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## **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 the provisional rules of procedure of the Security Council arranged as follows: part I, Meetings (rules 1-5); part II, Representation and credentials (rules 13-17); part III, Presidency (rules 18-20); part IV, Secretariat (rules 21-26); part V, Conduct of business (rules 27-36); part VI, Languages (rules 41-47); part VII, Publicity of meetings, records (rules 48-57).

The practice of the Council in relation to some of the provisional rules of procedure are more appropriately dealt with in other chapters of this *Supplement* and are arranged 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).

As in previous *Supplements*, the major subheadings contained in this chapter follow the order of the relevant chapters of the provisional rules of procedure of the Security Council, with the exceptions noted above.

The material in this chapter relates to 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 the special problems or issues that have arisen in the proceedings of the Council under its provisional rules of procedure.

During the period under review, the Council did not consider the amendment or adoption of its provisional rules of procedure. Some members of the Council did, however, in their interventions, note the need for the review or updating of the provisional rules of procedure.<sup>1</sup> The Council took a number of steps to improve its working methods and procedure,<sup>2</sup> which included the publication of the provisional agenda for formal meetings of the Security Council in the United Nations *Journal*;<sup>3</sup> the circulation of the tentative monthly forecast of the Council's programme of work to all Member States;<sup>4</sup> the decision to make available, as from 1 March 1994, draft resolutions in provisional form to non-members of the Council at the time of the consultations of the whole.<sup>5</sup> New arrangements were also introduced for consultation and exchange of information with troop-contributing countries.<sup>6</sup>

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<sup>1</sup> S/PV.3483, pp. 6, 10 and 11.

<sup>2</sup> Many of these steps have emerged from work carried out in the Council's Working Group on Documentation and Other Procedural Questions, which first met in June 1993.

<sup>3</sup> S/26015 of 30 June 1993.

<sup>4</sup> S/26176 of 27 July 1993.

<sup>5</sup> S/1994/230 of 28 February 1994.

<sup>6</sup> S/PRST/1994/62 of 4 November 1994.

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## Part I Meetings (rules 1-5)

### Note

The material assembled in this section reflects the provisions of Article 28 of the Charter, and indicates special instances of the interpretation or application of rules 1 to 5 on the convening and place of Security Council meetings.

During the period under review, there was one case falling under rule 2 (case 1). There were no special instances of the application of rules 1 and 3 to 5.

The practice of the Arria-formula meetings, which was initiated in March 1992 by the then President of the Security Council, Ambassador Diego Arria (Venezuela), continued through the period under consideration. Arria-formula meetings are not formal meetings of the Security Council. They are convened at the initiative of a member or members of the Security Council in order to hear the views of individuals, organizations or institutions on matters within the competence of the Security Council.

The members of the Council continued to meet frequently in the format of informal consultations of the whole.

### Special cases concerning the application of rules 1-5

#### Rule 2

*The President shall call a meeting of the Security Council at the request of any member of the Security Council.*

### Case 1

By a letter dated 15 April 1993, addressed to the President of the Security Council,<sup>7</sup> the representative of Turkey, on behalf of the Contact Group on Bosnia and Herzegovina of the Organization of the Islamic Conference,<sup>8</sup> noted that delaying the adoption of a draft resolution on Bosnia and Herzegovina designed to strengthen sanctions on the Federal Republic of Yugoslavia was inconsistent with the expectations of the international community to pressure the Serbs to sign the peace plan in all its parts. He requested an urgent formal meeting of the Council, with an open debate, so that all non-members might voice their concern over the issue.

At the 3201st meeting, held on 19 April 1993 on the situation in the Republic of Bosnia and Herzegovina, the representative of Malaysia expressed "serious concern over the actions of certain Council members in obstructing repeated desperate requests for emergency meetings of the Council to address the growing deterioration of the situation in Bosnia". He added that those actions were "tantamount to applying a surreptitious veto".<sup>9</sup>

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<sup>7</sup> S/25607.

<sup>8</sup> Egypt, Islamic Republic of Iran, Malaysia, Pakistan, Saudi Arabia, Senegal and Turkey.

<sup>9</sup> S/PV.3201, pp. 24-27.

## Part II Representation and credentials (rules 13-17)

### Note

Rule 13 of the provisional rules of procedure of the Security Council requires each member of the Council to communicate the credentials of its accredited representative to the Secretary-General not less than twenty-four hours before that representative takes his seat on the Council. In addition, any Member

of the United Nations not a member of the Council and any State not a Member of the United Nations, if invited to participate in a meeting or meetings of the Council, must also communicate the credentials of its representative in a like manner to the Secretary-General, in accordance with rule 14. The Secretary-General is required by rule 15 to examine the credentials of the above categories of representatives

and to submit a report thereon, certifying that the credentials are in order, to the Security Council for approval. The practice of the Council regarding those rules has been that the credentials of representatives have been communicated to the Secretary-General who submits his report to the Council pursuant to rule 15 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 are designated. This practice was followed during the period under review.

### **Special cases concerning the application of rules 13-17**

During the period under review, there were no special cases concerning the application of rules 13 to 17. It should be noted, however, that Rwanda, a non-permanent member of the Security Council from 1 January 1994 to 31 December 1995, had no representation in the Council from 14 July to 2 September 1994.

## **Part III Presidency (rules 18-20)**

### **Note**

Part III of the present chapter deals with the proceedings of the Security Council directly related to the Office of the President of the Council. Material relevant to the exercise by the President of his functions in connection with the agenda is dealt with in chapter II. Material pertaining to the exercise by the President of his functions in the conduct of meetings is included in part V of this chapter.

During the period under review, the President of the Security Council, on two separate occasions, made statements which conveyed the decision of the members of the Council to suspend the application of rule 18 of its provisional rules of procedure, which provides for the monthly rotation of the presidency in the English alphabetical order of the names of the members of the Council (case 2).

There were no special instances concerning rule 19, which deals with the conduct of the presidency.

There were two instances of the application of rule 20, which deals with the temporary vacating of the chair by the President (cases 3 and 4).

During the period under review, the members of the Council continued to use informal consultations as a procedure for reaching decisions. On many occasions, the President presented the results of such consultations to the Council in the form of a presidential statement made on behalf of its members, or as a draft resolution, which the Council then adopted in a formal meeting without further debate. On other

occasions, the President announced the agreement or consensus in a statement, note or letter circulated as a Council document.

### **Special cases concerning the application of rules 18-20**

#### *Rule 18*

*The presidency of the Security Council shall be held in turn by the members of the Security Council in the English alphabetical order of their names. Each president shall hold office for one calendar month.*

#### **Case 2**

At the 3420th meeting, held on 25 August 1994 in connection with the item entitled "Presidency of the Security Council", the President (Russian Federation) read out a statement which conveyed the decision of the Council to suspend rule 18 of the provisional rules of procedure, so as to allow the presidency of the Security Council to be held by Spain in September 1994.<sup>10</sup> It also decided that the timing of Rwanda's presidency would be addressed later.<sup>11</sup>

<sup>10</sup> S/PRST/1994/48.

<sup>11</sup> If the alphabetical order had been strictly adhered to, as required by rule 18, it would have been Rwanda's turn to preside. Rwanda was not represented in the Security Council at the 3406th to 3420th meetings, from 19 July to 25 August 1994. It resumed its participation on 2 September 1994.

At the 3426th meeting, held on 16 September 1994 in connection with the same item, the President (Spain) read out a statement<sup>12</sup> by which the Council had decided to suspend rule 18 so as to allow the presidency to be held in December 1994 by Rwanda, following the holding of the presidency in October 1994 by the United Kingdom and in November 1994 by the United States. It also decided that from January 1995, the presidency would again be held as specified in rule 18, beginning with the member of the Council whose name in the English alphabetical order followed that of the United States.

#### Rule 20

*Whenever the President of the Security Council deems that for the proper fulfilment of the responsibilities of the presidency he should not preside over the Council during the consideration of a particular question with which the member he represents is directly connected, he shall indicate his decision to the Council. The presidential chair shall then devolve, for the purpose of the consideration of that question, on the representative of the member next in English alphabetical order, it being understood that the provisions of this rule shall apply to the representatives on the Security Council called upon successively to preside. This rule shall not affect the representative capacity of the President as stated in rule 19, or his duties under rule 7.*

#### Case 3

At the 3309th meeting, held on 10 November 1993 in connection with the election of five members of the International Court of Justice, the President of

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<sup>12</sup> S/PRST/1994/55.

the Security Council (Cape Verde) stated that, for reasons known to all members of the Security Council,<sup>13</sup> he had considered the possibility of applying rule 20 of the provisional rules of procedure. He quoted rule 20 and noted that the decision whether or not to vacate the chair was entirely within the discretion of the President. After fully considering the exceptional circumstances of the case, he decided to step aside and not to preside over the Council during its proceedings in connection with the above-mentioned item. Consequently, in accordance with rule 20, he invited the President for the next month, China, to preside over the meeting.<sup>14</sup>

#### Case 4

At the 3481st meeting, held on 15 December 1994 in connection with the situation concerning Rwanda, the President of the Security Council (Rwanda) after quoting rule 20 of the provisional rules of procedure, noted that that provision placed the matter entirely within the discretion of the President. Having considered the matter, he decided to exercise the discretion given to him under rule 20 and to vacate the chair. Consequently, in accordance with rule 20 and bearing in mind the Council's decision of 16 September 1994 (S/PRST/1994/55),<sup>15</sup> he invited the representative of Argentina to occupy the chair for the purpose of the consideration of the item.<sup>16</sup>

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<sup>13</sup> The President was among the candidates for the International Court of Justice.

<sup>14</sup> S/PV.3309, p. 3.

<sup>15</sup> See case 2 above.

<sup>16</sup> S/PV.3481, p. 2.

## Part IV Secretariat (rules 21-26)

### Note

Part IV relates to rules 21 to 26 of the provisional rules of procedure, which set out the specific functions and powers of the Secretary-General in connection

with the meetings of the Security Council.<sup>17</sup> These rules reflect the provisions of Article 98 of the Charter insofar as they concern the requirements of the Security Council.

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<sup>17</sup> Under rule 24 the Secretary-General provides not only the staff required to service meetings of the Council, but also makes available staff for subsidiary organs of the Council both at Headquarters and in the field.

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

Instances where the Secretary-General was requested or authorized to carry out other functions are

dealt with in chapter VI (Relations with other United Nations organs).

## Part V Conduct of business (rules 27-36)

### Note

Part V sets out the cases bearing on rules 27 and 29 to 36. Material relating to rule 28 can be found in chapter V (Subsidiary organs of the Security Council). Material relating to rules 37 to 39 is more appropriately included in chapter III (Participation in the proceedings of the Security Council).

As in previous volumes of the *Repertoire*, the cases assembled here are indicative of the special problems or issues 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 5);

(b) Rule 32, on the order of precedence of principal motions and draft resolutions, including requests for separate voting on parts of a motion or a draft resolution (cases 6 and 7);

(c) Rule 33, on the suspension and adjournment of meetings (case 8).

During the period under review there were no special instances of the application of rules 27, 29, 30, 31, 34, 35 and 36.

The provisional rules of procedure of the Security Council do not contain a rule permitting the President to call speakers to order if their remarks are not relevant to the item under discussion, nor do they contain a provision for the “right of reply”.<sup>18</sup> However, in three instances, during the period under review, representatives made references to their “right of reply”.<sup>19</sup> In two of those instances, the President explicitly extended an invitation to a representative of

a State or of an Observer to exercise his “right of reply”.<sup>20</sup>

### Special cases concerning the application of rules 27-36

#### *Rule 27*

*The President shall call upon representatives in the order in which they signify their desire to speak.*

#### Case 5

At the 3607th meeting, held on 15 December 1995 in connection with the situation in the Republic of Bosnia and Herzegovina, the President of the Council (Russian Federation) stated that in view of the exceptional importance of the entry into force as soon as possible of the draft resolution under consideration at that meeting, members of the Council had agreed, in the course of its prior consultations, that the representatives of the three countries whose Presidents had signed in Paris the Peace Agreements on Bosnia and Herzegovina<sup>21</sup> would speak first, followed by a vote on the draft resolution. The representatives of other countries that had expressed the desire to speak in the course of the discussion of the agenda item would then be called upon to speak. He expressed, on behalf of the Council members, the hope that Member States concerned would show understanding of the proposed procedure.<sup>22</sup> Following the statements by the representatives of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), the President gave the floor to Council members who wished to speak before the vote. Following the vote, he gave the floor to those members

<sup>18</sup> According to the practice in the Council, the terminology used is “to make a further statement”.

<sup>19</sup> S/PV.3247, p. 113; S/PV.3370, p. 40; and S/PV.3536, p. 26.

<sup>20</sup> S/PV.3247, p. 113; and S/PV.3536, p. 26.

<sup>21</sup> Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro).

<sup>22</sup> S/PV.3607, p. 2.

who wished to make statements following the vote. He then gave the floor to non-members.

*Rule 32*

*Principal motions and draft resolutions shall have precedence in the order of their submissions.*

*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.*

**Case 6**

At the 3351st meeting, held on 18 March 1994 in connection with the situation in the occupied Arab territories, the President of the Council (France) stated that a paragraph-by-paragraph vote on the draft resolution had been requested.<sup>23</sup> There was no objection. Following a separate vote on each paragraph, all paragraphs were adopted unanimously, except for preambular paragraphs 2 and 6, which were both adopted by 14 votes in favour and 1 abstention. In the absence of any objection, the draft resolution as a whole was adopted without a vote, as resolution 904 (1994). The representative of the United States of America stated that her delegation supported the operative paragraphs of the resolution just adopted. However, it had sought a paragraph-by-paragraph vote in order to record its objections to language introduced there. She stated that, had that language appeared in the operative paragraphs, her delegation would have exercised its veto. Instead, her Government had chosen to disavow the language and express its opposition by abstaining on the second and sixth preambular paragraphs.<sup>24</sup>

**Case 7**

At the 3377th meeting, held on 16 May 1994 in connection with the situation concerning Rwanda, the President of the Council (Nigeria) stated that a separate vote on section B of the draft resolution had been requested.<sup>25</sup> There was no objection. Following a

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<sup>23</sup> S/1994/280 (draft resolution submitted by Djibouti, on behalf of the non-aligned members of the Council, France, the Russian Federation, Spain and the United Kingdom).

<sup>24</sup> S/PV.3351, pp. 11-12.

<sup>25</sup> S/1994/571 (draft resolution submitted by the Czech Republic, France, the Russian Federation, Spain, the United Kingdom and the United States).

separate vote on section B of the draft resolution, that section was adopted by 14 votes in favour and 1 against.<sup>26</sup> The rest of the draft was then put to the vote and adopted unanimously. The President declared that since all of the sections of the draft resolution as orally revised in its provisional form had been adopted, the draft resolution as a whole had been adopted as resolution 918 (1994).

*Rule 33*

*The following motions shall have precedence in the order named over all principal motions and draft resolutions relative to the subject before the meeting:*

- 1. To suspend the meeting;*
- 2. To adjourn the meeting;*
- 3. To adjourn the meeting to a certain day or hour;*
- 4. To refer any matter to a committee, to the Secretary-General or to a rapporteur;*
- 5. To postpone discussion of the question to a certain day or indefinitely; or*
- 6. To introduce an amendment.*

*Any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate.*

**Case 8**

While there was no instance of a motion to suspend the meeting pursuant to rule 33 of the provisional rules of procedure, in one case the Security Council members, after consultations among themselves, decided to suspend the meeting in the absence of a delegation. At the 3594th meeting, held on 16 November 1995 in connection with the question concerning Haiti, the President of the Council (Oman), announced on behalf of the Council its decision to suspend the meeting in the absence of a delegation. However, this suspension lasted for four minutes and the meeting was promptly resumed.

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<sup>26</sup> Rwanda voted against.



## Part VI Languages (rules 41-47)

During the period under review, there were no special cases concerning the application of rules 41 to 47.

## Part VII Publicity of meetings, records (rules 48-57)

### Note

Rule 48 provides that, unless it decides otherwise, the Security Council shall meet in public.

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 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 Security Council engaged in a discussion on rule 48 following a proposal made by France on the working methods of the Council (case 9).<sup>27</sup> In addition, through a note by the President of 30 June 1993 concerning the annual report of the Security Council to the General Assembly, the Council decided that henceforth, the draft report should be adopted at a public meeting of the Security Council.<sup>28</sup> Prior to the issuance of that note, the draft report had been adopted at a private meeting.

During the period under review, there were no special instances of the application of rules 49 to 54, 56 and 57.

The members of the Council continued to meet frequently in the format of informal consultations of the whole.

<sup>27</sup> S/1994/1279.

<sup>28</sup> S/26015, para. 5. For further discussion of the annual report of the Security Council, see chapter 6, part I, section E.

### Special cases concerning the application of rules 48-57

#### Rule 48

*Unless it decides otherwise, the Security Council shall meet in public. Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.*

#### Case 9

By letter dated 9 November 1994 addressed to the Secretary-General,<sup>29</sup> the representative of France transmitted an aide-mémoire concerning the working methods of the Security Council. In his letter, he referred to the statement of the French Foreign Minister to the General Assembly in which he had expressed the wish for the Security Council to increase its reliance on public debate in reaching its decisions. The aide-mémoire set out the grounds for the French initiative and indicated the modalities through which it might be implemented. The proposal, aimed at ensuring greater transparency in the work of the Council, stipulated the addition of “two new cases in which the Council should meet in public”,<sup>30</sup> apart from the only case then applicable. To that end, France proposed that the Council should meet more often in public to hold:

(a) Orientation debates open to all Members of the Organization at a time when the Council was preparing to begin consideration of an important question;

(b) Public exchanges of views between members of the Council (where non-members of the Council could attend but not speak).

<sup>29</sup> S/1994/1279.

<sup>30</sup> *Ibid.*, annex, para. 3.

France identified rule 48 as being key to the problem and in that context believed that there should be “a dividing line between information, consultation and general exchanges of views, which should, in principle, remain public, and negotiation, the detailed preparation of a decision to be adopted, which is normally governed by other procedures”.<sup>31</sup>

At the 3483rd meeting, held on 16 December 1994<sup>32</sup> on Security Council working methods and procedure, the representative of France, introduced the above-mentioned aide-mémoire. He observed that there was “a certain uneasiness in relations between the Security Council and Members of the United Nations”<sup>33</sup> due largely to the fact that informal consultations had become the Council’s characteristic working method, while public meetings, originally the norm, were increasingly rare and devoid of content. He stated that all of the Council’s work took place behind closed doors, without observers and without a written record, and viewed that practice as a dangerous departure which ran counter to rule 48. He stressed that public meetings were the rule and non-public meetings the exception. He noted that informal meetings were not real Council meetings, had no official existence, and were assigned no number. Yet, it was in those meetings that the Council’s work was carried out. He recommended that a balance should be restored between official meetings and informal consultations. He further stated that his delegation’s sole objective in having made the proposal before the Council was “to reinstate the conditions for that indispensable trust” between the Security Council and the Members of the United Nations.<sup>34</sup>

The representative of the United Kingdom, while welcoming the opportunity to discuss the proposal on Security Council working methods, noted that the desire to enhance the flow of information and the exchange of views between the Security Council and the General Assembly lay behind the Council’s decision of June 1993 to establish an informal working group on documentation and other procedural matters. He stressed that that working group had met regularly

and a number of important steps had been taken following recommendations made by it.<sup>35</sup>

The measures proposed by France were viewed by many representatives as being a step additional to those measures already taken by the Council towards reforming its working methods and achieving greater transparency.<sup>36</sup> The representative of Spain stated that the series of decisions taken by the Council were ultimately aimed at creating, in a pragmatic and flexible manner, greater transparency and flexibility in the work of the Council. All that led to an increase in the legitimacy and credibility of the Security Council in the eyes of Member States on whose behalf the Council acted, in accordance with Article 24 of the Charter and, ultimately, to greater effectiveness of its decisions.<sup>37</sup>

Speakers at the meeting viewed positively the initiative of the Council to hold an open debate on the question of the working methods and procedure of the Security Council in order to consider the French proposal for more frequent open meetings of the Council, and many were supportive of the thrust of the French proposal,<sup>38</sup> although some delegations expressed some degree of caution.<sup>39</sup>

There was broad agreement with France’s assessment of the need for more frequent open meetings of the Council, which would contribute to enhancing the transparency and efficiency of its work.<sup>40</sup> Concern was expressed by a number of representatives regarding the existing mechanisms for decision-making resorted to by the Council, which had

<sup>31</sup> Ibid., para. 2.

<sup>32</sup> This was the first time that the Council held an open meeting to discuss its working methods and procedure.

<sup>33</sup> S/PV.3483, p. 2.

<sup>34</sup> Ibid., pp. 2-3.

<sup>35</sup> Ibid., p. 3.

<sup>36</sup> Ibid., pp. 3-4 (United Kingdom); p. 5 (Brazil); p. 9 (Pakistan); p. 10 (New Zealand); p. 14 (Czech Republic); p. 15 (United States); p. 20 (Indonesia on behalf of the Non-Aligned Movement); p. 22 (Canada); pp. 23-24 (Japan); and p. 24 (Poland).

<sup>37</sup> Ibid., p. 8.

<sup>38</sup> Ibid., p. 4 (United Kingdom); p. 5 (China); p. 5 (Brazil); p. 7 (Oman); pp. 8-9 (Pakistan); p. 10 (New Zealand); p. 12 (Argentina); p. 13 (Djibouti); p. 14 (Czech Republic); p. 15 (Italy); p. 16 (Denmark on behalf of the Nordic countries); p. 17 (Turkey); p. 19 (Austria); p. 20 (Indonesia on behalf of the Non-Aligned Movement); p. 22 (Canada); p. 22 (Islamic Republic of Iran); p. 24 (Japan); p. 24 (Poland); and p. 25 (Australia).

<sup>39</sup> Ibid., pp. 6-7 (Nigeria); and p. 15 (United States).

<sup>40</sup> Ibid., statements by the United Kingdom, China, Brazil, Spain, New Zealand, Japan, Indonesia (on behalf of the Non-Aligned Movement) and Bosnia and Herzegovina.

resulted in such decisions being taken in informal consultations, in secrecy, without the Council having had the benefit of the views of the Members of the Organization, in particular, those States directly concerned with the situation before the Council. It was felt that open meetings would enable those States, in particular, to contribute effectively to the final outcome of the Council's deliberations on the issue, as well as provide an opportunity for an exchange of views between Council members and non-members.

In that regard, some representatives referred to Articles 31 and 32 of the Charter of the United Nations which provide for a State whose interests are affected or who is a party to a dispute before the Council to participate without vote in its discussions. They saw these Articles as mandating the participation in the Council's discussions by States affected by the issue before the Council. The representative of New Zealand stated, regarding Article 32, that there was no question of discretion, and that it was not a matter that the Security Council could refuse. The term "discussion" in that context implied participation in the formulation of the conclusions, and at "stages prior to finalization".<sup>41</sup> The representative of Argentina stated that the existing practice of formal debates held after the adoption of decisions taken in informal consultations could harm the parties to the conflict, as they "must then delegate to another State — a member of the Council — the task of defending their position". He noted that the situation became worse when one party was a member of the Council and the other was not, and suggested that the situation could be remedied by inviting the parties to participate in the formal meetings and also, to a certain extent and with corresponding limitations, in the informal consultations.<sup>42</sup> The representative of Australia stated that, in addition to the public meetings identified in the French proposal, there might be the need "to explore other, more flexible means for securing discussion and a level of participation of Member States especially affected by a situation under consideration by the Council, as envisaged under Article 31 of the Charter".<sup>43</sup>

In referring to the need for consultations between the Council and non-members, the representative of Indonesia further cited Article 50 of the Charter which

confers upon a State confronted by special economic problems arising from the carrying out of preventive or enforcement measures taken against any State by the Council the right to consult with the Security Council with regard to a solution of those problems. He stated that the non-aligned countries wished to underscore the need to make Article 50 operational and, in that regard, it was necessary to institutionalize the consultations envisaged in that Article as well as to adopt other effective measures to enable non-members that had the right to do so to consult with the Council with regard to those problems.<sup>44</sup>

There was also some dissatisfaction expressed regarding the procedure whereby Member States were afforded the opportunity to speak to the Council only after decisions had been taken in closed-door informal consultations. In that regard, a number of delegations stated that the public meetings should provide an opportunity for real dialogue. The open orientation debates at the early stage of consideration of a matter by the Council would provide an opportunity for Council members to hear the views of the general membership, in particular, those States most concerned.<sup>45</sup> Some speakers also saw open meetings in the context of ensuring accountability by the Council to Member States.<sup>46</sup>

In supporting the need for more open meetings of the Council, a number of delegations cited Article 24 of the Charter which provides, inter alia, that the Security Council acts on behalf of the States Members of the United Nations. They saw this Article as requiring closer interaction between the Council and the general membership of the United Nations. The representative of Australia noted the necessity for the Council to be responsive to the views of Member States and saw Article 24 as envisaging "a two-way flow of information", not only from the Council to the wider membership but also into the Council from the

<sup>44</sup> Ibid., p. 20 (Indonesia on behalf of the Non-Aligned Movement).

<sup>45</sup> Ibid., for example, p. 7 (Nigeria); p. 7 (Oman); p. 10 (New Zealand); p. 12 (Argentina); p. 14 (Czech Republic); p. 16 (Denmark on behalf of the Nordic countries); p. 18 (Turkey); p. 20 (Indonesia on behalf of the Non-Aligned Movement); p. 22 (Islamic Republic of Iran); p. 22 (Canada); p. 25 (Australia); and p. 26 (Bosnia and Herzegovina).

<sup>46</sup> Ibid., p. 5 (China); p. 7 (Nigeria); p. 18 (Turkey); and p. 20 (Indonesia on behalf of the Non-Aligned Movement).

<sup>41</sup> Ibid., p. 11.

<sup>42</sup> Ibid., pp. 12-13.

<sup>43</sup> Ibid., p. 26.

whole community it served.<sup>47</sup> The representative of Indonesia stressed that reliance on public meetings in reaching decisions in the Council was of particular importance since, pursuant to Article 24, paragraph 1, of the Charter, the Council acted on behalf of the entire membership and was therefore accountable to it. He further noted the need for effective consultations with the general membership before decisions were taken that would be binding on them.<sup>48</sup>

In addition to citing Article 24, the representative of Turkey also referred to Article 25, by which the Members of the United Nations had agreed to accept and carry out the decisions of the Security Council. He stated that the authority of the Security Council emanated from the fact that it acted on behalf of all the Members of the United Nations and, for that reason, it was essential that its decisions be in accord with the views of the general membership. He referred, further, to the provisions of paragraph 4 of Article 1 of the Charter which listed “harmonizing the actions of nations” as being among the purposes of the United Nations. He stated that a credible and workable mechanism for dialogue between the Council and the general membership should be devised.<sup>49</sup>

Regarding the relationship between the Council and the General Assembly, the representative of Indonesia referred to Article 12 of the Charter, which governs that relationship in the context of the exercise by the Security Council of the functions assigned to it in the Charter. He stated that the provisions contained in Article 12 should be made more liberal and that, in that connection, the authority and credibility of the Council would profit from ascertaining that there was a broad consensus of the general membership of the United Nations, as represented in the General Assembly, on a particular course of action proposed by the Council.

A note of caution was sounded, however, that unless the proposed procedure for the more frequent convening of open meetings was carefully managed, there was the possibility that the idea of an open meeting prior to informal consultations could become counterproductive if it became an occasion for aggrieved parties to play out their differences and

thereby detract from the effective conduct of the business of the Council, whose primary objective was to advance the peaceful resolution of conflicts.<sup>50</sup>

Several speakers underlined the importance of the format of informal consultations, in which a great part of the work of the Council was conducted, given the need for confidentiality in decision-making and in the achievement of consensus. They called for the retention of this format of meetings, and also highlighted the need to strike the right balance between official meetings and informal consultations,<sup>51</sup> as well as between publicity and transparency on the one hand and effectiveness and efficiency on the other.<sup>52</sup> There was some disagreement with the analysis contained in the French aide-mémoire that informal consultations had no official existence. The representative of New Zealand noted that to say that they have no legal existence did not, of itself, make that correct, and observed that informal consultations were listed under the *Journal* heading “scheduled meetings” and, further, that mandated legal action actually took place in those meetings.<sup>53</sup> The representative of Argentina stated that, strictly speaking, informal meetings were not actual meetings, although that view may be sustained from a purely formal and legalistic point of view. He also stated that the provisional rules of procedure of the Security Council, which were the norm, the standard, should always be interpreted in a reasonably broad way, particularly in the light of Article 30 of the Charter.<sup>54</sup>

Regarding the determination of whether an open meeting should be convened, some delegations agreed with France that such a decision was to be made on a case-by-case basis,<sup>55</sup> with there being no automaticity in the convening of such meetings. While viewing the idea contained in France’s proposal as a further important step in the Security Council’s efforts to

<sup>47</sup> Ibid., p. 26.

<sup>48</sup> Ibid., p. 20 (Indonesia on behalf of the Non-Aligned Movement).

<sup>49</sup> Ibid., p. 18.

<sup>50</sup> Ibid., pp. 6-7 (Nigeria).

<sup>51</sup> Ibid., p. 6 (Brazil); p. 8 (Spain); p. 9 (Pakistan); p. 10 (New Zealand); p. 12 (Argentina); p. 14 (Djibouti); p. 17 (Denmark); p. 19 (Austria); and p. 22 (Islamic Republic of Iran).

<sup>52</sup> Ibid., p. 4 (United Kingdom); p. 10 (Pakistan); p. 15 (Czech Republic); p. 17 (Denmark on behalf of the Nordic countries); and p. 20 (Indonesia on behalf of the Non-Aligned Movement).

<sup>53</sup> Ibid., p. 10.

<sup>54</sup> Ibid., p. 12.

<sup>55</sup> Ibid., statements by the United Kingdom and the Czech Republic.

reform its working methods and procedures in order to make them more transparent, the representative of the United States recalled that it was important for the Council to proceed cautiously when it decided how to structure its consideration of each matter before it. The form of Council deliberations should not compromise its functions, which remained to achieve agreement in an expeditious manner on matters before it. With that proviso, that delegation looked forward to pursuing opportunities, on a case-by-case basis, to employ public meetings in the Council's consideration of its work.<sup>56</sup> An alternative view was expressed that automatically holding open meetings at the beginning of the consideration of a new issue, without

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<sup>56</sup> Ibid., p. 15.

discrimination, should become a matter of course in the Council.<sup>57</sup>

In a presidential statement issued at the conclusion of the meeting, the Security Council stated its intention, as part of its efforts to improve the flow of information and the exchange of ideas between members of the Council and other Member States, that there should be an increased recourse to open meetings, in particular at an early stage in its consideration of a subject.<sup>58</sup> The Council agreed that it would decide on a case-by-case basis when to schedule public meetings of that sort.

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<sup>57</sup> Ibid., p. 11 (New Zealand).

<sup>58</sup> S/PRST/1994/81.