

# ARTICLE 30

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## ARTICLE 30

### TEXT OF ARTICLE 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

### INTRODUCTORY NOTE

1. During the period under review, the Security Council adopted amendments to its provisional rules of procedure on one occasion.<sup>1</sup>
2. In the application of its provisional rules of procedure, the Council continued, in general, to rely upon the body of practice established during previous years. However, occasionally, when confronted by special circumstances, the Council followed new procedures which could be said to throw added light on the scope and meaning of some of its rules. The present study discusses such cases and gives a brief indication of practices which may be regarded as representing discernible tendencies. These include the continued practice of circulating communications to the Security Council concerning matters in respect of which no request had been made for consideration by the Council, as well as communications from sources other than those defined in rule 6 and from entities whose international status remained unsettled.
3. As in the *Repertory* and earlier *Supplements*, analyses of other Articles of the Charter include material relating to relevant rules of procedure of the Security Council. For example, Article 27 deals with rule 40 on voting; Article 28 deals with rules 4 and 5 concerning meetings; Article 29 deals with rule 28 on subsidiary organs; and Articles 31 and 32 deal with rules 37 and 38 concerning participation in the Council's discussions.

<sup>1</sup> For the text of the provisional rules of procedure current during the period covered by the present *Supplement*, see S/96/Rev.7 — United Nations Publication, Sales No. E.83.I.4.

### SUMMARY OF PRACTICE

#### A. Adoption and amendment of the provisional rules of procedure

- \*\*1. CONSIDERATIONS ARISING FROM THE NATURE OF THE SECURITY COUNCIL AS THE ORGAN CHARGED WITH PRIMARY RESPONSIBILITY FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY
2. METHODS OF ADOPTING OR AMENDING THE RULES OF PROCEDURE
4. In the one instance in which the provisional rules of procedure were amended during the period under review, the initiative came from the General Assembly. By its resolution 35/219 A of 17 December 1980, the General Assembly, *inter alia*, requested the Security Council to include Arabic among its official and working languages, no later than 1 January 1983.<sup>2</sup> Subsequently, in a letter<sup>3</sup> dated 17 December 1982, the representative of Jordan drew the at-

<sup>2</sup> By the same resolution, the General Assembly decided to include Arabic among the official and working languages of its subsidiary organs, no later than 1 January 1982, and requested the Economic and Social Council to include Arabic among its official languages, no later than 1 January 1983. Arabic had already been included among the official and working languages of the General Assembly and its Main Committees by resolution 3190 (XXVIII), adopted on 18 December 1973.

<sup>3</sup> S C (37), Suppl. for Oct.-Dec. 1982, S/15532.

attention of the President of the Security Council to that resolution and requested him to include an item entitled "Inclusion of Arabic among the official and working languages of the Security Council" in the Council's agenda.

5. The Security Council considered the item at its 2410<sup>th</sup> meeting, on 21 December 1982. At the same meeting, the Council adopted by consensus a draft resolution,<sup>4</sup> submitted by Jordan, as resolution 528 (1982), by which it decided to include Arabic among its official and working languages and to amend rules 41 and 42 of the provisional rules of procedure accordingly.

#### B. Essential features of the provisional rules of procedure

##### 1. AGENDA (RULES 6-12)

###### (a) *Circulation of communications*

6. The flexible interpretation of rule 6 of the provisional rules of procedure continued during the period under review, permitting the circulation, as official documents of the Security Council, of communications from States concerning both matters of which the Security Council was

<sup>4</sup> *Ibid.*, S/15531, adopted without change as S C resolution 528 (1982).

seized and other matters which the Council was not being requested to consider.<sup>5</sup>

7. Communications from entities whose international status remained unsettled occasionally raised doubts as to whether the Secretary-General was required under rule 6 to circulate such communications and whether they should be issued as official documents of the Security Council. The procedure employed in such cases was to circulate the document officially as an enclosure to either a letter<sup>6</sup> or a note verbale<sup>7</sup> from a Member State, which formally requested its circulation, or a note<sup>8</sup> from the President of the Security Council. No communication from such an entity was issued as an official document bearing a footnote that it was being circulated at the direction of the President of the Security Council, as had been the case in previous years.

8. On one occasion, a communication from a source other than those described in rule 6 was issued under cover of a note<sup>9</sup> by the President of the Security Council. During the period under review, no communication was issued under cover of a note by the Secretary-General.

9. Communications from regional agencies, received pursuant to Article 54 of the Charter, were also regularly circulated as official documents of the Security Council.<sup>10</sup>

#### (b) *The provisional agenda*

10. There was no instance during the period under review when rule 7 of the provisional rules of procedure of the Security Council was invoked. On a number of occasions,<sup>11</sup> Council meetings were convened on the same day on which requests for urgent meetings were received or less than three days thereafter, but no questions concerning the application of rule 8 were raised.

#### (c) *Adoption of the agenda*

11. Matters having a bearing on rule 9 of the provisional rules of procedure of the Security Council were raised dur-

<sup>5</sup> Communications bringing matters concerning the maintenance of international peace and security to the attention of the Council usually contained a specific request for their circulation as official Security Council documents and were subsequently circulated as such (S-series documents).

<sup>6</sup> See, for example: S C (34), Suppl. for Jan.-March 1979, S/13012, annex; *ibid.*, S/13029, annex; *ibid.*, S/13036, annex; S C (34), Suppl. for April-June 1979, S/13406, annex.

<sup>7</sup> See, for example, S C (39), Suppl. for July-Sept. 1984, S/16668, annex I.

<sup>8</sup> See, for example, S C (38), Suppl. for Jan.-March 1983, S/15602.

<sup>9</sup> S C (35), Suppl. for April-June 1980, S/14032.

<sup>10</sup> See the present *Supplement*, under Article 54.

<sup>11</sup> See, for example, S C (34), 2140<sup>th</sup> mtg. (S/13223); S C (35), 2237<sup>th</sup> mtg. (S/14022); *ibid.*, 2247<sup>th</sup> mtg. (S/14198); S C (36), 2292<sup>nd</sup> mtg. (S/14596); *ibid.*, 2295<sup>th</sup> mtg. (S/14648); S C (37), 2345<sup>th</sup> mtg. (S/14942); *ibid.*, 2360<sup>th</sup> mtg. (S/15100); *ibid.*, 2394<sup>th</sup> mtg. (S/15392); S C (39), 2513<sup>th</sup> mtg. (S/16306); *ibid.*, 2562<sup>nd</sup> mtg. (S/16825).

ing the period under review. These related to the few instances when objections were raised with regard to the inclusion of an item in the agenda. There was no instance when a vote was requested regarding such objections. This reflected the growing practice in the Council of meeting informally in consultations prior to holding a formal meeting.

12. At the 2108<sup>th</sup> meeting, the inclusion of an item in the agenda was objected to by two representatives, while a third representative urged the Council to adopt the agenda immediately. The President stated that he had taken note of the views expressed and that, in the light of prior consultations, he took it that the agenda could be adopted. In the absence of any further objection, it was so decided.<sup>12</sup> At the 2185<sup>th</sup> meeting, following objections to, and support for, the Council's consideration of an item, the President made a similar statement and the agenda was adopted.<sup>13</sup>

13. At the 2114<sup>th</sup> meeting, objections were raised with regard to the consideration by the Council of an item and consequently to the formulation of the agenda ("The situation in South-East Asia and its implications for international peace and security"). The President stated that he believed the provisional agenda commanded the consent of the general majority of the members of the Council and that, if there were no objections, he would take it that the majority were in favour of such a formulation. The agenda was adopted without objection.<sup>14</sup>

#### (d) *Matters of which the Security Council is seized*

14. No questions concerning the application of rule 10 of the provisional rules of procedure of the Security Council were raised during the period under review.

15. In accordance with rule 11, the Secretary-General circulated to members of the Council each January a summary statement of matters of which the Council was seized and, each week thereafter, an addendum indicating the stage reached in the consideration of any matter that had been taken up during the preceding week. There were five instances of decisions to remove questions from the list of matters of which the Council was seized. In each instance, the Secretary-General deleted items from the list, having ascertained the consent of the Council, following written requests by the Member States concerned. The following items were deleted from the list of matters of which the Security Council was seized:

<sup>12</sup> For the texts of the relevant statements, see S C (34), 2108<sup>th</sup> mtg.: USSR (paras. 5-15), China (paras. 16-22), Czechoslovakia (paras. 23-27) and the President (Jamaica) (paras. 28-30).

<sup>13</sup> For the texts of the relevant statements, see S C (35), 2185<sup>th</sup> mtg.: USSR (paras. 6-20), German Democratic Republic (paras. 21-33), Bangladesh (paras. 34 and 35), China (para. 37) and the President (France) (para. 38).

<sup>14</sup> For the texts of the relevant statements, see S C (34), 2114<sup>th</sup> mtg.: USSR (paras. 3-9), China (para. 11), Czechoslovakia (paras. 13-17) and the President (Kuwait) (paras. 18 and 19).

- (a) "Complaint by Zambia";<sup>15</sup>
- (b) "Question concerning the situation in Southern Rhodesia";
- (c) "Request by Mozambique under Article 50 of the Charter";
- (d) "Complaint by Botswana";
- (e) "Complaint by Mozambique".

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

16. Since 1948, the reports of the Secretary-General on the credentials of the representatives of members of the Security Council have been circulated to all Council members and, in the absence of a request that they be considered by the Council, considered approved without objection. In practice, 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 are designated. This practice was followed during the period under review.

17. With respect to representatives of States not members of the Security Council, their credentials are kept on file with the Secretariat, or received by the Secretary-General and communicated to the President of the Council.

18. At the 2108<sup>th</sup> meeting, objections were raised with regard to the inclusion of an item in the agenda of the Council, based on the contention that those requesting the meeting did not represent the people of Kampuchea. The "genuine representatives", it was argued, had not requested a meeting of the Council; to the contrary, the new Government had sent an official communication to the President of the Council objecting to the Council's impending consideration of the item as interference in the internal affairs of Democratic Kampuchea. Conversely, it was asserted that the Government requesting the meeting had been recognized by the United Nations and its credentials accepted by the General Assembly at its thirty-third session. Temporary setbacks on the battlefield and loss of the capital had in no way affected its legal status. The President stated that the question of holding the meeting and the question of the agenda had been discussed during informal consultations of the Council and, in the light of those consultations, and of the views expressed by some members at the current meeting, he would consider the agenda adopted.

<sup>15</sup> Pursuant to the request contained in a letter dated 10 May 1979 from the Permanent Representative of Zambia to the United Nations addressed to the Secretary-General, only that portion of the item "Complaint by Zambia" relating to the complaint by Zambia against Portugal submitted on 15 July 1969 (S/9331) was deleted, with the consent of the Security Council, from the list of matters of which the Council was seized. Other portions of the item were retained under the same title.

19. Following further discussion of the participation of the delegation of Democratic Kampuchea in the Council meeting, the President briefly suspended the meeting in order to enable the Secretary-General, in accordance with rule 15 of the provisional rules of procedure, to examine the credentials of the appointed representatives of Democratic Kampuchea and to issue a report. After resumption of the meeting, the Council approved the report<sup>16</sup> of the Secretary-General and, at the invitation of the President, the delegation of Democratic Kampuchea took a place at the Council table.<sup>17</sup>

20. At the 2491<sup>st</sup> meeting, a point of order was raised by a member who, referring to a communication which he stated the President of the Council had received from the Governor-General of Grenada, questioned the credentials of the representative of Grenada who was participating in the discussion under rule 37 of the provisional rules of procedure. He suggested that the Secretary-General be requested to submit a report on the matter. The President acknowledged receipt of the communication but noted that there remained some question as to its authenticity. He stated that the matter was still under consultation between the Secretary-General and himself. He then briefly suspended the meeting. Upon resumption, the President informed the Council that the Secretary-General would submit a report on the issue that had been raised.<sup>18</sup>

21. In his report<sup>19</sup> submitted four days later, the Secretary-General stated that the President of the Security Council had received a letter from the representative of Dominica conveying the text of a communication from the Governor-General of Grenada, which stated that "no person or group is authorized to speak before the United Nations without the expressed permission of the Governor-General or until a new Ambassador is appointed for Grenada". It further stated that the Governor-General had given no such authorization at that time. The Secretary-General reported that he had confirmed the content of the communication in a radio conversation with the Governor-General and had requested a written confirmation addressed to the Secretary-General and signed by the Governor-General. He noted that, under rules 13 and 14 of the Council's provisional rules of procedure, the credentials of representatives were issued by the Head of State or Government concerned or by its Foreign Minister, and stated that the Governor-General had the function of a Head of State in Grenada. According to his understanding, the Governor-General had not re-

<sup>16</sup> S C (34), Suppl. for Jan.-March 1979, S/13021.

<sup>17</sup> For the texts of the relevant statements, see S C (34), 2108<sup>th</sup> mtg.: USSR (paras. 10-15, 34, 35, 40-45), China (paras. 16-22, 46-53), Czechoslovakia (paras. 26, 27, 54 and 55), the President (Jamaica) (paras. 28-30, 67 and 68), United States of America (paras. 57-59), Kuwait (para. 62) and Bangladesh (para. 65).

<sup>18</sup> For the texts of the relevant statements, see S C (38), 2491<sup>st</sup> mtg.: United States (pp. 3-5), the President (Jordan) (pp. 3-5).

<sup>19</sup> S C (38), Suppl. for Oct.-Dec. 1983, S/16100.

moved the Permanent Representative of Grenada to the United Nations from his post, but had limited his authority and power to speak before the United Nations. He concluded that, until the requested letter from the Governor-General had arrived, he would be unable to formulate an opinion as to who was authorized to speak on behalf of Grenada in the Council.

### 3. THE PRESIDENCY (RULES 18-20)

22. During the period under review, there was one noteworthy instance of interpretation of rule 18, which deals with the monthly rotation of the presidency of the Security Council. On 13 August 1984, the President of the Council issued a note<sup>20</sup> stating that, following the official notification on 6 August 1984 that the name of Upper Volta had been changed to Burkina Faso, the members of the Council had considered the application of rule 18 of the Council's provisional rules of procedure and had agreed in informal consultations that the President (Burkina Faso) would continue in office for the month of August and would hold the presidency again in October 1984.

23. The practice of authorizing, explicitly or implicitly, the President of the Council to express the wish or consensus of the Council, in accordance with the provisions of rule 19, continued. In some instances, at meetings following informal consultations, the President presented the results of those consultations in the form of a statement of consensus<sup>21</sup> or as a draft resolution,<sup>22</sup> which the Council then adopted without further debate. In other instances, the President announced the agreement or consensus in a note<sup>23</sup>

<sup>20</sup> S C (39), Suppl. for July-Sept. 1984, S/16696.

<sup>21</sup> For the texts of such statements, see *Resolutions and Decisions of the Security Council, 1979*, documents S/13043, S/13226, S/13272, statement made at the 2144<sup>th</sup> meeting (no symbol issued), S/13362, S/13549, S/13616, S/13629, S/13652, S/13657 and S/13662; *ibid.*, 1980, documents S/13900, S/13970, S/14190, S/14244 and S/14271; *ibid.*, 1981 documents S/14361, S/14414, S/14485, S/14572, S/14599, S/14764 and S/14794; *ibid.*, 1982 documents S/14944, S/14995, S/15047, S/15124, S/15163, S/15296, S/15342, S/15444 and S/15504; *ibid.*, 1983 documents S/15616, S/15680, S/15688, S/15797, S/16142, S/16188 and S/16195; *ibid.*, 1984, documents S/16293, S/16454, S/16593 and S/16847.

<sup>22</sup> For the texts of such draft resolutions, see, for example, S/13645, adopted without change as resolution 455 (1979); S/14484, adopted without change as resolution 485 (1981); S/14556, adopted without change as resolution 487 (1981); S/14890, adopted without change as resolution 501 (1982); S/15330, adopted without change as resolution 516 (1982); S/16046, adopted without change as resolution 538 (1983); S/16187, adopted without change as resolution 543 (1983); S/16491, adopted without change as resolution 549 (1984); S/16779, adopted without change as resolution 555 (1984).

<sup>23</sup> For the texts of such notes, see, for example, S C (34), S/13196, S/13218, S/13281, S/13364, S/13426, S/13586, S/13669 and S/13685; S C (35), S/13755, S/14000, S/14116 and S/14166; S C (36), S/14816; S C (37), S/14850, S/15138, S/15359 and S/15473; S C (38), S/15971; S C (39), S/16696 and S/16760.

or letter<sup>24</sup> circulated as a document of the Council. No objections were raised in those instances to the formulations used by the President in expressing the wish or consensus of the Council, although occasionally, in 1979 and 1980, it was indicated that a member had dissociated itself from the matter.<sup>25</sup>

24. At the 2495<sup>th</sup> meeting, objections were raised by a representative to the manner in which the President for the month of October 1983 had conducted his office. Firstly, the representative pointed out that, at the 2480<sup>th</sup> meeting, he had put his name down to speak in exercise of his right of reply; however, the President, noting that there were requests to exercise the right of reply, had drawn attention to the lateness of the hour, and stated that, with the consent of the Council, he would adjourn the meeting. The President had further stated that the time of the next meeting would be decided in consultations. The representative maintained that the President should have announced that the Council would reconvene that afternoon or in the morning or afternoon of the following day. He noted that three and a half weeks had elapsed since the 2480<sup>th</sup> meeting; to the best of his knowledge, no consultations had taken place until he had approached the current President upon his assumption of the presidency. The President observed that, on the occasion to which reference had been made, the most important purpose of the meeting had been accomplished. He pointed out that the Council had subsequently been engaged in several matters involving international peace and security, which had been given precedence over procedural matters. The member that had presided over the Council in October noted that three representatives had asked to speak in the exercise of the right of reply and that the 2480<sup>th</sup> meeting had been adjourned at 1.55 a.m. He asserted that the adjournment had been in order.<sup>26</sup>

25. Secondly, the representative, citing the response of the President for October to his statement at the 2480<sup>th</sup> meeting, charged that that President had committed improprieties. He asserted that the practice of expressing respects to the President of the Council was predicated on reciprocity. The President, he said, owed the same courtesy to representatives. Moreover, according to the representative, the President could not have made his response as the representative of his country, since he had not followed the long-established practice of waiting until the end of the debate to make a statement as such; nor had he, in accordance with the accepted procedure, indicated at the beginning of his

<sup>24</sup> For the texts of such letters, see, for example, S C (34), S/13167, S/13382, S/13480 and S/13500; S C (35), S/13741, S/13917 and S/14309; S C (37), S/14900, S/15020 and S/15469; S C (39), S/16628 and S/16832.

<sup>25</sup> See S C (34), S/13039, S/13167, S/13362, S/13382, S/13480, S/13497, S/13500 and S/13666; S C (35), S/13917 and S/14309.

<sup>26</sup> For the texts of the relevant statements, see S C (38), 2495<sup>th</sup> mtg.: Israel (paras. 6-18), the President (Malta) (para. 39) and Jordan (paras. 58-60).

statement that he was speaking in that capacity and indicated at the end that he was resuming his functions as President.<sup>27</sup>

26. The same representative, referring to the events of the Council's 2480<sup>th</sup> meeting,<sup>28</sup> cited as an example of proper conduct the decision by the President of the Council for the month of January 1954 to remove himself from the presidency in accordance with rule 20 of the provisional rules of procedure, even though, in the representative's view, that President's country had not been a party to the dispute under consideration.<sup>29</sup>

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

##### (a) *Order of speaking*

27. Questions concerning the application of rule 27, which relates to the order of intervention in a debate, arose on three occasions during the period under review.

28. At the 2109<sup>th</sup> meeting, a representative requested to make a second statement in exercise of the right of reply. On a point of order, one member objected to the representative speaking again, as his statement "would be detrimental to the dignity of the Security Council". The President stated that representatives invited under rule 37 "may exercise the right of reply", but that the interests of the Council's work must be taken into account. Another member appealed to the representative seeking the floor "not to exercise his right of reply at this juncture in order to preserve the dignity of the Council". The President, stating that the view expressed by that member "should command the Council's attention", urged the Council to "accept the notion" put forward by him. There being no further comment, he proceeded, stating that he had no more speakers for that day.<sup>30</sup>

29. At the 2248<sup>th</sup> meeting, following the voting on a draft resolution before the Council, a representative asked the President whether his delegation had been invited in accordance with the provisions of the Charter and the provisional rules of procedure of the Council to participate, without vote, in the deliberations of the Council. He expressed his surprise that he had not been given the floor before the vote to make a brief statement. The President replied that the representative had been inscribed on the list of speakers and would be given the floor in due course. When the representative was given the floor, in accordance with the list of speakers, he stated that, as the President would recall, he had asked to speak before the adoption of the resolution. There had been an understanding on that point and he re-

gretted that the President, in his wisdom, "saw fit to go back" on it without informing his delegation. The President stated that he had followed the customary procedure of the Council in conducting the proceedings, and had done so after consultations with the members of the Council.<sup>31</sup>

30. At the 2564<sup>th</sup> meeting, after the Council had adopted a draft resolution and heard statements by members of the Council, the President called upon a representative, who had been invited to participate in the discussion without the right to vote, to take the floor. The representative began his statement by placing on record the view that his delegation's request to participate in the debate had naturally presupposed that they would speak before the vote. He noted that he had informed the President of his objection before the meeting had been convened and stated that his delegation found the procedure adopted to be "most irregular".<sup>32</sup>

##### \*\* (b) *Establishment of subsidiary bodies*

##### (c) *Presidential rulings*

##### (i) *Raising of points of order*

31. The question whether the President was obliged to make a ruling on a point of order arose on a number of occasions during the period under review.

32. At the 2328<sup>th</sup> meeting, a representative raised a point of order during the statement by another representative, and requested that speakers not address issues that were external to the matter under discussion. The President stated that speakers should confine themselves to the item on the agenda, and the representative resumed his statement. A short time later, the President interrupted the representative and, once again, requested that he address the item on the agenda. The speaker responded that he believed he was "entitled, in exercise of [his] right of reply, to point out to the Council the qualifications of those who [spoke] about aggression in international relations and their contributions to the maintenance of international peace and security".<sup>33</sup>

33. At the 2334<sup>th</sup> meeting, a member, raising a point of order, requested that the speaker "abide by the rules of procedure and the norms of international conduct by calling a member State of the Council by its proper name". The speaker resumed his statement, and, once again, referred to the "Palestinian Arab State of Jordan", prompting the same member to reiterate his request that the speaker "should be ruled out of order". The President, following a third point of order raised by that member, stated that the Council should

<sup>31</sup> For the text of the relevant statements, see S C (35), 2248<sup>th</sup> mtg.: Iraq (paras. 13, 15 and 120-125) and the President (Tunisia) (paras. 16, 17 and 130, 131).

<sup>32</sup> See, in connection with the question of South Africa, S C (39), 2564<sup>th</sup> mtg.: South Africa (para. 52).

<sup>33</sup> For the texts of the relevant statements, see S C (37), 2328<sup>th</sup> mtg.: Poland (paras. 114-115), the President (USSR) (paras. 113, 116 and 125) and Israel (paras. 117 and 126).

<sup>27</sup> Ibid.: Israel (paras. 19-27).

<sup>28</sup> See paras. 24 and 25 above.

<sup>29</sup> See S C (38), 2495<sup>th</sup> mtg.: Israel (para. 32).

<sup>30</sup> For the texts of the relevant statements, see S C (34), 2109<sup>th</sup> mtg.: Democratic Kampuchea (paras. 96-115), Cuba (paras. 117-123), USSR (para. 126), the President (Jamaica) (paras. 128 and 131), and Kuwait (para. 130).

continue with the “substance of the matter” before it and expressed her personal view that “all Member States at the United Nations should always be addressed by the proper names of the nations they represent”. The speaker stated that he fully concurred with that suggestion, and continued his statement.<sup>34</sup>

34. At the 2355<sup>th</sup> meeting, a speaker referred to a Member State as the “Israeli entity”, whereupon its representative requested, on a point of order, that the President “instruct” the speaker “to refer to a State Member of the United Nations by the name under which it was admitted to the Organization”. The President asked the speaker to continue his statement, but the representative continued to interrupt on a point of order, until the President reminded the members of the Council that it was “appropriate to call States by their proper names” and asked the speaker “to bear that comment in mind”. In exercise of his right of reply, the representative who had raised the points of order began his statement with a reference to the previous speaker as the representative of the “Palestinian Arab State of Jordan”. The President stated that, in accordance with rule 30 of the provisional rules of procedure, he had reminded the Council that it was “the practice to refer to States by their official names”. He asked all participants in the debate to abide by that practice. The representative noted that the President had on several occasions permitted the previous speaker to refer to his country by a designation other than its official one. If the other speaker was permitted to do so, he thought he was entitled to the same treatment. The President observed that he had reminded the previous speaker that States Members of the United Nations should be addressed by their official names, and he was now saying the same thing to the current speaker. If that presidential ruling was challenged, he would have to invoke rule 30 and call for a vote by the Council. He then called upon the representative to resume his statement. The representative noted that the previous speaker had not challenged the President’s ruling; he had just ignored it. He agreed to refer to him as the representative of Jordan and continued his statement.<sup>35</sup>

35. At the 2356<sup>th</sup> meeting, a representative inquired, on a point of order, how many times the right of reply could be exercised. In his view, according to the rules of procedure, speakers “[did] not have the right to continue making statements in exercise of the right of reply”. He asserted that the Council was hearing new statements rather than statements made in exercise of the right of reply, and suggested that all those who wished to make new statements

<sup>34</sup> For the texts of the relevant statements, see S C (37), 2334<sup>th</sup> mtg.: Jordan (paras. 123, 127 and 133), the President (United States) (paras. 122, 131 and 134) and Israel (paras. 121, 125, 129-130 and 135).

<sup>35</sup> For the texts of the relevant statements, see, in connection with the situation in the occupied Arab territories, S C (37), 2355<sup>th</sup> mtg.: Jordan (paras. 48, 54, 58, 60 and 63); Israel (paras. 50, 55, 57, 59, 81, 85 and 88) and the President (Zaire) (paras. 51, 62, 80, 83 and 86).

should inscribe their names on the list of speakers and be heard at another meeting. The President stated that there were no other names on the list of speakers and that the Council would continue hearing speakers who wished to exercise their right of reply.<sup>36</sup>

36. At the 2357<sup>th</sup> meeting, on a point of order, a member recalled the ruling made by the President two meetings earlier, according to which representatives should be addressed using the proper name of their respective countries. The member requested that the President ask the speaker to abide by that ruling. The President reiterated the appeal he had made to the members of the Council and invited the speaker to continue his statement.<sup>37</sup>

37. At the 2388<sup>th</sup> meeting, a member raised a point of order and requested that the speaker call his country by its name, without any adjectives, because such use of adjectives was “in violation of the Charter of the United Nations”. The President stated that, as President of the Council, he had neither the desire nor the right “to curtail the right of free speech” in the Council; however, on his own behalf and on behalf of members of the Council, he asked all representatives “to observe due courtesy” and “to address all States by the names by which they [were] customarily known in United Nations practice”. The speaker, resuming his statement, expressed the hope that the President’s call would be heeded by those representatives who used “all kinds of epithets and paraphrases” to refer to his country. Later in the same meeting, another representative, speaking on a point of order, reminded speakers that the item on the agenda was the situation in Lebanon. The President expressed certainty that the representative’s words had been duly noted.<sup>38</sup>

38. At the 2390<sup>th</sup> meeting, on a point of order, a representative requested that the President ask the speaker to address the item on the agenda and “stop insulting members of the Council”. The President stated that he was sure the Council wished “to allow complete freedom of speech in debates” and, at the same time, for its members to be shown “proper respect”. The speaker, addressing the representative by name, asserted that the tactics used by the representative would not serve “to interrupt the flow of [his] argument”. The representative again raised a point of order, requesting the President to remind the speaker not to speak to anyone directly and to call him to order for “personal references”. The President asked that speakers address their remarks through him, in accordance with normal practice. The speaker resumed his statement, but was again interrupted, this time by another representative, who sought the Presi-

<sup>36</sup> For the texts of the relevant statements, see S C (37), 2356<sup>th</sup> mtg.: Spain (para. 117) and the President (Zaire) (para. 118).

<sup>37</sup> For the texts of the relevant statements, see S C (37), 2357<sup>th</sup> mtg.: Poland (para. 51) and the President (Zaire) (para. 52).

<sup>38</sup> For the texts of the relevant statements, see S C (37), 2388<sup>th</sup> mtg.: Jordan (para. 127), the President (Ireland) (paras. 126, 128-129 and 168), Israel (para. 132) and Lebanon (paras. 166-167).



dent's opinion as to whether the speaker was addressing the item on the agenda. The President stated that it was the "tradition and practice of the Council" to allow speakers "complete freedom of speech". At the same time, he appealed to all speakers "to show respect and a willingness to continue the debate" on the agenda item. He stressed that he had not been asked for a ruling on a point of order. The views expressed were his opinion, but he hoped that the members of the Council would support him if he drew the attention of all present to them. The representative who had first raised the point of order stated, again on a point of order, that, according to Article 31 of the Charter, speakers were obliged "to speak only on the question that [had] been brought before the Security Council". This was not incompatible with freedom of speech. "Anything [could] be said on the question itself". The President called on the speaker, who continued his statement.<sup>39</sup>

**\*\* (ii) Challenge to a presidential ruling**

**(d) The requirement of written submission for proposed resolutions, amendments and substantive motions**

39. Rule 31, which governs the submission of proposed resolutions, amendments and substantive motions, states that these proposals "shall normally be placed before the representatives in writing". At the 2350<sup>th</sup> meeting, a member referred to a draft resolution<sup>40</sup> which his delegation had circulated the day before and reported that, while his delegation had wanted the draft resolution voted upon that day, on hearing that the Minister for Foreign Affairs of Argentina was on his way to address the Council, and since he had not given delegations the conventional 24 hours before asking them to vote on the draft resolution, he had willingly acceded to the President's request that the vote be postponed to the following day. Now, in response to a suggestion by the Minister for Foreign Affairs of Panama, the member had asked the Secretariat to prepare a revised version of the draft. Once that was circulated, the Council should hold an immediate vote. The member suggested that after the Council had completed its business with regard to his draft resolution, it could consider the draft resolution<sup>41</sup> submitted by Panama and, if the Council so desired, he would be willing to waive the 24-hour rule and vote on it the same day. The Minister for Foreign Affairs of Panama asked that the Council heed what had been said, for the Council could not proceed to a vote in accordance with rule 31 of the provisional rules of procedure until the draft resolution had been distributed, in writing, in its final form. The member expressed the view that, in theory, he could ask that the addition to the draft resolution be regarded as

<sup>39</sup> For the texts of the relevant statements, see S C (37), 2390<sup>th</sup> mtg.: Poland (paras. 41, 46 and 59), Israel (para. 44), the President (Ireland) (paras. 42-43, 45, 47, 55-58 and 60) and USSR (para. 54).

<sup>40</sup> S C (37), Suppl. for April-June 1982, S/14947.

<sup>41</sup> Ibid., S/14950.

an oral amendment. However, he would wait until the revised version had been distributed and he would not object to a suspension of the meeting until that procedure had been completed. In the absence of any objection, the President suspended the meeting. When the meeting resumed the Council proceeded to the vote.<sup>42</sup>

40. At the 2371<sup>st</sup> meeting, a member read out the text of a draft resolution in order that it might be put to the vote that same day. Later in the meeting, after the draft had been circulated, the President recalled that several members of the Council had informed him prior to the meeting that they would prefer to vote on the draft resolution on the following day. He therefore suggested that the vote be postponed to the next meeting, to be scheduled the following day. One co-sponsor acknowledged that it was usual to have a 24-hour interval before a draft resolution was put to a vote, but he questioned the need for the Council to wait 24 hours, now that the draft resolution had been distributed. The other co-sponsor noted that the views to which the President referred had been expressed before the text of the draft resolution had been distributed. He understood that many countries thought they should see the text before voting upon it, but since the text had now been distributed and since it would not be the first time that a draft resolution had been voted upon on the day of its submission, in view of the urgent nature of the draft resolution, he urged that the Council consider voting that same day, unless the President decided otherwise. One member stated that he would have to seek instructions from his Government. Since that was not currently possible, he requested that the vote take place the following day. A co-sponsor of the draft resolution stated that, out of courtesy, he would not insist on a vote that same day. He proposed that the Council meet the following day in order to vote. In the absence of any objections, it was so decided.<sup>43</sup>

41. At the 2385<sup>th</sup> meeting, a member orally introduced a draft resolution, which he requested to be put to the vote "as a matter of priority". Following a brief suspension of the meeting, the President noted that the members of the Council had the text of the draft resolution<sup>44</sup> before them. He drew attention to a proposal by one member requesting "a suspension of the meeting in order to allow for consultations". He proposed to suspend the meeting if there was no objection. The sponsor of the draft resolution, supported by another member, expressed his opposition to a delay in the voting. The President therefore put the proposal for a sus-

<sup>42</sup> For the texts of the relevant statements, see S C (37), 2350<sup>th</sup> mtg.: United Kingdom of Great Britain and Northern Ireland (paras. 177-180, 185), Panama (para. 184) and the President (Zaire) (para. 186).

<sup>43</sup> For the texts of the relevant statements, see S C (37), 2371<sup>st</sup> mtg.: Spain (paras. 15, 142-144), Panama (paras. 26, 145-147 and 157-158), the President (France) (paras. 139-141, 148 and 159) and Japan (paras. 152-153).

<sup>44</sup> S C (37), Suppl. for July-Sept. 1982, S/15325.



pension of the meeting to a vote. It was not adopted, having failed to receive the required majority. The Council then voted on the draft resolution. Following the vote, the member who had sought a suspension of the meeting stated that her delegation had not found it possible to participate in the vote on the draft resolution. She strongly objected to the procedure which had been employed and suggested that it would be "impossible for the Council to function if members [were] not provided with an opportunity for consultation with their Governments".<sup>45</sup>

**\*\* (e) Sponsorship of draft resolutions**

**(f) Order of precedence of draft resolutions**

42. The question of the application of rule 32 stating that principal motions and draft resolutions shall have precedence in the order of their submission was raised on one occasion during the period under review. At the 2385<sup>th</sup> meeting, the Council had before it a draft resolution<sup>46</sup> co-sponsored by two delegations. In the course of the meeting, a member orally presented a second draft resolution,<sup>47</sup> which he requested be put to the vote first, "given its merits and the fact that it [dealt] with a purely humanitarian question". The President stated that the Secretariat would proceed immediately with the reproduction of the text in all the official languages and that it would be distributed as soon as possible thereafter. One member, speaking on behalf of the sponsors, stated that the draft resolution submitted orally during the meeting should be given priority and voted upon as quickly as possible. Following a brief suspension of the meeting, the President drew attention to the distributed text of that draft. The Council, having rejected a proposal that the meeting be suspended for two hours to allow for consultations with Governments, proceeded to vote on the draft resolution.<sup>48</sup>

**(g) Order of precedence of motions under rule 33**

43. Questions concerning the application of the provisions of rule 33 relating to the suspension and adjournment of meetings arose on two occasions.

44. At the 2350<sup>th</sup> meeting, a member orally presented a draft resolution submitted by his Government and requested that the meeting be suspended so that the Secretariat might translate and distribute the text of the draft resolution. Another member reminded the President that he had asked to be the last speaker in the debate and requested that the

<sup>45</sup> For the texts of the relevant statements, see S C (37), 2385<sup>th</sup> mtg.: Spain (paras. 69, 70 and 113), the President (Guyana) (paras. 114, 119 and 121-123), United States of America (paras. 118 and 125) and Jordan (para. 120).

<sup>46</sup> S C (37), Suppl. for July-Sept. 1982, S/15317.

<sup>47</sup> *Ibid.*, S/15325.

<sup>48</sup> For the texts of the relevant statements, see S C (37), 2385<sup>th</sup> mtg.: Spain (paras. 69, 70 and 72), the President (paras. 73, 122 and 123) and France (para. 83).

Council accord him that privilege before considering the proposal for suspension of the meeting. A third member cited rule 33 of the provisional rules of procedure, which provides, *inter alia*, that any motion for the suspension of a meeting be decided without debate. The President stated that a number of names remained on the list of speakers, but, in accordance with rule 33, the motion to suspend the meeting had priority and "must immediately be put to the vote". Following exchanges on the purpose and duration of the suspension, the President once again referred to the provisional rules of procedure, which in his view provided that "a motion for the suspension must be decided immediately". The motion failed of adoption, and the Council continued the debate.<sup>49</sup>

45. At the 2372<sup>nd</sup> meeting, the sponsors of a draft resolution, which they had orally amended, requested, under rule 33 of the provisional rules of procedure, a two-hour suspension of the meeting, until 3.30 p.m., with a view to proceeding then to a vote. The President asked if there was any objection to that proposal. A member began to make a statement, but was interrupted by one of the sponsors, who recalled that, under rule 33, a motion for the suspension or simple adjournment of a meeting was to be decided without debate. The President pointed out that he had merely asked if there was any objection to the proposal, and he called upon the member who had been interrupted to continue his statement. The member stated that he was not proposing to debate the issue. He was simply asking for an additional hour and a half to enable delegations to receive instructions. The President asked if there was any objection to the request for a suspension of the meeting until 5 p.m. The co-sponsor argued that the fact that his proposal had now been amended indicated that it was being debated, contrary to rule 33. He agreed, however, that the proposal for a longer suspension should be put to a vote.

46. Another member, on a point of order, expressed the view that what was proposed by the co-sponsor of the draft resolution came under rule 33, subparagraph 3, because it fixed "a certain day or hour". He noted that a motion under subparagraph 3 was not decided without debate. The co-sponsor stressed that he had not asked that the meeting be adjourned, but that it be "suspended for two hours". The Council was debating something which, under the rules of procedure, could not be debated.

47. The President once again asked if there was any objection to the proposal for a suspension of the meeting until 3.30 p.m., whereupon another member appealed to the Council to authorize a longer suspension than that so far proposed. The co-sponsor stated that an interpretation of rule 33, which allowed for the current debate, was unac-

<sup>49</sup> For the texts of the relevant statements, see S C (37), 2350<sup>th</sup> mtg.: Panama (paras. 128 and 134), United Kingdom (paras. 136 and 137), USSR (para. 138), the President (Zaire) (paras. 139, 140, 143 and 145), Ireland (paras. 141 and 142) and Spain (para. 144).

ceptable, but, following the announcement by the President that his proposal be put to the vote, asked that the Council vote instead on the proposal for a suspension of the meeting until 5 p.m. Failing to obtain the required majority, the proposal to suspend the meeting until 5 p.m. was not adopted. The verbatim record of the meeting states that “[t]he meeting was suspended at 1.55 p.m. and resumed at 6.10 p.m.”.<sup>50</sup>

**\*\* (h) *Withdrawal of motions or draft resolutions***

**5. APPLICATION OF RULE 39**

48. In extending invitations to individuals under rule 39, the Security Council, as in previous years, acted upon requests couched in a variety of ways. One procedure followed was for the representative of a member of the Council to address a letter to the President of the Council requesting that an invitation under the provisions of rule 39 of the provisional rules of procedure be extended to an individual, usually setting out his title or qualifications. The President then proposed that the invitation be extended to the individual as requested. If there was no objection, it was so decided. For example, in a letter<sup>51</sup> dated 16 May 1980, the representative of Tunisia requested “that the Security Council invite Mr. Fahd Qawasma, Mayor of Al-Khalil, Mr. Mohamed Milhem, Mayor of Halhoul and Mr. Rajab Attamimi, Sharia Judge of Al-Khalil, to participate in the Council’s consideration of the item entitled ‘The situation in the occupied Arab territories’, in accordance with rule 39 of the provisional rules of procedure”. There being no objections, the President took it that the Council agreed to that request. It was so decided.<sup>52</sup> At other times, representatives of Member States who were invited to participate in the Council’s discussion in accordance with rule 37 and thus had a right of proposition under rule 38, addressed letters to the President of the Council requesting the extension of invitations under rule 39 to individuals.<sup>53</sup>

49. On occasion, the Council decided to invite an individual under rule 39 following agreement reached in the course of consultations. For example, the President, at the 2179<sup>th</sup> meeting, in connection with the situation in Cyprus, stated that, in the course of consultations, members of the Council had agreed that, under rule 39, the Council would extend an invitation to Mr. Nail Atalay, in accordance with the usual practice, unless there were objections. It was so decided.<sup>54</sup>

<sup>50</sup> For the texts of the relevant statements, see S C (37), 2372<sup>nd</sup> mtg.: Panama (paras. 3-6), United Kingdom (paras. 7-9), Spain (paras. 10, 11, 15, 20, 23, 27 and 29), the President (France) (paras. 12, 16, 19, 24), Jordan (paras. 13 and 17), Ireland (para. 21) and United States (para. 26).

<sup>51</sup> S/13942.

<sup>52</sup> S C (35), 2222<sup>nd</sup> mtg., para. 7.

<sup>53</sup> See, for example, S C (34), 2150<sup>th</sup> mtg., para. 2.

<sup>54</sup> S C (34), 2179<sup>th</sup> mtg., para. 2.

50. In one instance, following a proposal to extend an invitation to “a member of the POLISARIO Front” under rule 39, a representative commented that while his delegation was “not opposed to hearing the speaker”, it wished to enter reservations “with respect to the capacity in which he would speak”. The President, in extending the invitation, stated that the remarks had been noted.<sup>55</sup>

51. The Security Council continued to extend invitations under rule 39 to hear statements from representatives of other organs of the United Nations. For example, the President, at the 2560<sup>th</sup> meeting, informed the Council that he had received, in a letter dated 23 October 1984, a request from the Chairman of the Special Committee against Apartheid to be invited in his capacity as Committee Chairman “to participate under the provisions of rule 39 of the provisional rules of procedure in the Council’s consideration of the item entitled ‘The question of South Africa’.” Stating that “on previous occasions the Council [had] extended invitations to representatives of other United Nations bodies in connection with the consideration of matters on its agenda”, he proposed, in accordance with past practice in that matter, “that the Council extend an invitation under rule 39 of its provisional rules of procedure to the Chairman of the Special Committee against Apartheid”. It was so decided.<sup>56</sup>

52. In accordance with past practice, the Council resorted to rule 39 to hear statements by representatives of regional agencies of the nature referred to in Chapter VIII of the Charter. For example, in a letter<sup>57</sup> dated 22 February 1980, the representative of Tunisia requested the Council to invite “Mr. Clovis Maksoud, Permanent Observer of the League of Arab States, to participate in the consideration of the item entitled ‘The situation in the occupied Arab territories’, in accordance with rule 39 of the provisional rules of procedure”. It was so decided.<sup>58</sup>

53. As in previous years, invitations not expressly under rule 37 or 39 were extended<sup>59</sup> to the Palestine Liberation Organization (PLO) in connection with various items, in line with the initial decision of the Council at its 1859<sup>th</sup> meeting, on 4 December 1975.<sup>60</sup> In each case, the representative of the United States, in requesting a vote on the proposed invitation, objected to the invitation as having no legal basis in the rules of procedure, usually adding that the participation of the PLO could be sustained only under rule 39.<sup>61</sup> In one instance, another representative voiced support

<sup>55</sup> For the texts of the relevant statements, see S C (34), 2151<sup>st</sup> mtg.: Gabon (para. 4); the President (USSR) (paras. 5-6).

<sup>56</sup> S C (39), 2560<sup>th</sup> mtg., para. 2.

<sup>57</sup> S/13819.

<sup>58</sup> S C (35), 2199<sup>th</sup> mtg., paras. 11-12.

<sup>59</sup> For details, see the present *Supplement*, under Article 31, para. 8.

<sup>60</sup> See *Repertory, Supplement No. 5*, under Article 30, paras. 58-61.

<sup>61</sup> See S C (34), 2113<sup>th</sup> mtg., paras. 262-264; 2123<sup>rd</sup> mtg., paras. 5-6; 2146<sup>th</sup> mtg., paras. 58-59; 2155<sup>th</sup> mtg., p. 7; 2156<sup>th</sup> mtg., para. 7; 2164<sup>th</sup> mtg., paras. 4-5; 2180<sup>th</sup> mtg., p. 6; S C (35), 2199<sup>th</sup> mtg., para. 6; 2204<sup>th</sup>

for inviting the PLO under rule 39 since in its view, with respect to the item under discussion ("Complaint by Iraq"), "the direct and major parties [were] rather limited".<sup>62</sup>

54. During the period under review, there was one case in which a request for participation under rule 39 was denied. At the 2267<sup>th</sup> meeting, on 21 April 1981, the President of the Council drew attention to a proposal<sup>63</sup> by three members of the Council for the participation, under rule 39 of the provisional rules of procedure, of Mr. Peter Kalangula and others in the debate on the situation in Namibia.<sup>64</sup> Objections were raised to that proposal on the grounds that Mr. Kalangula was president of a political entity, the Democratic Turnhalle Alliance, "whose juridical personality flows from an administrative act by the Government of South Africa, which does not have the legal authority to take decisions of such a nature". The view was also expressed that to admit Mr. Kalangula to address the Council on the question of Namibia would be contrary to Security Council resolution 439 (1978). In that resolution, the Council had declared null and void the "sham elections" in Namibia and any system of representation arising out of those elections. Mr. Kalangula was a representative of an entity which was a "direct product" of the elections in Namibia. There was no constitutional provision "for the Council to revoke its resolution — a substantive resolution — through a procedural method". On the other hand, it was asserted that Mr. Kalangula was competent under rule 39 "to speak as an individual, and on behalf of his political party, and to supply the Council with relevant information on the situation in Namibia". Resolution 439 (1978) was not applicable since Mr. Kalangula "did not claim to speak as a representative of, or on behalf of, an organ established by the process which that resolution declared to be null and void". It was also argued that the majority of the Council was not

mtg., para. 6; 2213<sup>th</sup> mtg., para. 6; 2221<sup>st</sup> mtg., para. 7; 2222<sup>nd</sup> mtg., para. 5; 2226<sup>th</sup> mtg., para. 5; 2233<sup>rd</sup> mtg., para. 5; 2245<sup>th</sup> mtg., para. 7; 2259<sup>th</sup> mtg., paras. 5-6; S C (36), 2280<sup>th</sup> mtg., para. 6; 2292<sup>nd</sup> mtg., paras. 7-8; S C (37), 2322<sup>nd</sup> mtg., para. 19; 2331<sup>st</sup> mtg., paras. 8-9; 2334<sup>th</sup> mtg., paras. 6-7; 2352<sup>nd</sup> mtg., paras. 5-6; 2374<sup>th</sup> mtg., paras. 6-7; 2379<sup>th</sup> mtg., paras. 5-6; 2400<sup>th</sup> mtg., paras. 5-10; 2401<sup>st</sup> mtg., paras. 13-15; S C (39), 2540<sup>th</sup> mtg., para. 4.

<sup>62</sup> S C (36), 2280<sup>th</sup> mtg.: Japan, paras. 14-15.

<sup>63</sup> S/14451.

<sup>64</sup> S C (36), 2267<sup>th</sup> mtg., para. 7.

justified in refusing even to listen to the arguments of a group whom some of its members desired to hear. Subsequently, the Council decided to reject the proposal and to extend an invitation, under rule 39, to a representative of the South West Africa People's Organization, drawing a comment by one of the Council members who had proposed to invite Mr. Kalangula that one could only wonder "whether such a result [did] not reflect regrettable discrimination between various parties which are or should be participants in the settlement of the Namibian question".<sup>65</sup>

55. In another instance, the proposal<sup>66</sup> for extending an invitation under rule 39 of the provisional rules of procedure was not pressed to the vote after consultations of the Security Council. At the 2447<sup>th</sup> meeting, on 27 May 1983, the President of the Council drew attention to a proposal by three Council members that an invitation under rule 39 be extended to two individuals to address the Security Council on the situation in Namibia. He stated that he had intended to put that proposal to the vote, but that following consultations with the members of the Council, it was his understanding that no member insisted on a vote. One proponent of the invitation, speaking on behalf of the members of the contact group who were also members of the Council, stressed that certain issues of principle were involved. The first concerned the implementation of rule 39 of the provisional rules of procedure. The second concerned the "responsibility of the Council to reflect in its own practices the principles of fairness, openness and even-handedness which [were] central to the purposes of the United Nations". It was important for the Council to provide the opportunity to those who would be parties to the elections in Namibia to present their views. In the light of all relevant circumstances, however, agreement had been reached to withdraw the proposal.<sup>67</sup> As a result, the two individuals were not invited.

<sup>65</sup> For the texts of the relevant statements, see *ibid.*: Panama (paras. 11-12), Uganda (para. 23), United Kingdom (paras. 27 and 29), United States (paras. 32 and 35) and France (para. 61). See also USSR (para. 42) and German Democratic Republic (para. 50).

<sup>66</sup> S/15729.

<sup>67</sup> For the texts of the relevant statements, see S C (38), 2447<sup>th</sup> mtg.: the President (Zaire) (paras. 116-117) and the United States (paras. 118-120).