



General Assembly Security Council

Distr.
GENERAL

A/36/861
S/14885
4 March 1982

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Thirty-sixth session
Item 15 (c)
ELECTION OF A MEMBER OF THE INTERNATIONAL
COURT OF JUSTICE

SECURITY COUNCIL
Thirty-seventh year

Memorandum by the Secretary-General

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I. INTRODUCTION

1. The President of the International Court of Justice, by a communication of 14 December 1981, informed the Secretary-General of the death of Judge Abdullah El-Erian (Egypt) on the same date. Judge El-Erian had been a member of the Court since 6 February 1979 and his term of office would have ended on 5 February 1988. According to Article 14 of the Statute of the Court, the vacancy must be filled by the same method as that laid down for the regular election and the Secretary-General is required within one month of the occurrence of the vacancy to issue the invitations for nominations provided for in Article 5.
2. The Security Council was informed of this vacancy by a note by the Secretary-General (S/14799) and, pursuant to Article 14 of the Statute of the Court, decided by its resolution 499 (1981) of 21 December 1981 that the election to fill the vacancy should take place at a meeting of the Security Council and at a meeting of the resumed thirty-sixth session of the General Assembly. The Assembly, by its decision 36/461 of 18 December 1981, decided to reconvene the thirty-sixth session for the consideration, *inter alia*, of this question under agenda item 15 (c) (Election of a member of the International Court of Justice). At the 12th plenary meeting of the ninth emergency special session, the Assembly was informed by its President that, following consultations he had held on 8 February 1982 with the President of the Security Council, it had been decided that the election would take place on 19 March 1982 (see A/ES-9/PV.12, pp. 109-110).
3. Pursuant to Article 5, paragraph 1, of the Statute of the Court, the Secretary-General, in a communication dated 18 December 1981, invited the national groups of States parties to the Statute of the Court to undertake the nomination of persons in a position to accept the duties of a member of the Court. The Secretary-General further requested that nominations should be received by 18 February 1982. A list of the nominations received by that date and the curricula vitae of the candidates will be transmitted in separate documents to the General Assembly and the Security Council (A/36/862-S/14886 and A/36/863-S/14887). The names of the candidates will appear on the ballot papers distributed during the election.
4. Article 15 of the Statute of the Court provides that a member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term. The member elected to replace Judge El-Erian will thus serve until 5 February 1988.
5. The present composition of the Court and the procedure in the General Assembly and the Security Council for filling the vacancy are described below.

II. COMPOSITION OF THE INTERNATIONAL COURT OF JUSTICE

6. The present composition of the International Court of Justice is as follows:

Mr. Taslim Olawale Elias (Nigeria)*, President
Mr. José Sette Camara (Brazil)**, Vice-President
Mr. Manfred Lachs (Poland)*

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Mr. Platon Dmitrievich Morozov (Union of Soviet Socialist Republics)**
Mr. Nagendra Singh (India)***
Mr. José María Ruda (Argentina)***
Mr. Hermann Mosler (Federal Republic of Germany)*
Mr. Shigeru Oda (Japan)*
Mr. Roberto Ago (Italy)**
Mr. Abdallah Fikri El-Khani (Syrian Arab Republic)*
Mr. Stephen Schwebel (United States of America)**
Mr. Robert Y. Jennings (United Kingdom of Great Britain and Northern
Ireland)***
Mr. Guy Ladreit de Lacharrière (France)***
Mr. Kéba Mbaye (Senegal)***

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- * Term of office expires on 5 February 1985.
 - ** Term of office expires on 5 February 1988.
 - *** Term of office expires on 5 February 1991.

III. PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL

7. The election will take place in accordance with the following:
 - (a) The Statute of the Court, in particular Articles 2 to 4, 7 to 12 and 14;
 - (b) Rules 150 and 151 of the rules of procedure of the General Assembly;
 - (c) Rules 40 and 61 of the provisional rules of procedure of the Security Council.
8. In accordance with General Assembly resolution 264 (III) of 8 October 1948, Liechtenstein, San Marino and Switzerland, which are parties to the Statute of the Court but not Members of the United Nations, will participate in the General Assembly in electing members of the Court in the same manner as the Members of the United Nations.
9. On the date of the election, the General Assembly and the Security Council will proceed, independently of one another, to elect one member to the Court in place of Judge Abdullah El-Erian (Art. 8 of the Statute).
10. According to Article 2 of the Statute, judges are to be elected, regardless of their nationality, from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. Article 9 requires electors to bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

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11. The candidate who obtains an absolute majority of votes both in the General Assembly and in the Security Council will be considered as elected (Art. 10, para. 1, of the Statute).
12. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote. The electors in the General Assembly are all the Member States, together with the three non-member States mentioned in paragraph 8 above which are parties to the Statute of the Court. Accordingly, as at the date of the present memorandum, eighty-one (81) votes constitute an absolute majority in the Assembly.
13. In the Security Council, eight votes constitute an absolute majority and no distinction is made between permanent and non-permanent members of the Council (Art. 10, para. 2, of the Statute).
14. Under Article 7 of the Statute, only those candidates whose names appear on the list and thus in the ballot papers are eligible for election, unless the special procedure mentioned in Article 12, paragraph 2, is used (see para. 18 below). The electors in the General Assembly and in the Security Council will indicate the candidate for whom they wish to vote by placing a cross against his name on the ballot paper. Each elector may vote for only one candidate.
15. If in the first ballot in either the General Assembly or the Security Council no candidate receives an absolute majority, a second ballot will be held and balloting will continue in the same meeting until a candidate has obtained the required majority (rule 151 of the rules of procedure of the Assembly and rule 61 of the provisional rules of procedure of the Council).
16. When a candidate has obtained the required majority in one of the organs, the President of that organ will notify the President of the other organ of the name of the candidate. Such a notification is not communicated by the President of the second organ to the members until that organ has itself given a candidate the required majority of votes.
17. If, upon comparison of the name of the candidate so selected by the General Assembly and by the Security Council, it is found that the result is different, the Assembly and the Council will proceed, again independently of one another, in a second meeting to select one candidate by further ballots, the results again being compared after one candidate has obtained an absolute majority in each organ. If necessary, the above procedure will be repeated until the General Assembly and the Security Council have given an absolute majority of votes to the same candidate.
18. If, however, after the third of these meetings, the vacancy remains unfilled, the special procedure set out in Article 12 of the Statute of the Court may be resorted to at the request of either the General Assembly or the Security Council.