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COUNCIL OF MINISTERS  
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REPORT OF THE SECRETARY-GENERAL ON THE  
PROPOSED AMENDMENT TO THE RULES OF PROCEDURE OF THE  
COUNCIL OF MINISTERS



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For a law to play a useful role, what it prescribes must be in keeping with the situation to which it applies.

What is true of the regular law is also true of the basic rules and regulations governing the functioning of International Organizations.

For instance, since the United Nations Charter came into being, it has been modified to take into consideration the accession of several States to national independence.

Some clauses of the Charter of the Organization of African Unity of the Protocol of the Commission of Mediation, Conciliation and Arbitration and of the Rules of Procedure of the Council of Ministers have likewise been amended in the course of the past years, in keeping with present-day realities of the African continent and in order that the various bodies of OAU may play their role effectively.

Now, after Portugal's aggression against the Republic of Guinea, the Rules of Procedure of the Council of Ministers appeared grossly inadequate and required modification. These Rules of Procedure do not, in fact, make any provision for convening emergency sessions of the Council.

As it now stands, Rule 16 provides that an extraordinary meeting may be convened at the request of a Member State subject to the agreement of two-thirds of the Member States after a minimum time lapse of fifteen days between the date of the notice for the extraordinary session and the date of its opening.

In view of this situation voices were raised to deplore the fact that merely because of the rules of procedure the Council of Ministers had not been able to meet immediately to discuss the situation created in Guinea by the Portuguese attempted invasion, and to consider appropriate ways and means for the African continent to cope with the situation.

During the meeting, organized by the OAU General Secretariat two days after the aggression, between the Vice-President of Zambia, His Excellency Mainza Chona, representing President Kenneth Kaunda, the current Chairman of OAU and the Heads of African Diplomatic missions in Addis Ababa, most Heads of Mission felt, in view of the circumstances, that the session of the Council of Ministers should be held immediately to discuss the attempted invasion of Guinea by Portuguese troops.

However, this proved to be impossible, because of the Rules of Procedure of the Council of Ministers which provide that an extraordinary session could only be held after a period of fifteen days prescribed by Rule 16 of the Rules of Procedure.

In his opening speech, at the same extraordinary session of the Council of Ministers in Lagos on 9 December 1970, His Excellency General Yakubu Gowon, President of the Federal Military Government of Nigeria stated in this connexion:

"In spite of their historic successes and victories, the plight of the Guinean people has brought into sharp relief shortcomings in the Rules of Procedure of some of the institutions of OAU.

The abortive invasion of Guinea took place over two weeks ago. But because of the technicalities and inadequacies of your Rules of Procedure, you could not meet until now.

A situation cannot seriously be regarded as an emergency if it has to wait two weeks for a solution.

Were it not for the gallant determination and patriotism of the people of Guinea, their leadership and their Government would have been overthrown by now and the purpose of this meeting defeated.

You may therefore, wish to review the working of your Rules of Procedure and make necessary amendments."

Similarly, Mr. Kassory Banguora, Guinea's Minister of Justice and leader of the delegation of the Republic of Guinea who was sent on a good-will mission to the Governments of East African States and to the OAU General Secretariat following the Portuguese aggression, regretted during his meeting with the authorities of the General Secretariat that the UNO was in a position to act quicker than the OAU in a matter which primarily and above all concerned Africans.

In effect, after the events of November 22, the Security Council met, discussed the situation created by the Portuguese invasion of Guinea, and adopted a resolution which recommended inter-alia, the sending of a fact-finding mission to Guinea. This mission proceeded to Conakry, stayed there for nearly one week and thereafter made a report to the Security Council which met again on the strength of that report and condemned Portugal; all this before the OAU Council of Ministers could meet to discuss the attempted invasion of Guinea.

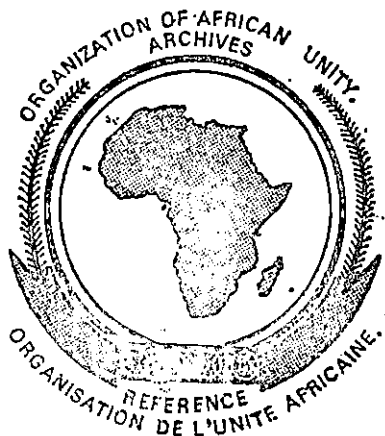
It therefore appeared proper to modify the Rules of Procedure of the Council of Ministers accordingly so as to render the said Rules more flexible and to enable the Council of Ministers to face, in future, situations similar to that which occasioned the convening of the last Extra-Ordinary Session of the Council, particularly, to facilitate the convening of extra-ordinary sessions of the Council.

To attain this objective, there are several solutions which can either be adopted separately or collectively. For instance, it could be envisaged that in exceptional cases, the required majority for convening an extra-ordinary session should be changed from two-thirds majority to the absolute majority.

On the other hand, the fifteen days provided for by Rule 16 of the Rules of Procedure of the Council of Ministers could be reduced. Rule 16 could therefore be modified in such a way that in exceptional cases, such as the one which prompted the convening of the last Extra-Ordinary Session of the Council, the Administrative Secretary-General shall, at the request of a Member State and with the agreement of the Current Chairman of OAU, be authorized to convene an Extra-Ordinary Session within three to five days.

Such an Extra-Ordinary Session of the Council of Ministers could also be convened at the request of one-third of Member States.

What is essential, is for the Council of Ministers to find a way out to correct the shortcomings in the Rules of Procedure brought to light by the situation which faced Africa following the Portuguese aggression of Guinea, by modifying the Rules of Procedure accordingly to facilitate the convening of the extra-ordinary sessions of the Council.



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# Report of the Secretary-General on the proposed amendment to the Rules of Procedure of the Council of Ministers

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