

The Statements by the President of the Security Council

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I. Introduction

The Security Council of the United Nations expresses itself through two principal channels: resolutions and “presidential statements”.¹ A presidential statement is a statement of the Security Council and not, as the term might suggest, of its President. When making a statement on behalf of the Security Council the President, under the authority of the Council, represents it in its capacity as an organ of the United Nations.² Presidential statements are nowadays, as a rule, read out by the President on behalf of the Council in a formal meeting of the Council after the text of the statement has been agreed by all the members of the Council in informal consultations of the whole. Presidential statements, expressing the consensus of the Security Council as an

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¹ Other channels are: appeals, communiqués, notes, letters, and telegrams.

² Rule 19 of the Provisional Rules of Procedure of the Security Council, as amended 21 December 1982: UN Doc. S/96/Rev.7 (1983).

organ of the United Nations have also been termed consensus statements. The term “presidential statement” can be found neither in the Charter of the United Nations nor in the Provisional Rules of Procedure of the Security Council.³ Although not a new phenomenon—the first such statement was made by the President as early as 1946⁴—it is only since the beginning of the 1990s that the Security Council has heavily relied on the practice of having its President make statements on its behalf. While from 1946 to 1990 there were just 148 or less than four such statements per annum, since then 653 statements or an average of 50 per year have been issued, making a total of 801 presidential statements to date as compared to 1513 resolutions in the same period (see Annex 1). During some years,⁵ the Council adopted even more presidential statements than resolutions. While the increase in presidential statements was, of course, at least in part due to the rapid growth in Council activity in general after the momentous changes of 1989, it also shows that the Council has discovered a new instrument of expressing its views and sending messages to the parties of a conflict or the international community.

The growing significance of presidential statements has found expression in the fact that in 1993 a new appendix was included in the annual Report of the Security Council to the General Assembly providing a chronological listing of all the presidential statements for the period under review indicating the date when a statement was made or issued and the relevant agenda item or subject matter.⁶ In addition, since 1 January 1994 presidential statements have been published like resolutions in their own annual series using the prefix “S/PRST/****/*” followed by the year and number of the statement.⁷ More recently, the text of “Presidential Statements” issued since 1994 has also been made available in a separate category on the United Nation’s website.⁸

Despite its prominence in the practice of the Security Council the status and legal implications of presidential statements as well as their politico-diplomatic role seem far from clear. In June 1995, Argentina expressed its “serious concerns” about the fact that “the scope, content and nature” of these statements has never been defined and suggested that the Working Group of the

³ Rules 11 and 22 only refer to “statements” by the Secretary-General.

⁴ See below section II.A.

⁵ 1992, 1994, and 1997. For the numbers see Annex 1.

⁶ See Report of the Security Council to the General Assembly (for the period of 16 June 1992 to 15 June 1993): UN Doc. A/48/2, 19 October 1993, Appendix VI, 490-496.

⁷ See Note by the President: UN Doc. S/26015, 30 June 1993. The inclusion of a list of presidential statements had been suggested by Colombia as these statements “represent a formulation of the Council’s policies that we consider to be of the greatest importance” (UN Doc. A/48/264, 20 July 1993, 22, para. 14).

⁸ <http://www.un.org/documents/pstatesc.htm>.

Security Council concerning the Council's documentation and other procedural questions make, without delay, "the necessary effort to bring a minimum of clarity and transparency to a situation that could be defined as somewhat confused."⁹ While treatises on the Council's resolutions are legion, presidential statements have not attracted much attention in the literature.¹⁰ In so far as they have, views on their political significance are contradictory: for some, they "have little, if any, effect",¹¹ while for others their role in the "Council's handling of a particular problem cannot be underestimated, and certainly should not be overlooked".¹² Equally, opinion on their legal status is divided. According to Paul Tavernier:

Les déclarations présidentielles [...] sont très largement assimilables à des résolutions, par leurs effets juridiques, politiques ou pratiques. [...] Il nous semble que rien de s'oppose à l'assimilation, ou à la quasi-assimilation, des déclarations présidentielles, aux résolutions du conseil de sécurité en ce qui concerne leur valeur et leur effets juridiques: elle peuvent contenir, comme les résolutions, des recommandations ou des décisions obligatoires.¹³

Anthony Aust, on the other hand, states:

[...] increasingly the views of the Council are expressed by statements made by the President. These are *not* generally regarded as having the same status as a resolution. [...] Typically they are used to express the opinion of the Council on a matter which does not require the formality of a resolution. The Council may wish to warn a Government or other body

⁹ Letter dated 2 June 1995 from the Permanent Representative of Argentina to the United Nations addressed to the President of the Security Council: UN Doc. S/1995/456*, 9 June 1995, 2 and 3. Already in 1993 UN Under-Secretary-General, James O.C. Jonah, identified the legal implications of presidential statements as one of the questions to which "urgent attention should be given", see *Differing State Perspectives on the United Nations in the Post-Cold War World*, 4 ACUNS Reports and Papers (1993), available at <http://www.acuns.wlu.ca/publications>.

¹⁰ The article by Paul Tavernier, *Les déclarations du Président du Conseil de Sécurité*, 39 AFDI (1991), 86-104 seems to be the only in depth treatment of the subject to date.

¹¹ Nancy A. Combs, *Coping a Plea to Genocide: The Plea Bargaining of International Crimes*, 151 University of Pennsylvania LR (2002), 1-135 at 68, n. 280.

¹² Karel C. Wellens, *Resolutions and Statements of the United Nations Security Council (1946-1992). A Thematic Guide* (2nd ed., 1993), p. x.

¹³ Tavernier, above n. 10, 100, 101. Similar Georg Nolte, *Restoring Peace by Regional Action: International Legal Aspects of the Liberian Conflict*, 53 ZaöRV (1003), 603-637 at 632; Karsten Nowrot and Emily W. Shabacker, *The Use of Force to Restore Democracy: International Legal Implications of the ECOWAS Intervention in Sierra Leone*, 14 American University ILR (1998), 321-412 at 362.

that its conduct might result in action being taken by the Council [...].¹⁴

As these statements show, an effort to bring a minimum of clarity and transparency to the practice of expressing the sense of the Security Council in presidential statements is more than overdue.

II. Presidential Statements and Other Statements by the President Distinguished

II.A. From Summing-up Statements by the President to Presidential Statements

The practice of the President of the Security Council making statements on behalf of the Council has evolved over the years. As early as the seventh meeting of the Council on 4 February 1946, in discussions concerning the Greek question, the representative of Poland proposed that the President make a “statement” expressing the sense of the Council that it would “take note of the statements setting out the declarations of the Soviet Union, Great Britain and Greece, and of the assurances given by the representative of the United Kingdom that British troops in Greece will be withdrawn as soon as possible, and considers the question closed.”¹⁵ The proposal submitted by the Polish representative was rejected by the members of the Security Council.¹⁶ Two days later, the President read another statement which, in his view, might be accepted as a statement of the Council.¹⁷ Upon protest by Council members, the President withdrew his statement in favor of the following text of a statement, prepared by the representatives of the USSR and the United States:

I feel we should take note of the declarations made before the Security Council by the representatives of the Union of the Soviet Socialist Republics, the United Kingdom and Greece, and also the views expressed by the representatives of the following members of the Security Council: The United States of America, France, China, Australia, Poland, the Netherlands, Egypt and Brazil, in regard to the question of the presence of British troops in Greece, as recorded in the proceedings of the Council,

¹⁴ Anthony Aust, *The Procedure and Practice of the Security Council Today*, in: René-Jean Dupuy (ed.), *The Development of the Role of the Security Council* (1993), 365-374 at 370 (italics added).

¹⁵ SCOR, 1st year, 1st series, Suppl. No. 1, 122.

¹⁶ *Ibid.*, 125-126. The proposal had been voted upon and failed to obtain the necessary affirmative votes of 7 members.

¹⁷ *Ibid.*, 165.

and consider the matter as closed.¹⁸

Presidential statements have come a long way since this first rather hollow statement—not only with respect to their content.¹⁹ In the early years of the Council the statements were, as a rule, made by the President at the end of a formal meeting summing up the views of the members of the Council or the general trend of the discussion, interpreting the consensus of opinion which had emerged in the debate in the Council, summarizing the position of the Council, expressing the sense of the Security Council or just winding up the debate. No objections being made, the President then declared the consensus adopted by the Council. It is in this sense that the term “President’s statement” was initially used in the “Repertoire of the Practice of the Security Council”.²⁰ The first time the President expressly spoke on behalf of the Council was on 11 November 1954 when he stated that “The Council considers [...]”, “The Council thinks [...]”, and “The Council appeals to both parties [...]”.²¹

At the 1233rd meeting of the Security Council on 26 July 1965 another important change in the practice of the Council occurred. While the President had formerly summed up the views expressed in the debate during formal public meetings of the Council, the statements were now used as a vehicle to report what had been agreed by the (members of the) Council in informal consultations of the whole. The President now stated that “after consultations held among the members of the Council, he had been authorized by the members of the Council to present the following summing up of the discussion held during the past few meetings of the Council on the Dominican situation.”²² Statements by the President consequently were no longer made at the end of formal meetings but at their beginning or, if the formal meeting had been adjourned for informal consultations, after its resumption. The 1233rd meeting of the Council may thus be considered the “birthday” of presidential statements in their modern sense. The formula nowadays used to introduce a presidential statement, i.e. that following consultations of the Council or with the members of the Council, the President has been authorized to make the following statement was first employed on 25 November 1967 when the President stated that, “after holding consultations with members of the Council, I have been authorized to make the

¹⁸ Ibid., 171-172.

¹⁹ On the content of presidential statements, see below section IV.

²⁰ See, e.g., Repertoire of the Practice of the Security Council, Supplement 1952-1955 (1957), 105-107; *ibid.* 1956-1958 (1959), 91-93; *ibid.* 1959-1963 (1965), 147-150.

²¹ SCOR, 9th year, 685th meeting, 11 November 1954, 3-4, para. 15.

²² SCOR, 20th year, 1233rd meeting, 26 July 1965, 1-2, para. 2.

following statement on behalf of the Council”,²³

Another noteworthy change in the Security Council’s practice concerned documentation. The consensus of 9-10 July 1967 expressed by the President, approving the stationing of United Nations observers along the Suez Canal, was not only printed in the official verbatim records of the Council²⁴ but, in addition, was also issued separately as an official document of the Security Council.²⁵ This paved the way for yet another development: on 8 December 1967, a presidential statement, for the first time, was not made in a formal meeting of the Council but, instead, was only issued as a Security Council document. UN Document S/8289, headed “Statement by the President of the Security Council” reads as follows:

The following statement is circulated in connexion with the report of the Secretary-General on the observation of the cease-fire in the Suez Canal sector (S/8053/Add.3). After consultations I have had with the representatives, I understand there is no objection to my transmittal of this statement as reflecting the view of the members of the Council:

“As regards document S/8053/Add.3, brought to the attention of the Security Council, the members, recalling the consensus reached at its 1366th meeting on 9 July 1967, recognize the necessity of the enlargement by the Secretary-General of the number of observers in the Suez Canal zone and the provision of additional technical material and means of transportation.”²⁶

This practice of publishing statements by the President as official documents of the Security Council—first, in the “S/*” series and, since January 1994, in the “S/PRST/****/*” series—has been followed with very few exceptions ever since,²⁷ irrespective of whether the statement was read out in a formal public or private²⁸ meeting of the Council, was made to the media or was just transmitted by the President to the UN Secretariat for publication.

For a long time, the rule concerning statements by the President was that

²³ SCOR, 22nd year, 1383rd meeting, 24/25 November 1967, 14, para. 151. See also UN Doc. S/8266, 25 November 1967 (“Consensus expressed by the President and approved by the Security Council at the 1383rd meeting on 24/25 November 1967”).

²⁴ SCOR, 22nd year, 1366th meeting, 9/10 July 1967, 13, para. 125.

²⁵ UN Doc. S/8047, 10 July 1967 (“Consensus expressed by the President and approved by the Security Council at the 1366th meeting on 9/10 July 1967”).

²⁶ UN Doc. S/8289, 8 December 1967.

²⁷ For the last statement that was not published in the “S/*”-series, see Annex 2.

²⁸ If a statement by the President is made in a private meeting the text of the statement is, as a rule, made public in an Official Communiqué issued by the Secretary-General in accordance with Rule 55 of the Council’s Provisional Rules of Procedure in place of a verbatim record. See, e.g., SCOR, 21st year, 1329th meeting, 2 December 1966, 1-2.

there was no rule. Not only were there several ways to convey a statement by the President, there was also no uniform terminology. Statements were made by the President either “on behalf of the Council” or “on behalf of the members of the Council” and at least one statement contained elements of both.²⁹ In addition, occasionally statements were made by the President “as President”.³⁰ Statements “on behalf of the Council” were not restricted to statements read out at formal meetings³¹ but were also made to the media³² and were submitted to the Secretariat to be circulated as Security Council documents.³³ On the other hand, statements read out at formal meetings were also made “on behalf of the members of the Council”.³⁴ It seems that initially no great importance was attached to terminology. At the 2079th meeting of the Security Council the President stated that he had been “authorized to make the following complementary statement *on behalf of the Security Council* regarding the resolution just adopted”. He ended the statement with the observation that the Chinese delegation “takes the same position with regard to the statement which I have just read out *on behalf of the members of the Council*.”³⁵ In addition, one and the same statement was reported in one official document of the Security Council as being made “on behalf of the Council” while according to another it was made “on behalf of the members of the Council”. Thus, UN Document S/25557 spoke of the statement concerning the situation in Bosnia and Herzegovina as having been made by the President “to the media on behalf of the members”³⁶ while the same statement is reported in the publication “Resolutions and Decisions of the Security Council 1993”, a publication part of the official records of the Security Council, as having been

²⁹ UN Doc. S/10705, 20 June 1972. While the first two paragraphs started with the words “Members of the Security Council”, the last two paragraphs began “The Security Council”. On this discrepancy, see the letter by Italy to the President of the Security Council: 1 Italian YIL (1975), 311-312.

³⁰ “As President of the Security Council, I feel it my duty to express alarm [...]” This statement was issued as UN Doc. S/17004, 5 March 1985 under the heading “Statement by the President of the Security Council”.

³¹ This rule advanced by Aust, above n. 14, 371 is refuted by the conflicting examples in n. 32 and in the text to n. 39.

³² See, e.g., UN Docs. S/24541, 10 September 1992; S/24542, 9 September 1992; S/PRST/1996/10, 4 March 1996. The text of the statement, however, spoke of “the members of the Security Council”.

³³ See, e.g., UN Doc. S/24872, 30 November 1992.

³⁴ See, e.g., UN Docs. S/25185, 28 January 1993; S/23500, 31 January 1992; S/23945, 18 May 1992; S/22917, 9 August 1991; S/21400, 19 July 1990; S/17554, 9 October 1985.

³⁵ UN Doc. S/12724, 31 May 1975.

³⁶ UN Doc. S/25557, 8 April 1993.

made “to the media on behalf of the Council”.³⁷

In 1993, however, a trend emerged to regard statements that were read out by the President during formal meetings as being made “on behalf of the Council”. It was argued by the United Kingdom that those statements which simply arose out of the work of the Council during informal meetings should be made, on the other hand, “on behalf of the members of the Council”. This was opposed by Argentina which argued that no such distinction should be made allowing for “the essential minimum of flexibility needed on this issue.”³⁸ While the UK’s suggestion to rename statements made on behalf of the Security Council “Statements on behalf of the Security Council” instead of “Statements by the President of the Security Council” was not successful, her other proposal was acted upon. Since March 1996 statements “on behalf of the Council” have, without exception, been read out in formal meetings of the Security Council. S/PRST/1996/10 was the last “statement to the press *on behalf of the Council*”.³⁹ When on 4 August 2000 a statement to the media was inadvertently made “on behalf of the Council” the respective Council document S/PRST/2000/27 headed “Statement by the President of the Security Council” was withdrawn⁴⁰ and five days later the statement was reissued as UN Document S/2000/772 entitled “Note by the President of the Security Council”. The text of the two documents was identical with the sole exception that in the “Note” the statement to the media was no longer made on behalf of the Council but “on behalf of the members of the Council”.⁴¹ While both the Security Council and the UN Secretariat have strictly observed this distinction in terminology, it has not always been appreciated by individual members of the Council. Thus, the report on Mauritius’ presidency of the Security Council in January 2002, referring to S/PRST/2002/1, speaks of a “statement on behalf of the members of the Council”⁴² although the statement was, in fact, made “on behalf of the Council”.⁴³

³⁷ UN Doc. S/INF/49, 1994, 5. Similar discrepancies exist for example in the case of UN Docs. S/24720, 27 October 1992 (“on behalf of the Council”) and S/INF/48, 1993, 88 (“on behalf of the members of the Council”) and S/22322, 3 March 1991 (“on behalf of the Council”) and S/INF/47, 1993, 9 (“on behalf of the members of the Council”) and S/20554, 31 March 1989 (“on behalf of the Council”) and S/INF/45, 1990, 8 (“on behalf of the members of the Council”).

³⁸ Letter dated 2 June 1995 from the Permanent Representative of Argentina to the United Nations addressed to the President of the Security Council: UN Doc. S/1995/456*, 9 June 1995.

³⁹ S/PRST/1996/10, 4 March 1996 (*italics added*). The text of the statement, however, spoke of “the members of the Security Council”.

⁴⁰ S/PRST/2000/27/Corr.1, 9 August 2000.

⁴¹ UN Doc. S/2000/772, 9 August 2000.

⁴² Assessment of the work of the Security Council during the presidency of Mauritius (January 2002): UN Doc. S/2002/187, 21 February 2002, 6. The Security Council

It is submitted that the change in practice to make statements “on behalf of the Security Council” only in formal meetings of the Council has been necessitated by logic, if not by law. Informal consultations do not have any existence under the Charter of the United Nations or the Provisional Rules of Procedure of the Security Council. As has rightly been pointed out by the French representative during a debate by the Security Council undertaken on 16 December 1994: “[...] informal meetings are not even real Council meetings at all, they have no official existence, and are assigned no number.”⁴⁴ Indeed, informal consultations are mere private gatherings of the fifteen Council members.⁴⁵ For the President to make a statement on behalf of the Council after informal consultations would give these meetings an official status which they do not have. In fact, the Council could express its views on matters of which it had never been formally seized and which never appeared on its agenda, i.e., matters which it had never officially dealt with.

Presidential statements may nowadays be defined as statements on behalf of the Security Council read out by the President in a formal meeting after the text of the statement has been agreed upon at informal consultations of the whole.

II.B. Statements by the President to the Press

Presidential statements are to be distinguished from statements to the press by the President of the Security Council. This is shown, for example, by Slovenia’s report on the assessment of work of the Security Council for the month of August 1998 which reads in relevant part:

During the month of August, the Security Council held 9 formal meetings and its members met 17 times in informal consultations. The Council adopted 5 resolutions and issued 3 *presidential statements*. [...] At the end of each meeting at which informal consultations were held, the President briefed the press. The President spoke on behalf of the members of the Security Council on several occasions, delivering a total of 15 oral *statements*

had decided on 12 June 1997 that each State holding the presidency of the Security Council would produce a report that would be attached to the annual report of the Security Council to the General Assembly (UN Doc. S/1997/451). Some of these reports are also published as individual documents.

⁴³ See S/PRST/2002/1, 16 January 2002.

⁴⁴ UN Doc. S/PV.3483, 16 December 1994, 2. See also Sydney D. Bailey and Sam Daws, *The Procedure of the UN Security Council* (3rd ed., 1998), 61, 64, 68.

⁴⁵ On informal consultations, see Loic Feuerle, *Informal Consultations: A Mechanism in Security Council Decision-making*, 18 *New York University JILP* (1985-86), 267-306; Davidson Nicol, *The United Nations Security Council: Towards Greater Effectiveness* (1982), 76; Natalie Reid, *Informal Consultations* (1999) (<http://www.globalpolicy.org/security/informal/Natalie.htm>).

*to the press.*⁴⁶

Some confusion has been caused by the fact that until March 1996 presidential statements have, on several occasions, also been related to the press.⁴⁷ In addition, since July 2001 both presidential statements⁴⁸ and statements to the press by the President are issued by the Secretariat as “United Nations press releases”, upon clearance by the President, under the series symbol “SC/*”⁴⁹ which sometimes makes it difficult to distinguish between the two instruments.

Matters have been further complicated by the fact that, in recent Security Council practice, two types of oral statements to the press are to be distinguished. First, there are statements to the press made by the President “on behalf of the members of the Security Council”. Thus, the Netherlands stated in the report on their presidency of the Security Council in September 1999 that “the President addressed the news media after each session of informal consultations. On 11 occasions he was authorized to make statements to the press on specific issues on behalf of the Council members.”⁵⁰ As with presidential statements their text or at least its elements⁵¹ is agreed upon beforehand by the members of the Security Council during informal consultations. Due to their similarities with presidential statements these statements to the press may also be termed “presidential press statements”. The number of presidential press statements has increased considerably over the last few years while at the same time the number of presidential statements has decreased.⁵² Many pronouncements of the Security Council which have formerly been contained in a presidential statement are now conveyed in press statements.⁵³ Through these statements the Council members

⁴⁶ UN Doc. A/52/2, 1 January 1999, 390 (italics added).

⁴⁷ See the examples n. 30 above.

⁴⁸ An unofficial version of the text of presidential statements is reproduced in the press release summarizing the account of the formal meeting at which the statement was read out. The official version is printed in the “S/PRST/****/*” series and in the verbatim records of the Council meeting.

⁴⁹ See the Note by the President of the Security Council on dissemination of Council resolutions and presidential statements: UN Doc. S/2001/640, 29 June 2001. See also the overview of Meetings conducted/Actions taken by the Security Council at <http://www.un.org/Depts/dhl/resguide/scact2002.htm>.

⁵⁰ Report of the Netherlands presidency of the Security Council (September 1999): UN Doc. A/55/2, 1 January 2000, 467.

⁵¹ These “Elements for a Statement to the Press” are made available on the website of the presidency; see, e.g., <http://www.un.int/Canada/aprilpresstatements.htm>.

⁵² In 2000 the President made 87 press statements but only 40 presidential statements, in 2001 there were 110 press statements compared to just 39 presidential statements, and in 2002 117 presidential press statements and 42 presidential statements were made. Up to August 2003 the ratio was 62 to 14.

⁵³ The outcome of the review of a sanctions regime which was formerly conveyed in

may let their collective opinion on a matter dealt with in informal consultations be known and send a message to the parties concerned. Although the content of a presidential press statement may differ little from that of a presidential statement they, nevertheless, have different functions and legal status.⁵⁴ A presidential press statement may be chosen as a first reaction to a development, later followed by a more detailed reaction in a presidential statement.⁵⁵ Sometimes, presidential press statements have also been employed to announce the adoption of a presidential statement in due course. For example, in a statement to the press on 26 November 2002 the President announced that “members of the Council are going to work on a presidential statement of a comprehensive strategy on Liberia.”⁵⁶ This was followed several days later by a 5-page long presidential statement on the situation in Liberia.⁵⁷ The basic difference between the two types of statements is that in the case of a presidential statement it is the United Nations organ Security Council which acts while in the case of a presidential press statement it is the President that reports the collective political will or action of the members of the Council. This is also borne out by the different formulations used: presidential statements, as a rule, are phrased in the present tense while presidential press statements are phrased in the past tense. Thus, in the presidential statement “The Security Council *calls* upon the parties [...]”⁵⁸ In the presidential press statement, on the other hand, the President (only) reports that “The members of the Security Council *called* on the parties [...]”.⁵⁹

Secondly, the President of the Security Council may also issue statements to the press on his own account. These press briefings by the President after each

presidential statements (see text to n. 144) is nowadays conveyed in presidential press statements; see, e.g., SC/6922, 15 September 2000.

⁵⁴ *Contra* Bruno Simma, Stefan Brunner, and Hans-Peter Kaul, Article 27, in: Bruno Simma (ed.), 1 *The Charter of the United Nations. A Commentary* (2nd ed., 2002), 476-523 at 520, MN 150.

⁵⁵ See, e.g., the press statement SC/7412, 23 May 2002 and the presidential statement S/PRST/2002/16, 25 May 2002 on Kosovo. See also the Report of the Brazilian presidency of the Security Council (January 1999): “The President took the decision to convene informal consultations on 18 January 1999 [...] after being informed of the massacre of Kosovo Albanians[...]. While a group of delegations worked on a draft presidential statement, consultations of the whole focused on the possible terms of a statement to the Press by the President. Agreement was reached in a statement to the press [...]. After prolonged negotiations, a presidential statement was adopted on the evening of 19 January 1999 (S/PRST/1999/2).” (UN Doc. A/54/2, 1999, 431).

⁵⁶ UN Doc. SC/7578, 26 November 2002, last paragraph.

⁵⁷ S/PRST/2002/36, 13 December 2002.

⁵⁸ Cf., e.g., S/PRST/2001/33, 8 November 2001: “The Council *calls* on all the Burundian parties [...]”.

⁵⁹ Cf., e.g., SC/7732, 15 April 2003: “Members of the Council *called* upon the parties [...]”.

session of informal consultations have become a regular feature in recent years and are part of the measures to improve the transparency of the Council's work. Contrary to presidential press statements, as a rule, not even the elements of these statements are formally agreed by Council members during informal consultations. It is rather largely left to the discretion of the President to formulate the text of these statements after discussions on their broad outline.⁶⁰ The distinction between presidential press statements and other statements to the press by the President has not always been appreciated. Thus, during its presidency of the Security Council in February 1999 Canada made available on its website twenty-three "Statements to the Press by the President of the Security Council".⁶¹ However, only thirteen of these were presidential press statements as becomes clear from Canada's report on its presidency of the Security Council which states that "the President regularly addressed the media after informal consultations of the whole. On 13 occasions the President made statements to the press on specific issues on behalf of Council members."⁶² The other statements just reproduced the "lines to the media" used by the President in his press briefings. Presidential press briefings and presidential press statements may be distinguished by the fact that the latter, as a rule, start with the introductory remark that "The members of the Security Council have authorized me to make the following statement to the press regarding [...]" or that "I have been authorized by the members of the Security Council to make the following statement to the press on [...]"⁶³

Table 1: Presidential Statements and Other Statements Compared

Presidential Statement	Presidential Press Statement	Other Press Statements
On behalf of Security Council	On behalf of Council members	President
Written statement	Oral statement	Oral statement
Text of statement agreed at informal consultations	Elements of statement defined at informal consultations	Text largely at discretion of the President
Read out in formal meeting of the Council	Made to the press outside consultation room	Made to the press outside consultation room
Circulated as official Council Document (S/PRST/****/*)	Issued as United Nations press release (SC/*)	Not published (sometimes made available on the website of the presidency)

⁶⁰ See Michael C. Wood, *Security Council Working Methods and Procedure: Recent Developments*, 45 *ICLQ* (1996), 150-161 at 154.

⁶¹ See <http://www.un.int/canada/eprevstatements.htm>.

⁶² Canada's assessment of the work of the Security Council for the month of February 1999: UN Doc. A/53/976-S/1999/624, 28 May 1999, 3.

⁶³ See <http://www.un.int/canada/eprevstatements.htm>.

III. The Procedure of Adopting Presidential Statements

III.A. How Presidential Statements Are Adopted

The Security Council may hold formal public (open) or private (closed) meetings in the Council chamber or informal consultations of the whole, i.e. private gatherings of all the Council members in a special consultation room next to the Council chamber, presided over by the Council President who notifies each member in advance of the time and program of work to be discussed.⁶⁴ Presidential statements are essentially a product of these informal consultations. The rise in their numbers is closely linked to the proliferation of informal consultations since the late 1980s.⁶⁵ There is no standard procedure for drafting presidential statements. A typical draft presidential statement might go through four stages:⁶⁶

At the beginning, the President alone or in consultation with some Council members or one member or a group of members may prepare a draft presidential statement. This draft will usually take the form of a “working paper” which has no document symbol number and no official status. Often set groups working on a particular issue, such as “the Friends of X” or the “X-Troika”, may submit a first draft after intensive negotiations between them on the underlying policy. For example, S/PRST/2000/8 of 14 March 2000 was originally submitted by Argentina “on behalf of the friends of Haiti”.⁶⁷ The first draft need not be a full text but may just contain elements for a statement.

The second stage is to share informally the draft statement with each of the Council members: this may be done bilaterally or with groups on the Council or in the course of informal consultations of the whole. Presidential statements are drafted and negotiated in one or two languages, English and, occasionally, French. For Council members to submit a draft presidential statement for circulation as an official Council document is the exception and will usually have political reasons.⁶⁸ There will be a preliminary discussion of the major points, and

⁶⁴ These are also known as “global consultations”, “informals”, or “formal informals”. On informal consultations, see the authors, above n. 45.

⁶⁵ Bailey and Daws, above n. 44, 35. A “Table on Numbers of Security Council Meetings and Consultations: 1988-2002” may be found at <http://www.globalpolicy.org/security/data/secmgtab.htm>.

⁶⁶ On the drafting of Security Council resolutions, see Michael C. Wood, *The Interpretation of Security Council Resolutions*, 2 Max Planck Yearbook of UN Law (1998), 73-95 at 80-81, on which the present account is modeled upon.

⁶⁷ See Assessment of the work of the Security Council during the presidency of Bangladesh (March 2000): UN Doc. S/2000/670, 31 July 2000, 5.

⁶⁸ On 30 November 1975 Guyana, Mauritania, Cameroon, and Tanzania, all members

all members of the Council will then seek instructions from their capitals. In a Note by the President of the Security Council of 17 February 1999 on the drafting of resolutions and presidential statements it says:

It is important that all members of the Security Council be allowed to participate fully in the preparation of the [...] statements by the President of the Council. [...] The drafting of [...] statements by the President of the Council should be carried out in a manner that will allow adequate participation of all members of the Council. While the need is recognized for the Council, in many instances, to adopt its decisions expeditiously, sufficient time should be allowed for consultations of all members of the Council and for their own consideration of the drafts, prior to action by the Council on specific items.⁶⁹

At the third stage, all Council members enter into a detailed paragraph by paragraph discussion of the draft statement in informal consultations of the whole. These consultations may take several hours or even days and may result in changes to the original draft or total redrafts. Unlike in the case of draft resolutions, there are no draft presidential statements “in blue”.⁷⁰ The parties concerned are usually consulted or informed during the negotiation process. Since January 2000, in the absence of an agreement to the contrary, the President of the Council makes draft presidential statements available to States that are not members of the Council as part of the Council’s drive for transparency as soon as they are introduced in informal consultations of the whole.⁷¹ In recent Security

of the Security Council at the time, submitted a draft statement by the President of the Security Council concerning the participation of the Palestine Liberation Organization in the Security Council’s debate of 12 January 1976 on the situation in the Middle East which was circulated as UN Doc. S/11889, 30 November 1975.

⁶⁹ UN Doc. S/1999/165, 17 February 1999. See also the non-paper on the preparation of resolutions and presidential statements presented on 28 August 1998 by the President of the Council (Slovenia) to the informal working group on Security Council procedure and documentation: “In order to prepare the [...] presidential statements of the Security Council adequately it is important that such preparations include all the interested members of the Security Council. Contributions made by members of groups of friends for a particular situation and by other similar arrangements are welcome. The preparation of [...] presidential statements must be managed in a manner allowing adequate insight of all members of the Security Council into the process of preparation. In particular, sufficient time must be allowed for consultations of all the members of the Security Council and for their own consideration of the drafts prior to action of the Security Council.” (UN Doc. A/54/2, 1999, 396).

⁷⁰ On Blue Draft Resolutions see the Informal Briefing Note prepared by the Secretariat, July 1995, reproduced in Bailey and Daws, above n. 44, 553-555.

⁷¹ See the Note of the President of the Security Council of 30 December 1999: UN Doc.

Council practice, draft presidential statements are sometimes also made available on the website of the presidency and their availability is announced in the daily *Journal of the United Nations*.⁷² At the end of informal consultations the text of the presidential statement is adopted by consensus, i.e. without any formal objection.⁷³ In the earlier practice of the Security Council, China has, on occasions, dissociated itself from a presidential statement. For example, at its 1764th meeting, on 28 February 1974, the President read a statement on the question of the complaint by Iraq concerning incidents on its frontier with Iran which reads in part:

1. Following the complaint presented on 12 February 1974 by the representative of Iraq [...] the President of the Security Council has had consultations with all the members of the Council and with the Permanent Representative of Iran. As a result, the president has found that there exists within the Council a consensus in the following terms.

[...]

6. The above-mentioned consensus was reached by the members of the Council with the exception of China which dissociates itself from it; the Chinese delegation made the following statement: “[...] the Chinese delegation does not favor United Nations involvement in any form in a boundary dispute. In view of this position, the Chinese delegation dissociates itself from the above consensus of the Security Council.”⁷⁴

Although a Council member has dissociated itself from the presidential statement

S/1999/1291, 30 December 1999; also printed in UN Doc. A/55/2, 2000, 215-216. This improvement on transparency had first been suggested in various conference room papers submitted by the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council: UN Doc. A/52/47, 24 August 1998, 10-17 at 11, 18-5 at 19 and 26-34 at 27. See also the conference room paper reprinted in UN Doc. A/53/47, 5 August 1999, 12. In these papers it had even been suggested that the President makes draft presidential statements available prior to their introduction in informal consultations, if authorized by the author of the draft statement. For suggested improvements to the present practice, see UN Doc. A/57/47, 2003, 21-22.

⁷² Cf., e.g., the assessment of the work of the Security Council during the presidency of Bangladesh (March 2000): UN Doc. S/2000/670, 31 July 2000, 2.

⁷³ On the consensus procedure, see, e.g., Eric Suy, *Consensus*, in: Rudolf Bernhardt (ed.), *1 Encyclopedia of Public International Law* (1992), 759-761.

⁷⁴ UN Doc. S/11229, 28 February 1974. For other statements in which China dissociated itself from the consensus, see UN Docs. S/12724, 31 May 1978; S/11072, 2 November 1973. See also UN Docs. S/10611, 19 April 1972 and S/10612, 19 April 1972 (“Comments by China on Consensus”).

it may nevertheless be considered as an outcome of consensus as the reservation is presented as an integral part of the presidential statement. One may therefore speak of a presidential statement adopted by “qualified consensus”. Statements that have met with opposition of individual Council members or which have been reached only “by the majority of the members”⁷⁵ are, on the other hand, – due to lack of consensus – not considered as presidential statements.⁷⁶ Michael Wood has pointed out that the consensus procedure leads to the paradoxical situation that it may be easier to secure the adoption of a resolution than that of a presidential statement.⁷⁷ Presidential statements might be considered more democratic than resolutions as all Council members have, in principle, a veto right. In practice, however, the dynamics of negotiations for a presidential statement ensure even greater influence on the text to be adopted by the more powerful members.

Finally, the text agreed by the members in informal consultations is read out by the President in a formal public meeting of the Security Council. It is only at this stage that the presidential statement is officially adopted by the Security Council as an organ of the United Nations, as informal consultations of the whole are not meetings of the Council under the terms of the Charter but only meetings of the members of the Council, a distinction that has been rigorously maintained.⁷⁸ The consequence of this is that any Council member may thwart a presidential statement at the last moment by objecting to it in the formal meeting of the Council. The meetings in which these statements are read out often take just a few, sometimes only two, minutes: they are mere pro forma occasions. The Italian representative to the United Nations, Francesco Paolo Fulci, has called them “almost liturgical”.⁷⁹ Only when the text is read out will the presidential statement be translated into the six official working languages of the United Nations. Draft resolutions, on the other hand, are translated into all working languages as soon as they are issued in provisional form (i.e. “in blue”). The text of presidential statements is well documented: First, it is recorded in the verbatim records of the Council meeting, secondly, it is published as an official UN document in the “S/PRST/****/*” series and, thirdly, an unofficial version of the text is reproduced in the UN press release summarizing the account of the meeting in which the statement was read out. In addition, the Secretariat has been mandated to bring presidential statements to the knowledge of those concerned

⁷⁵ Cf., e.g., the statement reached at consultations between members of the Council “on behalf of the majority of the members” on the invitation of the Palestine Liberation Organization (PLO) to participate in the Council debate: SCOR, 30th year, 1856th meeting, 30 November 1975, para. 23.

⁷⁶ Cf. the statement of the Soviet delegate: UN Doc. S/PV.779, 21 May 1957, para. 131.

⁷⁷ Wood, above n. 60, 154.

⁷⁸ Bailey and Daws, above n. 44, 61, 64.

⁷⁹ SCOR, 49th year, 3483rd meeting, 16 December 1994, 15.

including non-State actors through the relevant Special Representatives, Representatives and Envoys of the Secretary-General and UN Resident Coordinators and to ensure their promptest communication and widest possible dissemination.⁸⁰

III.B. Consequences of Adopting Presidential Statements in Informal Consultations

Informal consultations of the whole essentially differ from formal meetings of the Security Council, public or private, in that only members of the Security Council can attend.⁸¹ Members of the United Nations which are not members of the Security Council as well as States not members of the United Nations whose interests are specifically affected by a question discussed in informal consultations or which are parties to a dispute under consideration in informal consultations cannot present their views to Council members in accordance with Articles 31 and 32 of the UN Charter⁸² as these provisions only apply to formal “meetings of the Security Council”.⁸³ The same is true for the participation of non-State actors in informal consultations under Rule 39 the Security Council’s Provisional Rules of Procedure. A proposal made by the Czech Republic in 1996 that non-members of the Council should be allowed to participate in informal consultations of the whole on a discretionary basis whenever their interests are specifically affected⁸⁴

⁸⁰ Note by the President of the Security Council of 29 June 2001: UN Doc. S/2001/640, 29 June 2001.

⁸¹ Cf. the speech of the President of the Security Council before the General Assembly introducing the Council’s annual report: UN Doc. A/51/PV.65, 26 November 1996, 10.

⁸² Art. 31 states: “Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specifically affected.” Art. 32 states: “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.” That these discussions take place in “meetings” of the Council becomes clear from Art. 28, paras. 2 and 3, of the UN Charter and Rule 14 of the Council’s Rules of Procedure.

⁸³ New Zealand takes the (minority) view that Arts. 31, 32 UN Charter also apply to informal consultations of the whole: UN Doc. S/PV.3483, 16 December 1994, 10-11.

⁸⁴ The participation of non-members of the Council in formal meetings in accordance with Art. 31 UN Charter is always discretionary. A right to be invited to participate may only exist under Art. 32 UN Charter, see Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), ICJ Reports 1971, 16 at 22, paras. 24-25.

has not been taken up.⁸⁵ States and other actors affected by a presidential statement are thus given no opportunity to present their views directly to Council members during the discussion of a draft presidential statement or to participate in the negotiation of the statement. For a long time, non-members of the Council were not even aware of what was discussed in informal consultations. It is only since October 1994 that the President briefs non-members on the current work of the Council being undertaken in informal consultations and since 1995 that a brief agenda of these consultations is printed in the daily UN Journal but such meetings may, of course, also be held at short notice without being previously announced in the UN Journal. Thus, non-members may only lobby individual Council members outside the consultation room or, if the draft text of a statement has been made public, write to the President of the Council and formally suggest alterations. But, the latter is the exception and indicates that lobbying has failed. For example, on 21 December 1995 the Permanent Representative of Angola to the United Nations sent a letter to the President of the Security Council in which he made suggestions and proposed amendments to a draft presidential statement which was to be read out during the next formal session of the Council. In order to put on record Angola's view he also requested that the letter be circulated as an official document of the Security Council.⁸⁶ The presidential statement on "The situation in Angola", however, was adopted on the same day without any alterations being made to the original draft.⁸⁷

Not only are non-members of the Council given no hearing during the negotiations of a draft presidential statement, they are also given no opportunity to comment on a presidential statement when it is read out at a formal public meeting of the Council. This time, the problem is not that there is no "meeting" of the Security Council, but that Articles 31 and 32 of the UN Charter only provide for participation of non-members of the Council "in the discussion" of a question. At the stage when presidential statements are read out no discussion takes place any more. The formal public meetings, which usually last for no more than a few minutes, only serve as a stage for the President to read out statements on questions discussed previously in informal consultations. The only possibility for non-members of the Security Council to publicize their reaction to a presidential statement is to send a letter setting out their position to the Council President and to ask for it to be circulated as an official document of the Security

⁸⁵ See "The case for a new interpretation of Article 31 of the UN Charter", paper submitted to the General Assembly's Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council: UN Doc. A/AC.247/1996/CPR.13, June 1996, 12. See also Bailey and Daws, above n. 44, 161 and 623, n. 128.

⁸⁶ UN Doc. S/1995/1052, 21 December 1995.

⁸⁷ See S/PRST/1995/62, 21 December 1995.

Council.⁸⁸ The consequence of this procedure is that interested States and other actors are given no forum to address Council members on presidential statements. This has led ten elected members of the Security Council in December 1997 to suggest in a position paper on the working methods of the Security Council that “the Security Council should consider allowing States non-members of the Council to make statements at the meetings in which a statement is made by the President on behalf of the members of the Council.”⁸⁹ Another suggestion to improve Council procedure which so far has not been acted upon.

It may be argued that the participation of the addressees of a presidential statement in the negotiations of the draft text in informal consultations and their presence during the reading out of the statement (by analogy with Articles 31 and 32 of the UN Charter)⁹⁰ might secure their agreement more easily and thus enhance the effectiveness of the Security Council’s action. On the other hand, the present procedure avoids acrimonious exchanges in public which might be counterproductive in case of sensitive issues. Furthermore, the presence during informal consultations of representatives of States to which a presidential statement is to be addressed might inhibit the discussions of Council members and shift negotiations of presidential statements to even more informal forums.

Another significant difference between informal consultations of the whole and formal meetings is that no official records are kept of these consultations.⁹¹ The United Nations Secretariat takes notes for their own internal purpose as well as sound recordings but these are not available to others.⁹² The negotiating history of presidential statements is thus not on the public record. This means that it is

⁸⁸ E.g., Croatia’s reaction to the presidential statement of 15 July 1999 (S/26084) was set out in a letter dated 16 July 1993 from the Permanent Representative of Croatia to the United Nations addressed to the President of the Security Council: UN Doc. S/26097, 16 July 1993. For South Africa’s reaction to the presidential statement of 21 September 1979 calling for the non-recognition of the Bantustans, see UN Doc. S/13552, 24 September 1979.

⁸⁹ Report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council: UN Doc. A/53/47, 5 August 1999, 59-60 at 59. The position paper is also attached to UN Doc. A/52/861-S/1998/286, 31 March 1998, 11-12. The paper was considered by the Council in informal consultations on 23 December 1997, *ibid.*, 4.

⁹⁰ That there is some flexibility in opening up informal consultations of the whole to non-members of the Council may be seen in the new practice of inviting newly elected members of the Council to attend informal consultations for a period of one or two months immediately preceding their term of membership, see UN Doc. S/2002/1276, 22 November 2002.

⁹¹ According to Tavernier, above n. 10, 99, presidential statements serve, although in a less than perfect way, as a substitute for verbatim records.

⁹² Wood, above n. 66, 94, n. 33.

not normally known who introduced a draft presidential statement, what positions individual Council members took, how consensus was achieved or what the motivation behind the consensus was. It is not very often that Council members chose to make public their views expressed during the process of adopting a presidential statement by way of a letter addressed to the President of the Security Council to be circulated as an official document of the Security Council.⁹³ Similarly, the practice of Council members explaining their understanding of a presidential statement in the public meeting in which it is read out by the President has remained the exception.⁹⁴ This is of relevance for the interpretation of presidential statements. Although Articles 31 to 33 of the Vienna Convention on the Law of Treaties (VCLT)⁹⁵ are not directly applicable, the methods set forth therein for the interpretation of treaties may, with certain qualifications, be applied by analogy to presidential statements. In the case of presidential statements, given their essentially political nature and the way they are drafted, the negotiating history may be useful (even more useful than in the case of treaties) to establish the object and purpose of a statement (Article 31, paragraph 1) and the intention of Council members as to a special meaning to be given to a term in a statement (Article 31, paragraph 4) and as a supplementary means of interpretation (Article 32). The procedure employed to adopt presidential statements, however, means that much material that could be useful is simply not available. But this is not a problem confined to presidential statements.⁹⁶

The question of how presidential statements should be adopted is part of the wider question of the Council's working methods and whether these should be more transparent. Here, it is submitted, a balance has to be struck between the international community's justified demand for more transparency in procedure and Council members' legitimate concern for confidentiality. As pointed out by the United Nations Secretariat, when dealing with these questions, "transparency

⁹³ E.g., on 1 December 1993 the Permanent Representative of Brazil to the UN sent a letter to the President of the Security Council in which he forwarded the text of a statement made by the Brazilian delegation on 23 November 1993 in the informal consultations prior to the issuance on that date of the presidential statement on the situation between Iraq and Kuwait. The statement read in part: "As we have made clear on previous occasions [...], it is the understanding of the Brazilian Government that the decisions taken by the Security Council with respect to the international boundary between Iraq and Kuwait in resolution 687 (1993 [sic]), or as a result of that resolution, as in the case in the proposed presidential statement, can only be justified in the light of the exceptional and unique circumstances in which those decisions were taken and do not establish a legal precedent." (UN Doc. S/26831, 1 December 1993).

⁹⁴ See, e.g., the statement by the United States of America: SCOR, 34th year, 2168th meeting, 21 September 1979, paras. 3-5.

⁹⁵ Vienna Convention on the Law of Treaties of 23 May 1969: 1155 UNTS 331.

⁹⁶ Similar problems exist with regard to the interpretation of resolutions of the Security

is a good servant but a poor master”.⁹⁷

Table 2: Formal Meetings and Informal Consultations Compared

Public Meetings	Private Meetings	Informal Consultations of the Whole
Formal meetings of the Council under the UN Charter		Meetings of the Council members
Council chamber		Consultation room
Rules 48, 54 Provisional Rules of Procedure	Rules 48, 51, 55 Provisional Rules of Procedure	No statutory basis
Official verbatim records kept		No official records (confidential minutes kept by Secretariat staff)
Official record published	Communiqué issued at close of meeting by Secretary-General	Informal briefing of non-members by Security Council President
Non-members may be present (Art. 31, 32 UN Charter, Rules 37-39 Rules of Procedure)		Only members may attend ⁹⁸

IV. The Content of Presidential Statements

Presidential statements vary widely in size and content. While some consist of only a single paragraph others are several pages long.⁹⁹ Unlike resolutions, they are not divided into a preamble and an operative part and individual paragraphs, as a rule, are not numbered.¹⁰⁰ As in the case of resolutions, an annex may be attached to the statement.¹⁰¹ The content of a presidential statement may differ little from that of a resolution. Indeed, over the years more and more pronouncements of the Security Council which initially would have been

Council, see Wood, above n. 66, 94.

⁹⁷ Paper prepared by the UN Secretariat on the views expressed by Member States during the forty-ninth session of the General Assembly (A/AC.247/3): UN Doc. A/49/965, 18 September 1995, 23-38 at 34.

⁹⁸ There is, however, the possibility of so-called “Aria formula” meetings. On these, see Bailey and Daws, above n. 44, 73-74.

⁹⁹ E.g., the presidential statement of 31 January 1992 (UN Doc. S/23500), made at the conclusion of the 3046th meeting of the Security Council, held at the level of Heads of State and Government, is five pages long and contains a programmatic statement on the Council’s responsibility for the maintenance of international peace and security. The presidential statement of 23 November 1992 (UN Doc. S/24836) which reviews the fulfillment of the obligations of Iraq under relevant Security Council resolutions is eight pages long.

¹⁰⁰ For notable exceptions, see S/PRST/2002/35, 12 December 2002; UN Doc. S/11072, 2 November 1973.

¹⁰¹ In S/PRST/2002/6, 15 March 2002, the Security Council adopted a 7-page Aide Memoire contained in the annex to the presidential statement.

contained in a resolution have been conveyed in presidential statements. Thus, the Security Council has addressed requests for action or the revocation of an action to both States and non-State actors. It has, *inter alia*, “demanded” the immediate halt to all hostilities and the withdrawal of forces,¹⁰² that a State pays immediate and full compensation for damage caused,¹⁰³ that the responsible authorities suspend certain police officers and arrest and prosecute them without delay,¹⁰⁴ that hostages held by a rebel group are released,¹⁰⁵ or that military forces grant prompt and unimpeded access to the Special Representative of the Secretary-General and UN forces to areas under their control.¹⁰⁶ It has “called upon” all States to take all appropriate measures within their jurisdiction to deter and prevent the hijacking of aircraft and other unlawful interference with international civil aviation and to take effective measures to deal with those who commit such acts,¹⁰⁷ a Government to rescind its decision to declare a UN representative *persona non grata*,¹⁰⁸ a State to allow IAEA inspectors to complete agreed inspections,¹⁰⁹ all States to refrain from providing military support to a rebel group and to prevent armed individuals from using their national territory to prepare and commit attacks in neighboring countries,¹¹⁰ or all Governments to deny any form of recognition to the so-called “independent” Bantustans to refrain from any dealings with them and to reject travel documents issued by them.¹¹¹ The Security Council has “urged” the parties to provide their full and prompt cooperation with a Boundary Commission,¹¹² the Government and the combatants to provide unrestricted access to UN humanitarian agencies and non-governmental organizations to areas where refugees need assistance,¹¹³ or the parties and countries concerned to abide by the provisions of relevant resolutions of the Security Council.¹¹⁴ It has also “appealed” to all parties to bring about a cease-fire and a negotiated political solution,¹¹⁵ to the parties to comply strictly

¹⁰² S/PRST/2000/15, 5 May 2000; S/PRST/1999/9, 27 February 1999.

¹⁰³ UN Doc. S/23772, 2 April 1992.

¹⁰⁴ S/PRST/1997/12, 11 March 1997.

¹⁰⁵ S/PRST/1999/14, 19 May 1999; S/PRST/1999/26, 24 August 1999.

¹⁰⁶ S/PRST/1994/50, 2 September 1994.

¹⁰⁷ UN Doc. S/10705, 20 June 1972.

¹⁰⁸ S/PRST/1999/2, 19 January 1999.

¹⁰⁹ S/PRST/1994/13, 31 March 1994.

¹¹⁰ S/PRST/2000/41, 21 December 2000.

¹¹¹ UN Docs. S/13549, 21 September 1979; S/14794, 15 December 1981.

¹¹² S/PRST/2003/10, 17 July 2003.

¹¹³ S/PRST/2002/36, 13 December 2002.

¹¹⁴ S/PRST/1997/35, 9 July 1997.

¹¹⁵ UN Doc. S/23802, 20 April 1992.

with their obligations undertaken in an agreement,¹¹⁶ and to Member States and humanitarian organizations to increase their assistance to a country.¹¹⁷ These examples are by no means exhaustive and are only intended to illustrate the wide-ranging use of presidential statements.

Besides, the Security Council has regularly addressed requests to the Secretary-General to submit reports or proposals, supply it with information, or to establish panels, working groups or offices.¹¹⁸ It has also employed presidential statements to set out its collective opinion on a certain issue, to publish internal organizational decisions,¹¹⁹ to establish subsidiary organs in accordance with Article 29 of the UN Charter,¹²⁰ to reaffirm the sovereignty and territorial integrity of States under attack or falling apart,¹²¹ to express its support for the legitimate and democratically elected Government of a State threatened by armed opposition,¹²² to welcome encourage or, more often, condemn an action, to take note of or express its concern about a particular situation, to record its gratitude or appreciation, to reiterate the content of its earlier resolutions, or to remind States and other parties to a dispute of their obligations.

The Security Council has also utilized presidential statements to make quasi-judicial determinations. Thus, it declared the proclamation of the South African Bantustans as independent States as “totally invalid”,¹²³ held that the deliberate impeding of the delivery of food and humanitarian relief essential for the survival of the civilian population in the Republic of Bosnia and Herzegovina “constitutes a violation of the Geneva Conventions of 1949”,¹²⁴ noted that the provisions of the 1951 Convention Relating to the Status of Refugees do not apply to those responsible for serious breaches of international humanitarian law

¹¹⁶ S/PRST/1996/14, 29 March 1996.

¹¹⁷ S/PRST/1994/9, 25 February 1994.

¹¹⁸ See, e.g., S/PRST/2000/20, 2 June 2000; S/PRST/1999/3, 21 January 1999; S/PRST/1998/19, 2 July 1998; S/PRST/1998/10, 22 April 1998; S/PRST/1998/5, 26 February 1998; S/PRST/1997/32, 30 May 1997; S/PRST/1997/12, 11 March 1997; S/PRST/1994/56, 22 September 1994.

¹¹⁹ For the suspension of Rule 18 of the Council’s Provisional Rules of Procedure in order to skip Rwanda’s scheduled term for the Council presidency, see S/PRST/1994/48, 25 August 1994; S/PRST/1994/55, 16 September 1994.

¹²⁰ S/PRST/2001/3, 31 January 2001 (Working Group of the Whole on United Nations peacekeeping operations).

¹²¹ S/PRST/2001/20, 13 August 2001; S/PRST/2000/15, 5 May 2000; S/PRST/1999/9, 27 February 1999.

¹²² S/PRST/2000/37, 29 November 2000; S/PRST/1999/1, 7 January 1999.

¹²³ UN Doc. S/13549, 21 September 1979; ; S/14794, 15 December 1981.

¹²⁴ UN Doc. S/25334, 25 February 1993. See also S/PRST/1994/53, 13 September 1994; S/PRST/1995/25, 3 May 1995.

and acts of genocide in Rwanda,¹²⁵ found that the deployment of Croatian armed forces in Bosnia and Herzegovina “constitutes a violation of international law, the Charter of the United Nations and relevant Security Council resolutions”,¹²⁶ and termed Iraq in “material breach of resolution 687 (1991)”,¹²⁷

Presidential statements have further been employed to protect the United Nation’s legal position. When in April 1992 the Yugoslav Permanent Mission to the United Nations sent a letter to the Secretary-General, in which the Federal Republic of Yugoslavia (Serbia and Montenegro)—FRY—claimed to continue the State, international, legal and political personality of the Socialist Federal Republic of Yugoslavia (SFRY), the President on 5 May 1992 issued a statement in which the members of the Security Council agreed that the circulation of the letter in question which was scheduled for the next day “does not prejudice decisions that may be taken by appropriate United Nations bodies [...] on this matter.”¹²⁸ Such a decision was taken only four and a half months later when the Security Council on 21 September adopted resolution 777 (1992), in which it found that the FRY could not continue automatically the membership of the former SFRY in the United Nations. Presidential statements have served yet another purpose.

Over the last few years, the Security Council has taken various measures to enhance its working methods and transparency. These changes in Council practice, however, have not resulted in amendments of the Security Council’s Provisional Rules of Procedure but were institutionalized by way of incorporating them into statements and notes of the President.¹²⁹

What may be even more interesting than the content of past presidential statements is what has *not* been dealt with in such statements. Thus, the Security Council has regularly resorted to a resolution when establishing a peacekeeping force. It has, however, used presidential statements to decide on the composition of an established peacekeeping force,¹³⁰ on the question of increasing the numbers of peacekeepers,¹³¹ and on the deployment of members of a force in a new sector

¹²⁵ S/PRST/1994/59, 14 October 1994.

¹²⁶ S/PRST/1994/6, 3 February 1994. See also S/PRST/1998/1, 14 January 1998 (“clear violation of the relevant resolutions”).

¹²⁷ UN Doc. S/25091, 11 January 1993.

¹²⁸ UN Doc. S/23878, 5 May 1992.

¹²⁹ For an index of statements and notes by the President relating to documentation and procedure from June 1993 to August 2002, see UN Doc. A/57/382-S/2002/1000, 6 September 2002, Annex; also reproduced in UN Doc. A/57/47, 2003, 36-42.

¹³⁰ UN Doc. S/11072, 2 November 1973 on the composition of the Second United Nations Emergency force (UNEF II) which had been set up by S/RES/340 (1973), 25 October 1973. See also UN Doc. S/10299, 26 August 1971 on the composition of a Special Mission to Guinea called for in S/RES/295 (1971) of 3 August 1971.

¹³¹ See UN Docs. S/8289, 8 December 1967 (enlargement of the numbers of members of

within the general theatre of operation.¹³² The form of a presidential statement has also been chosen for the announcement that the necessary agreement did not currently exist in the Council for a decision to be adopted to change the modalities of an existing peacekeeping operation.¹³³

Recommendations of the Security Council on the admission of a State to membership in the United Nations in accordance with Article 4, paragraph 2, of the Charter have also been made in the form of a resolution only. The presidential statements which have been issued on such occasions since 1991 are only complementary to these resolutions and are no more than a gesture of courtesy.¹³⁴

The Security Council has also never imposed, terminated, or suspended sanctions in a presidential statement. It has, however, utilized statements by its President to announce a decision “to defer temporarily the imposition of additional measures” (if the imposition of further sanctions had been promised in a resolution in case of non-compliance)¹³⁵ or to formally record the termination or suspension of a sanctions regime. For example, in paragraph 8 of resolution 1192 (1998) the Security Council had “decided” that the sanctions against Libya set forth in resolutions 748 (1992) and 883 (1003) should be “suspended immediately” if the Secretary-General reported to the Council that the two Libyan nationals accused of the bombing of Pan Am flight 103 over Lockerbie had arrived for trial in the Netherlands and that the Libyan Government had satisfied the French judicial authorities with regard to the bombing of UTA flight 772.¹³⁶ In a letter dated 5 April 1999,¹³⁷ the Secretary-General informed the Council that the requirements of resolution 1192 (1998) had been met. Following consultations of the whole the Council members immediately acknowledged this development through a statement by the President to the press.¹³⁸ Three days later, the

the United Nations Truce Supervision Organization (UNTSO) in the Suez Canal zone and the provision of additional technical material and means of transportation); S/10611, 19 April 1972 (increase in the number of UNTSO observers in the Israel-Lebanon sector).

¹³² UN Doc. S/8047, 10 July 1967 on the stationing of UNTSO observers, originally established by S/RES/50 (1948) of 29 May 1948 to observe the truce in Palestine, in the Suez Canal area.

¹³³ See, e.g., UN Doc. S/23284, 12 December 1991 on the financing of UNFICYP.

¹³⁴ On 9 August 1991, the Security Council for the first time adopted a presidential statement congratulating Micronesia “on the decision which the Council has just taken, namely to recommend to the General Assembly the admission of Micronesia [...]” (UN Doc. S/22917, 9 August 1991).

¹³⁵ S/PRST/1994/45, 12 August 1994 and S/RES/932 (1994), 30 June 1994, para. 5.

¹³⁶ S/RES/1192 (1998), 27 August 1998, para. 8.

¹³⁷ UN Doc. S/1999/378, 5 April 1999.

¹³⁸ SC/6662, 5 April 1999 which stated, in the relevant part, that “Security Council

President of the Council read out a presidential statement in which the Security Council noted that, with the Secretary-General's letter of 5 April 1999, the conditions set forth in resolution 1192 (1998) for the immediate suspension of the sanctions had been fulfilled and recalled that, "in accordance with the resolution", the sanctions had been immediately suspended upon receipt of the letter of the Secretary-General on 5 April 1999 at 14.00 Eastern Standard Time.¹³⁹ This presidential statement was a reaction to a letter from the members of the Council of the League of Arab States to the President of the Security Council in which these States emphasized that:

it is important for the Security Council to adopt a resolution in which it confirms the suspension of the above measures, all the more so in that Security Council resolution 1192 (1998), paragraph 8, does not oppose the adoption of a clear resolution by the Council announcing the suspension of these measures and does not deny the need for such a resolution.¹⁴⁰

The member States of the Movement of Non-Aligned Countries also expressed the view "that the suspension of the sanctions should have been effected through a formal resolution of the Security Council [and not a presidential statement] in order to *put the matter on a sound legal basis*."¹⁴¹ A similar position was taken by the Islamic Group at the United Nations which expressed the view that "the suspension of the sanctions should also have been embodied in a resolution [...] so as to *place the question in its correct legal framework*."¹⁴² As resolution 1192 (1998) itself had provided for the suspension of the sanctions, by specifying a particular terminating event, no further resolution was legally required and none was adopted by the Security Council. Similarly, the termination date for the sanctions imposed on Eritrea and Ethiopia by resolution 1298 (2000) was set out in the resolution itself. In its paragraph 16 the Security Council decided that the measures imposed were established for twelve months and that, at the end of that period, it would decide whether the two States had complied with the conditions set out in the resolution and whether to extend the sanctions for a further period with the same conditions. As the Security Council recognized in informal consultations of the whole that the two States had complied with the conditions, it

members looked forward to [...] the immediate suspension of sanctions [...]."

¹³⁹ S/PRST/1999/10, 8 April 1999.

¹⁴⁰ UN Doc. S/1999/397, 8 April 1999.

¹⁴¹ See the letter dated 20 April 1999 addressed to the UN Secretary-General: UN Doc. S/1999/726, 30 June 1999, 3, para. 11 (*italics added*). An almost identical formulation was used in a letter of the Group of African States to the Secretary-General dated 13 April 1999, see *ibid.*, 3, para. 10.

¹⁴² UN Doc. S/1999/466, 22 April 1999 (*italics supplied*).

only remained for it to note in a presidential statement that, “in accordance with paragraph 16 of resolution 1298 (2000) of 17 May 2000, the arms embargo on the parties expires on 16 May 2001.”¹⁴³ In the case of sanctions resolutions which contain a “sunset clause” presidential statements thus perform a kind of notary function formally documenting the end of the sanctions regime. In addition, the Security Council has used presidential statements to announce the outcome of the review of a sanctions regime. From 1991 to 1995 it was common practice for the President to issue statements on the sanctions imposed against Iraq and Libya along the following lines: “The members of the Security Council held informal consultations [pursuant to the relevant resolutions]. After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the [sanctions] regime.”¹⁴⁴

The most important measure in the arsenal of the Security Council, the authorization of the use of force, has also been reserved to resolutions. No reference may be found in presidential statements to the wording usually used in this context: “acting under Chapter VII of the Charter of the United Nations” and the authorization of the “use of all necessary means”.¹⁴⁵ The same holds good for express determinations, in accordance with Article 39 of the UN Charter, that a situation constitutes a threat to international peace and security. Mention of such threats has been made only in passing.¹⁴⁶ It has been argued that presidential statements may be used by the Security Council to countenance the use of force pursuant to an earlier resolution.¹⁴⁷ While it is true that the Security Council may authoritatively determine that the conditions for the use of force set out in a resolution are fulfilled and may thus trigger the authorization, especially if the

¹⁴³ S/PRST/2001/14, 15 May 2001.

¹⁴⁴ UN Docs. S/22904, 5 August 1991; S/23107, 2 October 1991; S/23305, 6 December 1991; S/23305, 20 December 1991; S/23517, 5 February 1992; S/23761, 27 March 1992; S/24010, 27 May 1992; S/24352, 27 July 1992; S/24584, 24 September 1992; S/24843, 24 November 1992; S/25157, 25 January 1993; S/25480, 29 March 1993; S/25830, 24 May 1993; S/26126, 21 July 1993; S/26474, 20 September 1993; S/26768, 18 November 1993; S/26861, 10 December 1993; S/PRST/1994/3, 18 January 1994; S/PRST/1994/18, 8 April 1994; S/PRST/1994/41, 5 August 1994; S/PRST/1994/76, 30 November 1994; S/PRST/1995/14, 30 March 1995; S/PRST/1995/36, 28 July 1995; S/PRST/1995/56, 22 November 1995.

¹⁴⁵ Cf., e.g. S/RES/1493 (2003), 28 July 2003; S/RES/1080 (1996), 15 November 1996; S/RES/1031 (1995), 15 December 1995; S/RES/940 (1994), 31 July 1994; S/RES/929 (1994), 22 June 1994; S/RES/678 (1990), 29 November 1990.

¹⁴⁶ See, e.g., S/PRST/2002/36, 13 December 2002; S/PRST/2000/12, 7 April 2000.

¹⁴⁷ Jules Lobel and Michael Ratner, *Bypassing the Security Council: Ambiguous Authorizations to Use Force, Cease-Fires and the Iraqi Inspection Regime*, 93 *AJIL* (1999), 124-154 at 151, n. 112.

resolution has been adopted several years ago, the basic requirement in such a case is that the resolution, in fact, authorizes the use of force under the conditions in question. Contrary to what Jules Lobel and Michael Ratner argue,¹⁴⁸ the air strikes launched by the United States of America, the United Kingdom and France on 13 and 18 January 1993 and the allied missile attack of 17 January 1993 on Iraqi targets were not covered by the authorization to use force contained in resolution 678 (1990). The fact that the Security Council, in its presidential statement of 11 January 1993, had found Iraq “in material breach of resolution 687 (1991)”,¹⁴⁹ as it had done previously,¹⁵⁰ could not reactivate resolution 678 (1990) as this resolution only authorized Member States to use all necessary means “to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area”.¹⁵¹ All subsequent resolutions only referred to the resolutions adopted prior to resolution 678 (1990) as becomes clear from the list of relevant resolutions adopted since resolution 660 (1990) contained in paragraph 1 of the preamble of resolution 678 (1990). It is highly unlikely that the Council intended to give individual member States a blank authorization to uphold all future resolutions on Iraq by force of arms. In this context, it is also of relevance that in its presidential statement adopted on 11 January 1993 the Security Council reaffirmed that, in resolutions 687 (1991) and 773 (1991), it had guaranteed the inviolability of the boundary between Kuwait and Iraq and that it had undertaken “to take *as appropriate* all necessary measures to that end in accordance with the Charter of the United Nations.” In addition, the presidential statement warned “of the serious consequences that will flow” from the continued defiance of resolution 687 (1991) closing with the formula that “the Council will remain actively seized of the matter.” All this speaks against the position that three Council members were allowed to decide on their own only three days later that, in their view, it was now appropriate to launch air strikes against Iraq. Even more questionable seems the opinion that a use of force without any legal basis in a prior resolution may be authorized *ex post facto* by a presidential statement.¹⁵²

¹⁴⁸ Ibid., 151-152.

¹⁴⁹ UN Doc. S/25091, 11 January 1993.

¹⁵⁰ Already in the presidential statement of 19 February 1992 the Council had found that Iraq’s behavior constitutes “a continuing material breach of the relevant provisions of resolution 687 (1991).” (UN Doc. S/23609, 19 February 1992). See also S/PRST/1996/ 11, 19 March 1996 where the Council termed Iraq’s actions “a clear violation by Iraq of the provisions of resolutions 687 (1991), 707 (1991) and 715 (1991).”

¹⁵¹ S/RES/678 (1990), 29 November 1990, para. 2.

¹⁵² For this view, see Nowrot and Shabacker, above n. 13, 362-363.

V. The Legal Status of Presidential Statements

V.A. Decisions of the Security Council

The terms resolution, letter, note, or (presidential) statement only describe the *form* in which the Security Council acts and do not allow one to draw conclusions as to the legal nature of the action. The distinction is thus not between decisions and recommendations on the one hand and presidential statements and other “softer” forms of action on the other hand but between the form and the legal nature of an action.¹⁵³ Whether presidential statements may convey or themselves be “decisions” of the Security Council must be determined on the basis of the UN Charter and the practice of the Security Council.¹⁵⁴ The term “decisions of the Security Council” in Article 27 of the UN Charter refers to all types of actions which the Security Council may take. According to paragraphs 2 and 3 of the provision “Decisions of the Security Council [...] shall be made by an affirmative vote”. This, however, does not rule out decision-making by consensus since it is characteristic of this procedure that all members of the Security Council endorse a decision reached by consensus.¹⁵⁵ That decisions by the Security Council may be made by consensus is, in fact, confirmed by several presidential statements which expressly use the words “the Council decides”¹⁵⁶ or are entitled “Decision of the Security Council”.¹⁵⁷ Moreover, in early practice “the consensus of the views of the Council members” was referred to by the President as “the Council’s decision” and in the Official Records of the Security Council it was entered after the President’s statement that, since he heard no objection, he declared the consensus adopted: “*It was so decided.*”¹⁵⁸ The practice of

¹⁵³ *Contra* Ingo Winkelmann, Security Council, in: Helmut Volger (ed.), *A Concise Encyclopedia of the United Nations* (2002), 497-505 at 501.

¹⁵⁴ On decision by the Security Council, see F.Y. Chai, *Consultation and Consensus in the Security Council* (1971), 13, 18-19.

¹⁵⁵ See Jost Delbrück, Article 25, in: Bruno Simma (ed.), *1 The Charter of the United Nations. A Commentary* (2nd ed. 2002), 452-464 at 458, MN 15; Simma, Brunner and Kaul, above n. 54, 512-513, MN 111-116; Suy, above n. 73, 760.

¹⁵⁶ See, e.g., S/PRST/1994/13, 31 March 1994; S/PRST/1994/45, 12 August 1994; S/PRST/1994/48, 25 August 1994; S/PRST/1994/55, 16 September 1994; S/PRST/2001/3, 31 January 2001.

¹⁵⁷ UN Doc. S/10705, 20 June 1972. See also the Italian position on this presidential statement: “The Italian Government would have also preferred the adoption of a resolution on the matter in a formal meeting [...] rather than a decision agreed upon by the members of the Council through informal consultations.” (1 Italian YIL (1975), 311-312).

¹⁵⁸ SCOR, 22nd year, 1366th meeting, 9/10 July 1967, 13, paras. 125-130, 135; SCOR, 22nd year, 1383rd meeting, 24/25 November 1967, 14, paras. 151-152.

States and the UN Secretariat also confirms that presidential statements are decisions of the Security Council in the sense of Article 27 of the UN Charter.¹⁵⁹ Thus, the delegate of Pakistan declared on 4 November 1994 in the Security Council: “The decision taken by the Security Council through the presidential statement read out at the 2448th meeting of the Council represent another important link in the overall efforts to improve and rationalize the functioning of the Security Council [...]”¹⁶⁰ In its Progress Report on the United Nations Observer Mission in Angola, the Secretary-General wrote: “I am confident that it [the Security Council] will continue to exercise its authority and take all necessary steps to ensure full compliance with its decisions, including [...] the presidential statement of 23 July 1997 (S/PRST/1997/39).”¹⁶¹ Bangladesh wrote in the report on its presidency of the Security Council in March 2000 that the Working Group on Documentation and Procedure had examined “issues relating to the distribution of the text of [presidential] statements, communicating Council decisions and messages to all concerned”.¹⁶²

In contrast, statements by the President of the Security Council to the press do not constitute decisions of the Security Council under Article 27 of the UN Charter.¹⁶³ This is already shown by the fact that, unlike presidential statements, they are not included in the publication entitled “Resolutions and Decisions of the Security Council” published annually in the “S/INF/*” series as part of the Official Records of the Security Council. As has been shown above,¹⁶⁴ presidential press statements are not made “on behalf of the Security Council” but “on behalf of the members of the Council”. Furthermore, the text of presidential press statements or at least its elements is adopted by Council members in informal consultations. Decisions of the Security Council, however, can only be taken in a formal meeting of the Security Council. It cannot be done in a private gathering of the Council members.¹⁶⁵ The taking of a decision in this way would give informal consultations an official legal status which they do not have.¹⁶⁶ This is also confirmed by the practice of the Security Council which distinguishes in its practice notes between “statements to the press made by the President on behalf

¹⁵⁹ See also Sydney D. Bailey, *Voting in the Security Council* (1969), 83.

¹⁶⁰ SCOR, 49th year, 3449th meeting, 4 November 1994, 9.

¹⁶¹ UN Doc. S/1997/640, 13 August 1997, 11, para. 40.

¹⁶² UN Doc. S/2000/679, 31 July 2000, 6.

¹⁶³ *Contra* Simma, Brunner and Kaul, above n. 54, 520, MN 150.

¹⁶⁴ See section II.1.

¹⁶⁵ Cf. the statement of the British representative in the Security Council: “There is only one meeting of the Security Council that can take a decision, and that is this meeting of the Council, meeting in public. It cannot be done in private, in informal consultations [...]” (SCOR, 31st year, 1870th meeting, 12 January 1976, para. 78).

¹⁶⁶ See text to n. 77 above.

of Council members or decisions of the Council.”¹⁶⁷ Unlike presidential statements, press statements thus have no legal status at all.

V.B. The Legal Implications of Presidential Statements

The Security Council can, without question, take internal organizational and procedural decisions in presidential statements which bind the Council itself and its members as well as the Secretariat.¹⁶⁸ It may also authorize in a presidential statement the Secretary-General to take action incurring financial obligations (such as the enlargement of the number of military observers or the provision of additional material and means of transportation for a peacekeeping force¹⁶⁹) which the General Assembly has no alternative but to honor as expenses of the United Nations within the meaning of Article 17 of the UN Charter and which may be raised from obligatory contributions to be made by the member States.¹⁷⁰ The important question, however, is: Are presidential statements legally binding on the member States of the United Nations, i.e., are the member States obligated to adhere to them? The fact that presidential statements constitute “decisions of the Security Council” in the sense of Article 27 of the UN Charter does not allow any conclusion about their legal implications. The word “decision” is used in more than one meaning in the United Nations Charter. Even a recommendation may be a decision in that sense, although a non-binding one. According to Article 4, paragraph 2, of the UN Charter the admission of a State to membership in the United Nations “will be effected by a decision of the General Assembly upon the recommendation of the Security Council.” This recommendation is usually referred to as “decision”.¹⁷¹ Thus, the statement read out by the President of the Security Council on 18 May 1992 reads in part as follows:

It is a privilege for me, on behalf of the members of the Security Council to congratulate the Republic of Croatia on the *decision* which the Council has just taken, namely to recommend to the General Assembly the admission of the Republic of Croatia to membership in the United Nations.¹⁷²

¹⁶⁷ See, e.g., UN Doc. S/2001/640, 29 June 2001, para. 1 (b); S/2002/603, 6 June 2002, 14, para. 24. By “decisions of the Council” the Security Council means resolutions and presidential statements, see *ibid.*, 18.

¹⁶⁸ See Chapter V and Art. 98 of the UN Charter.

¹⁶⁹ See above n. 131.

¹⁷⁰ Cf. *Certain Expenses of the United Nations* (Article 17, paragraph 2, of the Charter), ICJ Reports 1962, 151 at 169, 175-177.

¹⁷¹ See also Art. 18, para. 2, of the UN Charter.

¹⁷² UN Doc. S/23945, 18 May 1992 (*italics added*). See also S/PRST/2002/23, 24 July

It is clear that this recommendation of the Security Council cannot be a binding decision; otherwise, the UN Member States assembled in the General Assembly could no longer decide freely whether or not to admit a State to membership of the organization. Article 4, paragraph 2, of the UN Charter providing for a “decision of the General Assembly” would become an empty shell.

The decisive question thus is whether presidential statements qualify as (a means to convey) binding decisions of the Security Council in the sense of Article 25 of the UN Charter. Article 25 does not contain any provision on the form in which a binding decision is to be taken. The UN Charter and its Provisional Rules of Procedure provide the Security Council with considerable flexibility in choosing the form of a (binding) decision best suited to the situation.¹⁷³ A binding decision thus could, in principle, be contained in a presidential statement. It is generally accepted that decisions taken under Chapter VII of the UN Charter are legally binding in terms of Article 25. In order to trigger decisions under Chapter VII it is necessary for the Security Council to “determine” under Article 39 that the situation in question constitutes a “threat to the peace, breach of the peace, or act of aggression”. As has been shown,¹⁷⁴ the presidential statements adopted to date have neither made reference to Chapter VII nor have they contained a formal determination pursuant to Article 39. A mere allusion by the Security Council to a threat to the peace is not sufficient in this respect.¹⁷⁵ It is therefore suggested that none of these presidential statements falls under Chapter VII.¹⁷⁶ It is already for this reason that most States and the majority of the literature would, it is suggested correctly, deny them any binding legal force.¹⁷⁷ This position, however, does not conform with the view taken by the International Court of Justice (ICJ). In its *Namibia* Opinion,¹⁷⁸ the ICJ had to decide whether a resolution which was not preceded by a finding under Article 39 and thus clearly did not fall

2002: “The Security Council has decided to recommend to the General Assembly that the Swiss Confederation be admitted as a Member of the United Nations.”

¹⁷³ Neither the word resolution nor the word presidential statement may be found in the UN Charter. The Charter distinguishes only between decisions and recommendations.

¹⁷⁴ See text to nn. 144-145.

¹⁷⁵ Cf. Jochen Abr. Frowein and Nico Krisch, Article 39, in: Bruno Simma (ed.), 1 *The Charter of the United Nations. A Commentary* (2nd ed., 2002), 717-729 at 726-727, MN 26-27.

¹⁷⁶ This does not mean that the Security Council is prevented by the UN Charter or its Rules of Procedure to adopt a presidential statement acting under Chapter VII. It may well do so. It is only argued that so far—for good reasons—it has not done so.

¹⁷⁷ *Ibid.*, 727, MN 28 and references there given.

¹⁷⁸ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, ICJ Reports 1971, 16.

under Chapter VII was a legally binding decision under Article 25 of the UN Charter. The Court rejected the view that Article 25 is confined to decisions in regard to enforcement action under Chapter VII.¹⁷⁹ It then stated:

The language of a resolution of the Security Council should be carefully analysed before a conclusion can be made as to its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining the legal consequences of the resolution of the Security Council.¹⁸⁰

It was this passage which Counsel for the United Kingdom, the Lord Advocate for Scotland, had in mind when on 20 October 1997, in his Oral Argument in the *Lockerbie* Case, he stated with regard to the presidential statement of 20 June 1972¹⁸¹ directed to the issue of terrorist attacks against civilian aircraft:

If a question were to arise about the status of this act—whether, for example, it amounted to a ‘decision’ of the Council for the purposes of Articles 25 and 48 of the Charter—the United Kingdom accepts that this would be a matter into which the Court could, and should, enquire.¹⁸²

Unfortunately, this question was not taken up by the Court in its judgment of 27 February 1998.¹⁸³ According to the Court’s argument in the *Namibia* Opinion one would have to determine in each case whether the Security Council intended a presidential statement to be binding, having regard to its terms, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining its legal consequences.¹⁸⁴ As no official records

¹⁷⁹ Ibid., 52-53, para. 113.

¹⁸⁰ Ibid., 53, para. 114.

¹⁸¹ UN Doc. S/10705, 20 June 1972.

¹⁸² Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (*Libya v. United Kingdom*) (Preliminary Objections), CR 97/22, para. 3.5.

¹⁸³ Ibid., ICJ Reports 1998, 9.

¹⁸⁴ This approach has been supported by: Renata Sonnenfeld, Resolutions of the United Nations Security Council (1988), 58 (who regards only resolutions as being binding under Article 25 of the UN Charter, *ibid.*, 143); Chai, above n. 154, 40. Both authors are regularly wrongly claimed for the view that presidential statements can have “the same legal effect as a formal resolution”, a view they do *not* take.

exist of informal consultations, the discussions leading to a presidential statement would, however, not be available to the Court of Justice. If one examines the language of presidential statements adopted since 1946, the presidential statement of 3 March 1993 is probably the closest one gets to a binding decision. In this statement the Council “having determined in the relevant resolutions that this situation constitute a threat to international peace and security [...] insists that these steps [previously set out in the statement] must be taken immediately.”¹⁸⁵ The demands contained in the presidential statement were, however, not addressed to a member State of the United Nations but to “the leaders of all the parties to the conflict in Bosnia and Herzegovina” or to the “Bosnian Serb side”. Thus, it cannot be taken as an example of a binding decision in the sense of Article 25 of the UN Charter which only concerns the Members of the United Nations. In any case, it is argued that no examination of the language of a presidential statement is necessary as the circumstance that a decision is contained in a presidential statement instead of in a resolution already shows that the Security Council did not intend to make it binding for member States.¹⁸⁶ This does not, of course, mean that all resolutions are intended to be binding (which they are not),¹⁸⁷ it is only to say that if the Security Council intends to adopt a mandatory decision, it will, as a rule, opt for the form of a resolution. There are several indications for this. First of all, neither the Security Council nor any member State has ever claimed that a certain presidential statement was binding. On the contrary, on 27 February 1995, the French delegate stated in the Security Council with respect to the adoption of resolution 978 (1995):

The text we have just adopted might be useful inasmuch as it constitutes *a political message* to all States [...]. Nevertheless, my delegation cannot hide the fact that adopting a resolution was never, in its view, *the right way to send such a message*. [...] *The most appropriate legal formula would have been a presidential statement* [...]. Our efforts have helped develop a text [for resolution 978] that, in its final version makes no mention of Chapter VII of the Charter, addresses requests to States that are not binding in nature [...].¹⁸⁸

Thus, France considers presidential statements the most appropriate legal formula to send political messages, addressing requests to States that are not binding in

¹⁸⁵ UN Doc. S/25361, 3 March 1993.

¹⁸⁶ For the same result but without reasons, see Eckart Klein, Die Internationalen und Supranationalen Organisationen, in: Wolfgang Graf Vitzthum (ed.), Völkerecht (2nd ed., 2001), 267-377 at 330, MN 147.

¹⁸⁷ On the binding force of resolutions, see the Legal Opinion of the UN Secretariat of 6 May 1983: 1983 UN Juridical Yearbook (1990), 163-164.

¹⁸⁸ SCOR, 50th year, 3504th meeting, 27 February 1995, 3-4 (italics supplied).

nature. Similarly, Argentina distinguishes between resolutions which it defines, in short, as “documents expressing the Council’s will and giving rise to commitments” and statements that merely “express the opinions of those issuing them”.¹⁸⁹ In this connection it is also of interest that in April 1999 several groups of States took the view, although mistakenly, that the suspension of sanctions against Libya “should have been effected through a formal resolution of the Security Council [and not by a presidential statement] in order to put the matter on a sound legal basis.”¹⁹⁰ This view seems to have been based on the *actus contrarius* doctrine according to which measures imposed by a binding decision have to be suspended or terminated in the same way, i.e., by a binding decision. Such a decision could, in their view, not be contained in a presidential statement. This seems to be supported by the statement of the United States Department of State spokesman, Michael McCurry, who on 28 March 1994 explained that “presidential statements are very significant, reflect the sentiments of members of the Security Council as stated by the President” while “resolutions, of course, have additional impact”.¹⁹¹ One further argument may be adduced in support of the present position. While the Security Council regularly calls upon States and non-State actors to abide by their obligations under relevant resolutions no such calls have been made with respect to presidential statements.¹⁹² Presidential statements thus do not contain decisions of a mandatory but only of a recommendatory nature.

VI. The Role of Presidential Statements

If presidential statements are not mandatory decisions under Article 25 of the UN Charter, what role do they play in the practice of the Security Council? It has been suggested by Bhaskar Menon that presidential statements “perform a

¹⁸⁹ Letter dated 2 June 1995 from the Permanent Representative of Argentina to the United Nations addressed to the President of the Security Council concerning changes to the nomenclature of statements made by the President of the Security Council: UN Doc. S/1995/457, 9 June 1995, 2-3. See also the statement of the British Minister of State, Foreign and Commonwealth Office, which described the presidential statement of 31 January 1992 (UN Doc. S/23500, 31 January 1992) as “a summation of points discussed and agreed at the meeting, but [which] was not designed to have legal effect.” (Hansard, House of Lords, Debates, vol. 554, WA, col. 54: 29 April 1994; also reproduced in 65 BYIL (1994), 598-599).

¹⁹⁰ See text to nn. 139-141.

¹⁹¹ US Department of State, Daily Press Briefing, 28 March 1994: http://dosfan.lib.uic.edu/ERC/briefing/daily_briefings/1994/9403/940328db.html.

¹⁹² But the Security Council recalls both its resolutions and presidential statements in the preamble of resolutions and presidential statements.

kind of Greek Chorus role” for resolutions.¹⁹³ While this is true, they are by no means restricted to that role. At least seven different functions can be identified which a presidential statement may perform with regard to a resolution:¹⁹⁴

First, a presidential statement may be used to complement a resolution.¹⁹⁵ It may be issued either at the same time as the resolution (immediately before or after its adoption) or sometime later. In the first case, the presidential statement may either elaborate the resolution or serve as a trade-off for the agreement of Council members or as compensation for a response otherwise perceived to be inadequate by the parties by stating a position which the majority or a permanent member of the Security Council is not prepared to include in the resolution itself. The following may serve as an example: In the wake of the Temple Mount incident on 8 October 1990 when twenty Palestinians were killed and more than 150 injured when several Israelis symbolically laid the cornerstone for the second Temple near the Dome of the Rock Mosque, the Council adopted three resolutions which did not fully meet the expectations of the Palestinians and Arab countries.¹⁹⁶ In order to address their concerns, the Security Council in paragraph six of the preamble of resolution 681 (1990) of 20 December 1990 took into consideration a statement “concerning the method and approach for a comprehensive just and lasting peace in the Arab-Israeli conflict” which was read out by its President immediately prior to the adoption of the resolution during the 2970th meeting of the Council.¹⁹⁷ In this statement the members of the Security Council agreed that “an international conference, at an appropriate time, properly structured, should facilitate efforts to achieve a negotiated settlement and lasting peace in the Arab-Israeli conflict.”¹⁹⁸ This was the first time that the Security Council expressly endorsed the idea of an international conference to solve the Arab-Israeli conflict, an idea promoted by the Palestinians but rejected by Israel and the United States of America. As the latter had not, however, fully

¹⁹³ Bhaskar Menon, *Security Council Statements in 1994: A New Genre*, No. 45-46 (31 December 1994), 4.

¹⁹⁴ For a different classification, see Tavernier, above n. 10, 95-98.

¹⁹⁵ The presidential statement of 30 November 1976 in connection with S/RES/398 (1976) reads: “In connection with the adoption of the resolution on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council regarding the resolution just adopted.” (UN Doc. S/12247, 30 November 1976). For similar statements, see UN Docs. S/12934, 30 November 1978; S/13662, 30 November 1979; S/PRST/1999/33, 24 November 1999; S/PRST/2000/19, 31 May 2000.

¹⁹⁶ In S/RES/672 (1990), 12 October 1990; S/RES/673 (1990), 24 October 1990; S/RES/681 (1990), 2 December 1990.

¹⁹⁷ See UN Doc. S/PV.2970 (Part II), 20 December 1990, 2-4.

¹⁹⁸ UN Doc. S/22027, 20 December 1990.

given up the objections to the idea, it could be included only in a complementary presidential statement and not in the resolution itself.¹⁹⁹ Presidential statements complementary to a Council resolution are comparable to agreements relating to a treaty made between all the parties either in connexion with the conclusion of the treaty or subsequently. In so far as the rules on treaty interpretation are, by analogy, applicable to the interpretation of Security Council resolutions,²⁰⁰ presidential statements may be used as a means of interpretation in the sense of Article 31, paragraphs 2 (a) and 3 (a), of the Vienna Convention on the Laws of Treaties to establish the context of the resolution.

Secondly, the Security Council may employ presidential statements in order to implement a resolution. For example, the presidential statement of 2 November 1973 was entitled “United Nations Emergency Force (Security Council resolution 340 (1973) of 25 October 1973): implementation—second phase”.²⁰¹ After the Security Council had decided in resolution 340 (1973) to “set up immediately [...] a United Nations Emergency Force to be composed of personnel drawn from States Members of the United Nations except the permanent members of the Security Council and requests the Secretary-General to report within 24 hours on the steps taken to that effect” and, in resolution 341 (1973) of 27 October 1973, had decided that the Force shall be established in accordance with the report of the Secretary-General on the implementation of resolution 340 (1973) for an initial period of six months, it used the presidential statement of 2 November 1973 to announce the member States which were invited to contribute troops to the Force.²⁰² While both the establishment of the Force and the determination of the duration of its mandate required a binding decision and thus a resolution, the announcement of the composition of the Force, as an internal organizational question, could be made in a presidential statement.

Presidential statements may also be used to convey the result of a review process provided for in a resolution,²⁰³ to reaffirm a resolution,²⁰⁴ to remind States of their obligations to comply with the provisions of a resolution,²⁰⁵ to document

¹⁹⁹ This becomes clear from the passage in the same statement that Council members “are of the view that there is not unanimity as to when would be the appropriate time for such a conference.”

²⁰⁰ On the application of Articles 31 to 33 VCLT to Security Council resolutions, see Wood, above n. 66, 85-95.

²⁰¹ UN Doc. S/11072, 2 November 1973.

²⁰² See also the presidential statement of 26 August 1971 (UN Doc. S/10299) on the composition of the Special Mission of the Security Council to Guinea established in S/RES/295 (1971) of 3 August 1971.

²⁰³ See text to n. 143.

²⁰⁴ UN Doc. S/10705, 20 June 1972.

²⁰⁵ UN Doc. S/26787, 23 November 1993; S/PRST/1996/49, 30 December 1996.

the non-compliance of a State with a resolution,²⁰⁶ or to set out the conditions for the adoption of a resolution.²⁰⁷ Finally, presidential statements may simply translate the inability of the Council to agree on the text of or the need for a resolution. The latter may be illustrated by the following example: On 10 November 1967 the Soviet Union submitted a draft resolution in which the UN Secretary-General was authorized to “increase the number of observers [in the Suez-Canal zone] to ninety and to take measures proposed in his report [...] concerning the provision of additional technical facilities and means of transport for the United Nations Observer Group.”²⁰⁸ As Council members could not agree on the question whether the enlargement of the existing peacekeeping operation by the Secretary-General required a further authorization by the Security Council, the problem was “solved” on 8 December 1967 by adopting a presidential statement which largely resembled the Soviet draft resolution.²⁰⁹

Presidential statements also play an important role in the political process. They serve as a means to diffuse tension and to take up the concerns of the parties if a permanent member objects to the adoption of a resolution in order to protect its interests or those of its allies or client States. For example, the United States on several occasions indicated that it would not accept a draft resolution on the situation in the Middle East or related items but expressed its readiness to work on a presidential statement on the matter. This may be one reason why presidential statements on the Arab-Israeli conflict²¹⁰ (with over 130 statements in total) still head the all time “league table” of presidential statements. Similarly, China has repeatedly indicated that a presidential statement is the only measure it will consent to with respect to the nuclear program of the Democratic People’s Republic of Korea (DPRK). On 31 March 1994 the Chinese Foreign Ministry spokesman declared that exerting pressure on Pyongyang “can only deteriorate the atmosphere and aggravate the problem. Therefore we do not accept a Security Council resolution.” He added that China’s insistence on a presidential statement “represents an effort to facilitate the resumption of dialogue.”²¹¹ Faced

²⁰⁶ UN Docs. S/23699, 11 March 1992; S/24836, 23 November 1992.

²⁰⁷ UN Doc. S/23732, 19 March 1992.

²⁰⁸ UN Doc. S/8236, 10 November 1967. See also the letter dated 6 December 1967 from the Permanent Representative of the USSR to the United Nations to the President of the Security Council: UN Doc. S/8287, 7 December 1967.

²⁰⁹ In the presidential statement the Council members “recognize the necessity of the enlargement by the Secretary-General of the number of observers in the Suez Canal zone and the provision of additional technical material and means of transportation” (UN Doc. S/8289, 8 December 1967). See also Chai, above n. 154, 26.

²¹⁰ Covering the items situation in the Middle East, the situation in the occupied Arab territories, the Palestinian question, Israel and Lebanon, Israel and Syria.

²¹¹ AFP, 31 March 1994: “China insists on moderate UN warning to N. Korea” (1994 WL 9589595).

with Chinese opposition the Council did not adopt a resolution but, instead, several presidential statements which contained the warning that the “Security Council decides to remain actively seized of the matter and that further Security Council consideration will take place if necessary [...]”.²¹² The United States of America and the other permanent members which had initially favored a resolution in the end accepted a presidential statement in order to keep China on board, rather than see it abstain or veto the draft resolution which in both cases would have weakened the message that was to be conveyed to the DPRK. However, they tried to include as much of the draft resolution in the presidential statement as possible. It was hoped that China’s cooperation in devising the presidential statement would lay the groundwork for its future abstention should the Council, in case of non-compliance with its requests, ultimately decide to impose sanctions on North Korea.

In addition, presidential statements allow the Security Council to use much stronger language than in a resolution. It seems that the permanent members are prepared to be more critical of their allies in a presidential statement than in a resolution. This may be illustrated by the following examples: After an attack by Palestinian armed elements in April 1980, Israeli armed forces moved into southern Lebanon. During the operation two Irish soldiers of the United Nations Interim Force in Lebanon (UNIFIL) were killed by the South Lebanese Army (SLA) under Major Haddad which was supplied, trained and advised by Israel. In its presidential statement of 18 April 1980 “the Security Council strongly condemns all those who share in the responsibility for this outrageous act”, i.e. “the attacks on the Force and the cold-blooded murder of peace-keeping soldiers by the *de facto* forces, [i.e. the SLA and Israel²¹³].”²¹⁴ In comparison, resolution 467 (1980) which was adopted six days later only “strongly deplores [...] all acts of hostility against the Force” and “all acts that have led to the loss of life and physical injuries among the personnel of the Force” without attributing responsibility.²¹⁵ Another interesting case study in this connection is the use of chemical weapons during the First Gulf War by Iraq, at that time an ally of the permanent Council member the United States of America. While the Security Council in the relevant resolutions, after noting that both the Islamic Republic of Iran and Iraq are parties to the 1925 Geneva Gas Protocol, only “deplores [...]

²¹² S/PRST/1994/13, 31 March 1994; S/PRST/1994/28, 30 May 1994; S/PRST/1994/64, 4 November 1994.

²¹³ For the responsibility of Israel and the SLA, see the Letter dated 21 April 1980 from the Acting Permanent Representative of Ireland to the UN addressed to the Secretary-General: UN Doc. S/13901, 21 April 1980. See also the letter on behalf of the nine member States of the European Community: UN Doc. S/13907, 25 April 1980.

²¹⁴ UN Doc. S/13900, 18 April 1980.

²¹⁵ S/RES/467 (1980), 24 April 1980, para. 2 (c) and (h).

the use of chemical weapons contrary to obligations under the 1925 Geneva Protocol”²¹⁶ in general terms, it was more outspoken about the side that used chemical weapons in a presidential statement. There, the members of the Council “profoundly concerned by the unanimous conclusion of the specialists that chemical weapons on many occasions have been used by Iraqi forces against Iranian forces [...] strongly condemn this continued use of chemical weapons in clear violation of the Geneva Protocol of 1925 which prohibits the use in war of chemical weapons.”²¹⁷

VII. Concluding Remarks

A presidential statement is not just another United Nations document. Although not a legally binding decision in the sense of Article 25 of the UN Charter, it is not without legal implications. Its adoption by consensus ensures that it carries considerable political weight. It constitutes an essential element in the three-tier response system that may be applied to the bulk of disputes and situations dealt with by the Security Council: a presidential press statement as the quickest but also mildest form of reaction, followed by a presidential statement and finally a resolution.²¹⁸ While a press statement is made on behalf of the members of the Council, the latter two instruments constitute proper Security Council action. Presidential statements are thus an important weapon in the diplomatic arsenal of the Security Council. Although there seems to be a tendency in recent years to scale down the number of presidential statements and to make greater use of press statements by the President,²¹⁹ presidential statements have a distinctive and important legal and political role to play as it is only through them that the Council as an organ of the United Nations can express itself “below” the level of a resolution. In view of this role their existence as a distinct category of Security Council decision-making should be recognized and institutionalized in any future revision of the Provisional Rules of Procedure of the Security Council.

²¹⁶ S/RES/582 (1986), 24 February 1986, para. 2.

²¹⁷ UN Doc. S/17932, 21 March 1986. For a similar statement, see UN Doc. S/18862, 14 May 1987. Earlier statements only noted that “chemical weapons have been used” without stating by which side, see UN Docs. S/16454, 40 March 1984, S/17130, 25 April 1985.

²¹⁸ For the most recent example of this three-tier response, see the Security Council’s reaction to the bombing of the United Nations Headquarters in Baghdad on 19 August 2003: SC/7847, 19 August 2003, S/PRST/2003/13, 20 August 2003, and S/RES/1502 (2003), 26 August 2003.

²¹⁹ See the figures in n. 52.

Annex 1: Table of Resolutions and Presidential Statements (1946-2003)²²⁰

Year	Statements	Resolutions	Year	Statements	Resolutions
1946	2	15	1975	—	18
1947	—	22	1976	3	18
1948	—	29	1977	2	20
1949	—	12	1978	3	21
1950	—	11	1979	11	18
1951	—	7	1980	5	23
1952	—	2	1981	7	15
1953	—	5	1982	8	29
1954	1	2	1983	7	17
1955	—	5	1984	4	14
1956	—	11	1985	15	21
1957	—	5	1986	10	13
1958	—	5	1987	10	13
1959	—	1	1988	8	20
1960	—	28	1989	17	20
1961	—	10	1990	14	37
1962	—	7	1991	20 ²²¹	42
1963	—	8	1992	83	74
1964	1	14	1993	88	93
1965	2	20	1994	82	77
1966	2	13	1995	63	66
1967	3	12	1996	49	57
1968	2	18	1997	57	54
1969	1	13	1998	38	73
1970	1	16	1999	34	65
1971	2	16	2000	40 [41] ²²²	50
1972	3	17	2001	39	52
1973	3	20	2002	42	68
1974	1	22	2003 ²²³	18	59
Total (1946-2003)			801		1513

²²⁰ The numbers have been compiled from the publication “Resolutions and Decisions of the Security Council” published in the series S/INF/* as part of the Official Records of the Security Council. Declarations by the president of the Security Council have been included only if they were expressly recorded as “statement”. Appeals, communiqués, notes and letters which the President made, issued or sent on behalf of the Security Council have not been included in the list.

²²¹ The number of presidential statements for 1991 is sometimes given as 21. While the official communiqué issued by the Secretary-General at the close of the private part of the 2977th meeting of the Security Council on the item entitled “The situation between Iraq and Kuwait” states that “on 2 March, the President made a statement” (UN Doc. S/22319, 2 March 1991), the text of this statement has not been published and the statement, therefore, is not included in the present list.

²²² S/PRST/2000/27, 4 August 2000, was withdrawn and reissued as UN Doc. S/2000/772, 9 August 2000. See S/PRST/2000/27/Corr.1, 9 August 2000.

Annex 2: List of Presidential Statements (1946-1993)²²⁴

Year	Date	Subject Matter	Meeting	Document
1993	08.01.	Slovakia-UN membership	3157	S/25069
	08.01.	Czech Republic -UN membership	3158	S/25071
	08.01.	Bosnia-Herzegovina	3159	S/25079
	08.01.	Bosnia-Herzegovina	3160	S/25080
	08.01.	Iraq-Kuwait	3161	S/25081
	11.01.	Iraq-Kuwait	3162	S/25091
	25.01.	Iraq-Kuwait	—	S/25157
	25.01.	Bosnia-Herzegovina	3164	S/25162
	27.01.	UN protected areas in Croatia	3165	S/25178
	28.01.	Agenda for peace	3166	S/25184
	28.01.	Yugoslavia-Danube vessels	—	S/25190
	28.01.	Middle East	3167	S/25185
	29.01.	Georgia-Abkhazia	3169	S/25198
	29.01.	Armenia-Nakhichevan	—	S/25199
	09.02.	Central America: efforts towards peace	3172	S/25257
	10.02.	Yugoslavia-Danube vessels	—	S/25270
	17.02.	Bosnia-Herzegovina	3173	S/25302
	24.02.	Bosnia-Herzegovina	3176	S/25328
	25.02.	Bosnia-Herzegovina	3177	S/25334
	26.02.	Agenda for peace	3178	S/25344
	03.03.	Bosnia-Herzegovina	3180	S/25361
	17.03.	Bosnia-Herzegovina	3184	S/25426
	18.03.	Central America: efforts towards peace	3185	S/25427
	25.03.	Bosnia-Herzegovina	3186	S/25471
	26.03.	Cyprus	—	S/25478
	29.03.	Iraq-Kuwait	—	S/25480
	31.03.	Agenda for peace	3190	S/25493
	03.04.	Bosnia-Herzegovina	3192	S/25520
	05.04.	Cambodia-UNTAC	3193	S/25530
	06.04.	Nagorny-Karabakh	3194	S/25539
	07.04.	FYR of Macedonia-UN membership	3196	S/25545
	08.04.	DPR Korea-NPT	—	S/25562
	08.04.	Libya-sanctions	—	S/25554
	08.04.	Bosnia-Herzegovina	—	S/25557
	12.04.	South Africa	3197	S/25578
	21.04.	Bosnia-Herzegovina	—	S/25646
	30.04.	Agenda for peace	3207	S/25696
	10.05.	Bosnia-Herzegovina	3210	S/25746
	22.05.	Cambodia-UNTAC	3214	S/25822
	24.05.	Iraq-Kuwait	—	S/25830
	26.05.	Eritrea-UN membership	3218	S/25847
	26.05.	Monaco-UN membership	3219	S/25848
	26.05.	Middle East	3220	S/25849
	28.05.	Agenda for peace	3225	S/25859
	08.06.	Cambodia	3230	S/25896
	08.06.	UN protected areas in Croatia	3231	S/25897
	08.06.	Angola-UNITA	3232	S/25899
	09.06.	Liberia	3233	S/25918
	11.06.	Central America: efforts towards peace	3236	S/25929
	18.06.	Iraq	3242	S/25970
	28.06.	Iraq	3246	S/26006
	02.07.	Georgia-Abkhazia	3249	S/26032

²²³ Figures are given for the months of January to October 2003.

²²⁴ A list of presidential statements for the years 1994 to 2003 as well as the text of these statements may be found at <http://www.un.org/documents/pstatesc.htm>.

Year	Date	Subject Matter	Meeting	Document
1993	08.07.	Andorra-UN membership	3251	S/26054
	15.07.	UN protected areas in Croatia	3255	S/26084
	20.07.	Ukraine-Sevastopol	3256	S/26118
	21.07.	Iraq-sanctions	—	S/26126
	22.07.	Bosnia-Herzegovina	3257	S/26134
	28.07.	Middle East	3258	S/26183
	30.07.	UN protected areas in Croatia	3260	S/26199
	13.08.	Libya-sanctions	—	S/26303
	18.08.	Nagorny-Karabakh	3264	S/26326
	23.08.	Tajikistan	3266	S/26341
	24.08.	South Africa	3267	S/26347
	10.09.	Rwanda	3273	S/26425
	14.09.	Croatia	3275	S/26436
	14.09.	Bosnian Croats	3276	S/26437
	17.09.	Haiti	3278	S/26460
	17.09.	Georgia-Abkhazia	3279	S/26463
	20.09.	Iraq-sanctions	—	S/26474
	05.10.	Cambodia	3287	S/26531
	11.10.	Haiti	3289	S/26567
	13.10.	Yugoslavia-Danube vessels	3290	S/26572
	25.10.	Burundi-coup d'Etat	3297	S/26631
	25.10.	Haiti	3298	S/26633
	28.10.	Bosnia-Herzegovina	—	S/26661
	30.10.	Haiti	3301	S/26668
	01.11.	Angola	3302	S/26677
	05.11.	Central America: efforts towards peace	3306	S/26693
	08.11.	Georgia-Abkhazia	3307	S/26706
	09.11.	Bosnia-Herzegovina	3308	S/26716
	09.11.	Bosnia-Herzegovina	3308	S/26717
	15.11.	Haiti	3314	S/26747
	16.11.	Burundi	3316	S/26757
	18.11.	Iraq-sanctions	—	S/26768
	23.11.	South Africa	3318	S/26785
	23.11.	Iraq-Kuwait	3319	S/26787
	29.11.	Middle East	3320	S/26809
	10.12.	Libya-sanctions	—	S/26861
1992	03.01.	Central America: efforts towards peace	—	S/23360
	07.01.	Former Yugoslavia	3027	S/23389
	23.01.	Kazakhstan-UN membership	3034	S/23470
	29.01.	Middle East-UNIFIL	3040	S/23495
	29.01.	Armenia-UN membership	3041	S/23496
	29.01.	Kyrgyzstan-UN membership	3042	S/23497
	29.01.	Uzbekistan-UN membership	3043	S/23498
	29.01.	Tajikistan-UN membership	3044	S/23499
	31.01.	Responsibility of the Security Council	3046	S/23500
	05.02.	Iraq-sanctions	—	S/23517
	05.02.	Moldova-UN membership	3047	S/23516
	07.02.	Turkmenistan-UN membership	3050	S/23547
	14.02.	Azerbaijan-UN membership	3052	S/23597
	19.02.	Iraq-Kuwait	—	S/23609
	19.02.	Middle East-Lebanon	3053	S/23610
	25.02.	San Marino-UN membership	3056	S/23640
	28.02.	Iraq-Kuwait	3058	S/23663
	11.03.	Iraq	3059	S/23699
	12.03.	Iraq	3059 (r)	S/23709
	19.03.	Iraq-Kuwait	3061	S/23732
	27.03.	Iraq-sanctions	—	S/23761
	02.04.	Venezuelan diplomatic mission in Libya	3064	S/23772
	04.04.	Occupied Arab territories	3065	S/23783
	10.04.	Former Yugoslavia	3068	S/23802

Year	Date	Subject Matter	Meeting	Document
	10.04.	Iraq-Kuwait	—	S/23803
	16.04.	Afghanistan	—	S/23818
	24.04.	Former Yugoslavia	3070	S/23842
	05.05.	Former Yugoslavia	—	S/23878
	07.05.	Liberia	3071	S/23886
	12.05.	Nagorny-Karabakh	3072	S/23904
	18.05.	Croatia-UN membership	3076	S/23945
	18.05.	Slovenia-UN membership	3077	S/23946
	20.05.	Bosnia and Herzegovina-UN membership	3079	S/23982
	27.05.	Iraq-sanctions	—	S/24010
	29.05.	Middle East	3081	S/24030
	03.06.	Central America: efforts towards peace	—	S/24058
	12.06.	Cambodia-UNTAC	3085	S/24091
	17.06.	Iraq-Kuwait	—	S/24113
	30.06.	Agenda for peace	3089	S/24210
	06.07.	Iraq-Kuwait	—	S/24240
	06.07.	Georgia	3091	S/24241
	07.07.	Angola	3092	S/24249
	09.07.	Former Yugoslavia	—	S/24257
	13.07.	Cyprus	3094	S/24271
	17.07.	Former Yugoslavia	3097	S/24307
	17.07.	Iraq-Kuwait	3098	S/24309
	24.07.	Former Yugoslavia	3100	S/24346
	27.07.	Iraq-sanctions	—	S/24352
	30.07.	Middle East	3102	S/24362
	04.08.	Former Yugoslavia	3103	S/24378
	04.08.	Former Yugoslavia	—	S/24379
	12.08.	Libya	—	S/24424
	12.08.	Afghanistan	—	S/24425
	17.08.	South Africa	3107	S/24456
	26.08.	Nagorny-Karabakh	—	S/24493
	02.09.	Former Yugoslavia	3111	S/24510
	02.09.	Iraq	3112	S/24511
	09.09.	Former Yugoslavia	3113	S/24539
	10.09.	South Africa	—	S/24541
	10.09.	Georgia	—	S/24542
	18.09.	Angola	3115	S/24573
	24.09.	Iraq-sanctions	—	S/24584
	06.10.	Angola	3120	S/24623
	08.10.	Georgia	3121	S/24637
	16.10.	Somalia	—	S/24674
	19.10.	Angola	—	S/24683
	27.10.	Mozambique	3125	S/24719
	27.10.	Angola	3126	S/24720
	27.10.	Nagorny-Karabakh	3127	S/24721
	29.10.	Agenda for peace	3128	S/24728
	30.10.	Tajikistan	3131	S/24742
	30.10.	Former Yugoslavia	3132	S/24744
	23.11.	Iraq	3139	S/24836
	24.11.	Iraq	3139 (r)	S/24839
	24.11.	Iraq-sanctions	—	S/24843
	25.11.	Middle East-Lebanon	3141	S/24846
	30.11.	Agenda for peace	—	S/24872
	02.12.	Attacks on peacekeepers	—	S/24884
	09.12.	Libya	—	S/24925
	09.12.	Former Yugoslavia	3146	S/24932
	22.12.	Angola-peace accords	3152	S/25002
	22.12.	Cambodia-UNTAC	3153	S/25003
1992	30.12.	Agenda for peace	3145	S/25036
1991	04.01.	Middle East-Gaza violence	2973	S/22046

Year	Date	Subject Matter	Meeting	Document
	22.01.	Liberia	2974	S/22133
	30.01.	Middle East-UNIFIL	2975	S/22176
	03.03.	Iraq-Kuwait	2979	S/22322
	27.03.	Middle East-Palestinian deportations	2980	S/22408
	28.03.	Cyprus	—	S/22415
	29.04.	Iraq-Kuwait	2985	S/22508
	30.05.	Middle East	2990	S/22657
	26.06.	Iraq-Kuwait	2995	S/22746
	28.06.	Cyprus	—	S/22744
	31.07.	Middle East-UNIFIL	2997	S/22862
	08.08.	Korea	3001	S/22911
	09.08.	Micronesia-UN membership	3002	S/22917
	09.08.	Marshall Islands-UN membership	3003	S/22918
	12.09.	Baltic countries-UN membership	3007	S/23032
	02.10.	Iraq-sanctions	—	S/23107
	29.11.	Middle East	3019	S/23253
	12.12.	Cyprus-UNFICYP	—	S/23284
	20.12.	Iraq-sanctions	—	S/23305
	23.12.	Cyprus	3024	S/23316
1990	22.01.	Cyprus	—	S/21160
	27.02.	Iran-Iraq	2908	S/21172
	22.05.	Occupied Arab territories	—	S/21309
	22.05.	Occupied Arab territories	—	S/21310
	23.05.	Central America: efforts towards peace	2922	S/21331 [sic]
	30.05.	United Nations Peace-keeping operations	2924	S/21323 [sic]
	31.05.	Middle East	2925	S/21338
	15.06.	Cyprus-UNFICYP	2928	S/21361
	19.06.	Middle East	—	S/21363
	19.07.	Cyprus	2930	S/21400
	31.07.	Middle East-UNIFIL	2931	S/21418
	09.11.	Cyprus	—	S/21934
	30.11.	Middle East	2964	S/21974
	20.12.	Middle East	2970	S/22027
1989	31.03.	Middle East	2851	S/20554
	24.04.	Middle East	2858	S/20602
	30.05.	Middle East	2862	S/20659
	09.06.	Cyprus	2868	S/20682
	31.07.	Hostage taking	2872	S/20757
	31.07.	Middle East	2873	S/20758
	15.08.	Middle East	2875	S/20790
	20.09.	Middle East	2884	S/20855
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