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SPECIAL COMMITTEE ON PRINCIPLES OF  
INTERNATIONAL LAW CONCERNING FRIENDLY  
RELATIONS AND CO-OPERATION AMONG STATES

SUMMARY OF THE PRACTICE OF THE UNITED NATIONS AND OF VIEWS EXPRESSED  
IN THE UNITED NATIONS BY MEMBER STATES IN RESPECT OF FOUR OF THE  
PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND  
CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE  
UNITED NATIONS

(prepared by the Secretariat)

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## INTRODUCTION

1. In resolution 1966 (XVIII), adopted at the 1281st plenary meeting on 16 December 1963, the General Assembly requested the Secretary-General to prepare:

"A systematic summary of the practice of the United Nations and of views expressed in the United Nations by Member States,"

in respect of four of the principles of international law concerning friendly relations and co-operation among States. The four principles concerned are:

"(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

(c) The duty not to intervene in matters essentially within the domestic jurisdiction of any State, in accordance with the Charter;

(d) The principle of sovereign equality of States." 1/

2. It has not proved possible, within the limits of the time and staff available, to prepare a study which deals exhaustively with the entire practice of the United Nations and the views expressed by Member States in respect of each of the four principles. Recourse has accordingly been had to a system of cases, arranged chronologically under each principle, which illustrate some of the leading occasions when the General Assembly and the Security Council have been concerned with the application of a particular principle or principles. Although the selection of cases does not therefore cover every instance which has arisen during the history of the United Nations, it is believed that the cases chosen are representative of the bulk of United Nations practice and reflect the views which Member States

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1/ Resolution 1815 (XVII). The remaining principles were defined in the same resolution as being: "The duty of States to co-operate with one another in accordance with the Charter; the principles of equal rights and self-determination of peoples; the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter."

have most frequently expressed with reference to the principles concerned. In addition, at the conclusion of the study, a comprehensive list has been given of the agenda items considered by the General Assembly and the Security Council, involving one or more of the principles concerned.

3. In the account given of the discussions in various United Nations bodies attention has been focused on those parts of the debate, including resolutions adopted by the General Assembly and the Security Council, which appeared most relevant for the purposes of the present study. No attempt has been made to give details of the particular case under discussion or of all the various proposals and views which may have been put forward. In view of the fact that many of the cases have involved consideration of more than one principle, cross-references have been made in a foot-note at the beginning of each section dealing with a particular principle.

- (A) THE PRINCIPLE THAT STATES SHALL REFRAIN IN THEIR INTERNATIONAL RELATIONS FROM THE THREAT OR USE OF FORCE AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF ANY STATE, OR IN ANY OTHER MANNER INCONSISTENT WITH THE PURPOSES OF THE UNITED NATIONS 1/

The Question of Defining Aggression

Consideration by the General Assembly during the Fifth Session, 1950

4. Following a request by Yugoslavia, the item "Duties of States in the event of outbreak of hostilities" was placed on the agenda of the Assembly's fifth session. In the course of debate in the First Committee three draft resolutions were submitted by Yugoslavia, the USSR and by Syria respectively. All three draft resolutions were concerned with the question of defining acts of aggression.

5. The Committee first considered the Yugoslav proposal which, in its operative part, recommended that every State which became engaged in hostilities with another State should, within twenty-four hours, publicly proclaim its willingness to order a cease-fire and to withdraw its forces from the territory or territorial waters of the opposing State and to prohibit the violation by its forces of the air space of the opposing State. Furthermore, the State should, at midnight of the same day, put into effect the cease-fire order and fulfil the other conditions within forty-eight hours from the moment of the cease-fire. The Secretary-General should be informed of the outbreak of hostilities in order to facilitate United Nations action. Any State failing to make the required public statement or to effect the cease-fire order and withdrawal, should be considered as an aggressor

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1/ References to this principle and its application were also made in the following cases dealt with in the present study: The India-Pakistan Question, paras. 159-182; Peace through Deeds and Condemnation of Propaganda against Peace, paras. 195-202; Peaceful Co-existence and Peaceful Relations among States, paras. 207-219; Peaceful and Neighbourly Relations among States, paras. 220-229; The Greek Frontier Incidents Question, paras. 260-275; Essentials of Peace, paras. 276-282; Complaint by the Union of Burma regarding Aggression against it by the Government of the Republic of China, paras. 363-376; The Guatemalan Question, paras. 325-330; Questions concerning Goa, Damao and Diu, paras. 355-362; Complaint by Senegal against Portugal, paras. 363-376; Draft Declaration on Rights and Duties of States, paras. 377-387; and The Peaceful Uses of Outer Space, paras. 409-449.

and held responsible for the breach of the peace. United Nations enforcement action or armed assistance to the victim State in compliance with the obligation of collective defence were exempt from the application of the proposal.

6. Introducing the draft resolution, the representative of Yugoslavia declared that amongst its advantages were that: (1) it gave States engaged in hostilities another opportunity to settle their disputes by peaceful means even after the outbreak, and thus facilitated the role of the United Nations; (2) it filled the gap in the system of collective defence of peace and thus made it more difficult to mask aggression as self-defence; and (3) it did not upset the general system of collective action for peace because it did not prejudge decisions of the General Assembly or the Security Council, nor did it prevent any collective action on the part of the United Nations for the re-establishment of peace or impair the right of individual or collective defence.

7. Several representatives, among them those of Australia, Costa Rica, France, Greece, the United Kingdom and the United States, although in sympathy with the principles underlying the Yugoslav draft resolution, felt, nevertheless, that in the form proposed it might benefit an aggressor. It was agreed that, if for instance the aggressor State acting in bad faith made a public statement at the same time as the victim State, this would place the victim at a disadvantage in the face of a rapidly advancing army. The Yugoslav delegation was, therefore, urged to present a text providing more flexible criteria. The representative of Yugoslavia accordingly submitted a revised text which provided, inter alia, that if a State became engaged in an armed conflict, it should take all practicable steps compatible with the right of self-defence to bring the conflict to an end at the earliest possible moment. The provision regarding the public statement was modified so that the discontinuance of military operations and withdrawal of forces would be subject to the terms and conditions agreed upon by the parties or indicated by the appropriate organs of the United Nations. A recommendation was added to the text relating to the notification to the Secretary-General providing that the notification should contain an invitation for the despatch of the Peace Observation Commission. The provision regarding the determination of the aggressor was modified to enable the conduct of the States concerned to be

taken into account in determining responsibility for the breach of peace or act of aggression. An amendment, put forward by the United Kingdom representative and accepted by the Yugoslav representative was also added, providing that the proclamation would declare that the State would discontinue operations and withdraw its forces if the opposing State did the same.

8. The representatives of Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR were opposed to the revised draft resolution which, they considered, would in fact assist an aggressor. They contended that the Yugoslav draft resolution ignored the fundamental duties of States prior to the outbreak of hostilities, in particular the duties contained in Chapter VI of the Charter. The representative of the USSR declared that the Yugoslav delegate had seemed to imply that the functions of the Security Council were limited to eliminating direct threats to the peace which had already become apparent. Articles 34, 35, 36, 37 and 38 were based, however, on the principle that the Council might also take anticipatory action. In the case where a State was attacked the correct procedure was that it should invite action by the Security Council. Furthermore, on a basis of the Yugoslav draft it was argued that only "guess work" could decide which State had the right of self-defence and which should withdraw its forces. In any case, a strong aggressor could invade an unprepared nation with atomic weapons and so paralyse it within twenty-four hours that its Government could no longer function and would be unable to appeal to the Security Council. Yet it was proposed to exonerate the aggressor from all blame if it declared its willingness to withdraw. The representative of the USSR declared that immediate and effective measures should be taken to protect the victim State and that aggression should be opposed by the combined forces of Member States.

9. Replying to the criticism levied against the draft resolution, the representative of Yugoslavia drew attention to the time taken in consideration of such cases by United Nations organs. At least half a day would elapse after an attacked country had applied for assistance before a meeting of the Security Council could be held. That meeting might be attended by the protectors of the aggressor, some of which might, conceivably, enjoy the right of veto. Prolonged



discussion might delay a decision indefinitely. If the Council were prevented from acting by a vote cast by a permanent member, the dispute would go before the General Assembly under the "Uniting for Peace" resolution. Under the proposed resolution, the State which was the victim of an attack would normally appeal to the Security Council immediately after the outbreak of hostilities, stating that it was ready to cease hostilities if the other party would do likewise. If the other party also made a statement concerning the cease-fire, United Nations mediation to end the fighting and to bring about a speedy withdrawal of troops could begin within twenty-four hours of the outbreak of hostilities. If such a statement were not made by the other party, however, the United Nations organs could immediately take collective measures against the aggressor which, by that very fact, would have shown its aggressive intention. The representatives of Argentina, Australia, Bolivia, Cuba, Egypt, France, Lebanon, Netherlands, New Zealand, United Kingdom and United States expressed their support for the Yugoslav draft resolution in its revised form.

10. As an alternative to the Yugoslav proposals the USSR presented a draft resolution regarding the question of aggression and the use of force. Under its terms the General Assembly, considering it necessary, in the interests of general security and to facilitate agreements on the maximum reductions of armaments, to define the concept of aggression so as to forestall any pretext which might be used to justify it; recognizing that all States have equal rights to independence, security and the defence of their territory against aggression or invasion within the limits of their own frontiers; and considering it necessary to formulate essential directives for such international organs as might be called upon to determine which party was guilty of attack, would declare that in an international conflict that State should be declared the attacker which first committed one of the following acts: declaration of war against another State; invasion by its armed forces, even without a declaration of war, of the territory of another State; bombardment of the territory of another State or deliberate attack on the ships or aircraft of the latter; the landing or leading of its land, sea or air forces inside the boundaries of another State without the permission of the Government of the latter, or the violation of the conditions of such permission,

particularly as regards the length of their stay or the extent of the area in which they might stay; and naval blockade of the coasts or ports of another State. Attacks such as those specified might not be justified by any arguments of a political, strategic or economic nature, or by the desire to exploit natural riches in the territory of the State attacked or to derive any other kind of advantages or privileges, or by reference to the amount of capital invested in the State attacked or to any other particular interests in its territory, or by the affirmation that the State attacked lacked the distinguishing marks of statehood. The draft resolution listed fifteen considerations which, it stated, might not be used as justifications for attack, in the following terms:

- A. The internal position of any State, as for example:
  - (a) The backwardness of any nation politically, economically or culturally;
  - (b) Alleged shortcomings of its administration;
  - (c) Any danger which might threaten the life or property of aliens;
  - (d) Any revolutionary or counter-revolutionary movement, civil war, disorders or strikes;
  - (e) The establishment or maintenance in any State of any political, economic or social system;
- B. Any acts, legislation or orders of any State, as for example:
  - (a) The violation of international treaties;
  - (b) The violation of rights and interests in the sphere of trade, concessions or any other kind of economic activity acquired by another State or its citizens;
  - (c) The rupture of diplomatic or economic relations;
  - (d) Measures in connexion with an economic or financial boycott;
  - (e) Repudiation of debts;
  - (f) Prohibition or restriction of immigration or modification of the status of foreigners;
  - (g) The violation of privileges granted to the official representatives of another State;
  - (h) Refusal to allow the passage of armed forces proceeding to the territory of a third State;
  - (i) Measures of a religious or anti-religious nature;
  - (j) Frontier incidents.



11. Finally it provided that, should a State be threatened by the concentration by another State of considerable armed forces near its frontier, it should have a right of recourse to diplomatic and other means of securing a peaceful settlement of international disputes. It might also adopt requisite measures of a military nature, without, however, crossing the frontier.

12. Speaking in support of the USSR proposals, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR pointed out that, in case of an international conflict, it was important before taking collective action against the aggressor to determine which was the guilty party. They recalled that the USSR definition of aggression, which had been submitted during the second session of the Disarmament Conference in 1933, had been adopted by seventeen other States in connexion with the signing of an international convention on that subject in London in July 1933. The question of defining aggression had also been dealt with in international agreements, such as the Treaty of Mutual Assistance, signed at Rio de Janeiro in September 1947. Nevertheless no presently existing texts defined aggression as completely and as satisfactorily as the USSR proposal of 1933.

13. A number of representatives, among them those of Canada, Colombia, France, Greece, the United States and Uruguay, spoke against the USSR draft resolution. The representative of Colombia, while agreeing that the definition of aggression which had been given in the London treaties of 1933 was the best available, held that a universally accepted definition had not been formulated. On the other hand, the principle that an international organization should determine the existence of individual acts of aggression had slowly gained ground. The absence of a rigid rule for determining the aggressor was a step forward and would help in eliminating difficulties encountered by the League of Nations. Since the United Nations had responsibility for taking measures to put an end to aggression, it should also have the responsibility for determining the aggressor.

14. The representative of the United States recalled that at the United Nations Conference on International Organization at San Francisco the Committee which had competence on the subject had decided that the question went beyond the purposes of the Charter, and it had been decided to let the Security Council determine

whether a given set of facts constituted aggression or not. His Government had always held that no definition of aggression could be exhaustive and that any omission might encourage an aggressor. The definition proposed by the USSR did not, for example, include indirect aggression, such as subversion or the fomenting of civil strife. Any attempt at a comprehensive definition of aggression was inconsistent with the Charter, particularly with Article 39, which provided that the Security Council should determine the existence of any act of aggression and take steps to put an end to it. The representative of Canada stated that the numerous difficulties raised by the criteria proposed by the USSR could be seen by reference to a number of concrete historical situations. In 1939, for example, France and the United Kingdom had formally declared war on Germany. Was it, however, to be denied on the basis of the principles contained in the USSR draft resolution that the Nazis were the aggressors? Further, the USSR draft resolution would have been of no great utility at the time of the outbreak of the Korean War in June 1950. Whereas the United Nations Commission on Korea had stated that the North Korean forces had attacked first, the USSR claimed that it was the territory of North Korea which had first been invaded. The USSR draft would have been of no help in deciding on a question of fact of that kind and, indeed, all that an aggressor would have to do to frustrate the purpose of the USSR proposal would be to claim that the other party had attacked first, which was what North Korea had actually alleged.

15. The representative of Uruguay stated that in view of the terms of Article 2, paragraph 4, of the Charter, it was absurd to try to forbid beforehand certain motives which might be used to justify aggression, as paragraph 2 of the operative part of the USSR draft resolution attempted to do, since it would mean that motives which were not enumerated would constitute a justification for aggression.

16. The representative of Syria disagreed with the argument that a definition of aggression would enable aggressors to arrange their actions so as to remain outside the scope of the definition and thus avoid being accused of aggression. In his opinion, however, the USSR resolution was incomplete and did not fully correspond to the existing situation. He therefore submitted a draft resolution, requesting the International Law Commission to include the definition of aggression in its

studies on the formulation of a criminal code for international crimes and to submit a report to the General Assembly. Subsequently, the representatives of Bolivia and Syria presented a joint draft resolution, replacing the Syrian draft resolution and proposing that the USSR proposal should be placed before the International Law Commission together with the records of the First Committee on the question.

17. Following discussion in the First Committee, the Yugoslav and Bolivian-Syrian proposals were adopted by the General Assembly on 17 November 1950, by 49 votes to 5, with 1 abstention. The text of the resolution concerned is as follows:

Resolution 378 (V). Duties of States in the event of the  
outbreak of hostilities

A

"The General Assembly,

Reaffirming the Principles embodied in the Charter, which require that the force of arms shall not be resorted to except in the common interest, and shall not be used against the territorial integrity or political independence of any State,

Desiring to create a further obstacle to the outbreak of war, even after hostilities have started, and to facilitate the cessation of the hostilities by the action of the parties themselves, thus contributing to the peaceful settlement of disputes,

1. Recommends:

(a) That if a State becomes engaged in armed conflict with another State or States, it take all steps practicable in the circumstances and compatible with the right of self-defence to bring the armed conflict to an end at the earliest possible moment;

(b) In particular, that such State shall immediately, and in any case not later than twenty-four hours after the outbreak of hostilities, make a public statement, wherein it will proclaim its readiness, provided that the States with which it is in conflict will do the same, to discontinue all military operations and withdraw all its military forces which have invaded the territory or territorial water of another State or crossed a demarcation line, either on terms agreed by the parties to the conflict or under conditions to be indicated to the parties by the appropriate organs of the United Nations;

(c) That such State immediately notify the Secretary-General for communication to the Security Council and to the Members of the United Nations, of the statement made in accordance with the preceding subparagraph and of the circumstances in which the conflict has arisen;

(d) That such State, in its notification to the Secretary-General, invite the appropriate organs of the United Nations to dispatch the Peace Observation Commission to the area in which the conflict has arisen, if the Commission is not already functioning there;

(e) That the conduct of the States concerned in relation to the matters covered by the foregoing recommendations be taken into account in any determination of responsibility for the breach of the peace or act of aggression in the case under consideration and in all other relevant proceedings before the appropriate organs of the United Nations;

2. Determines that the provisions of the present resolution in no way impair the rights and obligations of States under the Charter of the United Nations nor the decisions or recommendations of the Security Council, the General Assembly or any other competent organ of the United Nations.

B

The General Assembly,

Considering that the question raised by the proposal of the Union of Soviet Socialist Republics can better be examined in conjunction with matters under consideration by the International Law Commission, a subsidiary organ of the United Nations,

Decides to refer the proposal of the Union of Soviet Socialist Republics and all the records of the First Committee dealing with this question to the International Law Commission, so that the latter may take them into consideration and formulate its conclusions as soon as possible."

Consideration by the General Assembly during the Sixth Session, 1951

18. In accordance with resolution 378 B (V) the International Law Commission considered the question raised by the USSR proposal at its third session held in 1951. In its report to the General Assembly the Commission stated that some of its members were of the opinion that the Assembly's resolution merely meant that the Commission should take the USSR proposal and the discussions on it into consideration when preparing the draft code of offences against the peace and security of mankind.<sup>1/</sup> The majority, however, considered that the Commission had been requested by the Assembly to attempt to define aggression and to report on the result of its efforts.

<sup>1/</sup> (See following page for foot-note)

1/ The Draft Code of Offences against the Peace and Security of Mankind, as finally adopted by the International Law Commission at its sixth session in 1954, contained the following provision:

"Article 2

The following acts are offences against the peace and security of mankind:

(1) Any act of aggression, including the employment by the authorities of a State of armed force against another State for any purpose other than national or collective self-defence or in pursuance of a decision or recommendation of a competent organ of the United Nations.

(2) Any threat by the authorities of a State to resort to an act of aggression against another State.

(3) The preparation by the authorities of a State of the employment of armed force against another State for any purpose other than national or collective self-defence or in pursuance of a decision or recommendation of a competent organ of the United Nations.

(4) The organization, or the encouragement of the organization, by the authorities of a State, of armed bands within its territory or any other territory for incursions into the territory of another State, or the toleration of the organization of such bands in its own territory, or the toleration of the use by such armed bands of its territory as a base of operations or as a point of departure for incursions into the territory of another State, as well as direct participation in or support of such incursions.

(5) The undertaking or encouragement by the authorities of a State of activities calculated to foment civil strife in another State, or the toleration by the authorities of a State of organized activities calculated to foment civil strife in another State.

(6) The undertaking or encouragement by the authorities of a State of terrorist activities in another State, or the toleration by the authorities of a State of organized activities calculated to carry out terrorist acts in another State.

(7) Acts by the authorities of a State in violation of its obligations under a treaty which is designed to ensure international peace and security by means of restrictions or limitations on armaments, or on military training, or on fortifications, or of other restrictions of the same character.

(8) The annexation by the authorities of a State or territory belonging to another State, by means of acts contrary to international law.

(Foot-note continued on following page)

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19. The matter was referred to the Sixth Committee during the Assembly's sixth session, discussion being centred largely on the issue of whether or not it was possible and desirable to define aggression. Some representatives, in particular those of Australia, Belgium, Greece, India, the United Kingdom and the United States, thought that the General Assembly should not attempt to formulate a definition of aggression; they argued that a definition attempting to enumerate all possible acts of aggression would necessarily leave out some acts which ought

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(Foot-note 1, continued)

(9) The intervention by the authorities of a State in the internal or external affairs of another State, by means of coercive measures of an economic or political character in order to force its will and thereby obtain advantages of any kind.

(10) Acts by the authorities of a State or by private individuals committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such, including:

- (i) Killing members of the group;
- (ii) Causing serious bodily or mental harm to members of the group;
- (iii) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (iv) Imposing measures intended to prevent births within the group;
- (v) Forcibly transferring children of the group to another group.

(11) Inhuman acts such as murder, extermination, enslavement, deportation or persecutions, committed against any civilian population on social, political, racial, religious or cultural grounds by the authorities of a State or by private individuals acting at the instigation or with the toleration of such authorities.

(12) Acts in violation of the laws or customs of war.

(13) Acts which constitute:

- (i) Conspiracy to commit any of the offences defined in the preceding paragraphs of this article; or
- (ii) Direct incitement to commit any of the offences defined in the preceding paragraphs of this article; or
- (iii) Complicity in the commission of any of the offences defined in the preceding paragraphs of this article; or
- (iv) Attempts to commit any of the offences defined in the preceding paragraphs of this article."



to be included, and would thus be positively dangerous. Attention was drawn to the constant state of evolution of acts of aggression and to the importance of indirect aggression or subversive activities. An abstract and general formula on the other hand, would use terms which themselves required attention and would be too wide and vague to be useful. Those representatives opposing a definition considered that, in accordance with the Charter, the United Nations organs called on to determine the aggressor in case of international conflict should have full discretion to consider all the circumstances of each case. It was necessary to take account of the circumstances in order to judge whether there was aggressive intent; a similar act might in one case constitute aggression and in another be a legitimate measure of self-defence. This distinction could not be provided for in a definition, which might also include certain acts which, if considered in their proper context, would not be considered by the international community as acts of aggression at all. Certain representatives, including those of Israel, Uruguay, the United Kingdom and the United States, emphasized that what was needed was not to define aggression but to ensure that it should be overcome through the application of the principles of the Charter and the provisions of the Assembly's resolutions.

20. On the other hand, a large number of representatives took the view that a definition was both possible and necessary from legal and political standpoints. These included the representatives of Afghanistan, Bolivia, Burma, the Byelorussian SSR, Chile, Colombia, Cuba, Czechoslovakia, the Dominican Republic, Egypt, France, Iran, Indonesia, Lebanon, Mexico, Pakistan, Peru, Poland, Syria, the Ukrainian SSR, the USSR and Yugoslavia. It was stated that a definition, even if imperfect, would be better than none since it would serve to mobilize public opinion against acts of aggression and provide a useful supplement to the system of collective security established by the Charter. Some representatives, including those of the Byelorussian SSR, Czechoslovakia, Egypt, Poland, the Ukrainian SSR and the USSR, were of the opinion that a definition should be formulated with a view to furnishing guidance to the Security Council and the General Assembly in their task of maintaining international peace and security. It was pointed out, for example by the representative of Mexico, that the adoption of a definition would not prevent the international organ applying it from taking into account the circumstances of

each particular case. Others, in particular the representatives of France and also the representatives of Iraq, the Netherlands, Norway and Sweden, thought that the primary purpose to be envisaged was the inclusion of a definition in a code of offences against the peace and security of mankind, which would be applied by an international criminal tribunal if one were created. The representatives of Burma, the Dominican Republic, Ecuador, Iran and Lebanon, thought that a definition should serve both purposes.

21. The representatives of Egypt, Iran and Mexico approved especially the proposal made in a draft resolution submitted by the USSR, that a list of circumstances not justifying attacks should be included. The United Kingdom representative expressed the fear that such a list would constitute an invitation to States that they could commit the illegal acts mentioned without fear of armed retaliation. The representatives of Egypt, Lebanon and Mexico considered that such illegal acts should constitute grounds for United Nations action.

22. As regards the question of self-defence in relation to aggression, the representatives of Bolivia, Burma, Egypt, Lebanon, Mexico and Syria stated that, under the collective security system of the United Nations, the question of what was legitimate self-defence was no longer a matter to be decided by individual States. Armed force was permissible only to meet an act of aggression, and it should be conditioned by the nature of the attack. It should not enable a State, it was emphasized, to invade the territory of another State. On the other hand, the representatives of Belgium, Greece, the United Kingdom and the United States considered that, in certain particular circumstances, a State which was threatened by impending attack would be justified in attacking first in self-defence. The representatives of Poland, the Ukrainian SSR and the USSR considered that such a doctrine amounting to the right to wage "preventive war" was equivalent to condoning aggression. In their opinion, a threatened State could have recourse to diplomatic and other measures of peaceful settlement and could mobilize its forces, but could not cross the frontier.

23. To meet the point that some objective acts constituting aggression might be overlooked in an attempt at exhaustive enumeration, it was suggested by the representatives of Bolivia, Burma, Chile, Colombia, Cuba, the Dominican Republic,



Mexico and Yugoslavia, that a provision might be included that additional acts might be qualified as aggressive by the competent organs of the United Nations. In this connexion, reference was made to the Inter-American Treaty of Mutual Assistance, which contains such a formula. The representatives of Cuba, Lebanon, Mexico and the Philippines also favoured the inclusion in a definition of aggression of some provision concerning the intent with which the aggressive acts concerned were committed. The representatives of Bolivia, China, the Dominican Republic, Indonesia, the Netherlands, Pakistan and Yugoslavia thought a definition should include indirect aggression by such means as subversion and economic pressure, as well as the illegal use of armed force. This view was opposed by the representatives of Czechoslovakia, Egypt, Poland and the USSR, who held that indirect aggression was a fictitious concept which found no support in the letter or the spirit of the Charter.

24. The Sixth Committee had before it four draft resolutions, submitted by Greece, the USSR, Bolivia, and jointly by France, Iran and Venezuela, representative of the various views expressed. The draft resolution submitted by Bolivia contained a number of definitions of acts of aggression; these included the threat or use of force against the territorial integrity or political independence of any State, or any threat or use of force which was in any way incompatible with the purposes of the United Nations, such as unilateral action to deprive a State of the economic resources it derived from international trade or endangering its basic economy. The joint draft resolution, as amended by a proposal by Syria, proposing that the General Assembly should study the question of defining aggression when it examined the draft code of offences against the peace and security of mankind, was eventually adopted. It was decided not to vote on the remaining proposals.

25. The General Assembly adopted the draft resolution proposed by the Sixth Committee by 30 votes to 12, with 8 abstentions. Speaking before the Assembly, a number of representatives repeated the views which they had expressed in the Sixth Committee with respect particularly to the two paragraphs from the preamble cited below:

Resolution 599 (VI). Question of defining aggression

"The General Assembly,

.....

Considering that, although the existence of the crime of aggression may be inferred from the circumstances peculiar to each particular case, it is nevertheless possible and desirable, with a view to ensuring international peace and security and to developing international criminal law, to define aggression by reference to the elements which constitute it,

Considering further that it would be of definite advantage if directives were formulated for the future guidance of such international bodies as may be called upon to determine the aggressor,

1. Decides to include in the agenda of its seventh session the question of defining aggression;

2. Instructs the Secretary-General to submit to the General Assembly at its seventh session a report in which the question of defining aggression shall be thoroughly discussed in the light of the views expressed in the Sixth Committee at the sixth session of the General Assembly and which shall duly take into account the draft resolutions and amendments submitted concerning this question;

3. Requests States Members, when transmitting their observations on the draft Code to the Secretary-General, to give in particular their views on the problem of defining aggression."

Consideration by the General Assembly during the Seventh Session, 1952

26. During the Assembly's seventh session the main difference of opinion, as at previous sessions, was between the representatives in favour of defining aggression and those opposing such a definition, at least for the present. Various representatives supported the idea, which was ultimately adopted, of creating a special committee to study the question further and to present one or more draft definitions to the General Assembly.

27. Amongst particular points made by various delegates in the Sixth Committee, the representatives of Afghanistan, Indonesia, Iran, Cuba, Chile and China declared that they would favour the adoption of a definition only if it included cases of indirect aggression, and they mentioned the possibility of economic, cultural or

ideological aggression. While all States were equal in law, they stated, there was no equality in the economic sphere and economically powerful States were thus able to exercise pressure which in fact amounted to aggression. In such cases there was certainly no direct attack, but the end in view was the same as that of any aggression: to force the victim to yield to the aggressor's will. The representative of Argentina also stressed the relationship between aggression and intervention in the domestic affairs of other States.

28. The representatives of France, Greece, Israel and the Netherlands, among others, emphasized the difficulties which had to be solved before a definition of aggression could be adopted. It would first be necessary, in their opinion, to ascertain whether a definition could be included within the framework of the Organization and to determine what effect it might have on the application of Articles 39 and 51 of the Charter. It was also stated, in particular by the Netherlands representative, that the new notion of indirect aggression raised a difficult problem since there was no common agreement on what it meant. The representative of the United Kingdom declared that economic aggression was a vague concept which was bound to involve the question of what measures constituted legitimate economic self-defence.

29. As to the kind of definition to be drafted, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR in particular, thought it desirable to enumerate all the objective acts which constituted aggression, to specify the circumstances which could not be used to justify attacks, and to list the measures which might be taken by a State threatened with an attack. Even if every case of aggression could not be listed, a satisfactory definition could be given of the most widespread, typical and important instances. A number of representatives, including those of China, Afghanistan, Iran, Thailand, Egypt, Mexico, Saudi Arabia, Indonesia, Ecuador and Yugoslavia, declared themselves in favour of a combined method which would consist of a general formula followed by a list of the principal acts of aggression.

30. Different views were expressed during the debate concerning the procedure to be followed in adopting a definition. Some, for example, the Belgian representative, contended that it would be necessary to amend the Charter in order to obtain a

definition which was binding, either upon the United Nations itself or on Member States. The representative of Mexico on the other hand, considered that a definition of aggression adopted by the General Assembly would serve as a useful guide to the Security Council and, if it became part of international law, would naturally become binding on the Council. The representative of the Netherlands stressed, however, that a definition adopted by means of a General Assembly resolution would not be binding on United Nations organs and would not, by itself, create new rules of law. The USSR representative, on the other hand, considered that in view of the Assembly's powers under the Charter to consider the general principles of co-operation in the maintenance of international peace and security, no amendment of the Charter was necessary to enable the Assembly to adopt a series of general principles relating to aggression. The representative of France stressed that in view of its repercussion on world public opinion, it was essential for the definition to be acceptable to a large number of States, representing as large a part of world opinion and of effective political power as possible. It was also necessary for such a decision to be taken by a two-thirds majority vote of the General Assembly.

31. At the conclusion of the debate a joint draft resolution, proposed by Afghanistan, Bolivia, Chile, Cuba, the Dominican Republic, El Salvador, Iran, the Netherlands, Peru and Yugoslavia, as amended by proposals submitted by France and Indonesia, was adopted by the Sixth Committee. The General Assembly adopted the resolution as a whole by 37 votes to 2, with 13 abstentions, as resolution 688 (VII).

Resolution 688 (VII). Question of defining aggression

"The General Assembly,

Having regard to its resolution 599 (VI) of 31 January 1952,

Considering that the discussion of the question of defining aggression at the sixth and seventh sessions of the General Assembly and in the International Law Commission has revealed the complexity of this question and the need for a detailed study of:

(a) The various forms of aggression;

(b) The connexion between a definition of aggression and the maintenance of international peace and security;

(c) The problems raised by the inclusion of a definition of aggression in the Code of Offences against the Peace and Security of Mankind and by its application within the framework of international criminal jurisdiction;

(d) The effect of a definition of aggression on the exercise of the jurisdiction of the various organs of the United Nations;

(e) Any other problem which might be raised by a definition of aggression;

Considering that continued and joint efforts shall be made to formulate a generally acceptable definition of aggression, with a view to promoting international law,

1. Decides to establish a Special Committee of fifteen members, each representing one of the following Member States: Bolivia, Brazil, China, Dominican Republic, France, Iran, Mexico, Netherlands, Norway, Pakistan, Poland, Syria, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, to meet at the Headquarters of the United Nations in 1953;

2. Requests the said Special Committee:

(a) To submit to the General Assembly at its ninth session draft definitions of aggression or draft statements of the notion of aggression;

(b) To study all the problems referred to above on the assumption of a definition being adopted by a resolution of the General Assembly;

3. Requests the Secretary-General to communicate the Special Committee's report to Member States for their comments and to place the question on the provisional agenda of the ninth session of the General Assembly."

Consideration by the General Assembly during the Ninth Session, 1954

32. The Special Committee established by resolution 6 (VII) met from August to September 1953. It did not adopt a definition but decided to transmit to Member States and to the Assembly the various drafts which had been presented and discussed. They included a draft resolution by the USSR embodying a list of specific acts that would constitute aggression; one by Mexico proposing certain changes in the USSR text; two submitted by China containing a general statement on aggression with specific examples, and proposing a draft resolution; and a Bolivian draft under which the Assembly would be asked to define as aggression certain actions specified in the text.

33. At the Assembly's ninth session the report of the Special Committee was discussed by the Sixth Committee. During the debate members of the Committee repeated the views which they had expressed at earlier sessions as to whether or not it was possible and desirable to define aggression, on what type of definition should be adopted and on the draft definitions which had been submitted. The representatives of Australia, Brazil, Canada, Greece, India, New Zealand, Turkey, the Union of South Africa, the United Kingdom, the United States and Venezuela declared that the history of the question had shown the difficulties which beset the adoption of any a priori definition of aggression that would include all possible forms that that offence might take. The adoption of a precise definition, it was argued, might jeopardize action by the United Nations in the settlement of international disputes. These representatives suggested that the concept of aggression should not be defined but should be left to the discretion of the competent United Nations organ when dealing with a given case. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR, considered that the question of principle had already been decided by the Assembly when it stated in resolutions 599 (VI) and 638 (VII), that it was both possible and desirable to define aggression. They supported a USSR draft resolution identical with that submitted to the Special Committee.

34. The majority of representatives expressed themselves in favour of a definition but were, in general, opposed to either a purely general or purely enumerative definition. A purely general definition would, they felt, lack precision and a purely enumerative definition, as proposed by the USSR, would be too rigid and too restrictive for use by United Nations organs, which were mainly political and not legal bodies. They therefore favoured a mixed type of definition in which a description couched in general terms would govern a list of definite acts of aggression which would be included to illustrate the general description. A joint draft resolution was submitted by Iran and Panama, containing a definition of this type.<sup>1/</sup> Paraguay also submitted a draft resolution whereby the General Assembly would have declared that a State committed aggression, inter alia, through the use

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<sup>1/</sup> The text of the draft resolution submitted by Iran and Panama, as revised, is as follows:



of armed force against the people, territory or armed forces of a Non-Self-Governing Territory, or by the organization, within its own territories, of armed bands intended to take action against other States, or the encouragement and support of such bands.

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(Foot-note 1 continued)

"The General Assembly,

Considering that, although the existence of aggression may be inferred from the circumstances peculiar to each particular case, it is nevertheless possible and desirable, with a view to ensuring international peace and security and to developing international criminal law, to define aggression by reference to the elements which constitute it,

Considering further that it would be of definite advantage if directives were formulated for the future guidance of such international bodies as may be called upon to determine the aggressor,

Declares that:

1. Aggression is the use of armed force by a State against another State for any purpose other than the exercise of the inherent right of individual or collective self-defence or in pursuance of a decision or recommendation of a competent organ of the United Nations.

2. In accordance with the foregoing definition, in addition to any other acts which such international bodies as may be called upon to determine the aggressor may declare to constitute aggression, the following are acts of aggression in all cases:

(a) Invasion by the armed forces of a State or territory belonging to another State or under the effective jurisdiction of another State;

(b) Armed attack against the territory, population or land, sea or air forces of a State by the land, sea or air forces of another State;

(c) Blockade of the coast or ports or any other part of the territory of a State by the land, sea or air forces of another State;

(d) The organization, or the encouragement of the organization, by a State, of armed bands within its territory or any other territory for incursions into the territory of another State, or the toleration of the organization of such bands in its own territory, or the toleration of the use by such armed bands of its territory as a base of operations or as a point of departure for incursions into the territory of another State, as well as direct participation in or support of such incursions."

35. Following discussion of these and certain other proposals, the Sixth Committee adopted a draft resolution establishing a Special Committee which would submit to the General Assembly at its eleventh session a detailed report, followed by a draft definition of aggression, having regard to the ideas expressed at the ninth session and to the draft resolutions submitted. The draft resolution was approved by the General Assembly as resolution 895 (IX), by 43 votes to 3, with 11 abstentions. The General Assembly also adopted a resolution (397 (IX)) postponing consideration of the draft Code of Offences against the Peace and Security of Mankind, submitted by the International Law Commission, until the Special Committee on the question of defining aggression had submitted its report.

Consideration by the General Assembly during the Twelfth Session, 1957

36. It was decided at the Assembly's eleventh session to postpone further consideration of the question until the twelfth session. At the Assembly's twelfth session the item was discussed by the Sixth Committee in the light of a report prepared by the Special Committee. The debate showed the same division of opinion as in previous years on the desirability of having a definition of aggression and on the nature of the definition, if any, to be adopted. Amongst the arguments against having a definition was that developments in international affairs had shown that the United Nations functions of conciliation and mediation had frequently come to receive more emphasis than the coercive functions of the Organization. Another point which was made by the representatives of Chile, France and the Netherlands, amongst others, was that for a definition of aggression to be really useful it would have to be accepted by an overwhelming majority of Member States. This majority, Uruguay's spokesman stressed, should include the permanent members of the Security Council.

37. Two draft resolutions containing definitions of aggression were submitted to the Sixth Committee. One put forward by the USSR contained a definition enumerating various acts of aggression. The other, submitted by Iran and Panama, contained a definition of a mixed type. The debate showed that most Members favoured postponing consideration of the question. Some wanted it postponed indefinitely, and the United States proposed a draft resolution to this effect. Other Members wanted



consideration of the matter put off until the Assembly's fourteenth session; many of these argued that the twenty-two Member States admitted to the United Nations since 14 December 1955, should be given the opportunity to comment on the previous definitions contained in a study prepared by the first Special Committee on the Question of Defining Aggression, which had been set up in 1952. This proposal was embodied in a draft resolution submitted by Chile, Colombia, Cuba, Ecuador, El Salvador, the Philippines and Venezuela. After several amendments to this draft resolution had been submitted, the United States presented a further amendment as a compromise solution and withdrew its own draft resolution. The United States amendment proposed that the Secretary-General should refer the replies of Member States on the study made by the first Special Committee, to a committee composed of Member States whose representatives served on the Assembly's General Committee at the most recent regular session of the Assembly. This Committee would study the replies in order to determine when it would be appropriate for the Assembly to consider again the question of defining aggression. The Sixth Committee finally agreed to this proposal, which was endorsed by the General Assembly as resolution 1181 (XII), by 42 votes to 24, with 15 abstentions. Those opposing the resolution did so chiefly on the ground that the procedure envisaged was tantamount to postponing consideration of the question indefinitely.

#### Consideration since the Twelfth Session

38. The Committee established under resolution 1181 (XII) met in April 1959, and concluded that, on the basis of the fourteen replies received, no change of attitude on the part of Member States appeared to have occurred. It therefore decided to postpone further consideration of the question until April 1962, unless an absolute majority of the twenty-one member Committee requested an earlier meeting.

39. At its second meeting in April 1962, the Committee had before it a note by the Secretary-General stating that no further comments had been received since 1959. The Committee adopted a resolution, on the proposal of the representative of Cyprus, providing for a further three-year adjournment until April 1965, unless a request for earlier consideration was received. The Committee asked the Secretary-General to request States admitted to the United Nations since 1959 to submit their views not later than 1 November 1964. It also asked him to renew his request for the views of other Member States.

Intervention by Israel and by France and the United Kingdom in Egypt

Consideration by the Security Council, 1956

40. On 29 October 1956, the United States informed the Security Council by letter that armed forces of Israel had penetrated deeply into Egyptian territory in violation of the Armistice Agreement between Israel and Egypt and requested an immediate meeting to consider "The Palestine question: Steps for the immediate cessation of military action of Israel in Egypt". The Council considered the question at the 748th - 751st meetings, between 30 October and 1 November, in which the representatives of Egypt and Israel participated.

41. The representative of the United States opened the 748th meeting by stating that his Government felt that it was imperative that the Council should act in the promptest manner to determine that a breach of the peace had occurred, to order that the military action by Israel should cease immediately and that the Israel military forces should be withdrawn behind the established armistice lines. The Yugoslav representative described the entry of Israel troops into Egyptian territory as a flagrant act of aggression within the meaning of Article 39 of the Charter. Although Israel complained of acts on the part of its neighbours which it considered inconsistent with the armistice agreements and endangering its security, these acts provided no excuse for the course of naked aggression on which Israel had embarked. The representative of the USSR declared that the Council should take effective action to put an end to the aggression committed by Israel against Egypt and to secure the immediate withdrawal of Israel troops.

42. The representative of Egypt stated that Egypt had been obliged to take the necessary steps to defend its territory. The attack committed by Israel forces on Egyptian territory was in violation of the General Armistice Agreement, Security Council resolutions and the Charter; it constituted a breach of the peace and a serious act of aggression falling within the scope of Chapter VII of the Charter.

43. At the 749th meeting, held on the afternoon of 30 October, the representative of the United Kingdom read out a statement which the British Prime Minister had made that day in the House of Commons. In the statement the Prime Minister declared that the French and United Kingdom Governments had addressed urgent communications to the Governments of Egypt and Israel, calling upon them to cease

hostilities and to withdraw their forces to a distance of ten miles from the Suez Canal. In order to separate the belligerents and to guarantee freedom of transit, they had also asked the Egyptian Government to agree that Anglo-French forces should move temporarily into key positions at Port Said, Ismailia and Suez. The Governments of Egypt and Israel had been asked to answer this communication within twelve hours. If, at the expiration of that time, one or both had not undertaken to comply with these requirements, British and French forces would intervene in whatever strength might be necessary to secure compliance.

44. The representative of the United States then introduced a draft resolution, calling on Israel and Egypt to cease fire and the former to withdraw its armed forces behind the established armistice lines. The draft resolution also called upon all Members, inter alia, "to refrain from the use of force or threat of force in the area in any manner inconsistent with the purposes of the United Nations."

45. Referring to the statement of the United Kingdom Prime Minister, the Yugoslav representative declared that the course of action proposed by the French and United Kingdom Governments constituted a threat of force against the country which was the victim of aggression. Egypt, he stated, was being enjoined to waive its inherent right of self-defence as set forth in the Article 51 of the Charter and to acquiesce in the occupation of part of its territory by two foreign Powers. The representative of the USSR declared that the action taken by the two Governments was an act of aggression against Egypt.

46. After reviewing a list of attacks which had taken place against his country, the representative of Israel stated that, faced with the need of securing its security, Israel had decided to invoke its sovereign rights of self-defence. Israel was not out to conquer any new territory, but was determined to wipe out the bases in the Sinai from which attacks had been launched against it.

47. The draft resolution received 7 votes in favour, 2 against and 2 abstentions; it was not adopted, the 2 negative votes being those of France and the United Kingdom, both permanent members of the Security Council.

48. At the 750th meeting of the Council, held in the evening of 30 October, the USSR representative put forward a shortened version of the earlier draft resolution. This draft resolution was also not adopted, owing to the negative votes of France and the United Kingdom. The Council then considered a letter from the representative

of Egypt, expressing the views of his Government on the ultimatum presented to it by France and the United Kingdom. Egypt had not resorted to force until after Israel troops had actually entered its territory. It was very hard therefore to conceive of a country which had been the victim of armed aggression being presented with an ultimatum when the question of the armed attack on that country was under examination by the Security Council.

49. By the time of the following meeting, on 31 October, reports had been received that French and British aircraft had begun air attacks against military targets in Egypt. The representative of the USSR stated that this action of France and the United Kingdom constituted a gross violation of their obligations under the Charter. The Charter required Member States to refrain in their international relations from the threat or use of force. France and the United Kingdom, in bombing Egyptian settlements and disembarking their armed forces in Egyptian territory, were using force in violation of the Charter. These steps also constituted a violation of the sovereign rights of the Egyptian State. The representative of Egypt declared that, faced with this act of aggression, it had no choice until the Security Council had taken the necessary action but to defend itself, in conformity with the provisions of the Charter.

50. The representative of the United Kingdom referred to the importance to his country and others of the maintenance of free passage through the Suez Canal. The United Kingdom had a right to defend these vital interests. In addition, France and the United Kingdom had acted in order to prevent an armed clash between Israel and Egypt leading to a general conflagration. The French and United Kingdom Governments strongly denied the charge of aggression. Their intervention was not aimed at the sovereignty or territorial integrity of Egypt but was merely temporary, designed to restore peace and order. The representative of France expressed similar views, declaring that the decision had been taken for the sole purpose of re-establishing order, as effectively as possible, in the Canal region before it was too late.

51. At the conclusion of the 751st meeting the Security Council adopted a resolution, submitted by the Yugoslav representative, calling for an emergency special session of the General Assembly as provided in the General Assembly's

"Uniting for Peace" resolution 377 (V). The representatives of France and the United Kingdom maintained that the pre-condition for invoking that resolution, namely the lack of unanimity of the permanent members of the Council, had not been established, and therefore held that the Yugoslav proposal was out of order.

Consideration by the General Assembly during the First Emergency Special Session and the Eleventh Session, 1956

52. At the first emergency special session of the General Assembly, called by the Security Council in the circumstances recited above, and at the eleventh session, there was further discussion relating to the obligation contained in Article 2, paragraph 4, that Member States shall refrain from the threat or use of force in their international relations. The military action taken by France and the United Kingdom was again defended as an urgent temporary police measure in the interest of the United Nations, not incompatible with the principles of the Charter, because of the inability of the United Nations to bring about a prompt cessation of hostilities between Egypt and Israel and to safeguard the Suez Canal. The military action taken by Israel was defended principally on the ground of Article 51, but also as being required by Egypt's failure to comply with the purposes and principles of the Charter. The opposing view was generally that a State might use force only in self-defence or in participating in a collective military action decided by the United Nations. Unauthorized police action was inconsistent with the fundamental principles of the Charter, as was the unilateral redress of wrongs by action outside the framework of the United Nations. Other questions that were discussed concerned the bearing of a claim for fulfilment of the obligation to seek pacific settlement of underlying difficulties on the obligation not to use force.

53. At the outset of the debate at the 561st meeting of the General Assembly, the United States introduced the following draft resolution, which was adopted at the next meeting and became resolution 997 (ES-I):

"The General Assembly,

Noting the disregard on many occasions by parties to the Israel-Arab armistice agreements of 1949 of the terms of such agreements, and that the armed forces of Israel have penetrated deeply into Egyptian territory in violation of the General Armistice Agreement between Egypt and Israel of 24 February 1949,

/...



Noting that armed forces of France and the United Kingdom of Great Britain and Northern Ireland are conducting military operations against Egyptian territory,

Noting that traffic through the Suez Canal is now interrupted to the serious prejudice of many nations,

Expressing its grave concern over these developments,

"1. Urges as a matter of priority that all parties now involved in hostilities in the area agree to an immediate cease-fire and, as part thereof, halt the movement of military forces and arms into the area;

2. Urges the parties to the armistice agreements promptly to withdraw all forces behind the armistice lines, to desist from raids across the armistice lines into neighbouring territory, and to observe scrupulously the provisions of the armistice agreements;

3. Recommends that all Member States refrain from introducing military goods in the area of hostilities and in general refrain from any acts which would delay or prevent the implementation of the present resolution;

4. Urges that, upon the cease-fire being effective, steps be taken to reopen the Suez Canal and restore secure freedom of navigation;

5. Requests the Secretary-General to observe and report promptly on the compliance with the present resolution to the Security Council and to the General Assembly, for such further action as they may deem appropriate in accordance with the Charter;

6. Decides to remain in emergency session pending compliance with the present resolution."

54. In opening the debate at the 561st meeting, the representative of Egypt charged that his country had been the subject of combined premeditated aggression by France, Israel and the United Kingdom. Israel had made an unprovoked armed attack for the purpose of occupying part of Egyptian territory and provoking war in that area. After an ultimatum, air force units of France and the United Kingdom had begun to bomb Egyptian territory and had caused a number of casualties. The United Kingdom had alleged that the main purpose of the armed intervention of France and the United Kingdom was to safeguard the Suez Canal and restore peace in the Middle East. France and the United Kingdom had, however, no right to intervene to safeguard the canal. There had been no decision by the United Nations, no resolution

by the Security Council, giving them the right to use force to safeguard the canal and ensure the free passage of vessels. In trying to settle unilaterally, on their own account, a question which had been submitted to the United Nations, France and the United Kingdom were in violation of the Charter, which permitted resort to force only in accordance with its purposes and principles.

55. The representative of the United Kingdom stated that, confronted with Israel's incursion in force into Egyptian territory in violation of the General Armistice Agreement, and with the ensuing threat to the safety of the Suez Canal, which affected their vital interests, the Governments of France and the United Kingdom had taken military action designed to protect the canal, to separate the combatants and to restore peaceful conditions in the area. This was a temporary police action and would be terminated as soon as the emergency was over. It was not aggressive since it aimed neither at the sovereignty of Egypt, nor at its territorial integrity; it was the only action which could effectively separate the belligerents and safeguard a vital international water-way. Action by the Security Council would have been too late to be effective. The General Assembly should therefore recognize that intervention by France and the United Kingdom was justified and served the best interests of all concerned.

56. The representative of France contended that France and the United Kingdom had decided to intervene, not in a manner contrary to the purpose of the United Nations, but because it had seemed essential, as at the time of the Korean situation, that a Power or group of Powers should take the initiative of facing the real problem. The objectives in this case were cessation of hostilities between the armed forces of Egypt and Israel, protection of the Suez Canal and establishment of lasting peace in the Middle East. This operation in no way jeopardized Egyptian sovereignty; in undertaking this military action it was not intended to act in a manner incompatible with the principles of the Charter.

57. The representative of Israel supported the military action taken by his Government in Egypt, principally on the ground of Article 51. In the present context, note may be made of his contention that Egypt's competence to invoke the Charter against Israel was seriously compromised and reduced by Egypt's denial to Israel of the plenitude of Charter rights which it claimed for itself, and its

failure to respect the obligations which it owed to Israel under the Charter, namely: to join with Israel in maintaining international peace and security, to regard Israel as a sovereign equal, to respect the territorial integrity and political independence of Israel and to refrain from the threat or use of force against this integrity and independence. He complained also of Egyptian default in meeting its obligations under the General Armistice Agreement of 1949 and of the illicit belligerency practised by Egypt by land and by sea. The United Nations, moreover, had not been able to offer Israel the minimum of daily security enjoyed by all its other Members.

58. In the debate which accompanied adoption of the resolution it was asserted by a large number of representatives that the Charter forbade resort to force by a State unless it was an act of self-defence against armed attack or an act of participation in a collective military action decided by a competent organ of the United Nations. Except in cases of collective action undertaken in accordance with the provisions of the Charter, no country might secure its rights, however legitimate by the use of force. Independent action outside the framework of the Charter, was prohibited. A nation lost its right to demand compliance with other treaties if it ignored its obligations under the Charter.

59. The Charter prohibited the use of force as a means of settling international differences or grievances. The hostile acts against Egypt could not be justified, therefore, by claims of other States against that country. The use of force or armed intervention to secure rights was strictly prohibited unless expressly ordered by the Security Council. It was a purpose of the United Nations, clearly expressed in the Charter, to abjure force as an instrument of national policy. Though the United Nations had not yet been able to agree on a definition of aggression, the Charter, in Article 2, explicitly denied to Member States any warrant for the threat or use of force against the territorial integrity or political independence of any State. It was inadmissible that one or two States should claim the right to carry out an international police action when the only organ which could do this was the Security Council, or, if it failed to act, the General Assembly, by virtue of the "Uniting for Peace" resolution.



60. Moreover, neither France nor the United Kingdom had the right to use arms against Egypt, because they had not been attacked. No provision of the Charter gave one nation the right to police another or to use armed might in defence of the principles of the Charter. The General Assembly could not accept the view that this was a war to prevent a greater war. No Power or group of Powers had the right to wage war. To keep the peace was not the function of any given country, or countries, but was the exclusive function of the international community. The armed attack on Egypt was actually a preventive war; the whole concept of preventive war was contrary to the principles of the Charter. In addition, the demand that the Egyptian Government should agree that forces of France and the United Kingdom should occupy Port Said, Ismailia and Suez violated the principles of the Charter relating to territorial integrity.

#### The Situation in Hungary

##### Consideration by the Security Council, 1956

61. At its 752nd meeting on 2 November 1956, the Security Council took up the question of the situation in Hungary. The Council had before it the following documents:

(a) A cablegram dated 1 November 1956, from the President of the Council of Ministers as Acting Minister of Foreign Affairs of the Hungarian People's Republic, notifying the Secretary-General of the entrance of further units of the USSR into Hungary, of the protest to the USSR Ambassador to Hungary by the President of the Council of Ministers and of the latter's demand for the immediate withdrawal of Soviet forces. The President of the Council had informed the Ambassador that the Hungarian Government repudiated the Warsaw Treaty; at the same time he had declared Hungary's neutrality, had appealed to the United Nations and had requested the help of the four great Powers in defending the country's neutrality. He requested inclusion in the agenda of the next session of the General Assembly of the question of Hungary's neutrality and of the defence of that neutrality by the four great Powers.

(b) A note dated 2 November 1956, from the permanent mission of the Hungarian People's Republic, transmitting a letter of the same date from the President of the Council of Ministers, which stated that on 2 November, large Soviet

military units had crossed the Hungarian border, marching towards Budapest. The Security Council was asked to instruct the Governments of Hungary and of the USSR to start negotiations immediately for the withdrawal of Soviet troops from Hungary.

62. The Security Council considered the question at its 752nd to 754th meetings, between 2 and 4 November 1956. At the 753rd meeting the representative of the United States submitted a draft resolution under which the Security Council,

"Deploing the use of Soviet military forces to suppress the efforts of the Hungarian People to reassert their rights,

".....

"Noting the communication of 1 November 1956 of the Government of Hungary to the Secretary-General regarding demands made by that Government to the Government of the Union of Soviet Socialist Republics for 'instant and immediate withdrawal of ... Soviet forces',

"Noting further the communication of 2 November 1956 [S/3726] of the Government of Hungary to the Secretary-General asking the Security Council 'to instruct the Soviet and Hungarian Governments to start the negotiations immediately' on withdrawal of Soviet forces,

"Anxious to see the independence and sovereignty of Hungary respected,

"1. Calls upon the Government of the Union of Soviet Socialist Republics to desist forthwith from any form of intervention, particularly armed intervention, in the internal affairs of Hungary;

"2. Expresses the earnest hope that the Union of Soviet Socialist Republics, under appropriate arrangements with the Government of Hungary, will withdraw all Soviet forces from Hungary without delay;

".....

Operative paragraph 2 was later revised to read as follows:

"Calls upon the Union of Soviet Socialist Republics to cease the introduction of additional armed forces into Hungary and to withdraw all of its forces without delay from Hungarian territory."

63. At the 754th meeting of the Security Council, on 4 November 1956, the United States draft resolution failed of adoption because of the negative vote of a permanent member. A United States draft resolution to call an emergency special session of the General Assembly under the "Uniting for Peace" resolution 377 A (V) was adopted at the same meeting.

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64. During consideration by the Security Council of the situation in Hungary, the action of foreign military forces in Hungary was characterized as an act of suppression of the Hungarian people and a flagrant violation of the purposes and principles of the Charter, in particular of Article 2, paragraph 4, which condemned the use of armed force by one State to suppress the people of another State. When submitting his delegation's draft resolution, the representative of the United States referred to continued reports of Soviet interference in the internal affairs of Hungary; the Council's action should be designed to ensure that the Hungarian people would have an opportunity to determine their own destiny without the intervention of Soviet armed forces in the internal affairs of Hungary. He stated that the question before the Council clearly raised a threat to the peace.

65. The use of Soviet troops in Hungary was characterized as follows. The action of the foreign armed forces in Hungary represented intervention on a massive scale, subversive of the foundation of the United Nations. Military intervention in the domestic affairs of another State violated Article 2, paragraph 4, of the Charter, the Treaty of Peace signed by the Allied and Associated Powers, and the general principle of non-intervention, which was at the very foundation of international law and of Article 2, paragraph 4, of the Charter.

66. The case was called one of flagrant aggression; communications from the Government of Hungary showed that the intervention of Soviet troops was contrary to the express will of the Hungarian people and of its Government, and could no longer be justified as a response to a request from Hungary. The action of the Soviet Union violated the independence and sovereignty of the Hungarian State, since a foreign State could not by force of arms deprive a people of the right to govern itself in accordance with its own wishes.

67. The representative of the Soviet Union rejected the competence of the Council in the matter. The question under consideration was internal to Hungary and had been raised in the Security Council only to give further encouragement to the armed rebellion conducted by a reactionary underground movement against the legal Government of Hungary. The Hungarian Government had been compelled to defend the people's democratic order by employing its armed forces to liquidate a counter-revolutionary uprising supported and directed from outside. To put an

end to the disorders as soon as possible, the Government of Hungary had appealed to the Government of the Soviet Union for assistance. In response to this request Soviet military units located in Hungary in conformity with the Warsaw Pact had come to the help of the Hungarian forces. Discussion of the situation in Hungary was therefore a breach of Article 2, paragraph 7, of the Charter, which prohibited intervention by the United Nations in the domestic affairs of Member States. The parties to the Warsaw Pact, which governed the relations between the Soviet Union and Hungary, as well as other people's democracies, had assumed certain political and military obligations, including the obligation to take the necessary concerted action to reinforce their defensive strength, in order to defer the peaceful labour of their peoples, to guarantee the inviolability of their frontiers and territories, and to afford protection against possible aggression. Soviet forces had been on Hungarian territory and remained there in conformity with the Warsaw Pact. They were helping to put an end to counter-revolutionary intervention and riots; their presence in Hungary served the common interest of the security of all countries parties to the Warsaw Pact. It was quite plain, therefore, that this question in no way concerned the United Nations or, in particular, the Security Council. Any intervention by the United Nations and the Western Powers in the further course of events in Hungary could only lead to complications; it would in any event be illegal and incompatible with the Charter.

68. Belgium, China, Cuba, France, Iran, Peru, the United Kingdom and the United States denied the assertion that the Warsaw Pact envisaged the assistance of Soviet troops at the request of the Government of Hungary. The Treaty contained no provisions expressly referring to such use of troops; its sole purpose was the collective defence of its signatories against any aggression from outside. None of its provisions permitted the use of Soviet military forces on the territory of other signatories, against their populations and in connexion with their domestic affairs. Although the presence of foreign troops on the territory of another State was sometimes to be tolerated because their presence had been agreed to by the country on whose territory they were stationed, such an agreement could not extend to the use of troops to stifle popular movements, nor was such use valid even if requested.

Consideration by the General Assembly during the Second Emergency Special Session, 1956

69. During the Assembly's second emergency special session discussion of the obligation of Member States not to use force or the threat of force in their international relations focused mainly on the question of the consistency of intervention, by foreign troops in the internal affairs of a country, with the obligation not to use force against the political independence of a State. The General Assembly was asked to condemn such intervention as a violation of the obligation laid down in Article 2, paragraph 4. The assertions that events in Hungary were exclusively of domestic concern, that the Government of Hungary was carrying out its obligations under Article 4 of the Treaty of Peace with Hungary in inviting Soviet troops to take action against counter-revolutionary elements, and that it was acting in accordance with a standing collective defence agreement were met by the contention that neither the invitation nor a collective defence agreement could justify such a use of force. Moreover, Article 103 gave precedence to Charter obligations - including the obligation to refrain from the use of force contained in Article 2, paragraph 4 - over the provisions of any international agreement. On the other hand, the argument was advanced that the control being exercised from abroad over the subversive organizations involved in the Hungarian revolt constituted a threat of force within the meaning of Article 2, paragraph 4, which was being properly met by the action undertaken in Hungary on the invitation of the Government of Hungary. After the adoption of the agenda, the representative of the United States submitted a draft resolution - which was adopted as resolution 1004 (ES-II) - recalling the principle of the sovereign equality of all Member States, condemning the use of Soviet military forces to suppress the efforts of the Hungarian people to reassert their rights, and calling upon the USSR Government to desist from all armed attack on the people of Hungary and from any form of intervention, in particular armed intervention, in the internal affairs of Hungary; to cease the introduction of additional armed forces into Hungary; and to withdraw all of its forces without delay. The Secretary-General was requested to investigate the situation caused by foreign intervention in Hungary and report to the General Assembly; he was to suggest methods to bring an end to the foreign intervention in Hungary, in accordance with the principles of the Charter.

70. In opposition to the United States draft resolution, it was maintained that the Government of the Soviet Union had acted at the request of the Hungarian People's Government in sending military forces to Budapest to help the Hungarian authorities restore order in the city. The new legitimate Government of Hungary had appealed to the Soviet troops, which were in Hungary under the Warsaw Pact, for assistance in repressing the counter-revolutionary elements which were trying to promote rebellion in Hungary. In asking for the assistance of Soviet forces, the new Hungarian Government had acted in conformity with Article 4 of the Treaty of Peace with Hungary, which prohibited the existence and operation of fascist organizations in that country. These measures were solely of a domestic nature, not to be discussed in the United Nations.

71. In support of the United States draft resolution, the following contentions were advanced, by the representative of Belgium, Canada, Costa Rica, El Salvador, France and the United States. The concentration of powerful armed forces in Hungary by the USSR, while negotiating for their withdrawal with representatives of the Hungarian Government and the launching thereafter of a full-scale attack on the latter made it a matter of urgency for the General Assembly to call upon the USSR to desist forthwith from its armed attack and to withdraw from Hungary. The issue was simple: might a Member of the United Nations have recourse to threats or to the use of force against the political independence of a State? The Charter said it might not.

72. The next resolution to be adopted - resolution 1005 (ES-II) - declared that "the repression undertaken by the Soviet forces in Hungary constitutes a violation of the Charter of the United Nations and of the Peace Treaty between Hungary and the Allied and Associated Powers". When introducing the resolution, the representative of Italy declared it imperative (a) that the United Nations state clearly the necessity and urgency of the withdrawal of the Soviet troops from Hungary and (b) that the United Nations provide for free elections to help the Hungarian people reconstruct their political life. Eventually a United Nations commission and a United Nations police force would be needed to protect peace and order.

73. Adoption of the draft resolution was opposed by the representatives of Czechoslovakia, Romania and the USSR on the following grounds. The presence of Soviet forces was defended as authorized by the Warsaw Pact and by the request



of "the legal Hungarian Government". The latter had asked for assistance in its effort to suppress the forces of reaction and counter-revolution, supported and trained abroad for subversive purposes. It had declared that when order and tranquility had been restored it would enter into negotiations with the Government of the USSR and other parties to the Warsaw Pact concerning the presence of Soviet forces on Hungarian territory. Thus, the question of the withdrawal of Soviet forces from Hungary was a matter exclusively within the jurisdiction of the Governments of Hungary and the Soviet Union. The question of the existence and implementation of a regional agreement such as the Warsaw Pact was exclusively within the jurisdiction of the contracting parties, and any attempt to turn this question into a subject for discussion by the United Nations was illegal and a violation of the Charter.

74. In support of the draft resolution, the following contentions were advanced. The Soviet Union's use of its troops on Hungarian territory and its failure to withdraw them despite repeated requests conflicted with its commitments as a signatory of the Charter, commitments which included the provisions of Article 2, paragraph 4, on which, among other provisions, the jurisdiction of the United Nations was based. It was undeniable that the use of a foreign army to overthrow the Government of another country constituted intervention. Indeed, reference to the need to eliminate reactionary elements in justification of the steps taken was an admission that there had been intervention. Interference in the internal affairs of a country in the name of the restoration of order and peace was not permissible, no matter what agreements bound the countries involved. Suppression by force of the Government of a country established with the approbation of its people was a breach of the principles of the Charter. Appeal could not be made to the existence of a Government established with the aid of foreign forces to bar United Nations discussion; nor could there be genuine negotiations between two Governments, one of which was the creation of the other. Hence, the withdrawal of Soviet forces was a pre-condition of the restoration of Hungarian political independence and of law and order.

Consideration by the General Assembly during the Eleventh Session, 1957

75. The situation in Hungary was considered further at the eleventh regular session of the General Assembly. The following are the provisions of the five resolutions adopted by the General Assembly which appear to bear most directly on the obligations set out in Article 2, paragraph 4, of the Charter.

Resolution 1127 (XI). The fourth preambular paragraph recalled "the principles of the Charter of the United Nations, in particular the principle embodied in Article 2, paragraph 4". Operative paragraph 1 considered the prompt withdrawal of Soviet forces from Hungary to be urgently necessary.

Resolution 1130 (XI). The third preambular paragraph noted with deep concern the failure of the Government of the Soviet Union to comply with the provisions of the United Nations resolutions calling upon it to desist from its intervention in the internal affairs of Hungary, to withdraw its armed force from Hungary and to cease its repression of the Hungarian people. Operative paragraph 1 reiterated the call for such compliance.

Resolution 1131 (XI). Operative paragraph 1 declared that "by using its armed force against the Hungarian people, the Government of the Union of Soviet Socialist Republics is violating the political independence of Hungary." Operative paragraph 2 condemned "the violation of the Charter of the United Nations by the Government of the Union of Soviet Socialist Republics in depriving Hungary of its liberty and independence and the Hungarian people of the exercise of their fundamental rights." Operative paragraph 3 again called on the Government of the Soviet Union to desist from any form of intervention in the internal affairs of Hungary. Operative paragraph 4 called upon the Government of the Soviet Union to make immediate arrangements for the withdrawal, under United Nations observation, of its armed forces from Hungary and to permit the re-establishment of the political independence of Hungary.

Resolution 1132 (XI). Operative paragraph 1 established a special committee for the purpose, among others, of investigating "the situation created by the intervention of the Union of Soviet Socialist Republics, through its use of armed force and other means, in the internal affairs of Hungary".

The following is a summary of that part of the discussion of the five resolutions in their draft stage which bore on the scope and meaning of Article 2, paragraph 4.

Resolution 1127 (XI)

76. During the General Assembly's consideration of a draft resolution submitted by Cuba - which became resolution 1127 (XI) - the representative of El Salvador submitted an amendment to mention the terms of Article 2, paragraph 4, in the text.

77. The amendment moved by El Salvador was supported on the grounds that it drew attention to the fact that Soviet interference in Hungary was a clear violation of the obligation for all Members, in their international relations, to refrain from the threat or use of force against the territorial integrity or political independence of any State. The action of the Soviet Union was characterized as an act of aggression by one State against another; an attack on an independent people for political reasons; a manifest violation by armed force of the principle of non-intervention.

78. With regard to the suggestion that no forbidden use of force was involved since Soviet forces were present in Hungary on the invitation of the Hungarian Government, it was maintained that the sequence of events left no doubt that the current Government of Hungary existed and exercised authority solely as a result of Soviet action and Soviet power. It followed that the political independence of Hungary was not being respected, and should be restored by the removal of Soviet troops. A Government could easily disguise military aggression as a police operation, claiming that its intervention had been requested by its own friends in the country which was the victim of aggression. It was a dangerous theory which made it legitimate for a Government to send its army into another State to impose its will on the people by force as soon as one of its friends requested such intervention. It would then no longer be possible to identify such an act as aggression. Thus, the principle of non-intervention, one of the essential aims of the United Nations, would be nullified.

79. The representatives of Hungary and of certain other Member States, in opposing the draft resolution submitted by Cuba, reiterated their view that events in Hungary, as well as the settlement of the Hungarian question, fell under the exclusive jurisdiction of the Hungarian Government. The discussion of the problem in the United Nations, therefore, constituted a grave infringement of Hungary's sovereignty and was diametrically opposed to the principles laid down in the Charter.

Resolution 1130 (XI)

80. The General Assembly next considered a draft resolution submitted by fourteen Member States - which became resolution 1130 (XI) - expressive of its concern over the failure of the Soviet Union to comply with resolution 1127 (XI).

81. The following arguments were invoked by representatives who opposed the fourteen-Power draft resolution, in addition to contentions based on Article 2, paragraph 7. The General Assembly was not competent to deal with an alleged dispute between two States when the authorities in power in each denied the existence of any dispute between them. Soviet troops were present in Hungary in complete conformity with the Charter, since Chapter VIII of the Charter recognized the right of Member States to conclude regional defence arrangements among themselves; it was in accordance with the Warsaw Pact that Soviet troops were stationed in the territory of Hungary. Soviet troops had helped the legitimate authorities in Hungary overcome attempts of fascist reactionaries to make use of peaceful popular demonstrations in order to enslave the Hungarian people. The Soviet troops would be withdrawn from Hungary when this action was requested by the Hungarian Government. The question of the presence of Soviet troops on Hungarian territory was therefore a matter for the two Governments concerned, and not a matter to be dealt with by the United Nations.

82. In reply, the military intervention of the Soviet Union in Hungary was described as an attack on the political independence of the Hungarian people, inconsistent with Article 2, paragraph 4, and Article 1, paragraph 2, of the Charter. The contention that the Warsaw Pact empowered the Soviet Union to intervene with armed force in Hungary was resisted as a claim to deny political

independence to the Hungarian people, a claim which was invalid in law because contrary to the clear implication of Articles 2, paragraph 4, and 1, paragraph 2, and of Article 103, which established the precedence of Charter obligations, including the injunction contained in Article 2, paragraph 4. It was also maintained that no nation might sign a collective security agreement that would permit the troops of one of the parties to the pact to use force against the nationals of the other or to justify action to overthrow the Government lawfully in power and to force another Government upon the people.

83. An invasion by a foreign army to suppress a national revolt constituted defiance of the authority of the United Nations, not to be excused by invoking a military pact. Appeals to sovereignty, domestic jurisdiction, reserved powers or exclusive rights of self-determination could not prevail when an international problem arose involving not only intervention, but armed intervention by one State against another for the purpose of imposing a specific ideology upon it. Whether the revolt had been started by fascists or others made no difference in this regard. It had been with the aid of Soviet troops that the new Hungarian Government had assumed power, and only with that aid was it able to maintain itself. This constituted intervention in Hungary's domestic affairs, an attack upon the sovereign authority of the Hungarian people and a violation of the principles of the United Nations Charter. The General Assembly was therefore obliged by the Charter to take action in this case.

#### Resolution 1131 (XI)

84. In connexion with the consideration of resolution 1131 (XI) in draft stage, it was asserted that, except in cases of collective action authorized by international bodies, the use of force by one country against the territory of another constituted aggression. No country should intervene in the internal affairs of another, whether to assist or to overthrow a Government. If force were being used in Hungary, it could not be denied that such use of force was a violation of the Charter.

85. The view was also expressed that, even if the Warsaw Pact had authorized the use of foreign troops to intervene in Hungary's internal affairs, such an authorization would be invalid, since it was impossible for a Government to alienate

its basic attribute of national sovereignty. Moreover, the Hungarian Government had not authorized the use of Soviet forces on its territory; the invasion of Hungary had been carried out against its express will. Prime Minister Nagy had not appealed to the United Nations for help to get the Soviet army into Hungary, but for help to get the Soviet army out. Only after his Government had been violently overthrown was the Soviet Union, backed by its troops, able to establish a Government which, after the event, sought to legalize what had been an actual intervention. There could be no objection to a close relationship between Hungary and the Soviet Union, but it could not be brought about by violence and force.

86. In opposing the twenty-Power draft resolution, other representatives denounced it as provocative and contrary to the principles of the Charter. Use was being made of the United Nations to exert pressure and to interfere in the domestic affairs of the peoples' democracies. In pursuit of this policy of external interference, direct control from without was being exercised over subversive organizations linked with the Hungarian insurrection. The counter-revolutionary rebels in Hungary had received moral and material support from the West. These subversive activities created a threat to peace. They were not only contrary to General Assembly resolution 110 (II), which condemned all forms of propaganda likely to provoke or encourage any threat to the peace, but constituted a threat within the meaning of Article 2, paragraph 4, of the Charter.

#### Resolution 1132 (XI)

87. In submitting a draft resolution sponsored by twenty-four Powers, to establish a Special Committee on the Problem of Hungary - which became resolution 1132 (XI) - the representative of Australia stated that the main objectives of the United Nations concerning Hungary remained the following: first, the withdrawal of Soviet armed forces from Hungary; second, the cessation of Soviet intervention in the internal affairs of Hungary; and third, the establishment of the full political independence of Hungary. In the course of discussion the following additional arguments were advanced. The current political system in Hungary had been established and maintained by the Soviet Union in violation of fundamental provisions of the Charter. The revolts only made more flagrant the whole series



of such violations, which included violation of the undertaking to refrain from the threat or use of force against the political independence of any State. Armed intervention by one country in another constituted an international problem.

88. The duties which the United Nations Charter placed on Member States, by virtue of the fact that the Charter was a multilateral agreement, represented not only moral but also legal obligations. One such legal obligation was the avoidance of the use of force contrary to the principles of the Charter or against the independence and sovereignty of a State. Another was the principle of non-intervention. Obligations under General Assembly resolutions were therefore legally binding, mainly because the General Assembly simply prescribed what the Charter prescribed. The Charter was interpreted by the General Assembly; when it applied the Charter in a specific case, as when it called on a Power to comply with the provisions of Article 2, paragraph 4, such an injunction had the legal force derived from a treaty. It was also observed that, although under the Charter the resolutions of the General Assembly could only be recommendations, the provisions for which they urged respect had a mandatory character.

89. The draft resolution was opposed on the ground that the so-called "Hungarian question" was being used to worsen relations between peoples and to poison the international atmosphere, a procedure which ran directly counter to the purposes and the principles of the United Nations. The draft resolution before the General Assembly attempted subversive interference in the domestic affairs of Hungary and constituted a flagrant violation of the spirit and letter of the Charter. It was obvious that the establishment of a special committee by the General Assembly to interfere in the domestic affairs of Hungary, a Member State of the United Nations, was a definite violation of Article 2, paragraph 7, of the Charter.

#### Resolution 1133 (XI)

90. At the resumed eleventh session, the General Assembly had before it the report of the Special Committee on the Problem of Hungary and a draft resolution sponsored by thirty-seven Powers, which became resolution 1133 (XI). In introducing the report, the representative of Australia stated that the Special Committee had been engaged in an inquiry into the use of force by the Soviet Union against the people of Hungary. It found that the Soviet Union had intervened with force in the

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internal affairs of Hungary to suppress a popular national uprising, and that the Government which had been installed by Soviet armed might was able to remain in power only through the use of an apparatus of foreign force. Therefore, force had been used to crush the aspirations of the Hungarian people.

91. The representative of the United States, when submitting a draft resolution sponsored by thirty-seven Powers, declared that in view of such a massive violation of the Charter as had taken place in Hungary, it was the duty of the General Assembly to uphold the basic principles of the Charter by condemning these gross invasions of Hungary's sovereignty, and by renewing its call upon the Soviet Union to conform to the Charter.

92. The invocation of Article 2, paragraph 7, by the representative of Hungary was characterized as giving support to a dangerous thesis: the United Nations could not interfere when a Member State of the United Nations invaded another Member State with an army, imposed a new Government by force and thus created a new order by violating the sovereignty of a nation and the will of a people. If this thesis were accepted, Article 2, paragraph 7, would no longer protect the sovereignty of a State but only the preponderant power of the winning side.

93. The armed attack by the forces of the Soviet Union against Hungary could not be justified by invoking the provisions of the Warsaw Pact, which was a defensive arrangement against external aggression. Intervention in domestic affairs was expressly prohibited under the law constituted by treaty relations between Hungary and the Soviet Union. Since these obligations expressly confirmed the provisions of Article 2, paragraph 4, of the Charter, the United Nations had a clear right to require the Soviet Union to withdraw its forces and end its interference in Hungarian politics. Moreover, there was no provision in the Warsaw Pact which would authorize the Soviet Union to use its armed forces to impose its will on the Hungarian people. Any such provision would be null and void because it was the duty of all Member States of the United Nations, under Article 2, paragraph 4, to refrain in their international relations from the use of force, and because this duty enjoined by the Charter took precedence, in accordance with Article 103 of the Charter. Therefore, any clause of the Warsaw Pact under which the Soviet Union might consider itself authorized to use force against the political independence of Hungary was illegal, not only condemned by international law but also voided by an express provision of the Charter.

94. The representatives who opposed the joint draft resolution stated once more that consideration of the question was inconsistent with Article 2, paragraph 7, of the Charter. The establishment of the Special Committee had been illegal and contrary to the Charter. The General Assembly should condemn the report of the Special Committee as intervention in the domestic affairs of Hungary. The Soviet military units which were present in Hungary under the terms of the Warsaw Pact had taken action, in accordance with the requests of the Hungarian Government, to avert a real threat of the restoration of the fascist régime in Hungary and to prevent the creation of a hotbed of war in Central Europe. Attempts had been made at the General Assembly to touch upon the question of the stationing of Soviet army units in Hungary. This was a question exclusively within the competence of the Governments of Hungary and of the Soviet Union. These attempts to use the United Nations for purposes of crude interference in the internal affairs of Hungary were a violation of the Charter and a detriment to the cause of peace and international security.

The Complaints by Lebanon and Jordan

Consideration by the Security Council, 1958

95. In a letter dated 22 May 1958, requesting the President of the Security Council to call an urgent meeting of the Council to consider the situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the representative of Lebanon complained of the following:

"... the infiltration of armed bands from Syria into Lebanon, the destruction of Lebanese life and property by such bands, the participation of United Arab Republic nationals in acts of terrorism and rebellion against the established authorities in Lebanon, the supply of arms from Syria to individuals and bands in Lebanon rebelling against the established authorities, and the waging of a violent radio and press campaign in the United Arab Republic calling for strikes, demonstrations and the overthrow of the established authorities in Lebanon, and through other provocative acts."

The Security Council included the question in its agenda at the 818th meeting, on 27 May 1958. A similar complaint by Jordan was included in the agenda of the Council at its 831st meeting, on 17 July 1958.

96. At the 825th meeting, on 11 June 1958, a draft resolution submitted by Sweden "to dispatch urgently an observation group to proceed to Lebanon so as to ensure that there is no illegal infiltration of personnel or supply of arms or other matériel across the Lebanese borders", and to keep the Council currently informed of its activities, was adopted by the Security Council by 10 votes in favour, none against, with 1 abstention.

97. Discussion in the Security Council of the complaint by Lebanon of intervention by the United Arab Republic turned on the question of whether the use of force referred to in Article 2, paragraph 4, covered such acts as subversion, illegal infiltration of personnel and supply of arms, together with violent radio and press campaigns from without, which were alleged to be the instruments of external interference in the affairs of Lebanon and to constitute "indirect aggression" in flagrant violation of the principle of non-intervention in Article 2, paragraph 4.

98. In the first stage of the discussion, the representative of Sweden stated that the Council was faced with the question whether the disturbances in Lebanon were caused by internal antagonisms or were provoked by a foreign Power. In the former case, the possibility of action by the Council was restricted in consequence of the provisions of the Charter concerning domestic jurisdiction. In the case of foreign interference, however, the Council was free to act. There were, therefore, circumstances which justified some arrangement for investigation or observation by the Council for the purpose of clarifying the situation. He consequently proposed the draft resolution referred to above.

99. During the discussion of the Swedish draft resolution, it was asserted that the United Arab Republic was undermining the freedom and independence of Lebanon by subversive interference in its internal affairs. Whenever rebels carried on their fight against the legitimate and constitutional Government of a country with the help of outside resources, without which they would fail, the affair was no longer purely internal but a matter of foreign intervention. There was no question of a direct attack on the independence and sovereignty of Lebanon; but respect for the sovereignty of another country was not solely a matter of not annexing its territory. There were other much more subtle methods of jeopardizing a State's independence without making a frontal attack, and without ceasing to make professions of friendly intentions towards it. It was necessary only to have collaborators within the count-

and to supply them with the means to seize power. The disturbing principle and practice involved, according to another representative, was that a constitutional opposition should be incited from outside the country to abandon constitutional methods in favour of violence, against the ordinary population and the constituted authorities, carried on with arms supplied from abroad.

100. The position was also taken that fundamental questions concerning the responsibility of Member States and of the United Nations itself were involved. A cardinal principle of the United Nations was the injunction to all Members contained in Article 2, paragraph 4, of the Charter. The Security Council and the General Assembly had on many occasions considered complaints involving this essential Charter principle of non-intervention. Recognizing the universal significance of this issue, the General Assembly had adopted resolution 290 (IV), entitled "Essentials of peace", which contained provisions directly pertinent to the question which was being discussed by the Council; it called upon every nation "to refrain from threatening or using force contrary to the Charter" and "to refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people in any State".

101. The question raised by the Lebanese crisis was whether the United Nations machinery and the whole conception of the United Nations were suitable to deal with subversion and indirect aggression. Direct, palpable and demonstrable aggression, such as the crossing of frontiers by regular troops, presented no difficulty, but the question was whether United Nations machinery was capable of handling indirect aggression or subversion. The primary aim was to provide United Nations machinery to deal with the illegal infiltration of personnel and the supply of arms, which contributed to the state of unrest in Lebanon and gave clear evidence of interference from outside the country.

102. On the other hand, it was maintained that the complaint that the United Arab Republic was interfering in the internal affairs of Lebanon was unfounded. The United Arab Republic had categorically denied these accusations. A settlement of the domestic conflict in Lebanon should be sought, not in the Security Council, but in Lebanon itself. There was, indeed, a threat of interference in the internal



affairs of Lebanon, but this came not from the United Arab Republic but from certain Western Powers which were openly preparing for armed intervention in Lebanon.

103. At the 827th meeting of the Security Council on 15 July 1958, the representatives of Lebanon and of the United States informed the Council that, at the request of the Lebanese Government, the United States Government had offered direct military assistance to the former in its efforts to stabilize the situation brought about by threats from outside against the independence and political integrity of Lebanon. The action of the United States was being taken under the provisions of Article 51 of the Charter. United States military forces would remain in Lebanon only until the United Nations itself could assume the necessary responsibility for ensuring the continued independence of Lebanon. A similar announcement made at the 831st meeting by the representatives of Jordan and the United Kingdom concerning the dispatch of United Kingdom troops to Jordan in response to the request of the latter for assistance in meeting threats to its independence.

104. At the 827th meeting of the Council, the representative of the USSR introduced a draft resolution to characterize the action of the United States in Lebanon as an armed intervention contrary to the purposes and principles of the Charter, and a serious threat to international peace and security; and to call upon the Government of the United States to cease such armed intervention and remove its troops from the territory of Lebanon immediately. The draft resolution was later revised to call upon the Government of the United Kingdom as well, to cease armed intervention, and to remove its troops from Jordan.

105. At the 829th meeting, a draft resolution was submitted by the United States to continue the activities of the United Nations Observation Group in Lebanon (UNCGIL); to request the Secretary-General to make arrangements for additional measures as necessary, including contingents to protect the territorial integrity and independence of Lebanon and to ensure that there was no illegal infiltration of personnel or supply of arms or other matériel across the Lebanese borders; and to call for the immediate cessation of all illegal infiltration of personnel and



supply of arms across Lebanese borders, as well as attacks upon the Government of Lebanon by government-controlled radio and other information media calculated to stimulate disorders.

106. At the 832nd meeting of the Council, the representative of Sweden submitted a draft resolution which, after noting that the presence of foreign troops in Lebanon had substantially altered the conditions under which the Council had sent observers there, would have suspended the activities of the latter until further notice. At the 834th meeting, on 18 July 1958, all three draft resolutions were voted upon and failed of adoption.

107. At the 835th meeting, the representative of Japan submitted a draft resolution which would request the Secretary-General to make arrangements for such measures additional to those in the resolution of 11 June 1958, as he might consider necessary to enable the United Nations to fulfil the purposes of that resolution, and would, in accordance with the Charter, serve to ensure the territorial integrity and political independence of Lebanon, so as to make possible the withdrawal of United States forces from Lebanon. The representative of the USSR submitted several amendments to the Japanese draft resolution, among them one to consider that the landing of United States troops in Lebanon constituted intervention in the domestic affairs of that country, and to call on the United States to withdraw its troops immediately.

108. At the 837th meeting, on 22 July 1958, the amendments submitted by the USSR were rejected. The draft resolution submitted by Japan failed of adoption. At the 838th meeting, on 7 August 1958, the Security Council adopted a resolution calling an emergency special session of the General Assembly.

109. Following the announcement that military assistance had been extended by the United States and the United Kingdom to Lebanon and Jordan, respectively, the question arose whether "indirect aggression" against the independence and territorial integrity of a State, such as Lebanon and Jordan complained of, could lawfully be met by inviting the help of a friendly foreign State and obtaining military aid from it. In support of the affirmative, General Assembly

resolutions 290 (IV), "Essentials of peace",<sup>1/</sup> and 380 (V), "Peace through deeds",<sup>2/</sup> were cited. It was contended in opposition to this claim that the United States offer of assistance actually constituted an act of direct military intervention in the internal affairs of Lebanon, forbidden by Article 2, paragraph 4, since the difficulties faced by the Government of Lebanon were domestic and were not induced from outside the country.

110 At the 827th meeting of the Council, the representative of the United States, when announcing that military assistance was being extended by his Government to Lebanon at the request of that Government, and in accordance with Article 51 of the Charter, contended that the injunction of Article 2, paragraph 4, had been one of the fundamental considerations behind the adoption of the resolution of 11 June 1958, to dispatch observers to Lebanon. There was external involvement in an internal revolt against the authorities of the legitimate Government of Lebanon. If the United Nations was to succeed in its efforts to maintain international peace and security, it should support the efforts of the legitimate and democratically elected Government to protect itself from aggression from without, even if that aggression was indirect. The overthrow of another State by subversion and fomenting internal strife was more difficult for the world to combat than was direct military aggression. The United Nations had faced this problem before, in Greece in 1946 and in Czechoslovakia in 1948. The United Nations had sought to provide means for dealing with such aggressive developments in the future in General Assembly resolutions 290 (IV), "Essentials of peace", and 380 (V), "Peace through deeds". Particularly in the latter resolution, which solemnly affirmed that any aggression committed by fomenting civil strife in the interest of a foreign Power was the gravest of all crimes against peace and security throughout the world, the General Assembly had in mind just such a situation as the one before the Council. The integrity and independence of a nation were as precious when attacked from outside by subversion and erosions as when attacked from outside by subversion and erosion as when attacked by direct military action.

<sup>1/</sup> See Essentials of Peace, paras. 276-282 below, where the resolution is reproduced.

<sup>2/</sup> See Peace through Deeds and Condemnation of Propaganda against Peace, paras. 195-202 below, where the resolution is reproduced.

111. At the 829th meeting of the Council, the representative of the United States, when submitting a draft resolution designed to make it possible for his Government to withdraw its troops from Lebanon, contended that the mention of the "Essentials of peace" and "Peace through deeds" resolutions in the preamble was relevant because it reaffirmed that the United Nations had to meet and deal effectively with the problem of indirect aggression. If the United Nations could not deal with indirect aggression, it would break up. United Nations failure to meet this challenge would invite subversion all over the world.

112. Indirect aggression was the common factor linking the situations in Lebanon and Jordan, in the view of another representative. The method of indirect aggression - subversion and the attempt to overthrow constituted authority - could be just as dangerous as open aggression. The principle that aggression by fomenting civil strife in the interest of a foreign Power was one of the gravest offences against peace and security was one the United Nations should continue to recognize in accordance with resolution 380 (V), in which it had been formulated by the General Assembly.

113. In connexion with his draft resolution to call upon the United States Government to withdraw its armed forces from Lebanese territory, the representative of the USSR observed that the alleged interference of the United Arab Republic in Lebanese affairs had not been confirmed by the United Nations Observation Group in Lebanon (UNOGIL), which had been sent to Lebanon by decision of the Security Council. There was in fact a state of civil war in Lebanon; the authorities in Lebanon were faced, not with elements infiltrating from the United Arab Republic, but with a truly nation-wide movement against the régime. Certain Western Powers had long been trying to use the events in Lebanon as a pretext for armed intervention against the Lebanese people. There was incontrovertible factual evidence that Lebanon was threatened, not by fictitious intervention in its internal affairs by the United Arab Republic, but by the direct military intervention of the United States and its Western partners. The landing of United States troops in Lebanon was therefore a flagrant violation of the Charter prohibition against the use of force as an instrument of foreign policy.

Consideration by the General Assembly during the Third Emergency Special Session, 1958

114. During the third emergency special session of the General Assembly there was further discussion of the obligations contained in Article 2, paragraph 4, regarding the use of force, with particular reference to the right of self-defence contained in Article 51. It was maintained, on the one hand, that indirect aggression against Lebanon and Jordan had clearly justified the exercise by their Governments of the inherent right of collective self-defence under Article 51. Foreign interference in their domestic affairs had caused serious threats to their national sovereignty and territorial integrity in defiance of basic provisions of the Charter. The injunction contained in Article 2, paragraph 4, had its corollary in the provisions of Article 51, which recognized the right of self-defence. In prohibiting the use of force against the territorial integrity or political independence of any State, Article 2, paragraph 4, authorized the use of force at the request of the lawful Government of a State so as to enable it to defend its territorial integrity and political sovereignty. Moreover, Article 2 paragraph 4, referred to aggression other than direct armed aggression when, in addition to prohibiting the "use of force against the territorial integrity or political independence of any State", it prohibited the use of force "in any other manner inconsistent with the Purposes of the United Nations."

115. As against this, it was contended that the armed intervention of United States and United Kingdom troops in the domestic affairs of Lebanon and Jordan had taken place without the approval of the United Nations and was contrary to the Charter. Reference to Article 51 was not justified, for Article 51, as well as the letter and spirit of the Charter, allowed the use of armed forces only "if an armed attack occurs against a Member of the United Nations". No such attack had been committed by any other State against Lebanon and Jordan. If Article 51 was to be invoked at all, it should be to repel the armed intervention undertaken by the United States and the United Kingdom against Lebanon and Jordan, which was a violation of the Charter.

116. In the course of the discussion the representatives of the United States and the United Kingdom asserted that it was the intention of their Governments to

withdraw their troops whenever this was requested by the Governments of Lebanon and Jordan respectively, or whenever, as a result of further action by the United Nations, the independence and integrity of these countries was ensured and the presence of the troops therefore no longer required.

117. At the conclusion of the debate the Assembly adopted unanimously a draft resolution submitted by ten Arab States, including Jordan and Lebanon, as resolution 1237 (ES-III):

Resolution 1237 (ES-III). Questions considered by the Security Council  
at its 838th meeting on 7 August 1958

"The General Assembly,

.....

Noting the Charter aim that States should practice tolerance and live together in peace with one another as good neighbours,

Noting that the Arab States have agreed, in the Pact of the League of Arab States, to strengthen the close relations and numerous ties which link the Arab States, and to support and stabilize these ties upon a basis of respect for the independence and sovereignty of these States, and to direct their efforts toward the common good of all the Arab countries, the improvement of their status, the security of their future and the realization of their aspirations and hopes,

Desiring to relieve international tension,

I

1. Welcomes the renewed assurances given by the Arab States to observe the provision of article 8 of the Pact of the League of Arab States that each member State shall respect the systems of government established in the other member States and regard them as exclusive concerns of these States, and that each shall pledge to abstain from any action calculated to change established systems of government;

2. Calls upon all States Members of the United Nations to act strictly in accordance with the principles of mutual respect for each other's territorial integrity and sovereignty, of non-aggression, of strict non-interference in each other's internal affairs, and of equal and mutual benefit, and to ensure that their conduct by word and deed conforms to these principles;

## II

Requests the Secretary-General to make forthwith, in consultation with the Governments concerned and in accordance with the Charter, and having in mind section I of this resolution, such practical arrangements as would adequately help in upholding the purposes and principles of the Charter in relation to Lebanon and Jordan in the present circumstances, and thereby facilitate the early withdrawal of the foreign troops from the two countries; ..."

Questions concerning Relations between France and TunisiaConsideration by the Security Council, 1961

118. On 20 July 1961, Tunisia requested an urgent meeting of the Security Council to consider its complaint against France "for acts of aggression infringing the sovereignty and security of Tunisia and threatening international peace and security". In an explanatory memorandum Tunisia added that since the afternoon of 19 July Bizerta had been under attacks by the French navy and air force and that 800 French paratroopers had been dropped over Bizerta in violation of Tunisia's airspace. Moreover, during the night of 19-20 July, French armoured units which had been outside the Bizerta base had taken up positions outside the base.

119. On 20 July, France requested the circulation of the text of two notes, dated 18 and 20 July 1961 which it had sent to Tunisia. In the note dated 18 July 1961, France had warned Tunisia of the serious consequences which might follow the implementation of certain measures announced by President Bourguiba in relation to Bizerta. In the second note, France further warned Tunisia against any attempts to cripple the base by means of popular demonstrations and force. It added that France had been compelled to take all necessary steps to ensure the inviolability of its installations and freedom of communications at the base.

120. The Security Council considered the item at six meetings between 21 and 29 July 1961. The representative of Tunisia stated that the 1958 Franco-Tunisian agreement had stipulated that France would not keep on Tunisian territory armed forces other than those specified in that agreement. France had violated that agreement and Tunisia had therefore prohibited the flight of any aircraft through Tunisian airspace in the Bizerta region and that south of Gabes. Since



19 July 1961, France had been committing armed, premeditated and continuous aggression against Tunisia which, under its right of self-defence, was justified in taking measures to banish from its territory the danger of foreign aggression.

121. The representative of France said that it was his Government which could have denounced the acts of aggression by the Tunisian Government against French forces. The legal basis for the French military presence in Bizerta came as a result of the 1958 Franco-Tunisian agreement under which it had been arranged that French troops should be evacuated from the rest of Tunisia and that the normal activity of the Bizerta base should be resumed, under a provisional agreement, which should continue until a permanent agreement was concluded. Although the French Government had complied strictly with the provisions of the 1958 agreement and had proposed talks on the subject of the base, negotiations had never really been entered into.

122. Several Members of the Council, including Ceylon, Liberia, Turkey and the United States, urged an immediate cease-fire and a return of all forces to their previous positions. The representatives of the United Arab Republic and of the USSR called for an end of French aggression, the immediate withdrawal of French troops from Bizerta and the liquidation of all French bases in Tunisia.

123. In a statement before the Council on 22 July the Secretary-General said that in view of serious and threatening developments in Tunisia, he considered it his duty under Article 99 of the Charter to make an urgent appeal to the Council to take an intermediary decision, pending further consideration of the item. Such a decision should not prejudice the final outcome of the Council's deliberations, but only request the two sides to cease all hostile action immediately. The representative of Liberia introduced a draft resolution providing that the Security Council should call for an immediate cease-fire and a return of all armed forces to their original position, and deciding to continue the debate. The Council adopted the Liberian proposal by 10 votes to none; the representative of France abstained, explaining that it would be paradoxical on the part of France to exhort itself to carry out what it had been pressing for since 19 July. The French representative stated later on 22 July that the French commander in Bizerta had received instructions to enter into contact with the Tunisian authorities in order to establish a cease-fire. On

the same day two draft resolutions, submitted by Liberia and the United Arab Republic, and the United Kingdom and the United States, failed to receive the required majority. Both proposals called upon the parties to enter into negotiations.

124. On 27 July 1961, Tunisia asked that the Security Council be convened again to consider its complaint against France. Tunisia stated that the French military forces had refused to comply with the interim resolution adopted by the Council, despite Tunisia's compliance in the face of provocative acts. On 28 July, the representative of France informed the President of the Council that the cease-fire had been established; agreement still had to be reached, however, about restoring normal conditions in Bizerta and the French authorities had proposed that talks to that end be opened without delay.

125. When the Council reconvened on 28 July, the Secretary-General reported on the visit which he had recently made to Tunisia, at the request of President Bourguiba, for the purposes of a direct and personal exchange of views with the President. The representative of Tunisia stressed that his Government, as an independent and sovereign State, had a right to request the departure of French troops at any time. Draft resolutions were introduced, by Ceylon, Liberia and the United Arab Republic, and by Turkey, expressing concern that the interim resolution of 22 July had not been fully carried out and urging the early opening of negotiations. None of the various proposals put forward received sufficient votes to be adopted.

Consideration by the General Assembly during the Third Special Session, 1961

126. On 7 August 1961, thirty-eight delegations, chiefly from Member States in Africa and Asia, sent a letter to the Secretary-General requesting the convening of a special session of the General Assembly to consider the grave situation in Tunisia. After a poll had been taken, in accordance with the rules of procedure, and a majority of Member States had been found in favour, the Assembly's third special session was convened on 21 August 1961. In his opening statement the representative of Tunisia declared that France had refused to return its armed forces to their original positions although thirty days had passed since the adoption of the Security Council's resolution of 22 July. In view of France's persistent refusal to implement the Council's resolution, Tunisia had no alternative but to appeal to the United Nations to end the French aggression of 19 July.

127. During the discussion the majority of speakers were of the opinion that France had committed aggression and that it was imperative that the Security Council's resolution should be implemented without delay. The USSR, as well as Albania, the Byelorussian SSR, Cuba, Czechoslovakia, the Ukrainian SSR and Yugoslavia, declared that events in the Bizerta area had demonstrated that Western bases in the territories of other countries served aggressive and imperialistic purposes and undermined the sovereignty of the countries in which they were situated. Burma, India, Iraq and Mali, amongst others, while pointing out that the presence of foreign military bases might be a source of friction, stated that independent States had every right to enter into agreements permitting such bases, just as they had the right not to tolerate the presence of foreign forces or foreign military bases on their territory.

128. Thirty-three Member States submitted a joint draft resolution reaffirming the Security Council's resolution and calling upon France and Tunisia to enter into negotiations for a peaceful settlement of the dispute. The draft resolution also recognized the sovereign right of Tunisia to call for the withdrawal of all French troops present on its territory without its consent. The sponsors of the resolution declared that this principle was derived from the fundamental purposes of the Charter and that the presence of foreign troops on a State's territory without its consent constituted a violation of the sovereignty of the country concerned. The representatives of Argentina, Canada, El Salvador, Guatemala, Italy, New Zealand, the United Kingdom and the United States expressed the view that it would not be appropriate for the Assembly to attempt to dictate the terms of an agreement since this would not help create a suitable climate for negotiations between parties.

129. The joint draft resolution was adopted on 25 August 1961, by 66 votes to none, with 30 abstentions, as resolution 1622 (S-III).

Resolution 1622 (S-III). Consideration of the grave situation in  
Tunisia obtaining since 19 July 1961

"The General Assembly,

Having examined the grave situation prevailing in Tunisia since  
19 July 1961 which was the subject matter of Security Council consideration  
in its meetings of 21, 22, 28 and 29 July 1961,

Noting with concern and regret that France has not fully complied with the provisions of the interim resolution adopted by the Security Council on 22 July 1961,

Noting that the Security Council has failed to take further appropriate action,

Convinced that the presence of French armed forces in Tunisian territory against the express will of the Tunisian Government and people constitutes a violation of Tunisia's sovereignty, is a permanent source of international friction and endangers international peace and security,

1. Reaffirms the Security Council's interim resolution and urges the Government of France to implement fully the provisions of operative paragraph 1 thereof;

2. Recognizes the sovereign right of Tunisia to call for the withdrawal of all French armed forces present on its territory without its consent;

3. Calls upon the Governments of France and Tunisia to enter into immediate negotiations to devise peaceful and agreed measures in accordance with the principles of the Charter of the United Nations for the withdrawal of all French armed forces from Tunisian territory."

#### The Situation in the Caribbean Area, October 1962

##### Consideration by the Security Council, 1962

130. On 23 October 1962, the Security Council met urgently to consider the crisis which had developed in the Caribbean area. The meeting was requested by the United States and Cuba in separate letters on 22 October, and by the USSR on 23 October 1962.

131. The United States asked the Council "to deal with the dangerous threat to the peace and security of the world which has been caused by the secret establishment in Cuba by the Union of Soviet Socialist Republics of launching bases and the installation of long-range ballistic missiles capable of carrying thermo-nuclear warheads to most of North and South America". The letter added that the United States had incontrovertible evidence that the USSR had been installing in Cuba a whole series of facilities for launching offensive weapons and installing the weapons themselves. These steps, the letter maintained, were far in excess of any conceivable defence requirements of Cuba. The United States had, therefore,

commenced a series of measures designed to halt this offensive build-up. It had called, among other things, for a meeting of the Organ of Consultation of the Organization of American States under the Inter-American Treaty of Reciprocal Assistance of 1947, and it was initiating a strict quarantine of Cuba to prevent the shipping of offensive weapons to that country.

132. The United States also submitted a draft resolution by which the Security Council would: (1) call for the immediate dismantling and withdrawal from Cuba of all missiles and other offensive weapons; (2) request the Secretary-General to dispatch to Cuba a United Nations observer corps to assure compliance with the resolution; (3) call for the termination of measures of quarantine directed against military shipments to Cuba under United Nations certification of compliance with paragraph (1); and (4), urgently recommend that the United States and the USSR confer promptly on measures to remove the existing threat to the security of the Western hemisphere and the peace of the world and report thereon to the Security Council.

133. The Cuban letter asked the Council to consider urgently "the act of war unilaterally committed by the Government of the United States in ordering the naval blockade of Cuba". The letter stated that the request for a meeting was based on Articles 34, 35, paragraph 1, and 39 of the Charter, and that it was also citing Articles 1, paragraph 1, 2, paragraph 4, and 24, paragraph 1. The United States action was declared to be in disregard of the international organizations, particularly of the Security Council, and creating an imminent danger of war.

134. The USSR letter asked the Council to examine the question of "Violation of the Charter of the United Nations and threat to peace on the part of the United States of America". An attached statement asserted that the United States was taking a step towards the unleashing of a world thermo-nuclear war and was violating international law and the principles of the Charter by assuming the right to commit "piracy" on the high seas. USSR assistance to Cuba was designed exclusively to improve Cuba's defensive capacity and was made necessary by the continuous threats and acts of provocation of the United States.

135. On 23 October, after the Security Council had decided to consider the three letters simultaneously, the United States representative declared that the



transformation of Cuba into a base for offensive weapons of sudden mass destruction constituted a threat to the peace of the Western Hemisphere and to the peace of the world. He recalled that Article 2, paragraph 4, of the Charter defined the necessary conditions for a community of independent peoples by declaring that all Member States should refrain from the threat or use of force against any State or act in any other manner inconsistent with the purposes of the United Nations. By giving the USSR a bridgehead in the Western Hemisphere, Cuba had invited an extra-continental, anti-democratic and expansionist power into the Americas. Noting that some had sought to equate the USSR bases in Cuba with those of the North Atlantic Treaty Organization in parts of the world near the USSR, he pointed out that missiles which introduced a nuclear threat into an area hitherto free of it, which were clandestinely installed and which resulted in the most formidable nuclear base in the world outside existing treaties, had a different purpose from those which had been established in Europe years ago. Moreover, by setting up missiles in Cuba, the USSR was striking at the principle of the territorial integrity of the Western Hemisphere; to let that challenge go unanswered would be to undermine a basic and historic pillar of the hemisphere's security. He informed the Council that the Organization of American States had that afternoon adopted a resolution calling for the immediate withdrawal of all missiles from Cuba and recommending to members of the Organization of American States that they take all measures, individually or collectively, including the use of armed force, to prevent the receipt by Cuba of further military material.

136. The Cuban representative stated that the threat of war by American imperialism hung heavily over Cuba. Cuba had been forced to arm in order to defend itself against the repeated aggressions of the United States. It had not only suffered from the economic boycott and from United States pressures to isolate it within the hemisphere but had been the object of armed attacks and sabotage by agents trained in the United States. These aggressive acts had been performed when no state of war existed between the two countries. The United States had first sent its ships and planes to and around Cuba and only then consulted its allies and the international organizations. It did not submit the case to the Security Council first because it had no moral or legal reason for its aggressive actions. The Cuban representative declared that his Government would not accept any



observers in matters within its domestic jurisdiction and suggested that United Nations observers should be sent instead to places in the United States from which sorties against Cuba were being made. He called on the Security Council to ask for the immediate withdrawal of the United States aggressive forces from the coast of Cuba, the ending of the illegal blockade unilaterally established by the United States, and the cessation of provocative acts at the United States base at Guantanamo and of piratical attacks organized by agents in the service of the United States Government.

137. The representative of the USSR declared that the United States appeal to the Security Council was only an attempt to cover up its aggressive actions against Cuba. He said that he officially confirmed the statement of the USSR Government that it had not and was not directing to Cuba any offensive armament. The "military blockade" of Cuba and other measures of the United States were threats of force against Cuba, in flagrant violation of Article 2, paragraph 4. The United States was prepared to unleash a world thermo-nuclear war in order to carry on its "aggression" against Cuba, he declared. The USSR representative then submitted a draft resolution by which the Council would: (1) condemn the actions of the United States designed to violate the Charter and to intensify the threat of war; (2) insist that the United States Government repeat its decision to control the ships of other States going to Cuba; (3) propose that the United States halt any interference in the domestic affairs of Cuba and other States constituting a threat to peace; and (4) call upon the United States, Cuba and the USSR to establish contracts and enter into negotiations for the purpose of normalizing the situation and thereby removing the threat of war.

138. On 24 October, a joint draft resolution was introduced by Ghana and the United Arab Republic by which the Security Council would: (1) request the Acting Secretary-General to confer promptly with the parties directly concerned on the immediate steps to be taken to remove the existing threat of world peace, and to normalize the situation in the Caribbean; (2) call upon the parties concerned to comply forthwith with the resolution; (3) request the Acting Secretary-General to report to the Council on the implementation of paragraph (1); and (4), call upon the parties concerned to refrain meanwhile from any action which might further aggravate the situation.

139. The representative of Venezuela said that he spoke on behalf of all Latin American countries in voicing their serious concern over the installation of rocket bases and nuclear missiles in Cuba. The weapons concerned were offensive, not defensive, in nature and enough to wipe out any nation of the Western Hemisphere. The Organization of American States had already adopted a resolution which, among other things, recommended that its member States

"take all measures, individually and collectively, including the use of armed force, which they may deem necessary, to ensure that the Government of Cuba cannot continue to receive from the Sino-Soviet powers military material and related supplies which may threaten the peace and security of the continent and to prevent the missiles in Cuba with offensive capability from ever becoming an active threat to the peace and security of the continent."

He considered it imperative that the Security Council should take measures to stop nuclear weapons from arriving in Cuba and to ensure the dismantling of the present nuclear bases there, so that the grave danger to peace would be ended. Expressing similar concern, the representative of Chile gave his delegation's support to the United States resolution which he believed contained positive elements that could contribute to finding a solution of the present conflict. He stressed the need for the establishment of a United Nations presence in Cuba and appealed to Cuba to accept that procedure or any other initiative which the Acting Secretary-General might take in seeking a peaceful solution of the crisis.

140. Other Council members, including China, France, Ireland and the United Kingdom also expressed support for the United States resolution. The representative of the United Kingdom declared that his Government strongly believed that each country had the right and duty to look to its own defence. However, legitimate defences were one thing, nuclear missiles with a range of 2,000 were quite another. While disarmament discussions were in progress in the United Nations and conversations were being undertaken between the United States and the USSR about limiting the spread of nuclear weapons, plans had been going forward for the supply of these very weapons of destruction to the Cuban Government. The representative of France emphasised that although Cuba had a right to take measures to defend itself, in this case it could not be said to be acting on its own. The representative of Ireland stressed that small nations which allowed military, and especially nuclear bases on their territory might upset the military balance in the world, with very

dangerous consequences. He noted, however, that the two sides had indicated willingness to seek a peaceful solution of the problem and hoped that negotiations would begin while there was still time.

141. Speaking in support of the USSR draft resolution, the representative of Romania said that military preparations had been made by the United States for an invasion of Cuba long before the alleged discovery of certain installations in Cuba. He declared that the aggressive actions of the United States against Cuba created a threat to the peace. It was the duty of the United Nations, he stated, to impose upon the United States respect for the fundamental principles of the Charter and the norms of international law.

142. The representative of the United Arab Republic said that his country approached the problem in the light of the principles of the Charter and the resolutions of the Bandung and Belgrade conferences. The United Arab Republic, he said, abided by three principles. These were, that every State had the right: (1) to non-interference in its internal affairs; (2) to complete freedom to choose its own political system and way of life; and (3) to bring its defences up to the state necessary to ensure its political freedom and territorial integrity. He declared that the United Arab Republic also believed in Article 2, paragraph 4, of the Charter, to the effect that no State should threaten or use force against another. His country could not condone the unilateral decision of the United States to quarantine the Caribbean. That action was contrary to the law of the high seas and had been taken without the authority of the Security Council, which was responsible for international peace and security. Recalling that the USSR had denied that it had sent nuclear weapons to Cuba, he reaffirmed the United Arab Republic's stand against the spread of nuclear weapons. He then introduced the draft resolution jointly sponsored by his country and Ghana.

143. Expressing similar views, the representative of Ghana suggested that Cuba and the United States should give written guarantees to the Security Council that they had no intention of interfering in each others internal affairs or of taking offensive military action against the other or, in the case of Cuba, against any other country in the Western Hemisphere. Any attempt to attribute an offensive character to military arrangements, such as those adopted in Cuba would require the most conclusive proof. The action contemplated by the United States was

clearly enforcement action, which was inadmissible under the Charter without the authorization of the Security Council. His delegation did not believe that such action was justified in exercise of the inherent right of self-defence, for there was no incontrovertible proof available as yet as to the offensive character of the military developments in Cuba. Moreover, the delegation of Ghana could not agree that in this particular case self-defence could be invoked to justify the exercise of authority by the United States on the high seas in time of peace. Concluding, the representative of Ghana said that his delegation could not apportion blame for the present crisis. What was urgently needed was negotiation between the parties concerned to resolve the crisis on the basis of respect for each other's sovereign rights.

144. On the same day, the Acting Secretary-General informed the Security Council that, at the request of a large number of Member States, he had sent identical messages to the President of the United States and to the Chairman of the USSR Council of Ministers, urging the parties concerned to get together with a view to resolving the present crisis peacefully and normalizing the situation in the Caribbean. That involved, on the one hand, the voluntary suspension of all arms shipments to Cuba and, also, the voluntary suspension of the quarantine measures involving the searching of ships bound for Cuba. He believed that such voluntary suspension for a period of two or three weeks would give time to the parties to meet and discuss with a view to finding a peaceful solution of the problem. In his statement before the Council, the Acting Secretary-General appealed to the Cuban Government to suspend the construction and development of military facilities and installations during the period of those negotiations. He offered to make himself available to all parties for whatever services he might be able to perform; he stressed that the path of negotiation and compromise was the only course by which peace could be secured at that critical moment.

145. On 25 October, the representatives of the United States and the USSR made further statements in the Security Council, in the course of which they apprised the Council of the replies of their respective Heads of State to the Acting Secretary-General's appeal for negotiations. In his reply, President Kennedy reiterated that the existing threat had been created by the secret introduction of offensive weapons into Cuba and that the solution lay in the removal of those

weapons. He said that the United States Ambassador to the United Nations was ready to discuss promptly with the Acting Secretary-General the arrangements that might be made. Chairman Khrushchev, in his reply, welcomed the Acting Secretary-General's initiative and expressed agreement with the proposal made by the Acting-Secretary-General which, he said, met the interests of peace.

146. In addition, the United States representative, replying to points raised during the debate, said that his Government had had to act promptly because of the manner and speed with which nuclear missiles had been installed in Cuba; a delay would have meant the nuclearization of Cuba, a risk which the hemisphere was not prepared to take. He declared that no twisting of logic could disguise the fact that the weapons in Cuba were a threat to the peace and contrary to Article 2, paragraph 4. He showed aerial reconnaissance photographs of the missiles bases which he said afforded incontrovertible proof of the Soviet military build-up in Cuba. In addition to the missiles, he said, the Soviet Union had sent a number of bombers capable of carrying nuclear weapons, which were in the process of being assembled, and had sent a large number of military personnel to Cuba.

147. The USSR representative questioned the authenticity of the photographs and said that his Government had made it quite clear that the Soviet Union had nuclear weapons of such power that it had no need to seek launching sites for them outside the borders of the Soviet Union. The Government of the United States, he added, had deliberately intensified the crisis and had tried to cover up its aggressive action by means of a discussion in the Security Council.

148. The representatives of the United Arab Republic, Ghana and Chile welcomed the favourable response from both sides to the appeal by the Acting Secretary-General and felt that the time was propitious for the parties concerned to come together and begin negotiations with the assistance of the Acting Secretary-General. On a motion by the United Arab Republic, supported by Ghana, the Council adjourned sine die.



- (B) THE PRINCIPLE THAT STATES SHALL SETTLE THEIR INTERNATIONAL DISPUTES BY PEACEFUL MEANS IN SUCH A MANNER THAT INTERNATIONAL PEACE AND SECURITY AND JUSTICE ARE NOT ENDANGERED 1/

The Corfu Channel Question

Consideration by the Security Council, 1947

149. On 10 January 1947, the Secretary-General received a communication from the Government of the United Kingdom requesting the Security Council to take up, under Article 35, paragraph 1, of the Charter, a dispute between Great Britain and Albania. Two British destroyers had been damaged by mines when passing through the Corfu Channel, close to the Albanian shores, on 22 October 1946. The United Kingdom had requested an apology and compensation for the loss of life and property involved, but in view of the unsatisfactory reply of the Albanian Government wished to submit the matter to the Security Council.

150. Presenting the case of his Government at a meeting of the Security Council held on 18 February 1946, the representative of the United Kingdom placed responsibility for the incident on Albania; the laying of a clandestine mine-field in the Corfu Channel was a violation of the rules of conduct set out in the Hague Convention of 1907 and a crime against humanity. He requested that the Council, taking into consideration the failure of attempts at settlement through diplomatic correspondence, should recommend, under Article 36, a settlement of the dispute by direct negotiations between the two Governments, on the basis of a finding by the Council that an unnotified minefield had been laid in the Corfu Straits by the Government of Albania, or with its connivance. Speaking in reply, the Albanian representative stated that his Government had not laid the mines and did not know

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1/ References to this principle and its application were also made in the following cases dealt with in the present study: Questions concerning relations between France and Tunisia, paras. 118-129; The Iranian Question, paras. 241-244; The Syrian and Lebanese Question, paras. 245-248; The Greek Frontier Incidents Question, paras. 260-275; Essentials of Peace, paras. 276-282; The Guatemalan Question, paras. 325-330; The Question of Algeria, paras. 331-354; Questions concerning Goa, Damao and Diu, paras. 355-362; Complaint by Senegal against Portugal, paras. 363-376; Draft Declaration on Rights and Duties of States, paras. 377-387; The Egyptian Question, paras. 388-391; and, Exploitation of Natural Wealth and Resources and Permanent Sovereignty over Natural Resources, paras. 392-403.



who had. It had not known whether or not there were mines in the waters in question and it was not responsible for the safety of navigation in its territorial waters or in the straits.

151. At the suggestion of the Australian representative a small Sub-Committee was established to examine the material which had been presented to the Council and to report on its findings. The Sub-Committee reported that it had ascertained that no conflicting evidence existed. No agreement could be reached, however, as to whether the mines which caused the damage were part of a minefield which was located in sweeping operations which took place after the incident.

152. After an earlier United Kingdom proposal, asking the Council to find that an unnotified minefield had been laid with the knowledge of Albania, had been defeated owing to the adverse vote of the USSR, the representative of the United Kingdom proposed that, in accordance with Article 36, the dispute should be referred to the International Court of Justice. The representative of China stated that, since Albania was not a Member of the United Nations, it could not in the normal course of events, have been compelled to appear before the Court. However, since it had accepted the obligations of the Members of the United Nations when it accepted the Council's invitation to participate in the discussion, it was now, like any Member State, obliged to comply with both the provisions of the Charter and the Statute of the International Court. At the same meeting, on 9 April 1947, the Council decided, by 8 votes to none, with 2 abstentions, to recommend "that the United Kingdom and the Albanian Governments should immediately refer the dispute to the International Court of Justice in accordance with the provisions of the Statute of the Court".

153. By a letter dated 22 May 1947, the Government of the United Kingdom presented to the International Court of Justice an application against the Government of Albania in regard to the incidents in the Corfu Channel. On 25 March 1948, the Court gave its decision<sup>1/</sup> on a Preliminary Objection filed by the Albanian Government. Immediately after the delivery of the decision, the Court was notified of a Special Agreement entered into by the two Governments concerned and "drawn up as a result of the resolution of the Security Council of 9 April 1947,

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<sup>1/</sup> Corfu Channel Case, I.C.J. Reports 1947, p. 15 et seqq.

for the purpose of submitting to the International Court of Justice"<sup>1/</sup> certain questions relating to the Corfu Channel incidents. On 9 April 1949, the Court delivered its judgement on the merits of the Corfu Channel case<sup>2/</sup>.

The Need for Greater Use by the United Nations and its  
Organs of the International Court of Justice

Consideration by the General Assembly during the Second Session, 1947

154. Following a request made by the Government of Australia the above-mentioned it was included on the agenda of the Assembly's second session. During the discussion which took place in the Sixth Committee the majority of representatives were agreed as to the need for greater use of the International Court of Justice and in principle supported two draft resolutions submitted by Australia and Iran. The Australian proposal recommended that United Nations organs should review regularly the legal questions likely to arise, particularly those relating to the interpretation of the Charter, and refer them to the International Court for an advisory opinion. The Iranian draft resolution contained a recommendation that Member States which had not done so should deposit the declarations provided for in Article 36, paragraph 2, of the Statute of the Court and should submit their differences of a juridical character to the Court; in addition it was recommended that the Security Council should refer to the Court not only legal disputes but also legal aspects presented by certain differences and situations.

155. The representative of France suggested that the Australian proposal should be expanded to contain an authorization by the General Assembly that all subsidiary organs established by the Assembly and by the Security Council might request advisory opinions; secondly, it was suggested that the General Assembly should express its intention to examine whether any question presented a legal aspect and, if so, to request an advisory opinion. Further, when the Security Council considered referring the legal aspect of a question to the Court for an advisory opinion, the parties concerned should not be allowed to take part in the vote.

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<sup>1/</sup> Corfu Channel Case, I.C.J. Reports 1948, p. 54.

<sup>2/</sup> Ibid., p. 4 et seqq.

The representative of Egypt suggested that Member States should provide in international agreements that all disputes should be submitted to the International Court. The representative of Colombia proposed that the Court should also be called upon to decide political disputes since there was nothing in the Statute restricting it to legal disputes. The representative of Argentina suggested an amendment of the Iranian draft resolution, stressing the optional character of the acceptance by States of the compulsory jurisdiction of the Court. It was also pointed out that the terms of the proposals did not create an obligation to request advisory opinions, but merely recommended that the possibility provided for by Article 96 of the Charter should be made use of in appropriate cases.

156. Warning against the danger of too frequent approach to the Court in matters which by their nature were not suitable for judicial decision, the representative of Poland considered that the Court was not competent to decide questions relating to the interpretation of the Charter. He was prepared, however, to support the two resolutions subject to some amendment. The representative of the USSR considered the two proposals superfluous and contrary to the Charter. The Australian resolution indicated a desire to alter the Charter by interpretative means. As regards the Iranian proposal, the representative of the USSR considered that it attempted to confer the functions of the Security Council in connexion with the pacific settlement of disputes on the International Court. He was opposed to any recommendation by the General Assembly which might lead to a general recognition of the Court's compulsory jurisdiction.

157. After a sub-committee had been established to co-ordinate the various suggestions which had been made, the Sixth Committee examined three draft resolutions, one based on the Australian proposal and one on the Iranian proposal. The third provided that the General Assembly should authorize the Trusteeship Council to request advisory opinions. After rejecting a Polish amendment, providing for the delation of the reference to the interpretation of the Charter and of the constitutions of the specialized agencies by the Court, the Sixth Committee adopted the three draft resolutions.

158. On 14 November 1947, the General Assembly adopted the proposals of the Sixth Committee, by varying votes, as resolution 171 (II).

Resolution 171 (II). Need for greater use by the United Nations and its Organs  
of the International Court of Justice

A

"The General Assembly,

Considering that it is a responsibility of the United Nations to encourage the progressive development of international law,

Considering that it is of paramount importance that the interpretation of the Charter of the United Nations and the constitutions of the specialized agencies should be based on recognized principles of international law,

Considering that the International Court of Justice is the principal judicial organ of the United Nations,

Considering that it is also of paramount importance that the Court should be utilized to the greatest practicable extent in the progressive development of international law, both in regard to legal issues between States and in regard to constitutional interpretation,

Recommends that organs of the United Nations and the specialized agencies should from time to time, review the difficult and important points of law within the jurisdiction of the International Court of Justice which have arisen in the course of their activities and involve questions of principle which it is desirable to have settled, including points of law relating to the interpretation of the Charter of the United Nations or the constitutions of the specialized agencies, and, if duly authorized according to Article 96, paragraph 2, of the Charter, should refer them to the International Court of Justice for an advisory opinion.

B

Under Article 96, paragraph 2, of the Charter, the General Assembly is empowered to authorize other organs of the United Nations and specialised agencies to request advisory opinions of the International Court of Justice on legal questions arising within the scope of their activities.

The Trusteeship Council, as one of the principal organs of the United Nations, and in view of the functions and powers conferred upon it by Chapters XII and XIII of the Charter, should be authorized to request advisory opinions on legal questions arising within the scope of its activities.

The General Assembly, therefore,

Authorizes the Trusteeship Council to request advisory opinions of the International Court of Justice on legal questions arising within the scope of the activities of the Council.

C

The General Assembly,

Considering that, in virtue of Article 1 of the Charter, international disputes should be settled in conformity with the principles of justice and international law,

Considering that the International Court of Justice could settle or assist in settling many disputes in conformity with these principles if, by the full application of the provisions of the Charter and of the Statute of the Court, more frequent use were made of its services,

1. Draws the attention of the States which have not yet accepted the compulsory jurisdiction of the Court in accordance with Article 36, paragraphs 2 and 5, of the Statute, to the desirability of the greatest possible number of States accepting this jurisdiction with as few reservations as possible;

2. Draws the attention of States Members to the advantage of inserting in conventions and treaties arbitration clauses providing, without prejudice to Article 95 of the Charter, for the submission of disputes which may arise from the interpretation or application of such conventions or treaties, preferably and as far as possible to the International Court of Justice;

3. Recommends as a general rule that States should submit their legal disputes to the International Court of Justice."

The India-Pakistan Question

Consideration by the Security Council, 1948

159. In a letter dated 1 January 1948, addressed to the President of the Security Council, the representative of India stated that a situation falling under Article 35 of the Charter, the continuation of which was likely to endanger international peace and security, existed between India and Pakistan resulting from the aid that invaders, comprising Pakistan nationals and tribesmen from areas adjacent to the north-west frontier of Pakistan, were drawing from Pakistan for operations against the State of Jammu and Kashmir. He requested the Security Council to call on Pakistan immediately to stop giving such assistance, since it was an act of aggression against India. If Pakistan did not desist from such action, the Government of India might be compelled in self-defence to enter Pakistan territory in order to take military action against the invaders.

160. Speaking before the Security Council on 6 January 1948, the representative of India stated that the Kashmir Government had acceded to India on 26 October 1947, and asked for armed help against the incursions of tribesmen from Pakistan into the State of Jammu and Kashmir. The Government of India had accepted the accession on the understanding that the will of the people regarding it could be made clear in a plebiscite or referendum when law and order had been restored. He requested the Security Council to use its influence and power to persuade the Government of Pakistan to prevent its nationals from participating in raids and to deny aid to the invaders.

161. In the course of his reply, the representative of Pakistan reviewed the history of the period leading up to partition and communal strife, which he charged, had arisen from the acts and attitude of the Hindu extremist elements and the Sikhs. He denied that Pakistan had applied pressure to Kashmir. The State Government, he said, had planned and carried out attacks on Muslims in order to create a situation favourable to its accession to India. It was in self-defence, and because of indignation aroused by these acts, that the Kashmir Muslims and those tribesmen that were helping them had begun fighting against the State troops. The representative of Pakistan declared that the Kashmir Government had refused or ignored offers of friendly discussion and had called in Indian troops without informing Pakistan of its intended action. The Indian Government had not, in fact, he asserted, really tried to settle the issues by direct negotiation. He called for the evacuation from Jammu and Kashmir of all elements foreign to the State, including tribesmen and Indian Army troops, as the best step to a just solution of the problem.

162. Following the adoption of a resolution on 17 January 1948, calling upon India and Pakistan to take all measures within their power to improve the situation, it was agreed that the President of the Council should meet with the representatives of the two Governments to try to find some common ground for a settlement. At the President's suggestion a further resolution was adopted on 20 January 1948, establishing a Commission to investigate the facts pursuant to Article 34 of the Charter and to exercise a mediatory influence. On the basis of separate written proposals from the two Governments, on 28 January the President introduced two draft resolutions, the first stating that a plebiscite should be held under the



authority of the Security Council to determine the question of the accession of the State of Jammu and Kashmir, and the other calling for a cease-fire and mediatory action by the United Nations Commission for India and Pakistan established by the Council's resolution of 20 January.

163. The representative of India opposed both draft resolutions; the one relating to the cessation of fighting was, in his opinion, far too innocuous to achieve its aim. He asked that the aid furnished by Pakistan to invading tribesmen should be considered a threat to the peace within the meaning of the Charter and that the draft resolution should be amended to include a recommendation to Pakistan to cease giving such assistance. Indian forces needed to be retained in Jammu and Kashmir, he declared, since India was under an obligation to ensure the defence of the State from external aggression and for aiding it to maintain internal law and order. With regard to the proposed arrangements for a plebiscite, he submitted that this was a matter entirely for the State of Jammu and Kashmir and its people. Any attempt to substitute a neutral administration, such as that envisaged in the draft proposal, for the one which was functioning involved a fundamental constitutional issue. To bring in an outside administration would represent an amount of encroachment on the ordinary sovereign powers of a State to which no State could agree. The Pakistan representative, however, was prepared to accept the two draft resolutions in the light of the conditions expressed during the Council's discussion, to the effect that the hostilities had to be ended by a settlement, acceptable to both sides, which should be followed by a plebiscite that would appear fair to all concerned. Referring to the objections raised by the representative of India to the proposed arrangements for a plebiscite, the representatives of France and the United States expressed the view that the sovereignty of Jammu and Kashmir would not be brought in question by the holding of a plebiscite through an interim administration.

164. Following an adjournment, on 21 April 1948, the Council adopted a resolution submitted by the President, in his capacity as the representative of Colombia, and co-sponsored by the representatives of Belgium, Canada, China, the United Kingdom and the United States. In the preamble the resolution recorded that the continuation of the dispute was likely to endanger international peace and security; in the text of the resolution the Security Council recommended a series

of measures designed to bring about a cessation of fighting and to create conditions for a free and impartial plebiscite. The representative of India declared, however, that, for the reasons given earlier, in particular the continued aid furnished by Pakistan to those fighting in Kashmir, his Government was unable to agree to the scheme or to its full implementation.

165. On 13 August 1948, the United Nations Commission for India and Pakistan, which had been instructed to place its good offices and mediation at the disposal of the two Governments, adopted a resolution calling for a cease-fire; for a truce agreement; for the reaffirmation by the parties of their wish that the status of the State be determined by an unfettered plebiscite; and for an agreement to enter into consultations with the Commission, to determine conditions for such a plebiscite. A cease-fire was not however arrived at on a basis of the proposals. Following further discussions, the Governments of India and Pakistan agreed to accept additional proposals put forward by the Commission. A resolution embodying these proposals was adopted by the Commission on 5 January 1949; under this resolution it was provided that a plebiscite should be held when the Commission determined that the cease-fire and truce arrangements set forth in its resolution of 13 August 1948, had been complied with. The Governments of India and Pakistan were commended for their prompt action in ordering a cease-fire to take effect at midnight on 1 January 1949.

#### Consideration by the Security Council, 1950

166. After mediation efforts by the President of the Security Council and further discussion in the Council, a resolution was adopted on 14 March 1950, calling for demilitarization, without prejudice to the rights and claims of India and Pakistan, and replacing the United Nations Commission for India and Pakistan by a single representative, to assist the two Governments in arriving at a lasting solution to the problem.

#### Consideration by the Security Council, 1952

167. Since 1950, a series of reports have been submitted by the United Nations Representative giving details of the efforts made to secure the objectives set out in the Security Council resolutions. The Security Council has considered these

reports and also complaints submitted by India and Pakistan of breaches of the cease-fire agreement and other undertakings. During the discussion by the Security Council, at its 605th to 611th meetings in 1952, of the United Nations Representative's Third and Fourth Reports, the representative of India reiterated her Government's contention that Pakistan had twice been guilty of aggression in Kashmir, once when it assisted and participated in the initial invasion and secondly in May 1948 when it sent its regular troops there. Its illegal occupation of the State's territory continued. It had, moreover, created subversive forces and authorities there. As for the suggestion which had been made for the stationing of a so-called "neutral force", the representative declared that India had long since rejected the idea of the imposition of a foreign force on its territory as being derogatory to the dignity and territorial integrity of an independent nation. In reply, the representative of Pakistan maintained that the allegation of Pakistan's aggression against India was based on the false assumption that Kashmir was part of Indian territory and that the accession to India was complete and valid. This, however, was belied by the position which the Council had taken, that the accession was to be decided by a free plebiscite. The so-called aggression had been made after the people of Kashmir had successfully revolted against the tyranny of the Maharajah; the occupation of Kashmir by Indian troops had thus been an act of aggression against the people of Kashmir, he stated. As to the so-called second invasion of Kashmir by regular Pakistan troops, this had resulted from a general offensive by the Indian army. The action involved could not be termed aggression because the territory involved had never been under the control or military occupation of India, even as a result of the supposed accession. In any case, the question was academic in view of the acceptance by the two Governments of the two major resolutions of the United Nations Commission. The representative of India stated, in the course of her reply, that the argument that the invasion of the State of Kashmir by Pakistan could not be regarded as aggression since it had preceded accession, was invalid since at the time Pakistan had had a standstill agreement with Kashmir; thus the action constituted aggression that State and, after the accession, against India as well. As to the second invasion by Pakistan, she maintained that Pakistan had exceeded the right of self-defence

because there was no attack on its territory. Pakistan had acted in breach of Article 51 of the Charter since no such attack had occurred and because it had not immediately reported the measures which it had taken to the Security Council.

Consideration by the Security Council, 1957

168. At the 761st to 765th meetings, held between 16 and 24 January 1957, the Security Council again considered the question, with particular reference to a letter from the Minister for Foreign Affairs of Pakistan, in which the Minister declared that continuance of direct negotiations between the two Governments held no prospect of a settlement of the problem and that the Government of India had refused to honour the international commitments which it had accepted under the two resolutions of the United Nations Commission for India and Pakistan of 15 August 1948, and 5 January 1949. Speaking before the Security Council, the representative of Pakistan asserted that the Government of India was taking steps to integrate the State of Jammu and Kashmir into the Indian Union in defiance of the directives of the Council and of its own freely accepted international commitment that the question of accession should be settled by means of a plebiscite.

169. In the course of his reply the representative of India stated that the question to be resolved was the status of a Security Council resolution containing recommendations under Chapter VI of the Charter. In the view of his Government such a resolution could have value only if the two parties agreed. India was bound in regard to Kashmir only by the two resolutions of the United Nations Commission, with all the conditions attached to them. In the context of the Charter, although these resolutions had been endorsed by the Security Council, they constituted recommendations which could be implemented only through the co-operation and agreement of the two sides. There had been no international agreement for a plebiscite but only for a plan that was subject to certain preconditions which had not been met.

170. A draft resolution was introduced by the representatives of Australia, Colombia, Cuba, the United Kingdom and the United States, to reaffirm the declaration made in the resolution, adopted by the Security Council on

30 March 1951, that any action by the Constituent Assembly of the State of Jammu and Kashmir to determine the future affiliation of the State would not constitute a disposition in accordance with the principle that such disposition should be made in accordance with the will of the people, expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. In support of the draft resolution it was stated that nothing should be done in Kashmir to prejudice a settlement of the entire issue in accordance with the principle that had been the basis of the Council's consideration of the matter since 1948. The parties should respect the standing resolutions of the Council, which had not been repeated or modified and were accordingly still valid. Doubts concerning the draft resolution were expressed on the ground that, like the one which it reaffirmed, it was unacceptable to one of the parties and could not, therefore, serve as a basis for the settlement of the question at issue between them, which required peaceful negotiations between the two Governments without outside interference. The draft resolution was adopted, however, by 10 votes to none with 1 abstention, on 24 January 1957.

171. Following the adoption of the resolution the Council continued its discussion of certain requests made by the representative of Pakistan for the application of Article 37, paragraph 2, of the Charter. A draft resolution was submitted by the representatives of Australia, Cuba, the United Kingdom and the United States requesting the President of the Council, as the representative of Sweden, to examine with the Governments of India and Pakistan the proposals which, in his opinion, were likely to contribute towards the settlement of the problem. The sponsors stated that the proposal emphasized that the Council's overriding endeavour in connexion with the dispute had always been to secure a settlement acceptable to both parties. The representative of India, in objecting to the joint draft resolution, recalled that his Government had originally submitted the question as a situation under Article 35 and had consistently maintained the view that its complaint was not in the nature of a dispute. Accordingly, the only procedures that could be adopted were pacific procedures, the essence of which was mutual consent. Since January 1948, the Council had adopted resolutions which India had not been able to accept. The sponsors had been so informed, but the Council had continued to adopt resolutions without reference to conciliation, or to the possibility of their acceptance.



172. At the Council's meeting on 15 February 1957, the President of the Council, speaking as the representative of Sweden, stated that after nine years without any progress towards an agreement between the parties, the time had come for an alternative procedure. In the view of the Swedish Government, this could best be done by referring some of the legal aspects of the matter to the International Court of Justice in order to have the legal background of the question clarified. The representative of Colombia subsequently introduced an amendment to the joint draft resolution, referring to the possibility of referring the problem to the International Court of Justice. In support of the amendment it was stated that if the President could not bring about a settlement, then the possibility of resuming a legal investigation of the case in order to determine which country had the right to occupy the State of Kashmir should be considered. The amendment was rejected, however, there being 1 vote in favour, none against and 10 abstentions.

173. The joint draft resolution referred to the proposal of Pakistan for the use of a temporary United Nations force in connexion with demilitarization and suggested that this proposal deserved consideration. It was observed by those supporting the draft resolution that the Council was acting as mediator within the framework of Chapter VI, and that it would be necessary for the parties to give their consent to the suggestion. In opposing the proposal the representative of India contended that it was contrary to the Charter because the United Nations had no authority to act in this way under Chapter VI. Only under Chapter VII could troops be placed anywhere without the consent of the Government concerned. Such consent would not be forthcoming in this context since the Government of India would in no circumstances agree to the stationing of foreign troops in Kashmir, which was part of the Indian Union. The representative of Pakistan stated that during the course of the previous eight years India had rejected one after another of the various procedures of Chapter VI for settling the question by means of an agreed objective, namely, a plebiscite. Kashmir was not Indian territory, and therefore the question of foreign troops on Indian soil did not arise. The United Nations force would in effect go into Kashmir with the consent of both parties, since both had agreed to demilitarize and to withdraw their forces.



174. Introducing an amendment for the deletion of the provisions concerning demilitarization and the use of United Nations forces, the representative of the USSR stated that the Charter provided that United Nations forces could be used only to repel aggression and to restore international peace. The Charter did not provide for the use of United Nations troops to impose a plebiscite by force in any country. Thus, the introduction of a United Nations force in Kashmir would be completely at variance with the principles of the Charter. Furthermore, one of the parties directly concerned, India, had objected to the proposal. An attempt to impose upon a Member State a solution with which it was not in agreement would foredoom the mission of the President of the Council concerning measures to bring about a peaceful settlement within the terms of Chapter VI.

175. At the Council's 773rd meeting on 20 February 1957, the joint draft resolution was not adopted, owing to the negative vote of the USSR. The amendment proposed by the USSR had previously been rejected for lack of the required majority of votes. Australia, the United Kingdom and the United States thereupon introduced a joint draft resolution which modified the terms of reference for the mission of the President and omitted the reference to consideration of the possible use of a United Nations force. The revised proposal was adopted by ten votes in favour to none against, with one abstention, on 21 February 1957.

176. At its 791st meeting on 24 September 1957, the Security Council had before it a report submitted by the representative of Sweden in pursuance of the Security Council's resolution of 21 February 1957. He stated that, although he was unable to report any concrete proposals for a settlement, his examination of the situation indicated that, despite the continued deadlock, both parties were still desirous of finding a solution to the problem. The representative of Pakistan declared that India's persistent failure to carry out the obligations which it has assumed under the resolutions of the United Nations Commission for India and Pakistan clearly involved a threat to the peace and fell under the provisions of Articles 39 and 40. The Government of Pakistan had fully implemented part I of the resolution of 13 August 1948, and was prepared to carry out the remaining parts.

177. A joint draft resolution was submitted by Australia, Colombia, the Philippines, the United Kingdom and the United States, whereby the Security Council would request

the United Nations Representative for India and Pakistan to make any recommendations to the parties which he considered desirable in connexion with part I of the resolution of the United Nations Commission of 13 August 1948, and to enter into negotiations with the two Governments in order to implement part II of that resolution. The representatives supporting the joint draft resolution stated that, although great difficulties impeded the adoption of specific measures for achieving a settlement, it was the task of the Council to assist the parties to resolve their difficulties through negotiations and other means of peaceful settlement, in accordance with Article 33 of the Charter.

178. The representative of India contended that his Government's engagement by the resolutions referred to commenced only upon the fulfilment of certain conditions by Pakistan. The whole of the resolution of 13 August 1948, was contingent on all the conditions to which both countries had given adherence at the time of its adoption, and which Pakistan had violated at the time and continued to violate. The Government of India could hardly be expected to proceed to the implementation of parts II and III of the resolution without a prior fulfilment by Pakistan of the necessary conditions of part I. With reference to a statement in the report of the representative of Sweden concerning the possibility of submitting to arbitration the question whether part I of the resolution of 13 August 1948 had been implemented, the representative of India pointed out that the suggested arbitration was not a simple one; the arbitrator would also be empowered to indicate to the parties the measures to be taken to arrive at full implementation. Should the Government of India agree to such a procedure, it would mean going outside the terms of the original resolutions, under which the United Nations Commission for India and Pakistan was itself to report to the parties whether or not implementation had taken place. There was no need to arbitrate the obvious fact, which the Commission had reported, that Pakistan had increased its military potential and that an atmosphere in which a plebiscite might be held did not prevail. Only juridical questions could be the subject of arbitration; there was no case in international law where a matter such as the present one, involving India's sovereignty, honour, integrity and vital interests, had been subjected to arbitration. Moreover, such procedure would set the question before the Council out of context, since India had submitted it under

Chapter VI of the Charter, and the Council was not competent under the Charter to adjudicate a question of territory or to decide on legal questions. Since, therefore, it was fundamental to arbitration that the two sides should agree, and India did not accept, there could be no arbitration. The representative of India stated further that his Government was totally opposed to the joint draft resolution because it conflicted with the United Nations Charter. Under Chapter VI of the Charter, no resolution had value that did not contain the element of conciliation. Although the two parts of the resolution of 13 August 1948, were interdependent, the joint draft resolution stressed an early agreement on demilitarization without part I having been fulfilled. This was an attempt to alter the resolution, and the Indian Government was not willing to accept such a change.

179. It was stated by those supporting the joint draft resolution that, although it was quite impossible in the circumstances for the Council to impose a solution on any sovereign nation it was the Council's responsibility, in the absence of any other solution acceptable to both parties, to help them make the Commission's resolutions a reality. Thus it was important for the Council to continue to lay stress on bringing about the demilitarization of Kashmir; moreover, in proceeding under Chapter VI the Council was attempting to find a basis for progress towards a settlement acceptable to both sides. There was no question of an attempt by the Council to dictate a solution; the joint draft resolution merely repeated publicly announced and reiterated decisions of the parties themselves.

180. Following the adoption of an amendment proposed by the representative of Sweden, the joint draft resolution was adopted on 2 December 1957, by 10 votes to none, with 1 abstention.

#### Consideration by the Security Council, 1962

181. In 1962, the Security Council considered the question once more at the request of Pakistan. In the course of a lengthy review of the history of the question and of the issues which had been raised the representative of Pakistan suggested that the International Court of Justice might be asked for an advisory opinion to determine what were the obligations of the parties under the two resolutions of the United Nations Commission, in view of the changes which had taken place, the time which had elapsed and the fact that the implementation of the two resolutions had come to a stop. The representative of India stated in the course of reply that the

situation in Kashmir, being a political issue, was not a matter for the International Court of Justice or for international arbitration.

182. The majority of members of the Security Council urged the two parties to negotiate directly for a peaceful solution. The representative of the USSR said that it would be completely unrealistic to refer to resolutions of fourteen years ago because of the changes which had taken place in the intervening period; to hold a plebiscite at this stage would constitute a flagrant interference in the domestic affairs of India. Similarly, the idea of some form of arbitration or mediation was invalid unless both sides desired them. The representative of Ireland submitted a draft resolution urging the two Governments to enter into negotiations at the earliest convenient time with a view to the ultimate settlement of the Kashmir question in accordance with Article 33 and other relevant provisions of the Charter. The Council would also remind both parties of the principles contained in the two resolutions of the United Nations Commission and appeal to the two Governments to take all possible measures to ensure an atmosphere favourable to the promotion of negotiations. The representative of India stated that his Government was against any resolution coming from the Council at that time, because no resolution would have any "factual relevance" except one calling upon Pakistan to vacate its aggression. The draft resolution received 7 votes in favour to 2 against (Romania and USSR), with 2 abstentions. It was not adopted owing to the negative vote of a permanent member of the Council.

Promotion of International Co-operation in  
the Political Field

Consideration by the General Assembly during the Third Session, 1948

183. On 13 August 1948, the Interim Committee submitted a report to the General Assembly containing four specific recommendations: (1) a resolution to enable full effect to be restored to the General Act of 26 September 1928, for the Pacific Settlement of International Disputes; (2) the amendment of the rules of procedure of the General Assembly to provide for the appointment of a rapporteur or

conciliator; (3) a resolution containing suggestions to the Security Council concerning the performance of conciliation functions by a rapporteur or conciliator of the Security Council; and, (4) a resolution relating to the establishment of a panel for inquiry and conciliation.

184. The General Assembly at its third session referred the report to the Ad Hoc Political Committee. The representatives of Australia, Belgium, Chile, China, Denmark, Ecuador, the United Kingdom, the United States and Uruguay, among others, supported the report and in principle approved its recommendations. They supported adoption of the draft resolutions relating to the General Act and to the panel for inquiry and conciliation on the ground that these proposals would facilitate the implementation of Article 33. It was emphasized that the General Act, which had been drawn up by the League of Nations Assembly and to which some twenty States had acceded, laid down procedures designed to ensure that the contracting States should, according to their choice, make use of conciliation, judicial settlement or arbitration for the pacific solution of their disputes. The General Act was still in force, although its effectiveness had diminished since some of its machinery had disappeared. By replacing that machinery, the full effect of the General Act would be restored and those States which had adhered to the Act, or which might wish to do so, would be able to use that multilateral treaty as a means of carrying out the obligations resulting from Article 33, paragraph 1. Similarly, by establishing the proposed panel from which members of a commission of inquiry or conciliation could be drawn, the parties to a dispute would be able, although under no obligation to do so, to make use of the procedure of inquiry and conciliation, in conformity with Article 33, before submitting their dispute to the United Nations.

185. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR, the USSR and Yugoslavia opposed the recommendations of the Interim Committee on the grounds that the proposals were designed to curtail the competence of the Security Council. It was argued that the General Act contained provisions which did not conform to the principles of the Charter. The General Act provided for the establishment of conciliatory machinery, submission of a dispute to arbitration or to judicial settlement at the request of one of the parties, thus placing the two parties in an unequal position. In contradistinction, the Charter



recognized the sovereign equality of the contending States by stipulating that the pacific settlement of disputes should be based on the agreement of both parties and that the Security Council should have only the power of recommendation as long as there was no threat to the peace, breach of the peace or act of aggression. Under the Statute of the International Court of Justice, the Court might assume jurisdiction only over cases which had been referred to it by both parties. In addition, it was contended that the procedures for pacific settlement of disputes envisaged in the General Act would encroach upon the authority of the Security Council. The creation of a panel for inquiry and conciliation would have a similar effect since, under the draft resolution, functions of investigation and conciliation might be assigned to the Secretary-General, the President of the General Assembly or to the Chairman of the Interim Committee.

186. The Ad Hoc Political Committee adopted the first and third draft resolutions. Action on the second and fourth was deferred until the second part of the third regular session. Following this deferment, the Ad Hoc Political Committee adopted a United States proposal that the proposed amendments to the Assembly's rules of procedure should be referred to the Interim Committee for further consideration.

187. When the reports of the Ad Hoc Political Committee were considered by the General Assembly at plenary meetings, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR, the USSR and Yugoslavia reiterated their arguments against the draft resolutions. In addition they stated that the proposal calling for the appointment of a rapporteur or conciliator by the Security Council was unacceptable because it initiated a policy of interference in the work of the Security Council in settling disputes. Moreover, the procedure envisaged would encourage all kinds of secret bargaining, pressure and favouritism.

188. The representatives of Belgium, Canada, China, Ecuador, France, the United States and Uruguay, speaking in support of the proposals, declared that the draft resolution relating to the General Act did not encroach on the powers of the Security Council for the Charter provided that the Security Council should take existing treaties into account. There was, in any case, no question of making adherence to the General Act obligatory. With reference to the proposal relating to the appointment of a rapporteur or conciliator, it was recalled that that procedure



had been used successfully by the Council of the League of Nations and, unofficially but to advantage, by the Security Council.

189. The draft resolutions submitted by the Ad Hoc Political Committee were adopted by the General Assembly on 28 April 1949 as resolution 268 (III), A, B, C and D.

Resolution 268 (III). Study of methods for the promotion of International Co-operation in the Political Field

A

Restoration to the General Act of 26 September 1928 of its original efficacy

"The General Assembly,

Mindful of its responsibilities, under Articles 13 (1 a) and 11 (1) of the Charter, to promote international co-operation in the political field and to make recommendations with regard to the general principles of the maintenance of international peace and security, and

Whereas the efficacy of the General Act of 26 September 1928 for the pacific settlement of international disputes is impaired by the fact that the organs of the League of Nations and the Permanent Court of International Justice to which it refers have now disappeared,

Whereas the amendments hereafter mentioned are of a nature to restore to the General Act its original efficacy,

Whereas these amendments will only apply as between States having acceded to the General Act as thus amended and, as a consequence, will not affect the rights of such States, parties to the Act as established on 26 September 1928, as should claim to invoke it in so far as it might still be operative,

Instructs the Secretary-General to prepare a revised text of the General Act, including the amendments mentioned hereafter, and to hold it open to accession by States, under the title "Revised General Act for the Pacific Settlement of International Disputes":

B

Appointment of a rapporteur or conciliator for a situation or dispute brought to the attention of the Security Council

"The General Assembly,

Mindful of its responsibilities, under Articles 13 (1 a) and 11 (1) of the Charter, to promote international co-operation in the political field and to make recommendations with regard to the general principles of the maintenance of international peace and security, and in discharge of its functions under Article 10 of the Charter,

Noting the experience of the League of Nations, which it has caused to be studied, whereby cases were presented to the Council of the League of Nations by a rapporteur who had the function of a conciliator, and that this practice allowed private conversations among the parties and the rapporteur and avoided the crystalization of views that tends to result from taking a stated public position,

Noting that the Security Council has already made use of a similar procedure,

Deeming it desirable that such a practice be developed in the Security Council as an integral part of the system of pacific settlement, and also as a means for the better preparation of cases presented to the Security Council,

Recommends that the Security Council examine the utility and desirability of adopting the following practice:

After a situation or dispute has been brought to the attention of representatives on the Security Council in accordance with rule 6 of the provisional rules of procedure of the Security Council and not later than immediately after the opening statements on behalf of the parties concerned,

(a) The parties shall be invited to meet with the President of the Security Council;

(b) They shall attempt to agree upon a representative on the Security Council to act as rapporteur or conciliator for the case. The representative so agreed upon may be the President or any other representative of the Council who will thereupon be appointed by the President to undertake the function of rapporteur or conciliator. The President shall inform the Security Council whether a rapporteur or conciliator has been appointed;

(c) If a rapporteur or conciliator is appointed, it would be desirable for the Security Council to abstain from further action on the case for a reasonable interval during which actual efforts at conciliation are in progress;

(d) The rapporteur or conciliator so agreed upon and appointed shall attempt to conciliate the situation or dispute, and shall in due course report to the Security Council.

C

Proposed amendments to the rules of procedure of the General Assembly

"The General Assembly,

Resolves that the proposed amendments to rules 31 and 58 of the rules of procedure of the General Assembly submitted by the Interim Committee for consideration by the General Assembly be recommitted to the Interim Committee for further consideration in the broader context of the studies which it is to undertake concerning the procedures of the General Assembly relating to the pacific settlement of disputes.

D

Creation of a panel for inquiry and conciliation

"The General Assembly,

Mindful of its responsibilities, under Articles 13 (1 a) and 11 (1) of the Charter, to promote international co-operation in the political field and to make recommendations with regard to the general principles of the maintenance of international peace and security,

Deeming it desirable to facilitate in every practicable way the compliance by Member States with the obligation in Article 33 of the Charter first of all to seek a solution of their disputes by peaceful means of their own choice,

Noting the desirability, as shown by the experience of organs of the United Nations, of having qualified persons readily available to assist those organs in the settlement of disputes and situations by serving on commissions of inquiry or of conciliation;

Concluding that to make provision for a panel of persons having the highest qualifications in this field available to any State involved in controversies and to the General Assembly, the Security Council and their subsidiary organs, when exercising their respective functions in relation to disputes and situations, would promote the use and effectiveness of procedures of inquiry and conciliation,

1. Invites each Member State to designate from one to five persons who, by reason of their training, experience, character and standing, are deemed to be well-fitted to serve as members of commissions of inquiry or of conciliation and who would be disposed to serve in that capacity;
2. Directs the Secretary-General to take charge of the administrative arrangements connected with the composition and use of the panel;
3. Adopts the annexed articles relating to the composition and use of the Panel for Inquiry and Conciliation."

#### Establishment of a Permanent Commission of Good Offices

##### Consideration by the General Assembly during the Fifth Session, 1950

190. In 1950, during its fifth session, the Assembly adopted a Yugoslav proposal that it should consider the item "Establishment of a permanent commission of good offices". Amongst the draft resolutions submitted to the First Committee was one put forward by Yugoslavia recommending that all States should develop greater measures of initiative in the peaceful settlement of disputes by direct negotiations or other means, in accordance with Article 33 of the Charter. The permanent commission of good offices which was envisaged in the Yugoslav proposal would facilitate direct negotiations and assist other means of pacific settlement. It was proposed that the commission should consist of six non-permanent members of the Security Council and of six Member States, other than permanent members of the Security Council, to be elected by the General Assembly. Another draft resolution, submitted by Uruguay, proposed that the matter should be referred to the Interim Committee for consideration. A third draft resolution put forward by Lebanon, suggested that the Interim Committee should consider the Yugoslav proposal in connexion with the question of the establishment of a permanent organ of conciliation. A fourth draft resolution was therefore submitted jointly by Lebanon and Uruguay at the conclusion of the debate, combining the provisions of the draft resolutions which they had submitted separately.

191. Opening the debate, the representative of Yugoslavia stated that the functions of the Assembly and of the Security Council had been divided in such a way that neither had so far undertaken the task of eliminating the initial causes impeding the establishment of friendly relations among States. Whilst the General Assembly

was competent, under Article 13 of the Charter, to assume the task of promoting good relations among States, concrete disputes between States necessitated long study which could not be undertaken by a body whose agenda was regularly overloaded. Moreover, the susceptibility of the States concerned required that such questions be handled in smaller bodies, with less publicity. Finally, it would be impossible to call a special session of the Assembly for every situation or dispute which arose. A subsidiary organ of the Assembly, such as that proposed in the Yugoslav draft resolution, would watch and examine disputes and situations and explore the possibilities of a settlement satisfactory to the parties and in harmony with the principles of the Charter. Since the competence of the Commission would be limited to offering good offices and advice, it would not overlap with the competence of the other organs of the United Nations.

192. The representatives of Australia, Belgium, Canada, Egypt, France, Peru, Syria, the United Kingdom, the United States and Uruguay, expressed the view that the Yugoslav proposal entailed certain constitutional and legal difficulties. For example, it was contended, if the commission, through a subsidiary organ of the Assembly, was to be entitled to discuss questions on the Security Council's agenda, this would conflict with Article 12 of the Charter which precluded such consideration. Some support was also expressed for the establishment of ad hoc bodies as preferable to the creation of a permanent body. In general these representatives favoured the proposal to refer the question to the Interim Committee for study.

193. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR stated that the Yugoslav position was contradicted by the whole of Chapter VI of the Charter and especially by Articles 33, 34 and 37. The provisions of these Articles, in the opinion of these representatives, clearly indicated that it was a function of the Security Council to facilitate negotiation between the parties with a view to the settlement of their disputes. As the Security Council was the organ appointed by the Charter to recommend action and to establish good neighbourly relations it was futile to set up a new organ which would be given the functions vested in the Security Council. Although the Charter provided for the establishment of subsidiary organs, the organ envisaged would have functions broader and more independent than those of a subsidiary body.

194. At the conclusion of the debate the First Committee adopted the joint draft resolution submitted by Lebanon and Uruguay, referring the matter to the Interim Committee for consideration in connexion with the question of the establishment of a permanent organ of conciliation. The Yugoslav proposal was not voted on. The General Assembly adopted the recommendation of the First Committee, as resolution 379 (V).

Peace through Deeds and Condemnation of Propaganda  
against Peace

Consideration by the General Assembly during the Fifth Session, 1950

195. The item "Declaration on the Removal of the Threat of a New War and the strengthening of Peace and Security among the Nations" was placed on the agenda of the fifth session of the General Assembly at the request of the USSR. The First Committee had before it three draft resolutions, put forward by the USSR, by eight Member States (Bolivia, India, France, Lebanon, Mexico, Netherlands, the United Kingdom and the United States), and by Chile respectively.

196. The USSR draft resolution proposed that the General Assembly should adopt a declaration condemning propaganda in favour of a new war; prohibiting, unconditionally, the use of the atomic weapon and declaring that the first Government to use the atomic weapon should be regarded as a war criminal; and recommending that the permanent members of the Security Council should conclude a pact for the strengthening of peace and reduce their armed forces. Introducing the draft resolution, the representative of the USSR stressed that the USSR depended on peaceful world conditions for the realization of its great reconstruction programme and recalled that its Government had affirmed on several occasions the possibility and desirability of the peaceful coexistence of opposing economic systems. The United States and its allies, however, were pursuing a policy characterized by force and the creation of "situations of strength" in dealing with the Soviet Union.

197. A majority of the members of the Committee, including the representatives of Australia, Belgium, Bolivia, Canada, China, Chile, Denmark, France, Greece, Netherlands, Sweden, the United Kingdom and the United States, maintained that the



USSR had introduced a number of similar proposals which had been either rejected by the General Assembly or accepted only after being radically amended. Each year since 1946, the USSR had introduced proposals directed towards the condemnation of war propaganda, the reduction of armaments and the prohibition of atomic weapons. Yet evidence was available, these representative contended, that at the same time that it brought these proposals, the USSR had been acting in a manner diametrically opposed to its professed aims. These representatives recalled that the General Assembly, by resolutions 110 (II) of 1947 and 290 (IV) of 1949, had already called for the elimination of war propaganda, and by resolution 191 (III) of 1948, had approved a plan for the prohibition of the atomic weapon. As regards the reduction of armed forces the Assembly had adopted resolution 192 (III) providing for a census of existing armed forces, with verification by international inspection. The USSR, by its intensive propaganda against the non-communist world, had, it was argued, violated the first two resolutions and, by its obstructive tactics, had made the implementation of the other two impossible.

198. In the course of a detailed reply to these allegations, the representative of the USSR stated that resolution 110 (II) of the Assembly, which had condemned war propaganda, had never been really respected and was, moreover, inadequate. The pact proposed by the USSR would strengthen peace through its reaffirmation of the principles of the Charter. Statements in support of the USSR proposal were made by the representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR.

199. The joint eight-Power draft resolution proposed that prompt united action should be taken to meet aggression and that all States should agree to accept effective international control of atomic energy and the regulation of armaments. It was stated that this proposal reflected the wishes of the vast majority of the peoples of the world and of the Members of the United Nations. The representative of Syria, however, questioned whether the "fomenting of civil strife" which was referred to in the draft resolution, constituted a case of aggression. He suggested that the phrase should be omitted until the International Law Commission had completed its study of the question of aggression. The representative of Israel supported the provisions relating to the condemnation of incitement when it was a foreign power which was guilty of such incitement. In the light of the

General Assembly's functions under resolution 377(V) (Uniting for Peace) enabling it to take certain measures in cases of aggression, it was necessary to avoid too wide and arbitrary a definition of what constituted aggression.

200. The representative of Ecuador wished that it should be made clear that the third preambular paragraph, condemning "the intervention of a State in the internal affairs of another State for the purposes of changing its legally established government by the threat or use of force", was not meant to condemn only those cases where attempts were made to overthrow a legally established government. In his opinion it was important for Latin American countries to have it clearly established that such a condemnation would include all intervention in the affairs of a foreign government, even if it was illegally established. Referring to this point, the representative of Bolivia stated that the draft resolution was not intended to restrict the general condemnation of all intervention. Referring to an amendment proposed by his delegation, the representative of Egypt suggested that the words condemning the fomentation of civil strife in the interests of a foreign power should be amended so as to cover all forms of aggression other than open aggression.

201. At the conclusion of the debate the First Committee adopted the eight-Power draft resolution and rejected the USSR proposal. The Committee also adopted a Chilean draft resolution, reaffirming resolutions 110 (II) and 290 (IV), condemning all propaganda against peace, and declaring that such propaganda included incitement to conflicts or acts of aggression and measures tending to isolate the peoples of one country or tending to distort the peace activities of the United Nations. The General Assembly adopted the two draft resolutions at its 308th plenary meeting on 17 November 1950, without holding a debate.

Resolution 380 (V). Peace through deeds

"The General Assembly,

Recognizing the profound desire of all mankind to live in enduring peace and security, and in freedom from fear and want,

Confident that, if all governments faithfully reflect this desire and observe their obligations under the Charter, lasting peace and security can be established,

/...

Condemning the intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by the threat or use of force,

1. Solemnly reaffirms that, whatever the weapons used, any aggression, whether committed openly, or by fomenting civil strife in the interest of a foreign Power, or otherwise, is the gravest of all crimes against peace and security throughout the world;

2. Determines that for the realization of lasting peace and security it is indispensable:

(1) That prompt united action be taken to meet aggression wherever it arises;

(2) That every nation agree:

(a) To accept effective international control of atomic energy, under the United Nations, on the basis already approved by the General Assembly in order to make effective the prohibition of atomic weapons;

(b) To strive for the control and elimination under the United Nations, of all other weapons of mass destruction;

(c) To regulate all armaments and armed forces under a United Nations system of control and inspection, with a view to their gradual reduction;

(d) To reduce to a minimum the diversion for armaments of its human and economic resources and to strive towards the development of such resources for the general welfare, with due regard to the needs of the under-developed areas of the world;

3. Declares that these goals can be attained if all the Members of the United Nations demonstrate by their deeds their will to achieve peace."

202. Resolution 381 (V) condemning all propaganda against peace, stated that such propaganda includes:

"(1) Incitement to conflicts or acts of aggression;

(2) Measures tending to isolate the peoples from any contact with the outside world, by preventing the Press, radio and other media of communication from reporting international events, and thus hindering mutual comprehension and understanding between peoples;

(3) Measures tending to silence or distort the activities of the United Nations in favour of peace or to prevent their peoples from knowing the views of other States Members."

Draft Convention Concerning a System of Consultation

Consideration by the General Assembly during the Eleventh Session, 1956

203. At the request of the representative of Argentina the above-mentioned item was included on the agenda of the General Assembly at its eleventh session. The representative of Argentina submitted a draft convention containing a series of articles designed to provide an opportunity for the States parties to it to initiate consultations with other States parties if a situation arose which was likely to endanger international peace and security. Introducing the item before the Special Political Committee, the representative of Argentina contended that the community of nations lacked adequate machinery to permit efficient and quick consultations. He considered that there should be a system of consultation within the framework of the Organization to serve as one of the means of peaceful settlement provided for in Article 2, paragraph 3, and Article 33 of the Charter. The suggested procedure of consultations would consist of an exchange of views between governments to find a formula for a peaceful settlement.

204. While praising the intentions of the Argentine Government, some representatives felt that the proposal encroached upon the prerogatives of the General Assembly and of the Security Council and was not in conformity with Articles 33 and 36 of the Charter. Under Article 33 the parties to a dispute were free to choose the method of adjustment they preferred, whilst under the Argentina proposal they might be compelled to resort to the method of consultation, for any party to the proposed convention would be allowed to initiate that procedure, even though it might not be directly concerned in the dispute. The fact that the procedure of consultation had worked well in some regional agencies did not assure its success on a world scale.

205. The representative of the USSR, among others, considered that the proposal would result in attempts to by-pass or replace the existing United Nations system for the maintenance of international peace. The creation of a new procedure for the pacific settlement of international disputes would entail an illegal revision of the Charter.

206. Following further discussion, a draft resolution sponsored by thirteen Member States, including Argentina, was adopted by the Special Political Committee. The

suggested that General Assembly should refer the Argentina proposal and the records of discussion on it to Member States, to be considered at the General Conference to review the Charter which, as the General Assembly had decided in 1955, was to be held "at an appropriate time". The General Assembly endorsed this proposal in resolution 1014 (XI).

Peaceful Co-Existence and Peaceful Relations among States

Consideration by the General Assembly during the Twelfth Session, 1957

207. At the request of the USSR, the General Assembly included an item entitled "Declaration concerning the peaceful co-existence of States" on the agenda of its twelfth session. By a preamble to a draft resolution submitted by the USSR to the First Committee, the Assembly was asked to note with satisfaction that many States had recently begun to base their relations with others upon the following principles: mutual respect for one another's territorial integrity and sovereignty; non-aggression; non-intervention in one another's domestic affairs for economic, political or ideological reasons; equality and mutual benefit; and peaceful co-existence. By the operative paragraphs of the draft resolution the Assembly called upon States to be guided by these principles in their mutual relations and to settle any disputes that arose between them solely by peaceful means.

208. The First Committee also had before it a draft resolution submitted by India, Sweden and Yugoslavia. By this draft, the Assembly stressed the urgency and importance of strengthening international peace and of developing peaceful and neighbourly relations among States irrespective of their divergencies or the relative stages and the nature of their political, economic and social development. The operative part of the resolution proposed that the Assembly should call upon all States to make every effort to strengthen international peace and security, to develop friendly and co-operative relations, and to settle their disputes by peaceful means as enjoined in the Charter.

209. The ensuing debate centred largely on the existing tension in international affairs and on means to relieve it. Whilst there was general agreement on the need for peaceful and harmonious relations among States, opinion was divided on how



to achieve this, on the utility and wisdom of the Assembly's restating principles already set forth in the Charter, as well as on the steps needed to give effect to the principle of peaceful co-existence. In this connexion a number of speakers mentioned the relationship between peaceful co-existence and the principle of respect for the territorial integrity and sovereignty of States.

210. The representative of the USSR contended that the Western countries, led by the United States, were trying to impose their will upon other nations by means of colonial systems of exploitation and by the employment of force or the threat of force, as in the Middle East, when the internal régime or foreign policy of a country did not suit them. The USSR, however, sought peaceful relations and constructive co-operation with all States whatever their political and social systems. The representative of the USSR described the steps taken by a number of States to elaborate concrete principles relating to peaceful co-existence. Amongst these were the principles drawn up in 1954 by the People's Republic of China and the Republic of India, namely, mutual respect for the territorial integrity and sovereignty of States; non-interference in internal affairs; equality and mutual advantage. Equally noteworthy were the decisions of the Asian-African Conference, held at Bandung in 1955; that Conference had called upon States to base their relations on the principle of peaceful co-existence. The USSR regarded that principle as the soundest basis for normal international relations. The representative of the USSR then outlined a number of steps as a basis for future relations between the United States and the USSR. These included the conclusion of an agreement of friendship and co-operation between the two countries and the restoration of normal economic, cultural and scientific relations; the conclusion of a disarmament agreement and a provisional undertaking by the United Kingdom, the USSR and the United States not to test nuclear weapons and to suspend tests of such weapons after 1 January 1958 for a period of two or three years; a special régime of nuclear disarmament in Central Europe; a non-aggression pact between the countries of the North Atlantic Treaty Organization and those of the Warsaw Treaty Organization; and non-intervention in the domestic affairs of States in the Middle East.

211. The representative of the United States maintained that a tyrannical rule far worse than old-fashioned colonialism had been imposed by the USSR policies of



infiltrating and subverting non-Soviet countries and of dominating sovereign States in Eastern Europe. More than any other country in the world, it was asserted, the USSR sought to resolve its differences with others by means of force, as in Hungary, or the threat of force, as it had done in 1957, against twenty-two countries, including the United States. The phrase "peaceful co-existence" which had been successively used by Lenin, Stalin and Khrushchev, was merely a temporary tactical instrument in the Soviet Communist struggle for world conquest. The representative of the United States supported the three-Power draft resolution which would help strengthen the observance of the principles already contained in the Charter. While it was directed only to States, the call for peaceable behaviour would have to be heeded also by those Communist régimes which had so far been conspicuous for lawless behaviour.

212. The representative of Saudi Arabia declared that there could be no talk of the rights and duties of States vis-à-vis other States until the concept of a State had been precisely defined. His delegation wished to make it clear that in its view a declaration by the United Nations could apply only to States which were established legitimately, within their right, and in their own territory. The Swedish representative, having recalled other instances in which the five principles contained in the USSR draft resolution had appeared, stated that only the third principle dealing with non-intervention in the domestic affairs of other States seemed to be more far-reaching than the corresponding principle of the Charter, although it was completely in accordance with the spirit of the Charter. Obviously, an aggressor State could not appeal to the principle of non-aggression in its defence against a third State which came to the assistance of the one which had been attacked. In view of the difficulties in formulating a clear definition of peaceful co-existence, however, the Swedish delegation, together with the delegations of India and Yugoslavia, had proposed an alternative draft resolution.

213. A number of representative found declarations of the kind proposed for adoption redundant since the Charter formulated these ideas better, more directly and more completely. Preferring a formulation in the language of the Charter which provided peaceful means for settling all disputes, the representatives of China, Peru, the Philippines and others warned against the danger that the idea of co-existence might lull people into a false sense of security. The representative

of Peru also declared that the statement of the second principle in the USSR draft resolution was inadequate in that it failed to take account of the injunction the Charter against the threat as well as the use of force, as an instrument of indirect aggression. As for the fourth principle which referred to equality in law there was no justification for coupling it with the concept of economic or cultural benefit.

214. The representative of France declared that his Government had no objection to the repetition in a General Assembly resolution of certain principles already embodied in the Charter but considered that such a resolution would be valuable only if it were adopted unanimously. The representative of the United Kingdom stated that the principles contained in the USSR draft were unexceptionable; they were in fact all contained in the Charter. But they could not be regarded as a comprehensive list of the basic principles which should govern the conduct of international relations, for no reference was made to the principles of justice and respect for international law, or to the determination to "establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Other representatives, however, considered it important to have a periodic reaffirmation of the Charter principles and thought circumstances were appropriate for this. The representative of the Ukrainian SSR observed that a declaration on peaceful co-existence would not supplant the Charter, but would constitute a practical application thereof. There was no basis for the idea that the principles of peaceful co-existence involved a kind of compulsory neutrality aimed at destroying the Western world.

215. The representative of Colombia declared that the principles in question were much older than the USSR draft suggested and had indeed been recognized for centuries by leading writers on international relations. He also referred, as did a number of other speakers, to the differing concepts of peaceful co-existence held by the USSR and other Communist States, and the rest of the world. Referring to the three-Power draft resolution, the representative of Israel stated that this carried with it the obligation to accept sovereign equality as a guiding principle in the relationships of Member States. Under the Charter, no State, however powerful or long-standing, had any juridical identity superior to that of any other State, however small or new. That was perhaps the highest among the philosophical concepts of the Charter: equality in rights despite divergencies in power, the concept of democracy within a community of nations.

216. Referring, as did a number of other speakers, to the situation of their own country which had as its neighbour a large and powerful State with whom it was necessary to maintain friendly relations, the representative of Iran stated that the history of his country showed that the peaceful co-existence was not possible unless it was based on specific principles which were accepted and observed by all. As regards non-intervention in the internal affairs of other States, any act of subversive agitation, even without the use of armed force, should be dealt with as an act of aggression.

217. The representative of India noted a general desire to implement the purposes and principles of the Charter in more concrete terms. Many States - including the United States, the United Kingdom, the USSR and India - had on various occasions subscribed to the principles contained in the three-Power draft resolution. These principles, he said, formed the basis of India's success in establishing friendly relations with countries of entirely different persuasions and divergent systems. The three-Power draft resolution was not an attempt at a limitative restatement of the purposes of the Charter, he pointed out. Its value lay in the indication of the correct way of approach to the deeds on which others had laid stress. Account had been taken of the views expressed in the First Committee, he added, by formulating the five principles somewhat differently from the USSR draft so as to go beyond the concept of merely existing side by side, for it was necessary to do more than simply to co-exist.

218. Yugoslavia's representative held that genuine peaceful co-existence involved constant practical efforts to dispel misunderstandings, increase confidence, reduce armaments and settle the problems at the root of difficulties. As did the representatives of Iraq and Peru, he believed that co-existence required co-operative efforts to develop and use the human and material resources of the world. The representative of Ceylon considered that the USSR statement on the principle of mutual respect for the territorial integrity and sovereignty of States was an improvement on the Charter. He declared that the expression "equality and mutual benefit", as used in the fourth principle of the USSR draft resolution, meant that there should be free contacts between peoples in the economic, commercial, social and cultural fields, and that those contracts should be based on the principle of the equality of all peoples.

219. On 14 December 1957, at the request of the representative of India and with the agreement of the USSR representative, the joint draft resolution was put to the vote first. The USSR representative thought that his draft resolution was more definite and logical than the joint draft resolution, but found nothing unacceptable in the three-Power draft which expressed the same ideas. The three-Power draft resolution was then adopted by the First Committee. The USSR did not press for a vote on its draft resolution. The draft resolution recommended by the First Committee was adopted without debate at a plenary meeting of the General Assembly on 14 December 1957, by a roll-call vote of 77 to 0, with 1 abstention, as resolution 1236 (XII).

Resolution 1236 (XII). Peaceful and neighbourly relations among States

"The General Assembly,

Considering the urgency and the importance of strengthening international peace and of developing peaceful and neighbourly relations among States irrespective of their divergences or the relative stages and nature of their political economic and social development,

Recalling that among the fundamental objectives of the Charter of the United Nations are the maintenance of international peace and security and friendly co-operation among States,

Realizing the need to promote these objectives and to develop peaceful and tolerant relations among States, in conformity with the Charter, based on mutual respect and benefit, non-aggression, respect for each other's sovereignty, equality and territorial integrity and non-intervention in one another's internal affairs, and to fulfil the purposes and principles of the Charter,

Recognizing the need to broaden international co-operation, to reduce tensions and to settle differences and disputes among States by peaceful means,

Calls upon all States to make every effort to strengthen international peace, and to develop friendly and co-operative relations, and settle disputes by peaceful means as enjoined in the Charter of the United Nations and as set forth in the present resolution."

Peaceful and Neighbourly Relations among States

Consideration by the General Assembly during the Thirteenth Session, 1958

220. At its thirteenth session the Assembly decided to include on its agenda the item "Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States". This followed a request by Czechoslovakia that an item relating to "the principles of peaceful co-existence" be considered; the phrase "peaceful and neighbourly relations" was substituted in the title of the item at the suggestion of the United States, so that the title would correspond to the heading of resolution 1236 (XII), which had been cited by Czechoslovakia in support of its proposal. The item was referred to the Special Political Committee, where it was considered between 1 and 5 December 1958.

221. The Special Political Committee had before it a joint draft resolution put forward by Argentina, Austria, Bolivia, Ceylon, Ghana, India, Ireland and Yugoslavia; Czechoslovakia also joined in the sponsoring of this proposal, withdrawing a draft resolution which it had submitted earlier. By this nine-Power joint draft resolution it was proposed that the Assembly should reaffirm the purposes and principles of the United Nations; urge Members to resort to the Organization in seeking peaceful solutions of their problems; call upon them to take effective steps towards the implementation of the principles of peaceful and neighbourly relations; recommend that they take practical measures to foster open, free and friendly co-operation in the fields of economy, culture, science and technology; and welcome agreements between Member States for the attainment of the aims of the resolution. Discussion in the Special Political Committee ranged over a number of aspects, particular reference being made to the obligation of non-interference in the domestic affairs of other States and the need for States to settle their disputes by peaceful means within the framework of the Charter.

222. Introducing the joint draft resolution, the representative of Argentina pointed out that it went further than resolution 1236 (XII) in defining the essentials of international co-operation and stressing the need for States to respect the authority of the law in their mutual relations. The United States representative held that Governments should observe the rules of conduct set forth



in resolution 290 (IV) entitled "Essentials of Peace"<sup>1/</sup>. This applied particularly to the rule calling for the free exchange of information and ideas. His delegation was, however, prepared to support the proposal.

223. The representatives of Czechoslovakia, Poland, USSR and others advocated multilateral or bilateral non-aggression pacts as a first step towards the replacement of opposing military blocs by a real system of collective security. France, however, felt that such non-aggression pacts were superfluous since they were implicit in the Charter.

224. The representative of India cited his country's agreement with the People's Republic of China which enunciated the principles later written into resolution 1236 (XII). Ghana and Indonesia urged that colonialism was incompatible with the principle of peaceful and neighbourly relations.

225. The United Kingdom representative noted that radio broadcasts could serve as a means of indirect aggression and suggested that the United Nations might establish a monitoring service to transcribe and publish anti-social and criminally libellous utterances coming from any broadcasting station. The representative of France put forward a similar suggestion. Abstention from direct or indirect interference in the domestic affairs of other States was one of the principles most frequently ignored; the use of radio broadcasts to incite disaffection and even armed revolt was a striking example.

226. The representative of Australia supported the nine-Power draft resolution on the assumption that it was to be read subject to and in accordance with the provisions of the Charter. Thus, while emphasising the value of recourse to the United Nations in solving problems which interfered with peaceful and neighbourly relations, the draft did not in any way limit the freedom of Members to use other means of finding solutions for such problems, nor did it limit the inherent right of self-defence as laid down in Article 51. Secondly, the draft did not imply that the United Nations was necessarily competent to deal with every problem that might arise between States. The competence of the Organization was limited by the express provisions of Article 2, paragraph 7, of the Charter. Thirdly the intention of the paragraph relating to the peaceful solution of disputes was to

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<sup>1/</sup> See Essentials of Peace, paras. 276-282 below, where the resolution is reproduced.



late a broad principle applicable to the whole field of problems covered by article 33 of the Charter. It could not, however, extend the application of that article.

27. The representative of Peru proposed that certain additional measures should be adopted to follow up the statement of principles contained in the draft resolution. Such measures should include a declaration of the rights and obligations of States; a declaration that war was illegal and that aggression was a crime subject to legal sanctions; that all disputes should be subject to peaceful means of settlement according to international law; and that the juridical equality of States was inviolable.

28. On 10 December 1958, after the Special Political Committee had approved the nine-Power draft resolution, it was adopted by the General Assembly by 77 votes to 0, with 1 abstention, as resolution 1301 (XIII).

Resolution 1301 (XIII). Measures aimed at the implementation and  
promotion of peaceful and neighbourly  
relations among States

"The General Assembly,

Recalling its resolution 1236 (XII) of 14 December 1957,

Considering the paramount importance of ensuring international peace and security,

Realizing the urgent need of finding solutions to contemporary problems which stand in the way of the promotion of friendly and neighbourly relations among States,

Welcoming the trends towards greater interchange among Member States in various fields,

Recognizing that the United Nations plays an increasingly important part in international co-operation, negotiation and conciliation,

Recognizing furthermore that in the observance of the purpose and principles of the United Nations lies the best basis of ensuring the conditions essential for the nations and peoples of the world to live and to assist each other in mutual tolerance and understanding for the benefit of all,

1. Reaffirms the purposes and principles of the United Nations;
2. Calls upon Member States to live together within the letter and spirit of the Charter of the United Nations;
3. Urges all Member States, while making full use of Article 33 of the Charter, to resort to the Organization for the peaceful solution of problems which interfere with friendly and neighbourly relations among States or threaten international peace;
4. Calls upon Member States to take effective steps towards the implementation of principles of peaceful and neighbourly relations;
5. Recommends that all Member States should take practical measures or make arrangements in conjunction with and not inconsistent with the programmes of the United Nations and its specialized agencies to foster open, free and friendly co-operation and understanding in the fields of economy, culture, science, technology and communications;
6. Welcomes with satisfaction agreements between Member States which are working or will work towards the attainment of the aims envisaged in the present resolution."

#### The Question of Arbitral Procedure

Consideration by the General Assembly during the Thirteenth Session, 1958

229. In resolution 989 (X) the General Assembly invited the International Law Commission to consider the comments made by Governments on the draft convention on arbitral procedure which the Commission had prepared in 1953. At its tenth session in 1958, the International Law Commission drew up a set of "model rules on arbitral procedure" relating to the peaceful settlement of disputes, on the basis of a report by its Special Rapporteur, Georges Scelle. In submitting this set of rules to the General Assembly the Commission pointed out that the draft articles would not become binding on any State unless they were accepted by that State in an arbitration treaty or compromis.

230. At the General Assembly's thirteenth session the draft rules were discussed in the Sixth Committee. The representatives of Belgium, Burma, Canada, Greece, Italy, Mexico, Pakistan, the United Kingdom and the United States, expressed general support for the Commission's proposals which, whatever detailed faults they might

have, represented a commendable trend towards strengthening one of the methods of peaceful settlement of disputes. With reference to the objections raised on the ground that the model rules constituted an infringement of the right of States to choose their own means of settling disputes, it was pointed out that under the proposals States remained free either to adopt the rules or not. A Member State would only become bound by the model set of rules if it incorporated them in a treaty, by agreement with another State, when it would be possible for the contracting parties to introduce whatever modifications they might wish.

231. As against this, other representatives, including those of Brazil, Bulgaria, the Byelorussian SSR and the USSR, expressed severe criticism of the draft rules which they considered unacceptable owing to the violation of what was to them the basic principle of arbitration, namely the autonomy of the will of the parties. The representative of the Byelorussian SSR stated that whilst his country favoured arbitration, as a corollary of the principle of the peaceful co-existence and co-operation between States, this should be based on generally accepted principles. The first of these was that no arbitration should be held without the consent of the parties to submit the dispute to arbitration - a principle derived in turn from the sovereignty and equality of States. The proposed model set of rules repeated, in his view, the errors of the 1953 proposals in their departure from the traditional notion of arbitration by creating a supra-national jurisdictional procedure. Opposing any endorsement of the model rules by the General Assembly, the representative of Hungary declared that by adopting them the General Assembly would be granting its approval and that delegations voting for them would assume at least a moral obligation to abide by them and to use them in their treaties of arbitration. Therefore, unless the rules were considered in detail and substantially amended they should not in any way be approved by the Assembly.

232. The representatives of Denmark, Ghana, Iran, Israel, the Union of South Africa, the United Arab Republic, Yugoslavia and others took an intermediate position. They considered that certain of the rules, in particular those relating to the proposed functions of the International Court of Justice, needed improvement and, since a detailed study could not be undertaken by the Sixth Committee, the General Assembly should merely take note of the rules and - in the opinion of some of these

delegations - transmit them to Member States for use as they saw fit in drawing up arbitration agreements. This view was eventually endorsed in a draft resolution which was approved by the Sixth Committee and adopted by the General Assembly at a plenary meeting on 14 November 1958, by 46 votes to 17, with 11 abstentions.

Resolution 1262 (XIII). Question of Arbitral Procedure

"The General Assembly,

Recalling its resolutions 797 (VIII) of 7 December 1953 and 989 (X) of 14 December 1955,

Considering that arbitration is one of the means for the pacific settlement of disputes referred to in the Charter of the United Nations,

Having considered Chapter II, on arbitral procedure of the report of the International Law Commission covering the work of its tenth session,

Taking note of the comments in that report to the effect, in particular that, the draft articles on arbitral procedure contained therein would have no binding effect on States unless accepted by them and save to the extent that each one is accepted by them in treaties of arbitration or in a compromis,

Taking into consideration the observations of Governments and the statements made in the Sixth Committee at the thirteenth session of the General Assembly,

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3. Brings the draft articles on arbitral procedure contained in the report of the International Law Commission to the attention of Member States for their consideration and use, in such cases and to such extent as they consider appropriate, in drawing up treaties of arbitration or compromis;

4. Invites Governments to send to the Secretary-General any comments they may wish to make on the draft, and in particular on their experience in the drawing up of arbitral agreements and the conduct of arbitral procedure, with a view to facilitating a review of the matter by the United Nations at an appropriate time."

Status of the German-Speaking Element in the Province of Bolzano (Bozen)

Consideration by the General Assembly during the Fifteenth Session, 1960

233. At the Assembly's fifteenth session the Special Political Committee considered a complaint by Austria regarding the treatment by Italy of the German-speaking population of the South Tyrol. Speaking before the Committee, the Austrian Foreign Minister declared that the 1946 Paris Agreement between Austria and Italy, providing for the legislative and executive autonomy of the South Tyrolean population, had not been implemented by Italy. A draft resolution was submitted by Austria, proposing that the General Assembly should recognize the justified demand of the South Tyroleans for effective regional autonomy and recommending that the two parties should resume negotiations aimed at the establishment of the Province of Bozen/Bolzano as an autonomous region with legislative and executive power.

234. In reply, the Foreign Minister of Italy stated that the Austrian complaint amounted to a request for the revision of treaties already signed by Austria. The Paris Agreement of 1946, which had received the consent and approval of the Austrian Government and the German-speaking inhabitants of Bolzano, had been annexed to the Peace Treaty of 1947 and had been welcomed both by the representatives of the Austrian Government and by the Tyroleans as a liberal settlement. He maintained that the German-speaking area was an active autonomous region with wide legislative and executive powers and considerable financial resources. Any claims by Austria exceeding the Paris Agreement were incompatible with the respect due to the sovereign independence of Italy and were contrary to the basic principles of international law and the United Nations system itself. In spite of the Austrian attitude, the Italian Government was ready to resume conversations with Austria. Italy was prepared to submit the issue to the International Court of Justice and, whatever the outcome, to abide by the Court's decision.

235. During the ensuing discussion the consensus of opinion was that Austria and Italy should resume negotiations with a view to finding an eventually acceptable solution. A number of Members, including Argentina, Bolivia, France, Greece, Sweden, Turkey, the United Kingdom, the United States and Uruguay, said they could not support the Austrian draft resolution. They suggested that, since the dispute

involved the implementation of a treaty, it constituted a legal matter which should be referred to the International Court of Justice. According to the United States representative, questions of law and fact were involved and it would be difficult for the General Assembly to give a judgement on such questions, nor should the Assembly assume such a responsibility.

236. Cuba and Indonesia, however, felt that the question was essentially a political one; even if the International Court of Justice was able to determine which interpretation of the Paris Agreement was correct, the absence of a political solution to the problem would continue to threaten relations between the two countries. A number of delegations also favoured bilateral negotiations, possibly with the assistance of a third party, as the best means of achieving an equitable solution.

237. After Austria had submitted a revised proposal, inviting the parties to enter into negotiations on the implementation of the Paris Agreement, with the assistance of the Secretary-General or of his representative, several other draft resolutions were put forward calling for negotiations. A proposal submitted by Argentina, Bolivia, Brazil, Canada, Ceylon, Cuba, Cyprus, Denmark, Ecuador, Ghana, India, Iraq, Ireland, Jordan, Mexico, Norway, Paraguay and Uruguay, which incorporated a number of provisions contained in earlier texts, was adopted by acclamation after Austria and Italy had announced that they would support it. The draft resolution recommended by the special Political Committee was adopted by the General Assembly, also by acclamation, as resolution 1497 (XV).

Resolution 1497 (XV). The Status of the German-speaking element in the Province of Bolzano (Bozen); implementation of the Paris Agreement of 5 September 1946

"The General Assembly

. . . . .

1. Urges the two parties concerned to resume negotiations with a view to finding a solution for all differences relating to the implementation of the Paris Agreement of 5 September 1946;



2. Recommends that, in the event of the negotiations referred to in paragraph 1 above not leading to satisfactory results within a reasonable period of time, both parties should give favourable consideration to the possibilities of seeking a solution of their differences by any of the means provided in the Charter of the United Nations, including recourse to the International Court of Justice or any other peaceful means of their own choice.

3. Likewise recommends that the countries in question should refrain from any action which might impair their friendly relations."

Consideration by the General Assembly during the Sixteenth Session 1961

238. On 18 July 1961, Austria requested that the item should be included in the agenda of the Assembly's sixteenth session, stating that the negotiations held in pursuance of resolution 1497 (XV) had not been successful. Austria had proposed that an international commission of inquiry should be established to examine the facts of the situation, but Italy considered that the most appropriate peaceful means would be to submit the question to the International Court of Justice. On 22 September Italy stated in a memorandum to the United Nations that the negotiations recommended in resolution 1497 (XV) could not be considered as terminated. Despite this fact, and a recent outbreak of violence in the area for which Italy considered Austria responsible, Italy was prepared to examine any recommendations which the Assembly might make regarding the choice of a further peaceful means for the solution of the dispute.

239. After the representatives of Austria and Italy had given further details of the positions taken by their respective Governments, the general opinion of the Special Political Committee was that the two countries should continue their efforts to find a solution through negotiations in accordance with the recommendations of resolution 1497 (XV). If these efforts proved fruitless, a number of representatives considered that recourse to the International Court of Justice, or to another body agreed upon by the parties, might be the most promising way of achieving a settlement. Other representatives, however, including those of Afghanistan, Colombia, Ghana, India and Yugoslavia, maintained that political and human considerations and not merely legal issues were involved.

240. Following further discussion in which there was broad agreement on the need to find a solution which was mutually acceptable to both parties, the Assembly unanimously adopted resolution 1661 (XVI). Under this resolution the Assembly noted with satisfaction that negotiations were taking place between the two parties concerned and noted further that the dispute remained as yet unsolved; the Assembly then called for further efforts by the two parties to find a solution according to the three operative paragraphs of resolution 1497 (XV).

(C) THE DUTY NOT TO INTERVENE IN MATTERS ESSENTIALLY WITHIN  
THE DOMESTIC JURISDICTION OF ANY STATE, IN ACCORDANCE  
WITH THE CHARTER 1/

The Iranian Question

Consideration by the Security Council, 1946

241. At its second meeting on 25 January 1946, the Security Council had before it a communication from Iran, submitted under Article 35, which charged interference by the USSR in the internal affairs of Iran, stated that attempts at negotiation in accordance with Article 33 had been unsuccessful, and requested the Council to investigate the situation and to take other appropriate measures. Speaking before the Council, the representative of Iran contended that the USSR authorities had interfered in the internal affairs of Iran in breach of international law, the 1942 Tripartite Treaty of Alliance between the USSR, the United Kingdom and Iran, the 1943 Three-Power Declaration by the USSR, the United Kingdom and the United States, and in violation of the principles set out in the Preamble of the Charter. He gave details of the acts of USSR authorities in Azerbaijan which, he stated, had prevented the Iranian Government from exercising any power there,

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1/ References to this principle and its application were also made in the following cases dealt with in the present study: The Question of Defining Aggression, paras. 4-39, especially paras. 10-15; Intervention by Israel and by France and the United Kingdom in Egypt, paras. 40-60; The Situation in Hungary, paras. 61-94; The Complaints by Lebanon and Jordan, paras. 95-117; The Situation in the Caribbean Area, October 1962, paras. 130-148; The India-Pakistan Question, paras. 159-182; Peace Through Deeds and Condemnation of Propaganda against Peace, paras. 195-202, especially paras. 199-200; Peaceful Co-Existence and Peaceful Relations among States, paras. 207-219; Peaceful and Neighbourly Relations among States, paras. 220-228; Draft Declaration on Rights and Duties of States, paras. 377-387; The Egyptian Question, paras. 388-391; Exploitation of Natural Wealth and Resources and Permanent Sovereignty over Natural Resources, paras. 392-403; and Declaration on Granting Independence to Colonial Countries and Peoples, paras. 404-408.

See, generally, the section dealing with principle A, namely that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. In so far as the principle involves the application of Article 2, paragraph 7, of the Charter, further information regarding United Nations practice in respect of that provision may be found in The Repertory of Practice of United Nations Organs.

despite the diplomatic protests which it had made. The representative of the USSR denied interference in the internal affairs of Iran and stated that events in the province of Azerbaijan resulted from popular aspirations for national autonomy within the limits of the Iranian State. These events had nothing to do with the presence of USSR forces. He contended that successful negotiations had taken place between the two Governments. In conclusion, the representative of the USSR argued that there was no foundation for consideration by the Council of the Iranian complaint. The Charter required Member States to attempt to settle disputes by negotiations and similar means, and it was stated that the Council might call upon parties to settle disputes by the means indicated in Article 33. It was apparent, however, that the Council could not call upon the USSR to take any steps provided for in Article 33. Article 34 related to a dispute or situation of quite a different order and Article 36 was inapplicable since the USSR considered bilateral negotiations the only acceptable means of settling disputes of the kind in question. Article 37 applied only where the parties had been unable to come to an agreement; the USSR was willing to resume direct negotiations with the Iranian Government.

242. On 30 January 1946, the Security Council unanimously adopted a resolution, introduced by the representative of the United Kingdom and amended by the representative of the USSR. The resolution, having noted the readiness of the parties to resume negotiations, requested the parties to inform the Council of the results achieved.

243. By a letter dated 18 March 1946, addressed to the President of the Security Council, the Iranian Ambassador to the United States declared that new developments since the adoption of the Council's resolution of 30 January, in particular the continued interference of the USSR in the internal affairs of Iran, had given rise to a dispute which threatened the maintenance of international peace and security. At the 25th meeting of the Security Council the representative of the USSR stated that, pursuant to the Council's resolution, negotiations between the two Governments had resulted in an understanding regarding the evacuation of USSR forces from Iran. Remaining troops would be withdrawn within five or six weeks. In the circumstances it could not be suggested that the situation in Iran constituted a threat to the maintenance of international peace and security. He considered that the Iranian question should accordingly not be included in the agenda. After the Council had decided, however, by 9 votes to 2, to place the question on its agenda, the representative of the USSR stated that he would be unable to participate further in the Council's discussion of the question.

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244. The representative of Iran informed the Council of the negotiations which had taken place between the two Governments and of the lack of positive results. At the 28th meeting of the Council the representatives present unanimously agreed that the Secretary-General should be asked to ascertain from the USSR and Iranian Governments the existing status of the negotiations between the two Governments and, in particular, whether or not the reported withdrawal of USSR troops was conditional upon the conclusion of agreements between the two Governments on other subjects. The USSR representative informed the Secretary-General that the withdrawal of USSR forces would be completed within six weeks from 24 March 1946. As to the other questions raised, they were not connected with the withdrawal of USSR troops. The Iranian Ambassador stated, however, that USSR interference in the internal affairs of Iran had continued. As to the question whether withdrawal was conditional upon the conclusion of other agreements, the Iranian Ambassador gave a detailed account of conversations in which proposals had been made by the USSR for the formation of a joint USSR-Iranian oil corporation and of an autonomous Government in Azerbaijan. No understanding had been reached regarding these proposals and the Iranian Prime Minister had stated that he could not accept any conditions attached to the complete withdrawal of USSR forces. After discussion, the Security Council adopted a resolution on 4 April, taking note of the replies given by the two Governments and deferring further proceedings until 6 May, by which time the withdrawal of USSR troops would have been completed. After the adoption of a resolution on 8 May 1946, requesting the Iranian Government to submit a complete report, the Iranian representative informed the President of the Council that USSR troops had evacuated Azerbaijan on 6 May 1946.

#### The Syrian and Lebanese Question

##### Consideration by the Security Council, 1946

245. At its 19th meeting on 14 February 1946, the Security Council had before it a complaint by Lebanon and Syria regarding the presence of French and British troops on their territory; it was alleged that under a Franco-British Agreement of 13 December 1945, the withdrawal of these troops had been made subject to conditions which were inconsistent with the Charter. Speaking before the Council, the representatives of Syria and Lebanon argued that the presence of foreign troops

on the territory of a sovereign State against its will constituted a dispute and threatened the maintenance of international peace and security; that the 1945 Franco-British agreement was a violation of the sovereignty of Member States, contrary to Article 2 of the Charter; and that the presence of troops could not be justified on grounds of military necessity. They also maintained that it would be sufficient for the Council to recommend the evacuation of foreign troops within a limited time. They insisted, however, that the evacuation should be unconditional and not subject to any negotiations on the question of withdrawal in conjunction with other matters. They nevertheless expressed readiness to enter into negotiations after the troops had been withdrawn.

246. In reply, the representative of France declared that the situation in Syria and Lebanon could not, in good faith, be regarded as likely to endanger the maintenance of international peace and security under Article 34 of the Charter and could be settled by negotiations or other appropriate means under Article 33. France was prepared to negotiate with the Syrian and Lebanese Governments as to the methods by which the French troops should be evacuated. The United Kingdom representative stated that his Government was in sympathy with the Lebanese and Syrian Governments in their desire to see British troops withdrawn. The two Governments had asked for an assurance that British troops would not withdraw so long as other foreign troops remained. He stated that his delegation associated itself whole-heartedly with the declaration by the representative of France to the effect that the 1945 Agreement implied no agreement to maintain troops in Syria and Lebanon for an indefinite period.

247. A number of draft resolutions were submitted to the Council. One, proposed by the representative of Egypt, provided in part as follows:

"The Security Council considering that the presence of British and French troops on Lebanese and Syrian territory is incompatible with the principle of the sovereign equality of all Members laid down in the Charter;

"Believing that this principle, the intangibility of which is fully recognized by all the parties concerned, should receive its full application by the immediate and simultaneous withdrawal of all British and French troops still in the territories referred to,"

and recommended that the four Governments should enter into negotiations as soon as possible. Four representatives voted in favour of this resolution, which was therefore not adopted. A United States proposal, expressing the confidence of the



Council that the troops would be withdrawn as soon as practicable and that negotiations would be undertaken without delay, received seven votes but was not carried since a permanent member, the USSR, voted against it. The representatives of France and the United Kingdom **stated** that although the United States resolution had not been legally adopted, their Governments would give effect to the majority decision of the Council.

248. In subsequent communications the representatives of France and the United Kingdom gave details of the arrangements made, in conjunction with the Governments of Lebanon and Syria, for the withdrawal of troops. The Lebanese and Syrian Governments later confirmed that foreign troops had in fact been withdrawn.

#### The Spanish Question

##### Consideration by the Security Council, 1946

249. In April 1946, at the request of the representative of Poland, the Security Council considered the situation arising from the existence and activities of the Government of Spain. The Polish representative stated that the existence of that Government could not be regarded solely as an internal affair of Spain but was of concern to all Members of the United Nations. It had been put into power with the support of the Fascist Government of Italy and the Nazi Government of Germany, and had in turn assisted those Governments in the war against the United Nations. In addition the Spanish Government had caused a state of international friction by compelling France to close her border to Spain and by massing troops on the borders of France. The representative of Poland declared that the situation created by the existence and activities of the Spanish Government was of the nature referred to in Article 34 of the Charter. It was therefore the duty of the Organization to take the appropriate steps to ensure compliance with the principles and purposes of the United Nations, in accordance with Article 2, paragraph 6, of the Charter. The representative of Poland introduced a draft resolution calling upon Member States to sever diplomatic relations with the Spanish Government.

250. The representative of France stated that in the opinion of his Government the situation existing in Spain constituted a danger for international peace and security. The representatives of Mexico and the USSR expressed their opposition

to the Spanish Government, which they had always regarded as the result of outside intervention. The representatives of Brazil and the Netherlands, however, considered that the matter was essentially one within Spain's domestic jurisdiction. Similar views were expressed by the United Kingdom representative, who stated that in his opinion the case so far made out against the Spanish Government had not been established as such a threat to peace or act of aggression as to justify a collective severance of diplomatic relations. It was suggested that, inasmuch as the finding embodied in the draft resolution was based on Chapter VI, measures under Article 36, paragraph 1, were appropriate rather than those under Articles 39 and 41, and that, before action was taken, it was necessary to undertake an investigation.

251. At the 39th meeting of the Security Council an Australian proposal was adopted by ten votes, the representative of the USSR abstaining. Under this resolution a Sub-Committee was established, consisting of five members of the Council, to make further studies in order to determine whether the situation in Spain had led to international friction and endangered international peace and security and, if it so found, to determine what practical measures might be taken by the United Nations. The report of the Sub-Committee, which was adopted unanimously subject to two reservations, was presented to the Security Council on 6 June 1946. In the opinion of the Sub-Committee the Security Council could not, on the available evidence, make the determination required by Article 39. No breach of the peace had occurred and no act of aggression had been proved. No threat to the peace had been established. Therefore, none of the enforcement measures set out in Articles 41 and 42 could be adopted by the Security Council. The Sub-Committee found, however, that the situation in Spain, although not an existing threat within the meaning of Article 39, was a situation the continuance of which was likely to endanger the maintenance of international peace and security. The situation in Spain was therefore to be dealt with by the Security Council under Chapter VI of the Charter. The Sub-Committee declared that the Security Council was empowered under Article 36 of that Chapter to recommend appropriate procedures or methods of adjustment of such a situation. The Sub-Committee recommended, inter alia, that the matter should be transmitted to the General Assembly which, if certain steps were not taken by the Spanish Government, should recommend that Member States should terminate diplomatic relations with that Government.

252. Introducing a draft resolution providing for the adoption of the recommendations of the Sub-Committee, the representative of Australia stated that, in his opinion, its adoption would represent no diminution of the powers of the Security Council, but the exercise by the Council of its power to recommend methods of adjustment or suitable procedures, and to refer a matter to other organs of the United Nations whenever the circumstances were thought fit by the Council. The representative of the United Kingdom declared, however, that his Government had grave doubts as to the juridical rights of the Security Council to bring corporate action to bear on Spain unless there was a clear threat to the maintenance of international peace and security. He considered that it was extremely doubtful whether Chapter VI was suitable for dealing with a case of the kind in question. The sanction suggested by the Sub-Committee, namely the severance of diplomatic relations, was one provided for in Chapter VII and not in Chapter VI. The representative of the USSR also criticized the conclusions of the Sub-Committee. He stated that the finding that the situation in Spain constituted only a potential threat to the peace had as its outcome that a real threat to the peace would exist only if Spain took practical action of a warlike nature, but this would be not merely a threat to the peace but already an act of aggression. Secondly, by proposing that the matter be referred to the General Assembly the Sub-Committee seemed to have confused the functions of the Security Council and of the Assembly. The representative of the USSR therefore voted against the recommendations of the Sub-Committee, which were accordingly not adopted.

253. Following further discussion, at its 79th meeting on 4 November 1946, the Security Council unanimously adopted a Polish proposal that the case be removed from the Council's agenda.

Consideration by the General Assembly during the First Session, 1946

254. During the second part of the Assembly's first session the situation in Spain was discussed in the First Committee. The representative of Poland repeated the views which he had expressed in the Security Council and introduced two draft resolutions, one recommending that the Government of Spain should be barred from membership of the United Nations and the second recommending the severance of diplomatic relations with the Spanish Government. A considerable number of representatives, including those of Belgium, the Byelorussian SSR, Chile,

Czechoslovakia, Ethiopia, France, Guatemala, Mexico, Norway, Panama, the USSR, Uruguay, Venezuela, and Yugoslavia, expressed similar views and supported the draft resolutions submitted by the Polish representative. Although opposing intervention in the internal affairs of other States, the representatives of several Latin American countries stressed the fact that in their view collective action on the part of the United Nations, and in particular the severance of diplomatic relations, could not be considered intervention in the domestic affairs of Spain.

255. Many other representatives, however, including those of Argentina, Canada, China, Costa Rica, Cuba, Denmark, Ecuador, El Salvador, Nicaragua, Paraguay, Peru, the Philippines, Sweden, the United Kingdom and the United States, were opposed to definite action on the ground that any such step as the collective breaking off of diplomatic relations would constitute interference in the internal affairs of Spain in violation of Article 2, paragraph 7, of the Charter. They considered that Spain had not taken any aggressive action against any Member State and that the Spanish Government was not a direct threat to the peace; there was therefore no basis for action on the part of the United Nations.

256. After the submission of a United States resolution, to which several amendments were proposed, the First Committee established a Sub-Committee to draft a resolution which might be unanimously acceptable. The draft resolution proposed by the Sub-Committee was, however, rejected by the First Committee, which eventually adopted a Belgian proposal that the Security Council should consider measures to be taken if a change in regime was not brought about in Spain within a reasonable period; that in the meantime all Member States should recall their ambassadors and ministers plenipotentiary; and that Spain should be barred from membership in the specialized agencies. On 12 December 1946, the General Assembly adopted the resolution proposed by the First Committee, as resolution 39 (I).

Consideration by the General Assembly during the Second Session (1947) and subsequently

257. At the second session of the Assembly the question of the relations of Member States with Spain was considered once more. In the First Committee the representative of Poland submitted a draft resolution requesting the Security Council to adopt measures in conformity with Article 41 of the Charter in order to remedy the situation, in pursuance of resolution 39 (I). The representatives of

Czechoslovakia and Yugoslavia, speaking in support of the Polish proposal, urged that economic measures should be taken. The representative of the Netherlands and Pakistan felt that it was doubtful, however, whether the course proposed would lead to the desired objective. The representative of Peru maintained that under Article 2, paragraph 7, the United Nations had no right to intervene in the internal affairs of any regime until it became an international menace; there was no question, however, of any attempt at foreign expansion by the Spanish Government. Similar views were expressed by the representative of Belgium.

258. After several proposals had been put forward, the General Assembly eventually adopted a resolution (114 (II)) on 17 November 1947, expressing its confidence that the Security Council would exercise its responsibilities under the Charter as soon as the situation in Spain so required.

259. The question was considered again by the General Assembly at its third and fifth sessions. At the conclusion of the debate at the fifth session, resolution 386 (V) was adopted, revoking the recommendations contained in resolution 39 (I) that Member States should withdraw their diplomatic representatives and that Spain should be barred from membership in the specialized agencies.

#### The Greek Frontier Incidents Question

##### Consideration by the Security Council, 1946

260. On 19 December 1946, following a complaint by Greece that Albania, Bulgaria and Yugoslavia were interfering in the internal affairs of Greece by supporting guerrillas who were fighting against the Greek Government, the Security Council adopted a United States proposal for the establishment of a Commission of Investigation to ascertain the facts relating to the alleged border violations.

##### Consideration by the Security Council, 1947

261. The majority of the Commission reported that Yugoslavia and, to a lesser extent, Albania and Bulgaria, had supported the guerrilla warfare in Greece. The representatives of Poland and the USSR on the Commission questioned the reliability of the evidence obtained and concluded that the charges against Yugoslavia, Albania and Bulgaria were unfounded. When the report of the Commission was considered by



the Security Council on 27 June 1947, the United States representative stated that his Government was convinced that the Council should continue to act under Chapter VI of the Charter, bearing in mind that if the acts and practices found by the Commission of Investigation continued, the Council would be compelled to consider that there was no longer a dispute but that there existed a threat to the peace, a breach of the peace or an act of aggression within the meaning of Chapter VII. For these reasons, he submitted a draft resolution adopting the substance of the proposals made by the Commission of Investigation, including the establishment of a further commission which would use its good offices for the settlement of controversies arising from frontier violations and complaints regarding conditions on the border.

262. The representative of the USSR stated that there was no proof of the charges that the northern neighbours of Greece were arming and giving military training to Greek refugees. In granting asylum to these refugees the neighbours of Greece had acted in accordance with the universally accepted principles of international law. The difficult internal situation in Greece, the representative of the USSR stated, and its worsening relations with its neighbours, were to a large extent the result of foreign intervention in its internal affairs, as that intervention made it difficult to establish a political order corresponding to the interests of the majority of the people. The proposal to establish a further commission was an effort to hide that foreign intervention. The outstanding questions between the Balkan countries could be settled by negotiation without a commission. The USSR representative submitted a draft resolution recommending, inter alia, that the Greek Government should take steps to put an end to frontier incidents; that the Governments should conclude or renew bilateral frontier conventions; that foreign troops and military personnel should be recalled from Greece; and that a special commission should be established to ensure the proper use of foreign economic assistance extended to Greece.

263. The representatives of Albania, Bulgaria and Yugoslavia objected to the establishment of the proposed commission on the ground that, under the United States draft resolution, the commission would be empowered to undertake investigations regardless of whether or not the consent of the States concerned had been obtained. The establishment of such a commission would be a measure taken within the framework of Chapter VI of the Charter; procedures adopted under Chapter VI were of the nature



of recommendations which required the consent of the parties in order to be implemented. In support of this view it was argued that Article 2, paragraph 7, affirmed the principle of non-intervention in matters falling essentially within the domestic jurisdiction of a State, save in the application of enforcement measures under Chapter VII. This indicated that the sovereignty of States could not be restricted by measures taken under Chapter VI.

264. Representatives who favoured the establishment of a commission drew a distinction between the Council's powers of conciliation and of investigation. While both were derived from Chapter VI, actions of an investigatory nature, unlike those of a conciliatory nature, could be exercised irrespective of the attitude of any individual State. Moreover the sole purpose of an investigation was to provide the Council with information in order to enable it to decide what further steps, if any, should be taken. Furthermore Article 25 did not differentiate as to decisions under Chapter VI or Chapter VII. Article 27, on the other hand, specifically referred to decisions under Chapter VI and nowhere did the Charter state that the Security Council was limited to making recommendations. It followed that the Council had the right to take various decisions under Chapter VI which, regardless of whether they infringed or impaired the sovereignty of any State, were binding decisions within the meaning of Article 25.

265. It was also pointed out by the representative of Belgium that, according to well-established practices and principles the ability to accept international limitations was one of the essential attributes of sovereignty. Supporting the position of the Belgian representative, the United Kingdom representative emphasized that many international conventions, including the Charter itself, contained limitations on national sovereignty. The representative of China stated that the United States draft resolution was an attempt to provide effective measures which did not infringe upon the national sovereignty of the States concerned, did not affect matters essentially within the domestic jurisdiction of those countries and were in strict conformity with the spirit and letter of the Charter.

266. After discussion of the detailed provisions of the United States draft resolution, the resolution as a whole was put to the vote and received nine votes in favour and two against; it was not adopted owing to the negative vote of the USSR. The USSR draft resolution subsequently received no votes in favour and nine against, and was also not adopted.

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267. By a letter dated 31 July 1947, addressed to the Acting Secretary-General, the Foreign Minister of Greece asserted that the presently existing threat to world peace had become so serious that enforcement action under Chapter VII of the Charter was urgently required. The letter charged that Albania, Bulgaria and Yugoslavia had continued their concerted activities of sending armed bands across the border of Greece in continuation of the attempt to overthrow the duly elected Government and to set up a minority dictatorship responsive to alien control. Referring to the vote on the United States draft resolution, the Greek Government expressed the view that the acts of aggression on the part of Greece's northern neighbours had been encouraged by a member of the Security Council which had used its special voting privileges to condone and protect violations of the Charter. Greece therefore requested that the Council first determine that there existed a threat to the peace, breach of the peace or act of aggression within the meaning of Article 39; and then take immediate provisional measures under Article 40 calling upon the parties to cease their attacks and comply with their obligations under the Charter.

268. At the Council's 177th meeting on 6 August, a Polish draft resolution, recommending that the Governments concerned should do their utmost to establish normal good-neighbourly relations by the establishment of diplomatic relations and the renewal of bilateral frontier conventions, was rejected. A Colombian proposal for the establishment of a sub-committee to attempt to find a solution acceptable to all was adopted by a vote of ten in favour with one abstention. The Sub-Committee reported to the Security Council on 12 August that it was unable to make any proposals. The Australian representative submitted a draft resolution, directing the parties concerned, in accordance with Article 40, to enter into direct negotiations to relieve the existing tension and with a view to the resumption of normal and peaceful diplomatic relations. This was followed by a United States draft resolution which determined that the assistance and support given to the guerrillas by Albania, Bulgaria and Yugoslavia constituted a threat to the peace within the meaning of Chapter VII and called upon them to cease from rendering any further assistance or support in any form. At the suggestion of the Colombia representative these proposals were placed before the Sub-Committee. Speaking at the 183rd meeting of the Council on 14 August, the representative of the USSR stated that the new United States draft resolution, and the Australian draft resolution,

were entirely unacceptable; no situation existed which could justify the adoption of measures under Chapter VII of the Charter. Similar views were expressed by the representatives of Albania, Bulgaria, Poland and Yugoslavia. At the 188th meeting of the Council on 17 August the two draft resolutions received nine votes in favour and two against, including that of the USSR, and were accordingly not adopted.

Consideration by the General Assembly during the Second Session, 1947

269. After its removal from the agenda of the Security Council the item "Threats to the political independence and political integrity of Greece" was included in the agenda of the second session of the General Assembly. The question was discussed in the First Committee between 25 September and 13 October 1947. Referring to the majority conclusion of the Commission of Investigation, the representative of the United States expressed the view that it seemed established that Albania, Bulgaria and Yugoslavia had violated the principle of international law according to which a State should not assist armed bands which were in rebellion against their legal Government. The United States representative introduced a draft resolution, containing a finding that Albania, Bulgaria and Yugoslavia had given assistance and support to the guerrillas in contravention of the principles of the Charter and calling upon them to cease doing so. The draft resolution further provided that the four Governments concerned should co-operate in the settlement of their disputes by peaceful means and that a special commission should be established by the Assembly to observe the compliance by those Governments with the various recommendations made and their implementation.

270. The representatives of Albania, Bulgaria and Yugoslavia repeated the views of their Governments that the report of the Investigation Commission contained no proof of the accusations which had been levied against them. The civil war in Greece was due to the nature of the regime which had been established there by British troops; the situation had been further aggravated by United States intervention. The representative of the USSR declared that the alleged frontier incidents had been provoked by Greece and that the only way to settle the outstanding problems was by means of direct negotiations between the countries concerned. The aid being given to Greece, he declared, had nothing to do with genuine aid and was ultimately directed at reducing Greece to economic and political servitude. The USSR representative therefore introduced a draft resolution closely similar to that which he had submitted earlier in the Security Council.

271. A number of representatives supporting the United States resolution expressed the view that the Commission had established the fact of assistance by Albania, Bulgaria and Yugoslavia to the guerrillas fighting against the Government of Greece. Neither the character of the political regime in Greece it was stated, nor the existence of civil strife in Greece, justified intervention on the part of Greece's northern neighbours. The situation along Greece's northern borders constituted a threat to international peace, and it was imperative that the General Assembly should recommend action along the lines suggested in the United States draft resolution. Other representatives favoured the establishment of a special committee as proposed by the United States but felt that it was undesirable to attempt to fix the responsibility for the incidents which had occurred. The representative of France accordingly submitted an amendment whereby the formal finding of responsibility contained in the United States proposal should be replaced by a reference to the Commission's findings without a condemnation by the Assembly of the States concerned. This amendment, which was also sponsored by the United Kingdom, was adopted by the Committee. The representative of the USSR stated, however, that the proposed terms of reference of the Special Committee were incompatible with the principle of sovereign equality of States and the principles contained in the United Nations Charter. The USSR could therefore not participate in the election of the members of the Special Committee nor in its work. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and Yugoslavia also announced that they would not participate in the debate or in the voting on the membership of the Special Committee. After adoption of a Canadian amendment that two seats in the Special Committee should be kept open for the USSR and Poland, the United States draft resolution, as amended, was adopted. The resolution submitted by the First Committee was adopted by the General Assembly by 40 votes to 6, with 11 abstentions.

Resolution 109 (II). Threats to the political independence  
and territorial integrity of Greece

"1. Whereas the peoples of the United Nations have expressed in the Charter of the United Nations their determination to practise tolerance and to live together in peace with one another as good neighbours and to unite their strength to maintain international peace and security; and to that end the Members of the United Nations have obligated themselves to carry out the purposes and principles of the Charter,

2. The General Assembly of the United Nations,

Having considered the record of the Security Council proceedings in connexion with the complaint of the Greek Government of 3 December 1946, including the report submitted by the Commission of Investigation established by the Security Council resolution of 19 December 1946 and information supplied by the Subsidiary Group of the Commission of Investigation subsequent to the report of the Commission;

3. Taking account of the report of the Commission of Investigation which found by a majority vote that Albania, Bulgaria and Yugoslavia had given assistance and support to the guerrillas fighting against the Greek Government,

4. Calls upon Albania, Bulgaria and Yugoslavia to do nothing which could furnish aid and assistance to the said guerrillas;

5. Calls upon Albania, Bulgaria and Yugoslavia on the one hand and Greece on the other to co-operate in the settlement of their disputes by peaceful means, and to that end recommends:

(1) That they establish normal diplomatic and good neighbourly relations among themselves as soon as possible;

(2) That they establish frontier conventions providing for effective machinery for the regulation and control of their common frontiers and for the pacific settlement of frontier incidents and disputes;

(3) That they co-operate in the settlement of the problems arising out of the presence of refugees in the four States concerned through voluntary repatriation wherever possible and that they take effective measures to prevent the participation of such refugees in political or military activity;

(4) That they study the practicability of concluding agreements for the voluntary transfer of minorities;

6. Establishes a Special Committee:

(1) To observe the compliance by the four Governments concerned with the foregoing recommendations;

(2) To be available to assist the four Governments concerned in the implementation of such recommendations;

7. Recommends that the four Governments concerned co-operate with the Special Committee in enabling it to carry out these functions;

. . . . .

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9. Decides that the Special Committee

(1) Shall consist of representatives of Australia, Brazil, China, France, Mexico, the Netherlands, Pakistan, the United Kingdom and the United States of America, seats being held open for Poland and the Union of Soviet Socialist Republics;"

Consideration by the General Assembly during the Third Session, 1948

272. When the General Assembly considered the Greek question at its third session in the light of the reports of the United Nations Special Committee on the Balkans, two conflicting points of view emerged. It was held by the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR, the USSR and Yugoslavia, as well as by the representatives of Albania and Bulgaria, that the Special Committee had been constituted illegally, had gone beyond its terms of reference, had shown itself to be biased in favour of the Greek Government and had drawn invalid conclusions from unreliable, highly suspect evidence. The United States, it was asserted, had become the real master of Greece, which it regarded as a strategic base against the USSR. Moreover, the United States, it was charged, was attempting, with the connivance of the Greek Government, to secure the complete economic and political domination of Greece. It was the view of these delegations that the solution of the problem required the dissolution of the Special Committee; a request to the four Governments to negotiate their differences, to resume diplomatic relations and to conclude or reinstate frontier conventions; and the withdrawal of all foreign troops from Greece.

273. The majority view, on the other hand, shared in varying degrees by twenty-nine Member States, among them China, France, Greece, the United Kingdom and the United States, was that the Special Committee, which had been established in complete conformity with the Charter, had shown itself to be an impartial body whose work had furnished complete proof that Albania, Bulgaria and Yugoslavia were, in fact, interfering in the internal affairs of Greece by giving important aid to the Greek guerrillas, thus threatening both the political independence and territorial integrity of the country. The charges of United States interference in the internal affairs of Greece were ludicrous; the aid being provided by the United States had been requested by the recognized authorities of Greece. For a solution of the problem it was necessary that the three northern neighbours of Greece should



at once cease aiding the Greek guerrillas, and should, in collaboration with the Special Committee, co-operate with Greece in the settlement of the dispute by peaceful means.

274. These conflicting views were reflected in a number of draft resolutions and amendments submitted to the First Committee. The General Assembly subsequently adopted resolution 193 (III), parts A and B of which provide as follows:

Resolution 193 (III). Threats to the political independence  
and territorial integrity of Greece

A

"The General Assembly,

1. Having considered the reports of the Special Committee established by General Assembly resolution 109 (II),

2. Having noted the conclusions of the Special Committee and, in particular its unanimous conclusion that, despite the aforesaid resolution of the General Assembly, 'the Greek guerrillas have continued to receive aid and assistance on a large scale from Albania, Bulgaria and Yugoslavia, with the knowledge of the Governments of those countries, and that the Greek guerrillas in the frontier zone have, as found by the Special Committee:

(i) 'Been largely dependent on external supply. Great quantities of arms, ammunition and other military stores have come across the border, notably during times of heavy fighting. Strongly held positions of the guerrillas have protected their vital supply lines from Bulgaria, Yugoslavia and, in particular from Albania. In recent months, there has been less evidence of receipt of supplies from Yugoslavia by the guerrillas;

(ii) 'Frequently moved at will in territory across the frontier for tactical reasons, and have thus been able to concentrate their forces without interference by the Greek army, and to return to Greece when they wished;

(iii) 'Frequently retired safely into the territory of Albania, Bulgaria and Yugoslavia when the Greek army exerted great pressure';

3. Having noted further the conclusions of the Special Committee that a continuation of this situation 'constitutes a threat to the political independence and territorial integrity of Greece and to peace in the Balkans' and 'that the conduct of Albania, Bulgaria and Yugoslavia had been inconsistent with the purposes and principles of the Charter of the United Nations',

4. Having noted the recommendations submitted by the Special Committee,

5. Considers that the continued aid given by Albania, Bulgaria and Yugoslavia to the Greek guerrillas endangers peace in the Balkans, and is inconsistent with the purposes and principles of the Charter of the United Nations;

6. Calls upon Albania, Bulgaria and Yugoslavia to cease forthwith rendering any assistance or support in any form to the guerrillas in fighting against the Greek Government, including the use of their territories as a base for the preparation or launching of armed action;

7. Again calls upon Albania, Bulgaria and Yugoslavia to co-operate with Greece in the settlement of their dispute by peaceful means in accordance with the recommendations contained in resolution 109 (II);

8. Calls upon Albania, Bulgaria and Yugoslavia to co-operate with the Special Committee in enabling it to carry out its functions, in particular the function of being available to assist the Governments concerned in accordance with paragraph 10 (c) of the present resolution, and upon Greece to continue to co-operate toward the same end;

9. Recommends to all Members of the United Nations and to all other States that their Governments refrain from any action designed to assist directly or through any other Government any armed group fighting against the Greek Government;

10. Approves the reports of the Special Committee, continues it in being with the functions conferred upon it by resolution 109 (II) and instructs it:

(a) To continue to observe and report on the response of Albania, Bulgaria and Yugoslavia to the General Assembly injunction not to furnish aid to the Greek guerrillas, in accordance with General Assembly resolution 109 (II) and the present resolution;

(b) To continue to utilize observation groups with personnel and equipment adequate for the fulfilment of its task;

(c) To continue to be available to assist the Governments of Albania, Bulgaria, Greece and Yugoslavia in the implementation of resolution 109 (II) and of the present resolution; and for this purpose, in its discretion to appoint, and utilize the services and good offices of one or more persons whether or not members of the Special Committee;

. . . . .

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B

The General Assembly

Recommends that Greece, on the one hand, and Bulgaria and Albania, on the other, establish diplomatic relations with each other, the absence of which is harmful to the relations between these countries;

Recommends the Governments of Greece, Albania, Bulgaria and Yugoslavia to renew the previously operative conventions for the settlement of frontier questions or to conclude new ones, and also to settle the question of refugees in the spirit of mutual understanding and the establishment of good-neighbour relations;

Furthermore recommends the Governments of Greece, Albania, Bulgaria and Yugoslavia to inform the Secretary-General of the United Nations at the end of six months, for communication to Member States of the United Nations, of the fulfilment of the above-mentioned recommendations."

Consideration by the General Assembly during the Fourth Session, 1949

5. Substantially similar views were expressed by the representatives of Member States during the fourth session of the General Assembly. On 18 November 1949, the General Assembly adopted resolution 288 (IV) A, by 50 votes in favour, to 6 against with 2 abstentions.

Resolution 288 (IV). Threats to the political independence  
and territorial integrity of Greece

A

"The General Assembly

Having considered the reports of the United Nations Special Committee on the Balkans established by General Assembly resolution 109 (II) and continued by General Assembly resolution 193 (III), including the additional facts and the recommendations in its supplementary report of 10 September 1949, and in particular its unanimous conclusions that:

(i) Albania and Bulgaria have continued to give moral and material assistance to the Greek guerrilla movement, Albania being the principal source of material assistance;

(ii) There has been an increase in the support afforded to the guerrillas from certain States not bordering upon Greece, particularly Romania;

Having noted the report of the Conciliation Committee established by the First Committee of the General Assembly in its resolution of 29 September 1949,

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1. Considers that the active assistance given to the Greek guerrillas by Albania in particular, by Bulgaria and by certain other States, including Romania, in disregard of the Assembly's recommendations, is contrary to the purposes and principles of the United Nations Charter and endangers peace in the Balkans;

2. Considers that further foreign assistance to the Greek guerrillas resulting in the launching of new armed action against Greece from adjacent territory would seriously increase the gravity of the danger to the peace and would justify the Special Committee in recommending, pursuant to paragraph 8 of resolution 109 (II), the convocation, as a matter of urgency, of a special session of the General Assembly in order to give consideration to further steps necessary for the removal of this danger to the peace;

3. Calls upon Albania, Bulgaria and the other States concerned to cease forthwith rendering any assistance or support to the guerrillas in fighting against Greece, including the use of their territories as a base for the preparation or launching of armed actions;

4. Recommends to all Members of the United Nations and to all other States:

(a) To refrain from any action designed to assist directly or through any other Government any armed group fighting against Greece;

(b) To refrain from the direct or indirect provision of arms or other materials of war to Albania and Bulgaria until the Special Committee or another competent United Nations organ has determined that the unlawful assistance of these States to the Greek guerrillas has ceased;

(c) To take into account, in their relations with Albania and Bulgaria, the extent to which those two countries henceforth abide by the recommendations of the General Assembly in their relations with Greece;

5. Again calls upon Albania, Bulgaria and Yugoslavia to co-operate with Greece in the settlement of their differences by peaceful means, in accordance with the provisions of Article 2, paragraph 3 of the Charter, and to that end recommends:

(a) That, in view of the existence of diplomatic relations between the Governments of Greece and Yugoslavia, further efforts be made by those Governments through diplomatic channels to resolve the differences between them;

(b) That Albania and Bulgaria on the one hand, and Greece on the other, establish normal diplomatic and good-neighbourly relations, and endeavour through diplomatic channels to resolve differences;

(c) That they renew previously operative conventions or conclude new ones providing effective machinery for the regulation and control of their common frontiers and for the peaceful adjustment of frontier incidents; ...".

Essentials of Peace

Consideration by the General Assembly during the Fourth Session, 1949

276. During the Assembly's fourth session three draft resolutions were placed before the First Committee in relation to this item:

(a) A draft resolution submitted by the USSR requiring the Assembly: (1) to condemn the preparation for a new war conducted in a number of countries and particularly in the United States and the United Kingdom; (2) to prohibit unconditionally the use of atomic weapons; (3) to call upon all States to settle their differences by peaceful means; and (4) to express the wish that the United States, the United Kingdom, China, France and the USSR conclude among themselves a "Pact for Strengthening the Peace".

(b) A draft resolution submitted by the United States and the United Kingdom which would have the Assembly declare that: (1) the Charter of the United Nations laid down basic principles necessary for an enduring peace; (2) disregard of these principles was primarily responsible for the continuance of international tension; and (3) it was urgently necessary for all Members to act in accordance with these principles. The resolution further called upon every nation to accept certain principles, for example, to refrain from threatening or using force contrary to the Charter; and to refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people in any State. Every Member was called upon to participate fully in the work of the United Nations. The five permanent members of the Security Council were called upon to broaden progressively their co-operation and to exercise restraint in the use of the veto. Finally, every nation was called upon: (1) to settle international disputes by peaceful means and to co-operate in supporting United Nations efforts to resolve outstanding problems; (2) to co-operate to attain effective international regulation of conventional armaments; and (3) to agree to the exercise of national sovereignty jointly with other nations to the extent necessary to attain international control of atomic energy which would make effective the prohibition of atomic weapons and assure the use of atomic energy for peaceful purposes only.



277. Opening the debate in the First Committee, the representative of the USSR traced the efforts of his Government to ensure world peace through the United Nations between the years 1946 and 1949; the proposals which had been put forward, particularly those relating to the reduction in armaments and armed forces, had had as their sole purpose the maintenance of international peace and security. The United States, however, had aggressive intentions towards the USSR, as shown by the creation of the North Atlantic Treaty Organization and the system of air bases which were organized for attack against the USSR. The representative of the USSR also contended that the United States and the United Kingdom were responsible for the deadlock over the prohibition of atomic weapons.

278. Speaking on the joint draft resolution of the United Kingdom and the United States, the representative of the United States declared that events during the previous five years had undermined confidence in the pledges of the USSR. Too many acts of force had taken place for professions of pacificism to be believed, if one recalled such events as the broken promises of free elections in Poland, Bulgaria, Hungary and Romania, the guerrilla warfare in Greece, the threat to Turkey and the obliteration of freedom in Czechoslovakia. The denunciation by the USSR and the States under its control of the treaties with Yugoslavia was another case in point. Faced with these threats, the peaceful nations had been forced to organize systems of collective security, such as the North Atlantic Treaty Organization and the Mutual Defence Treaty Organization. The undertakings of Member Nations under the Charter implied respect for international obligations, respect for the rights of others, faith in human rights, non-interference in the affairs of other States through indirect aggression or the subversion of Governments by such methods as the manipulation of minority groups. Peace, the United States representative emphasized, would not result from a sweeping gesture: it would be the product of a continuing process and the consequence of adherence to fundamental principles.

279. The USSR proposal was supported by the representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR, who declared that it represented a genuine effort on the part of the USSR, in conformity with its past efforts, to ensure the maintenance of international peace. Referring to the arguments which had been raised, the representative of the Ukrainian SSR stated that the Atlantic Pact violated Articles 52, 53 and 54 of the Charter, since it was directed against



the USSR. The supporters of the USSR proposal maintained that the joint draft resolution of the United States and the United Kingdom was wholly inadequate, unrealistic and consisted only of "phrases culled from the Charter".

280. The majority of the members of the First Committee were opposed to the USSR draft resolution and supported that put forward by the United States and the United Kingdom. Broadly speaking it was the view of these representatives that the principles contained in the USSR draft resolution were covered in the Charter itself, they had been violated by the USSR and not by the United Kingdom or the United States, and what was needed, therefore, was for the USSR to adhere to them. Various speakers referred to matters affecting the implementation of the principles and purposes of the Charter. Noting that the Treaty of Rio had been criticized, the representative of Peru stated that the Treaty was based on equality and the principle of mutual defence. The representative of the United Kingdom considered that the USSR delegation should examine its conception of State sovereignty. The United Nations had arisen out of the need for joint action; it not only authorized, but obliged its Members, to seek jointly a solution to their problems.

281. The representative of Yugoslavia stated that his delegation could only consider the USSR proposal in the light of the policy that the Government of the USSR was following with regard to his country. Because of the contrast between the peaceful declarations of a very general nature and the real policy of the Soviet Union, as it appeared from its attitude towards Yugoslavia, the Yugoslav delegation, he said, could not support the USSR proposal as a whole, although it was ready to facilitate practical application of certain general principles of the USSR resolution relating to the strengthening of peace. On the other hand, the representative stated that he could agree to almost all the paragraphs of the draft resolution submitted by the United States and the United Kingdom, without supporting it in its entirety owing to the absence of concrete steps to put an end to the "cold war".

282. Following further debate the First Committee adopted the draft resolution submitted by the United Kingdom and the United States and rejected the USSR proposal. At the conclusion of its debate on the report of the First Committee, the General Assembly adopted the draft resolution which the Committee recommended, by 53 votes to 5, with 1 abstention.

Resolution 290 (IV). Essentials of peace

"The General Assembly

1. Declares that the Charter of the United Nations, the most solemn pact of peace in history, lays down basic principles necessary for an enduring peace; that disregard of these principles is primarily responsible for the continuance of international tension; and that it is urgently necessary for all Members to act in accordance with these principles in the spirit of co-operation on which the United Nations was founded;

Calls upon every nation

2. To refrain from threatening or using force contrary to the Charter;
3. To refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people in any State;
4. To carry out in good faith its international agreements;
5. To afford all United Nations bodies full co-operation and free access in the performance of the tasks assigned to them under the Charter;
6. To promote, in recognition of the paramount importance of preserving the dignity and worth of the human person, full freedom for the peaceful expression of political opposition, full opportunity for the exercise of religious freedom and full respect for all the other fundamental rights expressed in the Universal Declaration of Human Rights;
7. To promote nationally and through international co-operation, efforts to achieve and sustain higher standards of living for all peoples;
8. To remove the barriers which deny to peoples the free exchange of information and ideas essential to international understanding and peace;

Calls upon every Member

9. To participate fully in all the work of the United Nations;

Calls upon the five permanent members of the Security Council

10. To broaden progressively their co-operation and to exercise restraint in the use of the veto in order to make the Security Council a more effective instrument for maintaining peace;

Calls upon every nation

11. To settle international disputes by peaceful means and to co-operate in supporting United Nations efforts to resolve outstanding problems;

12. To co-operate to attain the effective international regulation of conventional armaments; and

13. To agree to the exercise of national sovereignty jointly with other nations to the extent necessary to attain international control of atomic energy which would make effective the prohibition of atomic weapons and assure the use of atomic energy for peaceful purposes only."

### The Question of Race Conflict in South Africa

#### Consideration by the General Assembly between the Seventh and Fourteenth Sessions, 1952-1959

283. The question of race conflict in the Union of South Africa was first placed on the agenda of the General Assembly at the seventh session, when the Assembly adopted resolution 616 A (VII), establishing a commission to study the racial situation in South Africa, and resolution 616 B (VII), containing a general declaration on the policies to be pursued in a multi-racial society and calling on all Member States to promote the observance of human rights and fundamental freedoms. In the course of the eighth, ninth and tenth sessions three resolutions were adopted (721 (VIII); 820 (IX) and 917 (X)), inviting the Union of South Africa to reconsider its position in relation to the policies of apartheid in the light of the principles of the Charter and expressing the Assembly's concern at the fact that the Union Government continued to give effect to those policies. The Commission on the Racial Situation in the Union of South Africa, established under resolution 616 A (VII), submitted a number of reports to the Assembly between 1952 and 1955, when it was discontinued. Between the eleventh session in 1956 and the fourteenth session in 1959, the General Assembly adopted a further series of resolutions (1016 (XI); 1178 (XII); 1248 (XIII) and 1375 (XIV)) in which the Assembly repeated its appeal to the Union Government to revise its apartheid policies in the light of the purposes and principles of the Charter and the obligation to respect human rights and fundamental freedoms. In resolution 1375 (XIV) the Assembly also appealed to Member States to use their best endeavours as appropriate to achieve the purposes of the resolution.

284. During the discussions which were held at these sessions a series of arguments was put forward for and against the contention of the Union of South Africa, reiterated at each session, that the item fell essentially within the Union's domestic jurisdiction. Since the considerations put forward were substantially repeated at each session, they have been grouped below in respect of the various issues raised.

285. Firstly, regarding the meaning of the term "to intervene", it was argued by some representatives that "intervention" was a technical term traditionally defined in international law as "dictatorial interference" and that Article 2, paragraph 7, envisaged that definition. Accordingly, it was contended that the inclusion of the question of South Africa's racial policies in an agenda, discussion or a recommendation relating to it, or the establishment of the commission to study the racial situation in South Africa, would not constitute intervention. Other representatives, on the contrary, pointed out that the Security Council alone was empowered by the Charter to "interfere dictatorially"; other United Nations organs could only recommend. Moreover, the Security Council was expressly authorized in Article 2, paragraph 7, to take enforcement measures - a case of dictatorial interference par excellence - in respect of matters essentially within domestic jurisdiction. These representatives contended therefore that if intervention were to be defined as "dictatorial interference", the provisions of Article 2, paragraph 7, would become meaningless. Hence, it was obvious that the drafters of the Charter had rejected that definition and had used the word "intervene" in the ordinary dictionary meaning of "interfere"; recommendations or other non-coercive action by the Organization could constitute such interference.

286. As regards the scope of the Assembly's resolutions, a distinction was drawn by some representatives between recommendations addressed to a particular Member State, in this case South Africa, and those addressed to all Members; the former, they held, constituted intervention, while the latter did not. The view was also advanced during the tenth session that whilst the Assembly was not debarred from recommending to the Union of South Africa that it should reconsider its racial policies, the provisions of Article 2, paragraph 7, prevented the Assembly from issuing a directive or recommending the adoption of specific legislative or administrative measures.

287. Thirdly, some representatives contended that the mere fact that a matter was dealt with by the Charter placed it outside the domestic jurisdiction of Member States. Two arguments were advanced in support of this contention. Firstly, it was held that since the Charter was an international agreement, the matters dealt with therein were removed from the domestic jurisdiction of the parties. To support this position it was argued that matters dealt with in the Charter had become matters of international concern and consequently were no longer within the

reserved domain of States. Secondly, it was maintained that Article 10 of the Charter clearly showed that Article 2, paragraph 7, did not limit the power of the General Assembly to take action "on any matters within the scope of the ... Charter". Other representatives held, on the contrary, that the word "Nothing" in the opening phrase of Article 2, paragraph 7 ("Nothing contained in the present Charter ..."), had an overriding effect and prohibited any intervention in a State's domestic jurisdiction, regardless of any other provision of the Charter, with the sole exception of the last phrase of the paragraph. A matter "essentially" within domestic jurisdiction remained so even when it was dealt with by a Charter provision, and thus was removed from the "scope of the Charter", as those words were used in Article 10.

288. Several representatives also laid down the premise that the Charter provisions on human rights and fundamental freedoms, and in particular Articles 1, paragraph 3, 55c, and 56, created international obligations which all Member States had undertaken to respect. They disagreed, however, on the conclusions to be drawn from that premise. Most of these representatives contended that since human rights and fundamental freedom were governed by international obligations, they came under the jurisdiction of the United Nations and not under the domestic jurisdiction of an individual State, such as South Africa, which had adopted governmental policies at variance with them. Others drew a distinction between accidental violations of human rights and fundamental freedoms, affecting individuals or small groups, and systematic violations, as in the case of South Africa's official policies, which had international repercussions and created unrest beyond the borders of the State where they occurred. The former could fall essentially within domestic jurisdiction, the latter could not. Still others argued that Article 2, paragraph 7, applied to the whole Charter and made no distinction between provisions which imposed international obligations and those which did not. It could, therefore, not be evaded by invoking the existence of international obligations created by other provisions of the Charter, even those on human rights.

289. There were also representatives who, rejecting the above-mentioned premise, contended that the Charter did not impose international obligations in respect of human rights and fundamental freedoms and did not remove them from the domestic jurisdiction of States, where they traditionally belonged. In support of that position, they asserted that the provisions relating to such rights and freedoms



were declarations of purposes and principles, rather than obligations, and that it was left to Member States to carry them out. Moreover, the fact that human rights and fundamental freedoms had not been defined in the Charter was a significant indication that they did not impose obligations. Some representatives maintained that the records of the San Francisco Conference clearly showed that the Charter provisions on human rights were not intended to authorize the United Nations to intervene in the domestic jurisdiction of Member States. It was also stressed that the Declaration of Human Rights was merely a recommendation by the General Assembly and as such had no binding character.

290. Arguments were also raised as to whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction. Some representatives held that, Article 2, paragraph 7, notwithstanding, the Assembly was always competent to deal with a situation which threatened the peace. Similar views were expressed by those who considered that the situation in South Africa had international repercussions or could lead to international friction, especially with the emergence of new African sovereign States. Articles 11 and 14 were invoked to support this position. These arguments were disputed on the grounds that the Charter provisions on the maintenance of peace, and Articles 11 and 14 in particular, did not authorize the General Assembly to intervene in matters essentially within domestic jurisdiction.

#### Consideration by the Security Council, 1960

291. On 25 March 1960, the representatives of twenty-nine African and Asian Members requested an urgent meeting of the Security Council "to consider the situation arising out of the large-scale killings of unarmed and peaceful demonstrators against racial discrimination and segregation in the Union of South Africa". They considered that the situation had grave potentialities for international friction and endangered the maintenance



of international peace and security. On 30 March, the Security Council decided, without objection, to place the matter on its agenda. Commenting on this decision, the representatives of France and the United Kingdom declared that the fact that they had not opposed inclusion of the item did not mean that they had abandoned their view that nothing in the Charter authorized the United Nations to intervene in matters essentially within the domestic jurisdiction of a Member State. The representative of the United States considered that in a situation such as that existing in South Africa Article 2, paragraph 7, had to be read in the light of Articles 55 and 56, dealing with the promotion of respect for human rights and fundamental freedoms. The USSR representative pointed out that the question of United Nations competence in the matter had been settled long ago by the adoption of General Assembly resolutions calling upon the Union Government to review its apartheid policies.

292. The representative of the Union of South Africa protested against the Council's refusal to hear the Union's views on the question of placing the item on the Council's agenda. Including the item in the agenda was, in his view, a violation of the basic principle enshrined in Article 2, paragraph 7. He rejected the argument that recent events in South Africa constituted a situation which might lead to international friction or give rise to a dispute likely to endanger international peace and security. For such an eventuality, there had to be at least two sovereign States. South Africa, he said, had no intention of provoking such a dispute or creating such a situation. As regards the recent incidents, the Union Government had already arranged for full judicial inquiries to be made.

293. Spokesmen in the Council for the delegations which had brought the situation before the Council maintained that the Council was fully competent to discuss the matter. Among the points made in this connexion were that the tragic events in South Africa had international ramifications and were directly opposed to the spirit and letter of

the Charter. They could not be brought within the strait jacket of Article 2, paragraph 7; moreover, that provision could not be invoked so as to prevent United Nations organs from fulfilling their duties under Articles 55 and 56.

294. In the course of the subsequent discussion a number of representatives, including those of France, Italy and the United Kingdom, while condemning the racial policies of the Union Government which had led to the recent events, suggested that the Council should be careful in deciding what course to take. It was pointed out that attempts from the outside to impose changes in the internal policies of a State, particularly one of strong nationalist feeling, might produce an effect contrary to that intended. The representative of Argentina drew attention to the fact that, whereas the General Assembly had been able to disapprove and ask for reconsideration of South Africa's racial policies, the position of the Security Council was different. The Council was acting by virtue of Article 35, paragraph 1, and accordingly was obliged to seek a peaceful and effective means of decreasing international friction caused by the situation in South Africa.

295. The USSR representative declared that the Council was duty-bound to condemn the inhuman actions of the South African authorities and warn them of the possible consequences of those actions. The Council should take immediate steps to end the situation in South Africa and to ensure that the African peoples there were given all their rights in accordance with the Charter and the Universal Declaration of Human Rights. Referring to a draft resolution put forward by the representative of Ecuador, requesting the Secretary-General to take steps in connexion with the situation, the USSR representative stated that this proposal tended to shift responsibility from the Council to the Secretary-General. However, having regard to the fact that the draft resolution recognized the existence of a situation that might endanger international peace and security, he was prepared to vote for it.

296. At the conclusion of the debate, during which various representatives of the Governments that had originally proposed the item indicated that they had wished for a stronger resolution, the proposal put forward by Ecuador was adopted by 9 votes to none, with 2 abstentions (France and the United Kingdom).

The representatives of the latter two Governments stated that the resolution went beyond the scope of the proper function of the Council and for that reason, although disapproving of South Africa's racial policies, they were unable to vote for it. The text of the resolution is as follows:

"The Security Council,

Having considered the complaint of 29 Member States contained in document S/4279 and Add.1 concerning 'the situation arising out of the large-scale killings of unarmed and peaceful demonstrators against racial discrimination and segregation in the Union of South Africa',

Recognizing that such a situation has been brought about by the racial policies of the Government of the Union of South Africa and the continued disregard by that Government of the resolutions of the General Assembly calling upon it to revise its policies and bring them into conformity with its obligations and responsibilities under the Charter,

Taking into account the strong feelings and grave concern aroused among Governments and peoples of the world by the happenings in the Union of South Africa,

1. Recognizes that the situation in the Union of South Africa is one that has led to international friction and if continued might endanger international peace and security;
2. Deplores that the recent disturbances in the Union of South Africa should have led to the loss of life of so many Africans and extends to the families of the victims its deepest sympathies;
3. Deplores the policies and actions of the Government of the Union of South Africa which have given rise to the present situation;
4. Calls upon the Government of the Union of South Africa to initiate measures aimed at bringing about racial harmony based on equality in order to ensure that the present situation does not continue or recur and to abandon its policies of apartheid and racial discrimination;
5. Requests the Secretary-General, in consultation with the Government of the Union of South Africa, to make such arrangements as would adequately help in upholding the purposes and principles of the Charter and to report to the Security Council whenever necessary and appropriate."

297. The Secretary-General reported to the Security Council on 23 January 1961 that he had had consultations with the Prime Minister of the Union Government and had also had unofficial contacts with various sections of the South African community. With regard to the request made to him by the Security Council resolution,

he stated that during discussions with the Union's Prime Minister no mutually acceptable arrangement had been found. However, he did not consider the consultations as having come to an end and looked forward to their continuation at an appropriate time with a view to further efforts on his side to find an adequate solution to the problem.

Consideration by the General Assembly between the Fifteenth and  
Seventeenth Sessions, 1960-1962

298. During the fifteenth, sixteenth and seventeenth sessions the General Assembly continued its consideration of the question of the racial situation in South Africa, despite the objections raised by the South African representative. There was general condemnation of South Africa's racial policies on the part of all representatives. Opinions differed, however, as to the nature and extent of the measures to be taken in order to bring about a change in those policies. In view of what they considered to be a growing threat to international peace and security, at the fifteenth session a number of representatives, including twenty-four from African States, recommended that all States should consider taking a series of measures against South Africa. These included the breaking-off of diplomatic relations with South Africa; denial of transit facilities to South African ships and aircraft; and a boycott of South African goods. These proposals were opposed on the ground that, while the policies of apartheid entailed such international repercussions that discussion of them went far beyond the limitations otherwise imposed by Article 2, paragraph 7, Chapter VII of the Charter envisaged the application of sanctions only in circumstances constituting a far more immediate threat to international peace and security than the situation in South Africa. At the fifteenth and sixteenth sessions draft resolutions containing proposals for sanctions were adopted by the Special Political Committee; however, when the particular paragraphs concerned were put to the vote in the General Assembly, they failed to receive the necessary two-thirds majority. Alternative resolutions (1598 (XV) and 1663 (XVI)) were thereupon adopted. Resolution 1663 (XVI), amongst other things, urged all States to take such separate and collective action as was open to them in conformity with the Charter to help bring about an abandonment by South Africa of its racial policies and called the attention of the Security Council to Article 11, paragraph 3; under that provision the General Assembly may call the

attention of the Security Council to situations which are likely to endanger international peace and security. A USSR amendment, calling upon all States to deny to the South African Government any support or assistance which might be used for intensifying the violence against the indigenous population of South Africa, and a Pakistan amendment, calling upon all Member States to refrain from exporting petroleum to South Africa, failed to receive the necessary two-thirds majority.

299. At the seventeenth session the General Assembly adopted resolution 1761 (XVII), sponsored by thirty-four Asian and African delegations, by which Member States were asked to take a series of measures against South Africa, in order to bring about an abandonment by that country of its racial policies. These measures included the breaking-off of diplomatic relations; the closing of ports to South African ships and the denial of landing and passage facilities to South African planes; and the boycotting of South African goods and the non-export of goods, including all arms and ammunition, to South Africa. The Security Council was also requested to take appropriate measures, including sanctions, to secure South Africa's compliance with the pertinent resolutions of the General Assembly and of the Security Council and, if necessary, to consider action under Article 6 of the Charter. In addition, a Special Committee on the Policies of Apartheid of the Government of South Africa was established to keep the racial policies of the Government of South Africa under review. Although several Member States, including Australia, Finland, France, the United Kingdom and the United States, expressed strong reservations about the proposed enforcement measures, and a further number, including Argentina, Burma, Denmark, Guatemala and Japan, were doubtful as to the wisdom of the move towards the expulsion of South Africa under Article 6, the resolution as a whole was adopted by the General Assembly by 67 votes to 16, with 23 abstentions.

Consideration of the Question by the Security Council in 1963, and  
by the General Assembly during the Eighteenth Session, 1963

300. The Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa submitted a series of reports during 1963 in which it reviewed the progress of its work, drew the attention of the General Assembly and the Security Council to the dangerous situation resulting from the racial policies of the South African Government, and transmitted a number of conclusions and



recommendations on measures to dissuade that Government from pursuing its policies of apartheid. On 7 August 1963, following a request from thirty-two African States that the Security Council should consider the explosive situation existing in the Republic of South Africa which constituted a serious threat to international peace and security, the Council adopted a resolution along the lines recommended by the Special Committee. The text of the resolution is as follows:

"The Security Council,

Having considered the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Republic of South Africa, as submitted by the thirty-two African Member States,

Recalling Security Council resolution S/4300 of 1 April 1960,

Taking into account that world public opinion has been reflected in General Assembly resolution 1761 (XVII) and particularly in its paragraphs 4 and 8,

Noting with appreciation the two interim reports of the Special Committee on the Policies of Apartheid of the Government of South Africa contained in documents S/5310 of 9 May 1963 and S/5353 of 17 July 1963,

Noting with concern the recent arms build-up by the Government of South Africa, some of which arms are being used in furtherance of that Government's racial policies,

Regretting that some States are indirectly providing encouragement in various ways to the Government of South Africa to perpetuate, by force, its policy of apartheid,

Regretting the failure of the Government of South Africa to accept the invitation of the Security Council to delegate a representative to appear before it,

Being convinced that the situation in South Africa is seriously disturbing international peace and security,

1. Strongly deprecates the policies of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter of the United Nations and contrary to its obligations as a Member State of the United Nations;

2. Calls upon the Government of South Africa to abandon the policies of apartheid and discrimination as called for in the previous Security Council resolution of 1 April 1960, and to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid;



3. Solemnly calls upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa;

4. Requests the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963."

301. The Government of the Republic of South Africa declined to participate in the discussions of the Council. In a written communication to the President of the Council it stated that the discussion related to issues of South African policy which fell solely within the domestic jurisdiction of a Member State. It alleged that the African States themselves were threatening peace and order and had initiated preparations for the use of force against South Africa.

302. During the discussions in the Council all speakers declared the dislike of their Governments for the racial policies of the Government of South Africa. Several representatives, however, including those of the United Kingdom and the United States, expressed hesitation as to whether the actions of the South African Republic threatened the territorial integrity and political independence of any Member State. They considered that it would therefore be inappropriate for the Security Council to impose sanctions in accordance with the provisions of resolution 1761 (XVII). This view was strongly opposed by a number of other representatives, however, amongst them those of Ghana, Morocco, Tunisia and the USSR, who considered that such action should be taken without delay. A proposal that the Council should call upon all States to boycott all South African goods and to refrain from exporting to South Africa strategic materials of direct military value, failed to receive sufficient votes for its adoption.

303. During the eighteenth session the Special Political Committee had before it the third report of the Special Committee as well as a number of replies received from Member States to an inquiry made by the Secretary-General in accordance with resolution 1761 (XVII), regarding the action they had taken to dissuade the South African Government from pursuing its policies of apartheid. The Special Political Committee decided to grant an oral hearing to a petitioner from South Africa. The South African delegation, which did not participate in the debates of the Special Political Committee, protested against this decision which, in its opinion, constituted a clear breach of the letter and spirit of the Charter since the matter to be discussed fell solely within the domestic jurisdiction of

South Africa. It also called upon other delegations to reflect on the implications which the decision might have for them, since the precedent thus established could open the way for dissident elements in each Member State to establish the right of oral petition in the United Nations against a legally constituted and duly recognized Government.

304. In the course of the eighteenth session two resolutions were adopted by the General Assembly. In resolution 1881 (XVIII) the Assembly condemned the Government of the Republic of South Africa for its failure to comply with the repeated resolutions of the General Assembly and of the Security Council, calling for an end to the repression of persons opposing apartheid, and requested the Government of South Africa to abandon the trial which was in progress of a large number of political prisoners. After the adoption of this resolution the question was again considered by the Security Council which, on 4 December 1963, adopted the following resolution:

"The Security Council,

...

Being strengthened in its conviction that the situation in South Africa is seriously disturbing international peace and security, and strongly deprecating the policies of the Government of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter of the United Nations and with its obligations as a Member State of the United Nations,

Recognizing the need to eliminate discrimination in regard to basic human rights and fundamental freedoms for all individuals within the territory of the Republic of South Africa without distinction as to race, sex, language or religion,

Expressing the firm conviction that the policies of apartheid and racial discrimination as practised by the Government of the Republic of South Africa are abhorrent to the conscience of mankind and that therefore a positive alternative to these policies must be found through peaceful means,

1. Appeals to all States to comply with the provisions of Security Council resolution S/5386 of 7 August 1963;

2. Urgently requests the Government of the Republic of South Africa to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights;

/...

3. Condemns the non-compliance by the Government of the Republic of South Africa with the appeals contained in the above-mentioned resolutions of the General Assembly and the Security Council;

4. Again calls upon the Government of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid;

5. Solemnly calls upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;

6. Requests the Secretary-General to establish under his direction and reporting to him a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed, and to consider what part the United Nations might play in the achievement of that end;

7. Invites the Government of the Republic of South Africa to avail itself of the assistance of this group in order to bring about such peaceful and orderly transformation;

8. Requests the Secretary-General to continue to keep the situation under observation and to report to the Security Council such new developments as may occur, and in any case not later than 1 June 1964, on the implementation of this resolution."

305. At the conclusion of the eighteenth session the General Assembly adopted resolution 1978 (XVIII) in which an appeal was made to all States to take appropriate measures and to intensify their efforts, separately and collectively, with a view to dissuading the Government of the Republic of South Africa from pursuing its policies of apartheid.

Complaint by the Union of Burma regarding Aggression against  
it by the Government of the Republic of China

Consideration by the General Assembly during the Seventh Session, 1953

306. The above-mentioned item was included in the agenda of the Assembly's seventh session following a request by the Government of Burma. In an explanatory memorandum Burma stated that in 1950 some 1,700 troops of the Government of the Republic of China had crossed the border into Burmese territory. The troops had refused to submit to disarmament and internment in accordance with international

law and engagements had taken place between them and the Burmese army. The commanding general, General Li Mi, had set up headquarters, constructed a regular airfield and was estimated to have in all some 12,000 troops at his disposal. In the opinion of the Burmese Government these forces, acting with the support and under the direction of the Government of the Republic of China, were committing acts of aggression against Burma. Since the middle of 1950, Burma had enlisted the good offices of some friendly Governments, particularly that of the United States of America, which had been requested to make repeated démarches to the Government of the Republic of China, since Burma had severed relations with that Government. Attempts to find a solution through diplomatic channels had so far proved unsuccessful. Burma submitted a draft resolution by which the General Assembly would note that "the armed troops of the Kuomintang Government of Formosa have committed acts of infringement against the territorial integrity of the Union of Burma and acts of violation of its frontiers", and would recommend to the Security Council to "condemn the Kuomintang Government of Formosa for the said acts of aggression" and to "take all necessary steps to ensure immediate cessation" of such acts. The Assembly would further call upon all States "to respect the territorial integrity and the political independence of the Union of Burma and to be guided by the principles of the Charter in their relations with the Union of Burma".

307. Speaking before the First Committee, which considered the question between 17 and 22 April 1953, the representative of China stated that none of the troops under General Li Mi formed part of the regular forces of the Republic of China. The Government of China had not sent a single soldier to reinforce General Li Mi's army nor had it encouraged him in any way in his activities. In so far as the Chinese Government had any influence over General Li Mi, it promised to use that influence in order to further the wishes of the Government of Burma. He was authorized to say that his Government would give the United Nations the utmost co-operation in order to get the troops in question out of Burma.

308. During the discussion a number of representatives, among others the representative of the USSR, declared that they would support the Burmese draft resolution, which was in complete conformity with the Charter. In their view, the Burmese delegation had fully proved that the armed forces of the Kuomintang had carried out unprovoked aggression against Burma and had interfered in its

internal affairs. There could be no doubt that the troops were acting under direct instructions of the Formosa authorities. The representative of India asked why Generalissimo Chiang Kai-shek had not issued orders publicly for the withdrawal of the troops from Burma. However, a considerable number of representatives expressed the view that, while there was no doubt that aggression had been committed against Burma, it was very doubtful who controlled the invading troops. The evidence in this respect was based, according to the representative of New Zealand, on captured documents of doubtful authenticity and press cuttings, and was unconvincing, to say the least.

309. On 21 April the First Committee adopted a draft resolution submitted by Mexico, as amended by Argentina and Chile, together with various clarifying amendments proposed by Lebanon. No vote was taken on the Burmese resolution. The draft resolution thus recommended by the First Committee was adopted without discussion by the General Assembly, on 23 April, by 59 votes to none, with one abstention, as resolution 707 (VII). It reads as follows:

"The General Assembly,

Having examined the complaint by the delegation of the Union of Burma regarding the presence, hostile activities and depredations of foreign forces in the territory of the Union of Burma,

Considering that these facts constitute a violation of the territory and sovereignty of the Union of Burma,

Affirming that any assistance given to these forces which enables them to remain in the territory of the Union of Burma or to continue their hostile acts against a Member State is contrary to the Charter of the United Nations,

Considering that the refusal of these forces to submit to disarmament or internment is contrary to international law and usage,

1. Deplores this situation and condemns the presence of these forces in Burma and their hostile acts against that country;
2. Declares that these foreign forces must be disarmed and either agree to internment or leave the territory of the Union of Burma forthwith;
3. Requests all States to respect the territorial integrity and political independence of the Union of Burma in accordance with the principles of the Charter;



4. Recommends that the negotiations now in progress through the good offices of certain Member States should be pursued, in order to put an end to this serious situation by means of the immediate disarmament and withdrawal of the said forces from the territory of the Union of Burma or by means of their disarmament and internment;

5. Urges all States:

(a) To afford the Government of the Union of Burma on its request all the assistance in their power to facilitate by peaceful means the evacuation of these forces from Burma; and

(b) To refrain from furnishing any assistance to these forces which may enable them to remain in the territory of the Union of Burma or to continue their hostile acts against that country;

6. Invites the Government of the Union of Burma to report on the situation to the General Assembly at its eighth session."

310. During the explanation of votes, the representative of China stated that he agreed with the resolution in so far as it only stated that aggression had been committed by certain "foreign forces". However, it was the first time judgement had been passed on grave charges without careful examination, including investigation on the spot. His delegation had therefore abstained from voting.

Consideration by the General Assembly during the Eighth Session, 1953

311. Pursuant to the invitation contained in paragraph 6 of resolution 707 (VII) of 23 April 1953, the representative of Burma, on 10 September 1953, forwarded his Government's report, which described the establishment of a four-nation committee (the Joint Military Committee), composed of representatives of the United States of America, Thailand, Burma and the Republic of China, to discuss the means and the procedures for evacuating the irregular Chinese troops in Burma. The report went on to review briefly the procedures and negotiations pursued by the Committee, the proposals made by the two parties, and the attitude adopted by General Li Mi and other leaders of the foreign forces in Burma. The report indicated why Burma had withdrawn from the Committee, and concluded by expressing the view that there was no sincerity on the part of the Chinese and that any withdrawal of their troops from Burma would be only a "token" withdrawal. On 28 October, Burma forwarded additional documentation.



312. By a letter dated 26 October, the representative of China forwarded to the Secretary-General a statement made on 8 October by the Minister for Foreign Affairs of China, declaring that the foreign forces in Burma formed no part of the Chinese armed forces and were not subject to the control of the Chinese Government.

Two thousand irregulars, together with dependents, had been persuaded to evacuate to Formosa (Taiwan), but the Burmese still demanded that all irregulars should be evacuated; this was beyond the power of the Chinese Government. Burma had withdrawn from the negotiations in the Joint Military Committee and, since early September, had been bombing the places where the irregulars who had agreed to leave were being assembled. The Chinese Government appealed for a suspension of these attacks, and gave assurances that, once the evacuation of the irregulars who had consented to leave had been completed, it would have no desire to maintain any relations with those who remained in Burma and would not furnish them with any form of material support.

313. On 29 October, the representative of the United States forwarded to the President of the General Assembly a statement by the Joint Military Committee, on which Thailand, China and the United States had continued to serve, relating to an agreement which they had reached for the evacuation from Burma of about 2,000 Chinese irregular forces, together with their dependents. The Chinese Government had agreed that these persons would be evacuated from Burma, that all foreign forces refusing to leave the country under the plan would be disavowed, and that it would not help those remaining with any supplies. For its part, the Burmese Government had agreed that it would not interfere with the proposed evacuation, that it would assure co-operation with the Joint Military Committee as far as possible and would cease military action against the evacuees until 15 November. Arrangements were accordingly being made for the evacuation of the 2,000 irregulars during the first week of November.

314. At the meeting of the First Committee on 31 October, the representative of Burma stated that his Government had resorted to bombing the strongholds of the troops under General Li Mi since they had continued their acts of depredation and plunder, in conjunction with local insurgents. These bombing operations had ceased after 14 October. Although arrangements had been made for the evacuation of 2,000 troops, 10,000 men would remain to embarrass Burma in its domestic and international relations. He asked that the Government of the Republic of China should be held responsible for the removal of the entire group.

315. In reply, the representative of China expressed the view that the results achieved by the Joint Military Committee represented a positive result to be recorded to the credit of the United Nations. China would welcome all those who could be induced to return. Furthermore, the Chinese Government had unreservedly disavowed all those who refused to leave Burmese soil. He went on to describe the difficulties involved in the whole operation - difficulties in estimating the numbers, equipment and national composition of the forces concerned; difficulties arising from the special ideology of the troops long isolated in the jungle; and difficulties of communication which had led to the result that the Chinese Government had lost control over those forces. Finally, the Chinese representative described the sincere efforts made by his Government to comply with resolution 707 (VII).

316. Other representatives who took part in the discussion, including the representative of the USSR, charged that the troops in Burma were being deliberately maintained, supplied and reinforced by the Formosa authorities as part of a policy of provocation towards the People's Republic of China. Burma's resort to diplomatic channels and to the General Assembly had not so far led to the withdrawal or internment of these troops, and it was incumbent upon the General Assembly to take concrete measures to implement resolution 707 (VII).

317. Other speakers expressed appreciation of the efforts which had led to an agreement for the evacuation of 2,000 men from Burma, since this constituted a first step towards implementation of the resolution. This figure was not large, however, and it was hoped that more might agree to be evacuated later and that the rest would disperse of their own accord. Until the whole force was permanently dispersed, the United Nations could not claim that the problem was solved. It was necessary to keep the matter under consideration and to see what could be done further to assist in the solution of the problem.

318. A draft resolution submitted by Australia, Canada, India, Indonesia, New Zealand, Norway, Sweden, the United Kingdom and Uruguay, was adopted by the General Assembly as resolution 717 (VIII), by 56 votes to none, with 1 abstention. The text of the resolution is as follows:

"The General Assembly,

"Having considered the report dated 31 August 1953 of the Government of the Union of Burma on the situation relating to the presence of foreign forces in its territory, and all other information on the subject laid before the Assembly,

"1. Notes that limited evacuation of personnel of these foreign forces has begun as from 7 November 1953;

"2. Expresses concern that few arms have been surrendered by them;

"3. Appreciates the efforts of the United States of America and Thailand in striving for the evacuation of these forces;

"4. Urges that efforts be continued on the part of those concerned for the evacuation or internment of these foreign forces and the surrender of all arms;

"5. Reaffirms General Assembly resolution 707 (VII) of 23 April 1953, and in particular

"6. Urges upon all States to refrain from furnishing any assistance to these forces which may enable them to remain in the territory of the Union of Burma or to continue their hostile acts against that country;

"7. Invites the Governments concerned to inform the General Assembly of any action that they have taken to implement the present resolution;

"8. Requests the Government of the Union of Burma to report on the situation to the General Assembly as appropriate."

Consideration by the General Assembly during the Ninth Session, 1954

319. On 27 September 1954, the representative of Burma submitted a report pursuant to paragraph 7 of General Assembly resolution 717 (VIII). On 28 September, also in accordance with the terms of resolution 717 (VIII), China, Thailand and the United States submitted the final report of the Joint Military Committee set up at Bangkok to facilitate the evacuation of foreign forces from Burma. At the request of Burma, the General Assembly decided, on 25 September, to include the item in its agenda and referred it to the Ad Hoc Political Committee for consideration and report.

320. Speaking before the Ad Hoc Political Committee, the representative of Burma stated that, while the evacuation which had been achieved represented a substantial easing of the problem, a considerable task still remained. As the possibilities of

international action seemed to have been exhausted, Burma would have to work out, by itself, a solution of the remaining difficulties. While giving credit to the authorities in Formosa for their efforts, Burma considered that they would remain responsible so long as there were any Kuomintang troops on Burmese soil. It hoped that the United Nations would continue to exercise its moral influence to bring about the disarming and internment of the remaining foreign forces in Burma, lend moral support to any measures Burma might find itself obliged to take, declare itself against any outside assistance to the remaining forces, call upon Members to enforce that prohibition, and keep the matter on the agenda of the General Assembly.

321. The representative of China expressed satisfaction with the work of the Joint Military Committee. As had been explained previously, the troops in question included persons of other than Chinese nationality and had entered Burma against the express orders of the Chinese Government, which had never sent any kind of reinforcement. Whilst the Government of China had therefore been unable to do more than promise to use its influence in settling the problem, it had extended its fullest co-operation to the Joint Military Committee in arranging the evacuation. Furthermore, the Chinese Government wanted to declare again that it would neither maintain relations with the remnant irregulars nor furnish them with any form of assistance or support. It could not be held responsible for their continued presence or any of their activities in Burma or elsewhere, since they were now obviously beyond its control. He opposed the adoption by the General Assembly of any resolution, on the ground that the matter was now entirely an internal Burmese affair.

322. The representative of Thailand, referring to the charge that irregulars had crossed the Thai-Burmese frontier into Burma, emphasized that that frontier had been closed since 1952 and that any movement across it was subject to supervision and control.

323. The majority of representatives expressed satisfaction at the evacuation which had been achieved and praised the work of the Joint Military Committee, including the valuable contribution of the United States and Thailand to the evacuation operations. They welcomed the determination of Burma to deal itself with the question of the remaining irregulars. There were limits to what could be done through international action, but the United Nations should lend its moral influence to support the efforts of the Burmese Government to solve the problem.

324. On 29 October, the General Assembly adopted the draft resolution recommended by the Ad Hoc Political Committee, by a roll-call vote of 56 to none, with China not participating in the vote, as resolution 815 (IX), the text of which reads as follows:

"The General Assembly,

Having considered the report dated 27 September 1954 of the Government of the Union of Burma on the situation relating to the presence of foreign forces in its territory,

Having taken note of the report of the Joint Military Committee for the Evacuation of Foreign Forces from Burma the efforts of which were directed to securing the removal of these foreign forces,

1. Notes with satisfaction that nearly 7,000 persons, both foreign forces and their dependants, have been evacuated from Burma and that this constitutes a substantial contribution to the solution of the problem pursuant to the recommendations of the General Assembly;

2. Expresses its appreciation of the efforts of the Governments of the United States of America and of Thailand in helping to bring about this evacuation;

3. Deplores the fact that considerable foreign forces with a significant quantity of arms still remain in the territory of the Union of Burma and have failed to respond to the declarations of the General Assembly that they should either leave the territory of the Union of Burma or submit to internment;

4. Declares once more that these forces should submit to disarmament and internment;

5. Assures the Government of the Union of Burma of its continuing sympathy with and support of the efforts of that Government to bring about a complete solution of this serious problem;

6. Urges all States to take all necessary steps to prevent the furnishing of any assistance which may enable foreign forces to remain in the territory of the Union of Burma or to continue their hostile acts against that country;

7. Invites the Government of the Union of Burma to report on the situation to the General Assembly as appropriate."



The Guatemalan QuestionConsideration by the Security Council. 1954

325. At its meeting on 20 June 1954, the Security Council had before it a request by Guatemala that, in accordance with Articles 34, 35 and 39 of the Charter, the Council should take the necessary measures to prevent the disruption of peace and international security in Central America and to put an end to the aggression which it was claimed was in progress against Guatemala. It was stated that expeditionary forces, which had been preparing an invasion from Honduras, had advanced into Guatemalan territory and that aircraft coming from the direction of Honduras and Nicaragua had carried out bombing raids. Speaking before the Council, the representative of Guatemala said that his Government had two requests to make: first, that the Security Council should warn Honduras and Nicaragua and call upon them to apprehend the exiles and mercenaries who were invading Guatemala from bases in those countries; and second, that a Security Council observation commission should be set up in Guatemala, and in other countries if necessary, to verify the charge that the countries accused by Guatemala had connived at the invasion.

326. The representatives of Honduras and Nicaragua both expressed the opinion that the Guatemalan charges, which they denied, should be dealt with by the Organization of American States.

327. Calling attention to Chapter VIII of the Charter, and particularly to Article 52, paragraph 3, the representative of Brazil introduced a draft resolution co-sponsored by Colombia, which proposed that the complaint should be referred to the Organization of American States for urgent consideration. The representative of Colombia declared that Article 33 of the Charter, under which the parties to a dispute are obliged to seek a settlement by peaceful means, must be taken in conjunction with Article 52, paragraph 2. That paragraph, in his view, imposed on all Member States the duty to apply first to the regional organization, which was of necessity the court of first appeal.

328. The representative of Guatemala declared that Articles 33 and 52 were inapplicable since the case did not involve a dispute. What was involved was an act of aggression; accordingly, the Guatemalan request had been based on Articles 34, 35 and 39, which gave his country an unchallenged right of appeal to the Security Council, which should intervene directly and not through a regional organization.



While expressing appreciation of an amendment proposed by France, whereby a final paragraph calling for the immediate termination of any action likely to cause further bloodshed should be added to the draft resolution, he disagreed with the proposal to refer the matter to the Organization of American States on the ground that that Organization ceased to be effective once an invasion was under way.

329. The majority of members of the Council supported the joint draft resolution. Certain representatives, in particular those of Lebanon and New Zealand, emphasized the right of any State to have direct recourse to the Security Council in a case of this nature. It was stated by others, including the representative of the United States, that the Security Council would be maintaining its concern for the maintenance of international peace and security by referring the question to the Organization of American States in accordance with Article 52. It would rest with the Security Council to take the final decision, after the Organization had reported to the Council on the conclusions it had reached after carrying out its inquiry. The USSR representative opposed the draft resolution, however, on the ground that the Council had before it a clear case of aggression against a Member State by neighbouring States and that it was therefore the duty of the Council itself, under Article 24, to take immediate steps to end that aggression. Furthermore, since Guatemala had already declined the procedure of referring the question to the Organization of American States, the adoption of the draft resolution would be a violation of Article 36, paragraph 2. The USSR representative accordingly voted against the joint draft resolution, which failed of adoption owing to the negative vote of a permanent member. The proposal of the representative of France was thereupon reintroduced as a draft resolution and adopted unanimously. In the resolution the Security Council called for the immediate termination of any action likely to cause bloodshed and requested all Member States to abstain from rendering assistance to any such action.

330. After the Security Council had declined on 25 June 1954, to accept on its agenda a request from the Government of Guatemala for consideration of a fresh complaint, on 27 June the Chairman of the Inter-American Peace Committee informed the Secretary-General that the Committee had established itself as a fact-finding body and was proceeding to Guatemala, Honduras and Nicaragua. A second communication on 5 July stated that the three countries concerned had informed the Peace Committee

that the dispute between them had ceased to exist, and on 8 July the Committee transmitted its final report on the question to the Security Council. The following day the Guatemalan Government requested that the question be removed from the agenda of the Security Council.

### The Question of Algeria

#### Consideration by the General Assembly during the Tenth Session, 1955

331. In response to a request from fourteen Member States, on 22 September 1955, the General Committee considered whether "The Question of Algeria" should be included in the agenda of the tenth session of the General Assembly. The representative of France opposed inclusion of the item in the agenda on the grounds that Algerian affairs were essentially within his Government's domestic jurisdiction. Algeria had been an integral part of Metropolitan France since 1834 and every Algerian was a French citizen. It was therefore clear that Article 2, paragraph 7, of the Charter applied to Algeria. The representatives of New Zealand, the United Kingdom and the United States, supported the position taken by France. Inclusion of the item was urged, however, by the representatives of Egypt, Iraq, Pakistan, Thailand, India and the USSR. Article 1, paragraphs 2 and 4, Articles 10, 11, paragraphs 2 and 14 of the Charter were cited to justify inclusion of the item in the agenda and to establish the competence of the Assembly to deal with the question. Regarding the contention that Article 2, paragraph 7, precluded intervention, it was noted that until 1830 Algeria had been independent and had enjoyed international relations with other States; its current status had been defined in 1870 by the French Government without the Algerian people being consulted. Inclusion of the question could not in any way constitute intervention within the meaning of Article 2, paragraph 7, nor prejudice the question of competence.

332. The General Committee decided by 8 votes to 5, with 2 abstentions, not to recommend the inclusion of the item in the agenda. During the examination by the General Assembly of the General Committee's report, substantially the same arguments were repeated. Those opposing inclusion held that, on political and practical grounds, it was preferable not to discuss the Algerian question in the United Nations. The progress which had been made towards the establishment of satisfactory conditions in other parts of North Africa justified the confidence that, in the

matter of Algeria, France would find the right way to solve the problem. The representatives supporting inclusion of the item held that discussion of the question did not amount to intervention within the meaning of Article 2, paragraph 7. The position would be different if France were required to submit the matter to settlement, but such was not the case. What the record of the General Assembly showed in comparable instances concerning the Union of South Africa, Tunisia, Morocco, or West Irian, was that the Assembly had invited the parties to get together in order to resolve their problems. Even within the framework of Article 2, paragraph 7, itself, the principle of domestic jurisdiction was not supposed to "prejudice the application of enforcement measures under Chapter VII". In this connexion, it was questioned whether the General Assembly would not consider the continuous strife and bloodshed in Algeria as being a real threat to international peace and security.

333. Some representatives who regarded the Algerian question as falling essentially within the domestic jurisdiction of France pointed out that it was inaccurate to assert that the provisions of Article 2, paragraph 7, were in some way overridden by reference to the principle of self-determination, mentioned in Articles 1 and 55 of the Charter or by the Preamble and even by Articles 10, 11, 14 and 35. In pursuit of the purposes set out in Article 1, the Organization and its Members were obliged, under Article 2, to act in accordance with certain provisions, including Article 2, paragraph 7. Article 35 was not applicable in the present case since that provision referred to international and not to internal disputes. There could be no international dispute between France and Algeria and there was no threat to international peace and security.

334. The recommendation of the General Committee not to include the item in the agenda was, however, rejected by 26 votes to 27, with 5 abstentions. After the vote the representative of France declared that in a matter which was essentially within the domestic jurisdiction of his country, his Government refused to accept any intervention of the United Nations, which would be in defiance of the provisions of the Charter, and that it would consider as null and void any recommendation which the General Assembly might make on the matter. The representative of France, together with his delegation, thenceforth ceased to attend the meetings of the General Assembly and all its standing Committees. At the meeting of the First

Committee on 25 November 1955, it was decided, upon the motion of India, that the item should not be considered further at the tenth session. This proposal was adopted by the General Assembly.

Consideration by the Security Council, 1956

335. On 12 April 1956, in a letter to the President of the Security Council, seventeen Asian-African Member States stated that the situation in Algeria had deteriorated to such an extent that the United Nations could not remain indifferent to the threat to the peace and to the flagrant violation of fundamental human rights. On 13 June, thirteen of these States requested an early meeting of the Security Council to consider the grave situation in Algeria under Article 35, paragraph 1, of the Charter.

336. The Council held two meetings on 26 June 1956, to consider whether to place the item on its agenda; it eventually decided against the inclusion of the item by 7 votes against 2 in favour, with 2 abstentions. The representative of France requested the Council not to include the complaint on its agenda as Algerian affairs fell essentially within the domestic jurisdiction of France. He declared that it would be a dangerous precedent to recognize the right of the United Nations to intervene vis-à-vis the Government of a State which was exercising one of the most normal attributes, namely, maintaining public order which had been disturbed by rebellious citizens. Such action would violate Article 34, and Article 2, paragraph 7, of the Charter, since the Council was competent only to consider a dispute on a situation the continuance of which was likely to endanger "international" peace and security. The thirteen States had referred only to a threat to the peace. The representatives of Belgium, Cuba, and the United Kingdom agreed that the United Nations, under Article 2, paragraph 7, was precluded from dealing with the matter. The representative of Iran maintained that the Algerian question did not fall essentially within the domestic jurisdiction of France. The Algerian people were being denied the right of self-determination and were suffering from the violation of their fundamental human rights. A question concerning the violation of human rights and affecting relations between Member States could not be regarded as essentially a matter of domestic jurisdiction.

37. On 25 October 1956, the representative of France requested that the item "Military assistance rendered by the Egyptian Government to the rebels in Algeria" be placed on the agenda. He stated that a vessel, the Athos, with a cargo of arms from the Egyptian authorities to the rebels in Algeria, had been intercepted by a French warship. Such action by the Egyptian Government constituted an attack on French sovereignty prohibited under international law. The Council included the item on its agenda but did not discuss it.

Consideration by the General Assembly during the Eleventh Session, 1956

338. At the Assembly's eleventh session the representative of France stated that, although he challenged the competence of the United Nations to deal with a problem essentially of a domestic nature, he had not opposed the inclusion of the item. One reason for this was that France wished to draw attention to foreign interference in the Algerian question. This was not inconsistent with France's contention regarding Article 2, paragraph 7; the United Nations was committed to respect the national boundaries of its Member States, and any intervention it made in violation of the principle of domestic jurisdiction would imply a direct threat to the territorial integrity and, indeed, to the very existence of States. Referring to foreign assistance, he singled out Egypt as the country which had most systematically supported the Algerian rebellion, by inciting to violence, training terrorist cadres on its own territory, and supplying arms.

339. Several other representatives also argued that the United Nations was not competent to intervene. Many States would never have agreed to become Members of the United Nations if Article 2, paragraph 7, had not precluded intervention in essentially domestic affairs. That overriding principle constituted the fundamental condition and limitation of the obligations imposed on Member States by other provisions of the Charter. Also stressed was the fact that internal tension between communities of different origins and cultures had arisen in various countries in Asia and the Americas. It would, therefore, certainly be dangerous for the cohesion of the Organization if it interfered in each case and decreed how the principle of self-determination should be exercised.

340. Those representatives who considered the Assembly competent to deal with the Algerian problem cited the instances of United Nations intervention in the question



of Hungary<sup>1/</sup> and in the questions of the treatment of people of Indian origin and of the apartheid policy pursued by the Union of South Africa.<sup>2/</sup> Those who challenged the Assembly's competence replied that the question of Hungary was not comparable with that of Algeria. In the first case, foreign troops, namely, those of the Soviet Union, had intervened in the internal affairs of a State, over which the Soviet Union had no sovereignty, at a time when its Government had appealed to the United Nations for help. As to questions concerning South Africa, they considered United Nations intervention illegal and protested that one mistake should not be used to justify another.

341. Amongst the arguments used to support the competence of the Assembly to deal with the question was that the Algerian situation threatened world peace and the freedom of nations and had provoked tension between the Arab world, especially Egypt, and the West. The Egyptian representative, in addition, rejected French charges of Egyptian intervention in Algeria. He denied that Egypt had shipped arms by sea for use against the French in Algeria. A number of speakers urged that negotiations should be held between France and representatives of the Algerian people. Opinions differed, however, as to how direct a part should be played by the United Nations itself in such negotiations.

342. Three draft resolutions were introduced. One, sponsored by eighteen Asian-African Member States, requested France to respond to the desire of the Algerian people to exercise their right to self-determination and invited France and the people of Algeria to enter into immediate negotiations. A second draft resolution, sponsored by Japan, the Philippines and Thailand, expressed the hope that France and the Algerian people would endeavour, through appropriate negotiations, to bring about the end of bloodshed and the peaceful settlement of the present difficulties. The third draft resolution, submitted by Argentina, Brazil, Cuba, the Dominican Republic, Italy and Peru, expressed the hope that a peaceful and democratic solution would be found. The three and six-Power draft resolutions were both adopted by the First Committee by a simple majority. At a plenary meeting of the General Assembly on

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1/ Situation in Hungary, paras. 61-94 above.

2/ See, The Question of Race Conflict in South Africa, paras. 283-305 above.



15 February 1957, a new draft resolution, submitted by the nine Powers which had sponsored the two earlier draft resolutions, was adopted by 77 votes to none. This resolution (1012 (XI)) expressed the hope that a solution would be found, "through appropriate means, in conformity with the principles of the Charter of the United Nations".

Consideration by the General Assembly during the Twelfth Session, 1957

343. During the consideration of the question by the First Committee at the twelfth session the representative of France declared that Egypt, Morocco, Tunisia and other countries which were furnishing assistance to the Algerian revolt, were violating the United Nations Charter, the provisions of the Assembly's "Essentials of Peace" resolution,<sup>1/</sup> and the principles of peaceful coexistence adopted at the Bandung Conference in 1954. The offer of good offices which had been made by Tunisia and Morocco could not be adopted, he stated, because the sovereignty of these two States was being threatened by the pressure of Algerian rebels, and they were not, therefore sufficiently free to determine their own attitude regarding the rebels. France had offered to negotiate the question and its offers were free of unacceptable pre-conditions; however, these offers had consistently been rejected he declared.

344. Argentina, Australia, Cuba, Israel, the Netherlands, Peru, Portugal, Spain and the United Kingdom, were among those who argued that the United Nations had no right to intervene. It was stressed that it was necessary to make a rigorous distinction between the discussion of a problem and United Nations intervention in the sphere of national sovereignty.

345. Many other representatives, however, contended that the United Nations was competent to deal with the Algerian question. They pointed out that the question of competence could not be decided by the unilateral declaration of a Member State. Furthermore, as the struggle in Algeria had developed into a war, endangering peace and security, it was both the right and the duty of the United Nations to continue its quest for an equitable solution. Amongst those presenting such views were the

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<sup>1/</sup> See, Essentials of Peace, paras. 276-282 above, where the resolution is reproduced.

representatives of Albania, the Byelorussian SSR, Ceylon, Egypt, Guatemala, Haiti, Indonesia, Jordan, Lebanon, Morocco, Nepal, Pakistan, Romania, Saudi Arabia, Sudan, Syria, Tunisia, the Ukrainian SSR, Uruguay, the USSR and Yemen.

346. Two draft resolutions which were submitted to the First Committee were not adopted, one not being pressed to a vote and the other, submitted by seventeen Asian-African States, receiving 37 votes for and 37 against, with 6 abstentions. On 10 December 1957, a joint draft resolution was submitted at a plenary meeting of the General Assembly by Argentina, Brazil, Canada, Cuba, the Dominican Republic, India, Iran, Ireland, Italy, Japan, Mexico, Norway, Peru, Spain and Thailand. The Assembly adopted this proposal by 80 votes to none, as resolution 1184 (XII). The Assembly took note of the offer of good offices made by Morocco and Tunisia and expressed the wish that pourparlers would be entered into, and other appropriate means used, with a view to a solution of the Algerian question, in conformity with the purposes and principles of the Charter.

Consideration by the General Assembly during the Thirteenth Session, 1958

347. In the course of the discussion in the First Committee during the Assembly's thirteenth session the representative of Tunisia regretted that France had decided not to participate in the debate. He declared that France had refused to respond to the offers of good offices made by Tunisia and Morocco. The majority of speakers also expressed regret at France's decision not to participate in the debate and its refusal to accept the offers of mediation made by Tunisia and Morocco. They urged the immediate cessation of hostilities in Algeria and the holding of negotiations between French and Algerian representatives.

348. Belgium, Cuba, the Dominican Republic, Portugal, Spain and the Union of South Africa argued that Article 2, paragraph 7, of the Charter barred the United Nations from dealing with the question.

349. A draft resolution submitted by seventeen Asian-African States and adopted by the First Committee, was not adopted by the Assembly at a plenary meeting on 13 December 1958, having failed to obtain the required two-thirds majority.

Consideration by the General Assembly during the Fourteenth Session, 1959

350. As at previous sessions, during discussions in the General Committee the representative of France questioned the competence of the United Nations to consider the matter in view of the provisions of Article 2, paragraph 7. He described the steps taken by his Government to open the way to self-determination. In the First Committee, the majority of speakers welcomed the statement which the French President had recently made, recognizing the right of the Algerian people to self-determination. Doubts were expressed, however, as to the conditions under which the referendum which was proposed would be held. A draft resolution, submitted by twenty-two Afro-Asian States was adopted by the First Committee by 38 votes to 26 with 17 abstentions. The operative part of this draft resolution provided that the General Assembly should urge the two parties concerned to enter into pourparlers in order to determine the conditions necessary for the implementation, as early as possible, of the right of self-determination of the Algerian people, including conditions for a cease-fire. In the preamble, the draft resolution recalled, inter alia, Article 1, paragraph 2 of the United Nations Charter, dealing with the principle of equal rights and self-determination of peoples, and stated that the situation in Algeria constituted a threat to international peace and security. When the question was considered by the General Assembly at its plenary meeting on 12 December 1959, a new draft resolution was submitted by the representative of Pakistan. He stated that the new text represented an effort on the part of the Afro-Asian nations to go as far as possible towards respecting the views of those opposed to certain parts of the earlier draft resolution, particularly those referring to the scope of the pourparlers and specifying the parties who were to participate in them. Although the paragraphs of the draft resolution were adopted when voted on separately, the draft resolution as a whole failed to receive a two-thirds majority and thus failed to be adopted.

Consideration by the General Assembly during the Fifteenth Session, 1960

351. During the consideration of the question by the First Committee during the fifteenth session a draft resolution was submitted by twenty-four Afro-Asian States, recalling Article 1, paragraph 2 of the Charter; recognizing the right of the Algerian people to self-determination and the imperative need for adequate guarantees

to ensure the implementation of this principle on a basis of respect for the unity and territorial integrity of Algeria; and deciding that a referendum should be held in Algeria under United Nations supervision, to determine the destiny of the country.

352. Canada, Gabon, New Zealand, Peru, Turkey and the United Kingdom were among those countries which objected to the draft resolution on the ground that it attempted, improperly, to impose a referendum on a sovereign State. Argentina, Colombia, Ecuador and Uruguay also felt that the provision in question went beyond the powers of the General Assembly. The representatives of Finland, Ireland, Norway and Sweden, among others, stated that they could not support the paragraph relating to a referendum as the Assembly's functions under the Charter could only be to make recommendations. The draft resolution was, however, adopted by the First Committee.

353. When the draft resolution was considered by the General Assembly at a plenary meeting on 19 December 1960, the paragraph relating to the decision that a referendum should be held was not adopted. The draft resolution, as a whole and as amended, was then adopted by 63 votes to 8, with 27 abstentions, as resolution 1573 (XV).

#### Consideration by the General Assembly during the Sixteenth Session, 1961

354. At the Assembly's sixteenth session a draft resolution put forward by thirty-four Afro-Asian States was adopted by 62 votes to none, with 38 abstentions, as resolution 1724 (XVI). The resolution regretted the suspension of the negotiations entered into by the Government of France and the Provisional Government of the Algerian Republic and called upon the two parties to resume negotiations.

#### Questions concerning Goa, Damao and Diu

#### Consideration by the Security Council, 1961

355. On 18 December 1961, Portugal reported to the President of the Security Council that India had launched a full-scale armed attack on the Portuguese territories of Goa, Damao and Diu, resulting in much damage and many casualties. Portugal therefore requested the President to convene the Council immediately in order to halt this act of aggression on the part of India and to order an immediate cease-fire and the withdrawal forthwith of all Indian troops from Portuguese territories. At the meeting of the Security Council held on 18 December, the representative of the USSR

opposed the adoption of the item, stating that he could not agree with Portugal's description of the events in Goa as aggression by India. The question of Portuguese territories fell exclusively within India's domestic jurisdiction since they were colonial territories forming an integral part of India and were only provisionally held under the colonial administration of Portugal.

356. After the Security Council had agreed to place the question on its agenda, 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 of the United Nations. The concentration of Indian naval, land and air forces had no explanation other than preparation for the violent conquest of a foreign territory. Speaking in reply, the representative of India declared that his Government had been seeking the transfer of Portugal's possessions to India through negotiation for the last fourteen years. Portugal had not only refused to negotiate but had also invented the myth that these possessions were part of Portugal. It still pursued that claim despite the fact that the General Assembly had rejected it in adopting resolution 1542 (XV) of 15 December 1960. The problem of 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.

357. The United States representative observed that the Council had met, not to decide on the merits of the case, but to consider the situation that had arisen because one Member of the United Nations, casting aside the principles of the Charter, had 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. The Security Council had an urgent duty to ask for an immediate cease-fire, the withdrawal of all invading forces and the resumption of negotiations.

358. The United Kingdom, Turkey, France, Ecuador, China and Chile, also maintained that force was an illegal method of solving territorial disputes. They too, appealed for an immediate cease-fire and urged the parties to enter into negotiations. Chile added that it would be appropriate to take into consideration the wishes of the peoples of the territories in question. Ecuador considered that Portugal should give an assurance to comply with its international obligations by observing the Assembly's resolutions.



359. Ceylon, Liberia and the United Arab Republic stated that the territories of Goa, Damao and Diu had not formed an integral part of Portugal in spite of Portugal's unilateral declaration to that effect.

360. Two draft resolutions were submitted in the Council. By the first of these, sponsored by Ceylon, Liberia and the United Arab Republic, the Security Council, considering that the enclaves claimed by Portugal in India constituted a threat to international peace and security and stood in the way of the unity of the Republic of India, and recalling the General Assembly's resolution 1514 (XV)<sup>1/</sup> and resolution 1542 (XV), would: (1) decide to reject the Portuguese complaint of aggression against India; and (2) call upon Portugal to terminate hostile action and to co-operate with India in the liquidation of its colonial possessions in India.

361. By the preamble to the second draft resolution - submitted by France, Turkey, the United Kingdom and the United States - the Security Council would: (a) recall that all United Nations Members were obligated by Article 2 of the Charter 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; (b) deplore India's use of force in Goa, Damao and Diu; and (c) recall that Article 1, paragraph 2, of the Charter specified that one of the purposes of the United Nations was the development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. By the operative part of the text, the Council would: (1) call for an immediate cessation of hostilities; (2) call upon the Government of India to withdraw its forces immediately to positions prevailing before 17 December 1961; (3) urge the parties to work out a permanent solution of their differences by peaceful means in accordance with the principles embodied in the Charter; and (4) ask the Secretary-General to provide such assistance as might be appropriate.

362. The three-Power draft resolution was put to the vote first and was rejected, by 7 votes against to 4 in favour. The four-Power draft resolution received 7 votes in favour and 4 against and was not adopted since one of the negative votes was cast by a permanent member of the Security Council.

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<sup>1/</sup> See, Declaration on Granting Independence to Colonial Countries and Peoples, paras. 404-408 below.



Complaint by Senegal against Portugal

Consideration by the Security Council, 1963

363. On 10 April 1963, Senegal requested an early meeting of the Security Council to discuss "the repeated violations of Senegalese airspace and territory" by Portugal. At its 1027th meeting of 17 April, the Security Council included the item in its agenda and invited the representatives of Senegal and Portugal to participate, without vote, in its consideration.

364. Explaining the request, the representative of Senegal stated that on 8 April the Senegalese village of Bougniack had been bombarded by four aircraft of the Portuguese Colonial Army. He also cited an incident on 1 December 1961, when motorized units of the Portuguese Colonial Army had penetrated into the Senegalese village of Bakaka. After mentioning other border incidents, he maintained that the atmosphere was so tense that it could lead to armed conflict and constituted a threat to international peace and security. His delegation therefore considered that the Council should condemn Portuguese incursions into Senegalese territory and the attacks made on Senegalese villages. It also asked the Council to take all measures to make Portugal conform to international law and apply Assembly resolution 1514 (XV) on decolonization.

365. The representative of Portugal stated that consideration of Senegal's alleged grievances was irregular and premature in terms of the Charter of the United Nations. Senegal's request for a meeting fell under Chapter VI of the Charter, which provided that the parties to a dispute should first of all seek a solution by negotiation, inquiry, mediation or other peaceful means. Only after those steps had been tried and failed could an approach be made to the Security Council. Senegal had not even made a show of attempting any of those methods of settlement as provided in Article 33 of the Charter, and his Government had only learned of the alleged ground of the dispute through the Press. As there were conflicting versions about the alleged attack on Bougniack, Portugal would suggest that a small commission be appointed to carry out an investigation in loco of the subject matter of the Senegalese complaint.

366. The representative of Ghana stated that under Article 35 of the Charter any Member State could submit to the Council a dispute or a situation which was likely

to endanger international peace and security. Ghana believed that there was such a threat to international peace due to the incidents reported to the Council by Senegal. Senegal had tried earlier to settle its dispute with Portugal bilaterally, but, since the incidents persisted and since Senegal had broken off diplomatic relations with Portugal, there was no question of continuing those negotiations. Moreover, the violation of Senegalese territory by Portugal stemmed from the existence of a Portuguese colony on the borders of Senegal, i.e., so-called Portuguese Guinea. Senegal's complaint was indeed a complaint from the whole of Africa.

367. The representative of the USSR considered that Portugal's aggression against Senegal was not an isolated action but constituted part of its colonial policy in Africa. In its resolution 1807 (XVII) of 14 December 1962, the General Assembly had already noted with concern that Portugal's policy and actions in respect of territories under its administration had created a very serious threat to world peace and security. The Committee of Twenty-Four had also drawn the attention of the Security Council to the situation which had been created as a result of Portuguese actions and had asked the Council to take appropriate measures, including sanctions, against Portugal. In the present case, Portugal had proved conclusively that it was violating systematically the principles of the Charter and it was therefore absolutely indispensable that the Council should take immediate and decisive action.

368. The representative of Gabon, Congo (Brazzaville) and Morocco supported the complaint by Senegal that the Portuguese Army had violated Senegalese airspace and considered that the present conflict was not merely confined to the two parties but was also a concern of the African States in general.

369. At the 1032nd meeting of the Council on 23 April, the representative of Morocco maintained that an act of aggression had been perpetrated by Portugal against the territorial sovereignty and integrity of Senegal and that the Security Council must therefore take appropriate action to meet that situation. For this reason, his delegation, together with that of Ghana, submitted the following draft resolution:

"The Security Council,

Deploing the incidents that have occurred near the frontier between Senegal and Portuguese Guinea,

/...

Noting with concern that the state of relations in this area between the two parties concerned may lead to tension on the occasion of any incident, and expressing the hope that such tension will be eliminated in accordance with the provisions of the Charter,

Taking note of the declared intention of the Portuguese Government scrupulously to respect the sovereignty and territorial integrity of Senegal,

1. Deplores any incursion by Portuguese military forces into Senegalese territory as well as the incident which occurred at Bougniack on 8 April;

2. Requests the Government of Portugal, in accordance with its declared intentions, to take whatever action may be necessary to prevent any violation of Senegal's sovereignty and territorial integrity;

3. Requests the Secretary-General to keep the development of the situation under review."

370. The representative of France stated that his delegation had not taken lightly the concern expressed by Senegal. However, the regrettable incident was not of such gravity as to threaten international peace. In such matters, France considered that the broadest use should be made of the procedures mentioned in Article 33 of the Charter. Accordingly, the Portuguese proposal for a commission of investigation would not have been considered by his delegation inappropriate if the consent of Senegal had been obtained. Since the relations between the two Governments concerned had not made such an arrangement possible, the French delegation might give its support to the joint draft resolution before the Council.

371. The representative of Venezuela stated that the events mentioned in the Senegalese complaint, if considered in isolation, would not be of any great gravity, but owing to their repetition and the fact that they had occurred against the background of tension resulting from the colonial policies of Portugal, they had acquired a much greater significance. Incidents involving violation of the territory and airspace of a country could not be ignored. It would therefore be quite appropriate for the Security Council to deplore the events that had occurred and to ask Portugal to take in future all necessary precautions to prevent a recurrence of those events.

372. The representative of the United States said that an incident along the lines as stated in the Senegalese complaint had in fact happened and that Portugal had

nevertheless made it clear that no incursion had been intended. The Portuguese Government had also reaffirmed its policy of scrupulously respecting the sovereignty and territorial integrity of Senegal. The Portuguese suggestions for impartial investigation had demonstrated moderation and good faith. Senegal had also expressed its desire to utilize peaceful approaches and the machinery of the Charter to help provide it with assurances against infringement of its territory. To the United States, that was the proper and conclusive approach. For that reason, the United States would support the joint draft resolution because it kept the incident concerned within an acceptable perspective, including recognition of Portugal's stated policy, and at the same time responded adequately to the complaint submitted to the Council by Senegal.

373. The representative of the United Kingdom was inclined to accept that a minor accident had occurred on 8 April in the Senegalese village but stated that there was nothing to show that the incident had been an act of deliberate aggression. He welcomed Portugal's assurances that it would respect the sovereignty and territorial integrity of Senegal and hoped that Portugal, as suggested in the joint draft resolution, would take all measures to prevent any incidents on its borders and that Senegal could be relied on to do the same. If in the future minor incidents were alleged to occur, then the two Governments could hold consultations with a view to taking preventive measures. This appeared to be the thought underlying the third preambular paragraph of the joint draft resolution which the United Kingdom considered appropriate to the circumstances.

374. The representative of Norway stated that it had clearly been brought out that there was tension along the border between Senegal and Portuguese Guinea and that a Portuguese incursion had taken place at the Senegalese village on 8 April. In the circumstances it would be better for the Council to focus its attention on the preventive aspect of the matter and to take such steps as would alleviate the natural anxiety of Senegal. Norway welcomed the joint draft resolution submitted by Ghana and Morocco inasmuch as it had those aims in mind. The representative of the Philippines said that the incident showed that the airspace and territory of a Member State had been violated, which the Council must deplore. The Philippines delegation particularly approved the inclusion in the joint draft resolution of the paragraph which requested the Secretary-General to keep the situation under review and hoped that the Council's action would put an end to further incidents between the two countries and would help remove tensions between them.

375. The representative of Brazil considered that in the present case the Council must act in accordance with Chapter VI of the Charter. The Brazilian delegation would therefore support the joint draft resolution which sought to confine itself to the issue at hand and was imbued with the spirit of Chapter VI of the Charter. The representative of China considered that in normal circumstances such an incident might have been settled by direct negotiations, but direct talks in the present case had been difficult because of the existing strained relations between the parties. The Chinese delegation would support the joint draft resolution before the Council since it sought to effect an immediate relaxation of the existing tension.

376. At its 1033rd meeting on 24 April, the Security Council adopted unanimously the joint draft resolution submitted by Ghana and Morocco.

(D) THE PRINCIPLE OF SOVEREIGN EQUALITY OF STATES<sup>1/</sup>

Draft Declaration on Rights and Duties of States

Consideration by the General Assembly during the First and Second Sessions,  
1946-1947

377. At the second part of the first session of the General Assembly, Panama proposed a Draft Declaration of Rights and Duties of States, consisting of twenty-four articles under the following subject headings: (1) the right to national existence; (2) recognition of the existence of the State; (3) the right to existence, independent of recognition; (4) the right to independence; (5) the duty of non-intervention; (6) legal equality; (7) exclusive jurisdiction; (8) diplomatic intervention; (9) respect of the rights of the State by other States; (10) limitation of the rights of the State; (11) observance of treaties and sanctity of the pledged word; (12) discharge of international obligations; (13) authority of international law; (14) national and international scope of the law of nations; (15) peaceful settlement of disputes; (16) condemnation of war as an instrument of national and international policy and of the threat or use of force; (17) right of legitimate defence; (18) non-recognition of territorial acquisitions obtained by force; (19) co-operation in the prevention of acts of force; (20) co-operation in the pursuit of the aims of the community of States; (21) maintenance of conditions calculated to ensure international peace and order; (22) duty not to foment civil disturbances in other States; (23) equality of opportunity and independence in the economic sphere and (24) prohibition of pacts incompatible with the discharge of international obligations.

378. During a brief discussion of the Panamanian draft in the First Committee, some representatives considered that the nature of the problem dealt with in the draft seemed specific to Latin America and that the draft should take into account

<sup>1/</sup> Reference to this principle and its application were also made in the following cases dealt with in the present study: The Question of Defining Aggression, paras. 4-39, at para. 27; Intervention by Israel and by France and the United Kingdom in Egypt, paras. 40-60, at para. 57; The Situation in Hungary, paras. 61-94, at para. 69; Questions concerning Relations between France and Tunisia, paras. 118-129; Promotion of International Co-operation in the Political Field, paras. 183-189, at para. 185; Peaceful Coexistence and Peaceful Relations among States, paras. 207-219, at paras. 213, 215; Peaceful and Neighbourly Relations among States, paras. 231-239, at para. 238; The Question of Arbitral Procedure, paras. 220-228, at para. 227; The Syrian and Lebanese Question, paras. 245-248; The Greek Frontier Incidents Question, paras. 260-275, at para. 271; and Essentials of Peace, paras. 276-282, at para. 280.



new conditions affecting relations between States as well as potential conditions arising as a result of the application of those Articles of the Charter relating to Trusteeship and Non-Self-Governing Territories. Other representatives emphasized the importance of the subject and considered that the draft needed careful study with a view to the codification of international law.

379. Upon the recommendation of the First Committee, the General Assembly, in its resolution 38 (I) of 11 December 1946, requested the Secretary-General to transmit the draft Declaration to all Member States and to national and international bodies concerned with international law for their comments and observations and referred the draft Declaration to the Committee on the Progressive Development of International Law and its Codification for consideration and report.

380. The report of the above-mentioned Committee recommending further studies concerning the subject, was considered at the second session of the General Assembly. After a procedural discussion in the Sixth Committee, the Assembly adopted resolution 178 (II) on 21 November 1947, instructing the International Law Commission to prepare a draft Declaration on the Rights and Duties of States, taking as a basis of discussion the draft Declaration presented by Panama and taking into consideration other documents and drafts on the subject.

Consideration by the General Assembly during the Fourth Session, 1949

381. After an examination, article by article, of the Panamanian draft in the light of other documents before it, including the comments and observations by Member States, the International Law Commission adopted by eleven votes to two<sup>1/</sup> the following draft Declaration on Rights and Duties of States and submitted it to the Assembly at its fourth session:

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<sup>1/</sup> Mr. Koretsky declared that he voted against the draft declaration because of its many shortcomings including in particular: (1) that it deviated from such fundamental principles of the United Nations as the sovereign equality of all the Members thereof and the right of self-determination of peoples; (2) that it did not protect the interests of States against interference by international organizations or groups of States in matters falling essentially within their domestic jurisdiction; (3) that it did not set out the most important duty of States to take measures for the maintenance of international peace and security, the prohibition of atomic weapons, and the general

"DRAFT DECLARATION ON RIGHTS AND DUTIES OF STATES

"Whereas the States of the world form a community governed by international law,

Whereas the progressive development of international law requires effective organization of the community of States,

Whereas a great majority of the States of the world have accordingly established a new international order under the Charter of the United Nations, and most of the other States of the world have declared their desire to live within this order,

Whereas a primary purpose of the United Nations is to maintain international peace and security, and the reign of law and justice is essential to the realization of this purpose, and

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(Foot-note 1/) (continued)

reduction of armaments and armed forces, and that, further, the draft Declaration did not proclaim the duty of States to abstain from participation in any aggressive blocs such as the North Atlantic Pact and the Western Union, which under the cloak of false phrases concerning peace and self-defence were actually aimed at preparing new wars; (4) that the draft Declaration ignored the most important duty of States to take measures for the eradication of the vestiges of fascism and against the danger of its recrudescence; (5) that the draft Declaration ignored the most important duty of States not to allow the establishment of any direct or indirect restriction of the rights of citizens or the establishment of direct or indirect privileges for citizens on account of their race or nationality, and not to allow any advocacy of racial or national exclusiveness or of hatred and contempt; (6) that the draft Declaration did not recite the most important duty of States to ensure the effectiveness of fundamental freedoms and human rights, notably the right to work and the right to be protected against unemployment, ensured on the part of the State and society by such measures as would provide wide possibilities for all to participate in useful work and as would prevent unemployment. Mr. Koretsky added that the draft Declaration, and especially article 14 thereof, went even further than the Panamanian draft in denying the sovereignty of States. In his view the doctrine of the "super-State" was being resorted to in this fashion by persons or peoples seeking to achieve, or to help others to achieve, world domination. Instead of reinforcing the principles of sovereignty, self-determination, sovereign equality of States, independence, and the freedom of States from dependence upon other States, the draft Declaration, he thought, derogated from the great movements to rid the peoples of the world of the scourges of exploitation and oppression.

Mr. Hudson stated that he voted against the draft Declaration because the provisions of its article 6 went beyond the Charter of the United Nations, and beyond international law at its present stage of development.

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Whereas it is therefore desirable to formulate certain basic rights and duties of States in the light of new developments of international law and in harmony with the Charter of the United Nations,

The General Assembly of the United Nations adopts and proclaims this

Declaration on Rights and Duties of States

Article 1

Every State has the right to independence and hence to exercise freely, without dictation by any other State, all its legal powers, including the choice of its own form of government.

Article 2

Every State has the right to exercise jurisdiction over its territory and over all persons and things therein, subject to the immunities recognized by international law.

Article 3

Every State has the duty to refrain from intervention in the internal or external affairs of any other State.

Article 4

Every State has the duty to refrain from fomenting civil strife in the territory of another State, and to prevent the organization within its territory of activities calculated to foment such civil strife.

Article 5

Every State has the right to equality in law with every other State.

Article 6

Every State has the duty to treat all persons under its jurisdiction with respect for human rights and fundamental freedoms, without distinction as to race, sex, language, or religion.

Article 7

Every State has the duty to ensure that conditions prevailing in its territory do not menace international peace and order.

Article 8

Every State has the duty to settle its disputes with other States by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 9

Every State has the duty to refrain from resorting to war as an instrument of national policy, and to refrain from the threat or use of force against the territorial integrity or political independence of another State, or in any other manner inconsistent with international law and order.

Article 10

Every State has the duty to refrain from giving assistance to any State which is acting in violation of article 9, or against which the United Nations is taking preventive or enforcement action.

Article 11

Every State has the duty to refrain from recognizing any territorial acquisition by another State acting in violation of article 9.

Article 12

Every State has the right of individual or collective self-defence against armed attack.

Article 13

Every State has the duty to carry out in good faith its obligations arising from treaties and other sources of international law, and it may not invoke provisions in its constitution or its laws as an excuse for failure to perform this duty.

Article 14

Every State has the duty to conduct its relations with other States in accordance with international law and with the principle that the sovereignty of each State is subject to the supremacy of international law."

382. The Commission further explained that the rights and duties set forth in the draft Declaration were formulated in general terms, without restriction or exception, as befitted a declaration of basic rights and duties and that the articles of the draft Declaration enunciated general principles of international law, the extent and the modalities of the application of which were to be determined by more precise rules.

383. In the Sixth Committee, to which the Commission's draft was referred, discussion took place on the question of the procedure to be followed in respect of the draft. Opinions also differed as to the legal nature of the draft

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Declaration and as to its binding character in the event of its adoption by the General Assembly. Some representatives were inclined to consider the draft Declaration as a formulation of positive international law. Other representatives held the view that the draft Declaration contained also principles which had not yet become positive international law. Several representatives pointed out that certain articles of the draft declaration repeated, in different words, principles contained in the Charter of the United Nations, and warned of the difficulties which might arise from reproducing provisions of the Charter in a form not identical with its text.

384. Amendments to the text of the draft Declaration were submitted by the delegations of Argentina, Chile, China and Cuba. The delegation of Yugoslavia presented a proposal containing a new draft declaration. The Sixth Committee agreed that detailed examination of the draft Declaration, the amendments thereto and the Yugoslav proposal should be postponed until it had decided what action should be recommended to the General Assembly in regard to the draft Declaration.

385. On the recommendation of the Sixth Committee, the General Assembly adopted, on 6 December 1949, resolution 375 (IV) reading as follows:

"The General Assembly,

Having received the draft Declaration on Rights and Duties of States prepared by the International Law Commission in pursuance of the instruction given to it by the General Assembly in resolution 178 (II) of 21 November 1947,

Considering that it is a responsibility of the United Nations, and more especially of the General Assembly, under Article 13 of the Charter, to encourage the progressive development of international law and its codification,

Considering that at the present time it has encountered some difficulties in formulating basic rights and duties of States in the light of new developments of international law and in harmony with the Charter of the United Nations, and recognizing the need of continuing study with regard to this subject,

1. Notes the draft Declaration on Rights and Duties of States prepared by the International Law Commission and expresses to the Commission its appreciation for its work on the draft Declaration;

2. Deems the draft Declaration a notable and substantial contribution towards the progressive development of international law and its codification and as such commends it to the continuing attention of Member States and of jurists of all nations;

3. Resolves to transmit to Member States, for consideration, the draft Declaration together with all the documentation relating thereto produced during the present session of the General Assembly, and to request them to furnish their comments and suggestions at the latest by 1 July 1950;

4. Requests Member States to furnish at the same time comments on the following questions:

(a) Whether any further action should be taken by the General Assembly on the draft Declaration;

(b) If so, the exact nature of the document to be aimed at and the future procedure to be adopted in relation to it;

5. Requests the Secretary-General to prepare and publish the suggestions and comments furnished by Member States, for such use as the General Assembly may find desirable;

6. Directs that the text of the draft Declaration be annexed to the present resolution."

Consideration by the General Assembly at the Sixth Session, 1951-1952 and Report of the Secretary-General

386. When the item was considered in the Sixth Committee at the sixth session of the General Assembly, only twelve States had replied to the Assembly's request. The discussion in the Sixth Committee was confined to the procedural aspect of the question. In its resolution 596 (VI) of 7 December 1951 adopted on the recommendation of the Sixth Committee, the Assembly:

"1. Decides to postpone for the time being consideration of the draft Declaration on Rights and Duties of States until a sufficient number of States have transmitted their comments and suggestions, and in any case to undertake consideration as soon as a majority of the Member States have transmitted such replies;

2. Urges the Member States which have not yet done so to reply as soon as possible to the questions put by the General Assembly in paragraph 4 of resolution 375 (IV);

3. Requests the Secretary-General to publish the comments and suggestions which will be furnished by Member States, for such use as the General Assembly may find desirable at any later stage."

387. Pursuant to the above resolution, the Secretary-General reported to the Assembly the publication of eighteen additional replies received from Member States as of 30 June 1953. There was no further development after this report of the Secretary-General.



The Egyptian QuestionConsideration by the Security Council, 1947

38. At its 159th meeting on 17 July 1947, the Security Council had before it a request submitted by Egypt under Articles 35 and 37 to consider its dispute with the United Kingdom which had arisen as a result of the presence of British troops on Egyptian territory, contrary to the Charter and to the General Assembly's resolution 41 (I) on the principles governing the general regulation and reduction of armaments and armed forces. Egypt also complained that British policy in relation to the Sudan had given rise to a dispute the continuance of which was likely to endanger the maintenance of international peace and security. Speaking before the Council, the representative of Egypt emphasized that the persistent British occupation of Egyptian territory and the consequent British interference in matters which were essentially within the domestic jurisdiction of Egypt were sources of recurring conflicts between the two Governments and created friction between the population and the occupying forces. Negotiations which had been started in 1946 with a view to reorientating Anglo-Egyptian relations had proved futile, according to the Egyptian representative, because the United Kingdom Government tried, as a price of Egypt's natural right to evacuation, not only to force Egypt into an onerous alliance but also to secure the maintenance in the Sudan of the administrative regime started in 1899, under cover of which Britain held all authority in violation of Egypt's sovereign rights. Commenting upon the 1936 Anglo-Egyptian Treaty, the Egyptian representative maintained that the continued occupation of Egyptian territory by British forces was contrary to the principle of the sovereign equality of States as well as to the system of collective security established by the Charter.

39. The representative of the United Kingdom stated that no proof had been given that international peace and security were endangered. Without being under any legal obligation to do so, in 1946 the United Kingdom Government had entered into negotiations with the Egyptian Government regarding revision of the 1936 Treaty. The negotiations had led to the drawing up of a new Treaty of Mutual Assistance accompanied by two protocols: one related to the evacuation of British forces and the other to the Sudan. The Treaty and the two protocols had been initialled in

October 1946, by the Egyptian Prime Minister and the Foreign Secretary of the United Kingdom. The only provision in the Treaty and the protocols which had led to their rejection by the Egyptian Government was the recognition of the right of the Sudanese people to choose the future status of their country. The United Kingdom, considering that the right of the Sudanese people to determine their future status for themselves was in accordance with the spirit of the Charter, especially Article 1, paragraph 2, had maintained its policy in this respect.

390. In the course of discussion the representatives of Poland, Syria and the USSR expressed sympathy with the attitude of the Egyptian Government, which considered that the continued presence of foreign troops on its territory was incompatible with its national interests as a sovereign State and with the principles of the Charter. In the light of the provisions of Article 103 of the Charter and the Assembly's resolution 41 (I), Egypt's demand for the withdrawal of all British troops from the territory of Egypt and the Sudan was justified.

391. The representatives of Belgium, Brazil, China and France urged that negotiations between the two Governments should be resumed. The representative of Brazil introduced a draft resolution to this effect, to which a number of amendments were proposed. The representative of Belgium suggested that the draft should be amended to include a reference to the International Court of Justice of disputes concerning the validity of the Treaty of 1936. Commenting on this suggestion, the representative of Egypt declared that it would be superfluous since Article 33 of the Charter, which was expressly referred to in the Brazilian draft resolution, itself mentioned judicial settlement. The USSR representative stated that he considered the Brazilian draft resolution to be unsatisfactory; direct negotiations should be recommended by the Council only when it was self-evident that the parties had not exhausted the possibilities of direct negotiations. He thought it inadvisable to recommend negotiations between two parties when one of them was still occupying part of the territory of the other. Following further discussion, the Brazilian draft resolution received six votes in favour, one against and three abstentions, and was not adopted. A draft resolution submitted by the representative of Colombia and containing more specific conditions regarding negotiations between the parties, also failed to receive the required number of affirmative votes. When the Security Council resumed consideration of the question

on 10 September 1947, a Chinese draft resolution recommending the resumption of negotiations also failed of adoption.

Exploitation of Natural Wealth and Resources and Permanent Sovereignty over  
Natural Resources

Consideration by the General Assembly during the Sixth and Seventh Sessions,  
1952-1953

392. In resolution 525 (VI), adopted unanimously at the General Assembly's sixth session in 1952, the Assembly considered:

"that the under-developed countries have the right to determine freely the use of their natural resources and that they must utilize such resources in order to be in a better position to further the realization of their plans of economic development in accordance with their national interests, and to further the expansion of the world economy."

At the seventh session the question of the right of each country to nationalize and freely exploit its natural wealth was considered once more by the Assembly. There was general agreement on the right of a sovereign State to nationalize its national wealth and resources. It was also stated during discussion that other States were not entitled to interfere with the exercise of that right by exerting political and economic pressure against the State wishing to nationalize.

393. During the Assembly's seventh session, the Second Committee had before it a draft resolution submitted by Uruguay, the operative part of which recommended that Member States should respect the right of each country to nationalize and freely exploit its natural wealth as an essential factor of economic independence. By this means, declared the representative of Uruguay, it would be easier for under-developed countries to attain economic independence without recourse to foreign investment. The representative of Bolivia proposed that the draft resolution should be amended to recommend that Member States, in deference to the right of each country to nationalize wealth, should not use their governmental and administrative agencies as instruments of coercion, or of political or economic intervention.

394. It was generally agreed during the debate in the Committee that the right of a country to nationalize its natural resources, if it so desired, was a sovereign right, recognized in international law and inalienable. The representative of

Honduras suggested that the Assembly might recommend that States should respect the jurisdictional right of each Member State to protect its national sovereignty and to nationalize its property under appropriate conditions. The representatives of Iran and Mexico thought that it might be useful to recommend that States should not exert political or economic pressure against a Government that had exercised its right to nationalize its wealth.

395. While agreeing with the principle involved in the draft resolution, the representatives of Australia, Belgium, Canada, Denmark, Haiti, Israel, the Netherlands, New Zealand, the Philippines and the United Kingdom, among others, were of the opinion that if the United Nations were to affirm the right of a State to nationalize its wealth and resources, it might undermine the efforts to encourage foreign investments in under-developed countries, particularly if the United Nations did not, at the same time, stress the obligations of countries which nationalized their wealth to grant proper indemnity to the foreign investments affected. The representatives of Haiti, Sweden, the Union of South Africa, and the United Kingdom also considered that the question of nationalization of natural resources was essentially a matter of domestic jurisdiction and not within the competence of the United Nations.

396. On the basis of the discussion and taking into account the Bolivian amendment, which was withdrawn, the representatives of Bolivia and Uruguay submitted a joint revised draft resolution. This draft, as amended by India, was adopted by a roll-call vote of 31 to 1, with 19 abstentions. In explaining his vote against the resolution, the representative of the United States said that he considered the proposal unbalanced since it failed to recognize any reciprocal responsibility towards private investors. A number of other speakers expressed similar views.

397. The representatives of Brazil, Colombia, Egypt, Iran, Indonesia, Pakistan, Saudi Arabia, Mexico and Yugoslavia supported the resolution giving, among others, the following reasons: (1) that it was a country's duty to consider the best interests of its people and it was useful to recommend that Members refrain from acts designed to impede the exercise of a State's sovereignty over its natural resources; and (2) that, in emphasizing the need for measures to promote understanding and co-operation among nations, the resolution was in line with the principles of the Charter and would encourage economic and social progress.

398. The General Assembly considered the draft resolution proposed by the Second Committee at its 411th plenary meeting on 21 December 1952. It also had before it an amendment by India to the first operative paragraph of the draft, recommending that, in the exercise of their right to exploit their natural wealth and resources, States should have due regard for maintaining the flow of capital in conditions of security, confidence and economic co-operation among nations. Following acceptance of the Indian amendment the resolution was adopted as a whole by a roll-call vote of 36 to 4, with 20 abstentions.

Resolution 626 (VII). Right to exploit freely natural wealth and resources

"The General Assembly,

Bearing in mind the need for encouraging the under-developed countries in the proper use and exploitation of their natural wealth and resources,

Considering that the economic development of the under-developed countries is one of the fundamental requisites for the strengthening of universal peace,

Remembering that the right of peoples freely to use and exploit their natural wealth and resources is inherent in their sovereignty and is in accordance with the Purposes and Principles of the Charter of the United Nations,

1. Recommends all Member States, in the exercise of their right freely to use and exploit their natural wealth and resources wherever deemed desirable by them for their own progress and economic development, to have due regard, consistently with their sovereignty, to the need for maintaining the flow of capital in conditions of security, mutual confidence and economic co-operation among nations;

2. Further recommends all Member States to refrain from acts, direct or indirect, designed to impede the exercise of the sovereignty of any State over its natural resources."

Consideration by the General Assembly during the Seventeenth Session, 1962

399. An eight-point declaration concerning the permanent sovereignty of peoples and nations over their wealth and resources was adopted by the General Assembly at its seventeenth session, by 87 votes to 2, with 12 abstentions, as resolution 1803 (XVII). The declaration was based on a draft resolution



recommended to the Economic and Social Council by the United Nations Commission on Permanent Sovereignty over Natural Resources.<sup>1/</sup>

400. During the Assembly's seventeenth session extensive discussion took place in the Second Committee regarding the Commission's proposals. As pointed out by numerous speakers, the central problem before the Committee was the achievement of a formula which would safeguard and reconcile two essential principles, namely, respect for the national sovereignty of developing countries in need of foreign capital, and provision of adequate guarantees for potential investors.

Consideration of the problems involved ranged over such issues as expropriation, nationalization, payment of compensation, arbitration and adjudication in case of disputes, and protection for newly sovereign States against any possibility of being required to pay compensation for rights acquired on their territory when they were still in colonial status.

401. In connexion with this last issue Algeria proposed that a preambular paragraph should be added to the draft resolution, by which the Assembly would consider that

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<sup>1/</sup> The Commission was established under General Assembly resolution 1314 (XIII), following discussion in the Economic and Social Council and in the Third Committee during the Assembly's twelfth and thirteenth sessions. Resolution 1314 (XIII) provides in part as follows:

"The General Assembly,

Noting that the right of peoples and nations to self-determination as affirmed in the two draft covenants completed by the Commission on Human Rights includes permanent sovereignty over their natural wealth and resources,

Believing it necessary to have full information at its disposal regarding the actual extent and character of this sovereignty,

1. Decides to establish a Commission composed of Afghanistan, Chile, Guatemala, the Netherlands, the Philippines, Sweden, the Union of Soviet Socialist Republics, the United Arab Republic and the United States of America to conduct a full survey of the status of this basic constituent of the right to self-determination, with recommendations, where necessary, for its strengthening, and further decides that, in the conduct of the full survey of the status of the permanent sovereignty of peoples and nations over their natural wealth and resources, due regard shall be paid to the rights and duties of States under international law and to the importance of encouraging international co-operation in the economic development of under-developed countries."



the obligations of international law could not apply to alleged rights acquired before the accession to full national sovereignty of formerly colonized countries and that, consequently, such alleged acquired rights should be subject to review as between equally independent States. By a joint revised amendment on this point, the United Kingdom and the United States proposed the addition of two preambular paragraphs. Under the first of these, nothing in the operative paragraph of the draft resolution relating to compensation would prejudice in any way the position of any Member State on any aspect of the question of the rights and obligations of successor States and Governments in respect of property acquired before the accession to complete sovereignty of countries formerly under colonial rule. The second would have the Assembly note that the subject of succession of States and Governments was being examined as a matter of priority by the International Law Commission. In the light of these proposals, Algeria withdrew its amendment but reiterated its position that the permanent sovereignty of former colonies over their natural resources should not be compromised by any alleged rights acquired before their accession to national sovereignty. This position was generally supported by Ceylon, Syria, Tanganyika and Yugoslavia, among others. The two joint amendments were eventually adopted by the Second Committee.

402. A number of amendments were put forward with regard to the settlement of disputes arising out of compensation questions. One of these, a revised joint amendment by the United Kingdom and the United States, provided that in any case where the question of compensation had given rise to a controversy, national jurisdiction should be exhausted. However, upon agreement by the parties, settlement of the dispute should be made through arbitration or international adjudication. Mauritania submitted an amendment to specify that the national jurisdiction was that of the State taking such measures. Jordan, Morocco and Thailand proposed an amendment, later withdrawn, whereby recourse to arbitration or international adjudication would be possible if no settlement was reached under national jurisdiction. During the discussion, a number of Members maintained that the United Kingdom-United States amendment was not compatible with State sovereignty, since it implied that national jurisdiction could be excluded if prior agreement were reached to resort to international adjudication. It was also argued that exhaustion of national jurisdiction implied that recourse to such jurisdiction

was only a first step in a process ending in arbitration or international adjudication as a matter of formal procedure, whereas in fact such procedure should be an exception and subject to agreement between the parties. Others, however, maintained that a State's freedom of action to enter into prior agreements to resort to arbitration or international adjudication could not be denied. Eventually Mauritania's amendment was adopted by 76 votes to none, with 11 abstentions and the United Kingdom-United States amendment was approved by 52 votes to 28, with 13 abstentions. As finally approved, this particular section of paragraph 4 provided that, in any case where the question of compensation gave rise to a controversy, national jurisdiction of the State taking such measures "shall be exhausted". However, upon agreement by sovereign States and other parties concerned, settlement should be made through arbitration or international adjudication.

403. A proposal by the USSR, by which the Assembly would have declared that it unreservedly supported measures taken by peoples and States to re-establish or strengthen their sovereignty over natural wealth and resources and considered inadmissible acts aimed at obstructing the creation, defence and strengthening of that sovereignty, was adopted by the Second Committee but was rejected by the General Assembly. The resolution as a whole was adopted by 37 votes to 2, with 12 abstentions. Specific mention of the sovereign equality of States was made in operative paragraph 5 of the resolution, relating to the free and beneficial exercise of the sovereignty of peoples and nations over their natural resources.

Resolution 1803 (XVII). Permanent Sovereignty over Natural Resources

"The General Assembly,

Recalling its resolutions 523 (VI) of 12 January 1952 and 626 (VII) of 21 December 1952,

.....

Bearing in mind its resolution 1515 (XV) of 15 December 1960, in which it recommended that the sovereign right of every State to dispose of its wealth and its natural resources should be respected,

Considering that any measure in this respect must be based on the recognition of the inalienable right of all States freely to dispose of

their natural wealth and resources in accordance with their national interests, and on respect for the economic independence of States,

Considering that nothing in paragraph 4 below in any way prejudices the position of any Member State on any aspect of the question of the rights and obligations of successor States and Governments in respect of property acquired before the accession to complete sovereignty of countries formerly under colonial rule,

Noting that the subject of succession of States and Governments is being examined as a matter of priority by the International Law Commission,

Considering that it is desirable to promote international co-operation for the economic development of developing countries, and that economic and financial agreements between the developed and the developing countries must be based on the principles of equality and of the right of peoples and nations to self-determination,

Considering that the provision of economic and technical assistance, loans and increased foreign investment must not be subject to conditions which conflict with the interests of the recipient State,

Considering the benefits to be derived from exchanges of technical and scientific information likely to promote the development and use of such resources and wealth, and the important part which the United Nations and other international organizations are called upon to play in that connexion,

Attaching particular importance to the question of promoting the economic development of developing countries and securing their economic independence,

Noting that the creation and strengthening of the inalienable sovereignty of States over their natural wealth and resources reinforces their economic independence,

Desiring that there should be further consideration by the United Nations of the subject of permanent sovereignty over natural resources in the spirit of international co-operation in the field of economic development, particularly that of the developing countries,

I

Declares that:

1. The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned.

2. The exploration, development and disposition of such resources, as well as the import of the foreign capital required for these purposes, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities.

3. In cases where authorization is granted, the capital imported and the earnings on that capital shall be governed by the terms thereof, by the national legislation in force, and by international law. The profits derived must be shared in the proportions freely agreed upon, in each case between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State's sovereignty over its natural wealth and resources.

4. Nationalization, expropriation or requisitioning shall be based on grounds or reasons of public utility, security or the national interest which are recognized as overriding purely individual or private interests, both domestic and foreign. In such cases the owner shall be paid appropriate compensation, in accordance with the rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law. In any case where the question of compensation gives rise to a controversy, the national jurisdiction of the State taking such measures shall be exhausted. However, upon agreement by sovereign States and other parties concerned, settlement of the dispute should be made through arbitration or international adjudication.

5. The free and beneficial exercise of the sovereignty of peoples and nations over their natural resources must be furthered by the mutual respect of States based on their sovereign equality.

6. International co-operation for the economic development of developing countries, whether in the form of public or private capital investments, exchange of goods and services, technical assistance, or exchange of scientific information, shall be such as to further their independent national development and shall be based upon respect for their sovereignty over their natural wealth and resources.

7. Violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international co-operation and the maintenance of peace.

8. Foreign investment agreements freely entered into by or between sovereign States shall be observed in good faith; States and international organizations shall strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the Charter and the principles set forth in the present resolution.

Declaration on Granting Independence to Colonial Countries and Peoples

Consideration by the General Assembly during the Fifteenth Session, 1960

404. In resolution 1514 (XV), approved on 14 December 1960, by 89 votes to none, with 9 abstentions, the General Assembly adopted a "Declaration on the Granting of Independence to Colonial Countries and Peoples". The resolution provides in part as follows:

"The General Assembly,

.....

Conscious of the need for the creation of conditions of stability and well-being and peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

.....

Declares that:

.....

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

.....

6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity."

405. During the fifteenth session of the Assembly the matter was discussed in plenary meetings; the Assembly had before it two draft resolutions, one proposed by the USSR and the other by forty-three Asian-African States. The debate chiefly centred on the general aspects of the granting of independence to colonial countries

and peoples and on the provisions of Article 1, paragraph 2, relating to "the principle of equal rights and self-determination of peoples". A number of speakers referred, however, to particular aspects of the four principles presently under consideration.

406. The representative of Iran declared that it should be understood that any act of aggression against an independent State constituted a crime against humanity. This crime took on an even graver complexion when it was directed against a country which had just attained its independence. Moreover, any intervention by a more powerful State in the domestic affairs of another, and any economic, political or ideological pressure applied from outside with the intention of disrupting the normal functioning of the domestic institutions of a country, constituted the basic elements of a neo-colonialism which was incompatible with national independence and sovereignty and with the purposes and principles of the Charter. The representative of Argentina stated that the recipient State itself should be the final judge of any assistance it wished to receive; to place restrictions on its freedom of choice would be to impose conditions on its independence and to diminish the full sovereignty which that independence implied. Friendly co-operation between former colonies and metropolitan countries referred only to co-operation based on effective equality and mutual respect.

407. The representative of Ghana and many other speakers called upon all colonial Powers to eschew the use of armed action and other repressive acts directed against peoples fighting for their freedom from colonialism. The representatives of Australia, Burma and New Zealand declared, however, that operative paragraph 4 relating to armed action was not intended to prevent the use of police in the normal maintenance of law and order.

408. After the USSR draft Declaration and two amendments proposed by the USSR had been rejected, the draft resolution proposed by forty-three Asian and African States was adopted, as resolution 1514 (XV).

### The Peaceful Uses of Outer Space

#### Consideration by the General Assembly during the Sixteenth Session, 1961

409. The question of the peaceful uses of outer space has been considered by the General Assembly at each session since 1958. In resolution 1721 (XVI), adopted unanimously on 20 December 1961, the General Assembly expressly recognized:



"... the common interest of mankind in furthering the peaceful uses of outer space and the urgent need to strengthen international co-operation in this important field",

and commended to States for their guidance in the exploration and use of outer space the following principles:

"(a) International law, including the Charter of the United Nations, applies to outer space and celestial bodies;

(b) Outer space and celestial bodies are free for exploration and use by all States in conformity with international law and are not subject to national appropriation."

410. In the First Committee, which considered the report of the Committee on the Peaceful Uses of Outer Space during December 1961, there was general acceptance by all speakers of the principles cited above. The Polish representative, referring to principle (a) above, declared that it followed that the basic principle of the sovereign equality of States enunciated in Article 2, paragraph 1, of the Charter, must be extended to outer space. He complained that the United States had prevented the application of that principle to the procedures of the Committee on the Peaceful Uses of Outer Space. The representative of Greece declared, however, that while it fully supported the principle of the sovereign equality of States his delegation could not agree that it was necessary that that Committee's decisions should be unanimous in all cases, as the USSR had proposed.

411. A number of speakers referred to the principle that outer space should be used solely for peaceful purposes. The representative of Japan declared that, in proclaiming freedom of the exploration and use of outer space, any implication that such exploration and use were being sanctioned for any and every purpose, including military purposes, should be avoided. The draft resolution submitted unanimously to the General Assembly by the First Committee was sponsored by all members of the Committee on the Peaceful Uses of Outer Space.

Consideration by the General Assembly during the Seventeenth Session, 1962

412. During the Assembly's seventeenth session there was further discussion of the item, chiefly in the First Committee. The representative of the United States, recalling the terms of resolution 1721 A (XVI), declared that Article 2, paragraph 4, of the Charter applied, without any possible equivocation, to conduct

in outer space. Until disarmament was achieved, the test of any space activity must be not whether it was military or non-military but whether it was consistent with the Charter and the obligations of international law. His Government believed that, according to established principles of international law, States should take all reasonable steps to avoid activities which restricted the free use of outer space by other countries.

413. The USSR representative referred to the draft Declaration of the basic principles governing the exploration and use of outer space, which his Government had submitted to the Committee on the Peaceful Uses of Outer Space. Under this declaration all Member States, including the USSR and the United States, would assume highly specific legal obligations with regard to co-operation in space, based on the Charter of the United Nations, resolution 1721 (XVI) and other generally recognized principles of international law. The use of space vehicles to obtain intelligence information was, he declared, a violation of national sovereignty. With reference to this last opinion, the representative of Peru stated that although he of course supported the principles of non-intervention and territorial integrity, it was questionable whether a State which carried out flights over a territory and took photographs was in fact committing an offence under international law. Similar views were expressed by the representative of Australia. The United Kingdom delegate stated that observation from outside the territory of any State was not contrary to international law; since such observations involved neither the use nor threat of force they did not offend against Article 2, paragraph 4, of the Charter.

414. The representative of Hungary stated that the recent explosion of a nuclear device at a high altitude by the United States was a clear violation of international law, and in particular of Article 2, paragraph 4, of the Charter, since it had hindered the peaceful exploration of space, disrupted telecommunications between States, and shown a disregard for the legitimate interests of other States.

415. The discussions led to the unanimous adoption of resolution 1802 (XVII), by the Assembly, following its unanimous adoption by the First Committee. In the resolution the General Assembly expressed its belief:

"that the activities of States in the exploration and use of outer space should be carried out in conformity with international law including the Charter of the United Nations, in the interest of friendly relations among nations,"

and called upon all Member States to co-operate in the future development of law for outer space. It also asked the Committee on the Peaceful Uses of Outer Space to continue urgently its work on the further elaboration of basic principles governing space activities, taking into account the proposals presented to the Assembly during its discussions on the item.

Consideration by the General Assembly during the Eighteenth Session, 1963

416. At the Assembly's eighteenth session there was further discussion of the item in the light of reports submitted by the Committee on the Peaceful Uses of Outer Space and by the Economic and Social Council. The representative of the United States, in common with many other speakers, referred with satisfaction to the Moscow Treaty banning nuclear weapon tests in the atmosphere, under water and in outer space, and to resolution 1884 (XVIII), which called upon States to refrain from orbiting objects carrying nuclear weapons or other weapons of mass destruction.

417. The representative of Hungary stated that operative paragraph 2 of the draft declaration put forward by the Committee on the Peaceful Uses of Outer Space, referring to the free use of outer space, had to be interpreted subject to the understanding that such use was subject to the limitations of international law; no State was entitled to jeopardize from or in that environment the security of another State and its rights and interests in the exploration of outer space. Operative paragraph 6, which mentioned appropriate international consultation, reflected the necessity of concerting all space activities. Every sovereign State expected to be able to give its opinion before the initiation of any potentially harmful experiment. As to the sixth preambular paragraph, in which General Assembly resolution 110 (II) condemning war propaganda was recognized as applicable to outer space, he agreed with the Brazilian delegation that a ban should be imposed on the utilization of satellite communication systems for purposes of encouraging national, racial or class rivalries.

418. A large number of speakers expressed the hope that the adoption of the draft declaration would be supplemented by the formulation of more detailed legal rules. Particular mention was also made of the need that the principle that outer space should be used solely for peaceful purposes, should be regarded as an international obligation by all States engaging in activities in space. The representative of Brazil stated that his delegation had some doubts as to the wisdom of the unqualified extension to outer space of the principles of the United Nations Charter and of international law. It had to be borne in mind that the Charter had been drafted before the dawn of the atomic and space ages. Thus, international law and the Charter recognized the right of self-defence, which could be effectively exercised on earth, where it constituted an adequate safeguard for all concerned; this was only one example, however, of the complex questions involved in the unqualified application of international law to outer space, which would require further study.

419. The draft declaration was approved unanimously by the First Committee and adopted by the General Assembly in plenary meeting on 13 December 1963 as resolution 1962 (XVIII).

Resolution 1962 (XVIII). Declaration of Legal Principles Governing the  
Activities of States in the Exploration and  
Use of Outer Space

"The General Assembly,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be carried on for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between nations and peoples,

Recalling its resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and considering that the aforementioned resolution is applicable to outer space,

Taking into consideration its resolutions 1721 (XVI) of 20 December 1961 and 1802 (XVII) of 14 December 1962, adopted unanimously by the States Members of the United Nations,

Solemnly declares that in the exploration and use of outer space States should be guided by the following principles:

1. The exploration and use of outer space shall be carried on for the benefit and in the interests of all mankind.

2. Outer space and celestial bodies are free for exploration and use by all States on a basis of equality and in accordance with international law.

3. Outer space and celestial bodies are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

4. The activities of States in the exploration and use of outer space shall be carried on in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and understanding.

5. States bear international responsibility for national activities in outer space, whether carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried on in conformity with the principles set forth in the present Declaration. The activities of non-governmental entities in outer space shall require authorization and continuing supervision by the State concerned. When activities are carried on in outer space by an international organization, responsibility for compliance with the principles set forth in this Declaration shall be borne by the international organization and by the States participating in it.

6. In the exploration and use of outer space, States shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space with due regard for the corresponding interests of other States. If a State has reason to believe that an outer space activity or experiment planned by it or its nationals would cause potentially harmful interference with activities of other States in the peaceful exploration and use of outer space, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State which has reason to believe that an outer space activity or experiment planned by another State would cause potentially harmful

interference with activities in the peaceful exploration and use of outer space may request consultation concerning the activity or experiment.

7. The State on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and any personnel thereon, while in outer space. Ownership of objects launched into outer space, and of their component parts, is not affected by their passage through outer space or by their return to the earth. Such objects or component parts found beyond the limits of the State of registry shall be returned to that State, which shall furnish identifying data upon request prior to return.

8. Each State which launches or procures the launching of an object into outer space, and each State from whose territory or facility an object is launched is internationally liable for damage to a foreign State or to its natural or juridical persons by such object or its component parts on the earth, in air space, or in outer space.

9. States shall regard astronauts as envoys of mankind in outer space, and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of a foreign State or on the high seas. Astronauts who make such a landing shall be safely and promptly returned to the State of registry of their space vehicle."



LIST OF AGENDA ITEMS CONSIDERED BY THE GENERAL ASSEMBLY AND THE  
SECURITY COUNCIL INVOLVING ONE OR MORE OF THE PRINCIPLES OF  
INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION  
AMONG STATES, REFERRED TO IN OPERATIVE PARAGRAPH 4 (b) OF  
RESOLUTION 1966 (XVIII)

420. The items listed below in chronological order cover those considered by the General Assembly from its first to its eighteenth session and those considered by the Security Council from 1946 to June 1964. The four principles are referred to as (A) (B) (C) and (D) which correspond to their numbering in the text of the present paper. Where an item was considered by the Security Council and, at the Council's request, was later considered by the General Assembly, only one entry is given to that item. Similarly, where an item was submitted first to the Security Council and then to the General Assembly in identical terms, or vice versa, that item is also given a single entry.

421. The present list includes all the items, relating to or bearing upon one or more of the four Principles, which appeared on the provisional agenda of the General Assembly or the Security Council and on which substantive discussion had taken place in the organ concerned. It excludes only those items which were withdrawn without having been considered by any organ or those which were adopted for inclusion in the agenda without discussion and on which the sponsor did not press for consideration.

422. In the present list, an item is related to one or more principles where reference to the principle or principles was made in the initial submission of the item, during the discussion of the item, or in the proposals submitted under the item, regardless of whether those proposals were adopted or rejected by the organ concerned. In this connexion, account is also taken of the proposals, suggestions and comments on the four principles made by Member States in the course of discussion of the item entitled "consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter" at the seventeenth and eighteenth sessions of the General Assembly (cf. A/AC.119/L.1).

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
1. The Iranian question	1946		(B) (C)
2. Relations of Member States with Spain		I, II, III, V	(C)
3. The Spanish question	1946		(C)
4. Draft declaration on the rights and duties of States		I, II, IV, VI	(A) (B) (C) (D)
5. Principles of international law recognized by the Charter and judgement of the Nürnberg Tribunal and the preparation of a draft code of offences against peace and security of mankind		I, II, V, VI, IX, XII	(A) (C)
6. The Syrian and Lebanese question	1946		(B) (C) (D)
7. Treatment of Indians in the Union <u>/Republic/</u> of South Africa		I - XVIII	(C)
8. Regional conferences of representatives of Non-Self-Governing Territories		I	(C)
9. Establishment or renewal of committee on information transmitted under Article 73 (e) of the Charter		I - IV, VI, VIII, X, XIII, XVI - XVIII	(C)
10. The Greek question and the Greek frontier incidents question	1946, 1947, 1950		(A) (B) (C)
11. The Indonesian question (I)	1946		(B) (C)
(II)	1947, 1948, 1949		(A) (B) (C)
		III, IV	(B)

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<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
12. Threats to political independence and territorial integrity of Greece		II - VI	(A) (B) (C)
13. Question of disarmament (regulation and reduction of armaments; general and complete disarmament)	1947, 1949 - 1952	I, III, IV, VI VIII, IX - XVIII	(A)
14. The Corfu Channel incidents	1947		(B)
15. The Egyptian question	1947		(B) (D)
16. The Palestine question	1947 - 1951, 1952 - 1959, 1961 - 1963	S-I, S-II, III - XVIII	(A) (B) (C) (D)
Threat or use of force		S-I	(A)
17. The question of Korea		II-IV, VI-XVIII	(A) (D)
Complaint of aggression against the Republic of Korea	1950, 1951	V	(A)
18. The Czechoslovak question	1948		(A) (B) (C)
19. Measures to be taken against propaganda and the inciters of a new war		II	(A)
20. Need for greater use by the United Nations and its organs of the International Court of Justice		II	(B)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
21. Identic notifications dated 29 September 1948 (relating to Berlin)	1948		(A) (B)
22. The Hyderabad question	1948		(A) (B)
23. The India-Pakistan question	1948 - 1952, 1957 - 1962, 1964		(A) (B)
24. Appeal to Great Powers to renew their efforts to compose their differences and establish a lasting peace		III	(B)
25. Observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms		III - V	(C)
26. Violation by the Union of Soviet Socialist Republics of fundamental human rights, traditional diplomatic practices and other principles of the Charter		III	(C)
27. Study of methods for the promotion of international co-operation in the political field		III, IV	(B)
Appointment of a rapporteur or conciliator for a situation or dispute brought to the attention of the Security Council	1950		(B)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
28. United Nations Field Service and United Nations Panel of Field Observers		IV	(B)
29. Essentials of peace		IV	(A) (B) (C) (D)
30. Threats to the political independence and territorial integrity of China and to the peace of the Far East, resulting from Soviet violation of the Sino-Soviet Treaty of Friendship and Alliance of 14 August 1945, and from Soviet violations of the Charter of the United Nations		IV - VI	(A) (B) (C)
31. Promotion of stability of international relations in the Far East		IV	(A) (B) (D)
32. Transmission and examination of information under Article 73 (e) of the Charter (Territories to which Chapter XI of the Charter applies; factors to be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government; principles which should guide Members in determining whether or not an obligation to transmit information exists)		IV, VIII, XIV XV, XVI	(C)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
33. Complaint of armed invasion of Taiwan (Formosa)	1950		(A)
34. Complaint of bombing by air force of the territory of China	1950		(A)
35. Complaint by the Union of Soviet Socialist Republics regarding aggression against China by the United States of America		V	(A)
36. Complaint by the Union of Soviet Socialist Republics regarding the violation of Chinese air space by the air force of the United States of America and the Machine-gunning and bombing of Chinese territory by that air force, and against the bombardment and illegal inspection of a merchant ship of the People's Republic of China by a military vessel of the United States		V	(A)
37. The question of Formosa		V	(C)
38. Uniting for peace		V	(A) (B) (C) (D)
39. Duties of States in the event of the outbreak of hostilities (see also "Question of defining aggression")		V	(A) (B)

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<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
40. Establishment of a permanent commission of good offices		V	(B)
41. Peace through deeds		V	(A) (B) (C)
42. Condemnation of propaganda against peace		V	(A)
43. Development of a twenty-year programme for achieving peace through the United Nations		V, VI	(B) (D)
44. Complaint of failure by the Iranian Government to comply with provisional measures indicated by the International Court of Justice in the Anglo-Iranian Oil Company case	1951		(C)
45. Bacterial warfare			
Question of an appeal to States to accede to and ratify the Geneva Protocol of 1925 for the prohibition of the use of bacterial weapons	1952		(A)
Question of a request for investigation of alleged bacterial warfare	1952	VII, VIII	(A) (B)
46. The Tunisian question	1952		(B) (C)
47. The question of Morocco	1953	VI - X	(B) (C) (C)

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<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
48. Methods which might be used to maintain and strengthen international peace and security in accordance with the Purposes and Principles of the Charter		VI, VII, IX	(A) (B)
49. Measures to combat (avert) the threat of a new world war and to strengthen peace and friendship among nations		VI, VII, VIII	(A) (B)
50. Complaint of aggressive acts of the United States of America and its interference in the domestic affairs of other countries, as instanced by the appropriation of 100 million dollars to finance the recruitment of persons and the organization of armed groups in the Soviet Union, Poland, Czechoslovakia, Hungary, Romania, Bulgaria, Albania and a number of other democratic countries, as well as outside the territory of those countries		VI, VII	(A) (C)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
51. Complaint of hostile activities of the Government of the Union of Soviet Socialist Republics and the Governments of Bulgaria, Hungary, Romania and Albania, as well as the Governments of Czechoslovakia and Poland, against Yugoslavia		VI	(A) (B) (C)
52. Appointment of an impartial international commission under United Nations supervision to carry out a simultaneous investigation in the Federal Republic of Germany, in Berlin, and in the Soviet Zone of Germany in order to determine whether existing conditions there make it possible to hold genuinely free elections throughout these areas		VI	(B) (C)
53. Integrated economic development and commercial agreements		VI	(C) (D)
54. Right of peoples and nations to self-determination		VI, VII, X - XIII	(C) (D)
55. Question of defining aggression		VI, VII, IX, XII	(A) (B) (C) (D)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
56. Complaint by the Union of Burma regarding aggression against it by the Government of the Republic of China		VII - IX	(A) (B) (C)
57. The question of race conflict in South Africa resulting from the policies of <u>apartheid</u> of the Government of the Union <u>/Republic/</u> of South Africa	1960, 1963, 1964	XII - XVIII	(B) (C)
58. Right to exploit freely natural wealth and resources		VII	(D)
59. Arbitral procedure		VIII, X, XIII	(B)
60. Request of Thailand for despatch of observers by the Peace Observation Commission	1954		(B)
61. Complaint of Guatemala	1954		(A) (B) (C)
62. Complaint by the United States of America regarding an attack on its aircraft	1954		(B)
63. Strengthening of peace through the removal of barriers of free exchange of information and ideas		IX	(C)
64. Complaint of acts of aggression against the People's Republic of China and responsibility of the United States Navy for those acts		IX	(A)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
65. Complaint of violation of the freedom of navigation in the area of the China seas		IX	(B)
66. The question of Cyprus (self-determination)		IX - XI, XIII	(C)
67. The question of West Irian (West New Guinea)		IX, X, XVIII	(B) (C)
68. The question of hostilities in the area of certain islands off the coast of the mainland of China )	1955	.	(A) (C)
69. The question of acts of aggression by the United States of America against the People's Republic of China in the area of Taiwan and other islands of China )			
70. The question of Algeria	1956, 1959	X - XVI	(A) (B) (C)
71. Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of the Suez Canal	1956, 1957		(B) (D)
72. Intervention by Israel and by France and the United Kingdom in Egypt	1956	ES-I, XI - XVIII	(A) (B) (C) (D)

<u>ITFM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
73. The situation in Hungary	1956	ES-I, XI - XVIII XIV, XVI, XVII	(A) (C) (D)
74. Draft Convention concerning a system of consultation		XI	(B)
75. The question of Oman	1957	XV - XVIII	(A) (B) (C)
76. Complaint about threats to the security of Syria and to international peace		XII	(A) (B) (C)
77. Peaceful and neighbourly relations among States		XII, XIII	(A) (B) (C) (D)
78. Complaints by Tunisia and France	1958		(A) (B)
79. Complaint by Sudan (question of the Sudan-Egyptian border)	1958		(A) (B)
80. Complaint of the Union of Soviet Socialist Republics (concerning flights by United States military aircraft armed with atomic and hydrogen bombs in the direction of the frontiers of the Soviet Union)	1958		(A) (B)
81. Complaints by Lebanon and Jordan	1958	ES-III	(A) (B) (C) (D)
82. Peaceful uses of outer space		XIII, XIV, XVI, XVIII	(D)



<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
83. The question of Laos	1959		(A) (B)
84. Question of French nuclear tests in the Sahara		XIV	(A) (D)
85. Prevention of the wider dissemination of nuclear weapons		XIV - XVI	(A)
86. Suspension of nuclear and thermonuclear tests		XIV - XVIII	(A)
87. The question of Tibet		XIV, XVI	(C)
88. Question submitted by Argentina, Ceylon, Ecuador and Tunisia (relating to the relations among Great Powers)	1960		(A) (B) (C) (D)
89. Complaints by the Union of Soviet Socialist Republics (relating to U-2 and RB-47 incidents)	1960		(A) (C) (D)
Complaint by the Union of Soviet Socialist Republics about a menace to world peace created by aggressive actions of the United States of America against the Union of Soviet Socialist Republics		XV	(A) (C) (D)
90. Letter from the representative of Argentina (relating to the case of Adolf Eichmann)	1960, 1961		(D)

ITEM	SECURITY COUNCIL (YEAR)	GENERAL ASSEMBLY (SESSION)	RELEVANT PRINCIPLE
91. The situation in the Republic of the Congo	1960 - 1962	ES-IV, XV - XVIII	(A) (B) (D)
92. Complaints by Cuba	1960 - 1961		(A) (B) (C)
93. Letter from the Union of Soviet Socialist Republics (relating to OAS action concerning Dominican Republic)	1960		(A)
94. The status of the German-speaking element in the Province of Bolzano		XV, XVI	(B)
95. Declaration on the granting of independence to colonial countries and peoples		XV	(D)
96. The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples		XVI - XVIII	(D)
97. Appeal for maximum support to efforts of newly emerging States for strengthening their independence		XV	(D)
98. The problem of Mauritania		XV	(A) (B)
99. Co-operation of Member States		XV	(B)

ITEM	SECURITY COUNCIL (YEAR)	GENERAL ASSEMBLY (SESSION)	RELEVANT PRINCIPLES
100. Complaint by the Revolutionary Government of Cuba regarding the various plans of aggression and acts of intervention being executed by the Government of the United States of America against the Republic of Cuba, constituting a manifest violation of its territorial integrity and independence and a clear threat to international peace and security.	1961	XV	(A) (B) (C) (D)
101. Concerted action for economic development of economically less developed countries		XV	(C) (D)
102. The situation in Angola	1961	XV - XVII	(C)
103. The question of Kuwait (Complaint by Kuwait) (in respect of the ) (situation arising ) (from the threat by ) (Iraq to the terri- ) (torial independence ) (of Kuwait, which is ) (likely to endanger ) (the maintenance of ) (international peace ) (and security )	1961		(A) (B)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
Complaint by the ) Government of the ) Republic of Iraq ) in respect of the ) situation arising ) out of armed ) threat by the ) United Kingdom ) to the indepen- ) dence and secur- ) ity of Iraq, ) which is likely ) to endanger the ) maintenance of ) international ) peace and ) security )			
104. Territories under Portuguese administration	1963	XV - XVIII	(C)
105. Complaint by Tunisia (Bizerta question)	1961	S-III	(A) (B) (E)
106. Complaint by Cuba (relating to United States intervention in Dominican Republic)	1961		(A) (B) (C) (D)
107. The question of Goa	1961		(A) (B) (C)
108. Complaints by Cuba of threats to international peace and security arising from new plans of aggression and acts of intervention being executed by the Government of the United States of America against the Revolutionary Government of Cuba		XVI	(A) (C)

<u>ITEM</u>	<u>SECURITY COUNCIL (YEAR)</u>	<u>GENERAL ASSEMBLY (SESSION)</u>	<u>RELEVANT PRINCIPLES</u>
109. The urgent need for a treaty to ban nuclear weapons tests under effective international control		XVI - XVIII	(A)
110. Consideration of Africa as a de-nuclearized zone		XVI	(A)
111. Permanent sovereignty over natural resources		XVI, XVII	(D)
112. Non-compliance of the Government of Portugal with Chapter XI of the Charter of the United Nations and with General Assembly resolution 1542 (XV)		XVI	(C)
113. The question of Southern Rhodesia	1963	XVI - XVIII	(C)
114. Complaint by Cuba (relating to Punta del Este decisions)	1962		(C) (D)
115. Situation in the Caribbean area	1962		(A) (C)
116. Question of boundaries between Venezuela and the territory of British Guiana		XVII	(B) (D)
117. Question of extended participation in general multilateral treaties concluded under the auspices of the League of Nations		XVII, XVIII	(D)

ITEM	SECURITY COUNCIL (YEAR)	GENERAL ASSEMBLY (SESSION)	RELEVANT PRINCIPLES
118. Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations		XVII, XVIII	(A) (B) (C) (D)
119. Complaint by Senegal	1963		(A) (B) (C) (D)
120. Complaint by Haiti (relating to situation existing between Haiti and Dominican Republic)	1963		(A) (B) (C) (D)
121. The question relating to Cyprus	1963, 1964		(A) (C) (D)
122. Denuclearization of Latin America		XVIII	(A)
123. Complaint by Panama (relating to the situation in the Canal Zone)	1964		(A) (B) (C)
124. Complaint by Yemen (relating to British military action at Harib)	1964		(A) (B) (C)
125. Complaint concerning acts of aggression against the territory and civilian population of Cambodia	1964		(A) (B) (C)