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LETTER DATED 21 APRIL 1966 FROM THE PERMANENT REPRESENTATIVE OF
THE UNITED STATES OF AMERICA ADDRESSED TO THE PRESIDENT OF THE
SECURITY COUNCIL

I have the honour to refer to the situation which arose between 7 and 9 April following the request of the Deputy Permanent Representative of the United Kingdom of 7 April 1966 for an urgent meeting of the Security Council on an emergency related to the oil embargo in Southern Rhodesia.

The views of my Government on the responsibility of the President under the Charter, the provisional rules, and established practice with respect to convening the Council in circumstances such as prevailed on that occasion are set out below. I referred to this planned statement of views at the 1277th meeting of the Council on 9 April.

1. The Security Council is given primary responsibility for the maintenance of international peace and security, according to Article 24 of the Charter, "in order to ensure prompt and effective action". It is required by Article 28 to "be so organized as to be able to function continuously". These two Articles establish the responsibility of the Council to be available for emergency action to maintain peace and security. The provisional rules of procedure of the Security Council are designed and must be interpreted so as to ensure that the Council can fulfil the responsibilities these Articles place upon it.

2. The dominant paragraph of the provisional rules of the Security Council accordingly is rule 2, which states that "The President shall call a meeting of the Security Council at the request of any member of the Security Council". The rule is mandatory and does not give the President the choice of convening or not convening the Council when a member so requests. This has been made clear on numerous occasions. At the 654th meeting of the Council on 27 December 1953, for example, the distinguished representative of Pakistan stated:

"The calling of a meeting is not entirely in the President's hands. The President is the custodian of the rules of procedure. He is in a certain sense the servant of the Council and I am perfectly sure that Sir Gladwyn Jebb knows that he or his colleagues could request the President to call the meeting and that the President, under the circumstances, would have no alternative but to call the meeting."

Even if a majority of Council members are opposed to a meeting, the meeting must be held. Those members opposed to the meeting may express their views on the agenda when the meeting is convened, may seek to adjourn the meeting, or to defeat proposals submitted to it, but the President is bound to convene the Council on a request under rule 2, unless that request is not pressed.

3. Subject to rule 2, the President is given, under rule 1, the authority and responsibility to set the time of a meeting. In so doing the President acts not as a representative of his country but as a servant of the Council, and he does not exercise an arbitrary or unfettered discretion. His decision must be related to the requirements of Articles 24 and 28 and of rule 2 and to the urgency of the request and situation. A request for an urgent meeting must be respected and decided upon on an urgent basis, and the timing established responsive to the urgency of the situation.

This position was clearly stated by the President of the Council at the 746th meeting on 28 October 1956 in the following words:

"... Under the rules of procedure the President is required to call a meeting of the Security Council at the request of any member or members of the Council. When a meeting is requested as a matter of urgency, the President is required to convene the meeting as a matter of urgency. ... The Security Council is an organ that functions continuously; there has to be provision for convening it immediately, whenever necessary."

This meaning is also underlined by rule 3 which indicates that in contrast to the normal rule requiring circulation of an agenda at least three days before a meeting, "in urgent circumstances it may be communicated simultaneously with the notice of the meeting".

4. The President customarily has consulted and is expected to consult members of the Council on their views as to the timing of a meeting; in circumstances of urgency he may also convene the Council without consultation when this might entail

an inadvisable delay. In either case it is his responsibility to set the time of the meeting in keeping with the urgency of the request and of the factual situation. The President's obligation to act promptly on urgent requests is, of course, further underlined if on consultation he finds that a majority favour an immediate convening of the Council.

Although the President may receive views on scheduling a meeting from non-members of the Council whose interests are "specially affected", notably parties to a dispute before the Council, the views of the members must be guiding, as they are on all procedural questions in the Council.

This was clearly recognized in a membership case before the Council at its 1034th meeting on 7 May 1963 when the representative of Iraq, after commenting that the meeting had been set "contrary to the wish of several members of the United Nations who are directly concerned", recognized that "the members of the Council are sovereign and are not bound by any desires expressed outside its membership".

In responding to these remarks the President of the Council referred to the consultations he had held and stated:

"It is customary that as a result of preliminary consultations one does reach a consensus of opinion, and in this case, out of courtesy to the members of the Council in return for their courtesy to me, I had no further argument with which to insist on requesting postponement of this meeting. Therefore, having heard the request addressed by the representative of Iraq to me and to the members of the Council regarding postponement, I wish to assure the representative of Iraq that all members have shown every goodwill and have been extremely courteous in all the preliminary consultations. But the current which emerged from those consultations has to be taken into account too, and that is why it is not possible for me to do anything other than to show courtesy in turn.

"I hope that the representative of Iraq will take note of this fact. I feel sure that if he had been in my place, he too would have wished to defer to the wishes of the members of the Security Council."

The above principles and practices are, of course, applicable to the case at issue. In this instance the Council was faced with a request for an urgent meeting by a member; known facts about the situation which the request sought to redress indicated that Security Council action might be too late if not taken in a matter of hours rather than days. The majority of members of the Council, when

consulted, supported an urgent session on the same day (7 April) as the request. Members were officially notified that the President had set the meeting for 5 p.m. Thursday. They were later notified, without further consultation, that it had been cancelled, and in the ensuing confused situation some members were under the impression that it had been reinstated. More than a majority of members felt sufficiently strongly about the urgency of the situation thereupon to convey in writing through the Secretary-General their continued views in favour of a meeting that day. Although the explanation for further delay was based on a desire for more consultation, the majority of members were not consulted on the timing of the meeting finally decided upon, although non-members apparently were. Nor were they informed of the reasons for the cancellation or for the new timing established at forty-eight hours after the initial request.

The United States does not believe this process, in the circumstances which prevailed, met with the criteria that have been described for the convening of the Council under conditions of urgency and we cannot accept it as a precedent for future action. Inasmuch as these are views which I would have expressed in the Council but refrained from expressing in the interests of more rapid attention to the business at hand, I would be grateful if they could be referred to the appropriate office of the Secretariat of the Council for inclusion in the next compilation of the Repertoire of Practice of the Security Council, and I request that this letter be circulated as a document of the Council.

Sincerely yours,

(Signed) Arthur J. GOLDBERG
