

TEXT OF ARTICLE 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

INTRODUCTORY NOTE

1. Article 32 contains provisions for invitations by the Security Council to Members and to States 1/ which are not Members of the United Nations. It is the only Article which provides for the participation of non-member States. From an early date in its proceedings, the Council has also invited representatives of States to the table without invoking Article 32. In certain of these cases, the invitations were based on rule 39 2/ of the provisional rules of procedure of the Council; in other cases, no Article or rule was invoked by the Council.
2. The application of Article 32 has given rise to a number of questions. Article 32 provides for invitations on condition that the Member or the non-member State "is a party to a dispute under consideration by the Security Council;" it uses the term "shall be invited" when referring to such invitations and provides that the Council "shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations".
3. The principal questions which have arisen in the application of Article 32 relate to the interpretation of the above provisions. These questions are examined in the Analytical Summary of Practice below together with illustrative material from the proceedings of the Council.
4. The General Survey below contains a summary of action by the Council with regard to invitations; this is supplemented by a table in the annex containing relevant data on their extension or denial.
5. In view of the relationship in some aspects of substance between Articles 31 and 32, the studies on the two Articles should be considered together for a fuller appreciation of their application and interpretation by the Security Council.

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- 1/ The word "state" is used in this study in the same sense as used by the Council when the respective cases were discussed, namely, without implying a pronouncement on the question of sovereignty or other attributes of a State under international law.
 - 2/ Rule 39 was approved by the Council at its 41st meeting on 16 May 1946 and reads as follows: "The Security Council may invite members of the Secretariat or other persons, whom it considers competent for the purpose, to supply it with information or to give other assistance in examining matters within its competence."

I. GENERAL SURVEY

6. The Security Council, during the period between its first and its 678th meetings, held between 17 January 1946 and 31 August 1954, extended seven invitations which invoked Article 32.
7. These invitations were extended on the basis that the State invited was a party to a dispute under consideration by the Security Council. In four of these cases, the invitation concerned States that were Members 3/ of the United Nations, and the other three cases concerned non-member States.
8. Of eleven further invitations, four were extended under rule 39 4/ of the provisional rules of procedure; for seven others, the Council did not invoke any specific Article or rule. Invitations were denied by the Council in nine cases.
9. In the seven cases in which the Council invoked Article 32, the participation of the State invited was not subject to restrictions other than the statutory limitations on voting and submission of proposals and draft resolutions respectively provided for in Article 32 and rule 38 of the provisional rules of procedure.
10. With regard to the other invitations by the Council, the following procedures were followed:
11. In the early years the Council on several occasions did not invoke Article 32, but called representatives of non-member States to the table:
- (a) To make a factual statement; 5/
 - (b) To enable the Council to hear such declarations as they might wish to make; 6/
and
 - (c) "In the spirit of Article 32". 7/
12. In a number of cases after 1950, the Council decided to issue invitations in accordance with rule 39 of the provisional rules of procedure:
- (a) To sit at the Council table during consideration of the case; 8/
 - (b) To provide the Council with information or assist it in the consideration of the matters in question; 9/ and
 - (c) "To be present during the discussion by the Council" (of a special report). 10/

3/ In addition, in one case, where two Members had claimed to be parties to a dispute which they had brought to the attention of the Security Council, the invitation was extended to them on the basis of Article 31. (See paras. 32 and 33 below).

4/ Under rule 39, the Council has normally extended invitations to representatives of subsidiary and other organs of the United Nations as well as to other persons in their individual capacity. These cases are not dealt with here, since this study is limited to the application of the rule in the case of representatives of States.

5/ See paras. 34-36 below.

6/ See para. 37 below.

7/ See para. 38 below.

8/ See footnote 33 below.

9/ Case 10 of the annex.

10/ See paras. 41-43 below.

13. In two of the cases involving non-member States, in which Article 32 was invoked, conditions for participation were laid down by the Council and accepted by those States. Conditions for participation were also laid down in one case where "the spirit" of Article 32 was invoked; in another case, where the Article was not invoked, the non-member State had accepted in advance the obligations of a Member of the United Nations for the purposes of the dispute in which it was involved.

14. In the cases where rule 39 was applied, no conditions were laid down for participation.

15. The invitations have been initiated by the President or by a member of the Council. In some cases, formal requests were submitted by the Member or non-member State concerned.

16. A tabulation of all the above-mentioned cases of invitations extended or denied will be found in the annex to this study. The invitations extended are classified chronologically in three broad categories, which reflect the basis on which the invitations were extended.

17. The invitations included in the tabulation represent the initial decisions of the Council extending the invitation. Members or non-members of the United Nations, once extended an invitation which invoked Article 32, have continued to be invited to the Council table at each subsequent meeting at which the question in connexion with which the invitation was extended continued to be considered. The same has been true of other invitations to non-members 11/ except when the invitation was specifically limited 12/ in scope. All invitations have been extended after the adoption of the agenda.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The question of the scope of application of Article 32

18. The proceedings of the Security Council relevant to the scope of application of Article 32 have been concerned with one or the other of the two subsidiary questions which are examined below, that is to say, the meaning of the term "state" and the effect, with regard to the applicability of the Article, of its proviso concerning the term "dispute".

1. The question of the meaning of the term "state" under Article 32

19. On one occasion, substantial constitutional discussion took place in the Security Council whether the use of the term "state" in Article 32 required the possession of full sovereignty and the exercise of all the functions inherent therein as a condition of eligibility for an invitation under the Article.

11/ At the 473rd meeting on 25 June 1950, the representative of the Republic of Korea was invited under rule 39 (S C, 5th yr., No. 18, 473rd mtg., p. 4). At the 483rd meeting on 4 August 1950, the President (USSR) considered that since an objection had been raised to inviting a representative of South Korea it was the Council's duty to discuss the matter and to come to a decision. This question was debated in the Council until the 494th meeting, when the President (United Kingdom) ruled that he was obliged to invite the representative of the Republic of Korea in view of the decision taken on 25 June. The challenge to the President's ruling was rejected by 9 votes against, 1 in favour and 1 abstention.

12/ See paras. 35-37 below.

20. The applicant had invoked Article 32, but the Council, after an extensive discussion, on the motion of its President, decided, without any definition or determination of the sovereignty 13/ of the applicant, to invite the latter to appear before the Council during the discussion of the question.

21. The relevant proceedings are summarized below.

Decision of 12 August 1947 in connexion
with the Indonesian question (II)

22. At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), the question was raised whether Indonesia was a State within the meaning of Article 32. It was argued that the invitation might prejudice the whole question at issue before the Council. The Republic of Indonesia was only a part of a greater entity to be, the United States of Indonesia: it would thus be comparable, for example, to one of the states of the United States of America. The Republic of Indonesia had never been recognized as a sovereign State by anyone.

23. On the other hand, it was contended that the Republic of Indonesia had been recognized on a de facto basis by a certain number of Member States. It was also stated that the requirement that a society must be a sovereign, independent State to be regarded as a State within the meaning of international law, was in no way essential to the conception of juridical relations between States.

24. The question whether a representative of the Republic of Indonesia could be invited under rule 39 was also raised, and the President (Poland) stated that this would be in order.

25. At the 181st meeting on 12 August 1947, after the Government of the Republic of Indonesia had asked that its representative be allowed to participate without vote in the discussions of the Security Council, and had undertaken to accept in advance for the purposes of the dispute the obligations of a Member of the United Nations, 14/ the representative of Poland moved to invite the representative of the Republic of Indonesia to take part in the discussion of the Indonesian question.

26. In support of this proposal, it was argued that a distinction was to be made between statehood within the meaning of Article 32 and "sovereign equality" referred to in Article 2 (1). There could be States without full sovereignty which were States for the purposes of Chapter VII of the Charter. It was further contended that a State did not have to be fully sovereign in order to be invited to participate in the discussion; while Article 32 referred to States, the plain intent of that Article and of the authors of the Charter was that justice should be done to both parties to a dispute by requiring that both should have a chance to present their views. The proposal was opposed on the grounds that the Republic of Indonesia was not a sovereign and independent State, and that the invitation would imply its indirect recognition by those voting in favour of the invitation:

27. Immediately before the voting on whether an invitation was to be extended to the Republic of Indonesia, the President (Syria) declared that the invitation to participate

13/ See paras. 22-28 below. In another case (No. 16 of the annex), the question of the statehood of the applicant was not raised in connexion with the invitation, but rather in connexion with the related question of the meaning of the term "state" in Article 35 (2).

14/ S/437.

in the discussion and to study the problem then before the Security Council did not necessitate that the State in question should enjoy all the prerogatives and exercise all the functions of sovereignty. The word "state" in Article 32 did not indicate what type of State was being referred to. Moreover, the invitation would not bind any State to recognize the independence or sovereignty of the Republic of Indonesia.

Decision

At the 181st meeting on 12 August 1947, the Council adopted the proposal of the President to extend an invitation 15/ to the representative of the Republic of Indonesia to appear before the Security Council during the discussion of this question, without any definition or determination of the sovereignty of that Republic. There were 8 votes in favour and 3 against.

28. After the vote, a discussion on the legal basis of the decision took place. Some Council members regarded the invitation as constituting an application of Article 32; others felt that the invitation was based on general grounds of equity and justice. At a later meeting it was argued that the decision had been taken in violation of Article 32. 16/

2. The question of the effect of the proviso "if it is a party to a dispute under consideration by the Security Council"

29. In a number of cases the position has been taken that the application of Article 32 (which as a rule would precede the discussion of the substance of a given item) might involve a prejudgement of the question whether it was dealing with a "dispute", give rise to procedural consequences in connexion with the exercise by the Council of its powers under Chapter VI, as well as affect the voting procedure envisaged in Article 27 (3).

30. In some of these cases, discussion centred on whether the item under consideration constituted a "dispute" or a "situation"; in other cases the central point debated was whether the item involved a dispute or a question not falling under Chapter VI but rather under Chapter VII of the Charter.

15/ S C, 2nd yr., No. 74, 181st mtg., p. 1940.

16/ For texts of relevant statements, see S C, 2nd yr.,

No. 67, 171st mtg.: President (Poland), pp. 1632 and 1633; Australia, pp. 1622-1627; Belgium, p. 1633; Colombia, p. 1632; India, pp. 1627 and 1628; Netherlands, pp. 1619 and 1620; Syria, pp. 1628-1630; USSR, pp. 1618 and 1619; United States, p. 1632.

No. 74, 181st mtg.: President (Syria), pp. 1919, 1920, 1939 and 1940; Australia, 1930 and 1931; Belgium, p. 1930; Colombia, pp. 1928-1930; China, pp. 1935 and 1936; India, pp. 1923-1926; Netherlands, pp. 1920-1923; Poland, pp. 1918 and 1919, 1926-1928, 1941 and 1942; USSR, pp. 1919, 1920, 1933, 1934 and 1941; United Kingdom, p. 1923; United States, pp. 1931-1933.

No. 76, 184th mtg.: United Kingdom, pp. 1954 and 1955.

31. While the Council was unwilling to invoke Article 32 in the cases referred to, it has extended invitations under Article 31 (in one case which concerned two Members),^{17/} under rule 39 ^{13/} of the provisional rules of procedure, or "in the spirit of Article 32".^{19/} On certain occasions ^{20/} the proposed invitations were denied by the Council.

**a. DECISION OF 14 FEBRUARY 1946 IN CONNEXION
WITH THE SYRIAN AND LEBANESE QUESTION**

32. At the 19th meeting on 14 February 1946, in connexion with the Syrian and Lebanese question which had been brought to the attention of the Council by Syria and Lebanon as a dispute in accordance with Article 34 of the Charter, ^{21/} the Council considered whether the question constituted a "dispute" or a "situation". The President (Australia) drew the Council's attention to the fact that Syria and Lebanon had exercised their rights as Members of the United Nations under Article 35 (1), that they had referred to the matter as a "dispute" and that, under Article 32 of the Charter, when a dispute was under consideration by the Council, it was required to invite States not members of the Council which were parties to the dispute to participate without vote in the discussion relating to the dispute. He also drew the attention of the Council to the proviso of Article 27 (3) regarding the voting procedure. The President felt that it would be most inconvenient at this preliminary stage to attempt in any way to answer the question whether in the present case a dispute existed. It would be more satisfactory first to hear what the States immediately concerned had to say. He therefore suggested that the Council issue the invitation rather under Article 31.

33. During the discussion on this question, the point was made that a decision as to whether it constituted a "situation" or a "dispute" could only be made after the parties concerned had exercised their right to be heard, and that it would, therefore, be unwise to decide a question of this kind as a preliminary question. The parties which had brought the question to the Council's attention should, however, be invited to participate and state their case. ^{22/}

Decision

At the 19th meeting on 14 February 1946, the proposal of the President to extend the invitation in accordance with Article 31 of the Charter was adopted ^{23/} without a vote.

^{17/} See paras. 32 and 33 below.

^{18/} See paras. 41-43 below.

^{19/} See paras. 34, 35 and 38 below.

^{20/} See paras. 39, 40 and 44 below.

^{21/} S C, 1st yr., 1st Series, Suppl. No. 1, p. 82, annex 9 (S/5).

^{22/} For texts of relevant statements, see S C, 1st yr., 1st Series, No. 1, 19th mtg.: President (Australia), pp. 272, 281 and 282; Brazil, pp. 274 and 275; China, p. 275; Egypt, p. 274; Mexico, p. 281; Netherlands, pp. 277 and 278.

^{23/} S C, 1st yr., 1st Series, No. 1, 19th mtg., p. 232. This case is listed in the annex to the study on Article 31, since the decision was made on the basis of that Article.

**b. DECISION OF 9 SEPTEMBER 1946 IN CONNEXION WITH
THE UKRAINIAN COMPLAINT AGAINST GREECE**

34. At the 62nd and 64th meetings on 5 and 9 September 1946, in connexion with the Ukrainian complaint against Greece, the Council considered a letter 24/ dated 5 September 1946 from the representative of the People's Republic of Albania requesting permission, in accordance with Article 32, to present a factual statement before the Security Council. The President (Poland) explained that since the case had been classified as a situation by the Ukrainian SSR, Article 32 could not be applied unless the Council classified the subject as a dispute. On the other hand, rule 39 of the provisional rules of procedure gave the Council freedom to invite whoever it chose to supply it with information or to give other assistance, as distinguished from participating in the discussion. From this, it followed that the matter had to be considered on the basis of rule 39.

35. At the 64th meeting, arguments in favour of and against the applicability of rule 39 were presented. Some opponents of the application of rule 39 favoured granting the Albanian request "in the spirit of the Charter", and it was suggested that some rule or method be found to enable the representative of Albania to come to the Council table.

Decision

At the 64th meeting on 9 September 1946, the Council adopted 25/ the motion of the President (Poland) to "invite the representative of Albania to come to the table for the purpose of making a factual statement". There were 9 votes in favour, 1 against and 1 abstention.

36. After the vote had been taken, the President (Poland) invited the representative of Albania to the table and stated that this action did not imply the right to participate in the discussion. 26/

**c. DECISIONS OF 10 AND 16 DECEMBER 1946 IN CONNEXION
WITH THE GREEK FRONTIER INCIDENTS QUESTION**

37. At the 82nd meeting on 10 December 1946, in connexion with the Greek frontier incidents question which had been brought before the Security Council by Greece as a "situation", the Security Council considered requests 27/ from the Governments of Albania and Bulgaria to attend the meetings of the Council when the question would be considered. The President (United States) suggested that, at an appropriate stage in the proceedings, the Albanian and Bulgarian Governments be invited to the Council table to present any facts bearing on the questions before the Council. Discussion followed on the question whether non-member States could be invited under the provisions of

24/ S C, 1st yr., 2nd Series, No. 9, 62nd mtg., p. 250.

25/ S C, 1st yr., 2nd Series, No. 10, 64th mtg., pp. 266 and 267.

26/ For texts of relevant statements, see S C, 1st yr., 2nd Series, No. 9, 62nd mtg.: President (Poland), pp. 249 and 250; Australia, pp. 250-252; USSR, pp. 252-254.

No. 10, 64th mtg.: President (Poland), pp. 261, 266 and 267; Australia, pp. 263 and 264; China, pp. 261 and 262; Mexico, pp. 265 and 266; Netherlands, pp. 262 and 263; United Kingdom, pp. 260, 261 and 265; United States, p. 265.

27/ S C, 1st yr., 2nd Series, Suppl. No. 10, p. 191, annex 17 (S/207), and annex 18 (S/208).

Article 32 without a Council determination that the question constituted a dispute. The question of the interpretation of the provisions of Article 32 regarding the conditions for participation was also discussed. It was argued that a non-member State which claimed to be a party to a dispute accepted the obligations of Article 35 (2) by accepting that status; it might be called upon by the Council to take certain action under Article 33, and to receive and consider most earnestly any recommendations made under Article 36. It was also felt that where the Council had the duty of inviting a disputing party to participate in the discussion, the conditions referred to in Article 32 could not be heavier or more arduous, or different from those imposed upon a State not a Member of the United Nations which itself brought a dispute before the Council. 28/

Decisions

At the 82nd meeting on 10 December 1946, the Council voted on a USSR draft resolution inviting the representatives of Bulgaria and Albania to participate in the consideration of the questions raised by the Greek Government. The draft resolution was rejected, having failed to obtain the affirmative vote of 7 members.

At the same meeting, the Council adopted 29/ a draft resolution, submitted by the Netherlands and amended by Poland, which, inter alia, provided for the invitation of the representatives of Albania and Bulgaria "to enable the Security Council to hear such declarations as they may wish to make". This part of the draft resolution was adopted unanimously.

38. At the 84th meeting on 16 December 1946, after the Council had heard the representatives of Albania and Bulgaria in accordance with the decision taken at the 82nd meeting, the President (United States) raised the question of the procedure regarding future participation by the representatives of Albania and Bulgaria in the discussion. He suggested that the case came within the "spirit and meaning" of Article 32 whether or not it was technically labelled a situation or a dispute. He, therefore, felt it appropriate for the Council to invite Albania and Bulgaria to participate, without vote, during the remainder of the discussion on the matter under consideration, provided that these Governments would accept in advance, for the purposes of the case, the obligation of pacific settlement provided for in the Charter. Discussion ensued whether Article 32 clearly applied to the case. The President (United States) stated that he had invoked "the spirit" of Article 32 and "the spirit" of the Charter. 30/

Decision

At the 84th meeting on 16 December 1946, the Council unanimously adopted 31/ a proposal of the President to invite the representatives of Albania and Bulgaria to participate, without vote, during the remainder of the discussion, provided that they would accept the obligations of pacific settlement.

28/ For texts of relevant statements, see S C, 1st yr., 2nd Series, No. 24, 82nd mtg. President (United States), pp. 530 and 531; Australia, pp. 544-546; China, pp. 539 and 540; Egypt, pp. 533 and 534; Mexico, pp. 534 and 535; 546 and 547; Netherlands, pp. 532, 533, 543 and 544; Poland, pp. 538 and 539; USSR, pp. 542-543 and 555; United Kingdom, p. 552; United States, pp. 547 and 548.

29/ S C, 1st yr., 2nd Series, No. 24, 82nd mtg., pp. 556-558.

30/ For texts of relevant statements, see S C, 1st yr., 2nd Series, No. 26, 84th mtg.: President (United States), pp. 607-610; Australia, pp. 608, 611 and 612; Egypt, pp. 609 and 610; Mexico, pp. 611 and 612; Netherlands, p. 609; Poland, p. 611; USSR, pp. 609 and 613.

31/ S C, 1st yr., 2nd Series, No. 26, 84th mtg., p. 613.

**d. DECISIONS OF 1 SEPTEMBER, 6 SEPTEMBER AND 8 NOVEMBER 1950
IN CONNEXION WITH THE KOREAN QUESTION**

39. At the 483rd to 496th meetings between 4 August and 6 September 1950, in connexion with the "Complaint of aggression upon the Republic of Korea", the Council considered two draft resolutions submitted by the representative of the USSR. The first 32/ proposed to invite the representative of the People's Republic of China and also to hear representatives of the Korean people; the second 33/ proposed to invite and to hear the representatives of the Korean people: the representatives of North and South Korea. In support of these draft resolutions it was argued that it was the tradition and practice of the Security Council to invite both parties 34/ involved in hostilities as well as the representatives of the States concerned, that this procedure was in accordance with Article 32, and that this Article was not applicable solely to the consideration of questions relating to Chapter VI. Article 40 in Chapter VII provided that in case of international conflict, the Security Council should not rush headlong into that conflict, that it should not make a situation more complicated or allow aggression or military action to spread. The question was asked where in Chapter VII or elsewhere it was stated that the representative of the party which, rightly or wrongly, legitimately or illegitimately, was accused of aggression, had no right to be present at the meetings of the Council. It was felt, therefore, that when questions falling within Chapters VI and VII were discussed, the representative of the party against which charges of aggression had been brought ought to attend in order that the Council might better clarify the facts of the dispute and take all measures necessary to halt aggression and to prevent the war from spreading.

40. In opposition to these draft resolutions, the difference between the case of a dispute and the Korean case of aggression in violation of the Council's call for a cessation of hostilities and withdrawal to the 38th parallel was stressed. It was contended that the right of any State which was a party to a dispute to be heard was not applicable in cases of aggression. It was also argued that the Council had been concerned with the Korean question under the provisions of Chapter VII, that no dispute had been submitted to the Council, and that no dispute was under consideration. For the time being, the Council was concerned merely with the urgent task of repelling lawless aggression and of re-establishing law and order, and was still acting only as a policeman, not as a judge or jury. Consequently, Article 32 was not applicable. 35/

32/ S C, 5th yr., No. 25, 483rd mtg., S/1668, p. 4.

33/ S C, 5th yr., No. 36, 494th mtg., S/1751, p. 10.

34/ At the 473rd meeting on 25 June 1950, the representative of the United States had proposed that the representative of the Government of the Republic of Korea be permitted "to sit at the Council table during consideration of this case"; that proposal was adopted without a vote (S C, 5th yr., No. 15, 473rd mtg., p. 4).

35/ For texts of relevant statements, see S C, 5th yr.,

No. 25, 483rd mtg.: USSR, pp. 2-4 and 14-17; United Kingdom, pp. 7 and 8; United States, pp. 4-6.

No. 26, 484th mtg.: President (USSR), pp. 8-10.

No. 27, 485th mtg.: China, p. 3.

No. 28, 486th mtg.: United Kingdom, p. 8.

No. 29, 487th mtg.: President (USSR), pp. 14-16; Ecuador, pp. 2 and 3; Norway, p. 7.

No. 30, 488th mtg.: Cuba, p. 2; Norway, pp. 14-16.

No. 31, 489th mtg.: United Kingdom, p. 21; United States, p. 27.

No. 34, 492nd mtg.: Ecuador, p. 20.

No. 36, 494th mtg.: President (United Kingdom), p. 21; Cuba, p. 16; Ecuador, pp. 21 and 22; France, p. 20; India, pp. 15 and 16; USSR, p. 8.

Decisions

At the 494th meeting on 1 September 1950, the USSR draft resolution, 36/ submitted on the same date, was rejected. 37/ There were 8 votes against, 2 in favour, and 1 member not participating in the vote.

At the 496th meeting on 6 September 1950, the USSR draft resolution, 33/ submitted on 4 August 1950, was rejected. 39/ There were 8 votes against, 1 in favour, and 2 abstentions.

41. At the 519th meeting on 8 November 1950, in connexion with the same item, and with reference to the special report of the United Nations Command in Korea, 40/ the representative of the United Kingdom introduced a draft resolution 41/ which would "invite, in accordance with rule 39 of the rules of procedure, a representative of the Central Government of the People's Republic of China to be present during the discussion by the Council of the special report ...".

42. In support of this draft resolution, it was argued that the Security Council should extend such an invitation as a "general matter of equity" and without any long and possibly contentious debate on the exact Article of the Charter on which an invitation should be based, or on the exact meaning of Article 32 in its application to the circumstances in question. It was felt that, while the attitude of the Government of the People's Republic of China towards the action taken by the United Nations to repel aggression in Korea could not justify the extension of a general invitation to be present at the Council table whenever the item was under consideration, the People's Republic of China, having been arraigned by the United Nations Command, ought to be allowed to make a statement on its own behalf.

43. Objections to the draft resolution were raised on the ground that the Chinese Communists were aggressors. Others felt that the Chinese régime should not be invited, but, rather, should be summoned to appear before the Council, where it then could explain its case before the community of nations. 42/

Decision

At the 520th meeting on 8 November 1950, the United Kingdom draft resolution was adopted 43/ by 8 votes in favour, 2 against and 1 abstention.

36/ S C, 5th yr., No. 36, 494th mtg., S/1751, p. 8.

37/ S C, 5th yr., No. 36, 494th mtg., p. 21. Prior to the vote, the President (United Kingdom) had ruled that if the USSR draft resolution were rejected, such rejection would not prejudice the right of the representative of the Republic of Korea (see footnote 34) to be present during the discussion of the Korean question. This ruling was upheld by the Council by 8 votes to 1, with 1 abstention.

38/ S C, 5th yr., No. 25, 483rd mtg., S/1668, p. 4.

39/ S C, 5th yr., No. 38, 496th mtg., p. 21. The President made a similar ruling as described in footnote 37.

40/ S C, 5th yr., No. 60, 518th mtg., S/1884, pp. 3-5.

41/ S C, 5th yr., No. 61, 519th mtg., S/1890, p. 16.

42/ For texts of relevant statements, see S C, 5th yr.,

No. 61, 519th mtg.: China, pp. 14 and 15; USSR, pp. 12 and 13, United Kingdom, pp. 15 and 16.

No. 62, 520th mtg.: President (Yugoslavia), p. 5; Ecuador, pp. 7 and 8; Egypt, p. 8; France, pp. 4 and 5; USSR, pp. 2-4; United States, pp. 1 and 2.

43/ S C, 5th yr., No. 62, 520th mtg., p. 8.

**e. DECISION OF 11 SEPTEMBER 1950 IN CONNEXION WITH
THE COMPLAINT OF BOMBING BY AIR FORCES OF THE
TERRITORY OF CHINA**

44. At the 495th meeting on 5 September 1950 in connexion with the complaint of bombing by air forces of the territory of China, the representative of the USSR submitted a draft resolution 44/ inviting a representative of the People's Republic of China to the meetings of the Security Council.

45. At the 499th meeting on 11 September 1950, several representatives maintained that Article 32 was inapplicable to the case since China was already a member of the Council. They also felt that the case under consideration was one in which the forces of the United Nations, in the execution of duties imposed on them by the United Nations, had made a mistake and that the party which had made the mistake had declared that it was ready to make compensation for this mistake; therefore, no dispute should be allowed to exist. It was, furthermore, contended that, while the Council was faced with a "situation which might lead to international friction or give rise to a dispute" as envisaged in Article 34, the situation had not yet crystallized into a dispute. 45/

46. The proponent of the draft resolution observed that any State which had approached the Council with a communication about aggression should be invited to and be heard during the consideration of that communication. He stressed that this was the basic rule in the work of the Council, as provided in Article 32 as well as in rule 39 of the provisional rules of procedure. Other representatives felt that so long as the Security Council held the view that the Central People's Government should not represent China in the Council, Article 32 could not be invoked with full effect; it was therefore suggested that rule 39 could be applied to the case.

Decision

At the 499th meeting on 11 September 1950, the USSR draft resolution was rejected. 46/ There were 6 votes in favour, 3 against and 2 abstentions.

B. The question of the mandatory character of the Article

47. The mandatory character of the Article was emphasized at an early date by the Committee of Experts. 47/ On a later occasion, the President of the Council (Syria) stated that no request was required from a State which was a party to a dispute and that the Council was bound to invite such a State to participate. 48/ No request was received in four of the seven cases in which the Council invoked Article 32. In a fifth case 49/ where the invitation was extended simultaneously to three Members, a request had been received from only one of them.

48. While the question whether a proposed invitation fell within the scope of Article 32 has been discussed on various occasions in connexion with the two subsidiary problems indicated above, on all those occasions in which the Article was considered applicable there has never been any expression of dissent as to its mandatory character, subject to the fulfilment of the conditions to which the last clause of the Article refers.

44/ S C, 5th yr., No. 39, 497th mtg., S/1759, pp. 26 and 27.

45/ For texts of relevant statements, see S C, 5th yr., No. 41, 499th mtg.: China, p. 3; Cuba, p. 15; Norway, pp. 12 and 13.

46/ S C, 5th yr., No. 41, 499th mtg., p. 19.

47/ S C, 1st yr., 1st Series, Suppl. No. 2, p. 20, annex 1d (S/57).

48/ Case 15 of the annex.

49/ Case 4 of the annex.

49. The relevant proceedings of one of the seven instances of invitations under Article 32, which are included in the annex are summarized below.

***Decision of 20 January 1947 in connexion
with the Corfu Channel question***

50. At the 95th meeting on 20 January 1947 in connexion with the Corfu Channel question which had been submitted to the Council by the United Kingdom as a dispute under the provisions of Article 35, the President (Australia), after quoting Article 32, stated that there seemed to be an obligation on the part of the Council to invite Albania to participate in the discussion of this item.

Decision

At the 95th meeting on 20 January 1947, a proposal 50/ of the President to invite Albania to participate, without vote, in the discussion relating to the question was adopted.

**C. The question of the conditions which the Security Council
"shall lay down ... for the participation of a state
which is not a Member of the United Nations"**

51. In the three cases where the Council invoked Article 32 in disputes involving non-member States, the question of the conditions for their participation was raised. In the first case, the Council endorsed the statement by the President (Australia) that the non-member State to be invited should accept all those obligations which would apply to a Member of the United Nations in such a case. The non-member State was informed of this decision by the Acting Secretary-General, and in reply signified its acceptance of the decision. 51/

52. In the second case, the representative of the non-member State invited filed a document with the Security Council in conformity with Article 32 and Article 35 (2), wherein that State undertook the obligations of pacific settlement provided in the Charter, and the President (United States) so informed the Council. 52/

53. The question of the conditions of participation was also raised in a third case 53/ in connexion with a complaint submitted by a Member State on behalf of a non-member State.

54. The question of the conditions of participation was also discussed in a number of cases 54/ in which it was decided not to invoke Article 32. The question was raised whether the conditions envisaged in Article 32 could be heavier, more arduous, or different from those outlined in Article 35 (2); whether they should include the provisions for pacific settlement wherever they were found in the Charter, or only those contained in Chapter VI.

55. In one case 55/ where "the spirit of Article 32" was invoked, the invitation was made subject to conditions which in due course were accepted by the affected non-member State. In another case 56/ where the Article was not invoked, the non-member had

50/ S C, 2nd yr., No. 6, 95th mtg., pp. 123 and 124.

51/ See paras. 56-53 below.

52/ See para. 59 below.

53/ See para. 60 below.

54/ See paras. 37 and 38 above.

55/ See para. 38 above.

56/ Case 15 of the annex. See para. 25 above.

accepted in advance the obligations of a Member of the United Nations for the purposes of the dispute in which it was involved.

**1. Decision of 20 January 1947 in connexion
with the Corfu Channel question**

56. At the 95th meeting on 20 January 1947 in connexion with the Corfu Channel question, the President (Australia) stated that it would seem appropriate that the conditions required from Albania in the present case should be that Albania accept all the obligations which would apply to a Member of the United Nations in such a case.

Decision

At the 95th meeting, the Council adopted 57/ the proposal of the President (Australia) to invite Albania to participate, without vote, in the discussion relating to the dispute, and to ask the Albanian Government, if it chose to accept this invitation, to accept for the purposes of the discussion of this case all the obligations which would fall upon a Member of the United Nations.

57. By cablegram 58/ dated 20 January 1947, the Acting Secretary-General informed the Republic of Albania of the decision of the Council, stipulating that the participation was conditioned on Albania's acceptance in the present case of all the obligations which a Member of the United Nations would have to assume in a similar case.

58. In reply, the Minister of Foreign Affairs of Albania acknowledged 59/ the acceptance by his Government of the Security Council's decision. 60/

**2. Decision of 16 October 1950 in connexion
with the Palestine question**

59. At the 511th meeting on 16 October 1950, in connexion with the Palestine question, the President (United States) after inviting the representative of the Hashemite Kingdom of the Jordan to the table, informed 61/ the Council that an appropriate document had been filed by the representative of Jordan in conformity with Article 32 and Article 35 (2) of the Charter, wherein that State had undertaken the obligations for pacific settlement provided for in the Charter.

57/ S C, 2nd yr., No. 6, 95th mtg., p. 124.

58/ S/258 and S/258/Corr.1.

59/ S/258.

60/ At the 127th meeting on 9 April 1947 before the Council voted upon a draft resolution which would refer the question to the International Court of Justice, the President (China) stated that while Albania as a non-member of the United Nations could not be compelled to appear before the International Court of Justice, it was now, by accepting the obligations of a Member of the United Nations through its acceptance of the conditions for the Council's invitation to participate, like a Member of the United Nations, obliged to comply with the provisions both of the Charter and of the Statute of the International Court of Justice (S C, 2nd yr., No. 34, 127th mtg., p. 726). For subsequent developments in connexion with this point, see also in this Repertory under Article 25.

61/ S C, 5th yr., No. 53, 511th mtg., p. 2.

**3. Decision of 4 May 1954 in connexion
with the Palestine question**

60. At the 670th meeting on 4 May 1954, in connexion with the complaint against Israel by Lebanon on behalf of Jordan and that of Israel against Jordan, after the President (United Kingdom) had invited the representative of Jordan to the Council table and the representative of Jordan had been heard, the question of the conditions for that State's participation, as envisaged in Article 35 (2) and Article 32, was raised. At the 671st meeting on 12 May 1954, the President (United Kingdom) made a statement regarding the historical development of the question of the conditions envisaged in these Articles and the possible alternatives available to the Council in the case under consideration. 62/ By letter 63/ dated 26 May 1954, the Ambassador of Jordan informed the President that he was not empowered to represent his Government before the Council, or "to take part in its present discussions". 64/

62/ For texts of relevant statements, see S C, 9th yr.,
670th mtg.: Israel, paras. 148-152.

63/ 671st mtg.: President (United Kingdom), paras. 6-17.
S/3219.

64/ The question was not further pursued by the Council.

ANNEX

Classified tabulation of instances where invitations, other than those listed in the study on Article 31, were extended or denied by the Security Council to members of the United Nations or other States

A. INVITATIONS EXTENDED

<u>Invitation to</u>	<u>Question</u>	<u>Invitation by</u>	<u>Request</u>	<u>Decision of the Council: Meeting and date</u>
1. <u>Invitations under Article 32</u>				
a. <u>In the case of Members</u>				
1. Egypt	Egyptian	President (Syria)	S/410	175th mtg., p. 1745; 5 August 1947
2. Iran	Anglo- Iranian Oil Co. ca.	President (Brazil)	none	559th mtg., para. 58; 1 October 1951
3. Israel	Palestine	President (United Kingdom)	none	670th mtg., para. 82; 4 May 1954
4. a. Guatemala	Guatemalan	President (United States)	S/3234	675th mtg., para. 2; 20 June 1954
b. Honduras	Guatemalan	President (United States)	none	675th mtg., para. 2; 20 June 1954
c. Nicaragua	Guatemalan	President (United States)	none	675th mtg., para. 2; 20 June 1954
b. <u>In the case of non-members</u>				
5. Albania	Incidents in the Corfu Channel	President (Australia)	none	95th mtg., p. 124; 20 January 1947
6. Jordan	Palestine	President (United States)	S/1845	511th mtg., para. 2; 16 October 1950
7. Jordan	Palestine	President (United Kingdom)	none	670th mtg., para. 82; 4 May 1954

<u>Invitation to</u>	<u>Question</u>	<u>Invitation by</u>	<u>Request</u>	<u>Decision of the Council: Meeting and date</u>
<u>2. Invitations expressly under rule 39</u>				
8. Israel <u>a/</u>	Palestine	President (Ukrainian SSR)	S/619	330th mtg., p. 2; 7 July 1948
9. Republic of Korea	Complaint of aggression upon the Republic of Korea	United States	none	473rd mtg., p. 4; 25 June 1950
10. People's Republic of China	Complaint of armed invasion of Taiwan (Formosa)	Ecuador	none	506th mtg., p. 5; 29 September 1950
11. People's Republic of China	Complaint of aggression upon the Republic of Korea	United Kingdom	none	520th mtg., p. 8; 8 November 1950
<u>3. Other invitations</u>				
12. Albania	Ukrainian complaint against Greece	President (Poland)	S/151	64th mtg., pp. 266 and 267; 9 September 1946
13. a. Albania	Greek frontier incidents	Netherlands	S/207	82nd mtg., pp. 558 and 559; 10 December 1946
b. Bulgaria	Greek frontier incidents	Netherlands	S/208	82nd mtg., pp. 558 and 559; 10 December 1946
14. a. Albania	Greek frontier incidents	President (United States)	none	84th mtg., p. 613; 16 December 1946
b. Bulgaria	Greek frontier incidents	President (United States)	none	84th mtg., p. 613; 16 December 1946
15. Republic of Indonesia	Indonesia (II)	Australia	S/487	181st mtg., p. 1940; 12 August 1947
16. Hyderabad	Hyderabad	President (United Kingdom)	none	357th mtg., p. 11; 16 September 1947

e/ The representative of the Jewish Agency for Palestine was invited at the 253rd meeting under rule 39. At the 330th meeting he was first referred to as the representative of the State of Israel.

<u>Invitation to</u>	<u>Question</u>	<u>Invitation by</u>	<u>Request</u>	<u>Decision of the Council: Meeting and date</u>
B. INVITATIONS DENIED				
17. a. East Indonesia	Indonesia (II)	Belgium	S/495	184th mtg., p. 1992; 14 August 1947
b. Borneo	Indonesia (II)	Belgium	none	184th mtg., p. 1992; 14 August 1947
18. a. East Indonesia	Indonesia (II)	Belgium	none	193rd mtg., p. 2172; 22 August 1947
b. Borneo	Indonesia (II)	Belgium	none	193rd mtg., p. 2172; 22 August 1947
19. North Korea	Complaint of aggression upon the Republic of Korea	Yugoslavia	none	473rd mtg., p. 18; 25 June 1950
20. People's Republic of Korea	Complaint of aggression upon the Republic of Korea	Yugoslavia	none	474th mtg., p. 17; 27 June 1950
21. People's Republic of China	Complaint of armed invasion of Taiwan (Formosa)	USSR	none	492nd mtg., p. 21; 29 August 1950
22. North and South Korea	Complaint of aggression upon the Republic of Korea	USSR	none	494th mtg., p. 21; 1 September 1950
23. People's Republic of China	Complaint of aggression upon the Republic of Korea	USSR	none	496th mtg., p. 21; 6 September 1950
24. People's Republic of China	Complaint of bombing by air forces on the territory of China	USSR	none	499th mtg., p. 19; 11 September 1950
25. a. People's Republic of China	Bacterial Warfare	USSR	none	585th mtg., para. 58; 1 July 1952
b. Korean People's Republic	Bacterial Warfare	USSR	none	585th mtg., para. 58; 1 July 1952

Chapter VI

PACIFIC SETTLEMENT OF DISPUTES

