

ARTICLE 23

TEXT OF ARTICLE 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

INTRODUCTORY NOTE

1. Article 23(1) specifies which five Members of the United Nations are to be permanent members and Article 23(1) and (2) set out the criteria for the election of 10 non-permanent members.

2. In view of the constitutional discussion that preceded the election of one non-permanent member during the thirty-fourth session of the General Assembly, as well as the proposals that were submitted concerning an amendment to Article 23 at the thirty-fourth and thirty-fifth sessions, the structure of this study has been recast to include an analytical summary of practice. The analytical summary of practice consists of three headings, two of which are new: A. Question of the membership of the Security Council falling short of the number prescribed in Article 23(1) of the Charter and C. Question of the term limits of elected seats as prescribed in Article 23(2) of the Charter. The remaining heading, B. Question of the "equitable geographical distribution" of elected seats, has been retained from *Supplement No. 3*.

3. The general survey provides a brief overview of the practice of the General Assembly concerning the election of non-permanent members. A tabulation of those elections is included in the annex to the study. The general survey also deals with the question of the special responsibilities of the permanent members of the Security Council, as referred to in a number of General Assembly resolutions adopted during the period under review. Finally, the general survey makes reference to the proposals examined by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the question of the maintenance of international peace and security, some of which contained explicit references to Article 23 or touched on its provisions.

I. GENERAL SURVEY

4. During the period under review, the General Assembly, at each regular session, elected five non-permanent members to the Security Council to replace those members whose terms of office were to expire on 31 December of the respective year.

5. At three of the six sessions covered in this *Supplement*, the incoming non-permanent members of the Security Council were elected in the course of one plenary meeting. At the thirty-fourth session, in 1979-1980, four non-

permanent seats were filled during the 1st plenary meeting and 21 additional plenary meetings were devoted to the election of the fifth remaining non-permanent seat. In order to fill the fifth seat, the General Assembly extended its date of adjournment from 18 December 1979 to 7 January 1980. At the final plenary meeting devoted to the elections, following 154 inconclusive ballots, in which neither Cuba nor Colombia obtained the required majority, the President of the General Assembly announced that both States had with-

drawn their candidatures. Accordingly, the Group of Latin American States had endorsed the candidature of Mexico. Mexico was elected to the Security Council on the subsequent ballot for the 1980-1981 term.¹

6. At the thirty-fifth session, in 1980, four non-permanent seats were filled during the 1st plenary meeting and seven additional plenary meetings were devoted to the election of the fifth remaining non-permanent seat. At the 2nd second plenary meeting devoted to the elections, following 3 inconclusive ballots, the Chairman of the Group of Latin American States requested a suspension of the balloting to hold consultations among the members of that Group. After the balloting was resumed, the representative of Guyana, whose country, together with Costa Rica, had received the highest number of votes in the two preceding restricted ballots, reminded the General Assembly that Guyana had not announced its candidature for a seat on the Security Council. Thereafter, the Chairman of the Group of Latin American States confirmed that Latin America had only one candidate, which was Costa Rica. After a second series of inconclusive restricted ballots, this time between Costa Rica and Nicaragua, the balloting was suspended at the request of the representative of Nicaragua. Upon resumption, the Chairman of the Group of Latin American States announced that Nicaragua would not seek a seat on the Security Council. Therefore, Latin America had only one candidate, which was Costa Rica. Following a further series of inconclusive unrestricted ballots, during which Panama received the second highest number of votes after Costa Rica, the General Assembly conducted a third series of restricted ballots. After the first restricted ballot in that series had been cast, the President of the General Assembly announced that Panama had formally presented its candidature to the Latin America Group. Therefore, Latin America had two candidates, namely Costa Rica and Panama. Ultimately, following 22 overall inconclusive ballots, Costa Rica announced the withdrawal of its candidature. Panama was elected to the Security Council on the subsequent ballot for the 1981-1982 term.²

7. At the thirty-ninth session, in 1984, four non-permanent seats were filled during the 1st plenary meeting and two additional meetings were devoted to the election of the fifth remaining non-permanent seat. At the final plenary meeting devoted to the elections, following 10 inconclusive ballots in which neither Ethiopia nor Somalia obtained the required majority, the Chairman of the Group of African States announced that both States had withdrawn their can-

didatures. Africa now had only one candidate, which was Madagascar. Madagascar was elected to the Security Council on the subsequent ballot for the 1985-1986 term.³

8. During the period under review, the special responsibilities of the permanent members of the Security Council were referred to in a number of resolutions adopted by the General Assembly. Those resolutions were adopted on the recommendation of either the First Committee⁴ or the Fifth Committee,⁵ without occasioning any constitutional discussion.

9. At its sessions held from 1979 through 1984, in accordance with the mandate given to it by the General Assembly,⁶ the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization examined several proposals on the question of the maintenance of international peace and security, some of which contained explicit references to Article 23 or touched on its provisions.⁷

³ G A (39), Plen., 33rd, 77th, 105th mtgs.

⁴ G A resolutions 34/80 B (para. 2), 35/150 (preamb. para. 8), 36/90 (preamb. para. 12), 37/96 (preamb. para. 12), 38/185 (preamb. para. 12) and 39/149 (preamb. para. 12) on the implementation of the Declaration of the Indian Ocean as a Zone of Peace; G A resolutions 34/100 (paras. 2, 9), 35/158 (paras. 6, 9), 36/102 (paras. 5, 8), 37/118 (paras. 6, 9), 38/190 (para. 8) and 39/155 (paras. 5, 10) on the implementation, and its review, of the Declaration on the Strengthening of International Security; G A resolution 35/152 G (para. 1) on the review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session; G A resolutions 35/156 J (para. 4) and 36/97 K (preamb. para. 12) on general and complete disarmament; G A resolutions 36/89 (para. 3), 37/77 A (para. 3), 38/182 A (para. 3) and 39/62 (para. 3) on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons; G A resolution 37/100 E (para. 2) on the review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly; G A resolution 39/158 (para. 2) on the implementation of the collective security provisions of the Charter of the United Nations for the maintenance of international peace and security.

⁵ G A resolution 34/7 A (preamb. para. 6) and B (preamb. para. 6) on the financing of the United Nations Emergency Force and the United Nations Disengagement Observer Force; G A resolutions 34/9 B (preamb. para. 6), 35/115 A (preamb. para. 6), 36/138 A (preamb. para. 6) and C (preamb. para. 6), 37/127 A (preamb. para. 6), 38/38 A (preamb. para. 6) and 39/71 A (preamb. para. 6) on the financing of the United Nations Interim Force in Lebanon; G A resolutions 35/45 A (preamb. para. 6), 36/66 A (preamb. para. 6), 37/38 A (preamb. para. 6), 38/35 A (preamb. para. 6) and 39/28 A (preamb. para. 6) on the financing of the United Nations Disengagement Observer Force.

⁶ See G A resolutions 33/194 (para. 3(b)), 34/147 (para. 3(a)), 35/164 (para. 3(a)), 36/122 (para. 4(a)), 37/114 (para. 5(a)) and 38/141 (para. 3(a))

⁷ See, in particular, G A (36), Suppl. No. 33, paras. 106-113.

¹ G A (34), Plen., 47th, 48th, 50th, 53rd, 83rd, 89th, 90th, 98th, 102nd, 106th, 108th-110th, 112th-120th mtgs.

² G A (35), Plen., 41st-43rd, 47th, 51st, 57th, 59th, 61st mtgs.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Question of the membership of the Security Council falling short of the number prescribed in Article 23(1) of the Charter

10. On 18 and 19 December 1979, following the 94th and 124th ballots, respectively, to fill the fifth remaining non-permanent seat in the Security Council, the President of the General Assembly emphasized the need to ensure that there would be no questioning of the viability of the Security Council as of 1 January 1980.⁸ Subsequently, on 28 December, after 139 inconclusive ballots had been cast, three representatives maintained that the Security Council would not be legally constituted until the General Assembly had elected its fifteenth member.⁹ Another representative asserted that, although some respectable legal opinions existed in favour of the argument that the Council could indeed function validly so long as it had a quorum, the majority opinion of experts in public law was to the contrary. Those experts held that accepting the quorum argument would set an unfortunate precedent, especially damaging to the non-permanent members of the Security Council, and that, in any event, the doubts about the Council's legality would be sufficiently serious to cast a shadow over that principal organ at a time when it was confronted with grave international crises.¹⁰ The view was also expressed that it would be wrong to treat the issue from "a purely legal point of view". What was at stake was primarily a political question. If the Security Council were composed of only 14 members, irrespective of the different legal opinions, there could be no doubt that its decisions on fundamental questions of international peace and security might be challenged by those to whom such decisions were addressed.¹¹

11. On 31 December 1979, after 148 inconclusive ballots had been cast, the Legal Counsel presented his opinion to the General Assembly. He concluded that while the failure of the General Assembly to elect a non-permanent member of the Security Council would be inconsistent with Article 23 of the Charter, such an act of omission could not produce legal consequences for the functioning of the Security Council, which was the organ primarily responsible for international peace and security. In such a situation, decisions taken in accordance with the relevant provisions of Article 27 of the Charter would constitute valid decisions.

⁸ G A (34), Plen., 108th mtg.: the President (paras. 113-114); 110th mtg.: the President (para. 33).

⁹ *Ibid.*, 115th mtg.: Spain (para. 26); India (para. 40); Cuba (paras. 83-84).

¹⁰ *Ibid.*, 115th mtg.: Costa Rica (para. 53).

¹¹ For the texts of the relevant statements, see *ibid.*, 114th mtg.: Austria (paras. 9-10); 115th mtg.: Spain (paras. 22-26), India (para. 40) and Cuba (paras. 85-86). Cuba reiterated its position after hearing the opinion of the Legal Counsel. See *ibid.*, 118th mtg.: Cuba (paras. 57-58).

That was not to say, however, that the exceptional situation created by such a failure on the part of the General Assembly was either legally or constitutionally desirable. In the interests of maintaining the authority of the Security Council and the balance of powers between the General Assembly and the Security Council, it was essential that the Assembly should fulfil its responsibilities and obligations under the Charter.¹²

12. On 7 January 1980, on the 155th ballot, following the withdrawal by both Cuba and Colombia of their candidatures, Mexico was elected¹³ to the Security Council.¹⁴

B. Question of the "equitable geographical distribution" of elected seats

1. THE ROLE OF REGIONAL GROUPS IN THE ELECTION OF NON-PERMANENT MEMBERS OF THE SECURITY COUNCIL

13. With the aim of breaking the deadlock in the General Assembly over the election of the fifth non-permanent member of the Security Council, Austria, on 28 December 1979, introduced a draft resolution.¹⁵ In the preambular part of the draft, the General Assembly, *inter alia*, would have been mindful of its responsibility under the Charter of the United Nations to elect the non-permanent members of the Security Council by a two-thirds majority of members present and voting and recognized that, in spite of its most serious efforts and in particular those of its President, neither of the two candidates for the remaining non-permanent seat on the Security Council had obtained the required majority in the 139 ballots held so far. In the two operative paragraphs, the General Assembly would have called upon the Member States concerned to enter immediately into consultations with a view to arriving at an appropriate solution which would enable the Assembly to fulfil in time its responsibility under the Charter concerning the election of non-permanent members of the Security Council; and urged those Member States to inform the President of the General Assembly of the outcome of the consultations no later than 31 December 1979. The sponsor of the draft resolution further clarified that the appeal for holding consultations was addressed to the two candidates, Cuba and Colombia,

¹² For further elaboration of the Legal Counsel's opinion, see G A (34), Plen., 118th mtg., paras. 25-41. In the course of the meeting, the Legal Counsel also indicated that he had presented a revised version of his opinion. For the text of the first version, as well as the explanation for its revision, see *ibid.*, paras. 51, 62-63.

¹³ G A (34), Plen., 120th mtg., para. 11 (G A decision 34/328).

¹⁴ Although the 14-member Security Council held five meetings (2185th to 2189th) from 1 to 7 January 1980, no decision of a non-procedural nature was taken by it during this period.

¹⁵ A/34/L.66.

the Group of Latin American States and, beyond that, to all members of the General Assembly.¹⁶

14. Subsequently, eight Member States¹⁷ introduced an amendment¹⁸ to the draft resolution by which the General Assembly would have called upon the “two Member States concerned and the relevant regional group”, rather than the “Member States concerned”, to enter immediately into consultations. One sponsor of the amendment explained that the original draft was deficient in that it made the problem a bilateral one. He stressed that emphasis should be placed on the Group of Latin American States, to which the vacant seat belonged. That Group should be able to make all the efforts necessary to overcome internal conflicts and make it possible for the General Assembly to emerge out of the deadlock.¹⁹ Similarly, another sponsor maintained that the “only natural, logical and effective forum” for finding a solution was the Group of Latin American States. The Group had found itself unable to act effectively, mainly because it had no specific mandate in the matter and had already discharged its responsibility by reporting to the Assembly that it had three candidates²⁰ from the region, without endorsing any of them. If the General Assembly were to give the Group a mandate to decide the question or to exert every effort with a view to proposing a solution, the Group would take up the problem again and try to contribute to the work of the Assembly by adopting “some kind of resolution”. The sponsor emphasized that there was no thought of the Group “taking over or obstructing the powers [of] the General Assembly”.²¹

15. On the other hand, it was argued that, on many previous occasions, the regional groups had presented the General Assembly with more than one candidature for a non-permanent seat in the Council. The Assembly had unfailingly decided, by balloting, which candidate should occupy the seat. The election was the duty of the Assembly, and the Group of Latin American States could not take its place for three reasons. First, it was an informal group, lacking “legal personality”, whose basis was its regional character; secondly, the Group could not adopt decisions that in any way affected the sovereign rights of Member States; and thirdly, the General Assembly could not delegate its specific function to any State or any group of States.²² Subsequently, in view of the above argument, it was suggested that the General Assembly could set up a committee of its own, which would have the maximum support of the Group of Latin American States, to resolve the issue.²³

¹⁶ G A (34), Plen., 114th mtg.: Austria (para. 14).

¹⁷ Bolivia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Venezuela and Zaire.

¹⁸ A/34/L.68.

¹⁹ G A (34), Plen., 115th mtg.: Zaire (paras. 10-14).

²⁰ The third candidate, Guatemala, had announced the withdrawal of its candidature before the first ballot was cast.

²¹ G A (34), Plen., 115th mtg.: Costa Rica (paras. 55-58).

²² *Ibid.*, 115th mtg.: Cuba (paras. 77-81).

²³ *Ibid.*, Malawi (paras. 89-94).

16. On 29 December 1979, the President of the General Assembly announced that Austria would not press its draft resolution to the vote and stressed that the “ultimate responsibility for finalizing [the] question rest[ed] with the General Assembly itself”.²⁴ On 7 January 1980, after 154 ballots had been cast, the President reported that he had been officially informed by the Chairman of the Group of Latin American States that the Group had formally endorsed the candidature of Mexico, following the decision of both Cuba and Colombia to withdraw.²⁵ Mexico was elected²⁶ to the Security Council on the subsequent ballot.

2. PROPOSALS CONCERNING AN AMENDMENT TO ARTICLE 23 OF THE CHARTER IN ORDER TO PROVIDE “EQUITABLE REPRESENTATION” ON THE SECURITY COUNCIL

17. By a letter²⁷ dated 14 November 1979 addressed to the Secretary-General, 10 Member States²⁸ requested the inclusion of an additional item entitled “Question of equitable representation on and increase in the membership of the Security Council” in the agenda of the thirty-fourth session of the General Assembly.

18. On 14 December, during the consideration of the above item, 14 Member States²⁹ introduced a draft resolution.³⁰ By the draft resolution, the General Assembly would have considered that the current composition of the Security Council was inequitable and unbalanced; recognized that the increase in the membership of the United Nations made it necessary to enlarge the membership of the Security Council, thus providing for a more adequate geographical representation of non-permanent members and making it a more effective organ for carrying out its functions under the Charter of the United Nations; decided to adopt, in accordance with Article 108 of the Charter, the following amendments and to submit them for ratification by States Members of the United Nations: in Article 23(1), the word “fifteen” in the first sentence would be replaced by the word “nineteen”, and the word “ten” in the third sentence by the word “fourteen”; in Article 23(2), the second sentence would then read “In the first election of the non-permanent members after the increase of the membership of the Security Council from fifteen to nineteen, two of the four additional members shall be chosen for a term of one year”; in Article 27(2) and (3), the word “nine” would be replaced by the word “eleven”. The General Assembly would have called upon all Member States to ratify the

²⁴ *Ibid.*, 116th mtg.: the President (paras. 5-6).

²⁵ *Ibid.*, 120th mtg.: the President (para. 6).

²⁶ *Ibid.*, para. 11 (G A decision 34/328).

²⁷ A/34/246.

²⁸ Algeria, Argentina, Bangladesh, Bhutan, Guyana, India, Maldives, Nepal, Nigeria and Sri Lanka.

²⁹ Algeria, Bangladesh, Bhutan, Cuba, Grenada, Guyana, India, Iraq, Japan, Maldives, Mauritius, Nepal, Nigeria and Sri Lanka.

³⁰ A/34/L.57/Add.1.

above amendments, in accordance with their respective constitutional processes, by 1 September 1981; and further decided that the 14 non-permanent members of the Security Council should be elected according to the following patterns: (a) four from African States; (b) three from Asian States; (c) one from Eastern European States; (d) three from Latin American States; (e) two from Western European and other States; and (f) one non-permanent seat alternating between African and Asian States.

19. Subsequently, 10 Member States³¹ submitted an amendment³² to the draft resolution. By the amended draft the General Assembly would have: in Article 23(1), provided for 16 non-permanent seats on the Security Council, thereby increasing the total membership of the Security Council to 21; concerning Article 23(2), in the first election of the non-permanent members after the increase of the membership of the Security Council from 15 to 21, provided for three of the six additional members to be chosen for a term of one year; in Article 27(2) and (3), replaced the word "nine" by the word "thirteen". The non-permanent members would have been elected as follows: (a) five from African States; (b) three from Asian States; (c) one from Eastern Europe; (d) three from Latin American States; (e) two from Western European and other States; (f) one permanent seat alternating between Latin American States and Asian States; and (g) one non-permanent seat alternating between Eastern European States and Western European and other States.

20. In the course of the debate, it was recalled that, since the Charter was last amended in 1963 to enlarge the membership of the Security Council from 11 to 15, the membership of the United Nations had increased from 113 to 152. That increase was due mainly to the emergence of, and admission to, the United Nations of a large number of new States from Africa, Asia and Latin America and was not reflected in the composition of the Security Council. The global average of the number of countries represented by one non-permanent seat was particularly high for non-aligned and developing countries. One solution to the problem, two representatives noted, could be the redistribution of existing non-permanent seats; however, they maintained that such a course of action was impracticable and possibly unjust. Therefore, in view of the principle of equitable geographical distribution embedded in Article 23(1) of the Charter, as well as the principle of sovereign equality of Member States, they argued, together with others, that an

³¹ Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Panama, Peru and Venezuela.

³² A/34/L.63/Add.1. Introducing the amendment, the representative of Ecuador stated that its sponsors supported the "essence" of the draft resolution, but aimed to "deal more equitably and in a more balanced manner" with the question of representation on the Security Council. See G A (34), Plen., 103rd mtg.: Ecuador (paras. 149-151).

increase in the number of non-permanent seats of the Security Council was warranted.³³

21. The view was also expressed that the Security Council would be strengthened and better able to discharge its responsibilities if it were more representative in character. It was maintained that an increase in the membership of the Council would not make it less effective, since the Council's ability to discharge its responsibilities in the past had not been a function of its size, but of complex factors involving the "interests of the great Powers". With reference to the first criterion mentioned in Article 23(1) of the Charter for the election of non-permanent members, it was also held that no one could doubt the capacity of the non-aligned and developing countries to contribute to the maintenance of international peace and security and to the other purposes of the Organization. Finally, it was emphasized that the proposal was a specific and limited one, which affected only the composition of the Security Council and in no way touched upon the substantive aspects of its role and functions or the position of its permanent members.³⁴

22. Conversely, it was argued that an increase in the membership of the United Nations did not imply a mechanical increase in the membership of the Security Council. One representative noted that the founding Members had intended from the very beginning to give the United Nations a universal character; yet the Security Council, in view of its functions and powers, was assigned a limited membership capable of deliberating and, whenever necessary, acting with speed. Echoed by several other representatives, he stressed that an increase in membership would hinder rapid decision-making.³⁵

23. A number of representatives noted that the Security Council, as currently composed, could act only when it had the support of members from all geographical regions. Some of these representatives also maintained that the composition of the Security Council accurately reflected the "balance of interests" or "political realities" of the world; "questions which ultimately [might] require economic and even military action of the gravest nature [could] not reasonably be examined in terms of mathematical ratios drawn from the General Assembly, which [was] a body of a fun-

³³ For the texts of the relevant statements, see G A (34), Plen., 103rd mtg.: India (paras. 136-138), Bhutan (paras. 162-167), Sri Lanka (paras. 173-175, 178); 104th mtg.: Japan (para. 280), Nepal (paras. 308-310), Bangladesh (para. 360), Argentina (para. 366-369), Yugoslavia (para. 374), New Zealand (para. 379), Libyan Arab Jamahiriya (paras. 385-389, 393).

³⁴ For the texts of the relevant statements, see *ibid.*, 103rd mtg.: India (paras. 139-146), Bhutan (paras. 168-170); 104th mtg.: Bangladesh (paras. 363-364), Yugoslavia (paras. 375-376), Libyan Arab Jamahiriya (paras. 389-390).

³⁵ For the texts of the relevant statements, see *ibid.*, 104th mtg.: Czechoslovakia (paras. 268-269), United States of America (para. 286), Hungary (paras. 297-300), United Kingdom of Great Britain and Northern Ireland (paras. 305, 307), Union of Soviet Socialist Republics (paras. 324-325), France (paras. 343-344).

damentally different character". It was further underlined that any Member State with a particular interest in a question could participate in the work of the Council.³⁶

24. Several representatives stated that, if the Security Council was unable to discharge its responsibilities at times, that was not due to its lack of representativeness; rather, it was due to the non-compliance by some countries with Council decisions. Therefore, it was necessary to ensure that all countries adhered to the purposes and principles of the Charter, rather than revise the Charter itself.³⁷

25. Later in the debate, speaking for the sponsors of the draft resolution, the representative of India noted that Zaire and Spain, on behalf of their respective regional groups, had requested the postponement of the consideration of the matter until the thirty-fifth session. He announced that the draft would not be pressed to the vote at the current session if the General Assembly decided to inscribe the item on the provisional agenda of its thirty-fifth session and, further, to transmit the draft and other connected documents to that session.³⁸ It was so decided.³⁹

26. At the thirty-fifth session, on 4 December 1980, during consideration of the above item, a revised draft resolution⁴⁰ similar to that submitted at the thirty-fourth session, as amended, was introduced. Subsequently, on 15 December, a further revised draft⁴¹ was introduced. During the discussion, the arguments both for and against amending Article 23 followed along lines similar to those previously expressed.⁴² On 16 January 1981, the General Assembly decided⁴³ to postpone consideration of the item until a later date, to be announced after further consultations. At the thirty-sixth session, the General Assembly decided⁴⁴ to include the item in the provisional agenda of its subsequent session, without discussion. Similar decisions⁴⁵ were taken by the General Assembly at the thirty-seventh through thirty-ninth sessions.

³⁶ For the texts of the relevant statements, see *ibid.*, 103rd mtg.: Byelorussian SSR (paras. 156-158); 104th mtg.: Czechoslovakia (para. 270), German Democratic Republic (para. 273-275), United States (paras. 288-291), Hungary (para. 301), United Kingdom (para. 306), Soviet Union (paras. 326-327), France (paras. 345-349), Poland (para. 353), Bulgaria (para. 398).

³⁷ For the texts of the relevant statements, see *ibid.*, 103rd mtg.: Byelorussian SSR (para. 155); 104th mtg.: Czechoslovakia (para. 267), Soviet Union (para. 328), Bulgaria (para. 397).

³⁸ *Ibid.*, 104th mtg.: India (paras. 400-401).

³⁹ *Ibid.*, para. 403 (G A decision 34/431).

⁴⁰ A/35/L.34/Rev.1. The geographical distribution of seats, as previously proposed, was further modified in this draft.

⁴¹ A/35/L.34/Rev.2. The geographical distribution of seats as well as the required majority vote of 13, as previously proposed, was further modified in this draft.

⁴² See G A (35), Plen., 81st-82nd and 96th mtgs.

⁴³ *Ibid.*, 101st mtg., para. 2.

⁴⁴ G A (36), Plen., 105th mtg., para. 146. (G A decision 36/460).

⁴⁵ G A (37), Plen., 115th mtg., para. 34. (G A decision 37/450); G A (38), Plen., 104th mtg., para. 176. (G A decision 38/454); G A (39), Plen., 105th mtg., para. 103. (G A decision 39/455).

C. Question of the term limits of elected seats as prescribed in Article 23(2) of the Charter

27. In introducing the above-mentioned draft resolution,⁴⁶ the representative of Austria clarified that the "appropriate solution" referred to therein could include the possibility of a split term, whereby each of the two competing candidates would assume the function of non-permanent member of the Security Council for one year.⁴⁷ Subsequently, Algeria submitted an amendment⁴⁸ to the draft resolution. In the preambular part of the amended draft, the General Assembly, *inter alia*, would have recalled also "the practice followed by all Member States after the adoption of resolution 1991 A (XVIII) in order to facilitate the fulfilment of its mandate". In the first operative paragraph, the General Assembly would have called upon all Member States, in particular the two States directly concerned, "to abide by the established practice" and to enter immediately into consultations with a view to arriving at the appropriate solution which would enable it to fulfil in time its responsibility under Article 23 of the Charter concerning the election of non-permanent members of the Security Council.

28. In the course of the discussion, in addition to Austria, a few other representatives endorsed the idea of term-splitting or acknowledged it as one possible solution to the problem.⁴⁹ One of them recalled that General Assembly resolution 1991 A (XVIII) expanding the Security Council had put an end to the practice of term-splitting — a practice which might have been a mistake and even contrary to the requirement of the Charter concerning a two-year term for non-permanent members. However, when the United Nations was founded, and when the Council was enlarged, it was understood that some Council members would have to be elected for only one year to provide *a posteriori* for the necessary rotation. Consequently, the General Assembly would not be at fault if, owing to special circumstances, there was to be a split term whereby "one of the two countries would be elected normally and would yield its seat to the other country at the end of the next year".⁵⁰ Another representative maintained that the amendment submitted by Algeria would have the General Assembly only look to practice after the adoption of resolution 1991 A (XVIII). The amendment seemed to eliminate the possibility of drawing on past precedents and practice established to resolve the problem in earlier but quite similar circumstances, such as term-splitting between Turkey and Poland after the elections held in 1959 and between the Philippines and Yugoslavia after the elections held in 1960.⁵¹

⁴⁶ See para. 13 above.

⁴⁷ G A (34), Plen., 114th mtg.: Austria (para. 15).

⁴⁸ A/34/L.67.

⁴⁹ For the texts of the relevant statements, see G A (34), Plen., 115th mtg.: Spain (paras. 29-30), United States (paras. 35-36), India (para. 42) and Colombia (paras. 62-63).

⁵⁰ *Ibid.*, 115th mtg.: Spain (paras. 29-30).

⁵¹ *Ibid.*, United States (paras. 35-36).

29. Conversely, it was argued that sharing a seat on the Security Council was not a solution but a return to a detrimental practice that was unknown between 1945 and 1955 and had not been followed since the expansion of the Council in 1965, as it conflicted directly with the letter and spirit of Article 23 of the Charter which provided that non-permanent members are elected for a term of two years.⁵²

⁵² Ibid., Cuba (paras. 72-74).

30. On 29 December 1979, the President of the General Assembly announced that Austria would not press its draft resolution to the vote.⁵³ On 7 January 1980, following the withdrawal by both Cuba and Colombia of their candidatures, Mexico was elected⁵⁴ to the Security Council for a term of two years.

⁵³ Ibid., 116th mtg.: the President (para. 5).

⁵⁴ Ibid., 120th mtg., para. 11 (G A decision 34/328).