



**REPORT
OF THE SECURITY COUNCIL
TO
THE GENERAL ASSEMBLY
16 July 1961—15 July 1962**

**GENERAL ASSEMBLY
OFFICIAL RECORDS : SEVENTEENTH SESSION
SUPPLEMENT No. 2 (A/5202)**

UNITED NATIONS

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**UNITED NATIONS
*New York, 1962***

N O T E

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INTRODUCTION

The present report¹ is submitted to the General Assembly by the Security Council in accordance with Article 24, paragraph 3, and Article 15, paragraph 1, of the Charter.

Essentially a summary and guide reflecting the broad lines of the debates, the report is not intended as a substitute for the records of the Security Council, which constitute the only comprehensive and authoritative account of its deliberations.

With respect to the membership of the Security Council during the period covered, it will be recalled that the General Assembly, at its 1044th meeting on 30 October 1961, elected Ireland as a non-permanent member of the Council for 1962 to fill the vacancy resulting from the withdrawal of Liberia from membership of the Council and that at the same meeting and at the 1068th meeting on 1 December, it elected Ghana, Romania and Venezuela to fill the vacancies resulting from the expiration, on 31 December 1961, of the terms of office of Ceylon, Ecuador and Turkey.

The period covered in the present report is from 16 July 1961 to 15 July 1962. The Council held fifty-six meetings during that period.

¹ This is the seventeenth annual report of the Security Council to the General Assembly. The previous reports were submitted under symbols A/93, S/366, A/620, A/945, A/1361, A/1873, A/2167, A/2437, A/2717, A/2935, A/3137, A/3648, A/3901, A/4190, A/4494 and A/4867.

PART I

Questions considered by the Security Council under its responsibility for the maintenance of international peace and security

Chapter I

LETTER DATED 13 JULY 1960 FROM THE SECRETARY-GENERAL OF THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

A. Communications received between 16 July and 13 November 1961

In a message dated 19 July (S/4863), the President of Mali asked the Secretary-General to take all necessary steps to ensure that the forthcoming session of the Congolese Parliament to be convened under United Nations auspices would proceed in accordance with the law and democratic principles. His Government felt both hope and apprehension on that score, in view of the numerous errors and complicities of which United Nations representatives had been guilty since the beginning of the Congo crisis. Mali also requested the dispatch to Leopoldville of an African Commission to prevent intervention by the elements which had caused and perpetuated the crisis. In a reply circulated in the same document, the Secretary-General stated that the members of the Congolese Parliament convened by the Chief of States ordinance of 5 July were gathering at Lovanium under arrangements devised by the United Nations in co-operation with the competent Congolese authorities from Leopoldville and Stanleyville. The Secretary-General had accepted all the responsibilities vested in the United Nations under the agreement of 19 June (S/4841, annex III) to ensure the safety and freedom of action of the parliamentarians. The Organization would do everything in its power to safeguard the proceedings from outside interference. With regard to the suggested African commission, he noted that consultations were still in progress concerning the designation of the members of the Commission of Conciliation to be appointed under General Assembly resolution 1600 (XV) to assist the Congolese leaders to achieve reconciliation. Finally, he rejected the allegations concerning errors and complicities on the part of representatives of the Organization.

In a letter to the Secretary-General dated 9 July (S/4865), circulated on 21 July at the request of the delegation of Mali, Mr. Gizenga regretted the delays in the convening of Parliament, which appeared to be the result of remissness attributable to the friends of Leopoldville. He urged the Secretary-General to give an assurance concerning the exclusion of outside interference in the deliberations of Parliament, the safety of members during and after the session, and support for the implementation of Parliament's decisions.

In a letter to the President of the Security Council dated 31 July (S/4908) the representative of the USSR stated that recent information from the Congo indicated that the United Nations Secretariat was failing to implement its obligations under the agreement of 19 June between representatives of the Leopoldville authorities and of the Government of the Congo. In

particular, the provisions of the agreement relating to the disarming of military and police forces in Leopoldville and adjacent areas had not been put into effect. The Secretariat had not ensured conditions in which the Parliament could freely express the will of the people and many members of Parliament were being exposed to serious danger. In the circumstances he requested the President to call on the Secretariat to report without delay to the Council on the measures taken to discharge its obligations under the agreement of 19 June and to arrange for the circulation as a Council document of the cable addressed to the United Nations on 28 July by Mr. Gizenga, the Head of the Government of the Republic of the Congo.

In his message of 28 July (S/4911), circulated at the request of the representative of the USSR on 1 August, Mr. Gizenga protested against the manner in which the agreements concerning the Lovanium session of the Parliament were being executed by the United Nations Secretariat. In violation of the agreements Mr. Kasa-Vubu had entered and left Lovanium five times; senior United Nations officials entered and left Lovanium throughout the day; and Congolese soldiers in the area had not been disarmed. A Commission of representatives of African States should be permitted to attend the debates to see that democracy was not once again flouted in the Congo.

In a later message dated 1 August (S/4911/Add.1) Mr. Gizenga complained that United Nations representatives were backing the Kasa-Vubu régime in every way. Having found that the nationalist members of Parliament were resolved to give recognition to the only legal Government, that of Lumumba, at present headed by Mr. Gizenga, Mr. Kasa-Vubu was desperately trying to obtain a solution to his liking and was indeed meeting with Tshombé in Brazzaville. Moreover, ONUC was using force in defiance of the law and had forcibly brought a member, Mr. Badjoko, to Lovanium in the hope of getting a majority for the opposition. If United Nations representatives persisted in such courses, ONUC would have to fight the whole Congolese people. In a letter to Mr. Gizenga dated 2 August (S/4911/Add.2) the Officer-in-Charge of ONUC, Mr. Linner, drew attention to the reports sent to Mr. Gizenga by his representatives in Parliament and to the message sent to him on 20 July by the President of the House of Representatives assuring him that safety was absolutely ensured. All troop movements in Leopoldville were supervised by the United Nations Force. Mr. Kasa-Vubu's visit to Lovanium and those of senior United Nations officials had been made at the request of the members of the Parliament and Mr. Badjoko's transportation had been furnished

on official request of the President of the House of Representatives. Mr. Gizenga's proposal concerning a commission would seem to be at variance with the Congolese authorities' request that the United Nations should ensure the complete isolation of Parliament during the session in order to exclude outside influences.

On 2 August the Secretary-General, in a report (S/4913) concerning the meeting of the Parliament of the Congo and establishment of a new Government, informed the Council that the Senate and the House of Representatives had assembled, with the assistance and under the protection of the United Nations, at Lovanium on 22 and 23 July respectively. On 2 August the two Houses had approved, the Senate by a unanimous vote and the House of Representatives by a unanimous vote with one abstention, a new Government headed by Mr. Adoula as Prime Minister with Mr. Gizenga, Mr. Sendwe and Mr. Bolikango as Deputy Prime Ministers. In a resolution annexed to the report the House of Representatives expressed its gratitude to the United Nations for the protection afforded to the members of the Parliament and urged that the Organization should provide for the safety of members of Parliament who so requested or were in any way threatened. A resolution adopted unanimously by both Houses was also annexed. In that resolution the two Houses, considering that the Chambers alone were competent to give an authoritative interpretation of the laws and considering the people's desire to end the constitutional crisis that had followed the adjournment of Parliament and death of Mr. Lumumba, Prime Minister of the first Central Government, declared that the new Government of national unity was the legal successor of the first Central Government of the Congo and that no other Government could claim to act as the constitutional Government of the Republic.

On 4 August a report to the Secretary-General by the Officer-in-Charge of ONUC on the action taken by the United Nations to assist in the implementation of the agreement of 19 June between the Leopoldville and Stanleyville authorities was circulated in document S/4917. The report outlined the action taken pursuant to the agreement to protect members of Parliament during the session, to provide security surveillance in Leopoldville and adjoining areas, to prevent the introduction of unauthorized objects into Lovanium and to ensure the freedom of movement of members of Parliament attending the session. The United Nations had also placed the necessary civilian staff at the disposal of Parliament during the session. In addition, United Nations officials had been available at all times for consultation by the Leopoldville, Stanleyville and other Congolese authorities in an effort to assist them in seeking any mutually satisfactory solution to the Congolese crisis. At the specific request of the Leopoldville and Stanleyville parties, two United Nations officials had held themselves available for discussions after the opening of Parliament, and had on occasion been invited by both parties jointly to attend such discussions. With regard to the accession of other political factions to the agreement, the report noted that the agreement had been subscribed to by the Bakwanga authorities and that the "Legislative Assembly of South Kasai" had decided that parliamentarians from that area would attend the session. The Elisabethville authorities, however, had not acceded to the agreement. Following the swearing in of the new Government Parliament had decided to leave United Nations protection and to continue its meetings in Leopoldville.

In an exchange of letters (S/4923) dated 10 and 13 August between the Prime Minister of the Congo and the Secretary-General, Mr. Adoula informed the Secretary-General that Parliament had ended the constitutional crisis by its vote of confidence in the new Central Government of national unity and reconciliation; he was confident that all assistance provided by the United Nations, within the limits of its mandate, would be rendered exclusively to that Government. In reply the Secretary-General expressed satisfaction at the formation of the new Government and assured the Prime Minister that all aid given by the United Nations to the Congo would be furnished exclusively to the Central Government; the Secretary-General's representatives in the Congo were instructed to keep the Government informed of the activities of the United Nations mission in the Congo in the civilian field and also with regard to the United Nations Force, whose only goal was to assist the Government in the maintenance of public order. Annexed to the exchange of letters was the Prime Minister's speech of 2 August to the two Chambers outlining the programme of his Government. One of the new Government's most important tasks would be to draft a constitution inspired by the idea of national unity but taking into account the desire of the regions for local self-government in matters of regional rather than national interest. The speech also outlined the Government's foreign and domestic policy. In the field of foreign affairs the Government would be prepared to defend the Congo's independence by a policy of non-alignment; it would seek multilateral technical assistance without excluding any country which did not impose political conditions. The Government would give its moral and political support to African national liberation movements and would endeavour to play its full part in the work of international organizations. It hoped to normalize relations with Belgium, on the basis of respect for the Congo's sovereignty and national unity and the settlement of matters in dispute between the two countries. With regard to the United Nations, to which the country owed a debt of gratitude, the Government would use every effort to ensure that the agreement of 17 April between the President of the Republic and the Secretary-General was rapidly and effectively applied. It would also seek an agreement establishing the rights and duties of the Organization and the Congolese Government in their mutual relations and spelling out the details involved in the application of the basic arrangement of 27 July 1960. In domestic matters the Government's policy would be founded on the will to re-establish national unity and restore the country materially and spiritually, through action to ensure the observance of fundamental freedoms and human rights and the restoration of constitutional legality. The army would be reunited and steps taken to ensure that it received the best training possible, so that it might serve as the guardian of the nation's security and territorial integrity and not as a political instrument. In regard to monetary and financial policy the Government would seek to maintain and develop the country's productive system, to check inflation by reducing the deficit in public expenditures and the establishment of a sound social policy, and to promote public and private investment. The Government's programme was designed to rescue the country from the stagnation of the previous year. It would also be necessary to solve the problem of Katanga; the Government was determined in the very near future to bring to an end the secession of Katanga.

In a subsequent letter dated 10 September, circulated with the Secretary-General's reply in document S/4937, Mr. Adoula, the Prime Minister of the Congo, invited the Secretary-General to visit Leopoldville to discuss details of the aid promised in the Secretary-General's letter of 13 August. The Government wished also to convey to the Secretary-General in person its high appreciation of the untiring efforts made by the Organization in the course of its action in the Congo. In his reply of the same date, the Secretary-General announced his acceptance of the invitation. Despite the practical difficulties of making a visit on the eve of a General Assembly, direct personal contact with the Prime Minister and his colleagues would, he believed, be of value in establishing a firm and clear basis for the development of United Nations aid to the Central Government and would help to strengthen the relationship which Mr. Adoula had so auspiciously begun.

In a *note verbale* (S/4939) dated 13 September the representative of Belgium transmitted a press communiqué issued by his Government in regard to recent events in Elisabethville. The communiqué stated that investigation showed that there was no foundation for the statement, reported to have been made at a press conference by the Secretary-General's representative in Katanga, Mr. O'Brien, that Belgian officers in the Belgian consulate at Elisabethville had opened fire on United Nations forces. The Belgian Government had also asked the Secretary-General to ensure the safety of foreign nationals in accordance with the plan for their protection accepted by the responsible United Nations military commanders during meetings on 2 September with the consular representatives and Mr. O'Brien. Responsibility for the safety of such nationals had devolved upon the United Nations whose actions had divested the local authorities of their responsibility in that respect.

On 14 September a report by the Officer-in-Charge of ONUC to the Secretary-General relating to the implementation of paragraph A-2 of the Council's resolution of 22 February was circulated as document S/4940. The report stated that efforts to bring about the withdrawal of all Belgian and other foreign military and paramilitary personnel and political advisers not under the United Nations Command and mercenaries, the largest concentration of whom was to be found in the Katangese armed forces, had remained without appreciable results for some months owing to the absence of legal authority for the United Nations to proceed otherwise than by the way of negotiation. With the enactment by the President of the Republic of Ordinance No. 70 providing for the expulsion of all non-Congolese officers and mercenaries serving in the Katangese forces and not under contract with the Central Government and the Prime Minister's request of 24 August (S/4940, Annex 1) for United Nations assistance in the enforcement of the Ordinance, the United Nations had, however, been given legal rights within the Congo corresponding to the terms of the resolution of 21 February. On 28 August the United Nations had proceeded to take measures for evacuating foreign military personnel and mercenaries. In view of the tension created by false rumours concerning the objective of the United Nations action, Radio Katanga, the *gendarmérie* headquarters and other key points and installations had been placed under surveillance as a precaution. The evacuation measures had, however, met with no resistance from the Katangese armed forces

or police and on 28 August Mr. Tshombé had expressed his government's approval of the evacuation in a broadcast statement. In the course of the day United Nations representatives meeting with the Elisabethville consular corps had agreed that the Belgian Consul would undertake responsibility for ensuring the surrender and repatriation of all personnel to be evacuated, irrespective of their nationality. On that understanding the United Nations had refrained from apprehending foreign military personnel and had permitted some seventy Belgian officers to stay in the Belgian consulate building in Elisabethville pending repatriation. Unfortunately, foreign officers and mercenaries had taken advantage of the relaxation of evacuation measures to reinfiltrate the *gendarmérie* and foreign elements had brought pressure to dissuade some Katangese ministers from moving towards political reconciliation with the Central Government. The actions of the political police—an instrument of Mr. Munongo, the Minister of the Interior, and largely directed by foreign officers—coupled with the inflammatory propaganda broadcast by Radio Katanga and rumours, had caused panic among the Baluba population and by 9 September 35,000 Baluba refugees had sought United Nations protection, creating a very serious humanitarian problem and a situation likely to lead to tribal and civil war. By 9 September, the time-limit by which all foreign military personnel had to report to the United Nations for evacuation, at least 104 foreign personnel were known to have failed to report. The United Nations representative had therefore asked the consuls to ensure the immediate departure of their nationals, failing which the United Nations would have to resume action for implementing the resolution of 21 February by all the means at its disposal. Two days later the deputy United Nations representative in Elisabethville had been arrested on the orders of a non-Congolese officer of the political police, the culmination of a long series of wrongful acts by such officers. The United Nations had therefore requested the evacuation of all non-Congolese officers of the political police within 48 hours. At the instigation of the remaining foreign officers and of local extremists, heavily armed patrols and guard posts had been stationed by the *gendarmérie* at all public buildings and other installations in Elisabethville, and the police had been reinforced with members of Mr. Munongo's tribe. Discussions with Mr. Tshombé and members of his Government having failed to result in a lessening of the tension or agreement to the evacuation of foreign officers serving in the Katangese *sûreté*, the United Nations had in the early hours of 13 September taken security precautions similar to those applied on 28 August. Arson had been discovered in the United Nations garage and United Nations troops on their way to the garage had been shot at from the building where a number of foreign officers were known to be staying. Firing had continued but there had been no evidence of large scale action against the United Nations by Congolese personnel of the *gendarmérie*. The United Nations representative had contacted Mr. Tshombé and the latter had issued a cease-fire order which had been disregarded by the mercenaries involved in the fighting. In the afternoon of 13 September the Central Government had dispatched a delegation under Mr. Bocheley, Commissioner of State for Katanga, to assist the provisional authorities in the restoration of law and order and a United Nations technical team had been sent to help in the restoration of essential utilities and public services.

An addendum (S/4940/Add.1) to the report of the Officer-in-Charge reproduced a statement broadcast by Mr. Tshombé on 28 August acquiescing in the United Nations decision to evacuate foreign military personnel serving in the Katangese *gendarmerie* and denying reports that the United Nations intended to disarm the Katangese *gendarmerie* or police or to facilitate the entry into Katanga of Congolese army detachments. His government, while proclaiming its right to self-determination would do all in its power to find a peaceful solution to current problems; no one would gain if the only part of the Congo still organized were to sink into anarchy and chaos.

The addendum also contained a report by the United Nations representative in Elisabethville on the progress as of 8 September in the evacuation of non-Congolese personnel in the Katanga *gendarmerie*; as of that date 273 persons had been repatriated, 65 were awaiting repatriation and 104 were unaccounted for.

A second addendum (S/4940/Add.2) covering developments during 13-14 September stated that United Nations troops in Elisabethville had maintained their positions despite repeated attacks. A company of United Nations troops sent to Jadotville at the request of the consular corps was under attack by a large *gendarmerie* force under non-Congolese leadership with air support. The Kamina base was also under attack. Contact with Mr. Tshombé had been lost but a cease-fire order had been broadcast by the vice-president of Katanga.

A third addendum (S/4940/Add.3) covering the period 14-15 September, reported that attacks on United Nations troops in Elisabethville, Jadotville and Kamina had continued. Further air attacks had been made on United Nations forces. Attempts to make contact with Mr. Tshombé had failed. Except for the non-Congolese residents, the population of Elisabethville and other towns remained calm.

A fourth addendum (S/4940/Add.4) reported that during 16-17 September attempts to establish a cease-fire had been pursued without success. Attacks, including air attacks, against United Nations personnel had continued in Elisabethville, Jadotville and Kamina. Water and electricity supplies in Elisabethville had been restored after a short interruption. Throughout Katanga the Congolese population remained calm and fraternized with the United Nations, as did the *gendarmerie* where there were no non-Congolese officers or mercenaries. The British Consul having informed the United Nations representative in Elisabethville that Mr. Tshombé wished to see him, the Secretary-General had asked that a reply be transmitted to Mr. Tshombé suggesting that he meet the Secretary-General at Ndola to try to find peaceful means of resolving the present conflict, thus opening a way to a solution of the Katanga problem within the framework of the Congo. The Secretary-General proposed that an effective cease-fire be imposed by both sides so as to make a meeting possible and come nearer to a solution to the conflict within the framework established by the Security Council and already accepted by Mr. Tshombé. The latter had, the Secretary-General pointed out, accepted the objectives of the United Nations mission—the maintenance of public order, the prevention of civil war and the evacuation of all the personnel referred to in the Council's resolution of 21 February; there should therefore be no difference of opinion as to the framework within which ways must be

sought of putting an end to the armed conflict. It seemed also that Mr. Tshombé's views and those of the United Nations were identical with regard to the principles on which the attempt to find a solution to the political problem should be based. On 17 September Mr. Tshombé replied accepting the principle of an immediate cease-fire and requesting that the United Nations troop movements be stopped. In reply the Secretary-General asked the United Nations representative in Elisabethville to inform Mr. Tshombé that there could be no question of anything but an unconditional cease-fire on both sides and an agreement to meet; all other modalities would be discussed in the course of the meeting. With regard to military movements, the cease-fire order should naturally be interpreted as having no effect on the *status quo*, which would be maintained throughout the period during which an agreement was being sought. In the absence of further word from Mr. Tshombé, who had already made plans to travel to Ndola when the United Nations representative endeavoured to convey the message to him, the Secretary-General had decided to go to Ndola and left Leopoldville at approximately 1700 hours.

Addendum 5 (S/4940/Add.5) circulated on 19 September, contained a report on the Secretary-General's flight from Leopoldville. The aircraft had failed to arrive at its destination and an intensive air and ground search had been begun in the early hours of 18 September. During the evening of 18 September the wreckage of the Secretary-General's chartered DC 6-B aircraft had been discovered seven miles north-east of Ndola airport. Only one member of the Secretary-General's party had survived. His subsequent death from injuries was reported on 25 September (Addendum 9). In an annexed Press release dated 18 September the Prime Minister of the Congo announced that his Government had proclaimed 19 September a day of national mourning in tribute to Mr. Hammarskjöld and his colleagues who had fallen victim to the intrigues of the great financial Powers of the West and as a demonstration of indignation at the interference of certain foreign countries in the Congo's affairs.

Addendum 6 (S/4940/Add.6) covering developments during 18-19 September, reported that it had been impossible, in view of the circumstances surrounding the reported deaths of the Secretary-General and his party on 18 September, to pursue United Nations efforts to secure a cease-fire with the provincial *gendarmerie*. The situation on 19 September had been generally quiet. A message had been received from Mr. Tshombé through the British Consul in Elisabethville expressing readiness to order a cease-fire. Mr. Khiari, the Chief of ONUC Civilian Operations, had flown to Ndola and had met Mr. Tshombé to continue the mission undertaken by the Secretary-General.

Addendum 7 (S/4940/Add.7) dealing with events on 19-20 September, stated that the military situation had been quieter. During the afternoon of 20 September Mr. Khiari and Mr. Tshombé had signed a provisional draft cease-fire agreement. The agreement, which would not become final until approved by the Secretary-General, provided for a cease-fire between the United Nations troops and troops of the Katanga authorities, to take effect at midnight on 21 September; the appointment of a four-member joint commission to supervise the application of the agreement and to seek means of improving relations between the United Nations and the Katanga authorities; the cessation of movements of

men or material to reinforce garrisons or positions; and the exchange of prisoners.

Addendum 8 (S/4940/Add.8) circulated on 22 September, reported that a cease-fire had been ordered at midnight on 21 September. Two shooting incidents had occurred in Elisabethville, but the situation elsewhere was quiet.

An interim report on the application of the cease-fire agreements was issued as document S/4940/Add.10, circulated on 6 October. The agreement had been approved by United Nations Headquarters and had thus become final. In communicating its approval to Mr. Tshombé on 24 September, the United Nations Headquarters had reminded him that the agreement was strictly military and applicable solely to the United Nations Force in Katanga and the armed forces of Katanga; its conclusion would in no way affect the resolutions of the Security Council, including that of 21 February, or that of the General Assembly. An initial meeting of the Joint Commission provided for in the agreement had been held on 26 September and a joint sub-commission had been established and visited various garrisons. Discussions had meanwhile been resumed on the higher level with regard to the continuation by peaceful procedures of the application of paragraph A-2 of the Council's resolution of 21 February.

In a letter dated 16 October (S/4962) to the President of the Security Council the representative of the USSR suggested that the Council receive full information on the situation in the Congo, particularly in Katanga, the actions of the United Nations Command and the latter's plans for the implementation of the relevant resolutions of the Council. Although the formation of a single Government of the Congo in August had appeared to open the way to a speedy normalization of the situation in the country and the restoration of its territorial integrity, there was evidence that the colonialists were again doing their utmost to frustrate the clearly expressed will of the Congolese people. Colonialist troops and mercenaries had still not been cleared from the Congo and the colonialists were still pouring arms, including jet aircraft, into Katanga, where bands of mercenaries were still impeding the reunification of the province with the remainder of the Congo. Those activities were not being opposed by the United Nations troops although there was no longer the slightest excuse for failure to implement the resolutions of the Assembly and Council, in particular the Council's resolutions of 9 August 1960 and 21 February 1961 concerning the reunification of Katanga with the remainder of the Congo and the evacuation of foreign military and paramilitary personnel, political advisers and mercenaries. Instead the United Nations Command had concluded a so-called cease-fire agreement with the mercenary and separatist bands and that agreement had been approved by United Nations Headquarters, despite the fact that none of the principal organs of the United Nations had considered the question. Further, according to Press reports, which had not been denied, Secretariat representatives had promised the rebel ringleaders not to support any plans of the Congolese Government for the reunification of Katanga. Such promises, if they had been made, were in clear conflict with the spirit and letter of the Council's resolution and exceeded the authority of the Secretariat. The Council alone was competent to decide questions connected with the presence of troops sent to

the Congo in pursuance of its resolutions. Any attempt by the United Nations Command in the Congo to bypass the Council and take action contrary to the Council's earlier resolutions could not be tolerated.

In a *note verbale* (S/4964) dated 17 October addressed to the President of the Security Council, the Minister for Foreign Affairs of the Congo, referring to the agreement between ONUC and the Katangan authorities, pointed out that no agreement could be concluded between the United Nations and a provincial government without consultation with, and the prior consent of, the legally invested Central Government. His Government had already expressed apprehension regarding the political implications—affecting the constitution of all United Nations operations in the Congo—that would follow from the application of the cease-fire agreement and, pending further explanation from Mr. Khiari, was bound to regard the protocol of the agreement of 13 October signed by Mr. Khiari and Mr. Tshombé as likely to strengthen the position of the latter. His Government reserved its right to review its position on the United Nations operation in the Congo and to obtain a clearer definition of its purposes at a forthcoming meeting of the Council which might be convened for that purpose.

In a further addendum (S/4940/Add.11) to his report of 14 September 1961, the Officer-in-Charge of ONUC outlined the negotiations in the Joint Commission set up under the cease-fire agreement of 20 September which had resulted in the signature on 13 October of a protocol for the implementation of the cease-fire. The protocol signed by Mr. Tshombé on behalf of the Katanga government and Mr. Khiari on behalf of ONUC provided for the exchange of military prisoners on 16 October; the organization of three joint sub-commissions to supervise the application of the cease-fire agreement; the status of the Katangese and ONUC garrisons at Albertville, Niemba, Nyunzu, Jadotville and other places; the restoration to the Katangese authorities of control of the BCK hospital, the Lido and the Kasenga Highway Tunnel, subject to the understanding that the neutrality of the points in question would be maintained and that no military forces would be stationed in or near them; the return of the Elisabethville central post office to the Katangese authorities, who would assure freedom of communications; the free use of ONUC-controlled airports for civil traffic and for the normal provisioning of Katangese troops, the return of the Kilobelobe radio installations to the Katangese authorities, subject to a mutual undertaking to refrain from inflammatory campaigns or unfriendly acts; assistance to ONUC in finding premises for its civilian and military services to replace those ceded to the Katangese authorities; and the return to Laumu airport of the *gendarmerie* unit posted there on 12 September; the right of the Katangese *gendarmerie* to counter an attack from outside; and an undertaking to submit any disputes between the parties to the cease-fire Joint Commission. In communicating its approval of the protocol to Mr. Tshombé on 23 October, United Nations Headquarters had reaffirmed the conditions set out as the basis for its approval of the cease-fire agreement of 20 September and further stated that its approval involved no derogation of the unity, territorial integrity or independence of the Congo, the sovereignty of the Republic of the Congo or the authority of its Central Government; that full compliance with the requirements of paragraph A-2 of the Coun-

cil's resolution of 21 February was a condition essential to the effective application of the proposal; and that the exchange of prisoners should precede the execution of all other provisions of the protocol. The Prime Minister of the Congo had informed ONUC Headquarters that his Government would not oppose approval on those terms. Although the cease-fire agreement had no political intention or aim, the ONUC representatives had in the course of the discussions urged upon the Katangese authorities the desirability of making contact with the Central Government and had guaranteed the safety of Mr. Tshombé and his representatives during any visit to Leopoldville for that purpose. Two emissaries of Mr. Tshombé had in fact returned with Mr. Khiari to Leopoldville and had been received by representatives of the Central Government.

In a subsequent addendum (S/4940/Add.12) circulated on 2 November the Officer-in-Charge reported that, after some delay, the exchange of prisoners had been effected on 25 October. Unfortunately, however, the Katangese authorities had failed to comply with certain provisions of the cease-fire protocol. In particular, inflammatory propaganda and boycotts of ONUC and its personnel had continued. In addition Katangese aircraft, flown by non-Congolese pilots, had attacked targets in Kasai. Such operations constituted civil war action covered by paragraph A-1 of the Council resolution of 21 February and ONUC had warned that counteraction would be taken if the aircraft were not grounded. The Katangese authorities had also been warned that continued failure to eliminate foreign military personnel, mercenaries and political advisers would be a breach of the cease-fire; if use were not made of the peaceful procedures available, direct action by ONUC could not be excluded. A particular problem in that respect arose from the presence in the so-called Belgian Consulate in Elisabethville of twelve Belgian regular army officers, some of whom had participated in the direction of hostilities against ONUC. That breach of the Council's resolution of 21 February had been brought to the attention of the Belgian Government. To evade apprehension a number of mercenaries were serving in civilian clothes and some individuals evacuated under paragraph A-2 of the resolution were reported to have returned to Katanga or to be active in neighbouring areas. The Officer-in-Charge also reported that the planned reduction of the Force had continued; the December strength was expected to be about 14,400. With regard to efforts to reconcile the differences between the Central Government and the Katangese authorities, the Officer-in-Charge stated that the Central Government had received a number of proposals from Mr. Tshombé and had expressed its readiness to examine any proposals provided they were to be discussed within the framework of parliamentary institutions established by the *Loi fondamentale*; the "entity of Katanga" was recognized, like that of the other provinces, in the form established by that law. On 25 October Mr. Tshombé had replied to the Prime Minister's invitation, stressing the necessity of creating a favourable climate for the talks. With that end in view Major-General Mobutu had been sent to halt ANC operations in, or in the direction of, Northern Katanga and ONUC had transmitted a message from the Central Government to Mr. Tshombé informing him of the steps the Central Government was taking in that respect. Following a further

protest by Mr. Tshombé on 27 October concerning alleged genocide in Katanga and continued bombing of targets in Kasai by Katangese aircraft, the Prime Minister had announced in a broadcast statement that having exhausted all means for peaceful reconciliation, his Government would continue its police action to restore law and order in North Katanga and end the Katanga secession. The Officer-in-Charge also reported that the number of refugees, predominantly Baluba, seeking United Nations protection had risen to 35,000 by 15 October. Consideration was being given to the temporary removal of the refugees to a site outside Elisabethville pending a permanent settlement of the problem.

In a letter (S/4973) dated 3 November the Permanent Representatives of Ethiopia, Nigeria and the Sudan requested the President of the Council to convene a meeting to consider the situation in the Province of Katanga caused by the lawless acts of mercenaries.

In a *note verbale* dated 7 November, circulated at his request in document S/4975, the representative of Belgium transmitted a Belgian Government communiqué announcing that the passports of Belgian nationals continuing to serve in the Katanga armies would be withdrawn, as the warning issued in February 1961, that the recruitment of Belgian nationals for foreign armed forces was a punishable offence had failed to produce the desired effect. Passports would be refused to any applicant unwilling to sign an undertaking not to serve in foreign forces.

On 11 November the report of the Commission of Investigation established under the terms of General Assembly resolution 1601 (XV) was circulated to the Council as document S/4976. The Commission, whose terms of reference, as defined in the Council's resolution of 21 February, were to hold an immediate and impartial investigation in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues, had held sixty-six meetings in New York and in Europe. After the formation of the New Central Government of the Congo on 2 August, the Commission had requested the Prime Minister to set a date for its arrival in the Congo. In a reply received on 19 September the Minister for Foreign Affairs of the Congo stated that the Government considered it its right and duty to conduct a judicial investigation into the death of Mr. Lumumba and his colleagues, with a view to the discovery and punishment of the guilty. The Government would be grateful if the Commission would transmit any information in its possession that might be of assistance to the Congolese judicial authorities, but considered that in the circumstances the arrival of the Commission—which had been appointed at a time when the Congo had had no constitutionally established government—would be inopportune and pointless. On the evidence available to it, the Commission accepted as substantially true the testimony indicating that Mr. Lumumba, Mr. Okito and Mr. Mpolo were killed on 17 January 1961 near Elisabethville, and in all probability in the presence of high officials of the Government of Katanga Province, namely Mr. Tshombé, Mr. Munongo and Mr. Kibwe. The Commission also placed on record its view that President Kasa-Vubu and his aides and the provincial government of Katanga should not escape responsibility for the death of the three prisoners. Mr. Kasa-Vubu and his aides had wittingly delivered the prisoners into the hands of their bitterest

political enemies, while the government of Katanga had not only failed to safeguard their lives but had directly or indirectly contributed to their murder.

On 13 November, at the request of the Minister for Foreign Affairs of the Congo, a *note verbale* from the latter to the Belgian Permanent Mission was circulated as document S/4981. The *note verbale* drew attention to the fact that a Belgian consulate, for which the Republic of the Congo had never given its *exequatur*, was still functioning at Elisabethville and asked the Permanent Mission to request the immediate departure of the twelve Belgian military advisers attached to the consulate, who should be classified as mercenaries serving in the Katangese *gendarmerie*.

B. Consideration at the 973rd to 979th and 982nd meetings (13-24 November 1961)

In the course of the 973rd to 979th and 982nd meetings the representatives of Ethiopia, Belgium, India, the Congo (Leopoldville) and Sweden were, at their request, invited to take places at the Council table.

At its 973rd meeting held on 13 November, the Council had before it the following provisional agenda:

"1. Adoption of the agenda.

"2. Letter dated 3 November 1961 from the Permanent Representatives of Ethiopia, Nigeria and Sudan addressed to the President of the Security Council (S/4973)."

On the proposal of the representative of Liberia, who suggested that the agenda should also refer, as was customary, to the letter in which the situation in the Congo had originally been brought to the attention of the Council, the Council agreed to amend item 2 of the provisional agenda to read:

"2. Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);

Letter dated 3 November 1961 from the Permanent Representatives of Ethiopia, Nigeria and Sudan addressed to the President of the Security Council (S/4973)."

Decision: *The agenda, as so amended, was adopted.*

Opening the discussion, the representative of Ethiopia said that his country, which was supplying both troops and other resources for the Operation in the Congo, considered the present situation highly critical; after sixteen months the Organization was further than ever from ending the foreign interference that had been, and remained, the sole reason for the political turmoil, recurrent crises, chaos and uncertainty in the Congo and for the Katanga authorities' continued defiance of the United Nations and the Central Government. With the formation of the new Central Government in August the only remaining obstacle had been the Katanga secession. That secession, which had from the beginning been engineered and maintained by foreign mercenaries and financial interests, should have been promptly ended under the mandate given by the Council's resolution of 9 August. Instead the ambiguities of the mandate had given Mr. Tshombé and his foreign clique time to consolidate their position and acquire the strength that had enabled them to threaten the United Nations when it was engaged in enforcing the Council's resolution of 21 February. The subsequent ceasefire agreement and protocol—of which his Government

had never approved—had seemed a setback, but the tragedy had been due to the military weakness of the operation and the material aid, including jet aircraft, that had come to Mr. Tshombé from persons in territories having common frontiers with Katanga: Mr. Kimba's negotiations to obtain reinforcements from Rhodesia had already been announced. The mandate of the United Nations operation in the province of Katanga should be clarified to meet the new situation. Whatever the earlier justification for the interpretation placed on the Council's resolution of 14 July 1960, it was now the United Nations duty to assist the Central Government to restore law and order in Katanga and to end the secession. In the circumstances the Council should authorize the Secretary-General to evict the mercenaries by force or hand them over to the legally constituted authorities for trial and explicitly direct the United Nations Command to support the Central Government in its efforts to end the Katanga secession. It should also ascertain the magnitude of the foreign interference in the Congo from territories bordering Katanga, establish machinery to control it, and call on the States responsible for the international conduct of the territories concerned to stop such interference forthwith. Effective measures should be taken to halt the financial assistance given to Mr. Tshombé by the Union Minière and others and all States should be called upon to prohibit their nationals from selling aircraft and weapons to the Katanga authorities. Lastly the Council should assist the Secretary-General to secure effective contributions of troops from Member States.

The representative of the Congo (Leopoldville) said that the outcome of the Brazzaville, Tananarive, Coquilhatville and Milan meetings showed that Mr. Tshombé would not negotiate seriously with the Central Government until the balance of power had moved against him. In defiance of the *Loi fondamentale* and with no claim to represent the views of a majority of the people of the province, Mr. Tshombé had demonstrated that he would use any means to maintain his so-called independent state of Katanga, the goal for which intransigent settlers and financial groups in the province had worked since before the Congo's attainment of independence. With the support of his mercenaries, a term that could now be applied to almost all the settlers and European employees of foreign companies in Katanga, Mr. Tshombé and the clandestine powers supporting him had recreated the atmosphere of racial hatred of July 1960 and were frustrating a solution of the Congo crisis. The first step must be to evict the mercenaries, the keystone of Mr. Tshombé's resistance, or to place them in the hands of the Congolese authorities for trial. In order to attain the goals it had accepted in responding to the Central Government's initial request for assistance, the United Nations must furnish direct assistance to the Central Government of the Congo and ensure effective co-operation between its forces and those of the Government. It should also assist the Government to reorganize its own police and security forces and take effective steps to end the chaotic situation that had been maintained by people whose interests in the Congo were at variance with those of the Congolese Government and people.

Continuing the discussion at the 974th meeting on 15 November, the representative of Liberia introduced the following draft resolution (S/4985), submitted by Ceylon, Liberia and the United Arab Republic:

"The Security Council,

"Recalling its resolution S/4387, S/4405, S/4426 and S/4741,

"Recalling further General Assembly resolutions 1474 (ES-IV), 1592 (XV), 1599 (XV), 1600 (XV) and 1601 (XV),

"Reaffirming the policies and purposes of the United Nations with respect to the Congo (Leopoldville) as set out in the aforesaid resolutions, namely:

"(a) To maintain the territorial integrity and the political independence of the Republic of the Congo,

"(b) To assist the Central Government of the Congo in the restoration and maintenance of law and order,

"(c) To prevent the occurrence of civil war in the Congo,

"(d) To secure the immediate withdrawal and evacuation from the Congo of all foreign military, paramilitary and advisory personnel not under the United Nations Command, and all mercenaries, and

"(e) To render technical assistance,

"Welcoming the restoration of the national Parliament of the Congo in accordance with the Loi fondamentale and the consequent formation of a Central Government on 2 August 1961,

"Deploring the secessionist activities, contrary to the United Nations decisions and purposes and the interests of the Congolese people, by the provincial authorities of Katanga aided by external assistance and personnel and in opposition to the legally constituted authorities of the Congo,

"Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole,

"1. Strongly deprecates the secessionist activities illegally carried out by the provincial administration of Katanga, with the aid of external resources and manned by foreign mercenaries;

"2. Further deprecates the armed action against United Nations forces and personnel in the pursuit of such activities;

"3. Insists that such activities shall cease forthwith, and calls upon all concerned to desist therefrom;

"4. Authorizes the Secretary-General to take vigorous action, including the use of requisite measures of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign mercenaries and hostile elements as laid down in paragraph A-2 of the Security Council resolution of 21 February 1961;

"5. Further requests the Secretary-General to take all necessary measures to prevent the entry or return of such elements under whatever guise and also of arms, equipment or other material in support of such activities;

"6. Requests all States to refrain from the supply of arms, equipment or other material which could be used for war-like purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit

facilities for such supplies across their territories, except in accordance with the decisions, policies and purposes of the United Nations;

"7. Calls upon all Member States to refrain from promoting, condoning, or giving support by acts of omission or commission, directly or indirectly, to activities against the United Nations often resulting in armed hostilities against the United Nations forces and personnel;

"8. Demands that all secessionist activities in Katanga shall cease forthwith in conformity with the Loi fondamentale and the decisions of the Security Council;

"9. Declares full and firm support for the Central Government of the Congo, and the determination to assist that Government in accordance with the decisions of the United Nations to maintain law and order and national integrity, to provide technical assistance and to implement those decisions;

"10. Urges all Member States to lend their support, according to their national procedures, to the Central Government of the Republic of the Congo in conformity with the Charter and the decisions of the United Nations;

"11. Requests all Member States to refrain from any action which may directly or indirectly impede the policies and purposes of the United Nations in the Congo and is contrary to its decisions and the general purposes of the Charter."

The draft resolution was, the representative of Liberia explained, designed to continue and strengthen the Organization's efforts in the Congo. With the establishment of a broadly based government and reconvening of Parliament, encouraging progress had been made, but massive and divisive foreign influences continued to impede the work of the Organization. The draft resolution would offer firm support to the recently organized Central Government; that Government's growth and strength were the only true course to national unity and territorial integrity and it should be aided in achieving law and order within the country. The draft also called for action to eliminate the mercenaries who were the backbone of the Tshombé secession and to prevent the introduction of further outside assistance. The mercenaries were no better than criminals and ought to be treated as such. Attention should also be drawn to those who were not mere mercenaries; it was reasonable to ask why Union Minière had hitherto been immune to the enforcement of United Nations policies. It would be interesting to know what steps Belgium was taking to implement the Council resolution of 21 February, particularly with respect to mercenaries and the activities of Union Minière.

The representative of the United Arab Republic said that the draft resolution sought to solve the problem of interference by mercenaries and foreigners in Katanga and suggested methods of implementation and new measures which the Secretary-General and the United Nations Command might take to resolve the crisis that had resulted from the failure to implement the resolution of 21 February. Assisted by colonialists and international finance, Mr. Tshombé was engaged in a rebellion against the Central Government and was openly defying the United Nations. The part played by foreign officers and mercenaries and by the personnel and establishments of the Union Minière had been fully documented and it remained true that so long

as foreign intervention continued there could be no united, independent Congo. The draft resolution should commend itself to all who wished to see the territorial integrity of the Congo safeguarded and the earlier decisions of the United Nations implemented.

The representative of France said that his Government's position since the beginning of the Congolese crisis had been based on three principles; the sovereignty of the Congo, its unity, and non-interference in the Republic's internal affairs. France had consistently supported the legitimate authorities in the Congo, in particular, President Kasa-Vubu, and had rejected the requests for recognition as an independent State made by local authorities, notably Katanga. It had taken steps to prevent the enlistment of French citizens in foreign forces and the recruitment of personnel for the Katangese forces in France and issued an order under which any French citizen enlisting in foreign forces was liable to the loss of his nationality. No licences had been issued for the supply of war material. Any French aircraft in the hands of the Katanga authorities had reached the province without the knowledge and against the will of the French Government. The French Government continued to oppose any foreign interference in the internal affairs of the Congo; the resolution of 22 July was based on that principle, but other resolutions had recommended action which would go beyond the limits set by the Charter and France had formulated express reservations in that connexion. The military operation conducted by ONUC in August and early September had demonstrated the dangers of any action going beyond the mandate entrusted to the Secretariat, as defined in the resolution of 9 August 1960 and interpreted by the Secretary-General in his first report (S/4389). The reintegration of Katanga would be achieved by persuasion and not by force and his Government would lend all its support to the peaceful efforts of the Central Government to that end.

The representative of Sweden said that his Government's increased participation in ONUC was an expression of the importance it attached to the Organization's peace-making role in the Congo. The United Nations action in the Congo ought to be of a limited nature. The United Nations should attempt to keep order and prevent, if possible, clashes between the forces of hostile parties; it should not participate in a civil war. Neither the Charter nor the Council's earlier decisions authorized such an extension of its role, which would, in fact, be undesirable from every point of view. While force might be used in self-defence or similar situations, the goal of the operation was, as it had been in the past, to create peace and stability in the Congo through negotiations.

The representative of Belgium expressed regret at the inaccuracies, unfairness and insinuations that had been evident in some speeches and the bias which some United Nations organs showed when they were dealing with the affairs of the Congo and the responsibilities and difficulties of Belgium. Belgium had, he believed, made two mistakes in the Congo; it had followed policies of paternalism too long and it had, perhaps, granted independence too quickly. Answering the charges levelled against Belgium, he said that on taking office his Government had recognized the Government formed round Mr. Kasa-Vubu as the legitimate Government of the Congo and was determined to act accordingly. As a loyal Member of the United Nations, Belgium would also do its utmost to conform to the

Organization's decisions, even though some of the resolutions adopted were, he believed, unwise. The Belgian Government had stated its readiness to carry out the resolution of 21 February and to recall from the Congo, with the approval of the President of the Republic, personnel found to be covered by the terms of that resolution. In the case of Katanga, Belgium had taken similar action. The problem of political advisers had been settled; at the Belgian Government's request, the United Nations authorities had issued an exhaustive list of persons in that category and the persons listed had left Katanga. In the case of military personnel, it had originally been agreed that the Belgian officers would be replaced by officers selected by the United Nations to ensure that the Katangese *gendarmérie* would not be left without officers. On 28 August, however, the United Nations had decided that all Belgian officers should leave in a body and within a few days most of the officers concerned had returned to Belgium. Twelve Belgian officers had been stationed, with the consent of the United Nations, in the Belgian consulate at Elisabethville to organize the evacuation of the large Belgian population in Katanga if an emergency developed. When the United Nations had subsequently changed its position, the twelve officers concerned had also left. Within three days, not a single Belgian officer or soldier under the orders of the Belgian Government would remain in Katanga. With regard to the mercenaries the Belgian Government had done everything a democratic government could do. However, the men in question were soldiers of fortune not readily amenable to the Government's injunctions. Except for a handful of mercenaries, the exact number of whom was unknown, Belgium had thus completely complied with the Council's resolutions. Turning to the incidents of 28 August and 13 September, the Belgian representative deplored the tendentious way in which officials of the Organization had reported the facts. Once the politically and militarily ill-advised operation of 13 September had begun—and the Belgian representative found it difficult to believe that it had been ordered by the Secretary-General—the United Nations official in Elisabethville had tried to explain his difficulties by blaming the Belgians. The officers arrested on 28 August were accused of having organized a plot against the United Nations, but no evidence had been offered. The first shots on 13 September were alleged to have been fired from the Belgian consulate; later that charge had been retracted. Similar unsupported charges had been made concerning the Belgian officers attached to the consulate and concerning the Union Minière. Repeated accusations were inevitably turning Belgian public opinion against the Organization. The Belgian Senate had unanimously adopted a resolution deploring the events in Katanga and calling for an international inquiry to establish the facts and consider the possible compensation of the victims, many of whom had been Belgians. Belgium had only one aim in the Congo: to assist the Congolese Government to overcome the present difficulties. Already Belgium was carrying out with the Congolese Government—a Government with which it had no diplomatic relations—a large-scale technical assistance programme. The Belgian delegation viewed the three-Power draft—and in particular the vague reference to “hostile elements”—with some concern. In that context the emphasis on force in the discussion was disquieting; conciliation and peace appeared to be forbidden words. Yet conciliation did not seem impossible. In his view, the position taken by

Mr. Tshombé in his aide-mémoire of 17 October to Prime Minister Adoula, while not acceptable as it stood, offered a basis for conciliation that should not be disregarded. The Council might well consider adding a paragraph to the draft resolution urging Mr. Tshombé to go to Leopoldville to negotiate with the leader of the Congolese Government as well as guaranteeing his safety and offering the services of conciliators, if necessary.

The representative of the Congo (Leopoldville) agreed that the United Nations should be an instrument of reconciliation. The Congolese Government was prepared to accept any initiative that would lead to a peaceful solution. The obstacles were raised by Mr. Tshombé, who continued to talk of Katangese independence and to lay down conditions that no sovereign State would accept.

At the Council's 975th meeting on 16 November, the President and members of the Council and the representative of the Congo (Leopoldville) expressed their shock at the tragic death of the thirteen Italian airmen at Kindu and extended their sympathies to the Italian Government and the families of the airmen.

Continuing the debate, the representative of Ceylon regretted that the Belgian representative had given the impression in his speech that the main responsibility for the trouble in the Congo rested with the United Nations and not with Belgium and the forces that had from the outset worked to consolidate the secessionist régime in Katanga. The Belgian representative had also criticized the draft resolution, which was designed, by giving the Secretary-General a clear mandate, to avoid any repetition of the *débâcle* that had occurred at Elisabethville in August. It did not close the door to conciliation; there was nothing to prevent Mr. Tshombé from placing himself under the authority of the legitimate Government and the *Loi fondamentale*. But in view of Mr. Tshombé's record and his implication in the murder of Mr. Lumumba, the Council could not be expected to place its trust in him. The measures proposed in the draft to end foreign intervention would contribute to peace and genuine conciliation in the Congo, based on the preservation of the Republic's territorial integrity and independence.

The representative of the United States said that his Government believed that separatism and defiance, from whatever quarter, must end. There was no legal warrant for the concept of a separate Katanga as preached by Mr. Tshombé and his associates—who had no claim to speak for the entire province—or of a rebellious Oriental province led by Mr. Gizenga. If the secessionist leaders persisted in their ambitions, the result could only be misery and civil war, in which they would certainly not be the winners. The only sound objective was to secure the peaceful and complete integration of all the dissident areas. In that connexion, the present mandate as implemented by the United Nations authorities, was reasonably adequate, but needed strengthening in three areas. First, greater responsibility should be vested in the United Nations for neutralizing the flow of weapons into Katanga. Secondly, the Secretary-General should be given sufficient flexibility to end the problem of mercenaries, preferably with the help of Mr. Tshombé who would, the United States hoped, be convinced by conference and conciliation of the futility of further resistance. Thirdly, the Congolese armed forces should be retrained and strengthened, as provided in the Council's reso-

lution of 21 February, and, in the light of the situation in southern Katanga and Oriental, should be provided with a small but effective air force. The three-Power draft resolution (S/4985), while containing elements that were wholly constructive, did not, he believed, fully meet the requirements of the situation and focussed on one danger while ignoring another. Further consultations were necessary if the Council was to take effective action on all important aspects of the Congo question.

The representative of the United Kingdom considered that the wide-spread confusion in the whole of the Congo—and not in one part only—which had been demonstrated by recent events placed even greater emphasis on the dangers of encouraging force and the need for pacification and conciliation. His delegation could not take a decision without time to consider the most recent reports and consult its Government.

The representative of China believed that the Council should on the one hand firmly support the Central Government and prevent foreign interference and, on the other, keep open the channels of negotiation and conciliation. The draft resolution should in his view contemplate both types of action. His delegation viewed with concern the possibility of United Nations involvement in civil war; the Organization's duty to aid in resisting foreign aggression and interference was clear, but the Charter prohibited intervention in a country's domestic affairs.

The representative of the Congo (Leopoldville) emphasized that reconciliation in the Congo was being prevented by outside influences. The Organization was being frustrated by Member States which had continued covertly to encourage the Katangese secession.

The representative of Liberia, referring to the charges of secession in Oriental province, asked whether the Secretariat could supply any official information on that point.

The representative of the Union of Soviet Socialist Republics said that it was clear that Katanga was the centre of foreign intervention in the internal affairs of the Congo and that intervention, by Belgian officers and officials and by mercenaries directed by foreign interests in Katanga, was the basis of the continuing crisis in the Republic. The need for decisive measures to end such foreign colonial intervention was unquestionable, and the three-Power draft proposed specific measures to that end. The Belgian representative's contention that Belgium was not responsible and could do nothing about the Belgians serving Katangese secessionists was hard to accept. It was significant that the new Belgian Government had suggested, in May 1961 that Mr. Hammarskjöld conclude an agreement with the Katanga provincial authorities, whose claim to independent status was manifestly illegal. The truth was that the colonialists were fighting stubbornly to keep the wealth of Katanga in the hands of the monopolies, a fact that could not be concealed by the United States and United Kingdom representatives' attempts to divert attention to other issues.

The following documents were circulated on 16 and 17 November:

In addendum 13 to document S/4940, circulated on 16 November, the Officer-in-Charge of ONUC reported that Central Government troops under General Mobutu in the Kasai-Katanga border area had been engaged by *gendarmérie* units under the control of the Katanga

provincial government. While none had been seen by United Nations observers, mercenaries might have been involved in the operation on the Katangese side; the Katanga-based aircraft which carried out bombing raids in Kasai were virtually certain to have been flown by non-Congolese personnel. According to ONUC reports, 237 persons—chiefly mercenaries—covered by paragraph A-2 of the Council resolution of 21 February remained in Katanga; 388 had been evacuated including 317 Belgians. The twelve Belgian officers attached to the Elisabethville Belgian "consulate" had booked passages to leave the Congo. In Luluabourg, a group of ANC soldiers, the report stated, had become disorderly in the night of 1-2 November. Eight women had been raped. Measures had been taken by the United Nations forces to protect non-Congolese residents and permit the departure of those wishing to leave. On 5 November, Nigerian troops had disarmed 132 soldiers, said to be mutineers, returning from the Katanga border area. In Stanleyville disturbances caused by members of the Jeunesse MNC had occurred on 30 October, but law and order had been restored on the personal intervention of General Lundula. The latter had arrived in Leopoldville on 11 November and pledged allegiance to the President of the Republic. Vice-Premier Gizenga, who had gone to Stanleyville from Leopoldville for one week to settle his domestic affairs on 4 October, had not returned to the capital. In Albertville, disorderly groups describing themselves as Baluba *jeunesse* had molested Congolese and non-Congolese. The situation on 10 November was reported to be tense but in hand. Local pro-Tshombé and pro-Sendwe leaders were co-operating in calming the population. Stanleyville ANC troops had entered Albertville on 13 November, but, after armed soldiers had looted property and threatened civilians, the ANC commander had agreed to withdraw all troops to camp. At Kindu, thirteen Italian airmen flying in equipment to the Malayan ONUC contingent had been taken prisoner by ANC troops. The ANC colonel, who stated that he had little control of his troops, had telegraphed Mr. Gizenga and General Lundula asking them to come to Kindu. Following a conference on 14 November between ONUC officials, Mr. Ghenye, the Minister of the Interior, and General Lundula, the latter had ordered that efforts be made to find the missing airmen, who were said to have escaped, and directed that soldiers responsible for the incident be sent to Stanleyville for disciplinary action. Later United Nations representatives had been informed by reliable sources that the airmen had been shot and dismembered by the soldiers. The Officer-in-Charge had demanded the arrest of the Kindu ANC commander and requested the appointment of a joint investigating committee. ONUC troops would seal off Kindu to ensure the arrest of all suspects. The Acting Secretary-General had directed that vigorous measures be taken and had conveyed his profound condolences to the Italian Government.

At the request of the Liberian delegation, two communications from Mr. Tshombé were circulated in document S/4988 on 17 November. In the first, a cable dated 14 November to the Secretary-General, Mr. Tshombé, after reaffirming the existence of Katanga as a sovereign and independent nation, said that a year of *de facto* independence and recent events had proved the sentiments of liberty and justice that guided the Katangese people. His government continued to favour negotiation as a means of settling the

problem of Katanga, despite the Leopoldville Government's rejection of the proposals for an economic, customs, monetary and military union that would guarantee the autonomy of Katanga. Katanga invoked the right of peoples freely to determine their political, economic and cultural status and pledged itself to respect the principles of the Charter. The second cable, addressed to certain delegations, urged the latter's intervention in the Council to halt the invasion of Katanga. Mr. Tshombé stated that he was prepared to begin immediate negotiation with Prime Minister Adoula and that, by the Tananarive agreement, he had recognized President Kasa-Vubu as head of the Confederation, the only formula that could save the former Belgian Congo.

At the 976th meeting on 17 November, the representative of Belgium, replying to the various charges levelled against his country, reiterated his desire for an impartial international inquiry, conducted by the Security Council, to establish the facts. Since taking office, the new Belgian Government had made a great and largely successful effort to comply with the Organization's recommendations, particularly in regard to the removal of political advisers and mercenaries. Belgium opposed the secession of Katanga and had repeatedly advised Mr. Tshombé to make contact with Mr. Adoula's Government. The Central Government should be given every assistance; in fact, it would have been better to help that Government to restore peace and police the Congo than to have given the task to the United Nations. The Council should also assist the process of negotiation, in particular by clearly indicating to Mr. Tshombé what could be done in the field of conciliation.

The representative of India, while accepting what the Belgian representative had said regarding the new policy of the Belgian Government, emphasized that the whole of the difficulties in the Congo had arisen from foreign intervention. Without external assistance in personnel and equipment, Katanga would be incapable of opposing the Central Government and waging war on the United Nations. The crux of the situation was that the Organization was committed to maintaining the integrity and independence of the Congo and to assisting in putting down a civil war. By arranging a cease-fire on 21 September, the United Nations had demonstrated its desire for conciliation. But the cease-fire terms had not been observed on the Katanga side; mercenaries were returning, arms and aircraft were appearing in greater number and propaganda hostile to the United Nations was continuing. Conciliation could not be had on the basis of the surrender of one side to the other. Nor could the United Nations treat the Katangese provincial authorities and the Central Government as equals without violating the United Nations position. The Council should take a decision that took into account the fact that the countries which had placed their resources at ONUC's disposal had done so, not to expose their troops to indignities and humiliation, but in order to carry out the mission entrusted to them. In his view, the three-Power draft resolution would enable the United Nations forces in the Congo to function fully, effectively and for the purpose for which they were sent and to return to their homes as soon as possible.

The representative of Turkey observed that while there was agreement on the objectives of the United Nations action in the Congo there were differences of

opinion regarding the methods to be adopted. The Organization's main effort should be directed towards eliminating all the foreign influences that added to the complexity of the Congo's problems. At the same time it should do all in its power to assist the Congolese in achieving national reconciliation. His delegation was in general agreement with the three-Power draft resolution (S/4985), although it had strong reservations regarding the wording of paragraphs 4 and 10.

Commenting on the Ethiopian representative's statement at the 973rd meeting, the representative of the United Kingdom said that all the allegations were founded on unsubstantiated rumours or on incorrect conclusions drawn from misunderstood evidence. He refuted the various charges in detail and described the steps taken by both Her Majesty's Government and the Government of the Federation of Rhodesia and Nyasaland to deal with the problem of mercenaries. The United Kingdom Government—whose financial contribution to ONUC was second only to that of the United States—had consistently supported the United Nations effort to establish a unified Congolese State. All its influence had been exerted to help the Congolese to work out their own constitutional future and to assist Leopoldville and Elisabethville to get together. The United Kingdom could not accept the view that the United Nations should supply the outside force needed to enable the Central Government to bring Katanga to submission by the use of arms. To do so would not only weaken the effect of the Charter and create a very dangerous precedent but would provide no solution. The unfortunate events of 28 August and 13 September, when there had been, it was now clear, a serious miscalculation of the premises on which the operation was planned and in the judgement of the consequences in Katanga, were significant in that connexion. Even if successful in the short run, a military solution would leave behind forces of discontent that would inevitably break the country asunder again. Reconciliation must be brought about peacefully through negotiation, with the active encouragement and assistance of the United Nations. Discussing the three-Power proposal in the light of these considerations, he said that while there was much in the draft with which his delegation agreed, he believed that it was too exclusively directed to the problem of Katanga. It would be better to broaden the terms of the draft to take into account all secessionist activities in the Congo. This view was strengthened by the report circulated as S/4940/Add.13. He also thought that paragraph 4 went dangerously far in authorizing the use of force and was likely to inflame rather than improve the situation. The Organization's principal role in the Congo was one of pacification and conciliation. Force should, as he and the majority of the Council had agreed in the debate on the resolution of 21 February, be used only in self-defence or, when peaceful means had failed, to prevent clashes between hostile Congolese troops. There could be no question of empowering the United Nations to use its forces to impose a political settlement.

On the suggestion of the representative of the United States, supported by the representative of Ceylon, the discussion was adjourned to 20 November to permit further consultations.

When the discussion was resumed at the 977th meeting on 20 November, the representative of Chile expressed general agreement with the three-Power draft,

but considered that paragraph 10 was redundant and might open the door to unilateral action inconsistent with the Council's decisions. The sponsors would, he hoped, take into account the United States and Turkish representatives' suggestions. The Organization's most urgent tasks in the Congo were, he believed, to strengthen the Central Government to enable it to preserve the country's territorial integrity and unity; to continue to take action to avert civil war; and to contribute vigorously to the evacuation of foreign mercenaries, paramilitary personnel and advisers. Conciliation should not be abandoned, but was impossible so long as Mr. Tshombé viewed Katanga as a sovereign nation, in defiance of the *Loi fondamentale* and the Milan agreements between the Congolese leaders. Self-determination was not the same as secession, as practised in Katanga by a minority aided by outside interests seeking to dismember the country.

The representative of Ecuador believed that the existing mandate of the Secretary-General, properly modified and clarified, would enable the United Nations to assist the Government of the Congo to maintain its territorial integrity and sovereignty. Three factors were of concern to the Organization: Mr. Tshombé's attitude; the mutiny of the army; and the continuation of foreign military assistance, and continued presence of foreign mercenaries, in Katanga. The separatist movement in Katanga, supported by a coalition of racists and mining interests, was a constant threat to the peace of the Congo, which would be removed if Katanga yielded. His delegation would support any resolution, in line with the letter and spirit of the Charter, that would permit the preservation of the Congo's territorial integrity and halt foreign assistance and the activities of mercenaries.

The representative of Liberia announced that the sponsors, in order to express their opposition to secessionist activities anywhere in the Congo while stressing such activities in Katanga—the only area in which there was evidence of secession—would revise paragraph 8 of their draft to read:

"Declares that all secessionist activities against the Republic of the Congo are contrary to the Loi fondamentale and the Security Council decisions and specifically demands that such activities which are now taking place in Katanga shall cease forthwith." (S/4985/Rev.1.)

At the 978th meeting on 21 November, the representative of the United States introduced the following amendments (S/4989) to the revised three-Power draft (S/4985/Rev.1):

1. The revision of the fifth preambular paragraph to read:

"Deploring all armed action and secessionist activities in opposition to the authority of the Government of the Republic of the Congo, including specifically those carried on with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'";

2. The addition of two new preambular paragraphs, reading:

"Noting with deep regret the recent and past actions of violence against UN personnel", and

"Recognising the Government of the Republic of the Congo as exclusively responsible for the conduct of the external affairs of the Congo";

3. The revision of operative paragraph 2 to read:

"Further deprecates all armed action against United Nations forces and personnel and against the Government of the Republic of the Congo";

4. The revision of operative paragraph 4 to read:

"Authorizes the Secretary-General to take vigorous action, including the use of a requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and paramilitary personnel and political advisers not under the UN command, and mercenaries as laid down in paragraph A-2 of the Security Council resolution of 21 February 1961";

5. The addition of a new paragraph 6, reading:

"(6) Authorizes the Secretary-General, in consultation with the Government of the Republic of the Congo to neutralize, where necessary to prevent their use for military purposes against the United Nations, the Republic of the Congo, or the civilian population, aircraft and other weapons of war which have entered the Congo contrary to its laws and UN resolutions";

6. The addition of a new paragraph 11, reading:

"(11) Requests the Secretary-General to assist the Government of the Republic of the Congo to reorganize and retrain Congolese armed units and personnel to assist the Government to develop its armed forces for the tasks which confront it";

7. The addition of a new paragraph 13, reading:

"(13) Further authorizes the Secretary-General to take all such steps in accordance with the resolution of the Security Council as he considers necessary, including those of negotiation and conciliation, to achieve the immediate political unity and territorial integrity of the Congo".

The amendments were, he explained, additions designed to strengthen and broaden the three-Power draft. In particular, they would recognize that although the Katanga secession was the primary current cause of trouble in the Congo, the Central Government was also plagued with other attacks against its authority. They were entirely consistent with what appeared to be the intent of the three-Power draft and would provide effective assistance to the Government of the Congo and the new Secretary-General in their respective tasks.

The representative of the USSR said that the Council's previous decisions on the question of the Congo would have been sufficient, if they had been correctly implemented and if the machinery of the United Nations and the United Nations Command had acted strictly in accordance with the spirit of the resolutions adopted. That had not been the case. In consequence, even after the resolution of 21 February adopted by the Council in face of the crisis in the Congo following the murder of Prime Minister Lumumba by mercenaries, matters had failed to improve. The intervention of the colonialist Powers in Congolese affairs, notably in Katanga, had continued unabated. To meet that situation, certain African countries had raised the question in the Council, and Ceylon, Liberia and the United Arab Republic had proposed a resolution designed to eliminate the causes of internal unrest in the Congo and eliminate colonialist intervention in that country's domestic affairs. The intervention of colonial forces in Katanga was the crux of the Congolese problem and

anything that tended to distract attention from that fact was not likely to help either the Secretary-General or the Central Government of the Congo. For that reason, the USSR could not support some of the United States amendments. Thus, the sixth amendment assigned a task to the United Nations that could not be fulfilled unless the United Nations force was to be ensconced in the Congo for decades. Nor was it pertinent to the specific objective of the draft resolution: the liquidation of foreign interference in Katanga. Amendment No. 7 was also unacceptable as a mandate to the Secretary-General in the current situation. The text did not specify with whom negotiations were to be conducted. But it was clear from certain statements in the Council that conciliation was to be sought with Mr. Tshombé and the representative of the Congo had made it plain that negotiations were impossible with Mr. Tshombé, who was merely an agent of foreign colonial forces. The amendment was in fact contrary to the position of the Central Government and of the United Nations as a whole. Although the other amendments were not in its view essential, the USSR would not object to them if they had the support of other members. The USSR delegation also proposed the following sub-amendments (S/4991) to the new paragraph 6 proposed in the fifth United States amendment:

(i) The substitution of the word "remove" for the word "neutralize";

(ii) The substitution of the words "which have entered Katanga contrary to the laws of the Congo" for the words "which have entered the Congo contrary to its laws";

(iii) The deletion of the words "where necessary".

At the 979th meeting, also held on 21 November, the representative of the Congo (Leopoldville) urged the adoption of the three-Power draft, which would assist the Congo to help itself. His Government and the Secretary-General already had in mind steps that would give the country an effective army able to prevent secessionist movements. He could see no objection to the provision of United Nations assistance to that end. Nor, while recognizing that the only secession was in Katanga, could he see any contradiction between condemnation of the Katangese secession and affirmation of the principle that all secessionist movements were to be condemned. Effective United Nations assistance would permit the Congolese Government to assume its responsibilities and avoid alignment with any political bloc.

The representative of the United Kingdom welcomed the sponsors' revision of paragraph 8 of their draft and the first, second and third United States amendments, which properly took into account divisionary tendencies in parts of the Congo other than Katanga. He also endorsed the sixth and seventh United States amendments but had very strong reservations regarding amendments No. 4 and No. 5. The United Kingdom agreed that the mercenaries must be got rid of; however, the Secretary-General and the United Nations forces and officials in the Congo must not act in such a way that the outcome was further fighting and greater chaos. He hoped that in interpreting that part of his mandate the Secretary-General would have in mind the principle that the proper task for the United Nations was conciliation and pacification. He had similar misgivings regarding the fifth United States amendment which seemed to go too far in authorizing action that

could result in worsening the present situation and might endanger the uneasy peace in Katanga. Nevertheless, his delegation was prepared to vote for the draft resolution as a whole, if the amendments in S/4989/Rev.1 were adopted and the sub-amendments in S/4991 were rejected. The resolution would impose an extremely delicate task on the Secretary-General and the continued full support by the United Kingdom of the Congo operation would depend on the skill, wisdom and conciliatory manner with which the United Nations carried out its mandate.

The representative of Liberia emphasized the importance of reaffirming the necessity of assisting the Central Government to retrain and reorganize its troops and pointed out that reconstruction of the Congolese army would hasten the day when United Nations forces could be withdrawn. With regard to conciliation, the Council clearly could not countenance negotiation on the basis of recognition of Katanga as a separate and independent State. Any such claim by Katanga was, however, firmly rejected by the draft and the Council could be confident that the Secretary-General would not enter into negotiations to the detriment of the Organization or its purposes. Failure to adopt the resolution would strengthen the hands of those opposed to the United Nations and might increase the chaos in the Congo.

The representative of the USSR, commenting on the United States representative's suggestion that the Council adjourn to work out a text acceptable to all, said that his delegation was prepared to vote for the three-Power draft. It would accept some of the United States amendments. What it might not do was accept amendments designed to carry out a policy that had nothing to do with the situation before the Council—the continuing intervention by foreign colonial forces in Katanga. The situation in the Congo was not the fault of the USSR. Unlike the Western Powers the USSR had no personnel in the Congo. It was the Western Powers' policy of strengthening colonial forces in the Congo that had led to the crisis in Katanga and threatened the collapse of the operation. The USSR would not support measures that would extend the colonialist adventurers throughout the Congo. If, on the other hand, the United States was prepared not to press some of its amendments, the three-Power draft could be adopted unanimously.

On the motion of the representative of Liberia the Council adjourned until 24 November.

Following the submission of the USSR amendments, at the 979th meeting, the representative of the United States submitted a revision (S/4989/Rev.1) of his delegation's amendments under which the words "including specifically those carried on with the aid of external resources and foreign mercenaries" in the fifth preambular paragraph proposed in the first amendment would be amended to read "including specifically those carried on by the Provincial Administration of Katanga with the aid of external resources and foreign mercenaries". The new operative paragraph 6 proposed in the fifth amendment would also be revised, to authorize the Secretary-General, in consultation with the Government of the Republic of the Congo, to remove or to prevent the use for military purposes against the United Nations, the Republic of the Congo, or the civilian population, of aircraft and other weapons of war which had entered Katanga or any other region

of the Congo contrary to the laws of the Congo and United Nations resolutions.

At the 982nd meeting on 24 November, the representative of the United States presented a second revision (S/4989/Rev.2) of his amendment under which the first amendment would read:

"Deploing all armed action in opposition to the authority of the Government of the Republic of the Congo, specifically secessionist activities and armed action now being carried on by the Provincial Administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is 'a sovereign independent nation'".

The United States representative also withdrew his delegation's seventh amendment proposing the addition of a new penultimate paragraph. His delegation was, he said, anxious to do nothing that might result in an adverse vote which would appear to limit the Secretary-General's authority to use conciliation or negotiation, provision for which had already been made in the Council's resolution of 21 February. The United States representative also agreed to add the words "or may enter" after the words "have entered" in the new paragraph 6 proposed in the fifth United States amendment, but declined to accept an oral sub-amendment submitted by the USSR calling for the deletion of the words "or in any other region of the Congo" in that paragraph.

Speaking before the vote on the sub-amendments, amendments and draft resolution, the representative of France said that his delegation shared the concern which had given rise to the draft resolution, in particular the desire to affirm the independence and sovereignty of the Congo and the authority of the Central Government over all the Congolese provinces. France deplored secessionist activities in Katanga and the activities of mercenaries in that province. But it could not support measures that would make the United Nations a party to an internal conflict, constitutional or other. His delegation would therefore abstain when the vote was taken.

The Council then proceeded to vote on the proposals before it. The USSR oral sub-amendment to delete the words "or any other region of the Congo" in the new paragraph 6 proposed in the fifth United States amendment was put to the vote first, the other USSR sub-amendments having been accepted by the United States representative.

Decision: *The USSR sub-amendment was rejected, the result of the vote being 2 votes in favour (USSR, United Arab Republic) to 6 against, with 3 abstentions (Ceylon, France, Liberia).*

The United States amendments (S/4989/Rev.2) to the revised joint draft resolution (S/4985/Rev.1) were put to the vote separately.

Decisions: *The first United States amendment was adopted, by 9 votes in favour to none against, with 2 abstentions (France, USSR).*

The two new preambular paragraphs proposed in the second United States amendment were adopted, on separate votes, by 10 votes in favour to none against, with 1 abstention (France).

The third United States amendment received 9 votes in favour to 1 against (USSR), with 1 abstention

(France), and was not adopted, the negative vote being that of a permanent member.

The fourth United States amendment was adopted, by 8 votes in favour to none against, with 3 abstentions (France, USSR, United Kingdom).

The fifth United States amendment received 6 votes in favour to 1 against (USSR), with 3 abstentions (France, United Arab Republic, United Kingdom), and was not adopted, having failed to receive the required majority.

The sixth United States amendment received 9 votes in favour to 1 against (USSR), with 1 abstention (France), and was not adopted, the negative vote being that of a permanent member.

Following the vote on the amendments, the United States representative moved the suspension of the meeting for ten minutes.

Decision: The motion to suspend the meeting was carried by 9 votes in favour to 1 against (USSR), with 1 abstention (Liberia).

After the meeting was resumed, the representative of the United States stated that he would vote for the draft resolution as amended, albeit with great reluctance, because he believed that the Council should take a firm stand against the activities in Katanga and in support of the Central Government. He regretted the failure to realize unanimity on a satisfactory comprehensive mandate, but considered that the new resolution could only add to, and not diminish, the authority previously granted.

The three-Power draft resolution (S/4985/Rev.1), as amended by the adoption of the first, second and fourth United States amendments (S/4989/Rev.2), was put to the vote.

Decision: The draft resolution was adopted by 9 votes in favour to none against, with 2 abstentions (France, United Kingdom). The text of the resolution as adopted is contained in document S/5002.

The Acting Secretary-General, commenting on the provisions of the resolution calling for action by the Secretary-General, said it was intolerable that efforts to prevent civil war and achieve reconciliation in the Congo should be thwarted by professional adventurers who fought and killed for money. He would therefore discharge his responsibilities under paragraphs 4 and 5 of the resolution with determination and vigour. While it would be desirable to concentrate all resources on the elimination of mercenaries and hostile elements in Katanga, it was clear in the light of recent events at Luluabourg, Albertville and Kindu that the need for continuing United Nations assistance in the maintenance of law, order and security in many parts of the Congo was still critical. In accordance with past resolutions, everything possible must be done to avert civil war, even by the use of force, if necessary as a last resort. That necessarily implied a sympathetic attitude on the part of ONUC towards the Central Government's efforts to suppress secessionist activities and armed action directed against it. More determined and effective steps must also be taken with regard to the training and reorganization of the Congolese armed forces, in accordance with previous resolutions, and technical assistance should be steadily expanded, particularly as conditions in the country permitted military aid to be

reduced. For the time being, there was an acute need for more troops, but once the current disorder and secessionist threat was eliminated, a gradual reduction might be possible, beginning perhaps in early 1962. Above all, the United Nations would continue and redouble its attempts to achieve reconciliation by peaceful means of the differences that endangered the unity of the Congo. He was considering the possibility of naming a special representative of high standing for that purpose, if the Congolese Government so desired. The Secretary-General's task of guiding the Congo operation was a difficult and complex one and would, of course, only be possible if he could count on the good will of Member Governments and their readiness to provide the resources—particularly the financial support—essential for its successful accomplishment.

The representative of the United Kingdom regretted that because some of the most important of the United States amendments had been vetoed by the Soviet Union, or withdrawn under the threat of such a veto, he had been unable, for the reasons he had stated earlier, to vote for the resolution. At the same time, his delegation derived much comfort from the Secretary-General's remarks and welcomed his emphasis on conciliation.

The representative of the Congo expressed his appreciation of the resolution and of the clear and unambiguous statement by the Acting Secretary-General. Reconciliation would be easier if those who had influence over Mr. Tshombé and contact with him persuaded him of its desirability. The Central Government for its part was fully in favour of reconciliation, in legality and order.

The representative of the USSR noted that in the course of the debate most members of the Council, and the African and Asian countries participating in the discussion, had recognized that the main task was the liquidation of foreign intervention in Katanga and of the separatist movement in that province. The three-Power draft resolution, although not fully satisfactory, had been directed to that end. The United Kingdom, France and Belgium had come out against basic provisions of the draft and the United States, while ostensibly supporting a number of its provisions, had attempted to change its orientation. Thanks to the firm position taken by the USSR, those attempts had failed, and a resolution which met the main requirement of the situation had been adopted. The problem now was to implement the decision taken. The resolution of 21 February had gone unimplemented, because of the stubborn resistance of the colonial forces in the Congo and countries adjoining the Congo. That resistance would undoubtedly be continued, and the Acting Secretary-General's difficulties in that respect would be increased by the one-sided composition of the United Nations personnel in the Congo. Various groups of Member States which had participated in the adoption of decisions, including decisions in the Council, were not represented in the United Nations machinery in the Congo. He hoped the Acting Secretary-General would take the necessary remedial action and would implement the resolution scrupulously and consistently without giving any of its provisions a special or political interpretation. Any deviation from the resolution might, as experience in the Congo over the past sixteen months showed, have disastrous consequences.

C. Communications received after 24 November 1961

In a letter dated 23 November, circulated together with the Acting Secretary-General's reply of 24 November, in document S/5003, the President of the Security Council asked by whom and on what authority approval by United Nations Headquarters had been given to the agreement of 13 October between the Katanga authorities and ONUC (S/4940/Add.11). In reply the Acting Secretary-General stated that approval had been given with the concurrence of Mr. Bunche, Mr. Cordier, Mr. Gardiner, Mr. MacFarquhar, Mr. Narasimhan and Brigadier Rikhye, the senior officials having responsible functions in the Congo operation under the late Secretary-General. Before taking the action in question, the Secretariat had consulted the United Nations Advisory Committee on the Congo. In the absence of the Secretary-General, it was essential for the responsible officials, acting within the general authority of the Council and Assembly resolutions, to give approval when required for agreements on military matters including cease-fire arrangements, in order to save lives and carry out the objectives laid down by the Council. The action might, therefore, properly be considered to have been a practical necessity in the unusual circumstances then prevailing.

In a report (S/4940/Add.14) circulated on 29 November the Officer-in-Charge of ONUC transmitted a letter of 13 November from the Congolese Minister of the Interior requesting him to place all mercenaries in Katanga and the other Congolese provinces at the disposal of the Government of the Republic. Under Ordinance No. 83 of the same date, a copy of which was attached, all non-Congolese officers and mercenaries serving in the Katangese forces who had not entered into a contract with the Central Government were liable to the penalties of imprisonment provided in book II, section VIII, of the Congolese Penal Code.

On 27 November the Acting Secretary-General circulated the text of an agreement (S/5004), signed on 27 November between the United Nations and the Republic of the Congo relating to the legal status, facilities, privileges and immunities of the United Nations Force and officials serving under the United Nations in the Congo.

In a letter (S/5009) to the Acting Secretary-General dated 30 November, the representative of the USSR stated that the cease-fire "agreements" between the United Nations troops and Katanga authorities' forces—which had been concluded by certain Secretariat members on behalf of the United Nations as a whole and without the Council's authorization—had enabled Tshombé and other colonialist agents to strengthen their positions in Katanga. The USSR agreed with the view expressed by Asian and African representatives in the Assembly that the "agreements" were inconsistent with the Security Council's decisions, notably the resolution of 21 February, and without legal force. With the adoption of the resolution of 24 November, the contradiction had become more evident. In the USSR mission's view, the "agreements" should in no circumstances be permitted to obstruct the speedy and scrupulous implementation of the Council's decisions.

In a further report (S/4940/Add.15) circulated on 30 November, the Officer-in-Charge described the Katanga provincial authorities' mounting propaganda campaign against the United Nations and the kidnapping and manhandling by Katangese soldiers of

two senior Secretariat officials. An officer and soldier of a Ghurka battalion had also been kidnapped; the body of the soldier had later been found in the vicinity of Mr. Tshombé's residence. The incident was, the report said, different from many, in that there had been no mistake about the identity of the victims. The Tshombé régime was approaching a point where it could not control the forces it had unleashed or change its policy away from violence and towards collaboration with the United Nations in execution of the Council's resolutions. If it continued in that course, the cease-fire agreement and protocol, already repeatedly violated by the Katangese régime, would cease to exist. In that event the United Nations forces would be compelled to employ all legitimate and available force to defend itself and bring about conditions in which ONUC's mandate could be carried out. Measures to ensure the safety of ONUC personnel in Elisabethville had been instituted and would inevitably hamper ONUC in the performance of its functions. Nevertheless, ONUC would do its utmost to continue to execute its mission by peaceful means if at all possible.

At the request of the Congolese delegation a speech by the Prime Minister of the Congo was circulated on 1 December (S/5010). After referring to Mr. Tshombé's call to the Katangese people to make war on the United Nations forces, Mr. Adoula, speaking on 28 November, said that the Council's resolution of 24 November meant that the United Nations was determined to support the Central Government and to intensify its aid to put an end to the Katangese secession, if necessary by force. The Government intended to see that the mandate given by the Security Council was carried out in consultation with the Congolese Government. The ANC had been deployed on the Katanga borders and was in control of Albertville. The United Nations had been authorized to arrest mercenaries. Vice-Prime Minister Sendwe had gone to Katanga as Special Commissioner-General. Urging European residents in Katanga not to meddle in Congolese affairs, the Prime Minister pointed out that the House of Representatives had voted for the renewal of diplomatic relations with Belgium, which appeared to be abandoning its equivocal policy with regard to the status of Katanga.

A further report (S/4940/Add.16) by the Officer-in-Charge, contained detailed information on developments after the incidents of 28 November. The Katanga authorities seemed, the report said, to have made some efforts to re-establish their authority in the situation which the propaganda against the United Nations had created, but there were signs that the Katanga forces, particularly the paracommandos, were still out of control. On 1 December Mr. Tshombé had left for Brazzaville. During the following days there had been further acts of violence against United Nations personnel and on 4 December Katanga paracommandos had set up a roadblock cutting communications between the airport and ONUC headquarters in Elisabethville. Despite assurances by Mr. Kimba, Mr. Tshombé's deputy, the paracommandos had not been withdrawn and on 5 December it had become evident that a plan by the *gendarmérie* for a full-scale attack on the United Nations was being put into effect. There was reason to believe that the fourteen United Nations personnel believed to be in Katangan hands were being held as hostages by the *gendarmérie*. ONUC's unremitting efforts to restore its communications by peaceful means having failed,

Indian troops had cleared the roadblock by force. ONUC troops coming from the airport had encountered heavy fire and there were indications that the Katangese plan for a general assault was more advanced and comprehensive than had been suspected. ONUC headquarters in Elisabethville was under intermittent mortar and machine-gun fire. A protest dated 29 November from the acting United Nations representative in Elisabethville to Tshombé and letters from Mr. Tshombé dated 1 and 2 December to the acting representative and to the Officer-in-Charge were annexed.

Developments in Elisabethville between 5 and 7 December were described in a report from the Officer-in-Charge (S/4940/Add.17) dated 9 December. After clearing the roadblock on 5 December the United Nations forces had remained in their positions, while the Katangese had engaged in aggressive actions, including a bombing attack on the airfield. The following day an inflammatory message had been broadcast by Mr. Munongo, the Provincial Minister of the Interior, who said that the United Nations had declared war on Katanga and urged the populace to resist. As a preventive measure, ONUC aircraft had attacked communications west of Kolwezi and the airfields at Jadotville and Kolwezi; sniping in Elisabethville had continued. Civilians had been advised not to evacuate the town. On 7 December sniping and mortar fire had continued, but the United Nations Force was awaiting completion of its plan for reinforcement before undertaking any major defensive action. Radio Katanga transmitters had been brought under mortar fire, but had later resumed broadcasts urging the population to take up arms against the United Nations troops.

On 15 December a *note verbale* dated 11 December communicating the text of three cables from the Belgian Minister for Foreign Affairs to the Acting Secretary-General was circulated, with the latter's replies of 8 and 15 December, as document S/5025. In two cables of 8 December the Minister for Foreign Affairs said that news that several Belgian civilians had been killed by the United Nations forces during the operations had raised a storm of indignation in Belgium. His Government urged that ONUC troops be instructed to respect the Geneva Convention and to safeguard civilian lives and property. Referring to the possibility that the Union Minière telecommunication system might be considered a military objective, he stated that destruction of the power transmission lines, which might result from action against the system, would deprive the civilian population of electricity and water. The operations in Katanga had every appearance of being disproportionate to the mandate given to the Secretary-General in the resolution of 24 November. Nor was it easy to conceive that self-defence required the use of the formidable measures being employed. The Belgian Government would welcome information as to the objectives of the operations in Katanga and the legal basis on which they rested. In two replies the same day the Acting Secretary-General stated that the ONUC troops had orders to safeguard civilian life and property; action had had to be taken against non-Congolese civilian snipers, but every effort had been made to avoid injury to civilians and to property. The Union Minière telecommunication installations would not be treated as military objectives if they were not used by the Katangese *gendarmérie*. ONUC would gladly protect the installations against requisition by the *gendarmérie* provided the Union Minière officials sought

such assistance and desisted from hostile actions against ONUC. Following a series of hostile acts by Katangese *gendarmérie* and the discovery of plans for a full-fledged attack by the *gendarmérie* against vital United Nations positions, ONUC had had no alternative to using the force necessary in self-defence to secure its communications and freedom of movement. In a cable of 9 December the Minister for Foreign Affairs stated that civilians had not been evacuated from danger areas despite urgent requests and that hospitals had been hit by deliberately aimed mortar fire. Union Minière denied the allegations concerning hostile acts against ONUC and requested the latter's protection for its telecommunication facilities. His Government considered it of the utmost importance that the United Nations publish the plan for a general attack which it believed to justify the present operations. Replying in a cable of 15 December, the Acting Secretary-General regretted the casualties suffered by civilians, despite the precautions taken. The Katangese forces had frequently used the civilian population as a shield and had impeded the evacuation of civilians. As regards Union Minière, it was common knowledge that its officials had assisted the mercenaries; Mr. Tshombé could not have created an air force, with modern aircraft, including jets, without the financial and material assistance of Union Minière and other foreign firms in Katanga. With regard to the genesis of the present operations, the Katangese plan for a general attack could not, for obvious military reasons, be disclosed immediately. It would be released in due course and in any case must be considered in the context of the incidents before 5 December and the violent propaganda campaign launched by Mr. Tshombé after the adoption of the Council's resolution of 24 November. If the action had assumed proportions going beyond those of a purely defensive action, it was because ONUC troops had been the target of increasingly violent aggressive actions by *gendarmes* and mercenaries, including a bombing attack on Elisabethville airfield during the night of 5 December. The operations would be continued until the objectives—to secure ONUC's freedom of movement, to restore law and order and to safeguard ONUC forces and officials against attack—were attained by military or other means and until it was possible to implement the Council's and Assembly's resolutions without let or hindrance. He would welcome any initiative that would permit the achievement of those aims peacefully and speedily.

In a telegram (S/5026) and a letter (S/5027) dated 15 December the Government of the Congo (Brazzaville) requested an immediate meeting of the Council to decide on an immediate cease-fire and reconsider the action taken by the United Nations to restore peace and harmony in the Congo.

On 19 December an exchange of communications between the President and Representative to the United Nations of the Congo (Brazzaville) and the Acting Secretary-General was circulated in document S/5035. In a cable dated 16 December the Acting Secretary-General deplored the decision of the Government of the Congo (Brazzaville) to deny transit and overflight facilities to ONUC aircraft. The decision would, the Acting Secretary-General said, gravely hinder the fulfilment of the purposes of the United Nations and constitute a violation of the Government's obligations under the Charter, in particular Articles 25 and 49. In reply the President of the Congo (Brazza-

ville) stated that the decision had been taken with the utmost regret; successive statements by the authorities responsible for the United Nations action in Katanga had raised doubts concerning the legitimacy and purpose of the operation which were shared by a number of Governments. It was for that reason that he had requested an immediate meeting of the Security Council.

In a report (S/4940/Add.18) on developments in Elisabethville between 8 and 18 December, the Officer-in-Charge stated that pending the arrival of reinforcements most of the United Nations forces' efforts had had to be devoted to holding their positions and maintaining communications between them. After 14 December, when reinforcements became available, Ethiopian, Irish, Indian and Swedish troops had taken action to eliminate Katangese positions on the perimeter of the town. By 18 December the only area in which the Katanga forces were still very active was the Union Minière buildings, from which heavy fire was being directed at Ethiopian units. The report stated that an inquiry had been instituted concerning the disappearance of Mr. Olivet, the representative of the International Committee of the Red Cross, who had been missing since 13 December.

In a report (S/5038) circulated on 21 December the Acting Secretary-General stated that, following a request to the President of the United States on 14 December, a meeting between Prime Minister Adoula and Mr. Tshombé had been arranged at Kitona on 19 December, with the assistance of the United States Ambassador and ONUC. In addition to the representatives of the Government of the Congo and of the provincial government of Katanga, the United States Ambassador and Mr. Bunche, Under-Secretary for Special Political Affairs, participated in the talks. On 21 December an agreement had been reached consisting of a declaration by Mr. Tshombé, a letter from Mr. Tshombé to Mr. Bunche, and letters from Mr. Bunche to Mr. Tshombé and to the Prime Minister. In his declaration Mr. Tshombé accepted the application of the *Loi fondamentale*; recognized the unity of the Congo; recognized President Kasa-Vubu as Head of State; recognized the authority of the Central Government over all parts of the Congo; agreed to the participation of Katanga representatives in the Commission to be convened at Leopoldville to study the draft constitution; pledged himself to take steps to enable Katanga deputies and senators to discharge their national mandate within the Government of the Republic; agreed to the placing of the Katanga *gendarmérie* under the authority of the President of the Republic; and pledged himself to ensure respect for the resolutions of the General Assembly and the Security Council. While stating his position without reservation in the declaration, Mr. Tshombé drew attention to the fact that he had not had time to consult the Katanga authorities to obtain authority to speak on their behalf.

A report (S/4940/Add.19) by the Officer-in-Charge, circulated on 22 December, stated that the ONUC command had ordered a hold-fire in Elisabethville for the duration of Mr. Tshombé's talks with Prime Minister Adoula. Ethiopian troops had occupied the Union Minière factory area, after it became evident that the buildings were held by non-African extremists and mercenaries interested in the continuation of hostilities.

On 9 January, the Officer-in-Charge reported (S/5053) that fourteen Katangese parliamentarians had arrived in Leopoldville by 3 January; three Katangese officials had also arrived to discuss constitutional modifications. Mr. Tshombé had contested the legality of President Kasa-Vubu's action in convening a special session of the Provincial Assembly at Kamina, and the Assembly had met at Elisabethville on 3 January. In the military field, incidents and tension had gradually decreased, although there were reports of armed attacks on members of the Baluba, Tshokwe and other tribes. The hard core of the Katanga mercenaries was still at large and there was evidence that recruitment abroad had not ceased. To reduce the flow of illicit arms and foreign elements, the Acting Secretary-General had proposed to the Governments of the United Kingdom and Portugal that United Nations observers be stationed at selected airports and roads through which traffic to Katanga passed. Neither Government had accepted the proposal. In Elisabethville, civilian life was slowly returning to normal, but much remained to be done to restore full confidence and stability.

In a report (S/5053/Add.1) dated 20 January 1962 the Officer-in-Charge stated that Mr. Gizenga had returned to Leopoldville after being appointed Vice-Prime Minister but on 4 October had left for Stanleyville on eight days leave of absence. In Stanleyville he had founded the Parti-national lumumbiste (PANALU), which had led to increasing tension in Oriental province. In accordance with a resolution (Annex I) of the Chamber of Representatives dated 8 January, the Prime Minister had ordered Mr. Gizenga to return to Leopoldville to answer charges of secessionism and maintaining a private militia. The order had been disobeyed and on 13 January fighting had broken out between *gendarmérie* loyal to Mr. Gizenga and General Lundula's troops. On the request of the Prime Minister (Annexes II and III) ONUC had assisted in disarming the *gendarmes* within the framework of its mandate to assist the Government in maintaining order and preventing civil war. On 20 January Mr. Gizenga, who had been stripped of his office of Vice-Prime Minister by ordinance No. 1/62 (Annex VI), returned to Leopoldville in a United Nations aircraft. In a message of 17 January (Annex IX) to the Prime Minister, the Acting Secretary-General had expressed the hope that Mr. Gizenga's rights under the law would be fully respected; should there be need for United Nations assistance toward ensuring Mr. Gizenga's safety, the United Nations Force would respond without delay to a word by the Prime Minister. With regard to Katanga, the Officer-in-Charge reported that the Provincial Assembly was continuing its debate on the Kitona agreement. An exchange of prisoners had been carried out, but no positive steps had been taken by the provincial authorities to facilitate the implementation of the Council's decisions concerning mercenaries. Six of the eleven non-Congolese nationals apprehended during the December operations had been released as not coming under paragraph A-2 of the resolution of 21 February; one had been repatriated to Belgium and four were in United Nations custody. Measures to maintain law and order had been strengthened and efforts were being made to restore normal economic life and communications. The Acting Secretary-General had been unable to accept the Rhodesian Government's suggestion that he visit the Federation to discuss the

traffic of illicit arms into Katanga, but would consider sending a high official as his representative.

A further report (S/5053/Add.2), issued on 23 January stated that Mr. Gizenga had informed the Officer-in-Charge that he no longer wished ONUC protection. In a message (Annex 1) dated 20 January the Prime Minister had given an assurance that Mr. Gizenga's safety was ensured and that he would enjoy all the safeguards provided by the law. In a *note verbale* (S/5065) to the Acting Secretary-General dated 17 January the representative of Belgium referring to his earlier *note verbale* of 3 January and the Acting Secretary-General's reply of 6 January, expressed regret that, despite the Belgian Government's warnings, a massacre of European missionaries had taken place at Kongolo without any intervention by United Nations forces. In a reply dated 27 January, circulated in the same document, the Acting Secretary-General stated with regret that an officer of the ONUC Nigerian contingent who had visited Kongolo had confirmed that twenty-two missionaries had been killed by undisciplined ANC soldiers. A Central Government Commission of Inquiry, headed by Vice-Prime Minister Sendwe, had been unable to go to Kongolo because security conditions were still unsatisfactory. Unfortunately ONUC had no troops in the Kongolo area. ONUC's ability to assist in the maintenance of law and order in the area had been greatly circumscribed by events elsewhere in the Congo. As the Acting Secretary-General had stated on 14 December, responsibility for the consequences of the temporary withdrawal of ONUC units must attach squarely to the irresponsible non-Congolese elements who, in connivance with members of the Katanga provincial administration, had instigated a secessionist movement and initiated a reckless assault on the United Nations Force. A second *note verbale* (S/5065/Add.1) dated 29 January stated that the evacuation of missionaries from the Kongolo-Kasongo area had been completed.

In a report (S/5053/Add.3) circulated on 29 January, the Officer-in-Charge stated that in contacts with the provincial authorities he had continued to press for the speedy and complete elimination of all mercenaries from Katanga. On 26 January Mr. Tshombé had given an undertaking, confirmed in a letter of 27 January (Annex I), to expel mercenaries still in Katanga within one month, to give the United Nations a list of all mercenaries who had been in Katanga, and to agree to the establishment of a joint United Nations-Katangese civilian commission to seek out any mercenaries evading expulsion. The reports also referred to developments with regard to Mr. Gizenga, who had been moved to a residence in the Cent Maisons area at Camp Rhodeby. A Government *communiqué* had stated that Mr. Gizenga was not under house arrest but that certain measures had had to be taken for his safety. In a letter dated 30 January (S/5053/Add.4) the Officer-in-Charge took note of Mr. Tshombé's statement concerning mercenaries and emphasized the need for their immediate evacuation; if joint commissions were established, it would be for the United Nations to decide whether its representatives should be civilian or military. The Officer-in-Charge reported the following day (S/5053/Add.5) that he had had a meeting with Mr. Gizenga in the presence of the Minister of the Interior, an official of the *Sûreté nationale* and Mr. Stavropoulos, the Legal Counsel of the United Nations. In a letter (Annex 1) handed to the Officer-in-Charge,

Mr. Gizenga had confirmed that he considered ONUC relieved of all responsibility for his protection. A statement (Annex II) issued by the Prime Minister's Office declared that Mr. Gizenga could, if he saw fit, again request ONUC's protection; such protection would not prevent justice taking its course if Mr. Gizenga were shown to have had direct responsibility for recent events at Stanleyville.

On 3 February two letters to the Officer-in-Charge from Mr. Tshombé were circulated in document S/5053/Add.6. Mr. Tshombé reaffirmed his government's determination to expel the mercenaries; a month was a realistic estimate of the time that would be required to carry out the operation. He would have no objection to the inclusion of military members in the joint commissions. He also urged the need for urgent action to restore normal economic conditions.

In a letter (S/5053/Add.7) dated 10 February to the President of the Province of Katanga, the Officer-in-Charge, referring to his conversations with Mr. Tshombé on 7 February, confirmed the arrangements agreed upon for the formation and operation of the joint commissions for the expulsion of mercenaries. He also stated that the United Nations would provide what assistance it could to further the resumption of operations at the Lubumbashi plant, on the understanding that ONUC must take whatever measures it deemed fit to supervise the plant's activities. It was also agreed that ONUC troops would enter Jadotville and Kolwezi, the movement to be synchronized with the return of the Katangan *gendarmérie* to Camp Massart.

On 3 February the representative of Belgium addressed a *note verbale* (S/5078) to the Acting Secretary-General regarding the Kongolo incidents in which he expressed regret at the divergence of views between his Government and the United Nations regarding the role of the United Nations Force in the Congo; it was its conception of the United Nations operations that had led the ONUC Command to withdraw its troops from areas where the safety of the inhabitants was far from assured. Belgium was nevertheless glad that the danger to missionaries in North Katanga and South Kivu seemed to have been averted. In reply the Acting Secretary-General, in a *note verbale* dated 16 February, noting with regret the divergence of views, suggested that Belgium would surely not have expected ONUC passively to allow its freedom of movement in Elisabethville to be impaired or its troops to be surrounded and eventually destroyed by mercenary-led *gendarmérie*. Such a course would have precluded any possibility of fulfilling the mandate conferred by the Council's resolutions. If the Belgian Government disagreed with ONUC's conception of the role of the United Nations Force, it might have asked the Council to rescind the mandate given to ONUC; in the meantime, it might have pressed Belgian nationals and enterprises to refrain from reckless and violent actions designed to prevent ONUC from carrying out its mission. The United Nations Force would do, and had done its utmost, subject to considerations of military necessity, to protect persons in danger anywhere in the Congo. Its ability to do so would naturally depend on its strength and the co-operation of Member States. In that connexion the Acting Secretary-General regretted that his representations regarding the uncooperative attitude towards ONUC of the Belgian authorities in Ruanda-Urundi had so far gone unanswered.

In a further report (S/5053/Add.8), circulated on 19 February, the Officer-in-Charge stated that Mr. Stavropoulos, the Legal Counsel of the United Nations, had been made available by the Acting Secretary-General to meet President Tshombé's request of 5 January for a legal expert to examine the form of the Katangese Provincial Assembly's conclusions on the Kitona agreement. Prime Minister Adoula, to whom the request had been referred for approval, had stated on 20 January that he saw no objection in principle, on the understanding that the expert would not be required to pass judgement on the legality of the Central Government's actions. Following discussions with Mr. Stavropoulos, the Assembly Commission examining the Kitona agreement had adopted a report under which the Assembly would adopt the Kitona declaration and request the provisional government, in collaboration with the Central Government to take the measures necessary for its implementation. The report and resolution (Annex I) had been approved, with some changes, by the Assembly on 14 February. On 16 February the Prime Minister had invited Mr. Tshombé to meet him at Leopoldville to discuss the implementation of the Kitona agreement. In a letter of the same date transmitting the text of the Assembly's resolution Mr. Tshombé had proposed a meeting with the Prime Minister at Kamina for the purpose of arriving at a solution of their problems. On 19 February the Prime Minister had written to Mr. Tshombé regarding the regularization of the appointment of officers and non-commissioned officers of the Katangese *gendarmerie* and the convening of a session of the provincial assembly attended by all provincial deputies. The Prime Minister also invited the commanding officer of the Katanga *gendarmerie* to attend a conference in Leopoldville on the reorganization of the army.

An addendum (S/5053/Add.9) to the report, issued on 9 March, reproduced a number of communications between the Officer-in-Charge and Mr. Tshombé regarding the latter's request for security guarantees in connexion with his proposed visit to Leopoldville. In the final letter, dated 9 March, the ONUC representative at Elisabethville, noting that Mr. Tshombé intended to arrive at Leopoldville by 15 March, said that the United Nations placed a very wide interpretation on the assurances given by the Prime Minister regarding Mr. Tshombé's safety. The United Nations would, in the unlikely event that such action became necessary, oppose the execution of the warrant for Mr. Tshombé's arrest issued by the Central Government and transmitted to the United Nations representative in Elisabethville on 8 September 1961.

In a further report (S/5053/Add.10), dated 27 June, on developments relating to the application of the Council's resolutions of 21 February and 24 November 1961, the Officer-in-Charge stated that Mr. Tshombé and a Katangese delegation had arrived in Leopoldville on 15 March for discussions with the Central Government. The Katangese delegation consisted of Mr. Tshombé, Ministers Kilwe and Kitenge, Mr. Kishiba, Mr. Kambole, representative of the Katanga government in Leopoldville, and Mr. Meli. The Central Government was represented by Prime Minister Adoula, Vice-Premiers Sendwe, Bolikango and Gbenye and Ministers Bomboko, Ileo and Kamitatu. After a first meeting held on 18 March, the delegations announced that subsequent meetings would be private and that no statements would be issued by either delegation

until the meetings had been completed or, in any event, without the prior agreement of the other delegation. The report went on to state that the Officer-in-Charge had, at the request of the Central Government, offered to assist the Central Government and provincial authorities in convening a meeting of the Katanga provincial assembly to be attended by all deputies from North and South Katanga with the aim of reconciling the differences between the two principal parties in Katanga. The Elisabethville authorities had, however, decided not to convene the assembly until the Leopoldville talks were completed. On 27 March Prime Minister Adoula issued a statement to the Press (annex 1) complaining that Mr. Tshombé had violated the agreement concerning the secrecy of the talks and stating that the discussions were being endangered because Mr. Tshombé refused to discuss the substantive issue—full application of the *Loi fondamentale* to the province of Katanga—and, instead, maintained that any final decisions must be ratified by the Katanga assembly and proposed the institution of a transitional régime for Katanga. A second statement (annex 2) warned that the Central Government could not accept Mr. Tshombé's insistence on recognition of a Katangese State as a condition for a solution of the problem and would not tolerate any attempt by Mr. Tshombé to gain time while he improved his military position. In a statement of 29 March (annex 4) Mr. Tshombé denied that he was playing for time. The Katangese delegation believed that the *Loi fondamentale* must be modified to take into account the radically changed conditions and that a satisfactory solution must be worked out by mutual consent. Agreements in that spirit would certainly be ratified by the Provincial Assembly. Following an appeal by the Officer-in-Charge (annex 5), the meetings were resumed on 29 March. In a letter to Mr. Adoula dated 6 April (annex 8), Mr. Tshombé submitted for consideration a declaration stating that he was empowered and prepared to renounce the absolute sovereignty of Katanga, and in return requested Mr. Adoula formally to confirm the internal sovereignty of Katanga. In a memorandum (annex 6) to the Officer-in-Charge dated 8 April, Mr. Tshombé asked for a number of assurances to be given by the United Nations if the Katangese government took steps to end the secession and conclude a generous and constructive agreement with the Central Government. The memorandum requested, *inter alia*, that the United Nations forces should be progressively withdrawn from Katanga in the event of such an agreement and that the remaining differences between the Central Government and Katanga should be regarded as a purely internal constitutional dispute that could be solved only by peaceful means. In his reply (annex 7) dated 12 April, the Officer-in-Charge, while reiterating his readiness to offer his good offices, expressed the view that the assurances sought could most opportunely be given when Mr. Tshombé had made clear his differences with the Central Government. The United Nations authorities could not reasonably be expected to review their position with regard to the Congo until the present talks had been successfully concluded and the decisions implemented. At a meeting on 16 April the Prime Minister presented to Mr. Tshombé, in reply to the latter's proposals of 6 April, a draft agreement (annex 9) to be signed by the parties on the conclusion of the Leopoldville talks. The Prime Minister also informed Mr. Tshombé that he intended to

visit Equator province for a few days and suggested that the meetings should be resumed on 21 April. On 18 April Mr. Tshombé returned to Elisabethville, after confirming his intention, in an exchange of correspondence (annex 10) with the Prime Minister and the Officer-in-Charge, to return to Leopoldville at an early date. On 20 April the Officer-in-Charge left for New York for consultations with the Acting Secretary-General and on 24 April gave a report to the Secretary-General's Advisory Committee on the Congo. From Elisabethville Mr. Tshombé confirmed his intention to return to Leopoldville (annex 11) and asked the United Nations to renew the guarantees for his protection. The Officer-in-Charge replied, in a letter dated 22 April (annex 12), that the guarantees given previously remained in force. In a broadcast from Leopoldville on 24 April (annex 13) the Prime Minister denied the rumours that the Central Government had any intention of violating the guarantees given to Mr. Tshombé; the Council of Ministers' decision to ask the latter for an explanation of his abrupt departure had been wholly justified. The Central Government had in fact made generous and conciliatory proposals that would allow the provinces a large measure of autonomy and believed that, with good will on Mr. Tshombé's part, an agreement could quickly be reached. It was not, however, prepared to accept continued equivocation and unending talk while the Katangese leaders rebuilt their military strength. If necessary, the Central Government would call on sister countries in Africa and Asia and other friendly countries to help end the secession. On 25 April the Officer-in-Charge returned to Leopoldville and after consultations with President Kasa-Vubu and the Prime Minister, left for Elisabethville where he delivered to the provincial authorities a revised version (annex 16) of the Central Government's draft conclusions, on which he had obtained the Prime Minister's agreement. He also submitted a memorandum (annex 17) to the provincial authorities which listed Mr. Tshombé's demands with cross references to the amended draft conclusions. The memorandum also stated the Organization's willingness gradually to adapt its operations in Katanga to keep pace with developments after the conclusion of negotiations between Katanga and the Central Government and its readiness to make every possible effort to ensure that any agreements resulting from the negotiations were carried out quickly and fairly. The draft conclusions and memorandum, together with a number of other proposals and comments (annexes 18-25) were the subject of extensive discussions at a series of meetings during the ensuing days. The principal difficulties were, the report stated, the integration of the Katanga *gendarmerie* into the ANC, adequate assurances of constitutional reforms and the arrangements to be in force during the proposed transitional period pending the adoption of a new constitution. On 6 May a set of draft conclusions acceptable to the Katanga delegation was prepared

(annex 27). The draft conclusions contemplated the drafting of a federal constitution, assuring genuine internal autonomy to the member States, and specified certain measures to regulate relations between the Central Government and the government of Katanga during the transitional period. Mr. Tshombé, accompanied by a Katangese delegation (annex 28), returned to Leopoldville on 18 May. After discussion of the security arrangements proposed by Mr. Adoula (annex 29) and of a statement to the Press by Mr. Tshombé (annex 30), agreement was reached on a number of procedural questions and on the agenda to be followed (annex 32). On 25 May the delegations began discussion of item 2 of the agenda, procedure to effect the solution of the territorial integrity of the Republic of the Congo, and decided to establish military, monetary, economic and fiscal, and transport and communications commissions. The terms of reference of the military commission were adopted on 29 May. During subsequent meetings, which were interrupted on 2 June following an incident between Mr. Sendwe and Mr. Tshombé (annex 35) and on 20 June following a report to Mr. Tshombé, later found to be inaccurate (annexes 39 and 40), of an ANC attack on Kongolo and Baudouinville, the delegations discussed and adopted the terms of reference of the transport and communications, economic and fiscal, and monetary commissions (annexes 38, 41 and 42). On 23 June the delegations agreed that members of the commissions would be appointed not later than fifteen days after the Katangese delegation's return to Elisabethville. Discussion of the third item on the agenda, specific decisions concerning consolidation, was then begun but no agreement could be reached on the matters discussed, which included territorial integrity, the type of new constitution to be adopted, the organization of the National Council of Ministers, the swearing in of General Moke the officer commanding the Katanga *gendarmerie*, and the question of a general amnesty. Discussion of the fourth and last item on the agenda, acceptance and signature of the final joint *communiqué*, also resulted in a deadlock. Neither delegation could accept the draft proposed by the other and a compromise draft (annex 45), prepared by the Officer-in-Charge at the request of the participants, also proved unacceptable, principally because of the Katangese delegation's insistence that paragraph 6 of its draft (annex 44) be maintained. The meeting was therefore concluded. A routine *communiqué* was prepared but not signed by either party, the Katangese delegation having insisted that reference be made to a subsequent continuation of the talks. On 26 June the Officer-in-Charge made a statement (annex 46) to the Press announcing the suspension of the talks at the request of the Katangese delegation and noting the agreement reached on the terms of reference of the four commissions and the designation of their members within fifteen days of the Katangese delegation's return to Elisabethville.

THE PALESTINE QUESTION

- (a) LETTER DATED 20 MARCH 1962 FROM THE PERMANENT REPRESENTATIVE OF THE SYRIAN ARAB REPUBLIC ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL
- (b) LETTER DATED 21 MARCH 1962 FROM THE PERMANENT REPRESENTATIVE OF ISRAEL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

A. Communications to the Council

In a letter dated 20 March 1962 (S/5096), the representative of the Syrian Arab Republic requested that the Security Council be convened to consider the grave situation which had arisen from the acts of aggression committed by Israel on the Syrian frontier and in the Demilitarized Zone, which threatened the peace and security of the region. He referred to his letter of 17 March 1962 (S/5092), which had charged that successive acts of aggression had been committed by Israel during the night of 16-17 March at various points in his country's territory.

In a letter dated 21 March 1962 (S/5098), the representative of Israel drew the attention of the President of the Council to the recurrence of acts of aggression and provocation by Syrian armed forces against the citizens and territory of Israel following on the previous aggressive actions reported in his letter of 19 March (S/5093), and he requested an early meeting of the Council. In a further letter dated 22 March (S/5100), the representative of Israel submitted additional charges of aggression by the Syrian armed forces.

B. Report of the Chief of Staff

In a report (S/5102), circulated on 26 March 1962, the Chief of Staff of the Truce Supervision Organization, General Von Horn, reviewed the developments associated with the fighting in the Lake Tiberias area during the night of 16-17 March, and the cease-fire which had been arranged with the two parties on 17 March. The Chief of Staff reported that he had tried to get the two parties to agree to a few practical measures, and that on 20 March he had been able to announce the Syrian decision to co-operate with UNTSO in setting up within a few days an additional United Nations Observation Post in the vicinity of El Koursi. The Chief of Staff further reported that during his conversation with the Foreign Minister of Israel he had mentioned two proposals to help relieve tension. One concerned the proposal that had been made in 1956 by the late Secretary-General concerning a special United Nations boat on Lake Tiberias. The Israel Government had not accepted the proposal at the time, though later it had co-operated in the establishment of United Nations Observation Posts on Israel territory. The Chief of Staff was given to understand that the suggestion of a special United Nations boat would still meet with strong Israel objections. The second proposal which General Von Horn had made to the two parties concerned visits by United Nations Military Observers to the Demilitarized Zone (Article V of General Armistice Agreement) and to the so-called "defensive areas" (Article V, paragraph 6 of the General Armistice Agreement). He had specified that the object of the visits would be to check whether forces which might have been brought recently into the defensive areas or the Demilitarized Zone had been withdrawn, rather than to investigate past complaints by

either side. In conclusion, the Chief of Staff stated that the two parties to the General Armistice Agreement should co-operate with the United Nations Military Observers who should enjoy the necessary freedom of movement for the fulfilment of their mission. In an addendum (S/5102/Add.1) to the report, dated 27 March 1962, the Chief of Staff stated that both parties having agreed in principle to his second proposal, concerning visits by the Military Observers, he had instructed the Chairman of the Mixed Armistice Commission to complete without delay the necessary arrangements for visits to the three sectors of the Demilitarized Zone, such visits to be followed immediately by simultaneous visits to the Israel and Syrian "defensive areas".

C. Consideration at the 999th to 1006th meetings (28 March-9 April 1962)

At the 999th meeting on 28 March 1962, the provisional agenda contained the Syrian and Israel communications as sub-items (a) and (b) respectively. The representative of the United Arab Republic stated that in order to expedite the proceedings of the Council, his delegation would not object to the adoption of the provisional agenda. The representative of the Union of Soviet Socialist Republics wished to make it clear that the absence of formal objections should not be construed as a recognition of any equality of status as between the two letters designated as sub-items (a) and (b) on the provisional agenda.

Decision: *The agenda was adopted unanimously.*

After the representatives of the Syrian Arab Republic and of Israel had been invited to take places at the Council table, the President declared, without objection, that the Council would examine simultaneously the sub-items (a) and (b) of the agenda.

The representative of the Syrian Arab Republic stated that the attack of 16-17 March was a repetition of all the acts of aggression which Israel had committed since it had occupied the territory of Palestine, in respect of which the Council had reproved Israel on numerous occasions in the past. The constant attacks by the Israel forces against Syrian territory were motivated not by a dispute over fishing rights in Lake Tiberias, as Israel had contended, but were intended to occupy the eastern coast of the lake. It was a part and parcel of the general plan and the very definition of Israel—a State whose frontiers were to be spread from the Nile to the Euphrates. He demanded that the Council condemn Israel again for the aggression it had committed on 16-17 March 1962 against Syrian territory, despite the existence of an Armistice Agreement. The condemnation ought to be severe, vigorous, and in keeping with the warnings which the Council had addressed to Israel in the past.

The representative of Israel, in explaining the circumstances of the Israel action, emphasized that Lake

Tiberias in its entirety formed part of Israel territory and that Syrian territory at no point touched its shores. In spite of this, Syrian armed forces had constantly tried to establish a *de facto* control over the north-eastern corner of the lake. Turning to the incident of 16-17 March, the representative of Israel stated that the objective of the Israel action had been a Syrian military position that encroached into the Demilitarized Zone, outside the Syrian frontier, where its very existence had constituted a flagrant violation of the Armistice Agreement. That position, which had been involved in the attacks on Israel vessels on the lake, had been occupied and destroyed. The action of 17 March had been taken in discharge of Israel's responsibilities for the protection of the life and property of its citizens, its territorial integrity, and in exercise of its inherent right of self-defence. He reiterated his Government's declared policy of adherence to the principles and obligations of the Charter and the Armistice Agreement, and expressed the hope that the arrangements which had been secured by General Von Horn would help to preserve the strict observance of the Armistice provisions.

The representative of the United States, having noted that the Council had not had the benefit of first-hand information from a Chief of Staff since 1956, proposed that the Council request the Chief of Staff to return to New York to be available for consultations. He urged both Israel and Syria to continue their full co-operation in maintaining the cease-fire. He stated that it was apparent, from even a preliminary study of the report of the Chief of Staff, that there had been both provocation and retaliation, which were contrary to the letter and spirit of the General Armistice Agreement and could not be condoned. Whatever the facts, they did not justify, in his view, the Israel reversion to any policy of retaliatory raids which Israel representatives had evidently foreshadowed on 8 March and which had been carried out ten days later. This policy had contributed to the rapid rise of tensions in the Middle East during 1955 and 1956, and it could no more be countenanced today than it had been then. If the United Nations peace-keeping machinery had not always been adequate to prevent such difficulties, the answer lay in improving that machinery and in co-operating with it.

The Acting Secretary-General stated that he would arrange for the Chief of Staff to come to Headquarters for consultation, although in a situation as serious as that which prevailed in the Tiberias area, there were strong reasons why he would like to have the Chief of Staff remain there. General Von Horn had submitted to the Council all of the information which UNTSO observers had been able to provide. The General could not, therefore, add much to what he had already set forth in his report, but he could, of course, explain more fully to the Council the measures which he had suggested for avoiding a repetition of the recent unfortunate episode.

The representative of the United Arab Republic stated that he would not object to the United States proposal to call General Von Horn, if the Council so decided. He noted that Israel had persistently violated armistice agreements, and that it had been repeatedly condemned by the Armistice Commissions as well as the Security Council.

The representative of the Union of Soviet Socialist Republics stated that his delegation would not object

to an invitation to General Von Horn so that he might provide the necessary replies and explanations to questions that might be raised by the members of the Council. He observed that an examination of the factual material presented to the Council made it evident that on the night of 16-17 March Israel had committed an armed aggression against the territory of Syria, an aggression which had involved the illegal and improper penetration and use of the Demilitarized Zone from which the attack had been organized. Those actions on the part of Israel were particularly dangerous in that that was not the first attack of the kind that Israel had made on Syria. A similar attack on Syrian territory had been committed by Israel regular army forces on 11 December 1955, an attack for which Israel had been severely condemned by the Security Council in a special resolution on the matter calling upon the Government of Israel to comply with its obligations under the United Nations Charter and under the Armistice Agreement. It was thus quite clear that Israel had not heeded the Security Council's warnings. Not only had it not ceased to violate those obligations but it had committed a further aggression against Syria. He considered that the Security Council must express an unequivocal warning to the Government of Israel regarding the total unacceptability of such actions as those which had taken place on 16-17 March in the area of Lake Tiberias. The Council not only should demand that Israel take all necessary measures in order to prevent the repetition of such actions in the future but it ought to examine, as it was provided for in the Council's resolution of 1956, the question of what further concrete measures would be necessary to oblige Israel to carry out its obligations under the Charter and under the Armistice Agreements.

Decision: *The United States proposal was approved without objection.*

At the 1000th meeting on 3 April, the Acting Secretary-General informed the Council that the Chief of Staff had arrived and that the General would be available to the delegations. With regard to any specific questions which the members of the Council might wish to put to the Chief of Staff, the Acting Secretary-General suggested that such questions be presented at the meeting, and that the Chief of Staff would prepare the replies and present them at the following meeting of the Council. The Acting Secretary-General also pointed out that while General Von Horn was there to provide the Council with all relevant information available to him, he would not undertake to advise the Council on the conclusions to be reached; the General properly saw it the function of the Chief of Staff to present facts and not judgements.

The President stated that, in the absence of any objection, the procedure suggested by the Acting Secretary-General would be acceptable to the Council.

The representative of the Union of Soviet Socialist Republics observed that the suggested procedure would apply exclusively to the case under consideration and that it could not be regarded as establishing a precedent for the future.

Decision: *The President declared that the Council had adopted, without having established a precedent, the procedure suggested by the Acting Secretary-General.*

The representative of the Syrian Arab Republic stated that the premeditated armed attack by Israel

which had begun from Ein Gev, an area entirely within the Demilitarized Zone, had been designed to occupy Syrian territory and motivated by a desire for expansion. The attack itself had been out of proportion with the objectives of a simple reprisal action. The real objectives of Israel might have been to put an end to the Demilitarized Zone, since the zone was awkward from the viewpoint of Israel, and to put into effect certain projects on the Jordan and on Lake Tiberias. In conclusion, he stated that although Israel was, as it were, a child of the United Nations, its conduct and behaviour were of the most deplorable kind. During thirteen consecutive years, Israel had repeatedly committed acts of aggression.

The representative of Israel replied that the objectives of his country were, firstly, peace with her neighbours. Secondly, if her neighbours refused to negotiate a settlement of all outstanding differences between them, as they were obliged to do by resolutions of the Security Council and the General Assembly, Israel would at least insist on that freedom from attack, aggression and interference which was guaranteed to her under the Armistice Agreement. Thirdly, Israel meant to proceed with the constructive development of her own country and she would not acquiesce in any attempts by her neighbours to obstruct or impede any aspects of that development.

The representatives of the Syrian Arab Republic, the United Arab Republic, Ghana and the United States of America addressed a number of detailed questions to the Chief of Staff in connexion with the incident of 16-17 March, the implementation of the Armistice Agreement and the operation of the United Nations Truce Supervision Organization.

At the same meeting, the President drew the attention of the members of the Council to the following draft resolution submitted by the representative of the Syrian Arab Republic (S/5107):

"The Security Council,

"Taking note of the complaint of the Syrian Arab Republic contained in document S/5092,

"Having examined the report of the United Nations Chief of Staff of the Truce Supervision Organization in Palestine dated 26 March 1962 (S/5102) regarding that complaint,

"Recalling its resolution of 11 January 1956,

"Recalling further its condemnations of Israeli military actions as expressed in the resolutions of 12 November 1953, 29 March 1955 and 11 January 1956.

"Noting that the Security Council, in the said resolutions, has called upon Israel to take effective measures to prevent the recurrence of such military actions,

"1. Condemns Israel for the wanton attack which was carried out against Syrian territory on the night of 16-17 March 1962, in violation of its resolution of 15 July 1948, of the terms of the General Armistice Agreement between Syria and Israel and of Israel's obligations under the Charter;

"2. Warns Israel of the Security Council's resolve to call for appropriate sanctions against Israel, should it resort once more in the future to such aggressive acts;

"3. Invites Israel to comply with its obligations under the Charter and the General Armistice Agree-

ment, and in particular, to accept the proposal of the Chief of Staff of the United Nations Truce Supervision Organization, contained in paragraph 41 of his report (S/5102) to help strengthen the armistice machinery and thus relieve tension in the area;

"4. Requests the Secretary-General of the United Nations to render to the Security Council progress reports on the implementation of this resolution."

At the 1001st meeting on 4 April, the President drew the attention of the members of the Council to the following draft resolution submitted by the representative of Israel (S/5109):

"The Security Council,

"Recalling that in its resolution of 11 August 1949, the Council found that 'the Armistice Agreements constitute an important step toward the establishment of permanent peace in Palestine;' and expressed the hope that the Governments concerned would seek agreement by negotiations in order 'at an early date to achieve agreement on the final settlement of all questions outstanding between them,'

"Having considered the complaints submitted by the Government of Israel to the Security Council (S/5098),

"Noting the report by the Chief of Staff of the United Nations Truce Supervision Organization (S/5102 and Addendum 1),

"1. Expresses its grave concern at the attacks by Syrian armed forces against citizens and territory of Israel, referred to in the letters from the Permanent Representative of Israel to the President of the Security Council dated 19 March 1962 (S/5093), 21 March 1962 (S/5098), and 22 March 1962 (S/5100);

"2. Calls upon Syria to abide fully by all the provisions of the General Armistice Agreement (including article 1 thereof) and in particular, to prevent all illegal crossing from Syrian territory, to cease all interference with Israel activities on the Lake, and to desist from firing into Israel territory;

"3. Finds that the policy of active hostility of Syria against Israel, as proclaimed in official statements of its representatives, and in particular their constant threats against the territorial integrity and political independence of Israel, violate the letter and the spirit of the Charter of the United Nations, the Israel-Syrian General Armistice Agreement, and the resolutions of the Security Council and the General Assembly;

"4. Calls upon Syria to refrain from any threats against the territorial integrity or political independence of Israel."

At the same meeting, the Council received the written replies prepared by the Chief of Staff, General Von Horn, and decided to include them in the official record of the meeting (S/PV.1001, Annex). The following is a summary of the main points:

In reply to a question from the representative of Syria, in connexion with the fighting of 16-17 March, whether any Syrian post or fortified position had been occupied or destroyed, the Chief of Staff stated that, on the basis of reports by the United Nations Military Observers who had visited the Demilitarized Zone on three occasions since 17 March, the Chairman had reported that he had been satisfied that there had been none. No fortified position had been seen as "existing or destroyed".

In reply to a question from the representative of the United Arab Republic as to whether the Chief of Staff considered it necessary for the good functioning of UNTSO that the Mixed Armistice Commission should meet and resume its work and carry out its responsibilities, General Von Horn stated that the General Armistice Agreement (article VII, paragraph 7), provided for a procedure, that of the Mixed Armistice Commission. So long as this procedure was in abeyance, the Chairman of the Mixed Armistice Commission and the Chief of Staff were compelled to deal separately with each of the parties in order to obtain compliance with the terms of the General Armistice Agreement. The procedure of the Mixed Armistice Commission, face-to-face discussion between the parties under a United Nations Chairman, which could help in finding an "equitable and mutually satisfactory settlement," could not be adequately replaced.

In reply to a further question from the representative of the United Arab Republic concerning the status of the Demilitarized Zone and the responsibilities of the truce machinery with regard to it, the Chief of Staff stated that the basic provisions governing the Zone were contained in article V of the General Armistice Agreement. One of the main points of that article was that the area between the old Syrian-Palestine frontier and the Armistice Demarcation Line established in 1949 had to be designated as a Demilitarized Zone. With regard to civilian life in the Demilitarized Zone, General Von Horn referred to the "authoritative comment" by Dr. Bunche on article V of the General Armistice Agreement which had been agreed to by both parties and incorporated verbatim in the resolution of the Security Council of 8 May 1951 (S/2157). An important point in the "authoritative comment" was that civil administration in the Demilitarized Zone, including the policing, had to be on a local basis under the general supervision of the Chairman of the Mixed Armistice Commission and "without raising general questions of administration, jurisdiction, citizenship and sovereignty". He observed that the Demilitarized Zone had been the scene of numerous incidents. One of the main causes of tension had been the question of land ownership in the Zone. As for the responsibilities of the truce machinery with regard to the Zone, the Chief of Staff stated that article V of the General Armistice Agreement provided that the Chairman of the Mixed Armistice Commission, established in article VII of the Agreement, and the United Nations Observers attached to the Commission "shall be responsible for the full implementation of this Article" (para. 5(c)). One of their main responsibilities was to establish whether or not any advance into the Zone by armed forces, military or paramilitary, of either party, had taken place. Any advance confirmed by United Nations Observers "shall constitute a flagrant violation of the Agreement" (para. 5(b)). He further stated that successive Chiefs of Staff, beginning with General Riley, had taken the position that it was the Mixed Armistice Commission itself which, under article VII, paragraph 8, was competent to interpret the meaning of the General Armistice Agreement. The Israel Government, however, had not agreed to discuss in the Mixed Armistice Commission anything pertaining to the Demilitarized Zone or to submit to the Mixed Armistice Commission the interpretation of article V of the General Armistice Agreement for a decision as to its competence or as to the competence of the Chairman in matters concerning the Demilitarized

Zone. As a result, no ordinary meetings of the Mixed Armistice Commission had taken place since 1951. In his report of 23 February 1960, the Chief of Staff had drawn attention to the Security Council's resolution of 18 May 1951, and had stated that, in view of the dispute over the powers of the Chairman and in the absence of meetings of the Mixed Armistice Commission, the authority of the Truce Supervision Organization in the Demilitarized Zone had been greatly weakened.

Replying to another question from the representative of the United Arab Republic, as to whether there were at present any military or paramilitary forces or any positions of a military character in the Demilitarized Zone and whether, if so, they had violated paragraphs 5 (a) and (b) of article V of the General Armistice Agreement, the Chief of Staff stated that elements of military and paramilitary forces, as well as fortifications, had been observed in the Demilitarized Zone. These were violations of paragraphs 5 (a) and (b) of article V. He believed that his answers to the preceding questions had given a sufficient indication of the dangerous situation in the Demilitarized Zone and the difficulties faced by the Chairman of the Mixed Armistice Commission in dealing with them.

In reply to a further question from the representative of the United Arab Republic as to whether in the light of the messages to which the Chief of Staff had referred in his report, there was now any reason to expect another attack on Syrian territory by Israel armed forces, General Von Horn stated that he hoped that the members of the Security Council would not expect him to speculate or undertake predictions, and that the Truce Supervision Organization was constantly doing all that it could to avoid resort to force by either side.

In reply to a question from the representative of Ghana as to the manner in which the terms of the Armistice Agreement had been violated by either Syria or Israel within the past six months, particularly within the period immediately preceding the events of 16 and 17 March, and as to what UNTSO had done to prevent such violations, if any, the Chief of Staff stated that he had indicated, in his previous reply, the nature of the principal violations, known and confirmed by the United Nations Military Observers: the presence of military and paramilitary forces and positions in the Demilitarized Zone, and the shooting incidents such as those which led up to the fighting of 16-17 March. He stated further that in the absence of regular meetings of the Mixed Armistice Commission it was impossible to determine which of these complaints could be considered as violations of the Armistice Agreement. That was what the Mixed Armistice Commission had been established to do.

In reply to questions from the representative of the United States concerning the effectiveness and freedom of movement of UNTSO, the observance of the General Armistice Agreement, and the status of the Israel-Syrian Mixed Armistice Commission, the Chief of Staff stated that the main instrument at the disposal of UNTSO was observation, and freedom of movement was an essential element in effective observation. In 1955, his predecessor, General Burns, had suggested the desirability of providing UNTSO with a boat on Lake Tiberias which could be quickly dispatched to the scene of an incident. Such a boat would in fact be a mobile observation post. It would enable UNTSO

to assist the parties in ensuring compliance with the Agreement which had been reported by the Secretary-General in paragraph 89 of his report of 9 May 1956 regarding fishing on Lake Tiberias and the undertaking by Israel to keep their police boats back from the eastern shore of the Lake except when it was necessary to approach it "for security reasons". General Von Horn recalled that the late Secretary-General had stated that he had found it necessary to maintain the proposal for a United Nations boat. The presence of United Nations Observers in an unarmed observation boat on Lake Tiberias would not in any way affect the claims and position of Israel with regard to Lake Tiberias. It would also help if, both in the case of the boat and movement of Military Observers by jeep, both parties would permit United Nations Observers freedom of movement without insisting that they be accompanied by liaison officers. It was particularly important that United Nations Observers performing their duties in the Demilitarized Zone should have free access, which had sometimes been denied them even by the threat and use of force, when crossing at certain points from east to west. The effectiveness of UNTSO would be greatly increased if both parties were to facilitate the movement of United Nations Observers. For example, north of Lake Tiberias permission for the UNTSO aircraft to land at the Rosh Pina-Mahanayim airfield would result in considerable saving in time, especially in periods of crisis. UNTSO effectiveness would also be considerably increased if UNTSO aircraft were permitted to use commercial air corridors between Jerusalem-Mahanayim and from Mahanayim north to the Lebanese border to join the Beirut-Damascus corridor. Freedom of movement of United Nations Observers would also enable the Chairman of the Mixed Armistice Commission to arrange repeated visits to the Demilitarized Zone and Defensive Areas. The Chief of Staff observed that those were minimum suggestions which in his view would increase the effectiveness of UNTSO. What these amounted to, in fact, was a restatement of some of the provisions of articles V and VII of the General Armistice Agreement.

At the 1002nd meeting on 5 April, the representative of France expressed regret that Israel forces had found it possible to resort to such methods, and that as a result of the incidents which had taken place, the Israel authorities had not deemed it appropriate to resort to the procedures provided for in the Armistice Agreement. He expressed the hope that these authorities would in the future abide by those procedures. He stated that the reports of the events of the night of 16-17 March, as set forth by the two parties, were contradictory, and the information supplied by the Chief of Staff did not make it possible to establish the truth decisively. But one fact emerged in an unquestionable manner from both charges: that the position of I'n Nuqueib attacked by the Israel forces was situated in the Demilitarized Zone and that, on that occasion, no Israel expedition had really penetrated into Syrian territory. He could not avoid the impression that, in these incidents, the guilt was largely shared and the actions of the two parties were equally regrettable. As far as responsibilities were concerned, the events of March 1962 were not entirely comparable to those of 1955, and, therefore, his delegation could not apply to them the same conclusions. He severely reproved the military initiative that had been shown by both sides, and recalled the injunctions of the resolution of January 1956. He invited both parties

to comply scrupulously with the stipulations of the Armistice Agreements and to adopt any and all possible measures in order to avoid the recurrence of similar incidents.

The representative of the United Arab Republic stated that the total and final annexation of the Demilitarized Zone seemed to be one of the immediate Israel objectives, and that this must be resisted. Referring to the Israel draft resolution, he enquired whether these Israel attacks, including the last attack on Syria, condemned as they stood, might not be a series of battles of intimidation to win the greatest of Israel goals: the surrender of its adversaries and acceptance of its dictates. Israel, not Syria, had been condemned by this Council in 1953, in February 1955 and again in January 1956. Israel had been condemned by the Mixed Armistice Commission, when it participated in its deliberations, more than ninety times. Furthermore, Israel stood morally condemned because the supervision machinery of this Armistice Agreement was not able to function properly today. With respect to the Syrian draft resolution, he suggested several amendments to reflect previous decisions of the Council. The first preambular paragraph might be changed to read: "Taking note of the complaint contained in documents S/5092 and S/5098". To the second preambular paragraph might be added: "and the answers he subsequently made to questions put to him by several members of the Council". The third preambular paragraph might be changed to read: "Recalling and reaffirming its resolution of 19 January 1956". In the fourth preambular paragraph, the date 12 November 1953 should be changed to 24 November 1953, and the date 11 January 1956 should be changed to 19 January 1956. Operative paragraph 2 might be changed to read: "Warns...again of..." and so on. The representative of the United Arab Republic stated that should the Syrian delegation accept the suggested changes, he would request the President of the Council, under rule 38 of the provisional Rules of Procedure, to put the Syrian draft resolution, with those corrections, to the vote at the appropriate time.

The representative of Israel, in connexion with the relationship between his Government and the UNTSO regarding the implementation of the Armistice Agreement stated that the Agreement was an international treaty between two States—Israel and Syria—and that the basic task of the United Nations Observers was to assist the parties to the Agreement in applying and observing its terms. His Government had given and would continue to give most careful consideration to any specific suggestions or requests made by the United Nations Chief of Staff, with due regard to questions of Israel's national security and exclusive jurisdiction over her own territory. On the question of a United Nations patrol boat on Lake Tiberias, he stated that no such undertaking, in fact, existed, although it had been suggested many years ago, as a purely voluntary and unilateral policy by Israel provided the Syrians would cease all trespassing on, or interference with the lake, which, unfortunately, had not happened. In any case, any supervisory function over Israeli boats, such as that implied in the reply of the Chief of Staff, would be unacceptable to his Government. If the Chief of Staff had any practical problems or need for observation facilities, which could be met in any way to which Israel had less serious objections, his Government would be willing to discuss that with the Chief of

Staff. Similarly, the question of freedom of movement for United Nations Observers could not be laid down as an abstract principle but could only be discussed in a pragmatic way with the Israel authorities, having regard to the needs of the Observers' tasks as well as to Israel's own security considerations. With respect to the status of the Demilitarized Zone and the functioning of the Mixed Armistice Commission, the representative of Israel stated that it had been the consistent view of his Government that these Zones were part of the sovereign territory of the State of Israel, but that was not the question before the Council at this moment. What was clear from the Agreement was that the exclusion of Syria from the Demilitarized Zone was complete and definite. This had a direct bearing on the reason why the Mixed Armistice Commission had not functioned in a regular way since 1951. It was the Syrian attempt to regain a foothold in the Demilitarized Zone, through the Mixed Armistice Commission, and not the Israel attitude, which had caused the suspension of these formal meetings for over eleven years. If Syria would not insist on the Mixed Armistice Commission's dealing with Demilitarized Zone matters, there would be no obstacle to Israel's full participation in the Commission. Because there were Syrian representatives on the Mixed Armistice Commission, only the Chairman of the Commission was competent to deal with matters concerning the Demilitarized Zone. However, the absence of formal meetings of the Commission did not prevent the UNTSO staff from effectively carrying out their duties. The United Nations Observers did in fact conduct investigations of complaints, heard the views of the parties, examined witnesses, performed whatever functions might be required, and regularly submitted reports of their findings and conclusions to the Chief of Staff. With reference to the reply given by the Chief of Staff at the previous meeting of the Council that, on the basis of reports by the United Nations Military Observers who had visited the Demilitarized Zone, no fortified position had been seen as "existing or destroyed", the representative of Israel observed that when a United Nations official appeared to throw doubt on the factual veracity of his Government's position, it was for him a very serious matter. He stated that his Government rejected any influence of doubt which might be contained in General Von Horn's statement. He reaffirmed that the objective of the Israel action was a Syrian military position that encroached into the Demilitarized Zone, where its very existence constituted a flagrant violation of the Armistice Agreement. In conclusion, he stressed the willingness of the Israel authorities to assist and co-operate with the United Nations Truce Supervision Organization and, more specifically, to consider what measures might properly be taken to improve the functioning of the United Nations machinery in the sensitive area of Lake Tiberias.

The representative of the United Arab Republic stated that it was plain that the immediate objective of Israel was the outright annexation of all the Demilitarized Zones. The Israel authorities would be ready to depend on the United Nations when it suited their purposes, but they would refuse to allow the United Nations and its bodies to do anything if they thought that infringed on any rights and claims Israel might have had.

At the 1003rd meeting on 5 April, 1962, the representative of China observed that while it had seemed

that the law might have been on Israel's side before the military action, it had ceased to be so when Israel had taken the law into her own hands. He explained that the firing incidents prior to Israel's military action, while small in scale and sporadic in nature, were deplorable as they constituted violations of the Armistice Agreement. But they could in no sense be considered as justifying the fighting on the night of 16-17 March. It was obvious from the Israel *communiqué* quoted in General Von Horn's report that the fighting had been planned and organized and was carried out by the regular armed forces of Israel, and that it had been a deliberate violation of the Armistice Agreement. It was comforting to note, however, that the two parties, with the help of the United Nations Chief of Staff, had quickly arranged a cease-fire. It was hoped that the two parties would ensure strict compliance with the cease-fire and that the situation in the Lake Tiberias area would soon return to normal. The Security Council should take note of the statements of the parties concerned and accept them as a new point of departure for the re-establishment of full compliance with the Armistice Agreement. The measures which the Chief of Staff had proposed in his report and in his replies to the questions raised by the members of the Council, were based on his intimate knowledge and assessment of the situation. In particular, General Von Horn had laid special emphasis on the importance of the continuous functioning of the Mixed Armistice Commission and on the necessity for freedom of movement for the United Nations Military Observers. The Security Council should endorse the measures proposed by the Chief of Staff and request the parties concerned to carry them out.

The representative of the United Kingdom stated that one of the essential tasks entrusted to the Chief of Staff was the aim of lowering tension on the borders of Israel, a prerequisite for reaching a settlement or even creating a proper atmosphere in which fruitful negotiations could possibly begin. Whatever might have been the true origin or nature of the three preceding incidents, they could not have justified the events of the night of 16-17 March, when Israel forces had assaulted Syrian positions north of Nuqueib, had occupied the posts and had destroyed the fortifications. The Government of Israel had made no attempt to conceal that this had been in effect a military operation directed against Syria, and as such it ought to be judged. It had been a military operation, undertaken deliberately in clear violation of Israel's international commitments. Nor was this the first occasion on which Israel had thus taken the law into its own hands. But no cause, no pretext, could justify military action of this nature, whether or not it had been undertaken by way of retaliation. His delegation repeated what it had been obliged to say before, and what the Council had formally declared in earlier resolutions—the whole principle of armed retaliation was wrong, morally and politically. Israel ought to heed this injunction; and indeed it was in its own interests to do so. The policy of violence which Israel apparently pursued would not win the peace, but would merely weaken the armistice, arouse even bitterer feelings and open the way to still more conflict. He urged Israel to consider that the United Nations was a stronger defence of peace in the Middle East, and of Israel's independence, than its own armed forces. The surest guarantee of peace rested incontestably with the United Nations machinery which had been set up in the area for just this purpose by resolutions of the Security Council and by the General

Armistice Agreement. It therefore seemed to his delegation that the first essential was to make that machinery effective.

Speaking of the various measures suggested by General Von Horn for strengthening the UNTSO, the representative of the United Kingdom drew particular attention to three of the necessary improvements: first, the need for an unarmed United Nations boat on Lake Tiberias. He felt that the very presence of the boat might have a calming influence there. He urged the Israel Government to accept that proposal which was a reasonable one and of obvious good sense. Secondly, the restrictions which were placed on the freedom of movement of the United Nations Observers could no longer be tolerated. Both the Governments concerned ought to co-operate fully in this with the Chief of Staff, for it was in their own interests. Finally, the Mixed Armistice Commission, which was an essential part of the local United Nations machinery but had been left unused for too long, ought to be reactivated. With these aims in view, his delegation had joined the delegation of the United States in preparing a draft resolution, which would be better adjusted to the requirements of the circumstances than either of the Syrian or Israel draft resolutions.

The representative of Romania stated that obviously Israel had tried, arbitrarily, to settle its differences with Syria by taking the law into its own hands, had used armed force and had, thereby, violated articles 2 and 5 of the General Armistice Agreement as well as Articles 1 and 2 of the United Nations Charter. The latest actions undertaken by Israel against Syria were of aggressive character, as had been those of 1955 and 1956. The Israel complaint was intended to equate two situations which were completely different from the viewpoint of gravity and of the responsibility incumbent upon each of the two States. The draft resolution submitted by Israel was a rather clumsy effort to sow confusion; it ought to be rejected entirely, since Israel had used such tactics very often in the past. In conclusion, his delegation felt that the Security Council should take note of the Israel aggression against Syria, and condemn anew Israel's violation of its obligations under the Armistice Agreement and the United Nations Charter. The Security Council should, at the same time, recommend those measures which would force Israel in the future to respect its obligations.

The representative of the Syrian Arab Republic submitted a revised text of his draft resolution, which read as follows (S/5107/Rev.1):

"The Security Council,

"Taking note of the complaints contained in documents S/5092 and S/5098,

"Having examined the report of the United Nations Chief of Staff of the Truce Supervision Organization in Palestine dated 26 March 1962 (S/5102) regarding those complaints and the answers he subsequently made to questions put to him by several members of the Council,

"Recalling and reaffirming its resolution of 19 January 1956,

"Recalling further its condemnations of Israeli military actions as expressed in the resolutions of 24 November 1953, 29 March 1955 and 19 January 1956,

"Noting that the Security Council, in the said resolutions, has called upon Israel to take effective

measures to prevent the recurrence of such military actions,

"1. Condemns Israel for the wanton attack which was carried out against Syrian territory on the night of 16/17 March 1962, in violation of its resolution of 15 July 1948, of the terms of the General Armistice Agreement between Syria and Israel and of Israel's obligations under the Charter;

"2. Again warns Israel of the Security Council's resolve to call for appropriate sanctions against Israel, should it resort once more in the future to such aggressive acts;

"3. Invites Israel to comply with its obligations under the Charter and the General Armistice Agreement, and in particular, to accept the proposal of the Chief of Staff of the United Nations Truce Supervision Organization, contained in paragraph 41 of his report (S/5102) to help strengthen the armistice machinery and thus relieve tension in the area;

"4. Requests the Secretary-General of the United Nations to render to the Security Council progress reports on the implementation of this resolution."

At the 1004th meeting on 6 April, the representative of Venezuela stated that undoubtedly every one of the acts and incidents referred to in General Von Horn's report constituted a more or less serious violation of the Syrian-Israel Armistice Agreement. Obviously, the most serious of those incidents were those that had occurred on the night of 16-17 March, for which Israel was undoubtedly responsible. His delegation felt that the military action undertaken by Israel against Syria was out of proportion when compared with the incidents which Syria had provoked prior to the night of 16-17 March. Israel's action was unjustified, particularly in view of the fact that the entire region had been subjected to a specific and special situation defined in the Armistice Agreement. Israel's behaviour had violated the Charter of the United Nations, the Armistice Agreement, and previous resolutions of the Council, particularly the provisions of operative paragraph 2 of the resolution of 19 January 1956. The Council should recommend measures that would facilitate the work of the United Nations Observers in the region, in order that a recurrence of similar incidents might be avoided.

The President, speaking as the representative of Chile, stated that the urgent question was for the Council to find the most adequate means of preventing new incidents and to facilitate the transformation of the present truce into a permanent peace that would once and for all eliminate the focus of the conflict. He expressed the hope that the Council would adopt unanimously a resolution which would reflect its will to contribute to a settlement of the conflict. He had found in the draft resolutions submitted by Syria and Israel certain common elements the positive character of which ought to be highlighted. His delegation attributed special importance to General Von Horn's replies and noted therein the following fundamental points: (a) the need for greater collaboration between the Chairman of the Mixed Armistice Commission and the Chief of Staff with both of the parties; (b) the need for a stringent application of article V of the Armistice Agreement so that the Demilitarized Zone might be truly demilitarized so as to lessen the possibilities of friction and incidents; (c) the need to eliminate from that Zone the administrative causes from which incidents may grow; (d) the need for the United

Nations Observers to have greater facilities and greater freedom of movement which they might require; (e) the need to end the violations of paragraphs 5 (a) and (b) of article V of the Armistice Agreement bearing on the presence of military or paramilitary forces, as well as of fortifications in the Demilitarized Zone. He appealed to both parties to abstain from threats, provocations and acts of violence.

At the 1005th meeting on 6 April, the representatives of the United Kingdom and the United States of America submitted a joint draft resolution (S/5110/Corr.1) which read as follows:

"The Security Council,

"Recalling its resolutions of 15 July 1948 and 18 May 1951,

"Having considered the report of the Chief of Staff of the United Nations Truce Supervisory Organization on the military activities in the Lake Tiberias area and in the Demilitarized Zone,

"Having heard the statements of the representatives of the Syrian Arab Republic and Israel,

"Being deeply concerned over developments in the area which have taken place in violation of the Charter and of the Armistice Agreement,

"Recalling in particular the provisions of Article 2, paragraph 4 of the Charter, and article 1 of the Syrian-Israel General Armistice Agreement,

"Noting with satisfaction that a cease-fire has been achieved,

"1. Deplores the hostile exchanges between the Syrian Arab Republic and Israel starting on 8 March 1962 and calls upon the two Governments concerned to comply with their obligations under Article 2, paragraph 4 of the Charter by refraining from the threat as well as the use of force;

"2. Reaffirms the Security Council resolution of 19 January 1956 which condemned Israeli military action in breach of the General Armistice Agreement, whether or not undertaken by way of retaliation;

"3. Determines that the Israeli attack of 16-17 March 1962 constitutes a flagrant violation of that resolution and calls upon Israel scrupulously to refrain from such action in the future;

"4. Endorses the measures recommended by the Chief of Staff for the strengthening of the Truce Supervisory Organization in its tasks of maintaining and restoring the peace and of detecting and deterring future incidents, and calls upon the Israeli and Syrian authorities to assist the Chief of Staff in their early implementation;

"5. Calls upon both parties to abide scrupulously by the cease-fire arranged by the Chief of Staff on 17 March 1962;

"6. Calls for strict observance of article 5 of the General Armistice Agreement which provides for the exclusion of armed forces from the Demilitarized Zone and Annex 4 of that Agreement which sets limits on forces in the Defensive Area, and calls upon the Governments of Israel and the Syrian Arab Republic to co-operate with the Chief of Staff in eliminating any violations thereof;

"7. Calls upon the Governments of Israel and of the Syrian Arab Republic to co-operate with the Chief of Staff of the Truce Supervisory Organization in carrying out his responsibilities under the

General Armistice Agreement and the pertinent resolutions of the Security Council and urges that all steps necessary for reactivating the Mixed Armistice Commission and for making full use of the Mixed Armistice machinery be promptly taken;

"8. Requests the Chief of Staff of the Truce Supervisory Organization to report as appropriate concerning the situation."

The representative of Ghana deplored the Israel military action which, in his opinion, was bound to antagonize further Israel's immediate neighbours and was, in fact, in violation of the General Armistice Agreement. His delegation would not argue that the events leading up to the incident of 16-17 March constituted sufficient justification for the Israel military action, nor indeed would he seek to equate the earlier events with the incident of 16-17 March. However, he would insist that those events had been provocative in nature and that, in the prevailing political atmosphere in the area, they had acquired greater significance than might have seemed to be warranted. He urged Israel to extend fuller respect for, and to place greater reliance on, the United Nations machinery and arrangements for the maintenance of peace in the area than on the use of force. This plea acquired special force when it was considered that Israel was, so to speak, the creation of the United Nations. Though his delegation appreciated that these incidents were only a reflection of the larger problems of the Middle East, full compliance with the Armistice Agreements was indispensable for progress on the main issues. Both Syria and Israel should appreciate the wisdom, in their own interests, of affording UNTSO Observers all possible freedom of movement. He supported the suggestion that a special United Nations boat be introduced on Lake Tiberias for observation purposes. He strongly believed that the procedures of the Mixed Armistice Commission, with the opportunities it offered for face-to-face discussion represented a very important element in the local United Nations machinery. Finally, since the effectiveness of these arrangements depended on the complete and whole-hearted co-operation of the two parties, the Council was duty bound to request that such co-operation should be made available.

The representative of the United States, explaining the operative paragraphs of the joint draft resolution (S/5110/Corr.1), observed that paragraph 1 deplored the hostile exchanges between Syria and Israel without having assessed blame because UNTSO had been unable to determine who had initiated the firing on any of the occasions prior to the attack of 16 March. This was in large part due to the fact that the parties, particularly Israel, had placed obstacles in the way of effective circulation and observation by the United Nations. Paragraphs 2 and 3 of the draft resolution concerned the Israel assault on the night of 16-17 March, an assault the nature and origin of which were not contested. In the light of this situation, paragraph 3 determined that the Israel attack of 16-17 March had constituted a flagrant violation of the Security Council resolution of 19 January 1956 which had condemned Israel retaliatory action of this sort. The attack had been a large-scale operation in which Israel planes had apparently bombed Syrian territory, and Israel had given no indication that the operation had been intended to be restricted to the Demilitarized Zone. He stated further that the Israel action had been a most serious breach of the Armistice Agreement and a flagrant violation of paragraph 2 of the resolution of

19 January 1956, in which the Council had condemned retaliatory raids. Israel should be called on scrupulously to refrain from such actions in the future. The Council's position on that point ought to be absolutely clear if the peace of the area was to be preserved. He referred to the paragraph in the joint draft resolution which called for full co-operation of both parties with the Chief of Staff in carrying out his responsibilities, for reactivation of the Mixed Armistice Commission and for full use of Mixed Armistice machinery. He believed that Israel should return to the Mixed Armistice Commission, in which it had not participated since 1951, and that it should make full use of the Commission's procedures whenever it felt provocations had occurred. In particular, he would urge Israel in the most stringent terms to resort to the Mixed Armistice Commission and to the Security Council, in accordance with its obligations under the Charter, instead of resorting to the use of force. He expressed the hope that the Israel and Syrian authorities would co-operate whole-heartedly with the Chief of Staff in the working out of the further arrangements he had recommended. In conclusion, he expressed his confidence that, if the parties co-operated fully with the United Nations instrumentalities in the area and with the Security Council, peaceful conditions could be maintained, the number of minor incidents could be severely reduced, and any incidents which started could be brought to an end without resort to force.

The representative of the Union of Soviet Socialist Republics noted that whereas it was incontrovertibly proven that on the night of 16-17 March Israel had committed an act of armed aggression against Syria by incursion into the Syrian territory and air space, there was divergence in evaluation of responsibility for the events which had preceded the armed attack of 16-17 March. In the light of the evidence set forth in the report of General Von Horn, however, he could not agree with the attempts to place responsibility upon Syria for those events of lesser significance. The situation which the Council ought to evaluate politically was that Israel had systematically violated three lines that constituted guarantees for the maintenance of peace in the area. Firstly, Israel had violated the line of the special area established in its territory along the border with Syria in which only defensive forces with limited armament could be stationed. Secondly, Israel had violated the next limiting line established under the Agreement, namely the border of the Demilitarized Zone. Thirdly, it had violated the Armistice Demarcation Line. With respect to the Syrian revised draft resolution, he stated that operative paragraph 1 represented the minimum the Council should do if it wished to prevent the possibility of a repetition of cases like that in the future. This purpose would be achieved by the very modest formulation in the second operative paragraph and it seemed quite proper to warn Israel that sanctions would be applied. Operative paragraphs 3 and 4 were of secondary significance and were exactly the substance of the just demand formulated by the Syrian delegation.

With reference to the joint draft resolution submitted by the United Kingdom and the United States (S/5110 and Corr.1), the representative of the USSR stated that operative paragraphs 2 and 3 were, generally speaking, in conformity with the Syrian draft resolution, though they had been formulated in terms which did not express the matter with sufficient clarity and strength. These provisions could generally be supported, particularly if they were brought to their logical

conclusion. More satisfactory to his delegation was the formulation in the Syrian draft resolution which the members of the Council should support. The joint draft resolution, on the other hand, contained certain provisions which were in complete contradiction with the facts of the matter and with the results of the investigation which the Security Council had undertaken. An attempt was made to place Syria, the victim of aggression, on an equal footing with Israel, the aggressor, and to put both parties in a status of equal responsibility for the situation which had been created. At the same time, an attempt was made to pacify the aggressor. Such a tendency, which was reflected in operative paragraphs 1 and 6 as well as in the statement of the representative of the United States, was in contradiction with operative paragraphs 2 and 3 of the joint draft resolution itself. Such a tendency was at variance with the factual situation, for the Council possessed no data which would demonstrate that Syria had committed any violation of the status of the Demilitarized Zone. He considered that such an approach was improper and harmful and that it drew attention away from the acts of aggression in that very central part of the world. He observed that his participation in any voting on the draft resolutions before the Council would not imply any change in the position of the USSR with regard to the presence of the so-called United Nations forces in that part of the world.

At the 1006th meeting on 9 April, the representative of the Syrian Arab Republic observed that the manner in which the representative of Israel had rejected in the Council the affirmation of the Chief of Staff that no Syrian posts had been found within the Demilitarized Zone, proved conclusively that Israel did not want peace. The untenable position of Israel to accept the conclusions of the Chief of Staff only to the extent that the interests and security of Israel were not affected, meant the abandonment of the rule of law in favour of the law of the jungle. He recalled that article V of the Armistice Agreement and Dr. Bunche's comments had provided that no question of sovereign rights would arise in the Demilitarized Zone. Therefore, Israel was not entitled to claim any such rights in the Zone. The jurisdiction on the Mixed Armistice Commission extended to the Demilitarized Zone, and article 7 of the Armistice Agreement contained no limitation with respect to that jurisdiction. The Commission was perfectly competent to decide on the complaints that had bearing on the Demilitarized Zone, with the exception of issues regarding the interpretation of the preamble and articles 1 and 2 of the Armistice Agreement as set forth in paragraph 8 of article 7. However, the provisions bearing on the status of the Demilitarized Zone were contained in article 5 of the Agreement and were not subject to that limitation. Therefore, the refusal of Israel to recognize the jurisdiction of the Mixed Armistice Commission over the Demilitarized Zone amounted to a refusal to envisage any future application of the Armistice Agreement. Regarding the joint draft resolution submitted by the United Kingdom and the United States, his delegation was of the opinion that it did not go far in evaluating the facts and their unfavorable consequences. Finally, he reiterated that no project involving the waters of the Jordan River or those of Lake Tiberias could be carried out by Israel alone. The Armistice Agreement had provided that no military or political advantage might be obtained during the course of the truce decreed by the Security Council. This principle had been recognized by both parties to the Armistice

Agreement, in paragraph 1 of article 11; consequently, if those projects were carried out the provisions of that paragraph would be violated.

The representative of Israel observed that the version of facts adduced by the representative of the USSR was simply the Syrian version, down to the last detail. Whatever the reasons might be for that attitude, those reasons could not be found in General Von Horn's report. The veto power of the Soviet Union had become, as an instrument of the USSR policy in the Middle East, a crucial element in all further dealings by the Security Council with the Israel-Arab conflict. He stated that the Government of Israel did not have a policy of retaliatory raids or of territorial expansion, but had the same right and duty as any other Government to protect itself against attack. In the brief span of its modern statehood Israel had been compelled to fight twice in order to survive. If Israel had relied not on its own strength and courage, but solely on the United Nations Charter, it would not have survived two weeks. Israel believed in the United Nations and longed for the day when the Organization would develop the effective capacity to guarantee and protect the independence and security of all its Member States, as had been envisaged in the Charter. Concerning the question of Syrian fishing rights on Lake Tiberias, he stated that there was nothing in the Franco-British Convention of March 1923 which allowed a ten-metre zone for fishing in the lake. Similarly, the Armistice Agreement of 1949, which was the only bilateral agreement concluded between Israel and Syria, prohibited any crossing of the armistice line by civilians, and made no exception for fishermen.

With respect to the Anglo-American joint draft resolution, the representative of Israel stated that the first three operative paragraphs dealt with the recent incidents in the Lake Tiberias area in a manner which his Government regarded as failing to hold a fair balance between the Syrian complaint and the two Israel complaints. The text made no reference to the Syrian provocation which the representative of the United States, in his statement before the Council, had described as contrary to the letter and spirit of the Armistice Agreement. It was clear that the strictures upon Israel in paragraphs 2 and 3 were not accompanied by even the mildest of rebukes to Syria. A draft resolution so one-sided was not calculated to promote peaceful conditions. His Government reaffirmed its willingness to comply with the obligations under Article 2, paragraph 4 of the United Nations Charter in relation to Syria; if the Syrian representative failed to make a similar declaration on behalf of his own Government, in relation to Israel, the Council would draw the necessary conclusions.

Concerning the functioning of the Armistice machinery, he stated that his Government welcomed any suggestions by the Chief of Staff and would give them its earnest consideration, if they appeared useful and acceptable, and would assist the Chief of Staff in their early implementation. He reaffirmed that the Israel Government would abide scrupulously by the cease-fire of 17 March, provided the Syrian Government did the same. Any failure by Syria to observe its obligations under the Armistice Agreement in the Lake Tiberias area would be regarded by Israel as a violation of that Agreement as well as of the joint draft resolution were it adopted by the Council.

The representative of the United Arab Republic stated that his delegation was in full agreement with operative paragraphs 2 and 3 of the joint draft resolution, submitted by the United Kingdom and the United States, and it had no objection to operative paragraph 8. The other operative paragraphs, however, posed a problem for his delegation since they left the impression, as the representative of the USSR had noted, that both the aggressor and the victim of aggression were being equated and treated on the same level. For those reasons he had found it unfair and unjust to have the name of Syria mentioned in operative paragraphs 1, 4, 5, 6 and 7. He would, therefore, request a separate vote on the preamble and paragraphs 2, 3 and 8 of the joint resolution, and if his request were accepted, he would not press the Syrian draft resolution to a vote.

The representative of the United Kingdom replied that the draft resolution had been carefully worded in an effort to take into account all the facts and considerations put before the Council, and that all the paragraphs should be regarded as a whole. The sponsors of the draft resolution would exercise their right under rule 32 of the Rules of Procedure to object to a separate vote on the preamble and the operative paragraphs in question.

The representative of the United Arab Republic stated that he would vote in favour of the joint draft resolution, but he did not wish his vote to be construed to mean an acceptance in any way of the implication that Syria and Israel had been accorded equal treatment in the draft resolution.

The representative of the Union of Soviet Socialist Republics considered that the key provisions of the joint draft resolution were paragraphs 2 and 3. Although they were not sufficiently categorical, they did reflect the basic thought; namely, the condemnation of the Government of Israel for the act of aggression which it had taken against Syria on the night of 16-17 March. This was, generally, in line with the political evaluation which the Soviet delegation had already stated in consideration of the matter. He shared the views which had just been expressed by the representative of the United Arab Republic with respect to several inadequate provisions in the draft resolution. However, bearing in mind the political significance which his delegation attributed to paragraphs 2 and 3 as condemning the Israel aggression, he would vote for the draft as a whole. The adoption of the joint draft resolution, with the second and third operative paragraphs, should serve as a serious warning from the Security Council to the Government of Israel against any future violations of the Armistice Agreement and, particularly, against any incursions into the territory or air space of Syria or of any other Arab State. It would also serve notice that the Security Council would exercise full vigilance and act immediately if Israel committed any act in violation of the Armistice Agreement. He believed that that warning should be the last one and that should there be a next time, the Council should apply all measures provided under the Charter, measures which the Council would be obliged to put into effect.

The representative of France stated that in the view of his Government the responsibilities were, to a certain extent, shared and that the events of the night of 16-17 March had been provoked by the serious in-

cidents of 8, 15 and 16 March. His delegation felt that the joint draft resolution did not adequately apportion the responsibilities and presented a picture that was not entirely impartial and objective. For that reason, his delegation would abstain from the vote.

The President stated that since the representatives of Syria and the United Arab Republic had agreed not to press to a vote the draft resolution which had been originally submitted by the Syrian Arab Republic, the Council would consider only the joint draft resolution submitted by the United Kingdom and the United States.

Decision: *The draft resolution submitted by the United Kingdom and the United States (S/5110 and Corr.1) was adopted by 10 votes to none, with one abstention (France). The text of the resolution as adopted is contained in document S/5111.*

The representative of Romania, in explanation of his vote, stated that his vote should be interpreted to mean that he supported the preamble and operative paragraphs 2, 3 and 8. However, he had reservations regarding the responsibilities that had been outlined in the other paragraphs of the draft resolution.

Chapter 3

TELEGRAM DATED 20 JULY 1961 ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS OF THE REPUBLIC OF TUNISIA (S/4861)

LETTER DATED 20 JULY 1961 FROM THE PERMANENT REPRESENTATIVE OF TUNISIA ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL (S/4862)

A. Consideration at 961st to 963rd meetings (21-22 July 1961)

In a telegram dated 20 July 1961 (S/4861), the Secretary of State for Foreign Affairs of Tunisia informed the President of the Security Council that the town and Governorate of Bizerta had been under attack by French naval and air forces since the afternoon of 19 July and requested that the Council be convened as a matter of extreme urgency to consider a complaint by Tunisia against France concerning acts of aggression infringing the sovereignty and security of Tunisia and threatening international peace and security. In a letter (S/4862) of the same date to the President of the Council the representative of Tunisia reiterated the request and submitted an explanatory memorandum which stated that, in addition to the air and naval attacks on 19 July, 800 French paratroopers had been dropped over Bizerta, thus violating Tunisia's air space despite the categorical prohibition of the Tunisian Government. During the night of 19 to 20 July, French armoured units had also taken up positions outside the Bizerta base. After recalling the repeated efforts made by Tunisia to obtain the evacuation of French troops from the Bizerta base and the territory in south-eastern Tunisia also occupied by French forces, the memorandum stated that a final approach had been made on 6 July in the form of a personal message from President Bourguiba to General de Gaulle. No reply had been given to that last attempt at a peaceful settlement. Following that demonstration of France's intention to flout Tunisia's national dignity, the Tunisian Government had been forced to take steps similar to those taken after the act of aggression committed at Sakiet Sidi Youssef and reported to the Council in document S/3951.

In a letter dated 20 July 1961 (S/4864), the representative of France requested the circulation of the text of two notes, dated 18 and 20 July 1961 respectively, delivered by the Embassy of France in Tunis to the Office of the Tunisian Secretary of State for Foreign Affairs. The note of 18 July, after referring to President Bourguiba's statement on 17 July that, starting on 19 July, steps would be taken to resume the battle using the methods employed after the Sakiet incident, reaffirmed the position stated in notes of 13

and 16 July that a solution to the problem of Bizerta could not be sought in an atmosphere of passion or under the threat of popular demonstrations. If, on the other hand, the situation returned to normal a reply would be made to President Bourguiba's message of 7 July to General de Gaulle. Action of the kind contemplated would increase tension and serve only to delay conversations concerning the Bizerta base, which were provided for in the exchange of letters of 17 June 1958 and which the French Government still wished to see opened. In face of the increasingly serious threats, the French Government was compelled to take the necessary steps to ensure the inviolability of the base installations and freedom of communication between them. French forces would also have to resist any incursion by Tunisian units across the Sahara frontier. In the note of 20 July, the French Government stated that on 19 July and during the night of 19/20 July the Tunisian authorities had taken the initiative in committing deliberate acts of aggression against French installations and forces. The latter, after holding their fire for a long time, had been compelled to retaliate in self-defence. The French Government appealed to the Tunisian Government to halt the attacks. It was ready, for its part, to give the necessary instructions for discussions with the Tunisian authorities on the conditions for a cease-fire.

At its 961st meeting on 21 July, the Council adopted the following agenda:

Telegram dated 20 July 1961 addressed to the President of the Security Council by the Secretary of State for Foreign Affairs of the Republic of Tunisia (S/4861).

Letter dated 20 July 1961 from the Permanent Representative of Tunisia addressed to the President of the Security Council (S/4862).

Speaking before the adoption of the agenda, the representative of France said that he would not oppose the inclusion of the question raised by the Tunisian representative, although the complaint and accompanying memorandum represented events in a way that was not consistent with the facts.

Opening the debate, the representative of Tunisia, who had been invited to participate in the discussion

under rule 37 of the Rules of Procedure, said that his Government would be ready to accept an international, impartial and immediate investigation to establish the veracity of the facts he would put before the Council. Those facts were clear. On 19 July the French Minister of Information had confirmed that parachute troops had been or would be sent to Bizerta to reinforce the units already there. That operation had been undertaken without the authorization of the Tunisian Government. The latter had not even been informed, although the Franco-Tunisian agreement embodied in the exchange of letters of 17 June 1958 concerning the evacuation of French troops from Tunisia, expressly stated that the French Government did not intend to keep armed forces on Tunisian territory other than those there in accordance with negotiated agreements between the two States. It was in face of that violation of a formal agreement that the Tunisian Government had, at 1.30 p.m. on 19 July, one and a half hours after the French announcement, prohibited civil and military flights through Tunisian air space in the Bizerta area and south of Gabès. It had also announced that orders had been given to fire on any aircraft violating the prohibition. The prohibition had been ignored and a series of acts of aggression had been committed against Tunisia, including bombing and rocket attacks by carrier-borne aircraft and the dropping of parachute troops.

On 20 July the Tunisian Government had decided to break off diplomatic relations with France. Two hours later the French *Chargé d'Affaires* in Tunis had delivered a note from the French Government to the Tunisian Secretary of State for Foreign Affairs. The note merely reiterated the warnings and threats contained in the French Government's earlier note of 13 July and proposed negotiations for a cease-fire, to which the Tunisian Government could not agree without simultaneous recognition of the principle of final and immediate evacuation. The note had therefore been rejected for reasons both of form and of substance. In the meantime, aggressive operations by French air, naval and ground forces were continuing.

In south-eastern Tunisia, the Tunisian Government had decided to occupy all the territory indisputably established as Tunisian by international treaties or agreements, in particular the treaty of 1910 between France, acting in the name of Tunisia, and the Ottoman Empire, acting for Libya. The French authorities had refused to respect the provisions of that instrument despite the fact that it had been reconfirmed in the Franco-Libya agreement of 26 December 1956 to delimit the frontiers between Algeria and Libya.

Tunisia had, with great patience and understanding, made every effort using diplomatic means to secure the evacuation of foreign forces from its territory. Those efforts had been fruitless; even President Bourguiba's personal appeal on 6 July to General de Gaulle had gone unanswered, on the pretext that popular demonstrations made negotiation impossible. Tunisia was now the victim of aggression by forces far stronger than its own and, using its right of self-defence under Article 51 of the Charter, was fighting to resist the attack and regain its legitimate sovereignty over all its territory. In that situation, he called on the Council to bring the aggression to an immediate end; to help Tunisia to repel the aggression, if necessary; and to help Tunisia to remove from its territory the permanent threat of aggression implicit in the presence of French troops on its territory against its will. Tu-

nisia should be given all the assistance permitted by the Charter to secure the final evacuation of French troops from Tunisian soil.

The representative of France said that France, more than any other nation, regretted the events to which the attention of the Council had been drawn and for which France could in no way be held responsible. The French Government would in fact have had every justification if it had complained to the Council of the wilful, premeditated and systematic aggression committed by the Tunisian Government in Bizerta. The legal basis of the French military presence in Bizerta was to be found in the exchange of letters of June 1958 between the French and the Tunisian Governments, which provided for the maintenance of the base at Bizerta pending the negotiation of a definitive agreement. The French Government had scrupulously carried out the provisions of that agreement and had taken the initiative in proposing to the Government of Tunisia that talks be held in connexion with the base. That invitation had been repeatedly renewed and negotiations had taken place on many occasions, but without result. On 29 March 1960, the French Government, in a spirit of conciliation, had decided to evacuate the barracks in Bizerta and had handed them over to the Tunisian authorities in accordance with an agreed timetable. In the same spirit, in November 1960, the French Government had proposed the transfer to the Tunisian Government of certain base installations outside the city of Bizerta. The installations had in fact been transferred to the Tunisian authorities between January and June 1961. The French Government had also informed the Tunisian Government of its decision to reduce its ground forces in Bizerta and in November 1960 had proposed the conversion of the Sidi Abdallah arsenal for industrial use. France was not opposed to negotiation, but the military and aggressive preparations undertaken by the Tunisian authorities made negotiation impossible. The French Government had solemnly warned the Tunisian Government against the action which it had deliberately undertaken, and for which it bore full and sole responsibility. It appealed to the Tunisian Government to stop the attacks and had already announced its readiness to issue orders for negotiations with the Tunisian authorities on the conditions of an immediate cease-fire. Tunisia's action in placing before the Council an incident Tunisia had itself provoked should mislead no one. Franco-Tunisian problems would not be solved by such action or by heated appeals to international opinion, but by negotiation and respect for written agreements.

The representative of the United States said that his delegation believed that the people of Tunisia and the people of France shared with the Council a common interest in resolving their differences peacefully and in accordance with true regard for each other's sovereignty and well-being. He appealed both to France and to Tunisia to put into effect an immediate cease-fire and a return of all forces to their previous positions, and to refrain from any action which would cause a further deterioration of the situation and make a peaceful solution more difficult. Nothing should be done in the Council that would prejudice the prospects of a satisfactory settlement of the question directly between the parties concerned.

The representative of the United Arab Republic said that his Government was profoundly shocked by the French attack on Tunisia and deplored the heavy toll

of dead and wounded. France had never made any serious attempt to meet Tunisia's desire for the evacuation of foreign forces. The French bases in Tunisia, which were the cause of the incident, should be immediately liquidated and all foreign troops should be withdrawn without delay so that Tunisia could enjoy its full independence and security.

The representative of Turkey stated that his Government was deeply grieved by the tragic events in Tunisia and urged an immediate cessation of armed action to prevent any further loss of life and permit the prompt restoration of the *status quo ante*. In the interests of both parties as well as of the international community, every effort should be made to bring about a prompt and peaceful settlement of the differences that had arisen between France and Tunisia.

The representative of the Union of Soviet Socialist Republics said that recent events in Tunisia were an expression of the general attitude of the colonialist Powers towards the newly-independent peoples and peoples struggling for their independence. France was seeking to retain the Bizerta base as a means of continuing its former domination of Tunisia. Under the agreement of 17 June 1958, France had committed itself to withdraw all troops within four months from the whole of the territory of Tunisia, with the exception of Bizerta, and had formally recognized Tunisian sovereignty over Bizerta. It had also agreed to settle the future of Bizerta by negotiation. In fact, however, France had avoided any settlement of the question, had violated Tunisian air space, and had committed armed aggression against Tunisian territory. In the light of events in Tunisia, it was easy to see why the colonial Powers had been unwilling to approve the Declaration on the granting of independence to colonial countries and peoples. The USSR delegation believed that the Council should condemn France's actions as an act of aggression against Tunisia, a violation of Tunisian sovereignty and independence and a threat to peace in North Africa and the Mediterranean area. The Council should compel France to stop its aggressive actions against Tunisia immediately, withdraw all its troops from Tunisian territory, including Bizerta, and desist from any other action aimed at violating Tunisian sovereignty or integrity.

The representative of Liberia said that the basic problem arose from the fact that the French Government continued to remain in possession of the base at Bizerta. His Government viewed the Tunisian Government's position in the matter with complete understanding. There could be no doubt that the Council would wish to act promptly and vigorously to bring about the immediate cessation of the armed conflict and secure the withdrawal or return of all forces to their previous positions. The Council should also call for a peaceful solution and for negotiations between the parties concerned, having regard to the principle of evacuation in accordance with the expressed wish of the Tunisian Government and people.

The representative of Tunisia, after reviewing the 1958 agreement, declared that his country was not ready to negotiate a provisional agreement on Bizerta unless negotiations for a provisional agreement brought about the evacuation of the troops from Bizerta. Tunisia had long worked for friendship with France, but he could not conceive of friendship or co-operation except on the basis of dignity and respect for the sovereignty of States and nations. With regard to the French Gov-

ernment's stated readiness to negotiate a cease-fire, he pointed out that Tunisia was not the attacker but the victim of the attack and that it was easy for the aggressor to talk of a cease-fire. The French might well have ordered a cease-fire instead of continuing the battles that were raging on Tunisian soil. The situation in Bizerta was still serious: air attacks were continuing, and street fighting was in progress.

The representative of France regretted that Tunisian action against the base at Bizerta and in the Sahara had compelled the French forces to exercise their right of self-defence. If Tunisia had accepted the French proposal of 20 July for negotiations for a cease-fire, the loss of many human lives and much material destruction would have been avoided. The French Government continued to propose to Tunisia the immediate conclusion of a cease-fire agreement. Once a cease-fire was in force and normal conditions were restored, conversations between the two countries on pending questions could be resumed.

The representative of the USSR asked whether the negotiations for the settlement of pending questions mentioned by the French representative would deal with the complete withdrawal of French troops from the Bizerta base and from the whole of the territory of Tunisia.

At the 962nd meeting on 22 July, the Secretary-General said that he considered it his duty, in view of his obligations under Article 99 of the Charter, to make an urgent appeal to the Council to consider, without delay, taking an intermediary decision pending the further consideration of the item and conclusion of the debate. Such a decision should not prejudice the final outcome of the deliberations of the Council, as it should, in his view, only request of the two sides concerned an immediate cessation, through a cease-fire of all hostile action. Naturally, that request should be combined with a demand for an immediate return to the *status quo ante*, as the cease-fire would otherwise be likely to prove too unstable to satisfy the urgent needs of the moment.

The representative of Tunisia emphasized that the armed aggression against Tunisia was continuing and that, under the pretext of protecting the buildings or the various parts of the Bizerta base, France was engaged in the military reoccupation of the city and its surroundings. In face of the attack, Tunisia was determined to defend itself, in the exercise of its right of self-defence under Article 51 of the Charter, and appealed for United Nations assistance to safeguard its sovereignty and the integrity of its territory.

The representative of France emphasized that there was no question of a French reoccupation of the city of Bizerta or the Bizerta region. The sole objective of the operations being conducted by the French forces from the Bizerta base was to liberate the installations from the threats to which they had been subjected and to ensure free access to them. The French Government continued to hope that an early understanding would be reached with regard to a cease-fire.

The representative of Liberia expressed support for the recommendation which had been made to the Council by the Secretary-General for an intermediary measure to be taken pending a final decision by the Council. His delegation proposed to submit a draft resolution in that connexion.

The representative of the United States supported that statement and proposed a brief suspension of the

meeting under rule 33 of the Rules of Procedure, to permit informal discussion of a draft resolution that could be adopted rapidly and, he hoped, unanimously.

Decision: *The meeting was suspended.*

When the meeting was resumed the representative of Liberia introduced, and requested priority for, the following draft resolution (S/4880):

"The Security Council,

"Considering the gravity of the situation prevailing in Tunisia,

"Pending the conclusion of the debate of the item on its agenda,

"1. Calls for an immediate cease-fire and a return of all armed forces to their original position;

"2. Decides to continue the debate."

The draft should, he suggested, be adopted immediately, since every member of the Council was aware that further delay in the establishment of an immediate cease-fire and the return of all armed forces to their original positions would be costly in human lives, both civilian and military.

The representative of the United States also urged that the draft resolution be adopted at once and that it be implemented rapidly by both parties in such a way as to bring about the early restoration of a completely peaceful situation.

The representative of China pointed out that while the draft resolution was an interim one and did not pretend to be the complete answer of the Security Council, the provision concerning a cease-fire should be included in any definitive resolution adopted.

The representative of France said that his Government earnestly desired a return to an entirely peaceful situation. Such a return clearly implied the restoration of the situation as it had existed at the beginning of July. All necessary measures would have to be taken by both parties to ensure the withdrawal of troops from advanced positions; the cessation of the measures taken by Tunisia to blockade the base; the recision of the reprisals taken in Tunisia against some French citizens and the release of those who had been arrested. His delegation would not participate in the vote that was about to be taken. The French Government had from the beginning called for a cease-fire and it would be paradoxical for it to exhort itself to take the very action which it had from the outset unceasingly proposed.

Decision: *The draft resolution was adopted by 10 votes to none with no abstentions. France did not participate in the vote. The text of the resolution as adopted is contained in document S/4882.*

The representative of Tunisia expressed his conviction that the interim draft resolution adopted by the Security Council would be observed by his Government, it being understood that the return of all armed forces to their original positions would not imply, as far as the Tunisian armed forces were concerned, any restriction of the freedom of a sovereign and independent State. The provision was to be understood as applying to military forces. It was, he believed, proper to interpret the resolution as calling for a return to the situation as it had existed on 19 July on the eve of the aggression against Tunisia, and in particular as calling for the earliest possible withdrawal of the parachute troops dropped after the afternoon of 19 July.

The representative of France expressed the hope that the Tunisian representative's statement did not indicate that his Government reserved the right to proceed with further demonstrations against the French base conducted by civilians under the control of paramilitary organizations.

The following communications were received by the Council on 21 and 22 July:

In a letter to the President of the Council dated 21 July (S/4869) the representative of Tunisia transmitted the text of the agreement of 17 June 1958 between the French Government and the Tunisian Government regarding the evacuation of French troops from Tunisia.

In a letter dated 21 July (S/4870) the representative of Tunisia informed the President of the Security Council that the Tunisian authorities had rejected a French ultimatum calling upon them to evacuate the town of Bizerta. The town had subsequently been bombed.

In a further letter of the same date to the President of the Council (S/4871) the representative of Tunisia transmitted the text of the letter concerning the evacuation of the Bizerta base sent to the President of the French Republic on 6 July 1961 by the President of the Republic of Tunisia.

In a letter to the President of the Council dated 21 July (S/4872) the Secretary-General transmitted the text of a telegram addressed to him by the secretary-general of the League of Arab States. The Council of the League declared that it whole-heartedly upheld Tunisia in the battle against French imperialism, and supported it in its struggle to rid itself of the French imperialist forces.

In a telegram dated 20 July (S/4873) the Secretary of State for Foreign Affairs of Tunisia drew the attention of the Secretary-General to the dangerous worsening of the situation at Bizerta. In a reply dated 21 July 1961 (S/4874) the Secretary-General expressed his desire to do what he could to find a solution to the dispute and hope that through prompt action by the Security Council a basis for such a solution would be found which would safeguard the rights involved while affording protection for human lives and restoring friendly relations between two States Members of the United Nations. He was sure the Tunisian Government would do its utmost to help find a solution in the spirit of the Charter.

In a letter (S/4875) of the same date, the Secretary-General transmitted to the Permanent Representative of France a copy of his message to the Tunisian Secretary of State. The aims set out therein reflected his general attitude which he wished to bring to the notice of the Permanent Representative and to that of the French Government.

In a telegram to the Secretary-General dated 21 July (S/4876), the President of the Republic of Tunisia stated that in view of the serious threat to his country resulting from the attack by the French Army he was regretfully obliged to ask for the immediate repatriation of the three battalions of the Tunisian army stationed in the Congo.

In a telegram to the Secretary-General dated 21 July (S/4877) the Secretary of State for Foreign Affairs of Tunisia stated that the town of Bizerta had been subjected to heavy air bombardment. French parachutists had occupied part of the inner town.

In a further letter dated 22 July (S/4881) the representative of Tunisia informed the President of the Council that the attacks on the town and region of Bizerta continued. The acts constituted premeditated aggression against Tunisia, the means employed being out of all proportion to what was needed for the defence of the base installations.

At the 963rd meeting on 22 July 1961, the representative of France informed the Council that in conformity with the decision at its previous meeting, the French Commander at Bizerta had been instructed to make immediate contact with the Tunisian authorities with a view to establishing a cease-fire as soon as possible and, if the cease-fire was thus achieved, organizing a meeting on 23 July to begin discussions on the modalities of a return to a normal situation.

The representative of Tunisia noted that the interim resolution did not call for discussions between the French military authorities at present in Bizerta and the representatives of the Tunisian Government. It referred simply to an immediate cease-fire and a return of all armed forces to their original positions. He had not been able to make contact with his Government but he was certain that it would implement any decision of the Security Council as soon as possible.

The representative of Ceylon said that with the restoration of the tradition of understanding between France and Tunisia, the differences between them should not prove insoluble. The first step was to stop the fighting and the destruction of human life and property. It also seemed necessary for the French armed forces to return to the *status quo ante* as it had existed before 19 July. Lastly, the Tunisian desire for the withdrawal of French forces from its territory must be respected. Tunisia had the right to make the request and, given the close association which France and Tunisia had had, it should not be impossible to work out arrangements for realizing Tunisia's desire in a peaceful manner.

The representative of the United Kingdom said that the essential requirement in the situation was that the two parties should negotiate promptly with each other. However while the will to negotiate clearly existed on both sides, negotiations could not readily take place while fighting continued. It was therefore of the utmost importance that both sides should agree upon the implementation of the Council's interim resolution calling for an immediate cease-fire, to be followed by a speedy return of all forces to their previous positions. It would also be essential that all parties concerned should refrain from any action that might prejudice the restoration of peace and building up of mutual confidence. It was with those considerations in mind that his delegation had joined with that of the United States in submitting the following draft resolution (S/4879):

"The Security Council

"Noting with profound regret the circumstances in which fighting had broken out in Tunisia between French and Tunisian forces,

"Having considered the statements made in the Council by the representatives of Tunisia and France and by other members of the Council,

"Taking into account the obligation under the Charter that all Members shall settle their differences by peaceful means,

"1. Calls upon the parties to effect an immediate cease-fire and a speedy return of all forces to their previous positions;

"2. Calls upon all concerned to refrain from any action which might lead to a further deterioration of the situation;

"3. Urges the parties, in accordance with the Charter, to negotiate promptly a peaceful settlement of their differences;

"4. Decides to keep the situation under urgent review in the interests of peace and security."

There was, the United Kingdom representative pointed out, much common ground between that proposal and the joint draft resolution (S/4878) submitted by Liberia and the United Arab Republic. On a number of points, however, the draft submitted by his delegation appeared to be preferable since it avoided any appearance of prejudging issues that would more properly be dealt with in the negotiations which all parties confidently hoped would soon be taken up between the Governments of Tunisia and France.

The representative of Liberia said that the Council had already taken action to bring about an immediate cessation of the armed conflict by calling for a cease-fire and the return of all armed forces to the original position. The next step must be to seek immediate negotiations between the parties concerned aimed at the speedy evacuation of all French forces from Tunisian soil in accordance with the express wish of the Tunisian Government. To that end, his delegation together with that of the United Arab Republic, submitted the following draft resolution (S/4878):

"The Security Council,

"Having considered the complaint of Tunisia against France (S/4861, 20 July 1961),

"Having heard the statements of the representatives of France and Tunisia,

"Convinced that the continuation of the situation is a threat to international peace and security,

"1. Calls for an immediate cease-fire; and

"2. Further calls for the immediate withdrawal of those French forces which had been introduced into the base at Bizerta, and for the return to their original position of those which have transgressed beyond the limits of that base, since 19 July 1961;

"3. Further calls upon both parties to enter into immediate negotiations aimed at the speedy evacuation of the French forces from Tunisia."

The representative of the United Arab Republic said that despite the adoption of the interim resolution the dispute between France and Tunisia remained and must be resolved. It was France that had committed aggression and it was for France to halt the attack to permit the restoration of normal conditions. France must also recognize that any lasting solution must be consistent with Tunisia's dignity as an independent and sovereign State. In that respect the difference between the two draft resolutions before the Council was small, but essential. The draft resolution of which his country was a co-sponsor would lead to a direct solution of the problem through negotiations aimed at the speedy evacuation of French forces, whereas the draft introduced by the United Kingdom representative proposed only a palliative.

The representative of Chile considered that the Council, having taken action to halt the fighting, was in duty

bound to urge the parties to remove the underlying causes of the conflict through negotiations, with due consideration to the interest of both countries. He would support any formula that would help to restore peace and facilitate a definitive solution of the differences which temporarily divided France and Tunisia. The two draft resolutions before the Council were both addressed to that end, but that submitted by the United Kingdom and the United States appeared more likely to command general acceptance and his delegation would therefore support it.

The representative of the United States suggested that the Council's proper role at that stage was, in accordance with Article 36 of the Charter, to recommend appropriate procedures of adjustment, rather than to move prematurely to recommending terms of settlement under Article 37. For that reason he could not support the resolution submitted by Liberia and the United Arab Republic. If the draft co-sponsored by his delegation were adopted and the parties followed its recommendations speedily and sincerely, a definitive solution of their differences could and would be achieved.

The representative of the Union of Soviet Socialist Republics believed that the Council should condemn France's action as an act of aggression against Tunisia and a violation of Tunisian sovereignty and independence. The Council should also compel France immediately to stop its aggressive action against Tunisia, withdraw its troops from Bizerta and the Tunisian territory as a whole, and desist from any other action that would violate the sovereignty and independence of Tunisia. There were, he noted, substantial differences of principle between the two draft resolutions before the Council. Viewed in the most favourable light, paragraph 3 of the United States-United Kingdom draft resolution did not preclude the possibility that the outcome of the settlement might be the continued existence of the French base at Bizerta and the continued presence of French troops in Tunisia. Nothing was said about the purpose of the negotiations. In contrast, paragraph 3 of the draft resolution submitted by Liberia and the United Arab Republic, although it did not go far enough, clearly established that the object of the negotiations should be the speedy evacuation of the French forces from Tunisia. For those reasons his delegation could not support the draft resolution submitted by the United States and the United Kingdom and believed that the draft resolution submitted by Liberia and the United Arab Republic, while omitting many important provisions which should have been included, came closer to the aims that should be pursued by the Council.

The representative of Tunisia informed the Council that his Government had given immediate instructions for a cease-fire upon receiving notification of the interim resolution adopted at the previous meeting. With regard to the draft resolutions before the Council, he stressed that Tunisia desired to see the aggression ended and foreign troops withdrawn from its territory. His delegation would welcome a decision that contributed to the achievement of those ends.

The representative of Ecuador said that his delegation earnestly hoped that the provisions of the interim resolution would be effectively implemented, thus paving the way for a peaceful settlement. Commenting on the drafts before the Council, he said that his delegation had no objection of principle to the draft resolution submitted by Liberia and the United Arab Republic, but considered the United States-United Kingdom draft

resolution preferable on pragmatic grounds. He would vote for that draft on the understanding that the speedy return of all forces to their previous positions meant the withdrawal of the French forces to their previous positions until a freely accepted agreement terminated the negotiations.

Decision: *The draft resolution (S/4878) submitted by Liberia and the United Arab Republic was not adopted, the result of the vote being 4 votes in favour (Ceylon, Liberia, USSR, United Arab Republic) to none against, with 7 abstentions.*

Decision: *The draft resolution (S/4879) submitted by the United Kingdom and the United States was not adopted, the result of the vote being 6 votes in favour to none against, with 5 abstentions (Ceylon, France, Liberia, USSR, and UAR).*

The representative of the United States expressed regret at the Council's inability to adopt a further resolution, but pointed out that the call for a cease-fire and a return to previous positions remained in full effect. The Council remained seized of the question and should be prepared to resume its debate whenever necessary, as provided in the resolution adopted at the previous meeting.

The representative of France said that his delegation had abstained during the vote on the draft resolution submitted by the delegations of the United Kingdom and the United States because it would have been illogical for it to have endorsed an appeal to the parties to take steps which the French Government, for its part, had consistently advocated.

The representative of the Union of Soviet Socialist Republics regretted that several members of the Security Council had found themselves unable, at a tragic moment in the history of the Tunisian people, to support Tunisia's request for the liquidation of a foreign military base in its territory and for the withdrawal of invading troops. In voting for a cease-fire at the previous meeting, France's military allies had acknowledged that France, by its aggression, had unleashed forces it could not control. Nevertheless, they had been unwilling to support the further recommendations, limited though they were, contained in the draft resolution submitted by Liberia and the United Arab Republic.

The representative of Tunisia expressed concern at the Council's failure to approve measures to end aggression against Tunisia. That failure might well have extremely serious consequences for his country and for the world.

The President noted that although neither of the draft resolutions before the Council had been adopted, the item was still on the agenda, as had been made clear in the interim resolution adopted at the previous meeting. He would call a meeting of the Council at the request of any member of the Council or of any State Member of the United Nations whenever they might deem it necessary.

B. Communications received between 22 and 28 July 1961

In a telegram to the Secretary-General dated 22 July (S/4883), the Secretary of State for Foreign Affairs of Tunisia stated that his Government was ready to accept and implement the resolution adopted by the Council on 22 July.

In a telegram to the Secretary-General dated 23 July (S/4884), the representative of Tunisia drew attention

to a number of violations of the cease-fire decided upon by the Council.

In a letter to the Secretary-General dated 23 July (S/4885), the President of Tunisia stated that the grave situation in Tunisia resulting from French aggression and the need for urgent and thorough consideration of the consequences following from Tunisia's appeal to the Security Council made a direct and personal exchange of views necessary and urgent. He would therefore be happy to receive the Secretary-General in Tunis at his earliest convenience. In a reply of the same date, the Secretary-General, while pointing out that the substance of the problem was outside his personal competence, stated that the request imposed upon him the clear duty to place himself at the disposal of the President for such a personal exchange of views.

In a letter dated 23 July (S/4886) the representative of Tunisia informed the Secretary-General of the serious situation still prevailing in Bizerta as a result of the attitude of the French troops and stated that his Government remained willing for representatives of the two Governments to meet in Tunis to discuss ways and means of implementing the Security Council's decision.

In a letter dated 23 July (S/4887) to the President of the Security Council, the representative of France denied the allegations made by the Tunisian representative at the 963rd meeting concerning units of the French armed forces, and protested against the reprisals taken by the Tunisian Government against French civilians, in defiance of the elementary rules of international law.

In a *note verbale* dated 25 July (S/4888/Rev.1) to the President of the Security Council, the Secretary-General transmitted the text of a telegram addressed to him on 24 July by the secretary-general of the League of Arab States concerning the French attack on Tunisia. The Council of the League denounced France's refusal to comply with the Security Council's appeal for a cease-fire, and pledged assistance to Tunisia.

In a letter to the President of the Council dated 27 July (S/4893) the representative of Tunisia drew attention to France's continued refusal to carry out the provisional measures called for in the Council's interim resolution of 22 July. He accordingly requested that the Council be convened to resume consideration of the "Complaint by Tunisia against France concerning acts of aggression infringing the security of Tunisia and threatening international peace and security", submitted by his Government to the Security Council on 20 July 1961 in document S/4862.

In an exchange of letters dated 25 and 26 July 1961 between the Secretary-General and the Minister for Foreign Affairs of France (S/4894), the Secretary-General noted that he had received no reply from France concerning the interim resolution adopted by the Council. If he understood the French attitude rightly, the French Government did not regard its order for a cease-fire as having been taken in compliance with the Council's decision, but as an action indicated by the position already established by the French forces. Upon his arrival in Tunis, the Secretary-General had been informed by the Tunisian authorities of efforts to establish contact between Tunisian and French representatives with a view to enabling the

resolution to be carried out. He noted that no such contact had yet been established at Bizerta, but that after contact had been made in the south of Tunisia at the initiative of the French, the Tunisian authorities had withdrawn their armed forces, as the resolution requested, to the positions held before the crisis. He considered it his duty to explore the possibilities of improving this disturbing situation by making an effort, at least, to establish immediately the necessary contact between the two parties, the basis for which must obviously be strict compliance with the terms of the resolution and respect for Tunisian sovereignty. In reply, the Minister for Foreign Affairs of France enclosed the text of a statement issued by his Government concerning the conditions in which the cease-fire had been carried out at Bizerta and in the Sahara and concerning the manner in which normal conditions should be restored. The French Government continued to hope that discussions would be opened between the French and Tunisian authorities in order to settle the situation as soon as possible and by mutual agreement.

In a letter dated 25 July 1961 addressed to the President of the Council (S/4896/Add. 1-3), the representatives of Afghanistan, Burma, Cambodia, Cameroun, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Leopoldville), Cyprus, Dahomey, Ethiopia, Federation of Malaya, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Ivory Coast, Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Morocco, Nepal, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Somalia, Sudan, Togo, United Arab Republic, Yemen and Yugoslavia expressed full support for the maintenance of Tunisia's sovereignty throughout its entire territory and urged full compliance with the Council's resolution of 22 July.

In a letter dated 28 July (S/4897), the representative of France informed the President of the Council that the cease-fire at Bizerta and in the Sahara had been established and was being observed. The French authorities' proposal that talks on procedure for restoring normal conditions in Bizerta should be opened without delay at a place in Bizerta to be chosen by agreement still held good and could be put into effect at any time. In the circumstances the French delegation did not consider it necessary to associate itself with any discussions that might take place in the Council.

In a letter to the President of the Council dated 28 July (S/4899), the representative of Tunisia, referring to the French representative's letter of 23 July (S/4887), stated that his Government had been compelled for security reasons to take measures against certain French nationals whose subversive activity had been duly established. Those measures could not be described as reprisals. He wished also to express his Government's serious concern regarding the position of the 150 Tunisian students at French military schools and academies.

In a further letter dated 28 July (S/4900) the representative of Tunisia transmitted to the President of the Council a detailed table of violations of Tunisian air space committed by French aircraft on 26 July 1961.

In a telegram to the Secretary-General dated 28 July (S/4902) the President of Togo expressed concern at France's failure to comply with the Council's resolution of 22 July. Tunisia's right to the Bizerta base must be respected and safeguarded.

C. Consideration at the 964th to 966th meetings (28-29 July 1961)

In the course of the 964th to 966th meetings, the representatives of Libya, Senegal and Tunisia were, at their request, invited to participate in the proceedings.

At the 964th meeting on 28 July, the President drew the Council's attention to the letter from the representative of France (S/4897) informing the President that, for the reasons stated in the letter, his delegation did not consider it necessary to participate in any debate which might take place in the Council.

Opening the debate, the representative of Tunisia said that his delegation's request that the Council be convened had been made necessary by the grave situation resulting from the French military authorities' non-observance of the interim decision taken by the Council on 22 July 1961. The Tunisian Government had accepted, and committed itself to implement in good faith, the interim decision of the Council, and it had a right to expect an honest fulfilment of the decision, allowing a return to the situation on 18 July 1961, prior to the aggression against his country. The French authorities, in contrast, were ignoring the Council's decision. The French Government *communiqué* of 22 July, stating that the French forces had been ordered to cease military operations, was concerned only with unilateral measures and not with the implementation of the Council's decision. It was clear, from that *communiqué* and the later *communiqué* of 26 July, that the French order to cease fire had been given only because the objectives of the aggression had been achieved. What was more, the application of the cease-fire had been far from complete, as was shown by the many acts of violence committed by the occupation troops, in particular the parachutists and legionaries from Algeria. Nor had the French military authorities given effect to the Council's call for the return of all armed forces to their original position. They had, indeed, taken advantage of Tunisia's respect for the cease-fire to extend their occupation, increase their military potential and violate Tunisian air space.

The Council would surely take France's refusal to abide by its obligations into account, in accordance with Article 40 of the Charter. Tunisia had fulfilled its obligations and expected that France would do the same and give full effect to the Council's decision of 22 July. With regard to the substance of the question, on which the Council had taken no decision, Tunisia's position was clear. The presence of French troops on Tunisian territory was not the result of any specific and normal agreement. Further, Tunisia, as an independent and sovereign State, had a perfect right to request the departure of those troops at any time. Their departure had in fact been clearly sought in the request presented to the Council on 9 February 1958 at the time of the aggression at Sakiet Sidi Youssef, and in the exchange of letters of 17 June 1958 France had formally undertaken that no French troops would be maintained in Tunisia except in accordance with an agreement between the two States. No such agreement had been concluded in regard to the French troops in the Bizerta area and the Tunisian Government had made every effort to negotiate with France on modalities for their evacuation. The French Government had, however, consistently refused to accept even the principle of evacuation. Finally, the aggression against Tunisia sufficiently stressed the danger inherent in the presence of French troops in Bizerta, and further

justified Tunisia's position in seeking the final evacuation of all French troops from its territory.

The representative of Liberia asked that the Secretary-General be invited to make a statement on his recent visit to Tunisia. The Secretary-General had once again demonstrated his impartiality and conscientiousness as an international public servant and deserved the applause of all peace-loving nations for his role in the crisis.

The Secretary-General stated that the scope and character of his visit had been clearly defined in the exchange of letters issued as document S/4885. His acceptance of the invitation fell within the framework of the rights and obligations of the Secretary-General; Article 99 of the Charter authorized him to draw to the Council's attention what, in his view, might represent a threat to international peace and security, and it was obvious that the duties flowing from that Article could not be fulfilled unless the Secretary-General, in case of need, was in a position to form a personal opinion about the relevant facts of the situation that might represent such a threat. Without assuming the role of mediator, but with a view to getting a better understanding of the difficulties, possibly resulting from a lack of communication, with which efforts to establish a direct contact between the parties had met, he had expressed to the French Government his hope that it would inform him about its views regarding the questions on which he had been informed of the Tunisian viewpoint. As was well known, and as appeared also from his letter to the French Foreign Minister, the implementation of the Security Council resolution of 22 July remained so far incomplete. The cease-fire had been established, but it did not seem to have led to an immediate cessation of all actions which, under such a cease-fire, should be ruled out; nor, as the Council knew, did it mean that the integral demand by the Council for a return of the armed forces to their original positions had been met. In view of the need for co-ordination of steps to be taken from the two sides, various efforts had been made to establish a contact between the two parties prior to the full implementation of the resolution. So far those efforts had not met with success. As stated to the parties, it seemed obvious to him from the resolution and from the general principles of the Charter, that the objective of such contact should be the co-ordination of steps needed for the implementation of the resolution, and that the choice of modalities should take into account the prevailing legal situation. By personal observation he could confirm the already well-known fact of the presence in the city of Bizerta, and at a fairly considerable distance from Bizerta on the main road to Tunis, of French military units at the time of his visit; in the city itself, he had observed a number of French tanks; most of the troops he had observed were French paratroopers. By personal experience he could also confirm that these troops, at the time of the visit, exercised functions for the maintenance of law and order in the city which normally belonged to organs of the sovereign Government. It was not for him to pass any judgement on the situation either in terms of what it might involve by way of risks of a breakdown in the cease-fire in case of an incident, or in terms of the resolution, or in terms of international law.

The representative of Ceylon expressed his appreciation of the action taken by the Secretary-General and regretted that it had been impossible for him also to establish personal contact with the French authorities.

Ceylon hoped that there would be no further delay on the part of France in taking the necessary steps to pave the way for the initiation of negotiations for a peaceful settlement of the present dispute.

The representative of the USSR noted that the French Government, in continuing armed aggression against Tunisia, had decided to retract even the statement made in the Council on 22 July to the effect that it had agreed to abide by the decision of the Council concerning a cease-fire. The French Government's statement of 26 July (S/4896) made it plain that the French cease-fire order had not been given in pursuance of the Council's decision. The statement clearly implied that, despite the resolution of 22 July, hostilities would be reopened if, in France's view, the situation in Tunisia made such action necessary. At the same time France refused to return its forces to their original positions and instead talked of a return to peaceful conditions, by which was meant a recognition of the illegal presence of French troops in Bizerta for an indefinite period. France's intransigence had been made possible by the support of the other colonialist Powers and of its military allies, which had refused to endorse the extremely moderate draft resolution put forward by the two African members of the Council on 22 July. In the interests of international peace and security, the Council should take action to liquidate the aggression in Tunisia, in accordance with the wishes that had been expressed by the great majority of Asian and African States Members in the letter circulated in document S/4896. The Council should condemn the French aggression against Tunisia, bring about the evacuation of French forces from Tunisian territory, and solemnly warn France that if it continued to ignore the Council's decision, the Council would consider the application of sanctions as provided in the Charter.

The representative of the United Arab Republic emphasized the gravity of France's non-implementation of the Council's decision. The Council should take all possible measures to ensure compliance with its resolution. It should also seek a permanent solution, based on recognition of Tunisia's right to Tunisian territory, through the liquidation of French bases and the withdrawal of all foreign occupation forces. More than any other countries, the Arab countries condemned the French aggression in Tunisia.

The representative of the United States said that the United States had noted with serious concern that the Security Council resolution of 22 July had not yet been fully implemented. On the other hand, it had also noted that both parties had indicated a firm desire to implement that decision. Whatever the differences of opinion about the legal interpretation of the resolution of 22 July, the problem was a practical one and deserved a practical solution. The United States delegation urged the rapid implementation of the resolution of 22 July involving a return of armed forces to their original positions under mutually acceptable arrangements, and the prompt initiation of negotiations between the parties to work out a settlement of their differences, including that concerning the Bizerta base.

The representative of Libya stated that his country resolutely supported Tunisia and considered it to be a matter of the utmost urgency that the Council should take action to end a situation that threatened the integrity and security of one of the small Members of the Organization and the peace of North Africa.

The representative of the United Arab Republic introduced the following draft resolution co-sponsored by Ceylon and Liberia (S/4903):

"The Security Council,

"Having considered the complaint by Tunisia against France (S/4861),

"Having adopted an interim resolution requesting an immediate cease-fire and the return of all armed forces to their original positions,

"1. Expresses its serious concern over the fact that France has not complied fully with the above resolution and that the situation continues to represent a serious threat to international peace and security;

"2. Invites France to comply immediately with all the provisions of the interim resolution (S/4882)."

The President, before adjourning the meeting, expressed the hope that the parties would abstain from any measure, decision or action that might exacerbate the situation while the matter was under consideration in the Council.

At the 965th meeting on 29 July 1961, the representative of Liberia said that his delegation viewed with growing concern the French Government's failure to comply with at least the part of the resolution of 22 July calling for a return of all armed forces to their original positions. The French failure to evacuate the forces introduced since the outbreak of the conflict and to return all their armed forces to their original positions was a clear violation of France's treaty obligations as well as of the Council resolution. The basic problem, of course, continued to be the presence of French forces on Tunisian soil without the consent of Tunisia, and the only positive solution lay in the total evacuation of such forces. The Council should not hesitate to press for that solution while also seeking an implementation of the interim resolution. It was for that reason that his delegation had joined with the delegations of the United Arab Republic and Ceylon in submitting the following draft resolution (S/4904):

"The Security Council,

"Having considered the complaint by Tunisia against France (S/4861),

"Being convinced that the presence of French forces in Tunisia against the will of the Tunisian Government and people represents a permanent source of friction and a serious threat to international peace and security,

"Invites France to enter immediately into negotiations with Tunisia with a view to the rapid evacuation of French forces from Tunisia."

The representative of Turkey expressed his belief that the obstacles to the implementation of the second provision of the Council's resolution of 22 July were not insurmountable. French authorities had voiced doubts as to what might happen after the withdrawal of their forces to their original positions. However, in calling for withdrawal, the Council had assumed responsibility for the continued peaceful observance of its resolution after implementation. The Council's object should be to break the deadlock between the parties and secure implementation of the resolution while paving the way for a definitive settlement. In the hope of obtaining a text that would include all the essential elements of a satisfactory solution while being worded in language that might be acceptable to a large major-

ity his delegation submitted the following resolution (S/4905):

"The Security Council,

"Having examined the complaint of Tunisia against France,

"Recalling its resolution S/4882 of 22 July which called for an immediate cease-fire and a return of all armed forces to their original positions,

"1. Expresses its concern that the resolution has not been fully carried out;

"2. Calls for immediate and full implementation of that resolution;

"3. Urges the early opening of negotiations for a peaceful resolution of their differences, including a definitive settlement of the question of Bizerta, having due regard for Tunisian sovereignty."

The representative of the United Kingdom suggested that the Council should attempt realistically to bring about the sort of circumstances which would reduce tension in the area as far as possible, thus minimizing the dangers of any resumption of conflict, and which would bring the two sides together and enable them to discuss their differences peaceably. The two draft resolutions submitted by the representatives of the United Arab Republic, Liberia and Ceylon were, he believed, unlikely to have that effect. The draft submitted by Turkey appeared at first sight to represent a more realistic approach and seemed to cover the two essential elements: a reaffirmation of the resolution adopted on 22 July and a clear demand that it be fully implemented, and a call in appropriate terms, for the early opening of negotiations between the two sides.

The representative of the USSR pointed out that the draft resolution submitted by Turkey, like the draft put forward earlier by the United States and United Kingdom, did not even mention the principle of the evacuation of French forces from Tunisia. His delegation would therefore be unable to support the draft, the more so as the text placed the aggressor and the victim of the aggression on the same footing and made no mention of the party which was failing to implement the previous decision.

At the 966th meeting, also held on 29 July, the representative of the United States observed that none of the resolutions proposed could fully satisfy either of the parties concerned, but that all had two essential elements in common: a call for immediate and full implementation of the resolution of 22 July, and a call for prompt bilateral negotiations for a definitive settlement of the Bizerta problem consonant with Tunisian sovereignty. The question was which of the proposals was most likely to produce the constructive and positive results the Council as a whole desired. In his view, the Turkish draft best met that test, and he would support it.

The representative of China noted that, while there had been and was a cease-fire, the second part of the resolution of 22 July had not been implemented for reasons which were not altogether clear. His delegation would therefore support a call for full and immediate implementation of that part of the resolution. He believed also that it was the Council's duty to promote the early resumption of direct conversations between France and Tunisia, without seeking to predetermine either the course or the end of the negotiations. It was understood that any settlement of the differences be-

tween France and Tunisia must be consistent with the principles of the Charter, including the principle of respect for the national sovereignty of States.

The representative of Tunisia said that his country, which was scrupulously fulfilling the resolution of 22 July, looked to the Council for action that would end the premeditated and armed aggression which was launched on 19 July and was still continuing. Any draft adopted by the Council should, he believed, recognize Tunisia's compliance with the resolution of 22 July. It was also, in his Government's view, essential to mention the principle of evacuation; negotiations might otherwise result only in the continued presence of French troops in Bizerta.

The representative of Turkey announced that he would withdraw paragraph 3 of his draft resolution, in order to meet objections that had been raised.

The representative of the USSR proposed the addition of the words "by France" at the end of operative paragraph 1 and of operative paragraph 2 of the Turkish draft resolution.

The Council proceeded to vote on the draft resolutions and the amendment before it.

Decisions: *The draft resolution (S/4903) submitted by Ceylon, Liberia and the United Arab Republic was not adopted, the result of the vote being 4 votes in favour (Ceylon, Liberia, USSR, United Arab Republic) to none against with 6 abstentions.*

The draft resolution (S/4904) submitted by Ceylon, Liberia and the United Arab Republic was not adopted, the result of the vote being 4 votes in favour (Ceylon, Liberia, USSR, United Arab Republic) to none against with 6 abstentions.

The USSR oral amendment to the draft resolution (S/4905) submitted by Turkey was not adopted, the result of the vote being 4 votes in favour (Ceylon, Liberia, USSR, United Arab Republic) to none against with 6 abstentions.

The draft resolution (S/4905) submitted by Turkey was not adopted, the result of the vote being 6 votes in favour to none against with 4 abstentions (Ceylon, Liberia, USSR, United Arab Republic).

The President noted that France had not participated in the voting.

The representative of Liberia expressed deep regret at the Council's inability to take action to secure the implementation of its interim resolution by France with respect to the withdrawal of French forces to their original positions. In the circumstances, his delegation, together with other Members of the United Nations, would seek a special session of the General Assembly for the purpose of considering the complaint of Tunisia.

The representative of Tunisia noted with regret that the Council had been unable to take a decision concerning the interim measures adopted by it under Article 40 of the Charter. The situation in his country remained serious, and an appeal for assistance in repelling aggression, in conformity with Article 51 of the Charter, would, in his Government's view, be legitimate.

The representative of the USSR regretted that the position taken by some members had been determined by their membership in military alliances rather than by adherence to the principles of the Charter. Further non-compliance by France with the decision of 22 July would have serious consequences, for which France

would have to assume responsibility if it continued its aggressive actions against Tunisia.

The President expressed the hope that the good will, understanding and awareness of their duty of the countries concerned in the situation would lead them to implement the terms of the only resolutions which the Council had been able to adopt on the matter.

D. Communications received after 1 August 1961

In a series of letters (S/4912, S/4918, S/4920, S/4922, S/4924, S/4926, S/4931) dated 1, 4, 7, 9, 12, 13, 17 August, the representative of Tunisia transmitted to the President of the Council detailed tables of violations of Tunisian air space by French aircraft, and movements by French warships in Tunisian territorial waters.

In a letter to the President of the Council dated 2 August (S/4915), the representative of Cuba transmitted the text of a cable addressed by the Cuban Minister for Foreign Affairs addressed to the Secretary of State for Foreign Affairs of Tunisia on 31 July 1961 express-

ing support for the struggle of the Tunisian people and Government against colonialist forces.

In a letter to the President of the Council dated 18 August (S/4932), the representative of Tunisia drew attention to a *communiqué* issued by the French Government on 17 August 1961 concerning developments in the Franco-Tunisian dispute. The Tunisian Government stated that the allegation that it had refused to take into consideration an offer made by the French Government with a view to the restoration of more normal conditions at Bizerta was entirely without foundation.

In a letter dated 6 September (S/4936), the President of the Federal People's Republic of Yugoslavia, on behalf of the Conference of Heads of State or Government of non-aligned countries, drew the attention of the President of the Council to a serious violation of the truce at Bizerta, which was the direct consequence of the French Government's refusal to comply with the resolutions of the General Assembly and of the Security Council and which constituted a threat to world peace.

Chapter 4

LETTER DATED 21 NOVEMBER 1961 FROM THE PERMANENT REPRESENTATIVE OF CUBA ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

A. Consideration at the 980th to 981st and 983rd meetings (22, 24 and 28 November 1961)

In a letter dated 21 November 1961 to the President of the Security Council, Cuba requested, under Articles 34, 52 and 103 of the United Nations Charter, an immediate meeting of the Council to consider charges that the Government of the United States was carrying out a plan of armed intervention in the Dominican Republic, in violation of that country's sovereignty, designed to prevent the Dominican people from stamping out the vestiges of the Trujillo dictatorship and from properly exercising their democratic freedoms. To that end, the United States had sent warships to the Dominican waters and had made air incursions into Dominican territory. To cover up their actions, United States officials had claimed that they were helping the Balaguer Government in its so-called anti-Trujillo operation, and had offered assistance to that Government which, in fact, was a continuation of the Trujillo dictatorship. United States actions in the Dominican Republic, the letter stated, were a violation of the principles of the United Nations Charter and of the Charter of the Organization of American States (OAS) and endangered international peace and security.

At the 980th meeting on 22 November, the Council included the item on its agenda, and invited the representatives of Cuba and the Dominican Republic to take seats at the Council table.

The representative of Cuba stated that his Government had appealed to the Security Council because of the aggressive and interventionist acts of the United States armed forces in the Dominican Republic which constituted a grave threat to peace. He quoted a statement which the Secretary of State of the United States Government had made on 18 November 1961, to the effect that leading figures formerly associated with the Trujillo dictatorship in the Dominican Republic were attempting to reassert dictatorial domination in the

country and that, in view of the possibility of political disintegration and the dangerous situation which could ensue, the Government of the United States was considering further measures that unpredictable events might warrant. That declaration had been followed by the dispatch of United States naval and air units to the Dominican coast and by incursions of United States aircraft into Dominican territory. The United Nations must guarantee, and the Security Council must determine, that the question which had arisen in Santo Domingo was one to be solved entirely by the Dominicans and that no Power should exercise patronage over a sovereign Member State of the United Nations. The question before the Council directly affected and concerned his country, for it constituted a grave threat of aggression against Cuba. The representative of Cuba called upon the Council to condemn the United States as the aggressor and to demand the immediate withdrawal of United States forces from the Dominican coast.

The representative of the United States replied that at no time had United States naval or air forces been present in the territorial waters or air space of the Dominican Republic. The friendly presence of the United States fleet on the Caribbean high seas had been undertaken with the full knowledge of the constitutional authorities and of the responsible leaders of the Dominican Republic, and did not constitute an act of intervention. The sympathetic attitude of the United States toward the effort of the Dominican leaders to bring about a transition from dictatorship to democracy had been cynically distorted by Cuba to serve propaganda objectives. The real threat to the peace and security of the Western hemisphere, he continued, came from a Government aided by the communist bloc which attempted to frustrate the efforts of the Dominican people to achieve a new democratic life for their country. There was indeed evidence of a sinister alliance between the Trujillos and an agent

of Castro in the Dominican Republic. If the Dominican Government believed that its peace and security had been endangered, it was for the representative of that country to come to the Council and make a complaint. The absurd Cuban charges, if they had been made at all, should have been confined to the Organization of American States (OAS).

The President, speaking as the representative of the USSR, noted that the United States had currently concentrated off the coast of the Dominican Republic a squadron consisting of fourteen of its naval vessels, including two aircraft carriers, cruisers, destroyers and other warships. In that connexion, he observed, the question inevitably arose why the United States considered it possible arbitrarily to send its fleet and air force to the coast of the Dominican Republic to intervene in the latter's domestic affairs. Neither the Security Council nor the United Nations had instructed it to do so. Moreover, such actions constituted a direct violation of the United Nations Charter and the Charter of the Organization of American States, which prohibited such intervention in the domestic affairs of States. He said in connexion with the statement of 18 November by the Secretary of State of the United States, that it was difficult to understand why the United States had taken it upon itself to pass judgement on the régime of another country and to consider taking measures in that respect. That question was bound to arise because, according to the United Nations Charter, no country was entitled to intervene in the internal affairs of another. Furthermore, as the representative of Cuba had stated, the United States, in acting on its own initiative with regard to events in the Dominican Republic, had set a precedent for interference in the internal affairs of other Latin American countries, including Cuba. The Security Council could not ignore such action clearly directed against the independence of individual States.

The representative of the United States replied that there was no law against lending moral support to encourage constitutional authorities in a crisis of that kind. He recalled that in 1959 Cuba had invaded the Dominican Republic, had undertaken some armed attacks on Panama, and had threatened attacks against Honduras and Guatemala. What happened before could happen again, and the precautions which had been taken by his Government had been evidently welcomed by the responsible leaders of the Dominican Republic.

At the 981st meeting, the representative of the Dominican Republic stated that Cuba was misusing, as a cold war measure, the right granted by the United Nations Charter under Article 35, and had seized the Council with a case which fulfilled none of the prerequisites mentioned in Article 34 of the Charter.

He stated that his country could have hardly failed to protest to the Security Council if the United States, or any other country, had tried to threaten it, or intervene in its internal affairs.

Early in November 1961, leading members of the Trujillo family had left the Dominican Republic, and thereafter a conspiracy had been undertaken by reactionary elements who had been disgruntled at the democratization of the country. The conspiracy, however, had been repressed and constitutional authority had been strengthened. At no time during the crisis had there been anything that could be construed as interference by the United States in the internal affairs of the Dominican Republic. Although his Government

had not called for the United States fleet to patrol the Dominican waters, it could have sought such assistance in the unlimited exercise of its sovereign rights. However, the presence of the United States fleet had not only been acceptable but gratifying to the Dominican Republic. Juridically, an interference which was permitted by a sovereign State was not illegal. The United States would have had to act against the will of the Dominican Republic in order to be accused of a violation of international law.

The Government of the Dominican Republic had no reason to doubt that the United States fleet was there to prevent invasions prepared in Cuba or other communist countries which sought to take advantage of the present difficulties in the Dominican Republic to establish a totalitarian government. The circumstances which prevailed in his country caused great concern while Cuban radio broadcasts were inciting the Dominicans to revolt.

The representative of the Dominican Republic stated that Cuba posed a threat to the security of his country, for it was preparing for a direct intervention in the Dominican Republic, in violation of Article 2 (7) of the United Nations Charter. If Cuba felt threatened by the presence of the United States fleet, it had a right to protect itself, but it should leave the Dominican people alone. The Dominican Republic had a democratic government which was supported by all the opposition parties, except the extreme wing of the minority party. This was evidenced by the presence of the alternate representative of the Dominican delegation at the Council meeting, who was one of the leaders of the main opposition party. Because Cuba had brought identical charges to the Council of the OAS, the representative of the Dominican Republic considered that the Security Council, in accordance with Articles 52, 53 and 54 of the United Nations Charter, should declare the Cuban complaint non-receivable while it was *sub judice* in the OAS.

The President, in the absence of objection, called on the alternate representative of the Dominican Republic to make a supplementary statement.

The alternate representative of the Dominican Republic, in support of the views expressed by the representative of the Dominican Republic, stated that the presence of the United States fleet in the Dominican waters had helped to prevent the extermination of the Dominican people. His country was ready to face a democratic life, especially when the President of the Republic had declared the formation of a transitional government which would include representatives of the opposition. He trusted that the Security Council would carefully weigh the fact that the preservation of people was more important than the intrigues of the cold war.

The representative of Cuba replied that his Government had requested the Security Council, and not the OAS, for sanctions to be applied against the Government of the United States for its intervention in the Dominican Republic. In the OAS, Cuba had merely made a statement of its position vis-à-vis the events.

With respect to the claims that the United States fleet and aircraft had not entered the territorial waters or the air space of the Dominican Republic, he inquired if the members of the Council would consider it a friendly move if a great neighbouring Power were to mobilize its powerful military effectives and bring them to their frontiers. The presence of the representative of the Dominican Republic at the Council table demon-

strated that the same forces which had supported Trujillo now supported Balaguer. The marines who had placed Trujillo in power and maintained him were now trying to repeat that exploit by keeping Balaguer in power. He stated that the communication (S/4999), which he had requested the President of the Council to circulate, from the United States immigration authorities was a proof of United States interference in the internal affairs of the Dominican Republic.

At the 983rd meeting on 28 November, the representative of the United Arab Republic stated that the Cuban complaint was further evidence of the strained relations between Cuba and the United States. While his delegation attached great importance to the principle of non-intervention, the facts in the situation under consideration were not clear and further discussion would only lead to a hardening of positions. He expressed the hope that the parties concerned would abide by the Charter of the United Nations and of the OAS, and would restore peace and stability in the area.

The representative of Ceylon considered that the charges made by Cuba against the United States were based on the sudden appearance of the United States fleet along the coast of the Dominican Republic and the implications which that fact had, not so much for the Dominican Republic, but for the safety of Cuba within the context of the existing tensions between Cuba and the United States. While his delegation understood Cuba's concern about the presence of the United States fleet in terms of its own safety, it felt, however, that Cuba had not established the flagrancy of intervention in such a manner that his delegation could join in decisive action in the case. The issue of intervention had become important in the OAS and the question was how that Organization was going to meet the problem. However, the time had come for the United Nations to make a complete reappraisal of the relationship of the regional security organizations to the United Nations, before organized regional intervention was elevated to a juridical concept and became a new type of aggression. He suggested that the Council should admonish the parties to solve the problem through conciliation.

The President, speaking as the representative of the USSR, stated that the question raised by Cuba went beyond the framework of relations inside the OAS, and was a matter for the Security Council which had the main responsibility for the elimination of conflicts or threats to peace. The most recent information from the Dominican Republic indicated that the Dominican people were against President Balaguer who had been formerly associated with the Trujillo dictatorship, and to whom the United States was giving its moral support in the present crisis. The significance of the current arbitrary action by the United States was that it had originally, with the aid of its marines, put the dictator Trujillo in power in the Dominican Republic and now that he was dead it was trying to save Balaguer, who had been appointed President by none other than Trujillo himself. It was precisely for that reason that the United States fleet had been moved to Dominican waters: it was to exert moral pressure on the population of that country, it was to threaten the people of the Dominican Republic that the United States would use force. That was a direct violation of the United Nations Charter. He noted that such actions by the United States were condemned by world public opinion and that the Govern-

ment of Brazil in its note to the Organization of American States had cautioned against actions which might increase tension in the area of the Dominican Republic. The concentration of the United States fleet in the Caribbean area was being accompanied by preparations for an invasion of Cuba by Cuban counter-revolutionaries. That circumstance must inevitably be particularly alarming in connexion with the current actions of the United States. The Soviet people had serious misgivings about the possibility of a United States armed intervention not only in the affairs of the Dominican Republic but also those of Cuba. He stated that the withdrawal of the United States fleet would be better for the people of the Dominican Republic, as well as the people of Cuba and other Latin American States.

The representative of Cuba stated that important sources of international law, such as the United Nations Charter and the Charter of the OAS, condemned intervention whether direct or indirect. The view expressed by the representative of the Dominican Republic with regard to "tolerated intervention" was a dangerous thesis, for many would claim that his country was confronted simply by an intervention to which it had agreed. The very fact that the Dominican Republic had mentioned that type of intervention was an additional proof that intervention did in fact exist.

The representative of the United States said that his Government was opposed to dictatorships of the right or of the left in the Western hemisphere and had tried to give moral encouragement to those forces who were attempting to restore normal democratic processes in the Dominican Republic.

The representative of Chile observed that there were no solid grounds for Cuba to bring a charge against the United States of intervention in the internal affairs of the Dominican Republic. The attitude of his delegation did not represent a departure from the position of his Government as a defender of the principle of non-intervention which was the foundation of the inter-American system. However, his delegation was baffled by statements in justification of certain types of intervention, particularly the so-called lawful intervention which would be permitted by a sovereign State. In his view, that limitation on the principle of non-intervention seemed to be very risky. The principle which had been embodied in Article 15 of the Charter of the OAS was clear and conclusive and had been reaffirmed in the Declarations of Santiago de Chile in 1959 and San José, Costa Rica, in 1960.

The representative of Ecuador maintained that the principle of non-intervention was the basis of the OAS and of the world system established by the United Nations. He agreed with the general approach of the representative of Chile with regard to the legal problem of intervention. He declared that the regional system of the OAS was not contradictory to, nor in conflict with, the United Nations. Both systems maintain the balance which had been provided for in Chapter VIII of the Charter, particularly Article 52, complemented by Article 103 of the Charter.

The representative of Liberia stated that the available information indicated that the presence of United States warships on the high seas did not constitute a threat, and was indeed welcomed by the Dominican Republic and its people. There was no dispute between the United States and the Dominican Republic and, therefore, no occasion arose for the application of Article 34 of the Charter which Cuba had invoked. In

the view of his delegation, if a dispute had existed between the Dominican Republic and the United States, it would have been a matter for the Dominican Republic to present such question before the Council.

At the conclusion of the discussion, the President stated that it appeared that most members of the Council were of the opinion that it was not necessary to examine further the question before the Council, and that the matter would remain on the agenda for further discussion if required.

B. Communications received after 28 November 1961

In a letter to the President of the Security Council dated 7 December 1961 (S/5013)² the representative

² See also part V, chapter 26.

of the USSR stated that despite the concern which had been expressed during the recent debate in the Council over the United States activities with respect to the Dominican Republic, the United States Government was continuing those activities which constituted direct interference in the internal affairs of the Dominican Republic and a threat to the peace and security in the Caribbean region.

In a letter to the President of the Security Council dated 7 December 1961 (S/5015), the representative of Cuba stated that the continued unilateral intervention of the United States in the Dominican Republic constituted a serious danger for the independence of the Dominican Republic and Cuba, as well as a potential threat to the independence of small States.

Chapter 5

LETTER DATED 18 DECEMBER 1961 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL (S/5030)

A. Communications to the Council

In a letter dated 8 December 1961 (S/5016), the Permanent Representative of Portugal stated that India had declared that it would not exclude the use of force to annex the Portuguese territory of Goa and that the information available to his Government had confirmed that India intended to do so. In fact, important movements of Indian naval units had been observed near the territorial waters of Goa, and further big movements of military forces were under way. In submitting that information to the Security Council, Portugal desired to stress the facts that there already had been violations of Portuguese territory, that the internal situation throughout the territory of Goa was perfectly calm and normal and that Indian allegations of unrest inside Goa were meant to arouse an emotional climate calculated to justify a premeditated aggression. In those circumstances Portugal considered that it was being made a victim of unprovoked aggression, and that, in accordance with the principles and purposes of the Charter of the United Nations, such aggression constituted a grave threat to international peace and security.

In another letter dated 11 December (S/5018 and Corr.1), Portugal stated that since its last communication to the Security Council (S/5016), Indian armed forces had multiplied violations of the Portuguese frontier and air space in an attitude of clear provocation. Acting under Article 35, paragraph 1, of the Charter, Portugal wished once again to draw the attention of the Security Council to the above-mentioned facts for necessary action. Portugal considered a military attack by India on the Portuguese territory imminent.

In a letter dated 12 December (S/5020), the representative of India said that at the time of India's independence there had still remained some French and Portuguese colonial possessions on the Indian subcontinent. As a result of friendly negotiations France had also agreed in October 1954 to a *de facto* transfer of its possessions. Portugal, however, had not only refused to discuss those matters with India but had even declined to discuss the very question of termination of its colonial rule. Portugal's attitude had therefore led India to abandon its efforts for peaceful negotiations

on the question of transfer of Portuguese possessions. Since then, the Portuguese rule in Goa, Damao and Diu had been characterized by acts of repression and brutality in clear violation of the various resolutions of the General Assembly on colonialism. Portugal had also taken recently aggressive action in Indian waters. Attacks on Indian villages and citizens had continued and the Portuguese forces were poised on the borders at various points to overawe and intimidate the residents of the colonies. In view of all those aggressive activities and preparations by Portugal, India was obliged to move units of its armed forces to the vicinity of Goa. Even their presence had not served as a warning to the Portuguese who had continued to mass forces, practise repression, and fire on Indian villages, penetrating deep into Indian territory.

By two letters on 13 December (S/5022 and S/5023), the representative of India denied Portugal's charges that Indian troops had carried out raids on Portuguese territory and that the Indian air force had violated its air space. He added that those charges had been put forward to cover incidents of internal fighting occurring in Goa.

By a letter dated 16 December (S/5028), the representative of Portugal denied the charges of provocations against his Government and characterized those charges as propaganda by India to justify and create an atmosphere for its own aggressive actions. In another communication dated 18 December (S/5029), Portugal listed a number of incidents which allegedly had taken place on the frontiers of Portuguese territories.

In a letter dated 18 December 1961 (S/5030), the representative of Portugal stated that India had followed up its build-up of armed forces and provocations, as reported by his Government in its earlier communications to the Council, with a full-scale armed attack on the territories of Goa, Damao and Diu, comprising the Portuguese State of India. That attack was proceeding, and much damage and many casualties had already been caused by the aggressors. In those circumstances Portugal was obliged to request that the Security Council be convened immediately to put a stop to India's act of aggression, ordering an immediate cease-fire and the withdrawal forthwith from the Portuguese territories of all the invading forces of the Indian Union.

In a letter dated 18 December 1961 (S/5034), Brazil, after expressing its apprehension with regard to the armed action taken by India, stated that such an act constituted a flagrant violation of the principles of the United Nations Charter which clearly prohibited the use of force for the solution of international disputes. Brazil was surprised because India had so far maintained unswerving loyalty to the principles of peace and its attitude had won acknowledged respect. Brazil hoped that the Security Council would not fail in its duty to adopt measures likely to ensure respect for the purposes and principles of the United Nations Charter and the maintenance of international peace and security.

B. Consideration at the 987th to 988th meetings (18 December 1961)

The Portuguese request (S/5030) was included in the provisional agenda of the Council's 987th meeting on 18 December 1961.

The representative of the USSR stated that his delegation was opposed to the adoption of the agenda. The letter of the Permanent Representative of Portugal, which formed the only basis for the convening of the meeting of the Council, had described the events taking place in Goa as aggression by India and a violation of the sovereign rights of Portugal. The Soviet delegation could not agree with that description of the events and could not accept the Portuguese letter as a basis for discussion in the Council. Under the Charter of the United Nations, a question concerning the situation within a territory which was part of a sovereign State could not be the subject of consideration by any organ of the United Nations. There was no doubt that the present question fell exclusively within the domestic jurisdiction of India as it concerned territories forming an integral part of India, and only provisionally held under the colonial administration of Portugal. Those territories were linked with the Indian Union not only by their geographical situation but also by their history, language and traditions. They had been torn away from the Indian State in the era when the colonial empires of the European States had been in process of formation.

The President, speaking as the representative of the United Arab Republic, stated that the adoption of the agenda in no way meant that his delegation was in agreement with the contents of the Portuguese letter (S/5030).

Decision: *The agenda was adopted by 7 votes to 2 (Ceylon, USSR), with 2 abstentions (Liberia, United Arab Republic).*

The President invited the representatives of Portugal and India to take seats at the Council table.

The representative of Portugal stated that India had committed a premeditated and unprovoked aggression against Portugal in Goa, and had thus violated the sovereign rights of Portugal. India's action was also in violation of paragraphs 3 and 4 of Article 2 of the Charter. In view of the situation created by Indian aggression and the urgency of the matter, some urgent action by the Council was essential.

After recalling the events which he had already communicated to the Council, the representative of Portugal stated that it was obvious that the concentration of Indian naval, land and air forces could find no other explanation except in the Indian objective of the violent conquest of a foreign territory. The information which

was available to the outside world had left no doubt as to the warlike intentions of the Indian Union and to the seriousness of the situation. It was no doubt that evaluation of the events that had prompted the Acting Secretary-General to address an appeal to both parties to ensure that the situation might not deteriorate to an extent constituting a threat to the international peace and security. In response to that appeal, the Prime Minister of Portugal on 15 December 1961 had stated that his Government was deeply aware of the dangers involved in the Goan situation and had, therefore, given instructions to the Portuguese forces not to undertake or even reply to any acts of provocation. At the same time the Prime Minister regretted that India had not accepted his proposal of 8 December that international observers be appointed to follow the events on the frontiers of the Portuguese possessions. He also had announced his readiness to negotiate with India and had offered to give guarantees for the security of the Indian Union. Notwithstanding Portugal's offer and the various other appeals made to it, India had put into execution its premeditated plan of aggression. At midnight (local time) on 18 December Indian troops with tanks and artillery crossed into Goa, Damao and Diu, supported by naval and air force units. Shortly after initiating the invasion, Indian military planes bombed the area of the port and airport of Marmugao. As a result, numerous casualties had been reported. Meanwhile, the Indian forces were advancing steadily into Goa, and the heavily outnumbered Portuguese troops were fighting a delaying action. The Indian Union would no doubt try to explain away its disregard of international obligations and its violation of the Charter, but nobody could doubt that the Indian aggression had been premeditated and that it was determined to seize Goa by force. Portugal expected that the Council would take immediate measures in the only way consistent with the ideals of the United Nations, namely by ordering an immediate cease-fire and the withdrawal forthwith of all the invading forces.

The representative of India stated that Portugal had appeared before the Council as an aggrieved party having its sovereign rights violated. Portugal had not however explained how it acquired those so-called sovereign rights on Indian territory. They were acquired by a naked application of force inflicted on the people of India some 450 years ago. India had never accepted any legal basis for the processes by which it had become colonized. It was a matter of faith for India to have all its territory fully independent. It was for that reason that India during the last fourteen years had been seeking the transfer of the Portuguese possessions. Portugal had not only refused to negotiate, but had also invented the myth that those possessions were parts of Portugal. It had pursued that claim in spite of the fact that the General Assembly, in its resolution 1542 (XV), had rejected that claim. Portugal had also not taken any steps to implement the General Assembly's resolution 1514 (XV) on colonialism. Goa was simply a question of colonialism. There was no legal frontier between India and Goa and there could be no question of aggression against one's own frontier and against one's own people.

Portuguese rule in the Indian enclaves had never been accepted by their inhabitants. There had been more than twenty armed revolts which had been brutally put down. If there was little knowledge about them in the outside world, it was because of the very strict censorship imposed by Portugal. In its letters to the

Security Council, Portugal had charged India with provocations. But the provocations had indeed come from the side of Portugal. They had fired on Indian coastal steamers and fishing boats, killing one officer and one fisherman. Even when they were assuring the Secretary-General that nothing provocative would be done, Portuguese armed forces had attacked Indian positions some 400 yards inside Indian territory and had tried to destroy a police post at Nizampir. If India had taken certain measures, it had been in order to protect the large Indian population in Goa which was in revolt against Portugal. Portugal had concentrated 12,000 soldiers in Goa, where they had also mined public buildings and surrounding waters. In those circumstances, India had to take action of a substantial nature.

If Portugal was sincere in its desire for negotiations, it could have shown its willingness to negotiate on the basis of the principles formulated by the United Nations in a series of resolutions, notably resolutions 1514 (XV) and 1542 (XV). It had not done so and consequently the only thing the Council could do was to ask Portugal to vacate Goa, Damao and Diu, and to give effect to the General Assembly's resolutions with regard to the freedom of dependent peoples.

Exercising his right of reply, the representative of Portugal stated that at the moment the most pressing issue before the Council was that of cease-fire and withdrawal of Indian troops because people at that time were being killed in Goa.

The representative of the United States said that in view of the alarming news from Goa, where acts of violence had taken place, the Security Council had an urgent duty to act in the interests of international peace and security. It was a fact that Indian armed forces had that day (18 December) marched into the Portuguese territories of Goa, Damao, and Diu. While the latter two had been occupied, the fighting was still going on in Goa. The Council had not met to decide on the merits of the case but to consider the situation that arose when one Member of the United Nations, casting aside the principles of the Charter, sought to resolve a dispute by force. What was at stake was not colonialism, but a case of violation of one of the basic principles of the Charter as embodied in paragraph 4 of Article 2. While the United States realized the depths of the differences between India and Portugal concerning the future of Goa, and also understood that India held the view that its action was aimed at a just end, however, as the Prime Minister of India had himself stated, no right end could be served by wrong means. The United Nations, in order to survive, must not condone the use of force in the present case as it would, otherwise, pave the way for solutions by use of force of other disputes. India's action was a blow to international institutions which were available to assist in the adjustment of disputes. That action was all the more painful to the United States because it had made repeated appeals and approaches to India to refrain from the use of force. The Security Council had an urgent duty to bring the dispute back to the negotiating table and to ask for an immediate cease-fire and the withdrawal of the invading forces.

The representative of the United Kingdom stated that his Government was satisfied that it was the Council's duty to consider the situation which constituted a serious threat to international peace and security. While his delegation did not wish to enter into a discussion of the merits of the case and the legal and

historical issues involved, its silence on those issues should not be construed to mean that it agreed with some of the statements made before the Council, nor did it accept that a rule of international law become invalid because it had been established in a so-called colonialist era.

The United Kingdom had watched with anxiety the growing tension over the question of Goa and had strongly urged on both parties to refrain from provocation or use of force. It therefore regretted that India had not felt able to heed those friendly representations. Moreover, the United Kingdom felt that even if efforts at negotiations had failed, the correct thing would have been to submit the dispute to the United Nations before resorting to use of force. Now the fighting had taken place, the right course for the Security Council would be to call for immediate cessation of hostilities and for negotiations. India should be asked to withdraw its forces, and both Portugal and India should be encouraged to use peaceful means to work out a solution of their differences in accordance with the principles of the Charter. The Secretary-General should be invited to give all appropriate help in the present difficult situation.

The representative of Liberia stated that if the Council were to base its discussions on the letter submitted to it by Portugal, then it could not overlook the fact that General Assembly resolution 1542 (XV) had placed the Portuguese enclaves in India within the category of Non-Self-Governing Territories. Portugal, instead of reporting to the United Nations on those enclaves, had taken the position that they were an integral part of Portugal. The United Nations had never accepted that position. The question was not of aggression against Portugal but one of Portuguese domination of Indian territory. Because Portugal had refused to change its policy, the situation had deteriorated to the point where action, other than peaceful means, had to be taken. Certainly, the Council could not condemn India for taking action against territories which, according to the United Nations resolutions, were not Portuguese.

The representative of Turkey stated that a grave situation confronted the United Nations and some of the arguments which had been submitted had increased his delegation's anxiety. Transgression of frontiers by armed forces had never been condoned by his Government just as it could never be condoned by the Charter of the United Nations. For that reason Turkey was categorically opposed to India's armed action and would urge an immediate cease-fire, resumption of positions previous to the attack, and the opening of negotiations. The Turkish delegation also congratulated the Secretary-General for the efforts made by him in the present case.

The representative of the USSR stated that the discussion which had taken place in the Council had confirmed his delegation's contention that the question raised by Portugal did not fall within the scope of the Security Council. If there was anything that was subject to the Council's consideration, it was Portugal's refusal to carry out the provisions of the Declaration on the granting of independence to colonial countries and peoples and was thus creating a threat to international peace and security in many parts of the world, including Goa.

The situation in Goa was a colonial problem and should be dealt with in accordance with the Declara-

tion by the United Nations on the granting of independence to colonial countries and peoples. It was therefore necessary to put to an end immediately all assistance to Portugal and apply sanctions as provided in the Charter in order to compel Portugal to comply immediately with the United Nations declared policy on colonialism. The United States and the United Kingdom were siding with their NATO ally, the colonialist State of Portugal, which was opposing a people enslaved by it. The Soviet Union sided with the people of India, the people of Goa, who were fighting for liberation from the colonialist domination of Portugal.

The President, speaking as the representative of the United Arab Republic stated that the territories of Goa, Damao and Diu did not form an integral part of Portugal in spite of Portugal's unilateral declaration to that effect. The people of those territories had never had an opportunity to determine freely whether they approved their integration in Portugal. Moreover, the distance separating Portugal from those territories was enormous and their inhabitants were very different from the Portuguese. The General Assembly, by its resolution 1542 (XV), had decided that those territories were Non-Self-Governing Territories and that Portugal was obliged to transmit information concerning them. Portugal had refused to comply with that resolution just as it had done with the Assembly's 1514 (XV) resolution on granting independence to colonial territories. There was no doubt that a *de facto* situation existed which was full of grave threats to international peace and security. Despite India's efforts to reach a peaceful solution through negotiations, Portugal had refused to change its stand. It was a colonial question and therefore there was no act of aggression committed by India.

The representative of Ceylon stated that the issue before the Council was simply a question of the liberation of the national territory of the Indian Union held over by Portugal in complete disregard of the historic facts which had led to the emergence of a free India. India was forced to take the present action because for fourteen years Portugal had refused to accept reality. India's action was only meant to liberate its own national territory. There was no case for a cease-fire as cease-fire could only be applicable between belligerents, which state did not exist in the Goan case. Similarly, India could not be asked to withdraw its troops from Goa as that would amount to asking it to withdraw from its own territory. India could not be censured for invading its own land as that would be a contradiction in terms.

At the 988th meeting on 18 December, the representative of France stated that the Council was meeting to consider the serious situation resulting from the armed action by India. In view of the disproportionate sizes of the armed forces involved on each side and the weak resistance offered by the Portuguese garrisons, it could not be said with justification that the Indian Union had been threatened or provoked. India's military action was all the more disturbing as it occurred after urgent appeals to it by the United Kingdom and the United States, as well as by the Secretary-General. India had claimed that the Goan question was a colonial one, but it should be considered that it was appropriate to distinguish between the substantive aspects of the case and the situation created because of the use of military means by India with a view to unilaterally resolving its differences with Portugal. France believed that a grave fault had been committed

by India which must be redressed. An immediate end must be put to the military action and the situation should be so restored as to make peaceful relations possible.

The representative of Ecuador stated that his delegation was gratified at the recognition of the fact that force was an illegal method of solving territorial disputes. India had alleged that no act of aggression had been committed against Portugal in as much as the enclaves belonged to India. It was also stated that the General Assembly, by its resolution 1542 (XV), had declared Goa to be non-self-governing. While Ecuador maintained that the Non-Self-Governing Territories did not belong to the Administering Authority, but to the peoples of those territories who had the right to determine their own destiny, that was not, however, the issue in the present case. The immediate problem before the Council was to bring about a cease-fire and thereafter the parties could enter into negotiations. Ecuador would therefore support a proposal that India be asked to cease its military action and would also seek an assurance that Portugal would agree to comply with its international obligations by observing the resolutions of the General Assembly.

The representative of China stated that while the people of his country were not unsympathetic to the aspirations of India, the use of force by India was, however, a shock to them. It was so because in the first place India was known to be dedicated to the philosophy of non-violence and to a policy for peace and disarmament and secondly, the material interests involved in Goa, Damao and Diu were not of such magnitude as to let India sacrifice its principles for that material gain. India's choice of force was a violation of the Charter which permitted no exceptions. India had spoken about Portugal's provocations and about the evils of colonialism, but even those could not provide a justification for the use of force. The Chinese delegation would like to see the fighting in Goa stopped, the Indian armed forces withdrawn, and negotiations started between the two parties for a peaceful solution of the question.

The representative of Chile stated that his delegation felt concerned on learning that Indian armed forces had crossed the frontiers of Goa. That concern was due to the fact that under the Charter Member States were expected to resolve any dispute between them by having recourse to peaceful means and not to take unilateral decisions which might lead to a breach of international peace and security. The present dispute could only be considered in the light of the Charter and it was for that reason that the Chilean delegation deplored the use of force by India. The Chilean delegation firmly believed that India should have full sovereignty over all of its territory but it could not agree that that consolidation of sovereignty be accelerated by use of force. Moreover, in the present case the parties to the dispute should also consider the wishes of the peoples of Goa, Damao and Diu. Even if India were to take possession of those territories, it could not integrate them legally in its territory without an expression of the will of the peoples of those possessions. Therefore, under the circumstances, it would be appropriate first, to ask for a cease-fire; secondly, to ascertain the wishes of the peoples of the territories in question; and thirdly, to urge the parties to enter into negotiations for a peaceful solution in conformity with the principles of the Charter.

The representative of Portugal stated that some of the statements before the Council had shown some confusion on two issues. In the first place, the Indian Union had been treated as if it were the whole of the Indian sub-continent, entitled to absorb neighbouring territories belonging to other and even pre-existing sovereignties. Secondly, aggression had been justified on the grounds of a fight against colonialism, even though colonialism was not an issue in the present case.

The Indian Union was not the only state on the Indian sub-continent, nor had it been so historically. The Indian sub-continent had never been politically a single unit. Annexation of other territories could not provide any legal justification because such annexations could be made legitimate only by the sovereign states concerned. The principle of sovereignty had to be respected but the Indian Union had not done so in respect of the Portuguese state. Moreover, it should be remembered that Goans had been integrated within Portugal for 450 years and the Indian Prime Minister had himself admitted that the Goans were of a different culture. Economically, metropolitan Portugal had not exploited Goa and juridically there was no distinction between the Portuguese of Goa and the Portuguese of the European continent. The Goans enjoyed equal rights in every sphere of life.

The representative of India had referred to the so-called peaceful methods his Government had used to secure the annexation of Goa. However, what had actually happened was repression and a violation of human rights. Reference had also been made to the so-called efforts of India to settle the dispute through negotiations and to their failure because of Portugal's intransigence. The truth, however, was that in making the acceptance by Portugal of the idea of handing over its territories as a prior condition for negotiations, it was India itself which had doomed the chances of success of any negotiations. In fact India had never wanted negotiations, but had always sought annexation of the Portuguese territories irrespective of the wishes of the people concerned. The crux of the problem before the Council was that of saving human lives exposed to a brutal aggression and Portugal would strongly appeal to the Council not to adjourn without taking a decision which would prevent further bloodshed.

The representative of India stated that the statement of the Portuguese representative had made it quite clear how little chance there was of any fruitful negotiations. There could be no negotiations with a country which had not understood the spirit of the time and still held to its views of 300 to 400 years ago. The whole trend of the Portuguese statement was that Goa was an integral part of Portugal and that India had no right of any kind over that so-called Portuguese Overseas Territory. For the last fourteen years, they had maintained that position, ignoring the trend of history and the great yearnings of people for freedom.

A number of representatives had stated that while they were not concerned with the substance of the dispute, they would, nevertheless, urge for a cease-fire, withdrawal of Indian armed forces and resumption of negotiations. The implications of that stand were clear and India would be justified in concluding that such a stand amounted to a tacit support for the maintenance of the *status quo* which meant support for Portuguese colonialism.

India had been criticized also for using force on the ground that the Charter had absolutely prohibited use

of force. However, the Charter itself did not completely eschew force, in the sense that force could be used in self-defence, for the protection of the people of a country. The people of Goa were as much Indians as people of any other of its part, and India had used force for their protection. As far as achievement of freedom for dependent people was concerned, force had to be used when no other alternative was left. India did not accept that part of international law which conferred sovereignty over territories acquired by conquest.

Mention had also been made of the question of self-determination. There were no doubt instances when the question of self-determination could be raised but there could be no question of self-determination by an Indian against his own country as there was no need for him to determine that he was an Indian.

Commenting on the draft resolution (S/5033) which was circulated at that stage, the representative of India stated that the sponsors of the draft had urged the parties to work out a permanent solution of their differences by peaceful means. That showed that its sponsors had not understood the problem because there was no question of there being any "differences". The only question was as to how and when the territory of Goa could become a part of India. The draft resolution had not taken into account the vital forces that were crystallized in the General Assembly's resolution 1514 (XV) on granting independence to colonial peoples and territories.

The representative of the United States submitted the following draft resolution (S/5033), co-sponsored by France, Turkey and the United Kingdom:

"The Security Council,

"Recalling that in Article 2 of the Charter all members are obligated to settle their disputes by peaceful means and to refrain from the threat or use of force in a manner inconsistent with the purposes of the United Nations,

"Deploring the use of force by India in Goa, Damao and Diu,

"Recalling that Article 1 (2) of the Charter specifies as one of the purposes of the United Nations to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

"1. Calls for an immediate cessation of hostilities;

"2. Calls upon the Government of India to withdraw its forces immediately to positions prevailing before 17 December 1961;

"3. Urges the parties to work out a permanent solution of their differences by peaceful means in accordance with the principles embodied in the Charter;

"4. Requests the Secretary-General to provide such assistance as may be appropriate."

While submitting the draft resolution, the representative of the United States stated that it was quite clear that the issue before the Council was not of Portugal's colonial policy but whether a nation was entitled to change an existing political and legal situation by the use of force. While the United States had always believed in progress and self-determination for colonial peoples and had supported efforts to that end, it could not agree to what had been implied in the present Council debate that it would be all right to use force to abolish colonialism. It was said in defence

of India's action that since Goa was a colony and a Non-Self-Governing Territory and Portugal had not relinquished its control over the Territory in pursuance of resolution 1514 (XV), it was not India but Portugal that was the aggressor and force could permissibly be used against it. In the first place, the General Assembly resolution 1542 (XV) which had declared Goa to be a Non-Self-Governing Territory and on which Portugal was required to report, had recognized the fact that Goa was under Portuguese authority. That being so, India could not lawfully use force against Goa, especially when the peaceful methods in the Charter had not been exhausted. As regards Portugal's non-implementation of resolution 1514 (XV) and that providing a justification for action, the said resolution had not authorized the use of force as it would be contrary to the purposes and principles of the Charter.

The representative of Ceylon submitted the following draft resolution (S/5032), co-sponsored by Ceylon, Liberia and the United Arab Republic:

"The Security Council,

"Having heard the complaint of Portugal of aggression by India against the territories of Goa, Damao and Diu,

"Having heard the statement of the representative of India that the problem is a colonial problem,

"Considering that these enclaves claimed by Portugal in India constitute a threat to international peace and security and stand in the way of the unity of the Republic of India,

"Recalling resolution 1514 (XV) and resolution 1542 (XV) of the General Assembly,

"1. Decides to reject the Portuguese complaint of aggression against India;

"2. Calls upon Portugal to terminate hostile action and to co-operate with India in the liquidation of her colonial possessions in India."

The representative of Ceylon, in submitting the joint draft resolution (S/5032), stated that its main purpose was to place the issues in their proper perspective. India had a strong case against Portugal but attempts were being made to portray India itself as an aggressor. India had made it clear that negotiations with Portugal were impossible because of the latter's intransigence and that Portugal was not a country with whom peaceful methods had a chance. He wondered whether the complaint was that India could effectively redeem its territory or whether it was the desire that the strength of armed forces should be only on the side of colonial Powers. Therefore, the operative part of the three-Power draft resolution (S/5032) requested the Council to reject the Portuguese complaint of aggression against India because no case of aggression had been established and had called upon Portugal to co-operate with India in the liquidation of its possessions in India.

The representative of Liberia moved adjournment of the meeting until 3 p.m. the following day, under paragraph 3 of rule 33 of the provisional Rules of Procedure of the Security Council.

Decision: *The Liberian motion for adjournment was rejected by 4 votes to none, with 7 abstentions.*

The representative of USSR said that of the two draft resolutions before the Council, the Soviet delegation would support the three-Power draft (S/5032) as its operative part stemmed directly from the require-

ments of the Declaration on the granting of independence to colonial countries and peoples. At the same time it created conditions for a real cease-fire because if Portugal terminated its hostile action on the territory of Goa and began negotiations for liquidation of its colonial possessions, then there would be no war and the matter would be concluded in a peaceful manner with the liberation of the people of Goa and their reunion with the people of India. That was what the Declaration called for and was the course indicated in resolution 1654, which referred to the need to accelerate the process of decolonization, i.e., the complete liquidation of the colonialist system. The four-Power draft resolution (S/5033) did not correspond to the principles which were proclaimed in the Charter and which the sponsors had included in the preambular part of their draft, neither did they meet the requirements of modern times. While it had called upon India to withdraw its forces, it had made no reference to the armed forces of Portugal which had been introduced as a reinforcement into Goa. That demonstrated the partiality of the sponsors of the draft resolution in their approach to the essence of the problem, a partiality related to the fact that those Powers were allied with Portugal.

Decisions: *The three-Power draft resolution contained in document S/5032 was not adopted, having received 4 votes in favour, and 7 against.*

The four-Power draft resolution contained in document S/5033 received 7 votes in favour and 4 against (Ceylon, Liberia, the United Arab Republic and the USSR) and was not adopted because one of the negative votes was cast by a permanent member of the Security Council.

After the vote, the representative of the United States declared that the failure of the Security Council to call for a cease-fire in the present circumstances was a failure of the United Nations. While the veto of the Soviet Union was consistent with its long role of obstruction, the attitude of some other members of the Council was profoundly disturbing and ominous because it had had the effect of rewriting the Charter and sanctioning the use of force in international relations when it suited one's own purpose. That approach could only lead to chaos and to the disintegration of the United Nations.

The representative of Portugal said that the question under discussion was a case of clear and premeditated aggression, and thus the Security Council had been prevented from taking the right course. As far as Portugal was concerned, it reserved all its rights in Goa, Damao and Diu and would continue to defend them with all the means at its disposal.

The representative of the USSR stated that the fact that the Council had rejected the proposals which aimed to support the colonial Powers and their right to repression was something to the credit of the Council, which had demonstrated the will to defend the colonial countries and peoples and their right to life, freedom and independence, and not a manifestation of its weakness as had been alleged by the representative of the United States. If the United Nations did not stand up in defence of the colonial countries and peoples, but on the contrary tried to defend the colonial system and the more reactionary representatives of the system, then indeed it would be a sad day for the United Nations.

**LETTER DATED 8 MARCH 1962 FROM THE PERMANENT REPRESENTATIVE OF CUBA
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL**

**A. Communication received prior to the request
for inclusion of the item**

In a letter dated 31 January 1962 (S/5075), the Secretary-General of the Organization of American States (OAS) transmitted to the Secretary-General of the United Nations, for the information of the Security Council, the Final Act of the Eighth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics held on 22-31 January 1962 at Punta del Este, Uruguay. The meeting had been convened at the request of Colombia under article 6 of the Inter-American Treaty of Reciprocal Assistance (Rio Treaty), and in pursuance of a resolution adopted by the Council of the OAS on 4 December 1961 which had been communicated to the Security Council (S/5036). The Meeting of Consultation was called: to consider threats to the peace and political independence of the American States that might arise from the intervention of extracontinental Powers directed toward breaking American solidarity; to point out the types of threats to the peace or acts that, in the event of their occurrence would justify the application of measures for the maintenance of peace and security, pursuant to Chapter V of the Charter of the OAS and the provisions of the Inter-American Treaty of Reciprocal Assistance; and, to determine the measures that would be advisable to take.

The Final Act of the Meeting comprised nine resolutions, summarized hereunder: Resolution I declared that the continental unity and the democratic institutions of the hemisphere were endangered by the intensified subversive offensive of communist governments, and that the principles of communism were incompatible with those of the inter-American system. Resolution II directed the Council of the OAS to establish a Special Consultative Committee on Security against the subversive action of international communism. Resolution III reiterated the adherence of the OAS to the principles of self-determination and non-intervention as set forth in the Charter of the OAS. Resolution IV recommended that the governments of the American States whose structure or acts were incompatible with the effective exercise of representative democracy should hold free elections to guarantee the restoration of a legal order based on the authority of the law and the respect for the rights of the individual. Resolution V declared that the preservation and strengthening of free and democratic institutions of the hemisphere required the accelerated execution of an unprecedented effort to promote economic and social development in accordance with the provisions of the Charter of Punta del Este. Resolution VI referred to the report which had been submitted by the Inter-American Peace Committee to the Meeting of Consultation, declared that the present Government of Cuba had voluntarily placed itself outside the inter-American system, and, resolved that: (1) adherence by any OAS member to Marxism-Leninism was incompatible with the inter-American system, and the alignment of such a government with the communist bloc broke the unity and solidarity of the hemisphere; (2) the present Government of Cuba, which had officially identified itself as a Marxist-Leninist Government, was incompatible with the principles and objec-

tives of the inter-American system; (3) that incompatibility excluded the present Government of Cuba from participation in the inter-American system; and (4) the OAS Council as well as other organs and organizations in the inter-American system should adopt, without delay, measures to implement the resolution. Resolution VII resolved to exclude immediately the present Government of Cuba from the Inter-American Defense Board until the Council of the OAS should determine that membership of the Government of Cuba was not prejudicial to the work of the Board or to the security of the hemisphere. Resolution VIII resolved to suspend immediately trade with Cuba in arms and other implements of war; charged the Council of the OAS to study the feasibility and desirability of extending the suspension of trade to other items, especially those of strategic importance; and authorized the Council of the OAS to discontinue those measures when the Government of Cuba had demonstrated its compatibility with the purposes and principles of the inter-American system. Resolution IX recommended that the Council of the OAS revise the Statute of the Inter-American Commission on Human Rights so as to broaden and strengthen the powers of the Commission.

B. Consideration by the Council

In a letter to the President of the Security Council dated 8 March 1962 (S/5086), the representative of Cuba stated that the meeting of American Ministers of Foreign Affairs at Punta del Este had adopted resolutions in violation of the United Nations Charter, and that subsequently unlawful enforcement action had been taken against Cuba without the requisite authorization of the Security Council under Article 53. The sanctions constituted aggression against Cuba's sovereignty and threatened international peace and security. Accordingly, the Cuban Government requested that the Council be convened without delay to request the International Court of Justice, under Articles 96 of the Charter and 65 of the Statute of the Court, for an advisory opinion on several specific legal questions related to the decisions taken at Punta del Este. Those questions were subsequently embodied in a draft resolution (S/5095), submitted by Cuba on 19 September, which read as follows:

"The Security Council,

"In accordance with Article 96 (1) of the Charter,

"Decides to request the International Court of Justice to give an advisory opinion on the following questions:

"1. Is the Organization of American States, under the terms of its Charter, a regional agency within the meaning of Chapter VIII of the United Nations Charter and do its activities have to be compatible with the Purposes and Principles of the United Nations?

"2. Under the United Nations Charter, does the Organization of American States have the right as a regional agency to take the enforcement action provided in Article 53 of the United Nations Charter without the authorization of the Security Council?

"3. Can the expression 'enforcement action' in Article 53 of the United Nations Charter be considered to include the measures provided for in Article 41 of the United Nations Charter? Is the list of these measures in Article 41 exhaustive?

"4. Does the Charter of the Organization of American States provide for any procedure for expelling a State member of the Organization, in particular because of its social system?

"5. Can the provisions of the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance be considered to take precedence over the obligations of Member States under the United Nations Charter?

"6. Is one of the main principles of the United Nations Charter that membership in the United Nations is open to States which meet the requirements of Article 4 of the Charter, irrespective of their system?

"7. In the light of the replies to the foregoing questions are, or are not, the resolutions adopted at Punta del Este at the Eighth Meeting of Consultation of American Ministers of Foreign Affairs relating to the expulsion of a State member of the regional agency because of its social system and the taking of other enforcement action against it, without the authorization of the Security Council, consistent with the provisions of the United Nations Charter, the Charter of the Organization of American States and the Treaty of Rio?

"Also decides to request the International Court of Justice to give priority to the consideration of this matter."

In its letter (S/5086) Cuba also requested that the Security Council, under Article 40 of the Charter, and as a provisional measure, call for the suspension of the decisions adopted by the OAS at Punta del Este, and of such measures as might have been ordered in pursuance of those decisions.

Decision: *At the 992nd meeting on 14 March, the Council included the item on its agenda without objection, and invited the representative of Cuba to take a place at the Council table.*

The representative of Cuba stated that his Government considered the decision to convene the Eighth Meeting of Consultation and the resolutions adopted at the meeting as "null and void" because they infringed upon the purposes and principles of international law. He reviewed the nature and antecedents of the procedure of consultation established in the Inter-American Treaty of Reciprocal Assistance. Referring to article 6 of the Treaty, under which the meeting had been called, he stressed that an essential requisite for the convening of a meeting of consultation was the existence of one of three situations: aggression, not necessarily armed; extracontinental or intracontinental conflict; and any other fact or situation that might endanger the peace and security of the American continent. The Meeting of Consultation at Punta del Este, he said, had been convened not in response to the aforesaid prerequisite conditions, but to study hypothetical questions and situations that were totally irrelevant to international law, since they fell within the exclusive competence of each American State, such as the economic and social régime that Cuba had established for itself in full exercise of its sovereignty. Neither article 9 nor any other

article of the Rio Treaty authorized a meeting of consultation to consider hypothetical situations or to define new types of aggression as defined under article 9. The function of the Organ of Consultation was not to define new types of aggression but "to consider problems of an urgent nature and of common interest to the American States", as provided for in article 39 of the Charter of the OAS. Its function was to consider measures which should be taken in the face of aggression that had been committed, and not to prevent possible aggression.

Article 24 of the Charter of the OAS had provided that every act of aggression by a State against the territorial integrity and sovereignty of an American State should be considered an act of aggression against the other American States, and had clearly established the principle of collective legitimate defence. However, the Colombian proposal, in the absence of a real reason for collective legitimate defence, had simulated a case for legitimate defence by having attempted to create a threat of aggression on the basis of two false premises: first, Cuba, as a socialist State, was a satellite of the Sino-Soviet system; and, secondly, Cuba, as such constituted a threat to the peace and security of America. That crafty invention had led to the application of the gravest sanctions as legitimate defence against an imaginary act of aggression, in flagrant violation of article 5 (c) of the Charter of the OAS and of the United Nations Charter.

The representative of Cuba maintained that the resolution excluding Cuba from the OAS because of its social system was an arbitrary political act which had violated the principle of self-determination embodied in articles 1, 5(b), 6, 9 and 13 of the Charter of the OAS, and in Article 2 of the United Nations Charter. The exclusion of a member State was contemplated neither in the Rio Treaty nor in the Charter of the OAS. The power to exclude a Member State, he said, was invested exclusively in the United Nations General Assembly, as stated in Article 6 of the United Nations Charter. Furthermore, the resolution excluding Cuba had violated the principle of non-intervention embodied in article 15 of the Charter of the OAS and in Article 2 (7) of the United Nations Charter. Finally it had violated Article 52 of the United Nations Charter which required that the activities of regional arrangements or agencies must be consistent with the "Purposes and Principles of the United Nations". In connexion with the proceedings at Punta del Este, the representative of Cuba noted that important Latin American delegations had abstained in the vote on Cuba's exclusion from the regional system, and he cited statements made at the meeting by representatives of Argentina, Ecuador, Chile and Mexico, who had expressed doubts as to the legality of the measure. He stated that in addition to the unlawful exclusion of Cuba, certain collective coercive measures of an economic nature had been, and were being, implemented against Cuba without the approval of the Security Council, in violation of Article 53 of the United Nations Charter. He expressed the hope that the Security Council would suspend those illegal measures and would unanimously request an advisory opinion from the International Court of Justice on the questions submitted by his Government.

At the 993rd meeting on 15 March, the representative of the USSR, in support of the Cuban request, stated that the questions raised by Cuba concerned only one aspect of the problem, namely the recent attempts by the United States to draw into the orbit of its ag-

gressive policy against Cuba other countries of Latin America and, among other regional organizations, the OAS. Those attempts had been reflected in decisions imposed by the United States upon the Latin American countries at Punta del Este. However, the current hostile acts of the United States against Cuba were directly linked to the whole previous aggressive policy of the United States towards that small country. After the failure of the invasion of Cuba in April 1961, the United States had decided that a new invasion of Cuba required it to make in advance not only military but also political and economic preparations, that it must first try to isolate Cuba from the other Latin American States. The exclusion of Cuba from participation in the inter-American system, on the thesis of the so-called incompatibility of the Cuban régime with the so-called "representative democracy" was nothing but a punitive action and an enforcement measure aimed at compelling the Cuban people to abandon their social structure and form of government. He stressed that the Cuban people, in their just struggle, were supported by all peace-loving peoples who believed in the right of peoples to freedom and independence. He cited, in this connexion, the official statement made by the Soviet Union on 18 February 1962, and warned against the inherent danger to the cause of peace in the continuing United States policy of intervention against Cuba. The use of a regional agency for aggressive purposes was contrary to the provisions of the Charter of that Organization, as well as those of the United Nations Charter, and represented a new danger to peace with respect to which the Security Council could not remain inactive. Enforcement measures had been taken by the OAS against Cuba despite the fact that that Organization was not empowered to do so without special authorization of the Security Council. The measures were illegal and a violation of both the United Nations Charter and the Charter of the OAS. He added that the Cuban request for an advisory opinion from the Court had confirmed once again Cuba's willingness to settle the problem in a peaceful manner.

The representative of the United States observed that, whereas the previous Cuban complaints had been essentially alike in having attacked the United States or the OAS, the latest Cuban complaint aimed at the extension of the Soviet veto to all regional organizations by way of the Security Council. It was regrettable, he thought, that the Cuban representative had not presented his request for a judicial opinion in a judicial manner, but had again argued about a political dispute which his Government had created between itself and all the other American Republics. He read out the texts of the resolutions adopted at Punta del Este, and stated that none of them constituted aggression, or contravened the United Nations Charter, or required the Security Council authorization, or an advisory opinion from the International Court of Justice. With reference to Resolution II, on procedures for protection against "subversive action of international communism" in the western hemisphere, he maintained that the resolution represented clearly an exercise of the inherent right of nations to prepare for their own self-defence, whether individually or collectively, in the face of extra-continental threats. He said that Resolution VI, concerning the exclusion of the present Cuban régime from participation in the OAS, was a defensive reaction to the subversive activities of the Cuban régime against the free institutions and security of the American Republics. The OAS had decided, on the basis of facts brought out at Punta del Este, that Cuba had become a base

for communist aggression, intervention and subversion against those Republics. He maintained that the OAS, as an agency for the collective defence of the hemisphere within the meaning of Article 52 of the United Nations Charter, must be entitled to determine who should participate in its proceedings without being subjected to a veto in the Security Council. The self-exclusion by the Cuban Government from the OAS had been based not on its social system, as Cuba had charged, but on Cuban violations of the Charter of the OAS through the aggressive and subversive activities conducted by Cuba against its fellow American Republics. He stressed that the independence and effectiveness of regional agencies would be wholly destroyed by a rule that would require them to continue in their midst Governments that opposed themselves to the principles of the organizations and violated their charters. As regards the suspension of trade in arms and its extension to other items, he maintained that no "enforcement action" was involved within the meaning of Article 53 of the United Nations Charter. Suspension of trade was a step that any State could legally take, individually or collectively, without authorization from anyone. Moreover, the Security Council had already considered the issue and had reached a decision in September 1960 in connexion with the action that the OAS had taken regarding the Dominican Republic. From a survey of the nine resolutions adopted at Punta del Este, three conclusions emerged: first, the only aggression involved was the documented aggressive activities of the Cuban communist régime which the countries of Latin America had found unanimously to be directed against the free democratic institutions of the American Republic; second, no violation of the United Nations Charter was involved; and third, nothing was involved that would justify the Security Council in invoking Article 53 of the United Nations Charter. The responsibilities of the OAS had been satisfied when it had reported under Article 54. There was no question which merited submission to the International Court of Justice for an advisory opinion. Although his Government had always favoured increased recourse to the International Court, it did not favour the use of the Court for cold-war political purposes foreign to the United Nations Charter and the Statute of the Court.

The representative of the USSR, replied that the representative of the United States had distorted somewhat questions raised by the representative of Cuba and, in answering those questions, had arrogated to himself the role of a judge. No one intended to ask the Court whether the resolutions of Punta del Este constituted aggression, as the representative of the United States had said. The question was whether or not a regional agency was entitled to violate the principles of the United Nations Charter. If the Court would reply that the Punta del Este decisions were contrary to the United Nations Charter, the Charter of the OAS and the Rio Treaty, that reply would have a tremendous legal impact and would unmask the fallacious thesis of the representative of the United States that the Soviet Union aimed to extend the veto to regional agencies. The difference between the positions taken by the United States and the Soviet Union, he said, was the fact that United States in pursuance of well-defined objectives sought the assistance of the Council in modifying the OAS as the United States had tried to do at Punta del Este. But the Soviet Union, in support of the Charters of the United Nations and of the OAS, was concerned to see legality rigorously respected. He said that the Security Council should

not become a closed tribunal where a plaintiff could not obtain justice.

At the 994th meeting on 16 March, the representative of Cuba observed that the cardinal principle of the United Nations was that of coexistence among States with different social systems. Yet it appeared to the representative of the United States that there was no coercion or intervention in the internal affairs of a State when a group of States attempted to change the social system of that State. It seemed that what the United States considered valid for the regional body was not valid for the international Organization, and that in the opinion of the United States, Cuban communism was more subversive than Marxist-Leninist systems of some other Member States with which the United States maintained normal relations. It was incongruous that when a small State adopted the Marxist-Leninist system it should be the object of such aggression and intolerance on the part of a great Power. He wondered whether that was because Cuba had nationalized United States monopolies in the country. He questioned the contention of the representative of the United States that a small country like Cuba could subvert a whole continent. The causes of disquiet in the Americas, he said, were to be found in the contrasting extremes of the profits which were taken by North American companies and the conditions of discrimination and misery in which the masses of the population of those countries lived. As for the claim that the Cuban request for an advisory opinion from the International Court of Justice was political, and not juridical and that, therefore, Article 96 of the United Nations Charter was not applicable, it was for the Court to decide that question. He said that the inclusion of Article 96 in the Charter implied that political organs of the United Nations, the General Assembly and the Security Council, could put such questions before the Court.

The representative of the United States replied that his delegation opposed the submission of the Cuban questions to the International Court of Justice because they posed no substantial issue and their essence had already been disposed of by the Security Council. Furthermore, the statements of the representatives of Cuba and the USSR had left no doubt that the Cuban complaint was motivated by political, and not legal considerations. The International Court, he added, should not be brought into the cold war.

The representative of Chile stated that he agreed with some of the views expressed by the representative of Cuba but disagreed with his conclusions. He pointed out that Chile had abstained on the decision of the Council of the OAS to convene the Consultation meeting because it had considered that the subject which was to be discussed at the meeting was not in conformity with the letter and the spirit of the Rio Treaty. Nevertheless, his Government had attended that meeting since the majority of the members of the Council of the OAS had agreed to its convocation. At Punta del Este, he continued, Chile had agreed with several of the measures that had been adopted, but had abstained on the resolution excluding Cuba from the OAS because it had considered that such a step was not juridically in keeping with the terms of the Rio Treaty. Chile had also abstained on the resolution concerning economic sanctions because in its opinion those measures could not be applied. The abstention of Chile and other countries at Punta del Este had been emphasized for political reasons, but that

abstention, he said, had not intended to bring about, and had not resulted in, a rupture of inter-American solidarity. The question which had been brought to the Security Council, though linked to the specific case of Cuba, had a distinct and wider juridical scope, for it cast doubt on the competence of a regional organization to adopt measures within its sphere. He recalled the proceedings at the San Francisco Conference, in connexion with relations of the OAS to the United Nations, and he stated that the OAS was an organization of sovereign nations whose decisions, once adopted by the majority, were valid and not subject to the veto in the Security Council. His delegation, without minimizing the authority of the Security Council, believed that the OAS, in accordance with the principles of the United Nations Charter, had the power and authority to adopt decisions, which, when communicated to the Security Council, did not require the Council's approval. He said that it would be disturbing to set a precedent of interference by the Security Council in matters that concerned regional organizations. He observed that the United Nations Charter, in Articles 41 and 42, had made a distinction between two types of measures that might be adopted by the Security Council—those which entailed the use of armed force and those which did not. In his opinion, Article 53 of the Charter prohibited the use of force and of physical violence by regional organizations without the authorization of the Security Council, and with the sole exception of legitimate individual or collective defence. He maintained that the resolution of the OAS on the exclusion of Cuba and the economic measures did not constitute enforcement action or coercive measures. Therefore, his Government considered that the Security Council, after having discussed the matter, could only take note of the decisions of Punta del Este without a reference to the International Court of Justice.

At the 995th meeting on 20 March, the representative of the United Kingdom stated that the questions submitted by Cuba were essentially political both in their content and in their intent. As these questions were disguised in a legal form, they should be considered in that light and on that basis. They seemed to fall into two broad categories: those which concerned the interpretation of the Charter of the United Nations and those which pertained directly to the OAS itself. As to the latter category, he shared the views expressed by the representatives of Chile and the United States. His delegation was not aware of any provision in the Charter which would justify the claim that the United Nations should assume responsibility for ruling upon the membership or qualifications of more limited groups. As to the question related to the interpretation of the Charter, he quoted a statement by the United Kingdom representative at the 993rd meeting of the Council in 1960 to the effect that the Charter did not define the term "enforcement action" and that, when Article 53 referred to "enforcement action", it must be contemplating the exercise of force in a manner which would not normally be legitimate for any State or group of States except under the authority of a Security Council resolution. He therefore considered that the question before the Council should not be further pursued.

The representative of China stated that the views expressed by his delegation in the Council's debate in September 1960, in connexion with the OAS action concerning the Dominican Republic applied equally to the present case. The regional character of the resolutions adopted at the Punta del Este Conference con-

cerned the OAS and its members only, and those resolutions did not create obligations of a universal character as those envisaged in Article 25 of the Charter. The resolution concerning the suspension of trade with Cuba in arms and the implements of war of every kind was an action which any individual state could take in exercise of its sovereign right. He recalled that diplomatic and trade relations with Cuba had been severed by many countries before the Punta del Este Conference was convened. In his view the decisions of Punta del Este were in accord with the provisions of Articles 52 and 53 of the United Nations Charter and did not require authorization by the Security Council. Therefore, there was no need to request an advisory opinion from the International Court of Justice on the matter.

The representative of France stated that the question of the powers of the Security Council with respect to the decisions of the regional organizations had been settled by the Council in September 1960 in connexion with the decision which the OAS had taken concerning the Dominican Republic. That had received implicit confirmation, on 27 February 1962, when the Council had decided not to include in its agenda a similar Cuban complaint. In the present case, however, because Cuba had given a legal aspect to its new complaint, the Council had adopted its agenda. He inquired whether Cuba by having invoked Article 96 (1) of the Charter had endeavoured to have the Security Council revise the political decision which it had taken in the case of the Dominican Republic. Under Article 96 of the Charter, questions to be submitted by the General Assembly or the Security Council to the International Court had to be legal in character. However, the seven questions submitted by Cuba posed essentially the political problem of the relations of Cuba with the Western Hemisphere, including the important question of security. Therefore, his delegation believed that Article 96 of the Charter could not be invoked in support of the Cuban request. Neither could Article 53 be invoked, since the decision taken at Punta del Este was essentially a collective protection action under Article 51 of the Charter. The fact that the action had been taken within the framework of a regional organization, which itself fell within the scope of Article 52 of the Charter, was immaterial. The only obligation on the part of the OAS was to inform the Security Council, under Article 54 of the Charter, of any action which it had undertaken for the maintenance of international peace and security. For those reasons, his delegation could not support the request for an advisory opinion of the International Court or the request to suspend the measures which had been adopted at Punta del Este.

At the 996th meeting on 21 March, the representative of Romania observed that, under Article 52 of the United Nations Charter, the activities of the regional organizations had to be compatible with the "purposes and principles of the United Nations", a principle which had been recognized in article 102 of the Charter of the OAS as well as article 10 of the Rio Treaty. Moreover, Article 52 enjoined the Members of the United Nations to exert efforts on the regional level to settle local disputes peacefully. However, the Charter, did not confer upon Member States any right to apply sanctions in pursuance of such purposes, for the application of sanctions was, under Article 53, the prerogative of the Security Council. The exclusion of Cuba from the OAS because of its political and social system was a flagrant violation of the United Nations Charter

which was based on the principle of co-operation among all Member States regardless of their social or political régimes. To accept the thesis of incompatibility, which had been proclaimed at Punta del Este, would create chaotic conditions in international relations and a grave danger to international peace and security. The decisions taken at Punta del Este were part of a plan by the United States to isolate Cuba and to prepare a new aggression against that country. In the opinion of his delegation, the Cuban request was well founded, and it would be fully supported by his delegation.

The representative of the United Arab Republic recalled that in two previous cases the Security Council had been requested, by Syria in 1948 and by Belgium in 1949, to request the International Court of Justice for an advisory opinion. In both instances the Council had rejected the requests, but in the discussions the Council had seemed to be interested in the political rather than the juridical aspects of the respective questions. He observed that, in the present case, in the light of some of the statements which had been made, it was possible to believe that a form of competitive peaceful coexistence could be effected between Cuba and its neighbours without sacrificing the social systems which they had freely chosen. However, should the measures taken at Punta del Este prove to be a step toward the kind of attack which Cuba feared, rather than measures for containment, then such a conflict would certainly engage the responsibility of the Security Council. His delegation could accept neither the theory that a regional agency should be a "microcosm" of the United Nations reflecting its composition, nor the opinion that the General Assembly was the only organ with a right to exclude any member of a regional agency.

The representative of Ireland stated that the questions which had been raised as to the conformity of the decisions of Punta del Este with the Charter of the OAS were essentially questions for determination by members of the OAS itself. If the Security Council took upon itself to review the interpretation by the OAS of its own Charter, it would be an unwarranted invasion of the autonomy which the OAS was entitled to enjoy. As to the question of the conformity of the Punta del Este decisions with the United Nations Charter, in particular Articles 41, 52 and 53, his delegation found it difficult to accept the proposition that Article 52 would be violated when a State was excluded from a regional organization partially because of its social régime. The elementary right of any regional organization must be its right to determine its membership. Neither could his delegation accept the interpretation given by the representative of Cuba of the term "enforcement action" in Article 53 of the Charter. The words "enforcement action" were intended to denote the taking of armed action, that is measures of a military nature. The differences of interpretation regarding Article 53 were essentially political and not juridical in nature, and it was a conflict of opinion which could not be satisfactorily resolved by an advisory opinion of the Court, but had to be settled by agreement primarily among the great Powers.

The representative of Ghana stated that the question of the legality of the Punta del Este resolutions was not at issue. The key question in the request by Cuba was whether or not those resolutions constituted "enforcement action" within the meaning of Article 53. That Article when examined in the light of the other provisions of the Charter lacked clarity as to the meaning of the phrase "enforcement action". There was no clear

guidance available on whether or not Security Council authorization was necessary only for actions involving armed force, as set forth in Article 42. During the Council's debate on the action which had been taken by the OAS concerning the Dominican Republic in 1960, there had been, he said, a certain reluctance on the part of several Members, who had voted in favour of the resolution then adopted, to regard their vote as reflecting a definite position on the question of whether or not the OAS decisions in that case constituted enforcement action, in terms of Article 53. For that reason, his delegation believed that there was still grounds for reasonable doubt as to the meaning of enforcement action under Article 53. If juridical proprieties were to be abandoned in the formulation and execution of political decisions, as those complained of by Cuba, the very principles of international law and the basis of the Charter would be undermined. His delegation, in supporting the idea of recourse to the International Court, believed that there were identifiable points of law, the determination of which would assist the Council in upholding the principles and purposes of the United Nations Charter. His delegation therefore urged the Council members to eschew all political arguments on that occasion and to consider the advisability of requesting an opinion from the Court on the term "enforcement action" within the meaning of the Charter.

At the 997th meeting on 22 March, the President, speaking as the representative of Venezuela, stressed that the resolutions adopted at Punta del Este did not contravene the United Nations Charter. On the question of exclusion, he stated that while all the Members had the right to belong to the United Nations without discrimination by reason of their social or political systems, the same was not true with the regional organizations which, by their very nature, had their own modalities determined by the local characteristics. The United Nations Charter did not require that the provisions governing the regional organizations should be identical with those which governed the Organization itself. Nothing in the Charter compelled a regional organization to admit or to retain within its system a State which did not adhere to its principles. The economic measures adopted at Punta del Este had been taken not because of Cuba's communist régime but because of its interference in the internal affairs of other American Republics. Those measures did not constitute enforcement action within the meaning of Article 53 of the Charter. His delegation opposed the Cuban requests for an advisory opinion from the Court and for the provisional suspension of the resolutions of Punta del Este. Those resolutions, he concluded, were absolutely necessary for the stability, peace and security of the Americas and for the defence of the principles and institutions on which the inter-American system was based.

The representative of Cuba replied that the representative of Venezuela had confused military pacts with regional organizations because, since Punta del Este, the OAS had become another military bloc controlled by the United States. With reference to the statement of the representative of the United States that Cuba proposed to extend the Soviet veto to the OAS, the representative of Cuba said that his country did not wish to block regional organizations. What it sought was that such exceptional measures as the expulsion of a State which violated regional treaties and the principles of the United Nations should not be adopted. Cuba did

not ask the Council to prejudge the matter, but to request the Court for an advisory opinion on the juridical points. It had been argued, he said, that only the use of force constituted a coercive measure. Obviously, the Charter contemplated two types of measures: provisional measures which, under Article 40, would not prejudice the rights and claims of the parties concerned; and enforcement measures, which included the total or partial interruption of economic relations, the breaking of diplomatic relations, the use of armed force and the suspension or expulsion of a Member State. The second type of measures implied the coercive machinery of the Organization in order that the decisions concerning international security might become effective. In reply to the statement of the representative of Ireland that the meaning of the expression "enforcement measures" in Article 53 of the Charter should be determined in negotiations among the great Powers, the representative of Cuba stated that there was no provision in the Charter which would authorize such a judgement.

At the 998th meeting on 23 March, the representative of the USSR said that if the United States representative was complaining that the questions raised by Cuba were being discussed in United Nations bodies for the third time in the past two and a half months, there was a very effective way in which the United States could put an end to that situation once and for all: the United States could stop intervening in the domestic affairs of Cuba. But the whole point was that the United States did not want to abandon its aggressive policy towards Cuba. It was significant, for example, that the representatives of the United States, though asked repeatedly by his delegation whether the United States was organizing, financing and arming units consisting of persons who were not citizens of the United States for new armed intervention in Cuba, had up to now avoided giving an answer. At the present time, indeed, the United States, in violation of the United Nations Charter and the Charter of the OAS, was seeking by means of direct pressure on the Latin American States to use the Organization of American States itself as an instrument for preparing aggression against Cuba. It was against those new illegal actions by the United States that Cuba was protesting, proposing that the International Court should be asked for an advisory opinion concerning the legality of those actions. Replying to some of the objections which had been raised against the Cuban request, he stated that the thesis of the non-applicability of Article 96 of the Charter was fallacious. The Security Council was empowered, and in fact was obliged, to request the International Court for an advisory opinion whenever, in the examination of questions involving the political competence of the Council, legal questions arose upon the solution of which might depend the political solution of the problem before the Council. Equally untenable was the argument that the measures adopted at Punta del Este against Cuba were not coercive measures within the meaning of Article 53 of the Charter because they did not involve the use of armed force. In the view of the USSR delegation, coercive measures under the Charter comprised all the measures enumerated in Article 41 of the Charter and, possibly, other measures designed to make a country submit to the will of other States. Also fallacious was the argument that the actions enumerated in Article 41 could not be considered as coercive measures because any State could individually sever diplomatic and economic relations without risking

the charge that it had violated international law. A State could take such measures with respect to another State, but when such measures were taken by a group of States or a regional organization they became coercive by the very fact of their being collective. As for the argument that reference to the International Court might imply a revision of the decision which the Security Council had taken in connexion with the OAS action concerning the Dominican Republic in 1960, the position of his delegation was that the decision of the Council to take note of the coercive measures applied by the OAS in that case meant an approval on the part of the Council of the OAS decision. Thus, a precedent had indeed been established for the consideration of the Cuban request which involved the implementation of collective coercive measures against another American State, Cuba. He emphasized that the Soviet Union had continuously supported the activities of regional organizations within the framework of the United Nations Charter, and it did not wish that the Security Council or any other organ should impose its will on those organizations. The question was whether regional bodies were entitled to take enforcement action without the authorization of the Security Council, and that was a juridical question on which an advisory opinion should be sought from the International Court of Justice.

The representative of the United States replied that in the case of the action which had been taken by the OAS concerning the Dominican Republic, the Security Council had in fact decided that action of the OAS had not constituted enforcement action under Article 53 of the United Nations Charter. The position of the USSR, he said, was an assault on the whole system of regional organizations which, if successful, would nullify a fundamental provision of the United Nations Charter. He expressed the hope that the Security Council would reject the draft resolution submitted by Cuba and thereby contribute to the preservation and independence of regional organizations.

At the same meeting the representative of the USSR, under rule 38 of the provisional Rules of Procedure, requested that the Cuban draft resolution (S/5095) be put to the vote. The representative of Ghana stated that he had doubts concerning the meaning of "enforcement action" contained in Article 53, which should be clarified by an advisory opinion from the Court. He requested therefore that a separate vote be taken on

the third operative paragraph of the draft resolution. There was some discussion on whether Cuba, as a non-member of the Security Council could participate in the procedural debate relating to the Ghanaian request for a separate vote. After the President, the USSR, France the United Kingdom, Ireland, the United Arab Republic, and Chile had made statements, the President declared that, in the absence of objection and without establishing a precedent, he would call on the representative of Cuba to state whether he agreed to the Ghanaian proposal. The representative of Cuba agreed with the request for a separate vote.

Decision: *The third operative paragraph of the Cuban draft resolution (S/5095) was rejected by 4 votes in favour to 7 against.*

After further discussion on whether the representative of Cuba could participate in the procedural debate, the representatives of the USSR and Cuba indicated that, in view of the rejection of the third paragraph of the draft resolution, Cuba would not press to the vote the remainder of the draft resolution. The representative of the United States, under rule 35 of the provisional Rules of Procedure, objected to the withdrawal of the draft resolution and moved that it be put to the vote as a whole. The representative of the USSR stated that the very meaning of the draft resolution would be distorted without the important third paragraph. The President declared that rule 35 (1) of the provisional Rules of Procedure stipulated that a motion or a draft resolution could at any time be withdrawn so long as no vote had been taken with respect to it. He considered that, since the third paragraph of the draft resolution had already been voted upon, the draft resolution could not be withdrawn. The representative of the USSR challenged the President's ruling on the ground that rule 35 (1) applied to the draft resolution as a whole, and not to parts of a draft resolution.

Decisions: *The ruling of the President, that under rule 35 (1) the draft resolution (S/5095) could not be withdrawn at that stage of the voting, was upheld by 7 votes in favour to 2 against, with 2 abstentions.*

At the 998th meeting on 23 March, the draft resolution (S/5095), as amended by the deletion of the third operative paragraph, was rejected by 2 votes in favour to 7 against, with 1 abstention, with Ghana not participating in the vote.

Chapter 7

THE INDIA-PAKISTAN QUESTION

A. Request for Security Council meeting

In a letter dated 11 January 1962 (S/5058), the representative of Pakistan requested a meeting of the Security Council to consider further action in the dispute concerning the State of Jammu and Kashmir in the light of the last report of the United Nations representative for India and Pakistan. He added that Pakistan was constrained to make that request as efforts at the highest level for direct negotiations had failed. Moreover, recent statements by public leaders in India constituted a great threat to the maintenance of peace in the region.

In a letter dated 16 January (S/5060 and Corr. 1), the representative of India stated that the Security

Council should refuse to comply with Pakistan's request for a meeting because the eve of the general elections in India was hardly the proper time for direct negotiations or for discussion of the situation in the Security Council. He added that Pakistan's allegations that efforts for direct negotiations had failed and that a threat to the peace had arisen were unfounded. As far as India was concerned, the avenues for direct negotiations were always open. It was Pakistan which was threatening peace in the area by instigation of attempts of subversion and sabotage.

By another letter dated 29 January (S/5068), the representative of Pakistan stated that a very grave situation prevailed between India and Pakistan which

called for immediate consideration by the Security Council. He added that during recent weeks responsible Indian leaders had expressed themselves in a manner which had forced Pakistan to the conclusion that there had been a significant reversal of policy on the part of India with reference to the question of Kashmir and the relations between the two countries. India seemed to have decided to repudiate all its obligations, agreements and undertakings in respect of the resolving of the Kashmir dispute. This in itself was a development which would affect more seriously the relations between the two Governments. The situation was further exacerbated by the repeated Indian declarations to the effect that the existence of Azad Kashmir constituted "aggression" by Pakistan and that it should be terminated by the liberation of the Azad Kashmir territory. Therefore, the situation with regard to the maintenance of peace between the two countries was daily becoming more precarious. Pakistan would, therefore, request the Council to take up the consideration of the India-Pakistan question as an urgent matter.

B. Consideration by the Council (990th meeting, 1 February 1962)

On 1 February 1962, the Security Council agreed, without objection, to include the item in its agenda. The representatives of Pakistan and India were invited to participate in the discussion without the right to vote. The Council considered it at eleven meetings held between 1 February and 22 June 1962.

At the 990th meeting of the Council on 1 February, the representative of Pakistan, after reviewing the events relating to the question of Jammu and Kashmir and the lack of progress in its solution, stated that during the past few months tension between India and Pakistan had mounted to a dangerous degree and declarations by Indian leaders had created a sense of crisis in Pakistan and a sense of foreboding that perhaps it might be difficult to maintain peace between the two countries. After quoting from Indian statements to the effect that India might resort to force in having the Azad Kashmir area "liberated," the representative of Pakistan said that in view of those statements and other declarations stating that India would not negotiate on the question of plebiscite and the surrender of its sovereignty, when the whole question of accession itself was in dispute and there was an international agreement that the future of the State of Jammu and Kashmir would be decided through the democratic means of plebiscite, Pakistan wondered what stock to put by the so-called offer of negotiations. Moreover, the fundamental question was the question of self-determination of the people of Kashmir. Even assuming that Pakistan was at fault, the people of Kashmir continued to have their inherent right to determine their own future. It was sometimes stated that because the present situation had continued for fifteen years, it would be a pity to disturb it. He wished to assure the Council that not fifteen years but even if 150 years were to pass, the dispute would not be settled except through the freely expressed wishes of the people of Kashmir. It was, therefore, the Security Council's responsibility to take active steps towards the solution of the dispute and to ensure that no recourse should be had to threats or use of force because, as the geographical position of Kashmir would show, any conflict that might ensue would not be confined merely to Kashmir.

The representative of India stated that his Government would wish a deferment of the consideration of the Kashmir question until a later date. It was not correct to state that efforts for direct negotiations between India and Pakistan had failed but the eve of a general election in India was hardly appropriate either for direct negotiations or for discussion of the question in the Security Council. No new factor had emerged in relation to Kashmir since the last meeting of the Council in 1957. There was no threat of use of force by India as alleged by Pakistan. In fact, there was no desire in India to settle its differences with Pakistan by any but peaceful means and through negotiations and it was for that reason that India had offered to sign a no-war declaration with Pakistan.

The President of the Council stated that the statements of the representatives of Pakistan and India indicated their respective Government's desire to deal with the differences between them on the Kashmir issue in a peaceful manner. In the light of those assurances, the Council would wish that any further consideration of the question be deferred, possibly until sometime after 1 March. Meanwhile, the Council would urge the parties to refrain from use of force or threats and it hoped that nothing would be done by either of the parties or by others to aggravate the situation or increase existing tension.

C. Resumption of the discussion (1007th to 1016 meetings, 21 April-22 June 1962)

At its 1007th meeting on 21 April 1962, the Security Council resumed its consideration of the India-Pakistan question with a statement by the representative of Pakistan which he continued at the Council's 1008th meeting on 2 May.

The representative of Pakistan stated that the last report of the United Nations Representative for India and Pakistan was submitted on 28 March 1958 and the Council must take that report into consideration. In that report the United Nations Representative had proposed that the Prime Ministers of India and Pakistan should meet under his auspices. While Pakistan had accepted the proposal, India had rejected it. Nevertheless, when the present Government came to power in Pakistan, the President of Pakistan met the Indian Prime Minister twice in an effort to make progress towards the solution of the Kashmir question. However, those talks failed and it was for that reason that the President of Pakistan had stated in response to an invitation from India that there would not be much profit in another meeting unless India was prepared to make a definite move towards the settlement of the dispute.

The representative of Pakistan said that in order to reduce tension between the two countries it was necessary to make progress in the implementation of the two UNCIP resolutions. Those resolutions had been adopted after the Commission had taken into consideration the charges and counter-charges of aggression. Having been accepted by both sides, they formed an international obligation, binding upon both, which it was their duty to implement in good faith. India had stated that, besides those resolutions, it had also received certain assurances from the Commission. Those assurances were, in fact, given to both sides and Pakistan had completely accepted those assurances and qualifications. In fact, Pakistan had insisted that the Commission should also communicate to India the as-

surances that were given to it. That also showed that Pakistan's *locus standi* in this dispute had been recognized from the beginning; otherwise, there was no need for the Commission to give any assurances to Pakistan or any pledges with regard to the disposition of the State. Moreover, the former representatives of India had repeatedly stated before the Council that both India and Pakistan had interests in the question of accession of Kashmir and, therefore, some agreement had to be reached between them.

The representative of Pakistan then said that the Security Council, when it had first considered the Kashmir question, had devoted its attention to securing cessation of hostilities. To achieve that purpose, it had assured the people of Kashmir that their future status would be determined through the democratic means of a plebiscite. If the Security Council did not wish that the elements of the State who had started the liberation movement earlier and the tribesmen and the people of Pakistan should get out of hand, then it should take note of the realities of the situation and take active steps towards making progress in the solution of the Kashmir dispute. It must devise a method acceptable to the parties in order to make the recommendations of the United Nations Representative a basis for further progress in the implementation of the two UNCIP resolutions. However, if the Council were to desire its President to get in touch with the parties with a view to making an effort to bridge the differences between them, that could be another way of making such progress. Pakistan would also agree to any method that might be suggested to determine the obligations of the parties under the two UNCIP resolutions, the reasons for the lack of progress in their implementation, the responsibility of the two parties in that respect and what needed to be done by either side to move the matter forward. If such a determination were to disclose that Pakistan was in default in any of those respects, it would rectify that at the earliest possible time. Such a determination could be entrusted to the United Nations Representative or a new selection could be made from any other region, including Asia or Africa.

At the 1009th meeting of the Council on 3 May, the representative of India stated that Pakistan had requested the Council to meet as a matter of urgency, but, in fact, there was no urgency for the consideration of the Kashmir question. He reiterated his delegation's earlier statement that India would not take the initiative in the use of force or of altering the situation in such a way as to disturb the peace on the sub-continent. He added that the threat had, in fact, come from Pakistan and the Council was meeting under the shadow of that threat. Moreover, Pakistan had not communicated to the Council any new proposals for a speedy settlement of the dispute based on the principles of the Charter or in regard to the history of the matter. All the arguments put forward by the representative of Pakistan were similar to those discussed at previous meetings of the Council and India had already refuted them on a number of occasions. At the conclusion of the Council's consideration of the Kashmir question in 1957, India had asked that aggression from its territory must be vacated. That aggression was still continuing. Pakistan had also not taken note of the changes that had taken place in the area and of the fact that the Jarring report had pointed out that conditions had changed, not only in relation to India and Pakistan, but

in relation to the political and power relations in South East Asia itself.

As regards the implementation of the two UNCIP resolutions of 13 August 1948 and 5 January 1959, only the part relating to cease-fire had so far been implemented while the rest of part I of the 13 August resolution remained unimplemented and it was for that reason that part II, relating to a plan for a truce agreement, had not come into consideration. India had made no commitment at any time that a plebiscite would be held in Kashmir. The resolution of 5 January 1949 had contained a plan for a plebiscite but that had to be preceded by implementation of all three parts of the 13 August resolution. The whole idea of a plebiscite had arisen from India's parliamentary traditions and it was strange for Pakistan, which had held no general elections, to press for a plebiscite. India had held three general elections in Kashmir which were supervised under an electoral commission which was an autonomous body. In contrast to that, the Pakistan occupied-area of Kashmir had no civil liberties and all important decisions affecting the area were made by Pakistani officials. The only party that was preventing the free expression of opinion in Azad Kashmir was Pakistan, because under Kashmir's Constitution that area was provided seats in the Kashmir assembly. It had been also stated that the Indian administered area of Kashmir was being exploited and that it was being governed by the Indian army. In reality the Indian army never interfered in the civilian life of the Kashmir people. Conditions had also changed in the sense of economic and industrial advance that Kashmir had made under the Indian administration. In the two five-year plans executed by India, Kashmir had registered tremendous progress in economic, industrial and educational fields.

The representative of India then said that under the doctrine of *rebus sic stantibus*, a treaty ceased to be binding when the basic conditions on which it was founded no longer existed. That doctrine applied equally to treaties, conventions and resolutions. He then quoted municipal laws in France, Germany, Austria, the United Kingdom and the United States to the effect that validity of contracts depended on the premise to the conditions under which they were drawn up. The situation in Kashmir had so changed that the conditions of the original contract no longer existed. Moreover, Pakistan had gone so far as to negotiate with China on the demarcation of an area on which it had no claim whatsoever.

The representative of India then reaffirmed his delegation's contentions that Kashmir was part of India, both historically and in continuance of the transfer of power from the British to the Indian Government. India was a successor State to British India, whereas Pakistan was a new State and was admitted as such to the United Nations. The accession of the State of Jammu and Kashmir to India was final and full because there were no conditional or provisional accessions in the Indian constitution. India, which was a federation of various units, was not prepared to let any of its component parts secede because that would put the whole of the Union in the melting pot and India would then become not a congeries of States, but a warring group of stateless entities. The commitment that India had made for itself on the question of ascertaining the wishes of the people had been carried out in three general elections since 1948. It had been sometimes stated that because the majority of the people of

Kashmir were Moslems, it should accede to Pakistan. India would not accept that theory because it was a secular and not a theocratic State.

The United Nations Commission for India and Pakistan had specifically declared that the sovereignty of India over Kashmir was not to be brought into question and that the responsibility for the security of the entire State rested with India. India was also assured that there would be no recognition of the Azad Kashmir Government. It was on the basis of those assurances given to it that India had accepted the 13 August resolution of 1948. Since the adoption of that resolution, new changes had taken place. Pakistan had committed aggression which was still continuing. Then Pakistan had occupied the northern areas and had received accession from Hunza and Nagar. Those changes also included the occupation of Gilgit and a continuous infringement of India's borders. To India the question of aggression by Pakistan was not just an academic matter but a real issue.

At the 1010th meeting of the Council on 4 May, the representative of the Union of Soviet Socialist Republics stated that Pakistan had attempted to revive the Kashmir question on the basis of allegations that India had created a threat to international peace and security by its acts in the Kashmir region. Those allegations had proved groundless and the representative of India had already assured the Council that India was not going to use force. Ever since the beginning of the Kashmir question, the basic element had been the continuing occupation of one-third of the territory of Kashmir by Pakistan's troops but, during the same period, India had never indicated that it intended to apply force to recover that area. It should be recalled that the new factors relating to the Kashmir question were the normalization of the situation and the economic progress that had been achieved by the people of that part of Kashmir which was under the jurisdiction of India. Moreover, during the same period, the people of Kashmir had on numerous occasions expressed their will through general elections and had also thereby exercised their right of self-determination. While India had given full assurance that it would not take the initiative in any military action and would continue its efforts to achieve a peaceful settlement, the representative of Pakistan had not only given no such assurance, but had, in fact, threatened that unless the Kashmir question was solved, armed conflict could break out in the region. As regards the plebiscite, it should be recalled that in accordance with the Commission's resolution of 13 August 1948, plebiscite was dependent on the withdrawal of Pakistani troops. The State of Jammu-Kashmir had already acceded to India in accordance with the procedure laid down in the transfer of power in India and it was, therefore, an integral part of the Republic of India. Its people had already disposed of that matter in accordance with the principles of democracy and in the interests of the strengthening of friendly relations between the peoples of that region. In the circumstances, the Council should take note with satisfaction of the statement of the representative of India to the effect that India would never take the initiative for any military action in the Kashmir region, and the same guarantee should be given by Pakistan if it also endeavoured to achieve peace in that area.

At the same meeting, the representative of Pakistan, exercising his right of reply, said that both India and the USSR representatives had referred to a so-called

threat allegedly made by him. In fact, he had made no threats. In the context of his statement it would be clear that he had pointed out that when the Security Council first dealt with the question, it had concentrated not upon determining the legality of certain positions of the parties, but first to bring about a cessation of hostilities and next to concentrate upon reaching a solution of the dispute. The fighting had come to an end once the people were assured that their objective would be fulfilled through peaceful means and it was in that context that he had stated that because of frustration due to lack of progress in the dispute, the people, who had earlier started the liberation movement, might conclude that there might not be a peaceful solution of this dispute. As far as the Government of Pakistan was concerned, it was most anxious to proceed toward settlement of this question on the basis of the obligations undertaken by both sides and by peaceful means. The matter, however, could not be left in abeyance, for not only justice must be done, it must be seen to be done. A lack of solution of the Kashmir question might lead to further exacerbation and deterioration of relations and the Governments concerned might then not be able to help the situation.

On the question of accession, the representative of India seemed to believe that all that was necessary was for the Head of State to sign the necessary papers and for the receiving State to accept them. Yet, in the case of Junagadh, the Head of State had acceded to Pakistan and then India had occupied the State by force and still remained there. The representative of India had also claimed that the doctrine of paramountcy did not depend merely on the principles of accession, but depended on the question of India's being successor State to the British rule in India, and that Pakistan had, therefore, no say in the matter. In fact, both Pakistan and India were the successor States of British India as a result of transfer of power in 1947 when two sovereign States were created. As to the point that India continued to hold the seat in the United Nations and Pakistan had to apply anew, that was not a matter of succession, but had resulted from an agreement between the two countries. If, as a successor to paramountcy, India already held suzerainty over Kashmir, then why should a request from the Maharajah for assistance be considered necessary? Moreover, the former Governor-General of India had clearly stated in his letter to the Maharajah of Kashmir that in consistency with the policy of his Government where the question of accession was disputed between the Head of State and the people, the question must be decided in accordance with the freely expressed wishes of the people.

Continuing his statement at the 1011th meeting, the representative of Pakistan said that the representative of India had said that India had never committed itself to holding a plebiscite. However, there were statements by the Prime Minister of India himself and of his representatives in the Council, whereby they had formally agreed that the future status of the State of Jammu and Kashmir would be decided through a plebiscite. The representative of India had also referred to changes having taken place in the Azad Kashmir area and in the so-called Northern areas. The fact was that there had been no changes on the Azad Kashmir side of the cease-fire line and that the Northern areas were all on the Azad Kashmir side. Moreover, the United Nations Commission had given assurances to

Pakistan that no civil or military officer or personnel of the Maharajah's Government would be permitted to cross the cease-fire line into the Azad Kashmir territory. Thus, there could not be any new grievance that the authority of the Maharajah had been repudiated. As regards the question of economic progress reportedly made in that part of Kashmir that was under India's jurisdiction, it was all the more reason to hold a plebiscite in Kashmir in order to let the whole of Kashmir enjoy those benefits. Pakistan had never advanced the argument that Kashmir should accede to it on the ground that the majority of the people in the State were Moslems. It had only pointed out that culturally the people of Kashmir were more akin to Pakistan than to India and that all its communications ran into Pakistan and that economically also its integration with Pakistan was more natural.

The representative of India, also speaking under the right of reply, said that although the representative of Pakistan had denied that he had made any threat before the Council, there was no doubt that the threat had been made, because it was not only made before the Council by the representative of Pakistan but there were a number of statements by the Pakistani leaders that constantly threatened India with action in Kashmir and some of those statements had even incited the tribesmen to march into the State of Jammu and Kashmir. However, India's action was not likely to be dictated by those provocations. The question of accession could be argued without end. As far as India was concerned, its position was that the accession was full, complete and irrevocable and for the maintenance of its integrity, it could not adopt a process whereby states could accede or secede at will, and that position was also held by a number of Member States of the United Nations.

The representative of India then said that certain new facts had emerged since the Council's consideration of the Kashmir question in 1957. They related to the acts of sabotage instigated from Pakistan's side. About 400 bomb explosions in the State of Jammu and Kashmir had taken place. In 1958, Pakistan, in violation of the cease-fire agreement, had organized a crossing of the cease-fire line by civilians under the guise of volunteers. As many as twenty-nine encroachments had been made along the cease-fire line. Moreover, according to a *communiqué* issued by the Government of Pakistan, it had entered into an agreement with China in order to settle the borders of Jammu and Kashmir. Pakistan was doing that in violation of international law and in complete disregard of the Security Council's resolutions. The sovereignty over the whole territory of the State of Jammu and Kashmir lay with the Indian Union and Pakistan was not entitled to negotiate with China or any other country with regard to its borders. Pakistan had also no authority to constitute any kind of polity in the area that was under its control. The United Nations Commission had definitely laid down that there would be no consolidation in the so-called Azad Kashmir area. In spite of those assurances by the Commission, consolidation had already taken place. India would not recognize any changes that might take place either in the form of demarcation of boundaries, or the setting up of a government in the Azad Kashmir area. While India was always prepared to seek ways and means of reducing tension, it would be at no time prepared to submit to arbitration or mediation any

question involving its sovereignty or integrity of its territory.

At the 1012th meeting of the Council on 15 June, the representative of the United States stated that since 1948 some of the most illustrious statesmen ever associated with the Organization had laboured long and hard to advance a solution. Unfortunately, their efforts had not yet been rewarded by success. He felt that the Council had a duty to persevere in its search for a solution of the dispute. His delegation considered that the best approach to solving the Kashmir question would be to take for a point of departure the area of common ground between India and Pakistan, namely the two UNCIP resolutions. The first paragraph of 5 January 1949 resolution had clearly stated that the question of the accession of the State of Jammu and Kashmir would be decided through the democratic method of a free and impartial plebiscite. This was in full conformity with the principle of self-determination of peoples as embodied in Article 1 of the Charter. Recalling the proposal of the United Nations Representative for a high-level conference, the representative of the United States said it was with a view towards facilitating such a high-level conference that President Kennedy had suggested the utilization of the services of Mr. Eugene Black, President of the World Bank. The United States was convinced that such a high-level conference would enable the parties to ascertain the precise area of disagreements between them. The United States hoped that the Council would be prepared to assist the parties in the solution of the Kashmir dispute.

The representative of China welcomed the assurances given by the parties that they would not seek a settlement of their territorial dispute over Kashmir through the use of force. Noting that statements had been made regarding the progress that the State of Jammu and Kashmir had made, the representative of China said that while economic development was very desirable, it did not make any change in the legal status of Kashmir. Similarly the current initiative reportedly taken by Pakistan to negotiate with the Chinese Communists with regard to the border of Kashmir would have no effect on the status of Kashmir. Moreover, the result of such negotiations would not be binding on the Government and people of the Republic of China. It was only fair to all parties concerned to state that nothing had happened in Kashmir that could be said to have changed the legal status of that territory. In the absence of an agreement between the parties, its status could not be settled without regard to the principle of self-determination and the plebiscite was the means by which the principle of self-determination could be applied. It had been said that three elections had already been held in Kashmir, but they could not be considered as a substitute for a plebiscite. The holding of a plebiscite had been blocked by an impasse which had developed at an early stage in the implementation of the UNCIP resolutions. In spite of the apparent difficulties to resolve that impasse, the Council could not but continue to probe all possible approaches to a solution of the dispute. It could urge the two parties to enter into new negotiations either directly or with the help of a third party. In the past the good offices of the Secretary-General had proved helpful in handling delicate and complicated situations. In the present case, the Acting Secretary-General, coming from a country neighbouring both India and Pakistan, would be assumed to have intimate knowledge and appreciation of

the intricacies of this problem and his services might well be utilized.

The representative of the United Kingdom stated that although the situation in Kashmir had shown no signs of improvement, it was gratifying to know that both India and Pakistan had held faithfully to their assurances that they would not contemplate the use of force to alter the present state of affairs. To that extent the situation was no worse and the apprehensions expressed at the start of the present series of meetings had proved unfounded. The United Kingdom Government was convinced that a solution of the Kashmir question could emerge only from constructive and sincere negotiations between the parties. A period of four years had elapsed since the Council's last consideration of the Kashmir question and the United Kingdom had hoped that the parties would take advantage of that break in international discussion to hold direct negotiations leading to a mutually satisfactory solution. The United Kingdom was encouraged in that hope by the settlement of many other difficult matters in dispute between India and Pakistan and because the leaders of the two countries had met from time to time in the course of that period. That process of reconciliation culminating in the signing of an agreement on the use of the waters of the Indus River Basin seemed a clear proof of the desire of the parties to remove all those obstacles which were preventing a full understanding between them. It was clear that the Kashmir dispute could be settled only by negotiations between the parties. Neither the Security Council nor any other outside body was in a position to dictate a solution. Nevertheless, the Security Council could not wash its hands of the whole affair and must continue its positive and helpful role in the solution of the dispute. It could help by acting as a catalyst and in preparing the ground for negotiations. The United Kingdom would urge the parties to consider the matter in the light of the future prospects of its solution rather than of past histories of disagreements.

The President, speaking as the representative of France, said that over the years the Kashmir dispute had acquired an emotional character which, of course, was easy to explain but which was not likely to facilitate a settlement. In spite of that, it was reassuring that the two parties had declared that they would not resort to the use of force and were prepared to enter into negotiations with each other. Those negotiations, however, should not be merely a façade, but should be undertaken with a sincere desire to succeed. The willingness to enter into negotiations was an essential element in that respect. Since becoming a Member of the United Nations, India had championed vigorously the cause of international harmony and the independence of peoples. France hoped that India would remain faithful to those principles in matters affecting itself. Since both parties were certain that there was no "threat to the peace, breach of the peace or act of aggression" according to the terms of Chapter VII of the Charter, the provisions of Chapter VI, especially Article 33, were applicable to the present case and the parties should enter into negotiations with a view to reaching an agreement on that basis.

At the 1013th meeting of the Council on 19 June, the representative of Ghana, after expressing regret that no progress had been made towards solution of the Kashmir question and that the friction between India and Pakistan which arose from the lack of progress

had further increased, stated that his delegation believed that no problem should be allowed to degenerate into a situation which could bring about armed conflict. The dispute between two States with whom Ghana had the closest of relations was a matter of great concern to the Ghanaian people and it was because of that concern that President Nkrumah, during the early years of Ghana's independence, had suggested that he would be happy to lend any possible assistance should the two parties avail themselves of his good offices. The representative of Ghana then said that charges and counter-charges of aggression and conspiracy had previously been considered by the Council and regardless of whether or not the Security Council resolutions on those matters were adequate, his delegation could not but refer to the basic principles accepted by the Council and the parties which were embodied in the two resolutions of 13 August 1948 and 5 January 1949. Those resolutions had not been implemented fully because of a lack of agreement on the programme of demilitarization. The Ghana delegation was aware of the changes that had taken place in the situation since the adoption of these two resolutions and wondered whether, having regard to the principles underlying these resolutions, including a recognition of their interdependent character, the most practical basis might not be to start from those points where there has been some area of agreement in the past and to refer to the two parties the consideration of the new and changed elements in the expectation of some solution acceptable to them. The parties alone could solve it and they could do so within the framework of the United Nations Charter and with the encouragement of the Security Council and friendly countries. It should be possible to start those negotiations at the earliest possible time and the assistance of a third party, if acceptable to both sides, might be commendable. If India and Pakistan, animated by the spirit of Article 33 of the Charter, were to agree to avail themselves of the good offices of an acceptable individual of high standing and impartiality, it would be a good beginning on the road to progress.

The representative of the United Arab Republic believed that in the Kashmir case the Security Council should adopt a flexible course of action with a view to helping the two parties in resuming further contacts to solve the question within the framework of the Charter. While there was no doubt that under the Charter the Council had specific responsibilities in dealing with such questions, the Charter itself did not encourage the imposition of any specific course to a question where a settlement acceptable to both parties was needed. Moreover, if the Council were to act with the consent of the parties, that would in itself impose greater responsibilities on both India and Pakistan and the moral obligation entailed in such an action would be of a greater weight than any rigid recommendation. The Council was already gratified to note that the two parties had given assurances not to resort to force and it hoped that they would not fail in informing it at the proper time of the progress they should make in paving the way to an early settlement.

The representative of Romania stated that no new elements had arisen to justify a new and urgent examination of the Kashmir question by the Security Council. In the course of the last fourteen years, life itself had advanced and had given an answer to the question as to whom the State of Jammu and Kashmir actually belonged. From a purely juridical point of view, the

answer had never presented any difficulty at all. The legality of the act of accession could not be challenged. Pakistan had, however, challenged it, claiming that that act did not have the support of the people of Kashmir. The people of Kashmir, however, had expressed their wishes in three general elections and had thereby proved that the State of Jammu and Kashmir was an integral part of the Republic of India. In the circumstances, the Council could contribute usefully to the solution of the Indo-Pakistani dispute to the extent to which it would support a solution based on direct negotiations between the two Parties, to the extent to which it would prevent any outside elements from complicating the problem. He said that such elements were still present.

In this connexion the Romanian representative said that while India had given a categorical assurance that it would not make use of force, the representative of Pakistan had evaded it by stating that while his Government did not intend to take the initiative of resorting to force, circumstances might arise where it might no longer be able to control events. Pakistan belonged to military alliances which sought interests other than those of fostering neighbourly relations. The dispute between India and Pakistan had been artificially nourished by circles which were eager to maintain tension in South East Asia. Therefore, the solution of the Kashmir question, which was really a matter of concern to the two countries alone, depended on an immediate cessation of outside interference.

The representative of Ireland stated that the basic issues inherent in the Kashmir question had been already clearly defined and considered when the United Nations Commission had formulated its resolutions of 13 August 1948 and 5 January 1949. The task of the Security Council was not to attempt to adjudicate upon those issues on which UNCIP had refrained from pronouncing itself but to consider what progress could be made towards achieving a peaceful settlement. The delay in the implementation of those resolutions had been most unfortunate in its results because not only had the lapse of time done nothing to bridge the differences but various other changes and developments had made their implementation a matter of even greater difficulty. However, it could not be argued that the two UNCIP resolutions had ceased to have any bearing on the matter because of the changes in the intervening time. The basic reason for the failure to make any progress towards a settlement was a complete lack of agreement between the parties. The Council could do well to repair that lack of agreement and its best chances were through direct discussions between the parties and in the creation and maintenance between them of a favourable atmosphere for those discussions. The Security Council could not impose a settlement on the parties nor could a stable solution be formed without agreement and active co-operation of the parties themselves. Therefore, the best course would be to urge them to resume direct talks, either with or without others and to re-establish that basic element of mutual agreement which must exist for progress to be made towards a settlement. Even in the present deadlock there were elements justifying hope that such an effort would not be unproductive of results. For one thing, the parties have given assurances not to resort to force. For another, the cease-fire line laid down in 1949 had been continuously honoured by both parties.

At the 1014th meeting of the Council on 20 June, the representative of Venezuela also welcomed the assurances by the parties of not resorting to force to settle the dispute between them. Of the measures recommended by the United Nations Commission in its resolutions of 13 August 1948 and 5 January 1949, the only ones that had been implemented so far were those referring to the cease-fire and the line of demarcation of the respective positions of India and Pakistan at the time of the cease-fire. There had been disagreement on the interpretation of the other measures. It should be recalled that the two UNCIP resolutions had taken into consideration the question of Pakistan's aggression in Kashmir, as India had called Pakistan's action, and the question of accession which had been challenged by Pakistan, before formulating its resolutions to which the Security Council and the parties had agreed. That agreement was thus of an international character and could not be unilaterally modified. That was the criterion accepted by the Security Council in its resolutions of 30 March 1951 and 24 January 1957. It was stated that the people of Kashmir had already expressed their will in three general elections but those elections could not replace the plebiscite proposal, as in those elections the people of Kashmir had not been consulted on the question of accession. Although those two resolutions had not been fully implemented, they were still in force. As a consequence of those resolutions, there was the juridical basis of the present *status quo* which was only provisional but which had avoided the continuation of the armed conflict. Regardless of the causes for the nonimplementation of those resolutions, almost fourteen years had passed since their adoption and a series of events had taken place which had changed the circumstances existing at that time. Those new circumstances should be also taken into account in any fresh effort to achieve a final solution of the problem. That being the case, the most advisable course would be for the two parties to discuss the question between them in direct negotiations. The Council, therefore, could well limit itself to recalling the basic principles of its previous resolutions and inviting both parties to undertake as soon as possible direct negotiations.

At the same meeting, the representative of Chile recalled that the parties had assured the Council that their respective Governments would not use force to settle their dispute and regretted the difficulties which had arisen in the implementation of the two UNCIP resolutions. The Security Council being a political body could not give a verdict on the responsibility for that lack of progress. As a political body its duty was to avoid an increase in the tension and it should, therefore, appeal to the parties to have direct negotiations and also help them come to a mutually acceptable solution. Such a solution must grow from the will of the parties to the dispute in order to be fruitful. The parties, however, could decide to accept the advice and help that the Security Council might be in a position to render to them.

At the 1015th meeting of the Council on 21 June, the representative of the United States said that his delegation believed that in the course of the Council's present debate the majority of the Council members had concentrated their views on five major points: (1) gratification on the assurances given by both parties that they would refrain from the use of force in the settlement of the dispute; (2) continued applicability

of the previous resolutions of the United Nations Commission and of the Security Council; (3) the need for negotiations between the parties; (4) the possibility of an impartial third party to assist in such negotiations; and (5) responsibility of the Security Council in the matter. He hoped that the Council would concentrate on those common areas of agreement and therefore proposed that the Council should meet again after a brief interval of a day or two in order to hold further consultations leading to a determination by the Council of the action to be taken.

The representative of the USSR stated that the conclusions drawn by the representative of the United States could not be said to reflect the position of the Soviet Union. The fact that both India and Pakistan had given assurances that they would not resort to force was actually an argument for closing the debate rather than for continuing it. The United States representative had also tried to revive resolutions of fourteen years ago. However, it would be completely unrealistic to refer to those resolutions because of the changes which had occurred during the intervening period. The Soviet Union, therefore, wondered whether those who had sought to refer to those earlier decisions seriously believed that a plebiscite could be held at the present juncture. Similarly, the idea that some method of arbitration or mediation be introduced into the bilateral talks was simply invalid. Those talks could take place only if both sides desired them and could not be imposed on them. It would be best for the Council to limit itself to taking note of the statements made by India and Pakistan and the fact that neither party would resort to the use of force in Kashmir, from which it might be concluded that peace and security would not be jeopardized and the situation would remain as it stood.

Decision: *The United States' proposal to hold the next meeting of the Council on 22 June at 3.30 p.m. was adopted by 7 votes to 2 (Romania and the USSR), with 2 abstentions (Ghana and the United Arab Republic).*

At the 1016th meeting of the Council on 22 June, the representative of Ireland submitted the following draft resolution (S/5134):

"The Security Council,

"Having heard statements from representatives of the Governments of India and Pakistan concerning the India-Pakistan question,

"Having considered the Report of the United Nations Representative, Dr. F. Graham,

"Expressing its best thanks to Dr. Graham for his efforts

"Noting with satisfaction the pledges made by the two parties to the effect that their Governments will not resort to force in settling this question,

"Conscious of the responsibility of the Security Council under the Charter for helping the parties to reach a peaceful solution of this question,

"1. Reminds both parties of the principles contained in its resolution of 17 January 1948, and in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949;

"2. Urges the Governments of India and Pakistan to enter into negotiations on the question at the

earliest convenient time with the view to its ultimate settlement in accordance with Article 33 and other relevant provisions of the Charter of the United Nations;

"3. Appeals to the two Governments to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of negotiations;

"4. Urges the Government of India and the Government of Pakistan to refrain from making any statements, or taking any action, which may aggravate the situation;

"5. Requests the Acting Secretary-General to provide the two Governments with such services as they may request for the purpose of carrying out the terms of this resolution."

While introducing it, the representative of Ireland stated that the Council had the responsibility of coming to a conclusion on the question before it. In his view, that was a responsibility which the Council could not shun or seek to evade. The draft resolution submitted by his delegation reflected as accurately as possible the consensus of the points of view of the majority of the Council members and represented the widest possible measure of common agreement existing at the present time.

The representative of the United Kingdom said that the efforts of his delegation had been directed towards finding a conclusion to the Council's present discussions that would be fair to the parties and also acceptable to them. The Irish draft resolution came nearer to that objective and it seemed to encourage the type of direct talks from which alone the eventual solution of the Kashmir problem could emerge.

The representative of India, however, stated that his country regretted that Ireland, with whom India had very close relations, had been the spokesman for a draft resolution which it regarded as an unfriendly act. The representative of Ireland had claimed that the draft resolution represented the consensus of the majority of the opinion in the Council but, in fact, it only reflected Pakistan's point of view. India was against any resolution being adopted by the Council at the present time because the adoption of a resolution would have no relevance to the situation existing in the area. It was unrealistic to remind the parties of the principles contained in the previous resolutions of the Security Council and the United Nations Commission because that would amount to a disregard of the changes that had taken place during the last fourteen years and thereby ignoring the political, economic and military realities that existed today in South Asia. While India would always honour all its international obligations, the resolutions of 13 August 1948 and 5 January 1949 were engagements and not obligations and those engagements had been carried out in the context in which they had come about, and if the resolutions had not been implemented, India could not be held responsible for that. The only part of those resolutions which had been implemented were by and large the cease-fire and India would continue to observe it until it was forced to do otherwise. The appeal to the two Governments to maintain a peaceful atmosphere should, in fact, have been addressed to Pakistan alone because India had always shown restraint. As the various statements of the leaders of Pakistan and its press would show, Pakistan had continuously carried on a campaign

against India and had even indicated that it might resort to force over Kashmir. The draft resolution would not lead to a solution of the problem but instead would be used in Pakistan for purposes other than those the Council intended.

The representative of the USSR stated that the principal reason for which the draft resolution was being presented was the holding of a plebiscite, something which at the present moment would constitute a flagrant interference in the domestic affairs of India. The Council was being asked to take a decision contrary to the facts and to the course of history. Instead of recalling decisions which were not applicable at the present stage and for which conditions had not yet been fulfilled, the Council should have limited itself to concluding its present discussions by noting that India and Pakistan had stated that they would not take any initiative in the use of force in the solution of the Kashmir question and that both parties had not rejected the idea of bilateral negotiations.

Decision: *At the 1016th meeting of the Council on 22 June, the Irish draft resolution (S/5134) was put to the vote. It received 7 votes in favour to 2 against (Romania and the USSR), with 2 abstentions (Ghana and United Arab Republic), and was not adopted owing to the negative vote of a permanent member of the Council.*

After the vote, the representative of Pakistan said that he believed that it was neither a safe nor a valid contention that a unilateral pronouncement by one of

the parties, which had undertaken international obligations towards the Security Council and towards the other party in dispute, could release that party from its obligations. It was a very dangerous principle because if it was accepted, it would block all peaceful settlement of international disputes. Since there were many points in dispute relating to the interpretation of the two UNCIP resolutions and since the representative of India had stated that the Security Council was not a judicial body, Pakistan would suggest that the International Court of Justice might be requested for an advisory opinion, that having regard to the changes that had taken place, the time that had elapsed and the fact that the implementation of the resolutions had come to a stop, to determine what the obligations of the parties were under the two UNCIP resolutions.

The representative of India said that his country had not asked for a release from the UNCIP resolutions. If India had so wished, it would not have continued to honour the cease-fire line. In spite of all provocations, India had scrupulously respected it. The situation in Kashmir was not a matter for the International Court of Justice. It was a political issue and, moreover, as members of the Commonwealth, they had made certain exceptions in regard to matters which could be referred to the World Court. India was always prepared and, in fact, the Prime Minister of India had sent a number of invitations to the President of Pakistan for talks, but it was one thing for India to initiate talks and quite different to be made to talk under some mandate by the Security Council with a commitment to report back to it.

PART II

Other matters considered by the Council

Chapter 8

ADMISSION OF NEW MEMBERS

A. Application of Sierra Leone

At its 968th and 969th meetings on 26 September 1961, the Security Council considered the application for membership submitted by Sierra Leone on 27 April (S/4797), having agreed to give that application priority over those of Mauritania and Mongolia. A draft resolution (S/4951) was submitted at the 968th meeting by Ceylon, Liberia and the United Kingdom, which read as follows:

"The Security Council.

"Having examined the application of Sierra Leone for admission to the United Nations,

"Recommends the General Assembly to admit Sierra Leone to membership of the United Nations."

Decision: *The draft resolution submitted by Ceylon, Liberia and the United Kingdom of Great Britain and Northern Ireland (S/4951) was adopted unanimously.*

At the 969th meeting, the members of the Council made statements in connexion with the application and explained their votes.

B. Application of the Mongolian People's Republic and of the Islamic Republic of Mauritania

At the 968th meeting held on 26 September, the provisional agenda for the Security Council included the application for membership of Sierra Leone as well as the following sub-items: "Telegram dated 28 November 1960 from the Prime Minister of the Islamic Republic of Mauritania addressed to the Secretary-General (S/4563 and Corr.1)" and "Letter dated 3 December 1960 from the Deputy Permanent Representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/4569); letter dated 6 May 1961 from the Permanent Representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/4801)". The communications from the Soviet delegation requested inscription on the agenda of the question of the admission of the Mongolian People's Republic to membership in the United Nations. (For an account of previous discussion relating to those applications, see "Report of the Security Council to the General Assembly: 16 July 1960-15 July 1961", *General Assembly Official Records, Sixteenth Session, Supplement No. 2*, (pages 90-91).)

At the 968th meeting, the Council agreed that the application of Sierra Leone should constitute sub-item (a) of its agenda. The Council then voted on a proposal of the Soviet Union that the application of the Mongolian People's Republic should constitute sub-item (b), and rejected it by a vote of 4 in favour to

3 against (China, United Kingdom, United States), with 4 abstentions (Chile, Ecuador, France, Turkey). It then, by a vote of 8 to 2 (USSR, United Arab Republic), with 1 abstention (Ecuador), decided that the application of Mauritania should constitute sub-item (b). During the remainder of the meeting and at the 969th meeting, the Council dealt only with sub-item (a) of the agenda, which related to the application of Sierra Leone. At the 970th meeting, the representative of the USSR proposed that the application of the Mongolian People's Republic be considered before that of Mauritania, but the Council agreed to adjourn without taking a decision on the motion.

At the 971st meeting on 25 October, the President (the representative of Turkey), referring to a series of private consultations regarding the applications, suggested that, in accordance with the chronological order of their submission, the Council should take up first the application of the Mongolian People's Republic and, after concluding that part of the debate and voting, it should take up the application of the Islamic Republic of Mauritania. He thought it would be of great help to the proceedings if while discussing the first application the members would also briefly indicate their positions regarding the second.

The suggestions of the President were accepted by the Council. In accordance with their requests, the representatives of the Ivory Coast, Senegal and Morocco were invited to participate, without vote, in the discussion relating to the application of Mauritania.

Opening the debate on the application of Mongolia, the representative of the USSR noted the ancient history of the country and praised its great progress in recent years in the social, economic and cultural fields, its expanded diplomatic relations and its peace-loving foreign policy. He submitted a draft resolution (S/4950) which read as follows:

"The Security Council,

"Having examined the application of the Mongolian People's Republic for admission to membership in the United Nations,

"Recommends to the General Assembly that the Mongolian People's Republic be admitted to membership in the United Nations."

The representatives of Ceylon, Chile, Ecuador, France, Liberia, Turkey, the United Arab Republic and the United Kingdom expressed their support of the draft resolution. The representative of the United States of America declared that in the light of the Assembly's finding the previous April that Mongolia was qualified for membership, his delegation would do nothing to oppose it and would therefore abstain in the voting.

The representative of China charged that Mongolia had been for many centuries a member of the Chinese political family, until Tsarist Russia had induced some Mongolian princes to declare independence from China. The Soviet Government, in 1924, had recognized that outer Mongolia was an integral part of the Republic of China, but had quickly violated its Agreement when the so-called People's Republic of Mongolia was set up that year on the Russian Soviet pattern. Under the guise of independence, Mongolia had in fact, he asserted, been a colony of the Soviet Union during the past forty years. His delegation had therefore always opposed its admission to the United Nations, although it would have been glad to sponsor the admission of a really independent Mongolia. In response to the appeals of Mauritania and its friends in Africa and elsewhere, however, the Chinese delegation would not participate in the vote on the Mongolian application and exercise its right of veto, in order that no pretext could be seized upon by the Soviet Union to cause further delay in the admission of Mauritania.

Decision: *The USSR draft resolution (S/4950) was adopted by 9 votes to none, with 1 abstention (United States), and the delegation of China not participating.*

In connexion with the application of Mauritania, a joint draft resolution (S/4967) was submitted by the representatives of France and Liberia, reading as follows:

"The Security Council,

"Having considered the application of the Islamic Republic of Mauritania,

"Recommends that the General Assembly admit the Islamic Republic of Mauritania to membership in the United Nations."

The representative of France referred to previous debates in the Assembly and in the Council regarding the question of Mauritania and its admission and charged that for nearly a year various manoeuvres had sought unsuccessfully to obstruct its independence and its membership in the United Nations. He recalled General Assembly resolution 1602 (XV) which affirmed that Mauritania should be admitted to membership and the conviction expressed by twenty heads of African States meeting in Monrovia in May 1961 that Mauritania fulfilled all the necessary requirements for membership. He noted that the Republic had been recognized as an independent and sovereign State by sixty-five countries and was a member of a number of specialized agencies and regional organizations. Accordingly, he appealed for unanimous support of the draft resolution.

The representative of Liberia also urged that the Council act expeditiously, favourably and unanimously upon Mauritania's application. It was clear that Mauritania had the full capacity to fulfil its obligations to its citizens and to the world community and had clearly demonstrated that it qualified for membership under Article 4 of the Charter. It was a peace-loving State with demonstrated willingness and ability to carry out the obligations of the Charter. He also drew attention to the letter from President Tubman as Chairman of the Conference of African and Malagasy States.

Support for the draft resolution was expressed by the representatives of Chile, China, Ecuador, Turkey, the United Kingdom and the United States, as well as by two invited representatives, those of the Ivory Coast and of Senegal.

The representative of Morocco asserted to the Council that admission of Mauritania would not only constitute amputation of a part of Moroccan national territory, but would be contrary to the principles of the Charter and to international morality. Mauritania, he declared, had for centuries been an integral part of Morocco, and he was convinced that the solution imposed by French colonialism could never be a final one. The problem was indeed a colonial one, he charged, as France was endeavouring to set Mauritania up as a puppet State in order to maintain itself under new forms in that part of his country, to obtain strategic bases there and to exploit for its benefit the riches of the sub-soil. He appealed to the members of the Council not to raise by their votes a further obstacle to the achievement of the unity of the Moroccan country and people.

The representative of the United Arab Republic recalled the arguments advanced by his delegation during the Assembly's discussion of the Mauritanian question and stated that, having been convinced by the arguments advanced by the representative of Morocco, his delegation could not fail to support his viewpoint. While he could not support the request for the admission of Mauritania, he hoped that the problem would be resolved in accordance with the interests of all concerned.

The representative of the USSR considered that the arguments raised by Morocco were worthy of earnest consideration. His Government, while emphatically supporting justice for the colonial peoples, realized that the colonialists were engaging in various manoeuvres including dismemberment of the territory of their former colonies in the hope of retaining economic and political positions. Even under those circumstances, however, the granting of independence unleashed national forces bringing the former colonies closer to genuine independence. In the circumstances, therefore, his delegation would have to abstain during the vote.

Decision: *The draft resolution of France and Liberia (S/4967) was adopted by 9 votes to 1 (United Arab Republic), with 1 abstention (USSR).*

C. Application of Tanganyika

In a letter dated 9 December 1961 (S/5017), the Prime Minister of Tanganyika stated that Tanganyika, having on that date attained independence, wished to apply for United Nations membership. He attached a declaration to the effect that Tanganyika accepted the obligations contained in the Charter of the United Nations and solemnly undertook to fulfil them.

The Security Council considered the application of Tanganyika at its 986th meeting on 14 December. A joint draft resolution (S/5021) was submitted by Ceylon, Liberia, the United Arab Republic and the United Kingdom, which read as follows:

"The Security Council,

"Having examined the application of Tanganyika for admission to the United Nations,

"Recommends to the General Assembly to admit Tanganyika to membership of the United Nations."

Following statements by all its members endorsing the application, the Council proceeded to vote on the joint draft resolution.

Decision: *The draft resolution submitted by Ceylon, Liberia, the United Arab Republic and the United Kingdom (S/5021) was adopted unanimously.*

D. Application of Kuwait

In a letter dated 30 June 1961 (S/4852), the State Secretary of Kuwait submitted the application of Kuwait for membership in the United Nations. Accompanying the letter was a declaration signed by the Head of State of Kuwait stating that Kuwait accepted the obligations contained in the Charter and solemnly undertook to fulfil them.

In a letter dated 19 November (S/5001), the representative of the United Arab Republic requested the President of the Security Council to convene a meeting of the Council in order to consider the application submitted by Kuwait.

The Security Council considered the application at its 984th and 985th meetings, held on 30 November, having placed it on its agenda subject to an objection by the representative of USSR. In accordance with his request, the representative of Iraq was invited to participate without vote in the discussion of the question. The representative of the United Arab Republic submitted a draft resolution (S/5006) which read as follows:

"The Security Council,

"Having examined the application of Kuwait,

"Recommends to the General Assembly that Kuwait be admitted to membership in the United Nations."

He stated that in presenting his delegation's proposal, he was acting pursuant to a decision of the Arab League, of which Kuwait was a member, to support its candidacy for admission to the United Nations. He noted also that Kuwait had been recognized by sixty-two States as an independent and sovereign country, and that the presence of British troops that the Council had discussed earlier had come to an end.

Statements supporting the draft resolution of the United Arab Republic were made by the representatives of Chile, China, Ecuador, France, Liberia, Turkey, the United Kingdom and the United States, all of whom indicated their agreement that Kuwait was a sovereign and independent State fully qualified under the terms of the Charter for membership in the United Nations.

The representative of Ceylon stated that in the view of his delegation Kuwait had the necessary qualifications for admission to membership, according to the principles applicable in such cases.

The representative of Iraq submitted that under the terms of Article 4 of the Charter, the application of Kuwait should be rejected because Kuwait was not and had never been a State in the internationally accepted sense. He asserted that Kuwait had always been considered legally and historically an integral part of Iraq, which was already a Member, and a founding Member, of the United Nations. From time immemorial the territory had been a part of the southernmost area of ancient Mesopotamia, under the early Arab Islamic Caliphate formed the southern part of the province of Al-Iraq, and during the Ottoman Empire was part of the province of Basra. The Treaty of 1899, under which Britain claimed the rights and privileges of a protecting Power, was not, he charged, a legal instrument because the Sheik who signed it, as a local administrative official of the Ottoman Empire, had had no right whatsoever to enter into any commitment with any foreign Government. Finally, he argued that the

independence which Britain claimed to have granted Kuwait on 19 June 1961 was fictitious. The agreement which took the unusual form of an exchange of notes, contained a British undertaking to give unlimited and unconditional assistance to the Sheik if he so requested. He considered it inconceivable that a great Power extend such a blank cheque if it was not absolutely certain in advance that it alone would be able to determine the timing and extent of any request for assistance. In conclusion, he stressed the size and value of Kuwait's reserves of oil and charged that therein lay the real motives behind British policy in Kuwait and in the Persian Gulf in general.

The President, speaking as the representative of the USSR, suggested that the Council postpone examination of the admission of Kuwait to the United Nations, since in the existing situation his delegation considered it impossible to find a positive solution of the matter. He stressed that the formal withdrawal of British troops from Kuwait did not mean that Kuwait could be regarded as a genuinely independent State, inasmuch as the Sheik had officially stated that notwithstanding the arrival in Kuwait of the troops of the Arab countries, the agreement regarding the so-called defence of Kuwait by the United Kingdom remained unaffected. In the view of the Soviet Union, the actions of the United Kingdom could only be regarded as manoeuvres designed to cover up the fact that Kuwait continued to remain a British colony and a site for a British military base in the Middle East. Furthermore, he noted, there existed a difference of opinion among the Arab countries on the matter, and any decision on the admission of Kuwait to the United Nations would in fact prejudice the future course of that difference and would only benefit the imperialist Powers who were attempting to practice the well-known principle of "divide and rule".

The proposal of the USSR to postpone consideration of the matter was opposed by the representative of the United Arab Republic because he considered Kuwait fully qualified for Membership and because its admission was supported by the Arab League.

The representative of the United Kingdom also opposed the Soviet proposal and rejected the charges made by the representatives of Iraq and the Soviet Union on the nature of the relations between Kuwait and the United Kingdom. One of the attributes of an independent State, he pointed out, was the freedom to make its own defence arrangements, and consequently it was absurd to suggest that because of such an arrangement with the United Kingdom, Kuwait was not really independent. Such arrangements were allowed under Article 51 and 52 of the Charter. The Soviet Union itself had concluded defence agreements with a number of countries in Eastern Europe; The Soviet doctrine would appear to cast doubts on their independence and sovereignty. As for the differences between Arab countries which had been cited, he suggested that with only one exception, the members of the Arab League would probably not be convinced, but indeed might question the attitude of the Soviet Union to the effectiveness of the Arab League troops then in Kuwait to safeguard that country's independence. He pointed out that the independence of Kuwait was supported by the Arab States: its application to join the United Nations was sponsored by an Arab State and was supported by the Arab League.

The representative of the USSR regretted that his proposal for postponement had not been acceptable to

the representative of the United Arab Republic, since his delegation was compelled in the circumstances to vote against the latter's draft resolution. It had hoped that a postponement of the matter would have permitted a further opportunity to try to reach a reasonable decision based on the interests of all Arab peoples struggling for independence.

The representative of the USSR having formally submitted his proposal for postponement under rule 33, paragraph 5, of the provisional Rules of Procedure of the Council, the Council then proceeded to vote on that motion.

Decision: *The USSR motion received 1 vote in favour (USSR) to none against with 10 abstentions, and was rejected since it did not receive the required 7 votes.*

The Council then proceeded to vote on the draft resolution (S/5006) submitted by the United Arab Republic.

Decision: *The draft resolution received 10 votes in favour to 1 against (USSR), and was not adopted owing to the negative vote of a permanent member of the Council.*

E. Application of the Republic of Rwanda

In letters dated 27 June and 1 July 1962 (S/5137 and Add.1) addressed to the Secretary-General, the Minister for Foreign Affairs of the Republic of Rwanda

submitted the application of the Rwandese State for admission to membership in the United Nations. He solemnly declared on behalf of the Government of Rwanda that it accepted without reservation the obligations contained in the Charter of the United Nations, and that it was able to carry them out and undertook to abide by them conscientiously and loyally. The President of the Republic, in a telegram dated 2 July (S/5137/Add.2), formally confirmed the request made by the Minister for Foreign Affairs and reiterated the declaration of acceptance of the obligations contained in the Charter.

F. Application of the Kingdom of Burundi

In a telegram and a letter dated 4 July 1962 (S/5139 and Add.1), addressed to the Secretary-General, the Prime Minister of the Kingdom of Burundi submitted the application of the Kingdom of Burundi for admission to membership in the United Nations. He recalled the resolution adopted by the General Assembly on 27 June that when Burundi became independent it should be admitted as a Member of the United Nations, and noted that in pursuance of the agreement between Belgium and the United Nations, Burundi had become independent on 1 July. He further declared on behalf of the Government of the State of Burundi that it accepted the obligations contained in the Charter of the United Nations, was able to carry them out, and solemnly undertook to comply with them faithfully and conscientiously.

Chapter 9

RECOMMENDATION FOR THE APPOINTMENT OF THE ACTING SECRETARY-GENERAL

At its 972nd meeting, held in private on 3 November 1961, the Security Council considered the question of the recommendation for the appointment of the Acting Secretary-General of the United Nations. The Council unanimously adopted the following resolution:

"The Security Council,

"Having considered the problem of filling the office of the Secretary-General for the term fixed by the General Assembly, expiring 10 April 1963,

"Recommends that the General Assembly appoint Ambassador U Thant as Acting Secretary-General of the United Nations for the unexpired portion of the term previously fixed by the General Assembly."

The President of the Security Council transmitted the Council's recommendation to the President of the General Assembly in a letter dated 3 November. At the same time he addressed a letter to Ambassador U Thant informing him of the Council's recommendation and expressing the earnest hope of the members of the Council that he would be willing to accept the appointment and to devote his great talents to the tasks before the United Nations Secretariat under the terms of the Charter, should the General Assembly proceed with the appointment, as the members of the Council hoped and expected.

PART III
The Military Staff Committee

Chapter 10

WORK OF THE MILITARY STAFF COMMITTEE

The Military Staff Committee has been functioning continuously under the draft rules of procedure during the period under review and has held a total of twenty-six meetings without making further progress on matters of substance.

PART IV

Matters submitted to the Security Council which were not admitted to its agenda

Chapter 11

LETTER DATED 25 JANUARY 1962 FROM THE PERMANENT REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE PRESIDENT OF THE SECURITY COUNCIL

In a letter to the President of the Security Council dated 25 January 1962 (S/5064), the permanent representative of the USSR stated that the Council's resolution of 24 November on the question of the Congo was not being carried into effect because of the direct opposition of certain colonial Powers with interests in Katanga. Despite the Council's call for vigorous action to expel all foreign mercenaries, the United Nations had completely halted military operations, regardless of the fact that, as was stated in the report of the Officer-in-Charge of the United Nations Operation in the Congo dated 20 January (S/5053/Add.1), no positive measures had been taken by the Katanga provincial authorities to facilitate the implementation of the resolutions of 21 February and 24 November. Tshombé—the protégé of the foreign monopolies—was still working towards the secession of Katanga. While "negotiations" were being carried on with him, armed bands of mercenaries remained at his disposal and he was being given a chance to obtain more arms and men from countries which had no scruples about openly violating the Council's decisions. The efforts of the Central Government were being directly sabotaged by outside forces. There was an obvious agreement among the colonial powers to continue to undermine the unity of the Congo. In view of those circumstances, the USSR requested an urgent meeting of the Council to consider the implementation of the resolution of 24 November.

In a cable to the President of the Council dated 28 January (S/5066), the Prime Minister of the Congo, referring to the USSR request for a meeting of the Council, expressed regret that such action had been taken by a friendly Government without consulting the legal Government of the Congo. In his view, a meeting could only create confusion and damage the interests of the Congolese people.

In a telegram dated 29 January (S/5069), the Chairman of the Conference of Heads of African and Malagasy States, meeting at Lagos, urged the President of the Security Council to restrain the Council from taking

any action likely to jeopardize the present good prospects for a solution of the Congo problem.

On 30 January, the Council held its 989th meeting, for which the provisional agenda was as follows:

1. Adoption of the agenda
2. Letter dated 13 July 1960 from the Secretary-General of the United Nations addressed to the President of the Security Council (S/4381):

Letter dated 25 January 1962 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/5064)

Speaking before the adoption of the agenda, the representative of the United States moved the adjournment of the meeting under rule 33 of the provisional Rules of Procedure. The meeting was not, he said, desired by anyone who supported the United Nations operation in the Congo or by the Central Government of the Congo, whose position had been stated in the Prime Minister's telegram (S/5066) of 29 January.

The President stated that under rule 33 the motion for simple adjournment should be put to the vote without further debate.

The representative of the USSR expressed concern at the attempts to block discussion. The motion to adjourn had been made, not because debate would not be in the interests of the Central Government, but because discussion would not suit the purposes of the United States. He challenged the President's ruling that the motion to adjourn should be put to the vote without further debate, and the challenge was put to the vote.

Decision: *The ruling was upheld by 7 votes to 2 (Romania, USSR), with 2 abstentions (Ghana, United Arab Republic).*

Decision: *The motion to adjourn was adopted by 7 votes to 2 (Romania, USSR), with 2 abstentions (Ghana, United Arab Republic).*

Chapter 12

LETTER DATED 22 FEBRUARY 1962 FROM THE PERMANENT REPRESENTATIVE OF CUBA ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In a letter dated 22 February 1962 (S/5080), the representative of Cuba stated that the United States had promoted the adoption of enforcement action within and outside the Organization of American States (OAS) as a prelude to the large-scale invasion of

Cuba. The United States had succeeded in inducing the Council of the OAS to call a Meeting of Consultation of the Ministers of Foreign Affairs of the American Republics, which had been held at Punta del Este, Uruguay. At the Meeting, the United States had

demanding and obtained the exclusion of Cuba from the inter-American system and the adoption of enforcement measures of an economic nature against Cuba, which were at variance with the United Nations Charter, the Charter of the OAS, and the Inter-American Treaty of Reciprocal Assistance. Those measures had been taken without the authorization of the Security Council and their implementation had led to further violations of the United Nations Charter, including Article 53.

In furtherance of its unlawful activities, the United States had decreed a total embargo on trade with Cuba and was putting pressure on countries outside the inter-American system to join with it in the application of economic sanctions. The representative of Cuba, under Articles 34, 35 (1), 24 (1), 41, 52, 53 and 103 of the United Nations Charter, requested an immediate meeting of the Council to adopt the necessary measures to end the illegal action of the United States and to prevent the development of a situation which endangered international peace and security.

The Council considered the question of including the item on its agenda at its 991st meeting on 27 February 1962.

The representative of the United Kingdom observed that there should be a predisposition on the part of the Council in favour of inscribing any complaint brought before it and of giving full hearing to the complainant. However, each case ought to be examined on its own merits, for it would not be right to adopt the agenda automatically and allow the authority of the Council to be used for purely propaganda exercise. If the purpose of the Cuban letter was to preface a complaint of aggression by the United States, the General Assembly had, on 20 February 1962, disposed of such a complaint by Cuba. There was no valid justification, therefore, for reopening the same debate in the Security Council. If another possible purpose in the Cuban letter was to seek a ruling upon the relationship of the Council to actions taken by regional organizations, the Council had already given full consideration to precisely that issue, in September 1960, in connexion with the action which had been taken by the OAS regarding the Dominican Republic. The resolution then adopted by the Security Council had simply taken note of the actions of the OAS, indicating clearly that the approval or disapproval of the Council was neither necessary nor appropriate. Nothing had happened since September 1960 which would lead the Council to reverse its decision. His delegation doubted the value of a new debate and, accordingly, requested that the question of the adoption of the agenda be put to the vote.

The representative of Chile stated that the problem brought by Cuba to the Security Council was essentially the same as that which had been considered by the General Assembly. The Assembly had not considered that the substance of the problem called for any resolution or recommendation to Member States or to the Security Council. He wished to make it clear that the doubts of his delegation as to the benefits of a new debate in no way changed the traditional position of Chile that any Member State should be allowed to bring its problems to the Security Council.

As regards the juridical relationship between the OAS and the United Nations, the Security Council, in September 1960, had given a decision on the question.

The representative of Ghana, in support of the adoption of the agenda, stated that the Council was

duty bound to grant a hearing to a Member which had submitted a complaint under Article 35 (1). Furthermore, under the General Assembly resolution 1301 (XIII), all States had the right, while making full use of Article 33 of the Charter, to resort to the Organization for the peaceful solution of problems which interfered with neighbourly relations and threatened international peace.

The representative of the USSR stated that the attempts which were being made to prevent the inclusion of the item in the Council's agenda were based on arguments that lacked foundation. The Cuban complaint to the Security Council, he said, was different from that which had been discussed by the General Assembly because it charged that the United States did not stop at unilateral aggression and interference in Cuba's domestic affairs, but was using the OAS to further its aggressive intentions against Cuba. In the present instance, the United States was violating Article 53 of the United Nations Charter by foisting upon the OAS enforcement measures against Cuba which that Organization was unable to take without the authorization of the Security Council.

Although the Security Council had discussed the question of the relationship between the OAS and the United Nations in connexion with the Dominican Republic, it could not be argued that the two questions were the same, and that nothing had happened since September 1960. The intervention in Cuba in 1961 and the Punta del Este meeting were new developments which made a further debate by the Council necessary. The attempt by the United States to convert the OAS into an instrument of its aggressive policy deserved the most serious attention because it led to a change in the political situation and constituted a threat to peace. The reason for the objections raised to the adoption of the agenda was the fear of the United States and its allies to expose the unlawful actions of the United States connected with the decisions of the OAS. The violation of the United Nations Charter by those actions, if tolerated by the Council, would lead to direct aggression against Cuba. The Council should examine the Cuban complaint and should invite the representative of Cuba to participate in the discussion of the adoption of the agenda.

The representative of the United Arab Republic, in support of the adoption of the agenda, declared that, under the United Nations Charter, a Member State could not be denied the right of access to the Security Council and the opportunity for the fullest discussion of a complaint submitted by that State.

The representative of Venezuela observed that the General Assembly, in not adopting a resolution, had considered that the Cuban complaint was unfounded. As regards the Cuban claim that the decisions taken by the OAS at Punta del Este required the approval of the Security Council, his delegation in September 1960, had maintained that approval by the Council was necessary in the case of measures implying the use of force.

The representative of Romania maintained that the objections raised by some members of the Council were designed to prevent the other members of the Security Council from stating their position on the question. Such an attitude violated not only the democratic principles which governed the United Nations, but also the rights of Member States under Articles 34 and 35 of the Charter. He considered that the Council must examine the resolutions adopted at Punta del Este in

order to ascertain their legality in the light of the United Nations Charter as well as the consequences that those decisions might have for international peace and security.

The representative of China stated that the issues involved in the question raised by Cuba had been repeatedly discussed in the Security Council and the General Assembly. The Cuban charges had been without foundation and had been rejected. Under Article 52 of the United Nations Charter, the OAS was fully competent to deal with regional matters relating to the maintenance of international peace and security. For those reasons he could not support the adoption of the provisional agenda.

The President, speaking as the representative of the United States, stressed that the Cuban charges had been considered thoroughly and rejected by the General Assembly. The Cuban letter was merely a diversionary attempt to create the erroneous impression that there might be a reason for the Council to go over the ground already covered by the General Assembly. He added that, in September 1960, in connexion with the question of the Dominican Republic, the Security Council had rejected the contention that decisions taken by the OAS required the authorization of the Security Council under Article 53 of the United Nations Charter. Although his Government believed in the principle that all nations deserved a hearing in the United Nations, it could not agree to the use of the Organization for a cold-war propaganda exercise.

The President informed the Council that the representative of Cuba had requested, under rule 37 of the Provisional Rules of Procedure, to participate in the discussion of the proposed item. He had also indicated his desire to participate in the discussion of the adoption of the agenda. The President noted that it had been the practice of the Council that matters of procedure should be decided without the participation of non-members of the Council. He recalled that there had been recent cases in which the Council had refused requests by non-members to participate in the discussion of the adoption of the agenda, and in that connexion cited the requests by South Africa in 1960, and by Portugal in 1961. He stated that should any member of the Council wish to propose the seating of the representative of Cuba for that purpose, he would put the question for the decision of the Council.

The representative of the USSR, speaking on the question of invitation, stated that the requirements of rule 37 of the Provisional Rules of Procedure had been met; the interests of Cuba were specifically affected by the matter, and the Cuban complaint had referred to Article 35 (1) of the United Nations Charter. Therefore, the Council, under rule 37, could decide to invite the representative of Cuba to participate in the consideration of the question as well as in the discussion of the adoption of the agenda. There had been instances wherein the Council had refused to extend invitations to non-members of the Council to participate in the discussion of procedural questions. However, in connexion with the discussion of the Congo question, the representative of Yugoslavia, a non-member of the Council, had been permitted to participate in the discussion of an invitation to another non-member. He proposed that the question of an invitation to Cuba

to participate in the discussion of the adoption of the agenda be put to the vote.

The representative of France stated that it had been the practice of the Council to invite non-members to the Council table after the agenda had been adopted. The Council had interpreted that rule of procedure strictly, and the exception cited by the USSR representative had been made in error which the President of the Council had realized at the time. The participation of the representative of Cuba in a discussion of the adoption of the agenda would be clearly contrary to the rules of the Council.

The representative of the United Arab Republic recalled that, in connexion with the Kashmir question in January 1948, when the Council was discussing a change in the title of the item, the President (Belgium) had proposed that the representative of India and Pakistan should be invited, as an exception, to participate in the discussion. The President's proposal had been adopted without objection.

Decisions: *The USSR motion to invite the representative of Cuba to participate, without vote, in the discussion of the adoption of the agenda, was not adopted. There were 4 votes in favour (Ghana, Romania, USSR, United Arab Republic) to none against, with 7 abstentions. The provisional agenda was then put to the vote and not adopted. There were 4 votes in favour (Ghana, Romania, USSR, United Arab Republic) to none against, with 7 abstentions.*

In a letter dated 2 March 1962 (S/5083) addressed to the President of the Security Council, the representative of Cuba stated that at the 991st meeting of the Security Council on 22 February 1962, Cuba had been deprived of its right, under Article 35 of the United Nations Charter, to submit to the consideration of the Council a situation which created a serious threat to peace. The allegations by some members of the Council that Cuba was submitting a question which had already been considered by the General Assembly were not consonant with the facts. The item before the Assembly was not concerned with the Punta del Este meeting which had been held subsequent to the submission of the item to the Assembly.

The allegation that a precedent had already been established in the Council with respect to the score of Article 53 was inadmissible because the existence or absence of a precedent was no reason for refusing to discuss a case which was necessarily different from previous or future cases.

Furthermore, the fact that the Council had taken note of the matter in connexion with the Dominican Republic must be interpreted as approval by the Council of the actions which the regional agency had taken as actions under Article 53 of the Charter. Moreover, in the case of Cuba, the measures which had been taken by the regional organization violated, among other provisions, Article 52 of the Charter, for the compliance of which the Council was responsible. It was a dangerous precedent and an infringement of the Council's authority for a group of Member States to prejudge a complaint and prevent the consideration of a matter which was clearly within the competence of the Council.

PART V

Matters brought to the attention of the Security Council but not discussed in the Council

Chapter 13

COMMUNICATIONS RELATING TO THE SITUATION IN SOUTH WEST AFRICA

In a telegram dated 5 July 1961 (S/4854), addressed to the Secretary-General, the Chairman of the Committee on South West Africa stated that the explosive situation resulting from the attitude of the Government of the Republic of South Africa had prevented the Committee from entering the territory to investigate the prevailing situation there. The Chairman urged that Member States and organs of the United Nations concerned should be notified immediately of the imminent threat which the degenerating situation in South West Africa posed for international peace and security, in order that timely international action might be taken to put an end to that explosive situation.

In another telegram, dated 25 July 1961 (S/4889), addressed to the President of the Security Council, the Chairman of the Committee referred to General Assembly resolutions 1568 (XV) and 1596 (XV), and called the attention of the Council to further developments which had prevented the Committee from fully implementing those resolutions. He stated that because the Government of the Republic of South Africa had prevented the Committee from entering the mandated territory, the Committee was convinced that it would be able to implement fully those resolutions only with the support of the Security Council. The Committee found that the situation continued to be a grave threat

to international peace and security, and considered it urgent that the Council be convened in order to take immediate action.

In a memorandum (S/4889/Add.1) submitted to the Security Council on 25 July, the Committee stated that it had been informed that the Government of the Republic of South Africa would be obliged to prevent the entry of the Committee to South West Africa. The Government of the United Kingdom had indicated that it would be unable to provide the Committee with facilities to enter Bechuanaland, unless the Committee would confirm that it did not intend to enter South West Africa without the permission of the South African Government. Consequently, the Committee had been prevented from discharging its task in Bechuanaland. The Committee further stated that, from the testimony of political refugees from the mandated territory and of other petitioners, the Committee was convinced that the continuing application of the apartheid policy in South West Africa and the continued defiance by the South African Government of the authority of the United Nations over the mandated territory had created such a tense situation that only intervention by the United Nations could prevent armed racial conflict in Africa.

Chapter 14

THE SITUATION IN ANGOLA

Letter dated 19 July 1961 from the Permanent Representatives of Afghanistan, Burma, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Leopoldville), Cyprus, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Ivory Coast, Jordan, Laos, Lebanon, Liberia, Libya, Madagascar, Mali, Morocco, Nepal, Nigeria, Pakistan, Saudi Arabia, Senegal, Somalia, Sudan, Togo, Tunisia, United Arab Republic, Upper Volta, and Yemen, addressed to the Secretary-General

In a letter dated 19 July 1961 (S/4891), the thirty-nine signatory Member States drew the attention of the Secretary-General to the fact that Portugal had not paid the slightest heed to the categorical resolutions of the General Assembly and of the Security Council on the situation in Angola. The situation had become infinitely more serious and endangered international peace and security. The signatories reserved their right to request, on an emergency basis, effective remedial action by the Security Council and/or the General Assembly.

Chapter 15

COMMUNICATIONS RELATING TO THE QUESTION OF KUWAIT

In a letter dated 26 July 1961 (S/4892), the Permanent Representative of Iraq informed the President

of the Council that three British soldiers in a reconnaissance armoured car had been apprehended by the

Iraqi authorities inside Iraqi territory at Safnan. The soldiers appeared to have been sent from Kuwait on a military mission. His Government had demanded that the Government of the United Kingdom put an end to such provocative acts which could only increase tension and threaten peace in the area.

In a letter dated 1 August (S/4914) to the President of the Council, the Permanent Representative of the United Kingdom stated that the incident to which the representative of Iraq referred in his letter of 26 July had occurred as a result of the three soldiers losing their way while on legitimate duties in the featureless area of Kuwait adjoining the undemarcated frontier with Iraq. The United Kingdom had requested that the men and the vehicle be returned to Kuwait.

In a cable dated 9 August 1961 (S/4921), the State Secretary of Kuwait drew the attention of the President of the Council to the repeated statements recently made by the Prime Minister of Iraq threatening the annexation of Kuwait.

In a letter dated 14 August (S/4925) to the President of the Council, the representative of Iraq reiterated his country's declared policy of using peaceful and legitimate means to regain its rights in Kuwait, and expressed his Government's strong reservations on the circulation of a cable emanating from a private individual, with no recognized status at the United Nations.

In a cable dated 22 October (S/4966), the President of the Department of Foreign Affairs of Kuwait informed the President of the Council that the withdrawal of the British forces from Kuwait territory had been completed on 19 October, and that the Arab League forces had replaced the British forces in safeguarding the independence and sovereignty of the State of Kuwait.

In a *note verbale* dated 13 September (S/5007), the Secretary-General of the League of Arab States transmitted to the United Nations the texts of letters exchanged on 12 August 1961 between the Prince of the State of Kuwait and the Secretary-General of the Arab League concerning the status of the Arab League security forces in Kuwait.

In a cable dated 4 December (S/5011), the Minister of Foreign Affairs of Kuwait drew the attention of the President of the Council to the repeated recent statements by the Prime Minister of Iraq threatening the annexation of Kuwait by force.

In a letter dated 7 December (S/5014) to the President of the Council, the Permanent Representative of Iraq expressed the strongest reservations concerning the circulation of a cable dated 4 December emanating from an individual with no recognized status at the United Nations. He further stated that the allegations contained in that cable were distortions and fabrications.

In a cable dated 28 December (S/5043), the Minister for Foreign Affairs of Iraq drew the attention of the President of the Council to the statement by the British Ministry of Defence on 26 December announcing military precautionary measures which were said to have been taken because of the tension in the Middle East during the Christmas season. Such measures were disturbing peace in the region and threatening the security of Iraq.

In a cable dated 28 December (S/5044), the Foreign Minister of Kuwait drew the attention of the President of the Council to the continued threatening statements concerning Kuwait by the Prime Minister and Foreign Minister of Iraq and to the daily press and radio campaigns in Iraq and the concentration of military forces.

Chapter 16

PROGRESS REPORT OF THE SUB-COMMITTEE ON THE SITUATION IN ANGOLA

On 27 July 1961, the Chairman of the Sub-Committee on the Situation in Angola, in pursuance of Security Council resolution S/4835, submitted a report (S/4898) to the Council on the organization and the progress of the work of the Sub-Committee and on the conversations which he had held in Lisbon with the Prime Minister and the Minister for Foreign Affairs of Portugal.

Chapter 17

COMMUNICATIONS FROM THE PERMANENT REPRESENTATIVE OF CUBA

In a letter dated 28 July 1961, (S/4906), the representative of Cuba informed the President of the Security Council that a serious threat to international peace had arisen from imminent military aggression by the United States against Cuba on the pretext that a United States Electra aircraft of Eastern Air Lines Company had been diverted from its course by a passenger and was subject to attachment in Cuba through judicial proceedings instituted by a party concerned. The representative of Cuba declared that his Government was not involved in any way in the incident, and that the aircraft had remained in Cuba as a result of a claim entered in due and proper form. The hysterical

propaganda regarding the legal retention of the aircraft which had been stirred up in the United States was part of the United States' imperialist strategy which had been repeatedly denounced by Cuba in the United Nations. In view of the circumstances, his Government had decided to place the aircraft within the jurisdiction of the Council to take whatever action it might deem proper, and it had requested the party concerned to withdraw its claim.

In another communication dated 4 August (S/4916), the representative of Cuba, having drawn the attention of the Council to the letter of 28 July (S/4906), stated that a further hysterical campaign of war-mongering

had broken out in the United States in connexion with the supposed or actual seizure of a Boeing 707 aircraft of Continental Air Lines by two criminals of United States nationality. Members of the United States Congress, in accordance with pre-arranged strategy, had made threatening statements which bordered on an ultimatum and a threat of war. The manner in which the latest incident had been used as pretext for military aggression by the United States against Cuba confirmed

that the denunciation by Cuba of the previous incident was both justified and timely. He stated that his Government reaffirmed that it had no connexion whatever with those incidents despite the tendentious attempts to involve it. He requested the Security Council that appropriate steps be taken to avoid repetitions of those incidents, and that the Council reply to the decision of the Cuban Government to place the return of the Electra aircraft within the jurisdiction of the Council.

Chapter 18

RESUMED MEMBERSHIP OF THE SYRIAN ARAB REPUBLIC

In a cable dated 8 October 1961 (A/4914; S/4958), addressed to the President of the General Assembly,^a the Prime Minister and Minister for Foreign Affairs of the Syrian Arab Republic requested that the United Nations take note of the resumed membership of the Syrian Arab Republic in the United Nations.

^aThe original cable was addressed to the President of the General Assembly with the request that it be communicated to all Member States, and to the principal and subsidiary organs of the United Nations. In an earlier cable (A/4913; S/4957), the Prime Minister and Minister for Foreign Affairs of the Syrian Arab Republic had informed the President of the General Assembly of his appointment, had declared the firm adherence of his Government to the principles of the United Nations, and of its desire to conduct its international relations on the basis of justice and peace.

Chapter 19

COMMUNICATION CONCERNING THE TUNISIAN-ALGERIAN FRONTIER

In a letter dated 24 November 1961 (S/5000), addressed to the President of the Security Council, the Permanent Representative of Tunisia stated that, on 22 November 1961, the French forces had subjected the Tunisian frontier posts between Ain Draham and Tabarka to heavy artillery fire, and that a French armoured formation had entered Tunisian territory and attacked in particular the Roui post 200 metres from the frontier. Tunisian installations had caught fire from French armoured artillery operating from Algerian territory, two Tunisian soldiers had been killed, and four soldiers seriously wounded. On the same day, the French air force had bombed the El-Hamma post, with only material damage sustained. Tunisia drew the attention of the Security Council to the gravity of the attacks to which these frontiers were constantly subjected by French troops stationed in Algeria.

Chapter 20

COMMUNICATIONS FROM SENEGAL AND PORTUGAL

In a cable dated 22 December 1961 (S/5039), addressed to the President of the Security Council, the Foreign Minister of Senegal stated that on 16 December 1961 units of Portuguese army based in so-called Portuguese Guinea had penetrated the village of Bak-kakapatapa and created panic among the Senegalese population, that on 21 December 1961 two Portuguese jet fighters had flown over the Senegalese region of Ouassou at a low level, and that on the same day, motorized columns of the Portuguese army pursuing deserters had trespassed Senegalese territory. Senegal drew the attention of the Security Council to the provocative nature of those acts, and expressed its firm determination to defend its people and territorial integrity.

In a letter dated 9 January 1962 (S/5055), addressed to the President of the Security Council, the Permanent Representative of Portugal, having referred to

Senegal's communication of 22 December, stated that Senegal's allegation regarding the trespassing by motorized units of the Portuguese army was untrue. He indicated that, due to an error in the route, a Portuguese reconnaissance patrol, on 16 December, had crossed to Senegalese territory, but after the patrol had been shown the correct route, it had immediately returned to Portuguese territory. No panic had been caused among the local population. With regard to the Portuguese jet fighter in Senegalese air space, it was explained that that had been caused by a technical error in navigation, but that the overflight had not exceeded thirty seconds. The Portuguese Government regretted these incidents, but it noted the intention of the Senegalese Government to create an atmosphere of imaginary hostility directed against a Portuguese territory whose peace and order had only been altered at the borders by reason of subversive activities which had been prepared and fomented in the neighbouring territories.

Chapter 21

LETTER DATED 8 JANUARY 1962 FROM THE SECRETARY-GENERAL OF THE ORGANIZATION OF AMERICAN STATES ADDRESSED TO THE ACTING SECRETARY-GENERAL OF THE UNITED NATIONS

In a letter dated 8 January 1962 (S/5130), the Secretary-General of the Organization of American States transmitted to the Security Council, in accordance with Article 54 of the United Nations Charter, the text of a resolution adopted by the Council of the Organization of American States on 4 January 1962, on the implementation of resolution 1 of the Sixth Meeting of Consultation of Ministers of Foreign Affairs regarding the Dominican Republic. The resolution stated that the Council of the OAS, having considered that the Government of the Dominican Republic was no longer a danger to the peace and security of the Hemisphere, resolved to cancel the diplomatic and economic measures which had been agreed upon by the Sixth Meeting of Consultation of Ministers of Foreign Affairs in operative paragraph 1 of resolution 1 and those agreed upon by the Council of the OAS in its resolution of 4 January 1961. The Secretary-General of the OAS also transmitted to the Security Council the reports which had been submitted to the Council of the OAS by its Special Committee and Sub-Committee on this question.

Chapter 22

COMMUNICATION CONCERNING THE QUESTION OF RACE CONFLICT IN SOUTH AFRICA

In a letter dated 10 January 1962 (S/5056), the Acting Secretary-General transmitted to the Security Council the text of General Assembly resolution 1663 (XVI) of 28 November 1961 concerning the "Question of race conflict in South Africa resulting from the *apartheid* policies of the Government of South Africa."

The Acting Secretary-General drew attention in particular to paragraph 4 of the resolution which had called the attention of the Security Council to the provision of Article 11, paragraph 3, of the Charter.

Chapter 23

REPORT ON THE STRATEGIC TRUST TERRITORY OF THE PACIFIC ISLANDS

In a note dated 24 May 1962 (S/5125), the Acting Secretary-General transmitted to the Security Council the report (S/4890) received from the Government of the United States on the administration of the Trust Territory of the Pacific Islands for the period from 1 July 1960 to 30 June 1961.

Chapter 24

COMMUNICATIONS CONCERNING WEST IRIAN (WEST NEW GUINEA)

By a letter dated 18 January 1962 (S/5062) addressed to the Acting Secretary-General, the representative of the Netherlands gave details of a naval clash off West New Guinea coast which he described as an armed attack by Indonesia. He reiterated his Government's earlier suggestion that the Secretary-General might send observers or personal representatives to West New Guinea. In another letter dated 16 May (S/5123), the Prime Minister of the Netherlands stated that Indonesia had landed more parachutists on West New Guinea and had continued its aggressive acts. He requested the Acting Secretary-General to make an appeal to Indonesia reminding it of its primary obligations under the Charter of the United Nations and to refrain from all aggressive acts against the territory and the people of West New Guinea. He also assured the Secretary-General that the Netherlands'

presence in New Guinea was of a temporary nature and that his Government was prepared to give its fullest co-operation to the Secretary-General's efforts to find for the inhabitants of West New Guinea an honest and just solution on the basis of Article 73 of the Charter, and the General Assembly resolutions on the question of colonialism.

In a letter dated 22 May (S/5124), in reply to the communication received by him from the Prime Minister of the Netherlands, the Acting Secretary-General stated that while he was concerned about developments in the area around West New Guinea and had appealed already to the parties concerned to exercise the utmost restraint, he could not accept the Netherlands' suggestion to approach Indonesia with an appeal which would imply that he was taking sides in the controversy which he believed would not be in the best interests of all

concerned. He felt, however, that a situation had arisen where it appeared appropriate to appeal both to the Government of the Netherlands and that of the Republic of Indonesia to refrain from all aggressive action, both in view of their obligations under the Charter and in order not to jeopardize the efforts that were then being made by Ambassador Bunker. As regards the suggestion that the Acting Secretary-General should send observers to the region to take note of the situation, he wished to inform the Netherlands Government that he could consider such a move only if a request were made to him by both parties.

By another letter dated 23 May (S/5126), the representative of the Netherlands stated that since his Prime Minister's letter of 16 May (S/5123) new military developments had occurred in the area of West New Guinea. On 17 May an Indonesian Dakota had been shot down by the Netherlands anti-aircraft defences near Fak Fak. The crew of the Dakota stated that they, together with another Dakota, had dropped a number of parachutists north east of Kaimana. On the following day, more parachutists were dropped. The Netherlands military authorities had taken necessary counter-measures to locate and capture these invaders. Information given by the prisoners and documents seized showed that the Indonesians involved in those landings were members of the regular Indonesian military forces.

By a letter dated 25 May (S/5128), the representative of Indonesia transmitted a letter from the Deputy

Chief Minister and Minister of Foreign Affairs of the Republic of Indonesia to the Acting Secretary-General. The Deputy Chief Minister, having referred to the letter of the Prime Minister of the Netherlands (S/5123), stated that the Netherlands had based its charges on a false premise, since West Irian was an integral part of the Republic of Indonesia which was under the illegal occupation of the Netherlands. Therefore, the reported landings of Indonesians in the territory of West Irian could not be termed an act of aggression because the Indonesians were merely entering into their own territory. In that respect, the Indonesia armed forces had only done their duty by giving full protection to the Indonesian nationalists. Similarly, the sinking of the Indonesian MTB and the recent shooting down of an unarmed Indonesian Dakota by the Dutch were clear examples of Dutch aggression. Since West Irian was already a part of Indonesia, Article 73 of the United Nations Charter, and General Assembly resolution 1514 (XV) could not be applied to that territory. By the same letter, Indonesia reiterated its appreciation of the Acting Secretary-General's endeavours to help reach a peaceful solution of the West Irian question.

By another letter dated 25 June (S/5135), the representative of the Netherlands informed the Acting Secretary-General that Indonesia had again dropped parachutists on Netherlands West New Guinea and that his Government had taken further steps to meet the situation created by the new landing of Indonesian parachutists.

Chapter 25

LETTER DATED 7 DECEMBER 1961 FROM THE PERMANENT REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In a letter dated 7 December 1961 (S/5013),⁴ the representative of the USSR drew the attention of the President of the Security Council to communications which had been sent by the Secretary-General of the Organization of American States (OAS) informing the Council of the measures which had been taken by that Organization with regard to the application of diplomatic and economic sanctions against the Dominican Republic (S/4476, S/4628 and S/4647). The representative of the USSR noted that, since the OAS was still concerned with the above question and in view of Articles 53 and 54 of the Charter, it was essential that the Council should be given full information on the activities of the OAS in that connexion without delay.

⁴ See also part I, chapter 4.

APPENDICES

I. Representatives and deputy, alternate and acting representatives accredited to the Security Council

The following representatives and deputy, alternate and acting representatives were accredited to the Security Council during the period covered by the present report:

<i>Ceylon^a</i> Prof. Gunapala Piyasena Malalasekera Mr. H. O. Wijegoonawardena	<i>Liberia^a</i> Mr. Nathan Barnes Mr. Christie W. Doe Mr. Martinus L. Johnson
<i>Chile</i> Mr. Daniel Schweitzer Mr. Humberto Diaz-Casanueva	<i>Romania^b</i> Prof. Mihail Haseganu Mr. Corneliu Bogdan
<i>China</i> Dr. Tingfu F. Tsiang Mr. Liu Chieh Mr. Yu Chi Hsueh Dr. Chun-Ming Chang	<i>Turkey^a</i> Mr. Turgut Menemencioglu Mr. Sadi Eldem
<i>Ecuador^a</i> Dr. Leopoldo Benites Dr. Pericles Gallegos	<i>Union of Soviet Socialist Republics</i> Mr. Valerian Aleksandrovich Zorin Mr. Platon Dmitrievich Morozov
<i>France</i> Mr. Armand Bérard Mr. Pierre Millet Mr. Louis Dauge	<i>United Arab Republic</i> Mr. Omar Loutfi Mr. Mahmoud Riad Mr. Rafik Asha Mr. Farid Chehlaoui Mr. Mohamed H. El-Zayyat
<i>Ghana^b</i> Mr. Alex Quaison-Sackey Mr. Kenneth K. S. Dadzie	<i>United Kingdom of Great Britain and Northern Ireland</i> Sir Patrick Dean Mr. C. T. Crowe Mr. A. H. Campbell
<i>Ireland^b</i> Mr. Frederick H. Boland Mr. Tadhg O'Sullivan	<i>United States of America</i> Mr. Adlai E. Stevenson Mr. Francis T. P. Plimpton Mr. Charles W. Yost
	<i>Venezuela^b</i> Dr. Carlos Sosa Rodriguez Dr. Tulio Alvarado

^a Term of office ended on 31 December 1961.

^b Term of office began on 1 January 1962.

II. Presidents of the Security Council

The following representatives held the office of President of the Security Council during the period covered by the present report:

<i>Ecuador</i> Dr. Leopoldo Benites (16 to 31 July 1961)	<i>United Kingdom of Great Britain and Northern Ireland</i> Sir Patrick Dean (1 to 31 January 1962)
<i>France</i> Mr. Armand Bérard (1 to 31 August 1961)	<i>United States of America</i> Mr. Adlai E. Stevenson (1 to 28 February 1962)
<i>Liberia</i> Mr. Nathan Barnes (1 to 30 September 1961)	<i>Venezuela</i> Dr. Carlos Sosa Rodriguez (1 to 31 March 1962)
<i>Turkey</i> Mr. Turgut Menemencioglu (1 to 31 October 1961)	<i>Chile</i> Mr. Daniel Schweitzer (1 to 30 April 1962)
<i>Union of Soviet Socialist Republics</i> Mr. Valerian A. Zorin (1 to 30 November 1961)	<i>China</i> Dr. Tingfu F. Tsiang (1 to 31 May 1962)
<i>United Arab Republic</i> Mr. Omar Loutfi (1 to 31 December 1961)	<i>France</i> Mr. Armand Bérard (1 to 30 June 1962)
	<i>Ghana</i> Mr. Alex Quaison-Sackey (1 to 15 July 1962)

III. Meetings of the Security Council during the period from 16 July 1961 to 15 July 1962

Meeting	Subject	Date	Meeting	Subject	Date
961	Telegram dated 20 July 1961 addressed to the President of the Security Council by the Secretary of State for Foreign Affairs of the Republic of Tunisia (S/4861). Letter dated 20 July 1961 from the Permanent Representative of Tunisia addressed to the President of the Security Council (S/4862)	21 July 1961		to the President of the Security Council (S/4973)	
962	Ditto	22 July 1961	983	Letter dated 21 November 1961 from the Permanent Representative of Cuba addressed to the President of the Security Council (S/4992)	28 November 1961
963	Ditto	22 July 1961	984	Admission of new Members to the United Nations	30 November 1961
964	Ditto	28 July 1961	985	Ditto	30 November 1961
965	Ditto	29 July 1961	986	Ditto	14 December 1961
966	Ditto	29 July 1961	987	Letter dated 18 December 1961 from the Permanent Representative of Portugal addressed to the President of the Security Council (S/5030)	18 December 1961
967	Consideration of the report of the Security Council to the General Assembly (private)	12 September 1961	988	Ditto	18 December 1961
968	Admission of new Members to the United Nations	26 September 1961	989	Adoption of the agenda	30 January 1962
969	Ditto	26 September 1961	990	The India-Pakistan question	1 February 1962
970	Adoption of the agenda	2 October 1961	991	Adoption of the agenda	27 February 1962
971	Admission of new Members to the United Nations	25 October 1961	992	Letter dated 8 March 1962 from the Permanent Representative of Cuba addressed to the President of the Security Council (S/5086)	14 March 1962
972	Question of the recommendation for the appointment of the Acting Secretary-General of the United Nations (private)	3 November 1961	993	Ditto	15 March 1962
973	Letter dated 13 July from the Secretary-General addressed to the President of the Security Council (S/4381). Letter dated 3 November 1961 from the Permanent Representatives of Ethiopia, Nigeria and Sudan addressed to the President of the Security Council (S/4973)	13 November 1961	994	Ditto	16 March 1962
974	Ditto	15 November 1961	995	Ditto	20 March 1962
975	Ditto	16 November 1961	996	Ditto	21 March 1962
976	Ditto	17 November 1961	997	Ditto	22 March 1962
977	Ditto	20 November 1961	998	Ditto	23 March 1962
978	Ditto	21 November 1961	999	The Palestine question	28 March 1962
979	Ditto	21 November 1961	1000	Ditto	3 April 1962
980	Letter dated 21 November 1961 from the Permanent Representative of Cuba addressed to the President of the Security Council (S/4992)	22 November 1961	1001	Ditto	4 April 1962
981	Ditto	24 November 1961	1002	Ditto	5 April 1962
982	Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381). Letter dated 3 November 1961 from the Permanent Representatives of Ethiopia, Nigeria and Sudan addressed	24 November 1961	1003	Ditto	5 April 1962
			1004	The Palestine question	6 April 1962
			1005	Ditto	6 April 1962
			1006	Ditto	9 April 1962
			1007	The India-Pakistan question	27 April 1962
			1008	Ditto	2 May 1962
			1009	Ditto	3 May 1962
			1010	Ditto	4 May 1962
			1011	Ditto	4 May 1962
			1012	Ditto	15 June 1962
			1013	Ditto	19 June 1962
			1014	Ditto	20 June 1962
			1015	Ditto	21 June 1962
			1016	Ditto	22 June 1962

IV. Representatives, Chairmen and Principal Secretaries of the Military Staff Committee

A. REPRESENTATIVES OF EACH SERVICE IN RESPECT OF EACH DELEGATION

Period of service from 16 July 1961

China

General Wang Shu-ming, Chinese Air Force	8 March 1962 to present time
Lt. General Ho Shai-lai, Chinese Army	16 July 1961 to 18 March 1962
Major General Lu Fu-ning, Chinese Army	19 March 1962 to present time
Captain Wu Chia-hsun, Chinese Navy	16 July 1961 to 8 October 1961
Captain Chang Hsiang-chi, Chinese Navy	9 October 1961 to present time

France

Général de Brigade P. Gouraud, French Army	16 July 1961 to present time
Contre Amiral J. Guérin, French Navy	16 July 1961 to present time
Général de Corps Aérien H. M. de Rancourt de Mimerand, French Air Force	16 July 1961 to present time

Union of Soviet Socialist Republics

Major General A. I. Rodionov, Soviet Army	16 July 1961 to 22 August 1961
Lt. General V. A. Dubovik, Soviet Army	23 August 1961 to present time
Rear Admiral B. D. Yashin, USSR Navy	16 July 1961 to present time
Major General M. N. Kostiuik, USSR Air Force	16 July 1961 to present time

United Kingdom of Great Britain and Northern Ireland

Major General J. M. McNeill, British Army	16 July 1961 to present time
Vice-Admiral Sir William Crawford	16 July 1961 to present time
Air Vice-Marshal R. H. E. Emson, Royal Air Force	16 July 1961 to present time

United States of America

Lt. General E. J. O'Neill, US Army	16 July 1961 to 31 March 1962
Lt. General G. H. Davidson, US Army	1 April 1962 to present time
Vice-Admiral Ch. Wellborn, Jr., US Navy	16 July 1961 to present time
Lt. General W. E. Hall, US Air Force	16 July 1961 to 31 July 1961
Lt. General R. W. Burns, US Air Force	1 August 1961 to present time

B. CHAIRMEN

Meeting	Date	Chairman	Delegation
422nd	27 July 1961	Vice-Admiral Sir William Crawford	United Kingdom
423rd	10 August 1961	Vice-Admiral Ch. Wellborn, Jr.	United States
424th	24 August 1961	Vice-Admiral Ch. Wellborn, Jr.	United States
425th	7 September 1961	Captain Wu Chia-hsun	China
426th	21 September 1961	Captain Wu Chia-hsun	China
427th	5 October 1961	Général de Brigade P. Gouraud	France
428th	19 October 1961	Général de Brigade P. Gouraud	France
429th	2 November 1961	Rear Admiral B. D. Yashin	USSR
430th	16 November 1961	Major General M. N. Kostiuik	USSR
431st	30 November 1961	Lt. General V. A. Dubovik	USSR
432nd	14 December 1961	Major General J. M. McNeill	United Kingdom
433rd	28 December 1961	Air Vice-Marshal R. H. E. Emson	United Kingdom
434th	11 January 1962	Vice-Admiral Ch. Wellborn, Jr.	United States
435th	25 January 1962	Vice-Admiral Ch. Wellborn, Jr.	United States
436th	8 February 1962	Captain Chang Hsiang-chi	China
437th	21 February 1962	Captain Chang Hsiang-chi	China
438th	8 March 1962	Général de Corps Aérien H. M. de Rancourt de Mimerand	France
439th	22 March 1962	Général de Corps Aérien H. M. de Rancourt de Mimerand	France
440th	5 April 1962	Lt. General V. A. Dubovik	USSR
441st	19 April 1962	Lt. General V. A. Dubovik	USSR
442nd	3 May 1962	Major General J. M. McNeill	United Kingdom
443rd	17 May 1962	Air Vice-Marshal R. H. E. Emson	United Kingdom
444th	31 May 1962	Air Vice-Marshal R. H. E. Emson	United Kingdom
445th	14 June 1962	Lt. General G. H. Davidson	United States
446th	28 June 1962	Vice-Admiral Ch. Wellborn, Jr.	United States
447th	12 July 1962	General Wang Shu-ming	China

C. PRINCIPAL SECRETARIES

Meeting	Date	Principal Secretary	Delegation
422nd	27 July 1961	Colonel A. A. Duncan, British Army	United Kingdom
423rd	10 August 1961	Lt. Colonel P. V. Fahey, US Army	United States
424th	24 August 1961	Lt. Colonel P. V. Fahey, US Army	United States
425th	7 September 1961	Lt. Colonel J. Soong, Chinese Army	China
426th	26 September 1961	Lt. Colonel J. Soong, Chinese Army	China

<i>Meeting</i>	<i>Date</i>	<i>Principal Secretary</i>	<i>Delegation</i>
427th	5 October 1961	Capitaine de Frégate A. Gélinet, French Navy	France
428th	19 October 1961	Capitaine de Frégate A. Gélinet, French Navy	France
429th	2 November 1961	Colonel D. F. Polyakov, Soviet Army	USSR
430th	16 November 1961	Colonel D. F. Polyakov, Soviet Army	USSR
431st	30 November 1961	Colonel D. F. Polyakov, Soviet Army	USSR
432nd	14 December 1961	Colonel A. A. Duncan, British Army	United Kingdom
433rd	28 December 1961	Colonel J. C. d'E. Coke, Royal Marines	United Kingdom
434th	11 January 1962	Lt. Colonel P. V. Fahey, US Army	United States
435th	25 January 1962	Captain W. J. Dimitrijevic, US Navy	United States
436th	8 February 1962	Lt. Colonel J. Soong, Chinese Army	China
437th	21 February 1962	Lt. Colonel J. Soong, Chinese Army	China
438th	8 March 1962	Capitaine de Frégate A. Gélinet, French Navy	France
439th	22 March 1962	Capitaine de Frégate A. Gélinet, French Navy	France
440th	5 April 1962	Colonel D. F. Polyakov, Soviet Army	USSR
441st	19 April 1962	Colonel D. F. Polyakov, Soviet Army	USSR
442nd	3 May 1962	Colonel A. A. Duncan, British Army	United Kingdom
443rd	17 May 1962	Colonel A. A. Duncan, British Army	United Kingdom
444th	31 May 1962	Colonel A. A. Duncan, British Army	United Kingdom
445th	14 June 1962	Colonel P. V. Fahey, US Army	United States
446th	28 June 1962	Commander F. W. Pump, US Navy	United States
447th	12 July 1962	Lt. Colonel J. Soong, Chinese Army	China