the Security Council, 1985*; S/17745, S/17932, S/18111, S/18138, S/18157, S/18320, S/18439, S/18487, S/18492 and S/18538 *ibid.*, 41st yr., *Resolutions and Decisions of the Security Council, 1986*; S/18610, S/18641, S/18691, S/18756, S/18808, S/18863, S/18885, S/19068, S/19301 and S/19382, *ibid.*, 42nd yr., *Resolutions and Decisions of the Security Council, 1987*; S/19626, S/19912, S/19959, S/20096, S/20156, S/20208, S/20306 and S/20330 *ibid.*, 43rd yr., *Resolutions and Decisions of the Security Council, 1988*.

<sup>18</sup>For the texts of such draft resolutions, see S/17100, adopted without change as resolution 561 (1985); S/17202, adopted without change as resolution 563 (1985); S/17232, adopted without change as resolution 564 (1985); S/17266, adopted without change as resolution 565 (1985); S/17567, adopted without change as resolution 575 (1985); S/17642, adopted without change as resolution 576 (1985); S/17680, adopted without change as resolution 578 (1985); S/17859, adopted without change as resolution 582 (1986); S/18019, adopted without change as resolution 583 (1986); S/18109, adopted without change as resolution 584 (1986); S/18151, adopted without change as resolution 585 (1986); S/18226, adopted without change as resolution 586 (1986); S/18383, adopted without change as resolution 588 (1986); S/18481, adopted without change as resolution 590 (1986); S/18474 (letter dated 24 November 1986 containing the recommendation in the form of a draft resolution from the Chairman of the Security Council Committee established by resolution 421 (1977)), adopted without change as resolution 591 (1986); S/18515, adopted without change as resolution 593 (1986); S/18597, adopted without change as resolution 594 (1987); S/18881, adopted without change as resolution 596 (1987); S/18909, adopted without change as resolution 597 (1987); S/18983, adopted without change as resolution 598 (1987); S/19008, adopted without change as resolution 599 (1987); S/19296, adopted without change as resolution 603 (1987); S/19338, adopted without change as resolution 604 (1987); S/19461, adopted without change as resolution 609 (1988); S/19911,

adopted without change as resolution 613 (1988); S/19936, adopted without change as resolution 614 (1988); S/20038, adopted without change as resolution 616 (1988); S/20069, adopted without change as resolution 617 (1988); S/20097, adopted without change as resolution 619 (1988); S/20193, adopted without change as resolution 621 (1988); S/20250, adopted without change as resolution 622 (1988); S/20300, adopted without change as resolution 624 (1988); S/20324, adopted without change as resolution 625 (1988); and S/20339, adopted without change as resolution 626 (1988).

<sup>19</sup>For the text of the letter, see S/19836, OR, 43rd yr., *Resolutions and Decisions of the Security Council, 1988*; for the texts of the other notes or letters, see S/17148, *ibid.*, 40th yr., *Resolutions and Decisions of the Security Council, 1985*; S/17506, *ibid.*; S/17635, *ibid.*; S/16913, *ibid.*; S/18033, *ibid.*, 41st yr., *Resolutions and Decisions of the Security Council, 1986*; S/18136, *ibid.*; S/19809, *ibid.*, 43rd yr., *Resolutions and Decisions of the Security Council, 1988*; S/19973, *ibid.*; S/20105, *ibid.*; S/20112, *ibid.*; S/20155, *ibid.*; and S/20352, *ibid.*

**Part IV**

**SECRETARIAT (RULES 21-26)**

**NOTE**

Part IV relates to rules 21-26 of the provisional rules of procedure, which delineate the specific functions and powers of the Secretary-General, under Article 98 of the Charter, in connection with the meetings of the Security Council.

During the period under review, the Secretary-General was requested or authorized:

(a) To submit reports on the implementation of the decisions on the question of South Africa and to monitor developments related to South Africa's threats of acts of aggression against neighbouring States;<sup>20</sup>

<sup>20</sup>Resolutions 560 (1985) of 12 March 1985, 569 (1985) of 26 July 1985, 581 (1986) of 13 February 1986 and 591 (1986) of 28 November 1986.

(b) To continue consultations with the Government of Lebanon, and other parties directly concerned, in connection with the mandate of the United Nations Interim Force in Lebanon (UNIFIL), and to submit a report thereon;<sup>21</sup>

(c) To make the necessary arrangements for a deployment of UNIFIL to the southern border of Lebanon, to adopt urgently measures for the reinforcement of the security of its personnel and to submit reports thereon;<sup>22</sup>

(d) To keep the Council apprised of the development of the situation in Central America, in connection with the letter dated 6 May 1985 from the representative of Nicaragua, and the implementation of resolution 562 (1985);<sup>23</sup>

(e) To submit, in connection with the situation in the Middle East and the mandate of the United Nations Disengagement Observer Force (UNDOF), a report on the developments in the situation and the measures taken to implement resolution 338 (1973);<sup>24</sup>

(f) To submit a report, in connection with the situation in the occupied Arab territories, on the implementation of resolution 592 (1986) and to examine the situation in the territories by all means available to him and to report thereon;<sup>25</sup>

(g) To continue his mission of good offices, in connection with the situation in Cyprus, to keep the Council informed of the progress made and to submit a report on the implementation of the resolution of the Council;<sup>26</sup>

(h) To arrange, in connection with the situation in Namibia, a ceasefire between South Africa and the South West Africa People's Organization in order to undertake the administrative and other practical steps necessary for the emplacement of the United Nations Transition Assistance Group and to report on the progress in the implementation of Council resolutions;<sup>27</sup>

(i) To monitor, in connection with the complaint of Angola against South Africa, developments in the situation, including the withdrawal of the South African military forces from the territory of Angola, and to report on the implementation of Council resolutions;<sup>28</sup>

(j) To enter into consultation with the Government of Botswana and the relevant United Nations agencies on measures to assist that Government in ensuring the safety, protection and welfare of the refugees in Botswana and to report thereon;<sup>29</sup>

(k) To submit a report, in connection with the letter dated 1 October 1985 from Tunisia, on the implementation of resolution 573 (1985);<sup>30</sup>

(l) To establish, in consultation with the Government of Lesotho, an appropriate presence comprising one or two civilians in Maseru, for the purpose of keeping him informed of any development affecting the territorial integrity of Lesotho and to monitor, through appropriate means, the implementation of resolution 580 (1985) and the prevailing situation and to submit a report as necessary;<sup>31</sup>

(m) To continue or to intensify his ongoing efforts, in connection with the situation between Iran and Iraq, to assist the two parties to give effect to United Nations observers to verify, confirm and supervise the ceasefire and withdrawal; to make the necessary arrangements in consultation with the parties; to explore in consultation with Iran and Iraq the question of entrusting an impartial body with inquiring into responsibility for the conflict; to examine measures to enhance the security and stability of the region; to take the necessary steps to set up a United Nations Iran-Iraq Military Observer Group; to carry out prompt investigations in response to allegations brought to his attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxic weapons that may constitute a violation of the 1925 Geneva Protocol or other relevant or customary international law, in order to ascertain the facts of the matter; and to submit reports on all these;<sup>32</sup>

(n) To report urgently, in connection with the letter dated 19 April 1988 from the representative of Tunisia, any new elements available to him and relating to the aggression;<sup>33</sup>

(o) To appoint a special representative for Western Sahara and to submit a report as soon as possible on the holding of a referendum for self-determination of the people of Western Sahara and on ways and means to ensure the organization and supervision of such a referendum by the United Nations in cooperation with the Organization of African Unity;<sup>34</sup>

(p) To keep the Council informed of further developments, in connection with the situation relating to Afghanistan, in accordance with the Geneva agreements and the arrangements for the temporary dispatch to Afghanistan

<sup>21</sup>Resolutions 561 (1985) of 17 April 1985, 575 (1985) of 17 October 1985, 583 (1986) of 18 April 1986, 586 (1986) of 18 July 1986, 594 (1987) of 15 January 1987, 599 (1987) of 31 July 1987, 609 (1988) of 29 July 1988 and 617 (1988) of 29 July 1988.

<sup>22</sup>Resolution 587 (1986) of 23 September 1986 and presidential statements of 5 September and 31 October 1986, respectively, S/18320 and S/18439, *OR, 41st yr., Resolutions and Decisions of the Security Council, 1986*.

<sup>23</sup>Resolution 562 (1985) of 10 May 1985.

<sup>24</sup>Resolutions 563 (1985) of 17 April 1985, 576 (1985) of 21 November 1985, 584 (1986) of 29 May 1986, 590 (1986) of 26 November 1986, 596 (1987) of 29 May 1987, 603 (1987) of 25 November 1987, 613 (1988) of 31 May 1988 and 624 (1988) of 30 November 1988.

<sup>25</sup>Resolutions 592 (1986) of 8 December 1986 and 605 (1987) of 22 December 1987.

<sup>26</sup>Resolutions 565 (1985) of 14 June 1985, 578 (1985) of 12 December 1985, 585 (1986) of 13 June 1986, 593 (1986) of 11 December 1986, 597 (1987) of 12 June 1987, 604 (1987) of 14 December 1987, 614 (1988) of 15 June 1988 and 625 (1988) of 15 December 1988, and presidential statement of 20 September 1985, S/17486, *OR, 43rd yr., Resolutions and Decisions of the Security Council, 1988*.

<sup>27</sup>Resolutions 566 (1985) of 19 June 1985 and 601 (1987) of 30 October 1987 and presidential statement of 29 September 1988, S/20208, *OR, 43rd yr., Resolutions and Decisions of the Security Council, 1988*.

<sup>28</sup>Resolutions 567 (1985) of 20 June 1985, 577 (1985) of 6 December 1985, 602 (1987) of 25 November 1987, and 606 (1987) of 23 December 1987.

<sup>29</sup>Resolutions 568 (1985) of 21 June 1985 and 572 (1985) of 30 September 1985.

<sup>30</sup>Resolution 573 (1985) of 4 October 1985.

<sup>31</sup>Resolution 580 (1985) of 30 December 1985.

<sup>32</sup>Resolutions 582 (1986) of 24 February 1986, 588 (1986) of 8 October 1986, 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988 and 620 (1988) of 26 August 1988 and presidential statements of 21 March and 22 December 1986, respectively, S/17932 and S/18538, *OR, 41st yr., Resolutions and Decisions of the Security Council, 1986*; presidential statements of 16 January, 14 May and 24 December 1987, respectively, S/18610, S/18863 and S/19382; *ibid., 42nd yr., Resolutions and Decisions of the Security Council, 1987*; and presidential statements of 16 March and 18 August 1988, respectively, S/19626 and S/20096, *ibid., 43rd yr., Resolutions and Decisions of the Security Council, 1988*.

<sup>33</sup>Resolution 611 (1988) of 25 April 1988.

<sup>34</sup>Resolution 621 (1988) of 20 September 1988.

and Pakistan of military officers from existing United Nations operations to assist in the mission of good offices;<sup>35</sup>

(g) To take the necessary steps, in connection with the letters, both dated 17 December 1988, from the representatives of Angola and Cuba, for the establishment of a United Nations Angola verification mission, to report im-

mediately after the signature of the agreements referred to in paragraph 4 of resolution 626 (1988) and to inform the Council of further developments.<sup>36</sup>

There were no special instances, during the period under review, of the application of rules 21-26.

<sup>35</sup>Resolution 622 (1988) of 31 October 1988.

<sup>36</sup>Resolution 626 (1988) of 20 December 1988.

## Part V

### CONDUCT OF BUSINESS (RULES 27-36)

#### NOTE

Part V sets out the cases bearing on rules 27-36. Material relating to rule 28 can be found in chapter V, which deals with the subsidiary organs of the Security Council. Material relating to rules 37-39 is covered in chapter III, which deals with participation in the proceedings of the Security Council. During the period under review, there were no special instances of the application of rules 29, 34, 35 and 36.

As in previous volumes of the *Repertoire*, the cases assembled here are indicative of the special problems that arose in the application of the rules on the conduct of business, rather than the routine practice of the Council. They relate to such matters as:

(a) Rule 27, on the order of intervention in the debate (case 6);

(b) Rule 30, on the extent to which the President rules on a point of order (cases 7 and 8). Those instances in which representatives, having asked to be recognized on a point of order, made statements in which no rule was required have not been included in the present study;

(c) Rule 32, on the order of precedence of principal motions and draft resolutions, including requests for separate voting on parts of a motion or of a draft resolution (cases 9-13);

(d) Rule 33, on the suspension and adjournment of meetings (cases 14-17).

#### \*\* A. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 27-36

#### B. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 27-36

##### Rule 27

##### CASE 6

At the 2655th meeting, on 6 February 1986, in connection with the letter dated 4 February 1986 from the representative of the Syrian Arab Republic, the President, after thanking the representative of the United Kingdom for his statement after the vote on the draft resolution,<sup>37</sup> appealed

<sup>37</sup>S/17796 (draft resolution submitted by the Congo, Ghana, Madagascar, Trinidad and Tobago and the United Arab Emirates, subsequently revised, voted upon and not adopted), *OR, 41st yr., Suppl. for Jan.-March, 1986*.

urgently, in view of the lateness of the hour, in particular to the representatives of Israel, the Libyan Arab Jamahiriya and the Syrian Arab Republic—who were participating in the Security Council's discussion under rule 37 of the provisional rules of procedure—not to insist on their desire to speak. The President then stated that he had just been informed that the Union of Soviet Socialist Republics, a member of the Council, wished to speak in the exercise of the right of reply and that, naturally, if he called on the representative of the Soviet Union, he should be obliged to call on all the others who had requested to speak. But, the President added, since the Soviet Union was a member of the Council, he thought that the appeal he had made to the non-members of the Council remained valid. The President then called on the representative of the Soviet Union to make a statement in the exercise of the right of reply.

The representative of the Soviet Union noted, at the outset of his statement, that it seemed to him that "everybody" and not just members of the Security Council had the right to exercise the right of reply, and that the President's decision might be disputed. The representative of the Soviet Union said that, in any event, he was using his right of reply and then he continued with his statement. Following the statement by the representative of the Soviet Union, the President renewed his "urgent appeal" that he had made to the representatives of Israel, the Libyan Arab Jamahiriya and the Syrian Arab Republic not to insist on the request to speak. There was no objection.<sup>38</sup>

##### Rule 30

##### CASE 7

At the 2655th meeting, on 6 February 1986, in connection with the letter dated 4 February 1986 from the representative of the Syrian Arab Republic, the representative of the United Arab Emirates requested as a point of order that the Security Council proceed to the vote on the draft resolution<sup>37</sup> and postpone further statements "in reply" until after the vote. The President stated that the Council would then proceed to the vote. There was no objection.<sup>39</sup>

##### CASE 8

At the 2774th meeting, on 16 December 1987, in connection with the situation in the occupied Arab territories,

<sup>38</sup>S/PV.2655, pp. 122-128.

<sup>39</sup>*ibid.*, p. 108.



the President stated that the representative of India, who was participating in the discussion under rule 37 of the Security Council's provisional rules of procedure, wished to speak in exercise of the right of reply and invited him to take a place at the Council table. The representative of the United Kingdom of Great Britain and Northern Ireland then raised a point of order and said that he understood that in fact there were no rights of reply in the Security Council, and that representatives who were not members of the Council were invited simply to address the Council and make statements. He added that he thought it important that no wrong precedent be set, and that, while they welcomed statements, there was no right of reply.

The President differed with the statement that was made by the representative of the United Kingdom on a point of order, and said that they had, with the consent of the Council, invited the representative of India to make a statement. The President said that, according to established practice in the Council, the representative of India had the right to exercise his right of reply, and he called upon him to make a statement. There was no challenge.<sup>40</sup>

### Rule 32

#### CASE 9

At the 2580th meeting, on 10 May 1985, in connection with the letter dated 6 May 1985 from the representative of Nicaragua, the representative of India requested, under rule 38 of the Security Council's provisional rules of procedure,<sup>41</sup> that the draft resolution submitted by Nicaragua,<sup>42</sup> which was participating in the discussion under rule 37, be put to the vote. The representative of the United States of America requested a paragraph-by-paragraph vote on the draft resolution, stating that separate votes on each paragraph would demonstrate to the Council the existence of broad areas of agreement between the position of his Government and that of the Government of Nicaragua. There was no objection. Following a separate vote on each paragraph, during which the eighth preambular paragraph and operative paragraphs 1 and 2 were not adopted, the remaining parts of the draft resolution were voted on as a whole and adopted unanimously as resolution 562 (1985).<sup>43</sup>

#### CASE 10

When the 2607th meeting resumed (case 16), the President said that they were back at the point at which, before the suspension of the meeting, he had stated that, if there was no objection, they would proceed to the vote on the six-Power draft resolution as orally revised.<sup>44</sup> The representative of the United States of America said that the only paragraph with which they had any difficulty was operative paragraph 5 of the draft resolution, as orally revised,

and requested whether under rule 32 they could have a separate vote on paragraph 5 and then proceed with a vote on the rest of the draft resolution. There was no objection.<sup>45</sup>

#### CASE 11

At the 2617th meeting, on 7 October 1985, in connection with the complaint by Angola against South Africa, the President requested, in his capacity as representative of the United States of America, that a separate vote be taken on operative paragraph 6 of the six-Power draft resolution before the Council.<sup>46</sup> There was no objection. Following the adoption of operative paragraph 6 by a vote of 14 in favour to none against and 1 abstention, the draft resolution as a whole, including operative paragraph 6, was voted upon and adopted unanimously as resolution 574 (1985).<sup>47</sup>

#### CASE 12

At the 2631st meeting, on 6 December 1985, in connection with the complaint by Angola against South Africa, when the President put, without objection, the six-Power draft resolution<sup>48</sup> to the vote, the representative of the United States of America requested a separate vote on operative paragraph 6 of the draft resolution. He also stated that, as in previous similar situations, he believed that their request, if acceded to, would facilitate the broadest possible support for the draft resolution. There was no objection and operative paragraph 6 was separately voted on and adopted by 14 to none, with 1 abstention. The draft resolution as a whole, including operative paragraph 6, was voted upon and adopted unanimously as resolution 577 (1985).<sup>49</sup>

#### CASE 13

At the 2686th meeting, on 23 May 1986, in connection with the situation in southern Africa, the representative of Trinidad and Tobago introduced, on behalf of the sponsors, a series of oral revisions to the five-Power draft resolution,<sup>50</sup> and requested that the draft resolution, as orally revised, be put to the vote.

The representative of the United Kingdom of Great Britain and Northern Ireland welcomed the oral amendments, which, he said, were helpful and, in the light of which, he asked for a separate vote on the twelfth preambular paragraph and on operative paragraph 6. In response to that request, the representative of Trinidad and Tobago said that, in accordance with rule 32, he would like the Security Council to proceed to a vote on the five-Power draft resolution, as orally revised, as a whole. The President quoted

<sup>45</sup>S/PV.2607, pp. 51 and 52.

<sup>46</sup>S/17531 (draft resolution submitted by Burkina Faso, Egypt, India, Madagascar, Peru and Trinidad and Tobago), subsequently voted upon and adopted as resolution 574 (1985), following a separate vote on operative paragraph 6.

<sup>47</sup>S/PV.2617, pp. 48 and 49.

<sup>48</sup>S/17667 (draft resolution submitted by Burkina Faso, Egypt, India, Madagascar, Peru and Trinidad and Tobago), subsequently voted upon and adopted as resolution 577 (1985), following a separate vote on operative paragraph 6.

<sup>49</sup>S/PV.2631, pp. 31 and 32.

<sup>50</sup>S/18087 (draft resolution submitted by the Congo, Ghana, Madagascar, Trinidad and Tobago and the United Arab Emirates), subsequently orally revised, voted upon and not adopted, *OR. 41st yr., Suppl. for April-June, 1986*.

<sup>40</sup>S/PV.2774, pp. 77 and 78.

<sup>41</sup>For the application of rule 38, see chap. III, "Participation in the proceedings of the Security Council".

<sup>42</sup>S/17172, subsequently voted upon and adopted as resolution 562 (1985), following a separate vote on each paragraph; see also chap. IV, "Voting".

<sup>43</sup>S/PV.2580, pp. 116-128; see also note 42.

<sup>44</sup>S/17481 (draft resolution submitted by Burkina Faso, Egypt, India, Madagascar, Peru and Trinidad and Tobago), orally revised and subsequently voted upon and adopted as resolution 571 (1985), following a separate vote on operative paragraph 5.

the relevant part of rule 32 of the Council's provisional rules of procedure, which states:

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

Following his quotation of the pertinent part of rule 32, the President stated that, since the sponsors of the draft resolution had objected to the proposal for separate votes on parts of the draft resolution, the Council would consider the draft resolution as a whole. The representative of the United Kingdom requested a clarification, stating that he had not actually heard the representative of Trinidad and Tobago objecting to the proposal and that it had not been clear that he had been objecting. The representative of Trinidad and Tobago stated that, while what he had previously said ought to have met the case, he would remove all question of doubt by restating to the Council that he had been authorized by the original movers of the draft resolution, as orally revised, to inform the Council that they objected to the proposal and that the Council should proceed to vote on the draft resolution as a whole. The Council proceeded to the vote on the draft resolution, as orally revised, as a whole.<sup>51</sup>

### Rule 33

#### CASE 14

At the 2572nd meeting, on 11 March 1985, in connection with the situation in the Middle East, the representative of the United Kingdom of Great Britain and Northern Ireland raised a point of order and wondered what the intentions of the President were and how they should proceed further in the debate. He noticed they had a long list of speakers and said that he did not even know whether the list he had was a comprehensive list or whether there might yet be more and that, given the lateness of the hour and conflicting engagements some of them had, he personally preferred to close the deliberations for that evening rather soon.

The President recalled what had been agreed at the 2570th meeting, on 7 March 1985, and said that, since there had been no formal request for suspension of the meeting, he had intended to exhaust the list of speakers and proceed to a vote on the draft resolution.<sup>52</sup> The representative of the United Kingdom reiterated his preference that the Security Council continue its discussion the following morning since they still had a lengthy list of speakers to which a number of explanations of vote would certainly be added if they proceeded to the vote that night. The President asked if the representative of the United Kingdom would call for the application of rule 33 to adjourn the meeting and, when the latter acceded to the request, the President read out the entire provisions of rule 33 of the provisional rules of the Council's procedure. The President then asked if there was any objection to the proposal by the representative of the United Kingdom. There was none, and the meeting was adjourned until 10.30 a.m. the following day.<sup>53</sup>

<sup>51</sup>S/PV.2686, pp. 126 and 127; see also chap. IV, "Voting".

<sup>52</sup>S/17000 (draft resolution submitted by Lebanon, subsequently voted upon at the 2573rd mtg., on 12 March 1985, and not adopted), *OR*, 40th yr., *Suppl. for Jan.-March, 1985*.

<sup>53</sup>S/PV.2572, pp. 104-107.

#### CASE 15

At the 2600th meeting, on 25 July 1985, during the Security Council's consideration of the question of South Africa, the representative of France requested that the meeting be suspended for some 45 minutes to allow certain consultations with a view to voting on the draft resolution,<sup>54</sup> when the meeting resumed. The representative of Burkina Faso, speaking on behalf of the members of the Security Council belonging to the Movement of Non-Aligned Countries, also requested, under rule 33, paragraph 1, of the provisional rules of procedure, that the meeting be suspended to enable consultations on the draft resolution. The meeting was suspended at 7.45 p.m.

When the meeting resumed at 12.05 a.m., the representative of France proposed that the draft resolution be put to the vote. The representative of Burkina Faso, speaking on behalf of the members of the Council belonging to the Movement of Non-Aligned Countries, requested that the vote be postponed to allow some members of the Council to seek instructions from their Governments. The President proposed to adjourn the meeting, bearing in mind the statements by the representative of France—a sponsor of the draft resolution before the Council—and by the representative of Burkina Faso, as well as the fact that a few speakers remained to be heard. The President stated that the next meeting of the Council would be held later on that day, at 11.00 a.m., and asked interested parties to meet before then to continue with the consultations. There was no objection.<sup>55</sup>

#### CASE 16

At the 2607th meeting, on 20 September 1985, in connection with the complaint by Angola against South Africa, the President declared that the Security Council was ready to proceed to the vote on the six-Power draft resolution,<sup>54</sup> and then announced that he had been informed by the sponsors of the draft resolution of revisions to two paragraphs, one of which was of a textual nature. When the President said that they would then proceed to the vote on the draft resolution, as orally revised, the representative of the United States of America requested, under rule 33, a "short recess" to discuss the matter further before putting the revised draft resolution to a vote (see case 10).

The representative of the Union of Soviet Socialist Republics asked if that was possible under the rules of procedure since they had already started the process of voting. To that, the President responded, while he was open to expert opinion, that his personal understanding was that once the voting procedure had started, it should not be interrupted. The President further said that, perhaps under the circumstances, the request of the representative of the United States of America might be granted. To a further question by the representative of the Ukrainian Soviet Socialist Republic as to how long he intended the recess to be, the President suggested that it would be of some 10 minutes. Following that exchange, the representative of India requested all members of the Council to stay in the chamber or nearby so that they could reconvene in 10 min-

<sup>54</sup>S/17354 (draft resolution submitted by Denmark and France), subsequently revised and adopted at the 2602nd mtg., on 26 July 1985, as resolution 569 (1985).

<sup>55</sup>S/PV.2600, pp. 91-101.

utes. The representative of the Soviet Union then stated that he presumed it was understood that the current decision would not constitute a precedent or introduce any changes in the rules of procedure of the Council. The President concurred with that understanding and the meeting was suspended for 10 minutes.<sup>56</sup>

## CASE 17

At the 2776th meeting, on 18 December 1987, in connection with the situation in the occupied Arab territories, the President stated that intensive consultations had taken place that day between the sponsors of the five-Power draft resolution<sup>57</sup> and several members of the Security Council

in order to produce a text that would command the broadest support within the Council. The President added that he had been informed that the consultations on the matter had not been completed and that, in that connection, he had been requested to suspend the meeting for one hour. There was no objection.

When the meeting resumed, the President said that he had been informed that further consultations were required among the sponsors of the draft resolution and members of the Council and that the Council should, therefore, defer action on the draft resolution until the afternoon of the following Monday, 21 December. There was no objection and the meeting was adjourned.<sup>58</sup>

<sup>56</sup>S/PV.2607, pp. 46-51.

<sup>57</sup>S/19352 (draft resolution submitted by Argentina, the Congo, Ghana, the United Arab Emirates and Zambia), subsequently revised and adopted at the 2777th mtg., on 22 December 1987, as resolution 605 (1987).

<sup>58</sup>S/PV.2776, pp. 40 and 41.

## 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.

During the period under review, members of the Council on certain occasions referred to a rule that does not appear

in the provisional rules of procedure of the Council but in the Rules of Procedure of the General Assembly, under which the voting process may not be interrupted once it is in progress except for reasons relating to the actual conduct of the voting (see case 16).<sup>59</sup>

On certain other occasions, members of the Council, as in the past, were recorded as not participating in the vote on resolutions declared to have been adopted. During the period covered by the present supplement, there were no special instances relating to the application of rule 40.

<sup>59</sup>Other occasions on which members of the Council referred to a rule that does not appear in the provisional rules of procedure of the Council but in the rules of the General Assembly, relate to statements in the exercise of the "right of reply" (see cases 6-8).

## \*Part VII

## \*\*LANGUAGES (RULES 41-47)

## \*\*NOTE

## \*\*A. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 41-47

## \*\*B. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 41-47

## Part VIII

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

## NOTE

In accordance with rule 49, the verbatim records of each meeting are made available in the working languages to the representatives on the Security Council, as well as to the

representatives of any other States that participated in the meeting. A note is incorporated in mimeographed copies of the record showing the time and date of distribution. Corrections are requested in writing, in quadruplicate, within three working days, to be submitted in the same

language as the text to which they refer. These corrections are included, in the absence of any objection, in the *Official Record* of the meeting, which is printed and distributed as soon as possible after the time limit for correction. During the period under review, the Council held six private meetings.<sup>60</sup> At the close of each meeting, the Council issued a communiqué through the Secretary-General, in accordance with rule 55 of the provisional rules of procedure.

There were no special instances of the application of rules 48-57 during the period covered by the present *Supplement*. However, there were rare occasions during the Council's deliberations on which implicit references were made to rule 48 of the provisional rules of procedure. At the 2608th meeting,<sup>61</sup> which was a commemorative meeting held on 26 September 1985 at the level of Foreign Ministers, in celebration of the fortieth anniversary of the Organization, there were a few instances that might be viewed as some discussion or interpretation of the purposes and advantages of rule 48. On the one hand, the representative of France declared the meeting "unprecedented" and said that the 1970 meeting<sup>62</sup> of the Council at the ministerial level had had no impact on international public opinion, because it had taken place in private. He stated that the current meeting was a public one because they had wanted it to be so and that, while "quiet diplomacy" might have its virtues, it was nevertheless not the natural role of the Council, which had been designed to take public positions. In their view, he said, that was even more necessary 40 years after the entry into force of the Charter and at a time when the speed and impact of audiovisual communications entailed that there should be

a close link between international public opinion and the persons and organs responsible for diplomatic actions. He asserted that, far from growing stronger, the link had actually weakened and that currently there was a gulf between the Council and world public opinion.<sup>63</sup>

On the other hand, the representative of Australia said that, since they had joined the Council as a non-permanent member, they had tried to help improve the Council's capacity for "quiet diplomacy" through such means as, for instance, the reduction of the number of participants in Council deliberations, the holding of periodic meetings to review the state of international security and taking timely action to prevent the Council from waiting until crises had actually arrived before calling on the Secretary-General to try to settle them. He stated that Australia also agreed with the Secretary-General's approach that the Council should make a concerted effort to deal with one or two of the major problems that were before it and that it should redouble its attempts to end the war between Iraq and Iran. To that end, he said, the Government of Australia had proposed that the Council have separate private meetings with each of the parties to the conflict. In order to help break the impasse, he added, the scope for progress towards a solution could be explored privately at such meetings. He then regretted, in the same context, that his Government's idea to hold the present meeting in private had not been favoured and was of the opinion that, had it been a private, informal session, they could have exchanged ideas freely and frankly on how to make the Council work more effectively.<sup>64</sup>

At the same meeting, the President, speaking in his capacity as the representative of the United Kingdom of Great Britain and Northern Ireland, stated that, over the years, the Council had turned out to be probably an agent more of persuasion than of coercion; that their functions, when performed at their best, had tended to move away from open public meetings to "discussions in confidence";<sup>65</sup> and that in such and in other ways they had achieved some notable successes. He further stated that not every problem was best considered by being publicly debated; that not every debate was best terminated by a resolution; and that the idea of private, formal meetings might reduce the scope for "propaganda" and increase the Council's ability to play a constructive role.<sup>66</sup>

<sup>60</sup>The six meetings were the following:

2566th	29 January 1985	Consideration of the draft report of the Security Council to the General Assembly;
2627th	15 November 1985	Consideration of the draft report of the Security Council to the General Assembly;
2714th	10 October 1986	Recommendation regarding the appointment of the Secretary-General of the United Nations;
2720th	12 November 1986	Consideration of the draft report of the Security Council to the General Assembly;
2768th	25 November 1987	Consideration of the draft report of the Security Council to the General Assembly;
2829th	8 November 1988	Consideration of the draft report of the Security Council to the General Assembly.

<sup>61</sup>The agenda for the meeting was: "United Nations for a better world and the responsibility of the Security Council in maintaining international peace and security".

<sup>62</sup>1555th meeting, on 21 October 1970 (first periodic meeting), see *Repertoire of the Practice of the Security Council, Supplement 1969-1971*.

<sup>63</sup>S/PV.2608, p. 71.

<sup>64</sup>*Ibid.*, pp. 112 and 113.

<sup>65</sup>The reference to "discussions in confidence" might well be a reference to the Council's "informal consultations of the whole", and not necessarily to a "private meeting" as stipulated under rule 48 of the provisional rules of procedure. The Council's "consultations of the whole" is an arrangement of convenience for negotiating or drafting purposes established in practice outside the framework of the provisional rules of procedure of the Security Council.

## \*\*Part IX

### \*\* APPENDIX TO THE PROVISIONAL RULES OF PROCEDURE