

Department of Political and Security Council Affairs

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of the
Practice
of the
Security Council

Supplement 1969-1971



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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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GENERAL INTRODUCTION

The present volume constitutes the sixth supplement to the *Repertoire of the Security Council, 1946-1951*, which was issued in 1954. It covers the proceedings of the Security Council from the 1463rd meeting on 24 January 1969 to the 1623rd meeting on 31 December 1971. Further supplements covering the proceedings of later meetings will be issued at suitable intervals.

In order to make it easier to trace the Security Council's practice in respect of any given topic over the entire period covered by the seven volumes, the headings under which the practices and procedures of the Security Council were presented in the original volume have been generally maintained unchanged in this supplement. Topics which the Council has not discussed anew during this time are identified by double asterisks.

The methods employed and the principles observed in the preparation of this supplement have been the same as for the original volume of the *Repertoire*. They are explained in the general introduction to that volume. The *Repertoire* is an expository work, which presents the results of an empirical survey of the procedures of the Council in a way calculated to make reference easy, and constitutes essentially a guide to the proceedings of the Council.

As was observed in the original volume, the *Repertoire* is not intended as a substitute for the records of

the Security Council, which constitute the only comprehensive and authoritative account of its deliberations. The categories employed to arrange the material are not intended to suggest the existence of procedures or practices which have not been clearly or demonstrably established by the Council itself. The Security Council is at all times, within the framework of the Charter, "master of its own procedure". The object of the *Repertoire* will have been achieved if the reader, by using the descriptive titles of the headings under which the material is presented, is enabled to find relevant proceedings in order to draw conclusions for himself concerning the practice of the Council.

Details of the decisions of the Council have been included where appropriate in the accounts of its proceedings which make up this volume. The term "decision" has again been used to mean not only those "decisions" to which specific reference is made in the text of Articles of the Charter, but all significant steps decided upon by the Council, whether by vote or otherwise, in the course of consideration of a question.

The reader should refer for full explanations of the organization and presentation of material to the explanatory matter in the original volume. An effort has been made to avoid unnecessary repetition of such explanation in this Supplement.

EDITORIAL NOTE

1. References to the Official Records of the meetings of the Security Council are given in the following form:

1614th meeting, para. 49.

2. Documents of the Security Council are identified by the serial number in the S/series. Where the mimeographed document has been printed in the supplements to the Official Records, an additional reference is given accordingly.

Example:

S/10299, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, pp. 56-57.

For documents printed only in the Official Records of meetings, reference is given to the meeting and page.

Example:

S/8603, 1428th meeting, para. 34.

Where reference is given only to the number of S/series, this indicates that the text is available as a mimeograph document only.

3. References to resolutions of the Security Council, published in yearly volumes of *Resolutions and Decisions of the Security Council*, follow the system adopted in 1964. They are identified by number, followed by the year of adoption in parentheses.

Example:

Resolution 249 (1968).

4. References to the *Official Records of the General Assembly* and their supplements are given in the following form:

GAOR, 24th sess., *plen. m.*, 1863rd meeting, para. 3;

GAOR, 26th sess., *Suppl. No. 6 (A/8006)*, p. 5.

For resolutions of the General Assembly:
Resolution 2520 (XXIV).

5. References from one chapter of the *Repertoire* to other chapters are in the following form:

See chapter XI, Case 3.

References to other cases in the same chapter are in the following form:

See Case 5.

6. In citing statements in case histories, it has been considered necessary at certain points to distinguish between statements made by representatives on the Council and statements by representatives or other persons invited to participate. In such instances, an asterisk has been inserted to distinguish the latter.

7. The original volume of the *Repertoire* should be cited as *Repertoire of the Practice of the Security Council, 1946-1951*. The present volume should be cited as *Repertoire of the Practice of the Security Council, Supplement 1969-1971*.

8. The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.

9. A list of short and official titles for agenda items considered by the Security Council throughout the period 1969-1971 is appended below. The short titles were formulated exclusively for the *Repertoire* in order to clarify for the reader the contents of the item under consideration. Hence they have no official standing.

Short title

The question of including Russian and Spanish among the working languages of the Security Council

Situation in Namibia

Official title

Letter dated 9 January 1969 from the Secretary-General addressed to the President of the Security Council transmitting the text of General Assembly resolution 2479 (XXIII) of 21 December 1968 (S/8962)

Note verbale dated 16 January 1969 from the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations addressed to the President of the Security Council (S/8967) and *note verbale* dated 16 January 1969 from the Permanent Mission of Spain to the United Nations addressed to the President of the Security Council (S/8968)

The situation in Namibia:

Letter dated 14 March 1969 addressed to the President of the Security Council by the representatives of Afghanistan, Algeria, Burundi, Cameroon, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Syria, Togo, Tunisia, Turkey, Uganda, United Arab Republic, United Republic of Tanzania, Yugoslavia and Zambia (S/9090 and Add.1, 2 and 3)

Situation in Namibia (*continued*)

The situation in Namibia:

Letter dated 24 July 1969 from the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, Turkey, United Arab Republic, Yugoslavia and Zambia addressed to the President of the Security Council (S/9359)

The situation in Namibia:

Letter dated 26 January 1970 addressed to the President of the Security Council from the representatives of Afghanistan, Algeria, Burundi, Cambodia, Cameroon, Ceylon, Chad, Congo (Democratic Republic of), Congo (People's Republic of), Cyprus, Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Syria, Thailand, Togo, Tunisia, Turkey, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia and Zambia (S/9616 and Add.1, 2 and 3)

The situation in Namibia:

- (a) Report of the *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970) (S/9863 and Add.1/Rev.1)
- (b) Letter dated 23 July 1970 from the Permanent Representatives of Burundi, Finland, Nepal, Sierra Leone and Zambia addressed to the President of the Security Council (S/9886)

The situation in Namibia:

- (a) Letter dated 17 September 1971 addressed to the President of the Security Council from the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Dahomey, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Zambia (S/10326)
- (b) Report of the *Ad Hoc* Sub-Committee on Namibia (/10330)

Situation in the Middle East

1. The situation in the Middle East:

Letter dated 26 March 1969 from the Permanent Representative of Jordan addressed to the President of the Security Council (S/9113)

2. The situation in the Middle East:

Letter dated 27 March 1969 from the Permanent Representative of Israel addressed to the President of the Security Council (S/9114)

The situation in the Middle East:

Letter dated 26 June 1969 from the Permanent Representative of Jordan addressed to the President of the Security Council (S/9284)

The situation in the Middle East:

- (a) Letter dated 12 August 1969 from the Chargé d'affaires a.i. of Lebanon addressed to the President of the Security Council (S/9385)

The situation in the Middle East:

- (b) Letter dated 12 August 1969 from the Permanent Representative of Israel addressed to the President of the Security Council (S/9387)

Letter dated 28 August 1969 addressed to the President of the Security Council by the representatives of Afghanistan, Algeria, Guinea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Mauritania, Morocco, Niger, Pakistan, Saudi Arabia, Somalia, Southern Yemen, Sudan, Syria, Tunisia, Turkey, United Arab Republic and Yemen (S/9421 and Add.1 and 2)

The situation in the Middle East:

- (a) Letter dated 12 May 1970 from the Permanent Representative of Lebanon addressed to the President of the Security Council (S/9794)

Situation in the Middle East
(continued)

The situation in the Middle East:

- (b) Letter dated 12 May 1970 from the Permanent Representative of Israel addressed to the President of the Security Council (S/9795)

The situation in the Middle East:

Letter dated 5 September 1970 from the Chargé d'affaires a.i. of Lebanon addressed to the President of the Security Council (S/9925)

The situation in the Middle East:

- (a) Letter dated 13 September 1971 from the Permanent Representative of Jordan to the United Nations addressed to the President of the Security Council (S/10313)
- (b) Reports of the Secretary-General (S/8052, S/8146, S/9149 and Add.1, S/9537, S/10124 and Add.1 and 2)

Complaint by the Government of
Cyprus

Letter dated 26 December 1963 from the Permanent Representative of Cyprus addressed to the President of the Security Council (S/5488)

Report by the Secretary-General on the United Nations Operation in Cyprus (S/9233)

Report by the Secretary-General on the United Nations Operation in Cyprus (S/9521 and Corr.1)

Report by the Secretary-General on the United Nations Operation in Cyprus (S/9814 and Corr.1-2)

Report by the Secretary-General on the United Nations Operation in Cyprus (S/10005 and Corr.1)

Report by the Secretary-General on the United Nations Operation in Cyprus (S/10199 and Corr.1)

Report by the Secretary-General on the United Nations Operation in Cyprus (S/10401)

Situation in Southern Rhodesia

Question concerning the situation in Southern Rhodesia:

Letter dated 6 June 1969 addressed to the President of the Security Council by the representatives of Afghanistan, Algeria, Botswana, Burundi, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Laos, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Swaziland, Syria, Thailand, Togo, Tunisia, Turkey, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia and Zambia (S/9237 and Add.1 and 2)

Reports of the Committee established in pursuance of resolution 253 (1968) (S/8954 and S/9252 and Add.1)

Question concerning the situation in Southern Rhodesia:

- (a) Letter dated 3 March 1970 from the Permanent Representative of the United Kingdom addressed to the President of the Security Council (S/9675)

- (b) Letter dated 6 March 1970 addressed to the President of the Security Council by the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Congo (People's Republic of), Dahomey, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia (S/9682/Rev.1)

Question concerning the situation in Southern Rhodesia:

- (a) Letter dated 6 November 1970 addressed to the President of the Security Council by the representatives of Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9975/Rev.1)
- (b) Third report of the Committee established in pursuance of Security Council resolution 253 (1968) (S/9844 and Add.1-3)

<i>Short title</i>	<i>Official title</i>
Situation in Southern Rhodesia (continued)	Question concerning the situation in Southern Rhodesia: (a) Letter dated 24 November 1971 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/10396) (b) Fourth report of the Committee established in pursuance of Security Council resolution 253 (1968) (S/10229 and Add.1 and 2) (c) Interim report of the Committee established in pursuance of Security Council resolution 253 (1968) (S/10408)
Complaint by Zambia	Complaint by Zambia: Letter dated 15 July 1969 from the Permanent Representative of Zambia addressed to the President of the Security Council (S/9331) Complaint by Zambia: Letter dated 6 October 1971 from the Permanent Representative of Zambia addressed to the President of the Security Council (S/10352)
Situation in Northern Ireland	The situation in Northern Ireland: Letter dated 17 August 1969 from the Permanent Representative of Ireland addressed to the President of the Security Council (S/9394)
Question of "associate membership"	Letter dated 18 August 1969 addressed to the President of the Security Council by the Permanent Representative of the United States of America (S/9397)
Consideration of the report of the Security Council to the General Assembly	Consideration of the report of the Security Council to the General Assembly
Amendment to Article 22 of the Statute of the International Court of Justice	International Court of Justice: Letter dated 23 September 1969 from the President of the General Assembly addressed to the President of the Security Council (S/9462)
Election of members of the International Court of Justice	Election of five members of the International Court of Justice (S/9353, S/9354 and Add.1/Rev.1 and Add.2-4, S/9391)
Complaints by Senegal	Complaints by Senegal: (a) Letter dated 27 November 1969 from the Permanent Representative of Senegal addressed to the President of the Security Council (S/9513) (b) Letter dated 8 December 1969 from the Permanent Representative of Senegal addressed to the President of the Security Council (S/9541) Complaints by Senegal: Letter dated 6 July 1971 from the Permanent Representative of Senegal addressed to the President of the Security Council (S/10251)
Complaint by Guinea	Complaints by Senegal: Report of the Special Mission of the Security Council established under resolution 294 (1971) (S/10308 and Corr.1) Complaint by Guinea: Letter dated 4 December 1969 from the Chargé d'affaires a.i. of Guinea addressed to the President of the Security Council (S/9528) Complaint by Guinea: (a) Letter dated 22 November 1970 from the Permanent Representative of Guinea to the United Nations addressed to the President of the Security Council (S/9987) (b) Report of the Security Council Special Mission to the Republic of Guinea established under resolution 289 (1970) (S/10009 and Add.1) Complaint by Guinea: Letter dated 3 August 1971 from the Permanent Representative of Guinea addressed to the President of the Security Council (S/10280) Complaint by Guinea: Special Mission to the Republic of Guinea in accordance with paragraph 2 of resolution 295 (1971)

<i>Short title</i>	<i>Official title</i>
Complaint by Guinea (<i>continued</i>)	Complaint by Guinea: Report of the Security Council Special Mission to the Republic of Guinea established under resolution 295 (1971) (S/10309/Rev.1)
Question of Bahrain	Question of Bahrain: (a) Letter dated 4 May 1970 from the Permanent Representative of Iran addressed to the President of the Security Council (S/9779) (b) Letter dated 5 May 1970 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland addressed to the President of the Security Council (S/9783) (c) Note by the Secretary-General (S/9772)
Question of periodic meetings of the Security Council	The question of initiating periodic meetings of the Security Council in accordance with Article 28 paragraph 2 of the Charter Letter dated 5 June 1970 from the Permanent Representative of Finland to the President of the Security Council (S/9824)
Question of race conflict in South Africa	The question of race conflict in South Africa resulting from the policies of <i>apartheid</i> of the Government of the Republic of South Africa: Letter dated 15 July 1970 addressed to the President of the Security Council by the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Dahomey, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, India, Ivory Coast, Kenya, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Pakistan, People's Republic of the Congo, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Yugoslavia and Zambia (S/9867)
Situation of hijacking	The situation created by increasing incidents involving the hijacking of commercial aircraft: (a) Letter dated 9 September 1970 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/9931) (b) Letter dated 9 September 1970 from the Permanent Representative of the United Kingdom to the United Nations addressed to the President of the Security Council (S/9932)
Admission of new Members	Admission of new Members: Letter dated 10 October 1970 from the Prime Minister of Fiji addressed to the Secretary-General (S/9957) Admission of new Members: (a) Letter dated 10 December 1970 from the King of Bhutan addressed to the Secretary-General (S/10050) (b) Report of the Security Council Committee on the Admission of New Members concerning the application of Bhutan for membership in the United Nations (S/10109) Admission of new Members: (a) Letter dated 24 May 1971 from the Prime Minister and Minister for Foreign Affairs of the Sultanate of Oman addressed to the Secretary-General (S/10216) (b) Letter dated 15 August 1971 from the Amir of the State of Bahrain addressed to the Secretary-General (S/10291) Admission of new Members: Report of the Security Council Committee on the Admission of New Members concerning the applications of Oman and Bahrain for membership in the United Nations (S/10294) Admission of new Members: Letter dated 4 September 1971 from the Emir of Qatar addressed to the Secretary-General (S/10306) Admission of new Members: Report of the Security Council Committee on the Admission of New Members concerning the application of Qatar for membership in the United Nations (S/10318)

<i>Short title</i>	<i>Official title</i>
Admission of new Members <i>(continued)</i>	Admission of new Members: (a) Letter dated 2 December 1971 from the President of the United Arab Emirates addressed to the Secretary-General (S/10420) (b) Report of the Security Council Committee on the Admission of New Members concerning the application of the United Arab Emirates for membership in the United Nations (S/10430)
Review of the International Situation	First periodic meeting of the Security Council: Review of the International Situation
Situation in the India/Pakistan subcontinent	The situation in the India/Pakistan subcontinent: (a) Letter dated 4 December 1971 from the Permanent Representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, United Kingdom of Great Britain and Northern Ireland and United States of America addressed to the President of the Security Council (S/10411) (b) Report of the Secretary-General (S/10410 and Add.1) (c) Report by the Secretary-General on the situation along the cease-fire line in Kashmir (S/10412 and Add.1) Letter dated 12 December 1971 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/10444)
Question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb	Letter dated 3 December 1971 from the representatives of Algeria, Iraq, the Libyan Arab Republic and the People's Democratic Republic of Yemen to the President of the Security Council (S/10409)
Appointment of the Secretary-General	Appointment of the Secretary-General

Chapter I

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL

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INTRODUCTORY NOTE

This chapter of the *Supplement* contains material pertaining to the practice of the Security Council in relation to all the provisional rules of procedure with the exception of those rules which are dealt with in other chapters as follows: chapter II: Agenda (rules 6-12); chapter III: Participation in the proceedings of the Council (rules 37-39); chapter VII: Admission of new Members (rules 58-60); chapter VI: Relations with other organs (rule 61). Material relating to the application of Article 27 (rule 40) is presented in chapter IV.

The major headings under which the material is entered in this chapter follow the classification previously adopted for the *Repertoire*. The arrangement of each part is based on the successive chapters of the provisional rules of procedure of the Security Council.

During the period under review, the Security Council adopted amendments to its provisional rules of procedure on one occasion when rules 41, 42, 43 and 44 were amended to include Russian and Spanish among the working languages of the Security Council (Case 43). Case histories entered in respect to other rules are confined entirely to those proceedings of the Council in which a question has arisen regarding the application of a certain rule, especially where discussion has taken place regarding variations from the usual practice. As was noted in the previous volumes, the case histories in this chapter do not attempt to provide cumulative evidence of the practices established by the Council, but are indicative of special problems which have arisen in the proceedings of the Council under its provisional rules.

Part I

MEETINGS (RULES 1-5)

NOTE

Part I deals with the practice concerning the convening of Council meetings and is concerned with interpretation of rules 1-5, which reflect the provisions of Article 28 of the Charter.

During the period under review there were no special instances of the application of rules 1, 3 and 5.

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 1-5

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 1-5

Rule 2

CASE 1

At the 1601st meeting on 24 November 1971, in connexion with the complaint by Senegal, the representative of the United Kingdom, speaking on a point of order, referred to his delegation's letter¹ requesting a meeting of the Council at 11.30 the following morning in connexion with the situation in Southern Rhodesia. After citing rule 2 of the Security Council's provisional rules of procedure, he stated:

"I know, Sir, that you have consulted all the other members of the Council in connexion with the request to which I referred. It was my assumption in making that request that all members of the Council would wish to hear a full statement from me, as soon as I was in a position to make one, explaining the details of the agreed proposals

designed to achieve a settlement of the Rhodesian problem which were signed in Salisbury yesterday. Indeed, throughout this last week in the United Nations, in numbers of Committees, we have continually had requests addressed to us for information on precisely what was happening. It was for that reason that I asked for a meeting of this Council to coincide as closely as possible with the time when the United Kingdom Parliament itself will be informed."

The representative of the United Kingdom then stated that in case there was any objection to the Council holding a meeting the next day, that objection might be stated formally.

The representative of the USSR stated:

"Mr. President, I understand the position to be as follows: it is proposed that we discuss an item on the agenda of the Security Council, that item being the situation in Southern Rhodesia. If that is the case, the Soviet delegation is ready to discuss the question of the date for a meeting to consider this matter with you and with the other members of the Security Council. As I understand it, we are not considering convening a special meeting of the Security Council in order to listen to information on the results of the visit of a statesman of one country to one of that country's colonies. That is not how we understand the situation. There is no precedent for it and we should not create one. All sorts of visits take place, and all sorts of talks are held, and the Security Council is not convened just to listen to information from one delegation or another as to the results of such visits.

¹ S/10396, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 40.

"I should therefore like to make it quite clear that if we are talking about discussing the question of the situation in Southern Rhodesia exactly as formulated in the agenda of the Security Council, then we are prepared to discuss both the date on which that meeting should be held and the time, and we have no objections. I should like to have your reply on this point."

The representative of France stated that the request for a meeting by the delegation of the United Kingdom was fully consistent with rule 2 of the provisional rules of procedure of the Security Council and therefore he was in favour of commencing a meeting as soon as possible to hear the representative of the United Kingdom. The representatives of Nicaragua, the United States, Argentina, Burundi, Italy, Japan and Belgium also expressed their support for a meeting as requested by the representative of the United Kingdom.

The representative of Somalia, after stating that the fourth report of the Security Council Committee on sanctions was awaiting discussion by the Council, suggested that since both that report and the United Kingdom request for a meeting related to the question of Southern Rhodesia, the Council should also include the former in its provisional agenda.

After the President (Poland) had stated that consultations were going on regarding the request of the representative of the United Kingdom for a meeting, the representative of Argentina stated:

"It seems to me that the Council in its wisdom has spared the President the task of holding consultations, because the majority of its members have already pronounced themselves. From what has been said it seems clear that there is no objection to hearing the statement of the representative of the United Kingdom a statement which promises to be extremely interesting.

"With regard to what appears to be a slight problem of form, that is, the wording of the agenda, rule 7 of our rules of procedure states that: 'The provisional agenda for each meeting of the Security Council is drawn up by the Secretary-General and approved by the President of the Security Council.' So that the question is in the hands of the Secretary-General, who will draw up the agenda, which you must then approve, Mr. President. If you agree, the consultations have taken place and the only thing remaining is to decide when the meeting is to be convened which, in principle, it had been thought would be 11.30 a.m."

The representative of Argentina then formally requested the President to determine whether there was any objection by members of the Council to a meeting at 11.30 the next morning, with the agenda to be decided upon in accordance with rule 7 of the Council's provisional rules of procedure.

The President stated that the question of the date and the hour of the meeting and the question of the agenda could be dealt with during consultations immediately following the adjournment of the present meeting.

The representative of Argentina, however, repeated his proposal that the President consult the members then and there to determine if there was any objection to a meeting at 11.30 a.m. the following day.

The representative of the USSR declared that he could not understand why the Council had to decide

the question of the exact hour and minute of tomorrow's meeting at that particular moment and why consultations on that point could not be held after the conclusion of the current meeting, as was suggested by the President.

The President then asked the representative of Argentina if he insisted on settling the question of tomorrow's meeting before adjourning; if not he would hold consultations on that point immediately following the adjournment of the present meeting.

The representative of Argentina stated that as long as the meeting took place the following morning he would not object to the modalities of consultations to determine the exact hour of that meeting.

Before adjourning the meeting, the President summarized the discussion to the effect that it had been agreed to hold a meeting the following morning and that the hour of the meeting would be set after consultations immediately following the adjournment of the present meeting.²

Rule 4

CASE 2

By letter³ dated 5 June 1970 addressed to the President of the Security Council, the representative of Finland requested, with reference to the Note of the President of the Security Council dated 20 April 1970,⁴ that a meeting of the Security Council be convened, at a date convenient to members, to consider the question of initiating periodic meetings of the Security Council in accordance with Article 28(2) of the Charter.

² For the texts of relevant statements, see: 1601st meeting: President (Poland), paras. 65, 71, 79-80, 107, 120, 126, 133-134, 136; Argentina, paras. 88-90, 109-110, 118-119, 123-125, 130; Belgium, para. 105; Burundi, paras. 116-117; France, paras. 74-77, 114-115; Italy, paras. 101-102, 135; Japan, para. 103; Nicaragua, para. 78; Somalia, paras. 83-85, 104; United Kingdom, paras. 66-70, 86-87, 106; United States, para. 82; USSR, paras. 72-73, 91-95, 111-113, 127, 132.

³ S/9824, *OR*, 25th yr., *Suppl. for April-June 1970*, p. 207.

⁴ S/9759, *OR*, 25th yr., *Suppl. for April-June 1970*, pp. 153-156. In his note, the President, having recalled that on 3 March 1970 the members of the Security Council had received informally, on behalf of the delegation of Finland, a memorandum on the question of initiating periodic meetings of the Security Council in accordance with Article 28(2) of the Charter, proposed, in the light of the preliminary discussions which had taken place among the members of the Council, that consultations be undertaken with a view to having this question considered, in due course, by the Security Council. He said that in making this proposal he was acting in his capacity as the representative of Finland. Attached to that note as an annex was the memorandum of 3 March 1970 in which historical background of Article 28(2), including the attempts over the years by the three Secretaries-General, the General Assembly and individual members to activate Article 28(2), had been reviewed and certain suggestions put forth to serve as basis for the proposed consultations among the members of the Security Council. These suggestions were: (1) that periodic meetings of the Security Council be regarded as a permanent institutional feature of the Organization and therefore in principle be held regularly; (2) that periodic meetings be held twice a year, as provided in Article 28(2) of the Charter and rule 4 of the provisional rules of procedure of the Security Council; (3) that it be understood that periodic meetings would provide an opportunity for a general exchange of views on the international situation and not arise from any particular event or issue, and not be expected to lead to decisions, resolutions, etc., on substantive issues; that (4) the agenda of periodic meetings be drawn up by the Secretary-General in consultation with the members of the Security Council, and normally consist of a single item—a report of the Secretary-General on the international situation; and that (5) periodic meetings normally be closed meetings, unless otherwise decided.

At the 1544th meeting of the Security Council on 12 June 1970 following the adoption of the agenda, without objection, a statement, based on prior consultations among the members of the Security Council and expressing the consensus of that organ, was read out by the President (Nepal) and approved by the Council.⁵

⁵ 1544th meeting, para. 3. For the text see, *OR, 25th yr., Resolutions and Decisions of the Security Council, 1970*, p. 10. See, also in this chapter, Cases 3 and 10 below.

CASE 3

In accordance with the decision taken at the 1544th meeting of the Security Council on 12 June 1970, the first periodic meeting of the Council was held in private on 21 October 1970 at the close of which a communiqué was issued by the Secretary-General in accordance with rule 55 of the provisional rules of procedure.⁶

⁶ See, *OR, 25th yr., Resolutions and Decisions of the Security Council, 1970*, p. 11.

Part II

REPRESENTATION AND CREDENTIALS (RULES 13-17)

NOTE

Since 1948, the reports of the Secretary-General on the credentials of the representatives of members of the Security Council have been circulated to the delegations of all Council members, and, in the absence of a request that they be considered by the Council, have been considered approved without objection.

During the period under review, objections were raised on one instance to the credentials of a representative stated to be illegally occupying the seat of the true representative of a Member State. The Council, having heard the objections to the acceptance of the credentials and statements made in reply to those objections, proceeded with its conduct of business without taking a decision on the question (Case 4).

****1. CONSIDERATION OF THE ADOPTION
OR AMENDMENT OF RULES 13-17**

**2. SPECIAL CASES CONCERNING THE APPLICATION
OF RULES 13-17**

Rule 13

CASE 4

At the 1565th meeting on 9 February 1971, in connexion with the admission of new members, the representative of Somalia stated that he wished to place on record his Government's "strong objections to acceptance of the credentials of the representative who, since December 1962, has been occupying the seat reserved for the true representative of the Government of the State of China."

The representatives of France, Italy, Poland, Syria and the USSR supported the reservations expressed by the representative of Somalia on the question of the representation of China in the United Nations.

The representative of China, in his reply, observed that "any reservation or objection made by a Member State with respect to the credentials of the representative of another Member State does not in any manner affect the legal status of that representative" and stated that the Security Council was not the proper forum for a debate on the question of China's representation.

The President (United States) stated that the credentials of the representative of China had been reported to the Council on 18 December 1962 and in the absence of any objection, they were considered to

have been approved. Thus, the provisions of rule 15 of the provisional rules of procedure were fully satisfied with respect to the credentials of the representative of China. He then added:

"With regard to the broad question of Chinese representation in the United Nations, I would certainly hope that the Security Council would not be asked, now or in the future, to take action on that question. The Security Council, composed of only fifteen members—less than one eighth of the membership of the United Nations—is manifestly the wrong organ in which to deal with a political question of great moment that concerns every single Member of the Organization. That fact was recognized from the very beginning of the controversy over Chinese representation, when the General Assembly in 1950 adopted resolution 396 (V)."

The Council proceeded with its meeting, without, however, taking a decision on the question of representation.⁷

CASE 5

By a letter⁸ dated 26 October 1971 addressed to the President of the Security Council, the Secretary-General transmitted the text of a resolution⁹ adopted by the General Assembly on 25 October 1971 by which the Assembly had decided to restore all the rights of the People's Republic of China and to recognize the representatives of its Government as the only legitimate representative of China to the United Nations; and to "expel forthwith the representatives of Chiang Kai-Shek from the United Nations and all its related organizations."

In a report¹⁰ dated 2 November 1971 to the President of the Security Council, concerning the credentials of the representative and deputy representative of the People's Republic of China on the Security Council, the Secretary-General stated that he had received from the Acting Minister of Foreign Affairs of that country, a telegram stating that Mr. Huang Hua and Mr. Chen Chu had been appointed, respectively, representative

⁷ For texts of relevant statements, see: 1565th meeting: President (United States), paras. 99-101; China, paras. 92-98; France, paras. 85-88; Italy, paras. 90-91; Poland, para. 89; Somalia, paras. 52-74; Syria, paras. 78-80; USSR, paras. 82-84.

⁸ S/10378, mimeo.

⁹ Resolution 2758 (XXVI)

¹⁰ S/10382, mimeo.

and deputy representative of the People's Republic of China in the Security Council.

After drawing attention to General Assembly resolution 2758 (XXVI) of 25 October 1971, the Secretary-General stated that in his opinion the above-mentioned telegram appointing Mr. Huang Hua and Mr. Chen Chu representative and deputy representative of China on the Security Council constituted adequate provisional credentials.

At the 1599th meeting of the Security Council on 23 November 1971, prior to the adoption of the agenda relating to the complaint by Senegal, statements were made by members of the Council welcoming the representative of the People's Republic of China in the Council who made a statement¹¹ in reply.

¹¹ For texts of relevant statements, see: 1599th meeting, paras. 1-94.

Part III

PRESIDENCY (RULES 18-20)

NOTE

Part III of this chapter is confined to proceedings of the Council directly related to the office of the President.

During the period under review, there were no cases of special application or interpretation of rule 18 which deals with the monthly rotation of the presidency of the Council, and of rule 20, on the temporary cession of the chair. The material assembled in the section is concerned with rule 19 and covers instances in which the President has held consultations with Council members in-between the meetings of the Council with a view to reaching an agreement on measures to be adopted by the Council¹² (Cases 6, 7, 8, 9, 11, 12, 14), those in which the President has expressed the consensus of the members in the course of a meeting (Cases 10, 13, 16), others in which the President has announced such consensus not in the course of a meeting but via notes circulated as Security Council documents¹³ one instance in which the President suggested a procedure by which the Council would adjourn to allow for informal consultations on a draft resolution¹⁴ before the Council (Case 15), and one instance in which the President having made a statement, which certain representatives believed had contravened an understanding reached during informal consultations, was requested to adhere to that understanding (Case 17).

Material relevant to the exercise by the President of his functions in connexion with the agenda is dealt with in chapter II. The exercise of President's functions in the conduct of a meeting is reflected in the material included in part V of this chapter.

¹² During the period under review, the Security Council has continued to resort to informal consultations as a procedure for facilitating the reaching of its decisions. Agreements or consensus resulting from such consultations have, in some instances, been presented to the Council by the President in the form of a statement of consensus or a draft resolution, which the Council, at its formal meeting, would then approve without further debate. In other instances such agreements or consensus have been announced by the President in notes circulated as Security Council documents.

¹³ For texts of such notes, see S/8697/Add.1, OR, 24th yr., Suppl. for Jan.-March 1969, p. 32; S/9632, OR, 25th yr., Suppl. for Jan.-March 1970, p. 118; S/9748, *ibid.*, Suppl. for April-June 1970, p. 148; S/9803, *ibid.*, p. 184; S/9911, *ibid.*, Suppl. for July-Sept. 1970, p. 131; S/9951, *ibid.*, p. 147; S/9999, *ibid.*, Suppl. for Oct.-Dec. 1970, p. 53; S/10274, OR, 26th yr., Suppl. for July-Sept. 1971, p. 40; S/10299, *ibid.*, Suppl., for July-Sept. 1971, pp. 56-57.

¹⁴ S/10376, mimeo.

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 18-20

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 18-20

Rule 19

CASE 6

At the 1474th meeting on 10 June 1969, in connexion with the Cyprus Question, the President (Paraguay) stated that as a result of consultations a draft resolution had emerged and he asked the Deputy to the Under-Secretary-General to read it out. Under the draft resolution,¹⁵ the Security Council would, *inter alia*, extend the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 December 1969.

The Council adopted the draft resolution unanimously.¹⁶

CASE 7

At the 1504th meeting on 26 August 1969, in connexion with the situation in the Middle East, the President (Spain) announced that as a result of consultations undertaken in the past few days, members of the Council had reached agreement on the text of a draft resolution¹⁷ representing a consensus of the Council.

After noting that there was no objection to the draft resolution, the President declared it unanimously adopted by the Council.¹⁸

CASE 8

At the 1506th meeting on 29 August 1969, in connexion with the letter dated 18 August 1969 addressed to the President of the Security Council by the representative of the United States¹⁹ concerning the question of "micro-states", the President (Spain) stated that after consultations on the subject "I understand there is no objection to the establishment of a committee

¹⁵ Text same as resolution 266 (1969) of 10 June 1969.

¹⁶ For text of the President's statement, see 1474th meeting, paras. 9-10, 64.

¹⁷ S/9410. Text same as resolution 270 (1969) of 26 August 1969.

¹⁸ For text of the President's statement, see 1504th meeting, paras. 2-3.

¹⁹ S/9397, OR, 24th yr., Suppl. for July-Sept. 1969, pp. 159-160.

of experts, consisting of all members of the Security Council, to study the question considered at our 1505th and 1506th meetings.²⁰

CASE 9

At the 1521st meeting on 11 December 1969, in connexion with the Cyprus Question, the President (Zambia) noted²¹ that the text of a draft resolution²² prepared in the course of informal consultations had been circulated to members of the Council and informed the Council that in the process of further consultations it had been decided to make a slight modification to the third preambular paragraph.²³

The Council adopted the draft resolution unanimously.²⁴

CASE 10

At the 1544th meeting on 12 June 1970, in connexion with the question of initiating periodic meetings of the Security Council, the President (Nepal) stated that after consultations among the members of the Security Council, he had been authorized to make the following statement²⁵ expressing the consensus of the Council:

"The members of the Security Council have considered the question of initiating periodic meetings in accordance with Article 28, paragraph 2, of the Charter. They consider that the holding of periodic meetings, at which each member of the Council would be represented by a member of the Government or by some other specially designated representative could enhance the authority of the Security Council and make it a more effective instrument for the maintenance of international peace and security. As to the date and other practical aspects of the first such meeting, these will be considered later in consultations.

"It is understood that periodic meetings, the purpose of which would be to enable the Security Council to discharge more effectively its responsibilities under the Charter, would provide members with an opportunity for a general exchange of views on the international situation, rather than for dealing with any particular question, and that such meetings would normally be held in private, unless it were otherwise decided.

"The provisional agenda of periodic meetings shall be drawn up by the Secretary-General in consultation with the members of the Council and in accordance with the relevant provisions of the provisional rules of procedure."

The statement as read by the President was approved by the Council without objection.²⁶

CASE 11

At the 1552nd meeting on 9 September 1970, in connexion with the situation created by increasing

²⁰ For text of the President's statement, see 1506th meeting, para. 61. See also in this supplement, chapter V, Case 9.

²¹ For the text of the President's statement, see 1521st meeting, paras. 2-4.

²² S/9550, mimeo.

²³ S/9550/Rev.1, mimeo. Text same as resolution 274 (1969) of 11 December 1969.

²⁴ 1521st meeting, para. 72. See also in this supplement, chapter VIII, part II, p. 122.

²⁵ S/9835, OR, 25th yr., Suppl. for April-June 1970, p. 210.

²⁶ For text of the President's statement, see 1544th meeting, paras. 1-3. Also see, in this chapter, Case 2 above.

incidents involving the hijacking of commercial aircraft, the President (Sierra Leone) stated²⁷ that after extensive consultations, members of the Council had agreed on the text of a draft resolution²⁸ representing a consensus of the Council.

After the President had read the text of the draft resolution, the Council adopted it without vote.²⁹

CASE 12

At the outset of the 1557th meeting on 17 November 1970, in connexion with the question of Southern Rhodesia, the President (Syria) declared that during consultations that had taken place since the last meeting of the Council, a draft resolution³⁰ had been prepared which appeared to have the support of all members of the Council.

After reading the text of the draft resolution, the President asked the Council to vote on it, which the Council then adopted unanimously.³¹

CASE 13

At the 1576th meeting on 26 August 1971, in connexion with the complaint by Guinea, the President (Italy) recalled that at its 1573rd meeting, the Council had adopted resolution 295 (1971) under which the Security Council had taken a decision to send a Special Mission to the Republic of Guinea to consult with authorities and to report on the situation immediately. The Security Council, he recalled, had further decided that the Special Mission would be appointed after consultations between the President of the Security Council and the Secretary-General. As a result of those consultations, he had been authorized to make a statement expressing the consensus of the Council. He then made the following statement:

"It is the consensus of the Security Council that the Special Mission called for in resolution 295 (1971) should be composed of two members of the Council instead of three. The Special Mission will proceed to Conakry to consult the Government of the Republic of Guinea on its complaint and will report back to the Council as soon as possible."

Following adoption of the consensus statement the President announced³² that he and the Secretary-General had decided that the Special Mission would be composed of Argentina and Syria and would be accompanied by the necessary staff from the Secretariat.³³

CASE 14

At the 1471st meeting on 29 March 1969, in connexion with the situation in the Middle East, the President (Hungary) announced that as a result of consultations among members of the Council, a draft resolution sponsored by three delegations had been completed and would be circulated soon for the Council's consideration. However, he said, since the day

²⁷ For text of the President's statement, see 1552nd meeting, paras. 1, 4-12.

²⁸ S/9933/Rev. 1. Text same as resolution 286 (1970) of 9 September 1970.

²⁹ 1552nd meeting, para. 12.

³⁰ S/9980. Text same as resolution 288 (1970) of 17 November 1970.

³¹ For text of the President's statement, see 1557th meeting, paras. 1-3.

³² S/10299, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 56-57.

³³ For text of the President's statement, see 1576th meeting, paras. 1-6. Also, see chapter V, Case 3 and chapter X, Case 3.

of national mourning in the United States was to be observed on 31 March 1969, the sponsors, out of respect, had decided to postpone introduction of their draft resolution until after that day.

The President, after noting that no one then wished to take the floor, declared that the date of the next meeting would be set by the incoming President of the Council. He then adjourned the meeting.³⁴

CASE 15

At the 1598th meeting on 20 October 1971, in connexion with the situation in Namibia, the President (Nicaragua), after referring to a draft resolution submitted earlier in the meeting by the representative of Argentina,³⁵ stated that the best course for the Council to follow under the circumstances was to adjourn the meeting now and allow the President to convene another meeting at some future date after consultation with members of the Council in order to continue consideration of the Argentine draft resolution. He suggested that the time in between be utilized to carry on consultations between the sponsor of the draft resolution and members of the Council.

The Council accepted the President's suggestion.³⁶

CASE 16

At the 1603rd meeting on 30 November 1971 the President (Poland) observed that in pursuance of resolution 295 (1971) the Security Council had dispatched a Special Mission to Guinea, consisting of the representatives of Argentina and Syria. He stated that the Special Mission had been in Guinea from 30 August to 2 September 1971 and had submitted its report to the Council.³⁷

On behalf of the Security Council and with the authorization of its members the President then made the following statement of consensus:³⁸

"It will be recalled that on 3 August the Council dispatched a Special Mission to the Republic of Guinea. The Special Mission, consisting of the representative of Syria, Ambassador George J. Tomch, and the deputy representative of Argentina, Minister Julio Cesar Carasales, visited Guinea from 30 August to 2 September 1971 and held extensive consultations with officials of the Government of Guinea.

"In those consultations, the Guinean authorities co-operated fully with the Special Mission and extended to it all the facilities necessary for the successful achievement of its task.

"Upon its return to New York, and in accordance with its terms of reference, the Special Mission submitted its report to the Security Council, circulated as document S/10309. The Security Council began its first examination of the report of the Special Mission at its 1586th meeting on 29 September 1971.

"It is evident from this report that there is continuing concern in Guinea regarding the possibility of renewed acts against that country's ter-

ritorial integrity and political independence similar to those which led to the events of November 1970. In this respect, the view has been expressed by the Government of Guinea that action should be taken by the Security Council to prevent Portugal from violating the territorial integrity and political independence of Guinea.

"It is also clear that the failure by Portugal to apply the principle of self-determination, including the right to independence, in Guinea (Bissau) is having an unsettling effect on conditions in the area.

"The Security Council, having taken note with appreciation of the report of the Special Mission and of the representations made by the Government of Guinea, reiterates operative paragraph 1 of Security Council resolution 295 (1971), which 'Affirms that the territorial integrity and political independence of the Republic of Guinea must be respected'."

CASE 17

At the 1621st meeting on 21 December 1971, in connexion with the situation in the India/Pakistan subcontinent, the President (Sierra Leone), at the outset of the meeting, announced that agreement had been reached on an acceptable draft resolution sponsored by Argentina, Burundi, Japan, Nicaragua, Sierra Leone and Somalia.³⁹ He then added:

"The proposed draft resolution is factual and is capable of commanding the support of all members around this table. It is non-partisan and to a considerable extent represents a compromise of the multiplicity of draft resolutions that have been presented to the Council or discussed in the corridors during the past two weeks. It has been voided of all controversial aspects and therefore it is in a position to command the support of all.

"The draft resolution before the Council this evening takes account of the realities of the existing situation. It calls upon both sides to the conflict to make the cessation of all hostilities durable and provides for withdrawals of all armed forces from the troubled zones. To this end it stresses the need for the preservation of peace in the subcontinent. Lasting peace in the area is incapable of being achieved unless the Geneva Conventions of 1949 are respected and meticulously observed.

"A point in this connexion is the rumoured retaliatory measures now taking place in Dacca and elsewhere. We are aware that feelings are high and the danger of reprisals for sufferings meted out by the troops of the Pakistan Government since March is imminent.

"The draft resolution also calls for concerted efforts from the international community for the rehabilitation of the millions of refugees who would better serve their land by returning to their ancestral homes.

"The efforts devoted by all of you towards the achievement of a fruitful solution to the problem confronting the India/Pakistan subcontinent since the Council started meeting on 4 December have been prodigious. We have all laboured hard and long and we look forward to a realization of our efforts. The way in which this could be achieved

³⁴ For text of the President's statement, see 1471st meeting, paras. 2-6.

³⁵ S/10376, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 27.

³⁶ For text of the President's statement, see 1598th meeting, paras. 94-95, 98-100.

³⁷ S/10309/Rev. 1, *OR*, 26th yr., *Special Supplement No. 4*.

³⁸ For text of the President's statement, see 1603rd meeting, paras. 2-5.

³⁹ S/10465. Text same as resolution 307 (1971).

would be by the speedy adoption of the draft resolution now before the Council.”

With regard to the President’s statement, the representative of Pakistan* stated as follows:

“I have listened with close attention to the statement made by you just now, Sir. It was the understanding of my delegation that first the co-sponsors of the draft resolution in document S/10465 would present that draft resolution and make introductory statements. Consequently, I take it that the statement you have just now made does not have any bearing of an interpretative character on the draft resolution before us and that you have made that statement perhaps in your capacity as the representative of Sierra Leone.

“We are considering a matter of utmost gravity and therefore we have to weigh every word that is uttered because the proceedings of this Council touch upon some of the most fundamental principles of the Charter and any interpretation which departs from the spirit of those principles can have profound consequences and is bound to reflect on the prestige and the efficacy of this Council. Therefore, my delegation would prefer to listen to what the co-sponsors have to say in regard to the draft resolution.”

Following the statement by the representative of

Pakistan, the representative of Somalia, one of the co-sponsors of the draft resolution, stated:

“The agreement reached between me, on behalf of the co-sponsors and the two parties was that the draft resolution would first be put to a vote by you, Sir, without any kind of introductory statement and that immediately the vote on the draft resolution had been taken, my delegation, on behalf of the co-sponsors, would make an interpretative statement on certain of its aspects. I trust that you will proceed accordingly.”

The President replied as follows:

“In accordance with the usual custom, I have only tried to appeal to members to proceed on this matter with all seriousness and to see that something is done. If Ambassador Farah had not made his statement, I had intended to suggest that the draft resolution now be put to the vote and that, after the voting, members be given an opportunity to make statements in explanation of their votes and then, lastly, the parties—India and Pakistan—be given an opportunity to make their statements.”

The draft resolution was then put to the vote⁴⁰ and adopted by 13 votes to none with 2 abstentions.

⁴⁰ For texts of relevant statements, see: 1621st meeting: President (Sierra Leone) paras. 3-8, 13; Pakistan, paras. 10-11; Somalia, para. 12.

Part IV

SECRETARIAT (RULES 21-26)

NOTE

This part relates to rules 21-26 of the provisional rules of procedure, which delineate the specific functions and powers of the Secretary-General, under Article 98 of the Charter, in connexion with the meetings of the Security Council.

Within the period under review, the Secretary-General has been requested or authorized (i) to study, together with the representative of the United States, the matter concerning a threat received by the representative of Jordan from the Jewish Defence League;⁴¹ (ii) to draw up the provisional agenda of a periodic meeting in consultation with the members of the Council and in accordance with the relevant provisions of the provisional rules of procedure;⁴² (iii) to transmit to the General Assembly the text of a resolution adopted by the Security Council;⁴³ (iv) to give every assistance to an *ad hoc* sub-committee established by the Council in the performance of its task;⁴⁴ (v) to

⁴¹ Statement by the President (USSR), in connexion with the situation in the Middle East, 1509th meeting, para. 63.

⁴² Statement by the President (Nepal), in connexion with the question of initiating periodic meetings of the Security Council, 1544th meeting, para. 2.

⁴³ Statement by the President (Spain), in connexion with admission of new Members, 1554th meeting, para. 177.

⁴⁴ In connexion with the situation in Namibia, resolution 276 (1970) of 30 January 1970, para. 8; resolution 283 (1970) of 29 July 1970, para. 16.

appoint a special mission after consultations with the President of the Security Council;⁴⁵ (vi) to undertake a detailed study and review of all multi-lateral treaties to which South Africa was a party and which, either by direct reference or on the basis of relevant provisions of international law, might be considered to apply to the Territory of Namibia;⁴⁶ (vii) to transmit the text of a resolution adopted by the Council to the International Court of Justice;⁴⁷ (viii) to dispatch a special mission to the spot composed of members of the Council assisted by the military experts in order to, *inter alia*, carry out an inquiry into the facts brought to the attention of the Council;⁴⁸ and (ix) to appoint, if necessary, a special representative to lend his good offices to certain parties for the solution of humanitarian problems resulting from the dispute.⁴⁹

In a number of instances, the Secretary-General has also been requested to follow the implementation of resolutions or to keep certain questions under review,

⁴⁵ In connexion with the complaint by Guinea, resolution 289 (1970) of 23 November 1970, para. 4; resolution 295 (1971) of 3 August 1971, para. 3.

⁴⁶ In connexion with the situation in Namibia, resolution 283 (1970) of 29 July 1970, para. 9.

⁴⁷ In connexion with the situation in Namibia, resolution 284 (1970) of 29 July 1970, para. 2.

⁴⁸ In connexion with the complaint by Senegal, resolution 294 (1971) of 15 July 1971, para. 4.

⁴⁹ In connexion with the situation in India/Pakistan sub-continent, resolution 307 (1971) of 21 December 1971, para. 6.

reporting on their developments to the Council as he deemed appropriate.⁵⁰

The Secretary-General has furthermore been requested by resolutions or during meetings of the Security Council, to submit reports on developments relating to the maintenance of international peace and security. In response to such requests or at his own initiative, the Secretary-General has on a number of occasions submitted oral reports to the Council.⁵¹

During the period under review there has been no case of special application or interpretation of rules 23 and 24.

****1. CONSIDERATION OF THE ADOPTION
OR AMENDMENT OF RULES 21-26**

**2. SPECIAL CASES CONCERNING THE APPLICATION
OF RULES 21-26**

Rule 21

CASE 18

At the 1512th meeting on 15 September 1969, before proceeding to the discussion of the item on the agenda pertaining to the situation in the Middle East, the President (USSR) called upon the Secretary-General to make a statement. The Secretary-General stated:

“At the 1509th meeting of the Security Council, on 11 September, you, Mr. President, drew my attention to terrorist threats against Permanent Representatives of Member States of the United Nations, and asked me to study the matter, together with the representative of the United States, so that the necessary measures could be taken.

“I wish to inform the Security Council that I have been in contact with the Permanent Representative of the United States. I have been assured that police protection is being provided to the delegations concerned on a round-the-clock basis. Should further protection be required, I am advised that the United States Mission would arrange for it upon request, as it has always been prepared to do in the past. I have also been assured that the United States authorities are examining appropriate steps to prevent the occurrence of similar threats. It is my intention to keep up my contacts with the Permanent Representative, and I shall keep the Council informed of developments.”⁵²

⁵⁰ In connexion with the situation in Namibia, resolution 264 (1969) of 20 March 1969, para. 9; resolution 269 (1969) of 12 August 1969, para. 9; resolution 301 (1971) of 20 October 1971, para. 16; in connexion with the situation in the Middle East, resolution 267 (1969) of 3 July 1969, para. 8; resolution 271 (1969) of 15 September 1969, para. 7; resolution 298 (1971) of 25 September 1971, para. 5; in connexion with the question of Southern Rhodesia, resolution 277 (1970) of 18 March 1970, para. 20; in connexion with the question of race conflict in South Africa, resolution 282 (1970) of 23 July 1970, para. 5; in connexion with the complaint by Guinea, resolution 290 (1970) of 8 December 1970, para. 11; in connexion with the complaint by Senegal, resolution 302 (1971) of 24 November 1971, para. 8; in connexion with the situation in the India/Pakistan sub-continent, resolution 307 (1971) of 21 December 1971, para. 6.

⁵¹ For texts of such reports, see, in connexion with the situation in the Middle East: 1537th meeting, paras. 6-8; 1539th meeting, para. 6; 1540th meeting, para. 84; 1551st meeting, paras. 11-14.

⁵² For texts of relevant statements, see: 1512th meeting: President (USSR), para. 3; Secretary-General, paras 4-5.

CASE 19

In a note dated 28 March 1970,⁵³ the Secretary-General informed the Security Council that, in response to requests by the Governments of Iran and the United Kingdom, and after extended consultations with the two parties, he had agreed to exercise his good offices in a matter pertaining to Bahrain on the basis of mutually agreed terms of reference which envisaged an ultimate action by the Security Council. Under the plan, the Secretary-General was to send a personal representative to ascertain the wishes of the people of Bahrain regarding their status. His Personal Representative was to submit his findings in the form of a report to the Secretary-General who would transmit them to the Security Council for its consideration and endorsement. He also pointed out that actions such as this had become customary in United Nations practice and had proved to be a valuable means of relieving and preventing tension by a quiet approach in certain situations which could only be prolonged and aggravated by premature disclosure and public debate. By a letter dated 4 April 1970,⁵⁴ addressed to the President of the Security Council, the representative of the USSR transmitted the text of a letter addressed to the Secretary-General in which the USSR, in referring to the latter's initiative on the question of Bahrain took exception to the statement by the Secretary-General that such actions had become customary in United Nations practice. The USSR letter emphasized that under the United Nations Charter, decisions involving United Nations action in the maintenance of international peace and security are taken by the Security Council.

By a letter dated 6 April 1970,⁵⁵ to the President of the Security Council, the Secretary-General transmitted his reply to the USSR letter in which he acknowledged that he found himself at variance with some aspects of the views of the USSR. When, as the Secretary-General pointed out, Member States of the United Nations approached him directly asking for the exercise of his good offices on a delicate matter in which they shared the hope for an early amicable solution through quiet diplomacy without taking the issue before the Security Council or consulting its members individually, he examined the proposals carefully and, if they were fully consistent with the principles and purposes of the Charter and in no way impinged upon the authority of the Security Council or any other organ of the United Nations, he felt obligated to assist Member States in the manner requested. To do otherwise, in his opinion, would thwart a commendable effort by Member States to abide by a cardinal principle of the Organization, namely, the peaceful settlement of disputes. The Good Offices Mission to Bahrain, the Secretary-General reiterated, was engaged only in fact-finding the results of which would be reported to the Council which then could take substantive action.⁵⁶

⁵³ S/9726, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, pp. 175-176.

⁵⁴ S/9737, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, p. 143; see also the statement by the representative of the USSR thereon, 1536th meeting, para. 73.

⁵⁵ S/9738, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, pp. 143-144.

⁵⁶ For the position of the Secretary-General regarding the question of prior consultation with the Security Council in the exercise of his good offices, see also the following communications: letter dated 7 March 1969 from the President of the Security Council to the Secretary-General, S/9054, *OR*,

CASE 20

At the 1611th meeting on 12 December 1971 in connexion with the situation in the India/Pakistan subcontinent, the representative of the United States asked if the Secretary-General had received any replies in response to the General Assembly resolution 2973 (XXVI) of 7 December 1971.⁵⁷ On behalf of the Secretary-General, the Under-Secretary-General replied as follows:

"On behalf of the Secretary-General, I wish to inform the members of the Security Council that immediately after the adoption by the General Assembly on 7 December of resolution 2793 (XXVI), the Secretary-General communicated the text of the resolution to the Governments of India and Pakistan.

"The Government of Pakistan has responded by letter of 9 December 1971, which is published as document A/8567 and S/10440.

"The Government of India has responded by letter of 12 December 1971, which is published as document A/8580 and S/10445. The document is being processed and will be ready for distribution at about 9.00 p.m."⁵⁸

Rule 22

CASE 21

At the outset of the 1558th meeting on 22 Novem-

24th yr., Suppl. for Jan.-March 1969, p. 109; letter dated 7 March 1969 from the Secretary-General to the President of the Security Council, S/9055, Ibid., p. 110; letter dated 19 March 1969 from the representative of the USSR to the President of the Security Council, S/9101, Ibid., p. 132.

⁵⁷ The resolution, *inter alia*, called upon the Governments of India and Pakistan to take measures for an immediate cease-fire and withdrawal of their armed forces from the other side's territory and requested the Secretary-General to keep the General Assembly informed on the implementation of the resolution.

⁵⁸ For texts of relevant statements, see 1611th meeting: United States, para. 6; Under-Secretary-General, para. 8.

ber 1970, in connexion with the complaint by Guinea, the Secretary-General informed the Council that shortly after noon that day, he had received by telephone from the Permanent Representative of Guinea, information that the President of Guinea had addressed an urgent message to the Secretary-General, which the Permanent Representative delivered to his office at two o'clock that afternoon. After quoting the text of the message⁵⁹ the Secretary-General stated that he and the representative of Guinea had informed the President of the Security Council of the situation so that steps might be taken to convene the meeting. Later that afternoon, the Secretary-General stated that he had received also a message from the resident representative of the United Nations Development Programme (UNDP) in Conakry, sent at the request of the Government of Guinea, which confirmed that "at 2:00 a.m. local time, disembarkment of external forces described by the Government as Portuguese took place in Conakry" and that the resident representative had personally seen four ships disembark, and fighters flying over the city. The Secretary-General further informed the Council that he had received a second message from the President of Guinea that evening requesting him to convene an urgent meeting of the Security Council and that he had sent a cabled reply informing the President of Guinea that steps had been urgently taken to convene the meeting of the Council that evening and that the Council was about to meet. He assured the President of Guinea that any decision taken by the Council would be immediately transmitted to him.⁶⁰

⁵⁹ S/9988. See also 1558th meeting, para. 19. In the message, the President of Guinea reported that Guinean territory had been the object of armed aggression by Portuguese forces and requested immediate intervention by airborne United Nations troops.

⁶⁰ For the text of the relevant statement, see: 1558th meeting, paras. 3-13.

Part V

CONDUCT OF BUSINESS (RULES 27-36)

NOTE

Part V sets out the cases bearing on rules 27 to 36. Cases relating to rules 37 to 39 are contained in chapter III, "Participation in the proceedings of the Security Council." Chapter V, which deals with the subsidiary organs of the Council, should be consulted in connexion with rule 28. During the period under review, there were no special instances of the application of rules 29, 34 and 35.

As in the previous volumes of the *Repertoire*, the cases assembled in this part are indicative of the special problems which have arisen in the application of the rules on the conduct of business, rather than the routine practice of the Security Council. They relate to such matters as the following points:

1. Rule 27

The order of intervention in the debate (Cases 22-24).

2. Rule 30

The extent to which the President would rule on a point of order (Cases 26-28). There have been a number of instances during the period under review in which representatives, having requested to be recognized on a point of order, made statements on matters on which no ruling was required. Such instances were not included in the study.

3. Rule 31

The requirement of written submission for proposed resolutions, amendments and substantive motions (Cases 29-34).

4. Rule 32

Request for separation of vote (Cases 35 and 36).

5. Rule 33

On suspension and adjournment of meetings (Cases 37-42).

6. Rule 36

On the order of voting on two amendments to the same draft resolution (Case 43).

****1. CONSIDERATION OF THE ADOPTION
OR AMENDMENT OF RULES 27-36**

**2. SPECIAL CASES CONCERNING THE APPLICATION
OF RULES 27-36**

a. Rule 27

CASE 22

At the 1516th meeting on 4 December 1969, in connexion with the Complaint by Senegal, the representative of Portugal,* in the course of his statement, addressed three questions to the representative of Senegal. After the President (Zambia) had inquired whether he wished to reply, the representative of Senegal made a statement in reply to the queries addressed to him by the representative of Portugal.⁶¹

CASE 23

At the 1517th meeting on 5 December 1969, in connexion with the Complaint by Senegal, the representative of Senegal addressed a query to the representative of Portugal. When the President (Zambia) asked him if he wished to reply, the representative of Portugal* stated that he would do so at a later stage.⁶²

CASE 24

At the 1608th meeting on 6 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the President (Sierra Leone) recalled rule 27 of the Provisional Rules of Procedure and added:

"Accordingly, will those who wish to take the floor kindly add their names to the list of speakers which the Secretariat and I keep. They will then be called upon in the order of their inscription. We cannot conduct orderly debates if representatives who indicate that they wish to raise points of order instead make substantive statements or proceed to exercise their right of reply."⁶³

CASE 25

At the outset of the 1546th meeting on 20 July 1970, in connexion with the question of race conflict in South Africa, the President (Nicaragua) informed the members of the Council that the Secretary-General had invited them to a ceremony commemorating the first anniversary of the flight of Apollo 11 to the moon at 5.00 that afternoon and that if the list of speakers had not been completed by that time he would, with the consent of the Council, suspend the meeting for half an hour to enable Council members to attend that ceremony.

The meeting was suspended at 5.05 p.m. after the representatives of the United Kingdom and Ghana* had made their statements. Before concluding his statement the representative of Ghana stated:

"Mr. President, I had wanted to make some preliminary comments on the statement which was made

⁶¹ For text of relevant statements, see: 1516th meeting: President (Zambia), para. 94; Portugal, paras. 88-93; Senegal, paras. 95-98.

⁶² For text of relevant statements, see: 1517th meeting: President (Zambia), para. 6; Portugal, para. 7; Senegal, para. 5.

⁶³ For text of the President's statement, see: 1608th meeting, paras. 212-213.

earlier this afternoon by the representative of the United Kingdom but I am deeply conscious that perhaps in doing so I might be upsetting your own programme for the afternoon. If you will allow me, perhaps I could stop here and take the floor on another occasion in order not to upset your programme for the afternoon."

Upon the resumption of the meeting at 6.10 p.m. after the President had called upon the representative of Ghana to continue his statement, he replied:

"I thank you, Mr. President, for calling on me but there have been some consultations between delegations that wish to speak at this afternoon's meeting and my own delegation, and I have agreed to pass since I did not wish to stand in the way of a brother delegation's exercising its privilege. I shall continue if you wish me to do so, but I should not like to stand in the way of my colleagues."

The President then declared:

"I take note of the statement just made by the representative of Ghana, and I now call on the representative of Sierra Leone, although the representative of Ghana may speak again when he wishes to."

The representative of Sierra Leone then took the floor.⁶⁴

b. Rule 30

CASE 26

At the 1537th meeting on 12 May 1970, in connexion with the situation in the Middle East, the representative of Spain submitted a draft resolution⁶⁵ and requested that it be put to the vote immediately.

The President (France) took note of the proposal and stated that if no one wished to speak on the subject he would put the proposal to the vote. At that point the representative of Israel asked for the floor and the President recognized him. However, the representative of Syria intervened on a point of order, stating that the Council was then engaged in the procedural part of the debate, namely, the proposal of the representative of Spain to proceed to a vote immediately on his delegation's draft resolution and that, therefore, a non-member of the Security Council had no right to take the floor.⁶⁶

The President after observing that the debate had not been closed when he had given the floor to the representative of Israel ruled that the representative of Israel should be allowed to speak before proceeding to the vote.

Further discussion ensued in which the representative of the United States and the United Kingdom argued in favour of allowing the representative of Israel to make a statement. The representative of the USSR, however, formally proposed that the Council proceed immediately to the vote on the draft resolution submitted by the representative of Spain. The Council rejected the Soviet motion by 7 votes in favour with 2 against and 6 abstentions. The representative of Israel was then given the floor.

⁶⁴ For texts of relevant statements, see: 1546th meeting, President (Nicaragua), paras. 4-5, 82, 84; Ghana, paras. 80, 83.

⁶⁵ S/9800, adopted without change as resolution 279 (1970) of 12 May 1970.

⁶⁶ See chapter III, Case 8.

Following the statement by the representative of Israel,* the representative of the United States formally proposed an amendment⁶⁷ to the draft resolution whereupon the representative of the Soviet Union formally proposed an amendment⁶⁸ to that amendment. The President, invoking rule 36 of the provisional rules of procedure, first put the Soviet sub-amendment to the vote, followed by the United States amendment, both of which were rejected by the Council.⁶⁹

The President then put the draft resolution as a whole to the vote⁷⁰ which the Council adopted unanimously.⁷¹

CASE 27

At the 1589th meeting on 6 October 1971, prior to the adoption of the agenda pertaining to the situation in Namibia, the representative of Sierra Leone, speaking on a point of order, formally proposed that a documentary film on Namibia which had been unofficially shown to interested members of the Security Council before the meeting, be shown again officially by the Secretariat to the Council and that the film form part of the documentary record of the Council in regard to the agenda item before it.

The representative of France stated that although he had nothing against the film, he was concerned that if the Security Council admitted such documentary evidence, "then perhaps other delegations, including that of South Africa and other Member States, will also wish to produce films as Council documents, and the Council will then become a kind of cinema club." Accordingly he said he could not support the proposal.

Similarly, the representative of the United Kingdom stated that the proposal could open up the possibility of the Security Council, in the future, being offered other films as evidence and being burdened with the chore of watching those films in order to determine their suitability as evidence. He therefore urged further reflection in that regard.

The representative of Argentina offered a compromise solution whereby the Council would decide to incorporate the film in its files and make it available to Council members in accordance with rule 49 of the provisional rules of procedure. Thus, those Council members who wished to see the film could request the Secretariat to have the film shown to them, either individually or in groups.

The representative of the United States expressed concern at the precedent of admitting films as documentary evidence, as films could be put together to project one point of view or another. He therefore suggested that the representative of Sierra Leone "put into the record, in his own words, his view of the results of the film."

The representative of the USSR noted that there was no precedent in the practice of the Security Council whereby a film could form part of the documentary record of the Council, although there were instances

of films being shown by other United Nations bodies such as the Committee of Twenty-Four and the Fourth Committee of the General Assembly. As he understood it, the representative of Sierra Leone would like to have any discussion about that film included in the verbatim record. In that sense it would be a document of the Security Council. He then stated:

"I do not think that one should complicate matters. If somebody wants to see a documentary film during the consideration of any item, it is up to him. Those who want to will see it; and those who do not won't see it."

The representative of Sierra Leone stated that discussion in the Council had shown that members were agreed on the value of the film in question and its importance, although they had reservations on the right procedure to follow with regard to his proposal to have the film included in the documentary evidence of the Council. He said that he had based his proposal under rule 39 of the provisional rules of procedure which enabled the Security Council to invite members of the Secretariat and other competent persons to give assistance in examining matters within its competence. But he said he would accept the suggestion that the question be held in abeyance to enable further reflection and informal discussions on the subject.

The President (Nicaragua) said that he would initiate consultation with regard to the proposal of the representative of Sierra Leone and observed that the discussion had indicated a definite interest in the possibility of having the film form part of the archives of the Secretariat or having it appear in the records of the Council.

The Council then proceeded to adopt the agenda and continue its discussion on the situation in Namibia.⁷²

CASE 28

At the 1606th meeting on 4 December 1971, in connexion with the situation in the India/Pakistan sub-continent the President (Sierra Leone), after informing the Council that he had received a letter⁷³ from the representative of India requesting that the letter and an attached communication from the delegation of Bangladesh be circulated as an official document of the Security Council, ruled that the Council defer consideration of the subject matter contained in that communication pending its circulation to Council members.⁷⁴

The representative of the USSR stated that it was not necessary to defer consideration of the communication from the delegation of Bangladesh pending its circulation and observed that in several instances in the past, the Security Council had entertained requests to participate in its deliberations without the right to vote even prior to the circulation of the document containing the formal request.

⁷² For texts of relevant statements, see, 1589th meeting: President (Nicaragua), para. 43; Argentina, paras. 16-18; France, para. 10; Sierra Leone, paras. 2-8, 35-37; United Kingdom, para. 15; United States, paras. 19-21; USSR; paras. 23-26, 31-32.

⁷³ S/10415, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 89.

⁷⁴ The communication attached to the Indian letter was addressed to the President of the Council by Justice Abu Sayud Chowdhury, who signed himself "Leader, Bangladesh Delegation to the United Nations" and asked that he be allowed to make a statement before the Council on behalf of the people and Government of Bangladesh.

⁶⁷ 1537th meeting, paras. 107, 112.

⁶⁸ *Ibid.*, paras. 113, 128.

⁶⁹ *Ibid.*, paras. 129-130.

⁷⁰ 1537th meeting, para. 131.

⁷¹ For text of relevant statements, see: 1537th meeting: President (France), paras. 50-52, 54, 64, 67, 72, 75, 77-78, 109-110, 120, 122, 125; Israel, paras. 79, 96, 100; Spain, paras. 44-46; Syria, paras. 53, 55, 63, 76, 111; USSR, paras. 57-60, 65-66, 92-94, 113, 123, 128; United Kingdom, paras. 69-71; United States, paras. 61-62, 91, 112, 121, 124.

The President stated that he regarded the statement by the representative of the USSR as a challenge to his ruling and that therefore he would submit his ruling to the Council for immediate decision as required under Rule 30 of the provisional rules of procedure. The representative of Somalia, supported by the representative of Syria then invoked Rule 33 of the provisional rules of procedure and moved that the Council postpone consideration of the question of the participation of the representative of Bangladesh or of any other delegation until after the Council had heard the statements of the representatives of India and Pakistan.

The representative of Italy also supported the proposal of the representative of Somalia but added that after the representatives of India and Pakistan had made their statements the Council should hear the statements of members already on the list of speakers.

The President then stated as follows:

"I regret that I shall have to stand on my ruling. I appeal to representatives to decide on it, as it has been challenged. I now request the representatives to make an immediate decision. There being no objections, my ruling stands."⁷⁵

CASE 29

At the 1613th meeting on 13 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the representative of the USSR, speaking on a point of order, stated that the representatives of Bangladesh should be invited to be heard by the Security Council under Rule 39⁷⁶ of the provisional rules of procedure.

The representative of Argentina, opposing the USSR proposal, stated that it would create a bad precedent if representatives of secessionist or subversive movements were allowed a hearing by the Council.

The President (Sierra Leone) stated that since the representative of the USSR had raised a point of order he was compelled, under rule 30, to state his ruling immediately. He then gave his ruling that there was a difference in international law between recognition of a state and recognition of a government and in his opinion Bangladesh did not possess the necessary criteria for recognition as a State.

After further discussion, the representative of the USSR formally proposed that Justice Abu Sayud Chowdhury be invited under rule 39.

The President said that he assumed the representative of the USSR had made the proposal as a point of order, in regard to which, he would, in accordance with rule 30 state his ruling. He said his ruling was to the effect that he was satisfied that on this occasion the representative of the USSR had properly named an individual who qualified as a competent person under rule 39 and who should accordingly be invited to address the Council. However, since an objection had been raised to inviting the individual named by the representative of the USSR, he would, in accordance with rule 30, submit his ruling to the Security Council for immediate decision.

⁷⁵ For text of relevant statements, see: 1606th meeting: President (Sierra Leone), paras. 28-30, 48, 61-62, 66-67; Italy, para. 65; Somalia, para. 63; Syria, para. 64; USSR, paras. 57-60.

⁷⁶ See chapter III, Case 7.

The representative of the USSR then stated that he would not insist on a vote on his proposal, whereupon the President stated that "I take this to mean that the representative of the Soviet Union has withdrawn his proposal."⁷⁷

c. Rule 31

CASE 30

During the course of the 1464th meeting held on 20 March 1969, in connexion with the situation in Namibia, the representative of Zambia read out the text of a draft resolution⁷⁸ co-sponsored by six delegations, including his own, which he said he was formally presenting on behalf of the co-sponsors for the consideration of the Council. Following the oral presentation of the draft resolution by the representative of Zambia, the President (Hungary) stated the following:

"I have taken note of the fact that a draft resolution has been submitted to the Security Council. That document will be circulated as an official document of the Council very soon."⁷⁹

CASE 31

At the 1527th meeting on 29 January 1970, in connexion with the situation in Namibia, the representative of Finland, after stating that he was introducing "the provisional text" of a draft resolution jointly sponsored by the delegations of Burundi, Finland, Nepal, Sierra Leone and Zambia, pointed out that the sponsors had, however, made one revision to the provisional text and then introduced the revision orally. He then stated: "I think that the text of the draft will be distributed shortly." Subsequently, the draft resolution was circulated as document S/9620.

At the 1528th meeting on 29 January 1970, the representative of Finland again took the floor to state that further revisions had been made by the sponsors to the draft resolution and that those revisions would be circulated as soon as possible. He then proceeded to read out the revised text⁸⁰ of the draft resolution.⁸¹

CASE 32

During the course of the 1573rd meeting on 3 August 1971, in connexion with the complaint by Guinea, the representative of Somalia, after orally introducing a draft resolution sponsored by the delegations of Burundi, Sierra Leone, Syria and Somalia, noted that the text of the draft resolution had not yet been circulated to members of the Council since it had not been possible for the Secretariat, which had received the text only a short time ago, to process and circulate the text during this meeting. He therefore proposed that the Council suspend its meeting until 8.00 p.m. so as to allow for the document containing the text of the draft resolution to be circulated and for consultations to take place between certain members and sponsors of the draft resolution.

⁷⁷ For texts of relevant statements, see: 1613th meeting: President (Sierra Leone), paras. 76, 80-82, 90-94, 101, 115, 119-120, 124, 129, 134-136, 138; Argentina, paras. 83-89; USSR, paras. 77-79, 95, 108-114, 121, 123, 137.

⁷⁸ S/9100 adopted without change as resolution 264 (1969).

⁷⁹ For text of relevant statements, see: 1464th meeting: President (Hungary), para. 61; Zambia, paras. 33 and 60.

⁸⁰ Adopted without change as resolution 276 (1970) of 30 January 1970.

⁸¹ For texts of relevant statement, see: 1527th meeting, paras. 30-31; 1528th meeting, paras. 35-38.

After further discussion, during which the representatives of the United States and the USSR supported the motion of the representative of Somalia, the President (Italy) suspended the meeting.

When the meeting resumed, the President, after noting that the text of the draft resolution had been circulated, declared that the text had been amended in some places and requested the representative of Somalia to indicate the changes in the text.⁸²

The representative of Somalia then read out the changes in the text, after observing that they had been agreed upon during consultations among various delegations. After a brief discussion the draft resolution, as revised was put to the vote and adopted.⁸³

CASE 33

At the 1615th meeting on 15 December 1971, in connexion with the situation in the India/Pakistan sub-continent, after the representative of Syria had orally introduced a draft resolution sponsored by his delegation, the President (Sierra Leone) stated:

"The draft resolution which the representative of Syria has just read is being processed, along with another draft resolution, and I understand that it will be two hours before either of them is available, because they have to be translated into the various languages before being processed and distributed. That is the position so far as this resolution is concerned."

The representative of the United Kingdom then orally introduced a draft resolution sponsored by the delegations of France and the United Kingdom after which the representative of the USSR also orally introduced a draft resolution sponsored by his delegation.

The President then informed the Council that the draft resolutions just introduced by their respective sponsors orally would take no less than two hours to be processed and translated in other languages.⁸⁴

CASE 34

At the 1617th meeting on 16 December 1971 in connexion with the situation in the India/Pakistan sub-continent, the President (Sierra Leone), in answer to a query by the representative of the United States, stated that members could submit amendments to any of the draft resolutions before the Security Council, either orally or in writing. The representative of the United States, while submitting a draft resolution⁸⁵ stated as follows:

"... we should like to submit a draft resolution which, at one point in the consultations, seemed to have a great deal of support. I shall read out, and after the text has been circulated and the meeting is resumed, I hope that the Council would be willing to discuss it."

After reading out the text of the draft resolution, he further stated:

⁸² S/10281, adopted without change as resolution 295 (1971) of 3 August 1971.

⁸³ For text of relevant statements, see: 1573rd meeting: President (Italy), paras. 63-64, 80; Somalia, paras. 40, 57, 65-71; United States, paras. 59-60; USSR, para. 62.

⁸⁴ For texts of relevant statements, see: 1615th meeting: President (Sierra Leone), paras. 113, 128; Syria, paras. 110-112; United Kingdom, paras. 114-116; USSR, paras. 125-127.

⁸⁵ S/10459, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 112.

"That is the essence of the draft that was circulating here and it is one that has a good deal of appeal to our Government. I would urge that it be printed up and circulated and be available for consideration when next we meet."

The President (Sierra Leone) then stated:

"As the representative of the United States has already stated, this appears to be a draft which has been neither submitted nor circulated. If the members agree with the Proposal to rise for a period of an hour, the draft resolution may then be processed and circulated for discussion."

The meeting was thereupon suspended. Upon resumption of the meeting, the draft resolution was circulated and it bore the names of Japan and the United States as co-sponsors. The representative of the United States then took the floor to orally introduce minor amendments to the draft resolution,⁸⁶ stating that the changes had been unanimously accepted during consultation on the draft resolution.⁸⁷

CASE 35

At the 1622nd meeting on 29 December 1971, in connexion with the situation in Southern Rhodesia, the representative of Somalia recalled that his delegation had prepared a working paper containing the text of an informal draft resolution that had been privately circulated to Council members. He then stated that he wished to introduce the working paper officially and proceeded to read out the text of the draft resolution contained in that working paper. However, at the 1623rd meeting on 30 December, after the President (Sierra Leone) had observed that the draft resolution had not been formally submitted to the Council, the representative of Somalia stated that he would do it then.

In introducing the draft resolution⁸⁸ he observed that the draft was basically the same as the one he had read out at the previous meeting, except for some changes in operative paragraph 6. He then read out the new text of that paragraph.

The President, after observing that it would take about one hour to process the draft resolution, suspended the meeting for that duration with the consent of the Council. After the resumption of the meeting the representative of Somalia declared that a further change had been made in operative paragraph 2 of the draft resolution and then read out the new text of that paragraph. At the same meeting the draft resolution was put to the vote but was not adopted because of the negative vote of a permanent member of the Council.⁸⁹

d. Rule 32

CASE 36

At the 1481st meeting on 24 June 1969, in connexion with the situation in Southern Rhodesia, the representative of Spain requested separate votes on a

⁸⁶ S/10459/Rev. 1, *Ibid.*, pp. 112-113.

⁸⁷ For texts of relevant statements, see: 1617th meeting: President (Sierra Leone), paras. 13, 16; United States, paras. 14-15.

⁸⁸ S/10489, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 129.

⁸⁹ For texts of relevant statements, see: 1622nd meeting Somalia, paras. 4-36; 1623rd meeting (PV): President (Sierra Leone), paras. 228, 236-237, 240-241, 266-272; Somalia, paras. 231-233, 246-255.

preambular paragraph and two paragraphs of a draft resolution⁹⁰ sponsored by Algeria, Nepal, Pakistan, Senegal and Zambia. The President (Paraguay), after consultations with the co-sponsors of the draft resolution, announced, however, that they had indicated their wish that the draft resolution be put to the vote as a whole and not by division.

The Council then proceeded to vote on the draft resolution as a whole.⁹¹

CASE 37

During the course of the 1606th meeting on 4 December 1971, in connexion with the situation in the India/Pakistan sub-continent, four separate draft resolutions were introduced in the following chronological order: a draft resolution sponsored by the delegation of the United States,⁹² a draft resolution sponsored by the delegation of the USSR,⁹³ a draft resolution sponsored by the delegations of Argentina, Burundi, Nicaragua, Sierra Leone and Somalia,⁹⁴ and a draft resolution sponsored by the delegations of Belgium, Italy and Japan.⁹⁵

After completion of the voting on the United States draft resolution, the President (Sierra Leone) was about to put the Soviet draft resolution to the vote when the representative of Argentina took the floor on a point of order and stated the following:

"Mr. President, I wish to request an explanation from you because you have just said that you would put to the vote the draft resolution of the USSR. On the basis of the numbering of those documents the draft resolution submitted by Belgium, Italy and Japan has precedence as it is numbered S/10417; the Soviet proposal is numbered S/10418. I should like to know if there is any special reason why we should abandon the order established in our rules of procedure."

The President replied as follows:

"According to the order of presentation and receipt, the first draft resolution received by the President was that of the United States; the second was that of the Union of Soviet Socialist Republics; the third was the draft resolution just explained by the representative of Italy, and the fourth was the one mentioned recently by the representative of Somalia. That is the order in which they were received and presented. I am not responsible for the numbering."⁹⁶

e. Rule 33

CASE 38

At the 1484th meeting on 2 July 1969, in connexion with the situation in the Middle East, the representative of Jordan,* alluding to lateness of the hour, requested that he be allowed to take the floor the next day in order to continue his statement. In light of the request by the representative of Jordan, the representative of the United States then invoked rule 33 of the provi-

sional rules of procedure and formally moved that the Council be adjourned until 4.00 p.m. the following day.

The President (Senegal) after quoting rule 33 of the provisional rules of procedure stated that he assumed the representative of the United States was moving for adjournment under paragraph 3 of rule 33. After noting the absence of any objections to the United States proposal, he adjourned the meeting until 4.00 p.m. the following day.⁹⁷

CASE 39

At the 1503rd meeting on 20 August 1969, in connexion with the complaint of Ireland, the representative of the United Kingdom, objecting to the adoption of the agenda, quoted Article 2 (7) of the Charter prohibiting United Nations intervention in matters which were essentially within the domestic jurisdiction of any State.

After some debate, the Council agreed to a proposal by the representative of Finland that, as a matter of courtesy, the representative of Ireland* be invited to make a statement prior to the adoption of the agenda.⁹⁸

After the Council had heard the representative of Ireland, the representative of Zambia observed that the question before the Council was whether or not to proceed with the adoption of the agenda. In his view, however, as well as in that of other members of the Council, in the light of the statements which had been made before the Council, the best procedure to follow would be to adopt a decision to adjourn the meeting. Consequently, he formally proposed such adjournment under rule 33, paragraph 2, of the provisional rules of procedure of the Council.

The President after remarking that the motion for adjournment which had been submitted had to be decided without debate, and since there was no objection, declared that motion unanimously adopted by the Council.⁹⁹

CASE 40

At the 1534th meeting on 17 March 1970, in connexion with the situation in Southern Rhodesia, the representative of the United Kingdom moved that instead of proceeding to a vote on the two draft resolutions¹⁰⁰ before it, the Council adjourn until 3.00 p.m. the following day.

After statements by the representatives of Sierra Leone and Burundi opposing the motion for adjournment, the Council voted on the motion and rejected it by six votes in favour, seven against, with two abstentions.¹⁰¹

Following the Council's rejection of the United Kingdom motion for adjournment, the representative of the United States proposed that the meeting be suspended for half an hour. After a brief discussion, during which the representative of Nicaragua and the United Kingdom supported the U.S. motion and the representatives of Burundi, Poland, Sierra Leone and Syria and Zambia opposed it, the motion was put to a vote and rejected

⁹⁰ S/9270/Rev. 1, mimeo.

⁹¹ For texts or relevant statements, see: 1481st meeting, President (Paraguay), para. 57; Spain, para. 50.

⁹² S/10416, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 90.

⁹³ S/10418, *Ibid.*, p. 91.

⁹⁴ S/10419, *Ibid.*

⁹⁵ S/10417, *Ibid.*, pp. 90-91.

⁹⁶ For texts of relevant statements, see: 1606th meeting, President (Sierra Leone), para. 392; Argentina, para. 391.

⁹⁷ For the text of relevant statements, see: 1484th meeting: President (Senegal), paras. 258-259; Jordan, para. 255; United States, para. 257.

⁹⁸ See also chapter VIII, part II, p. 139.

⁹⁹ For the text of relevant statements, see: 1503rd meeting: President (Spain), paras. 20-21, 69-70; Finland, paras. 15-17; United Kingdom, paras. 2-14, 18-19; Zambia, paras. 67-68.

¹⁰⁰ S/9676/Rev.1, and S/9696, mimeo.

¹⁰¹ 1534th meeting, para. 138.

by six votes in favour, seven against, with two abstentions.¹⁰²

The Council then proceeded to vote on the two draft resolutions before it.¹⁰³

CASE 41

At the 1611th meeting on 12 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the President (Sierra Leone) informed the Council that the Foreign Minister of Pakistan,* who was the next speaker inscribed on the list of speakers, had requested the Council to recess for fifteen minutes, as he had received important messages from his Government which he would like to study before addressing the Council.

After noting that there was no objection, the President declared the meeting suspended for fifteen minutes.¹⁰⁴

CASE 42

At the 1611th meeting on 12 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the President (Sierra Leone) after observing that there were no more speakers on his list, suggested that the meeting be adjourned till the following day.

The representative of the United States opposed the President's suggestion for adjournment and urged the Council to proceed to a vote on the draft resolution¹⁰⁵ submitted by his delegation.

In the ensuing discussion, the President's suggestion for adjournment was supported by the representatives of France, Poland, and the USSR while the representative of China wished the meeting to continue in order to reach a satisfactory solution to the question under discussion. The representative of Somalia, who had earlier suggested to the President that further discussion be allowed to take place on the question of adjournment, then proposed that the meeting be adjourned. Following the proposal of the representative of Somalia, the representative of the United States said he would withdraw his objection to adjournment, whereupon the President declared the meeting adjourned.¹⁰⁶

CASE 43

At the 1614th meeting on 14 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the representative of the United Kingdom stated that consultations were in progress with regard to a draft resolution being prepared jointly by his dele-

¹⁰² 1534th meeting, para. 172.

¹⁰³ For texts of relevant statements, see: 1534th meeting: President (Colombia), paras. 133-134, 138, 152, 157; Burundi, para. 137; Nicaragua, para. 158; Poland, para. 170; Sierra Leone, paras. 135, 151, 166; Syria, para. 153; United Kingdom, paras. 132, 154; United States, para. 149.

¹⁰⁴ For text of relevant statement, see: 1611th meeting: President (Sierra Leone), paras. 138-139.

¹⁰⁵ S/10446, mimeo.

¹⁰⁶ For texts of relevant statements, see: 1611th meeting: President (Sierra Leone), paras. 244-246, 251, 254, 260, 271-272, 279, 285, 288-289; China, paras. 264-265; France, paras. 268-269; Poland, para. 267; Somalia, paras. 262, 280-284; USSR, paras. 255-259, 273-275; United States, paras. 247-250, 253, 270, 276-278, 286-287.

gation and the delegations of France, and that those consultations were not likely to be completed that day. He therefore suggested the Council's adjournment until next morning.

After some discussion as to whether the meeting should be adjourned till the following day or whether, in view of the urgency of the situation, it should be reconvened that evening, the representative of the United Kingdom formally moved, under rule 33 of the provisional rules of procedure, "to suspend the meeting until such time as you (the President) are satisfied that consultations have proceeded to a degree that we are able to reach agreement and can have a fruitful meeting."

The representative of Somalia stated that he did not see any justification in suspending the meeting for the purpose of proceeding with consultations because "if members are going to hold consultations, naturally they are going to consult with the two main parties to the conflict" and "if either of those two parties wishes to take the floor at this stage, of course, such consultations would be of no avail." He asked the President to ascertain if either of those two parties wished to take the floor.

The President (Sierra Leone) then stated as follows:

"Under rule 33, I cannot prevent the representative of the United Kingdom from invoking that procedure, but I might again appeal to all members, for the purposes of compromise, that we agree to suspend the meeting and re-convene tonight as soon as notice is given by me. I promise that I shall be taking part in the consultations and that, sooner or later, we will know at what specific time we are to re-convene. If it becomes apparent that no agreement has been reached, I will still re-convene the meeting with a view to adjourning until tomorrow morning, if that is agreeable."

The representative of the United Kingdom thereupon reminded the President that he had made a formal proposal under rule 33 and as such the proposal had to be put to the vote right away.

The Council then proceeded to vote on the United Kingdom proposal and adopted it by 11 votes to none, with 4 abstentions.¹⁰⁷ The meeting was thereupon adjourned.¹⁰⁸

f. Rule 36

CASE 44

At the 1537th meeting on 12 May 1970, in connexion with the situation in the Middle East, the representative of Spain submitted a draft resolution¹⁰⁹ and requested that it be put to the vote immediately. Before the vote, however, the representative of the United States proposed an amendment to the draft resolution. Following a procedural debate, the representative of the USSR proceeded to submit a formal sub-amendment to the amendment proposed by the representative of the United States.

¹⁰⁷ 1614th meeting, para. 49.

¹⁰⁸ For texts of relevant statements, see: 1614th meeting: President (Sierra Leone), paras. 45, 47, 49; Somalia, para. 44; United Kingdom, paras. 12, 17, 46, 48.

¹⁰⁹ S/9800, adopted without change as resolution 279 (1970) of 12 May 1970.

The President (France) invoking rule 36 of the provisional rules of procedure, first put the USSR sub-amendment to the vote, followed by the United States amendment, both of which were rejected by the Council.

The President, then put the draft resolution as a

whole to the vote which the Council adopted un-animously.¹¹⁰

¹¹⁰ For text of relevant statements, see: 1537th meeting: President (France), paras. 120, 122, 125, 129-131; Spain, para. 46; United States, paras. 91, 114, 121, 124, 127; USSR, paras. 113, 123, 126, 128.

Part VI

**VOTING (RULE 40)

Part VII

LANGUAGES (RULES 41-47)

NOTE

During the period under review, the Security Council adopted amendments to its provisional rules of procedure when rules 41, 42, 43 and 44 were amended to include Russian and Spanish among the working languages of the Security Council (Case 45).

During this period the practice of waiving the right to consecutive interpretation of their statements has generally been followed by Members of the Council. This practice was later extended also to include statements by the President (Case 46).

1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 41-47

Rules 41-44

CASE 45

In separate *notes verbales*¹¹¹ dated 16 January 1969, the representatives of the USSR and Spain requested the President to convene a meeting of the Security Council in order to consider the question of adopting measures in pursuance of General Assembly resolution 2479 (XXIII) of 21 December 1968 in which the Assembly, *inter alia*, considered it desirable to include Russian and Spanish among the working languages of the Security Council. The text of that resolution had earlier been transmitted by the Secretary-General to the President of the Council by a letter¹¹² dated 9 January 1969.

The Council considered the question at its 1463rd meeting on 24 January 1969 and had before it a draft resolution¹¹³ co-sponsored by Algeria, Colombia, Hungary, Pakistan, Senegal, Spain, USSR and Zambia. Under the draft resolution the Council would decide to include Russian and Spanish among the working

languages of the Council and, in this connexion, to amend rules 41, 42, 43 and 44 of the provisional rules of procedure of the Council. Annexed to the aforementioned draft resolution was a revised text of those rules.

Introducing the draft resolution, the representative of the USSR stated that the proposed amendments to rules 41, 42, 43 and 44 of the provisional rules of procedure of the Security Council reflected the increase in the number of the Council's working languages and would not call for any other changes in the rules of procedure. He noted that the changes in those rules would have no effect on the existing practice in the Security Council which provided for simultaneous interpretation in all the official languages of all statements made in the Council. He also noted that in view of the increase in the number of working languages of the Council, the question had been raised concerning changes that might be made in the existing practice regarding consecutive interpretation of statements made by the representatives of member states in the Council. He said the answer could only be determined from future experience of the Council.

The representative of Spain expressed the hope of his delegation that the draft resolution to include Russian and Spanish as working languages of the Security Council would be unanimously adopted.

The representative of China, Colombia, Finland (President), France, Hungary, Pakistan, Paraguay, Nepal, Senegal, United Kingdom, United States and Zambia expressed their support for the draft resolution. The representative of the United Kingdom stated however, that a decision to increase the working languages of the Council should not be regarded as a precedent.

The representative of the United States expressing his delegation's support for the draft resolution, noted the desirability of taking additional steps to deal with

¹¹¹ S/8967 and S/8968, *OR*, 24th yr., *Supplement for Jan.-March 1969*, p. 56.

¹¹² S/8962, *ibid.*, p. 54.

¹¹³ S/8976, text same as resolution 263 (1969) of 24 January 1969.

the problem of consecutive interpretation. He hoped that a further amendment to the rules of procedure might be adopted soon to provide for consecutive interpretation only at the prior request of a member of the Council. Such an additional amendment would deal with the anachronistic system of consecutive interpretation, facilitate the Council's work and contribute substantially to economy and efficiency in the Secretariat.¹¹⁴

The Council adopted the draft resolution unanimously.¹¹⁵ In connexion with the adoption of the resolution and of the annex attached to it containing a new wording of rules 41, 42, 43 and 44 of the provisional rules of procedure the President made the following statement:

"The provisional rules of procedure of the Security Council deal with consecutive interpretation of statements into the working languages, and the revisions now made are the consequence of the decision to add Russian and Spanish to the working languages of the Council. The established practice of simultaneous interpretation of statements into all the official languages of the Security Council remains unchanged. In the light of subsequent experience of the practical effects of the decision to increase the number of its working languages, the Council may wish to consider at a later stage whether any improvements in the practices of the Council could be made in order to enable it to carry out its tasks as effectively as possible."

¹¹⁴ For texts of relevant statements, see: 1463rd meeting: President (Finland), paras. 181-187; Algeria, paras. 169-172; China, paras. 173-180; Colombia, paras. 132-140; France, paras. 68-77; Hungary, paras. 58-67; Pakistan, paras. 101-110; Paraguay, paras. 91-100; Nepal, paras. 141-150; Senegal, paras. 151-168; Spain, paras. 46-57; USSR, paras. 18-45; United Kingdom, paras. 78-90; United States, paras. 111-124; Zambia, paras. 125-140.

¹¹⁵ *Ibid.*, para. 185.

2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 41-47

Rule 42

CASE 46

At the outset of the 1565th meeting on 9 February 1971, in connexion with admission of new members, the President (United States), *inter alia*, stated:

"It strikes me as an anachronism that consecutive interpretation into the other three working languages, in addition to their simultaneous interpretation into the official languages, is now almost exclusively restricted to procedural and ceremonial statements by the President. Thus, statements by the President welcoming new members, congratulating his predecessor, returning compliments paid to him, and inviting non-members who have asked to participate under rule 37 to take their seats, when interpreted consecutively three times have slowed the Council's work and consumed inordinate amounts of our valuable time. On occasions in the past, Presidents of the Council have waived consecutive interpretation of certain statements of the kind I have just mentioned but no steady practice has yet been established. It is my hope to contribute to the effective functioning of the Security Council by following their good example. I therefore declare that during my presidency, consecutive interpretation will not be required of the President's routine procedural and ceremonial statements.¹¹⁶ I shall so indicate when I believe consecutive interpretation of my statements is required. Of course, any member will have the right to request that a particular statement of the President should be interpreted consecutively."¹¹⁷

¹¹⁶ This practice was subsequently followed by succeeding presidents of the Council.

¹¹⁷ For text of relevant statement, see 1565th meeting, para 5.

Part VIII

PUBLICITY OF MEETINGS, RECORDS (RULES 48-57)

NOTE

In accordance with rule 49, the verbatim records of each meeting are made available in the working languages to the representatives of the Council, as well as to the representatives of any other States which have participated in the meeting. In mimeographed copies of the record is incorporated a note showing the time and date of distribution. Corrections are requested in writing, in quadruplicate, within three working days, to be submitted in the same language as the text to which they refer. These corrections are included, in the absence of any objection, in the Official Record of the meeting which is printed and distributed as soon as possible after the time limit for correction. During the period under review, the Security Council held seven private meetings;¹¹⁸ at the close of each, it issued

¹¹⁸ The seven meetings were the following:
1513 15 Oct. 1969 Adoption of the Council's draft report to the General Assembly

a communiqué through the Secretary-General in accordance with rule 55 of the provisional rules of procedure.

**1. CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 48-57

**2. SPECIAL CASES CONCERNING THE APPLICATION OF RULES 48-57

1553	10 Oct. 1970	Adoption of the Council's draft report to the General Assembly
1555	21 Oct. 1970	First periodic meeting
1596	19 Oct. 1971	Adoption of the Council's draft report to the General Assembly
1618	17 Dec. 1971	Appointment of the Secretary-General
1619	20 Dec. 1971	Appointment of the Secretary-General
1620	21 Dec. 1971	Appointment of the Secretary-General.

**Part IX

APPENDIX TO PROVISIONAL RULES OF PROCEDURE

Chapter II

AGENDA

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INTRODUCTORY NOTE

The present chapter relates to material concerning rules 6 to 11, inclusive, of the provisional rules of procedure of the Security Council.

As in the previous volumes of the *Repertoire*, the material in the present chapter is presented directly under the rule of procedure to which it relates. The chapter is divided into four parts: part I, Consideration of the adoption or amendment of rules 6-12; part II, the provisional agenda; part III, Adoption of the agenda (rule 9); and part IV, The agenda: Matters of which the Security Council is seized (rules 10 and 11). No material has been entered under part I, since the Council has not had occasion to consider any change in rules 6-12.

Part II provided information concerning the preparation of the provisional agenda (rule 7) and the communication of the provisional agenda of periodic meetings (rule 12). No material was found for treatment under the sub-headings "Rule 6: Circulation of communications by the Secretary-General" and "Rule 8: Communication of the provisional agenda."

Part III contains material on the procedure and practice of the Security Council in connexion with the adoption of the agenda. No material has been entered under section A dealing with the procedure of the Council in voting on the adoption of the agenda as well as section B concerning discussion in the Council of the requirements for the inclusion of an item in the agenda and of the effects of such inclusion. Section C deals with other questions which have been discussed in connexion with the adoption of the agenda, such as the order of discussion of items, the scope of items in relation to the scope of the discussion, the phrasing of agenda items and the participation of a non-Member of the Council before the adoption of the agenda.

Part IV relates to the list of matters of which the Security Council is seized. No entry is presented under section A relating to rule 10. The tabulation in section B (rule 11) supplements the tabulation in the previous volume of the *Repertoire* and indicates the changes that have since occurred in the list of matters of which the Security Council is seized.

****Part I**

****CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 6-12**

Part II

THE PROVISIONAL AGENDA

NOTE

The proceedings dealt with in this part concern the question of circulation of communications by the Secretary-General.

Under the provisions of rule 6, the Secretary-General is obliged to bring to the attention of members of the Council all communications from States, organs of the United Nations, or the Secretary-General, concerning any matter for the consideration of the Security Council. However, during the period under review, there were no instances in which the question of circulation of communications arose.

Rule 7 entrusts the drawing up of the provisional agenda for each meeting to the Secretary-General, subject to the approval of the President of the Security Council. The Secretary-General's discretion with respect to the inclusion of new items is restricted to those items which have been brought to the attention

of the Council under rule 6. In addition to the express provisions of rule 7 the Secretary-General has also to take into account whether a specific request to include the item has been made. During the period under review, there was one instance in which the manner of preparing the provisional agenda was the subject of discussion (Case 1).

Pursuant to rule 12, the provisional agenda for each periodic meeting is circulated to members of the Security Council at least twenty-one days before the opening of the meeting. The first periodic meeting of the Council took place during the period under review. The provisional agenda for that meeting, however, was circulated to members in a note by the Secretary-General two days prior to the meeting (Case 2).

In the S/ series are also circulated communications from regional arrangements or agencies, which are received pursuant to Article 54 of the Charter.

****A RULE 6: CIRCULATION OF COMMUNICATIONS BY THE SECRETARY-GENERAL**

B. RULE 7: PREPARATION OF THE PROVISIONAL AGENDA

CASE 1

At the 1601st meeting on 24 November 1971, the representative of the United Kingdom, speaking on a point of order, referred to his letter¹ requesting a meeting of the Council at 11.30 a.m. the following day in connexion with the situation in Southern Rhodesia. He said that his request was based on the assumption that all members of the Council would wish to hear from him a statement concerning the details of an agreement that was reached in Salisbury the previous day, designed to achieve a settlement of the Rhodesian question. He wished the Council meeting to coincide, as closely as possible, with the time that the United Kingdom Parliament itself was being informed. He then remarked that any objection to his request for a meeting might be made formally.

The representative of the USSR stated that if it were a question of convening a meeting to discuss an item in the agenda of the Security Council, namely, the situation in Southern Rhodesia, his delegation would have no objection to the meeting. However, there was no precedent where the Council met for the sole purpose of hearing information pertaining to the visit of a statesman of one country to a colony of that country.

After the representatives of Argentina, Burundi, France, Italy, Japan, Nicaragua, Somalia and the United States had expressed their support for a meeting as requested by the representative of the United Kingdom, the President (Poland) stated that consultations were going on in that regard.

The representative of Argentina stated, however, that there was no need for further consultation as the majority of the members of the Council had already expressed their willingness to convene a meeting in

¹ S/10396, OR, 26th yr., Suppl. for October-December 1971, p. 40.

order to hear the statement of the representative of the United Kingdom. He then added:

"With regard to what appears to be a slight problem of form, that is, the wording of the agenda, rule 7 of our rules of procedure states that: 'The provisional agenda for each meeting of the Security Council is drawn up by the Secretary-General and approved by the President of the Security Council.' So that the question is in the hands of the Secretary-General, who will draw up the agenda, which you must then approve, Mr. President."²

****C. RULE 8: COMMUNICATION OF THE PROVISIONAL AGENDA**

D. RULE 12: COMMUNICATION OF THE PROVISIONAL AGENDA OF PERIODIC MEETINGS

CASE 2

The provisional agenda for the 1555th meeting—the first periodic meeting of the Security Council—was communicated to the members of the Security Council in a note by the Secretary-General dated 19 October 1970,³ which read as follows:

"In accordance with the final paragraph of the consensus [S/9835] expressed by the President and approved by the Security Council at its 1544th meeting on 12 June 1970, the following provisional agenda of the first periodic meeting of the Security Council has been drawn up by the Secretary-General, in consultation with the members of the Council, and approved by the President of the Security Council:

"1. Adoption of the agenda.

"2. Review of the international situation."

The 1555th meeting was held on 21 October 1970.

² For the texts of relevant statements, see: 1601st meeting: President (Poland), para. 80; Argentina, paras. 88-90, 109-110; Belgium, para. 105; Burundi, paras. 96-100; France, paras. 74-77; Italy, paras. 101-102; Japan, para. 103; Somalia, para. 104; United Kingdom, paras. 66-70, 86; United States, para. 82; USSR, para. 72.

³ S/9965, OR, 25th yr., Suppl. for October-December 1970, p. 28.

Part III

ADOPTION OF THE AGENDA (RULE 9)

NOTE

Under rule 9, the first item on the provisional agenda for each meeting of the Security Council is the adoption of the agenda. Unless an objection has been raised, the Council usually adopts the provisional agenda without vote,⁴ either with or without amendments.⁵

⁴ On one occasion, the Council proceeded to adjourn the meeting without adopting the provisional agenda: at its 1503rd meeting on 20 August 1969 in connexion with the letter dated 17 August 1969 from the Permanent Representative of Ireland addressed to the President of the Security Council. After hearing a statement by the representative of Ireland, the Council adjourned without taking a decision on whether or not to adopt the provisional agenda. See chapter III, Case 10. Also see chapter XII, Case 12.

⁵ For an instance of adoption of the agenda, as amended, see, in this chapter, Case 3 below.

As in previous volumes of the *Repertoire*, part III is devoted to the proceedings of the Council on those occasions when objection has been raised to the adoption of the agenda or other discussion on the adoption of the agenda has taken place.

Section A has dealt in past volumes of the *Repertoire* with the procedure of the Council in voting on the adoption of the agenda while section B has dealt with instances when objection had been raised to the adoption of the agenda either indicating the requirement for, or the effect of the inclusion of an item in the agenda. There were no such instances during the period under review.

Under section C, are treated other questions of procedure which are related to the adoption of the agenda,

such as the order of discussion of items on the agenda (Cases 1 and 2), the scope of items and subitems on the agenda in relation to the scope of discussion (Case 3), the phrasing of items on the agenda (Cases 4, 5 and 6) and the participation of a non-member of the Council before the adoption of the agenda (Case 7). The latter case history appears under a subheading not included previously in the *Repertoire*.

During the period under review, participation in the discussion of the adoption of the agenda has been limited to Council members.⁶

****A. PROCEDURE OF VOTING ON ADOPTION OF THE AGENDA**

- **1. Votes taken concerning individual items on the provisional agenda**
- **2. Votes taken on proposals to determine or change the order of items**
- **3. Votes taken on the adoption of the agenda as a whole**

****B. CONSIDERATION OF:**

- **1. Requirements for the inclusion of an item in the agenda**
- **2. Effect of the inclusion of an item in the agenda**

C. OTHER DISCUSSION ON THE ADOPTION OF THE AGENDA

1. Order of discussion of items on the agenda

CASE 3

At the 1466th meeting on 27 March 1969 in connexion with the situation in the Middle East, item 2 of the provisional agenda⁷ read as follows:

"2. Letter dated 26 March 1969 from the Permanent Representative of Jordan addressed to the President of the Security Council (S/9113)."

Before the adoption of the agenda, the President (Hungary) informed the Council that he had, a moment ago, received a letter from the Permanent Representative of Israel⁸ also requesting a meeting of the Council and suggested that the letter be included as item 3 on the provisional agenda.

The representative of the United States declared that the practice of the Security Council since 1967 in discussing the various aspects of the Middle East situation had been to adopt a heading for its agenda entitled "The situation in the Middle East" and then to enter under that general heading the communications from both parties to the dispute. He therefore proposed that in light of the letter from the representative of Israel, the provisional agenda be amended so that item 2 would read "The situation in the Middle East" with references to the letters from the representatives of Jordan and Israel appearing thereunder as subheadings.

The President replied that the practice of the Security Council had not been uniform in this regard; in some instances different complaints had been combined under one heading and, in others, they had been dealt

with separately as different agenda items. He was leaving it up to the members of the Council to decide what procedure to follow in the present case.

The representative of Algeria observed that while the practice had developed in the Council of combining all letters pertaining to a dispute under the same agenda item, such a procedure would tend to put on an equal footing the legitimate complaint of Jordan with the dilatory tactics of Israel. Thus, the victim of the aggression and the aggressor would be put on an equal level. For that reason it would be preferable to have two completely separate agenda items. His delegation would therefore be opposed to the merging of the two letters under the same item in the agenda.

After the observations made by the representatives of the United States and Algeria, concerning the phrasing of the provisional agenda, the President stated that the letter from the representative of Israel could be included in it as item 3.

The representative of the United Kingdom observed that in adopting the agenda, the Council members should consider the over-all implications of the way the agenda was set out. On his part, he believed the indicated heading to be the proper one.

The representative of the USSR agreed with the President in that there was no prescribed and uniform order for including items in the Council's agenda nor any rigid rule for the way in which items were to be listed in drafting the agenda. He then cited a precedent that occurred at the meeting on 29 December 1968 in which communications from both parties to the dispute were included in the agenda as separate items and each of these items was preceded by the title "The situation in the Middle East".⁹ He suggested that a similar procedure be followed in the present instance.

The representative of the United States declared that he would accept the suggestion of the representative of the USSR on the understanding that each speaker may feel free to discuss all items on the agenda.¹⁰

The provisional agenda as amended was adopted upon that understanding and since there were no objections, without a vote. The agenda as adopted,¹¹ read as follows:

"The situation in the Middle East:

"Letter dated 26 March 1969 from the Permanent Representative of Jordan addressed to the President of the Security Council (S/9113)

"The situation in the Middle East:

"Letter dated 27 March 1969 from the Permanent Representative of Israel addressed to the President of the Security Council (S/9114)."

CASE 4

At the 1498th meeting on 13 August 1969, in connexion with the situation in the Middle East, items 2 and 3 of the provisional agenda¹² read as follows:

⁹ See *Repertoire of the Practice of the Security Council, Supplement 1966-1968*, chapter II, Case 8.

¹⁰ For texts of relevant statements, see: 1466th meeting: President (Hungary), paras. 1-3, 6-7, 10, 19-20, 23; Algeria, paras. 8-9, 15; United Kingdom, para. 14; United States, paras. 4-5, 13, 21-22; USSR, paras. 16-18.

¹¹ *Ibid.*, para. 24.

¹² S/Agenda/1498/Rev.1.

⁶ On one occasion, however, the Council invited a non-member to make a statement before taking a decision on the adoption of the agenda. See chapter XII, Case 12.

⁷ S/Agenda/1466.

⁸ Subsequently distributed as S/9114.

"2. The situation in the Middle East:

"Letter dated 12 August 1967 from the Chargé d'affaires a.i. of Lebanon addressed to the President of the Security Council (S/9385)

"3. The situation in the Middle East:

"Letter dated 12 August 1969 from the Permanent Representative of Israel addressed to the President of the Security Council (S/9387)."

After the President (Spain) had declared that if there were no objections, the provisional agenda would be adopted, the representative of the United States stated that since the letter from Lebanon and that from Israel both referred to the same subject, he would have preferred to list the two letters under a single item in the agenda. However, he would accept the provisional agenda on the understanding, in accordance with the Council's most recent practice, that members of the Council and those participating in its proceedings would be free to deal with the agenda as a whole or with any part of it in the course of their statements.

The representative of the USSR observed that attempts by Israel to place on the same footing its own illegal acts against Lebanon and the complaints of the country that had suffered from Israeli aggression were unjustified. However, no time should be wasted on a procedural discussion and the Council should immediately start discussion of the complaint by Lebanon about the act of aggression committed against that country by Israel. In view of the urgency of the question, the USSR delegation would not object to the adoption of the provisional agenda as submitted to the Council.¹³

The President then declared the agenda adopted.¹⁴

2. Scope of items and subitems on the agenda in relation to the scope of discussion

CASE 5

At the 1475th meeting on 13 June 1969 in connexion with the situation in Southern Rhodesia, the representative of Algeria, on a point of order, informed the Council that the Committee established in pursuance of Security Council resolution 253 (1968) had prepared its second report and requested that the report be included as the second item in the agenda for that day's meeting.

The President (Paraguay) stated that if there were no objections, he would declare the proposal of the representative of Algeria as adopted.¹⁵ Since there were no objections, the agenda, as amended, was adopted.¹⁶

3. Phrasing of items on the agenda

CASE 6

At the 1464th meeting on 20 March 1969, in connexion with the situation in Namibia, the President (Hungary) pointed out that the title of the item on the agenda had been changed from "The question of South-west Africa" to "The situation in Namibia." This had been done, he said, in light of the General Assembly resolution 2372 (XXII) of 12 June 1968 which pro-

¹³ For texts of relevant statements, see 1498th meeting: President (Spain), paras. 1, 9; United States, para. 2; USSR, paras. 3-8.

¹⁴ *Ibid.*, para. 9.

¹⁵ For text of relevant statements, see 1475th meeting: President (Paraguay), para. 4; Algeria, para. 3.

¹⁶ *Ibid.*, para. 4.

vided that South West Africa would from then on be known by the name of "Namibia".¹⁷

CASE 7

At the 1579th meeting on 16 September 1971, in connexion with the situation in the Middle East, the provisional agenda included the following item:

"2. The situation in the Middle East:

"Letter dated 13 September 1971 from the Permanent Representative of Jordan to the United Nations addressed to the President of the Security Council (S/10313)."

During the discussion on the adoption of the agenda, the representative of Syria pointed out that the Council had adopted three resolutions on the question of Jerusalem, each of which had requested the Secretary-General to report to the Council on the implementation of that resolution and that pursuant to those resolutions the Secretary-General had submitted several reports to the Council. He therefore proposed to divide item 2 of the provisional agenda into two sections as follows:

"The situation in the Middle East:

"(a) Letter dated 13 September 1971 from the Permanent Representative of Jordan to the United Nations addressed to the President of the Security Council (S/10313);

"(b) Reports of the Secretary-General (S/8052, S/8146, S/9149 and Add.1, S/9537, S/10124 and Add.1 and 2)."

There being no objection, the agenda as amended was adopted.¹⁸

CASE 8

At the 1614th meeting on 14 December 1971, item 2 of the provisional agenda read as follows:

"2. Letter dated 12 December 1971 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/10444)."

Before the adoption of the agenda, the representative of Somalia, raising a point of order, stated that although the Council had been debating the situation in the India/Pakistan subcontinent since 4 December, this had not been reflected in the agenda of the Council. He suggested that for the sake of convenience, the title of the question under the Council's consideration could be changed to read: "The situation in the India/Pakistan subcontinent".

The representatives of China and France supported the suggestion of the representative of Somalia and in the absence of any other comments, the President declared the agenda, as amended, adopted.¹⁹

****4. Postponement of consideration of items**

****5. Precedence of the decision on adoption of the agenda**

¹⁷ For text of relevant statement, see: 1464th meeting, para. 10.

¹⁸ For text of relevant statements, see: 1579th meeting: President (Japan), para. 7; Syria, paras. 3-5.

¹⁹ For texts of relevant statements, see: 1614th meeting: President (Sierra Leone), paras. 1-2, 9; China, para. 6; France, para. 5; Somalia, paras. 3-4, 8.

Part IV

**THE AGENDA: MATTERS OF WHICH THE SECURITY COUNCIL IS SEIZED
(RULES 10 AND 11)**

NOTE

Rule 10 of the provisional rules of procedure was designed to enable the Security Council to continue, at its next meeting, the consideration of an item of unfinished business without subjecting that item to renewed debate in connexion with the adoption of the agenda. In practice, however, the provisional agenda has not contained all items of unfinished business.

In the previous volumes of the *Repertoire*, it was noted that items on the agenda of the Council have remained on the Secretary-General's summary statement of matters of which the Security Council is seized when the tenor of the Council's discussion or its specific decisions have revealed a continuing concern with the matter.²⁰

²⁰ The following resolutions contained provisions according to which the Security Council decided to maintain the item on the agenda or to remain seized of the matter: resolutions 264 (1969) of 20 March 1969, para. 10; 269 (1969) of 12 August 1969, para. 10; and 283 (1970) of 29 July 1970; para. 17, adopted in connexion with the situation in Namibia; resolution 268 (1969) of 28 July 1969, para. 6, adopted in connexion with the complaint by Zambia; resolutions 273 (1969) of 9 December 1969, para. 4; and 302 (1971) of 24 November 1971, para. 10, adopted in connexion with the complaints by Senegal; resolutions 277 (1970) of 18 March

During the period under review, additional evidence supporting such retention has been provided when the President of the Council has announced, upon conclusion of the debate, that the Council remained seized of a question.²¹

The tabulation appearing in section B.1 supplements the tabulation in the previous volume of the *Repertoire* and indicates the changes that have since occurred in the list of matters of which the Security Council is seized.

****A. RULE 10**

1970, para. 24; and 288 (1970) of 17 November 1970, para. 6, adopted in connexion with the situation in Southern Rhodesia; resolutions 289 (1970) of 23 November 1970, para. 5; 290 (1970) of 8 December 1970, para. 12, and 295 (1971) of 3 August 1971, para. 4, adopted in connexion with the complaint by Guinea; resolution 307 (1971) of 21 December 1971, para. 7, adopted in connexion with the situation in the India/Pakistan subcontinent.

²¹ For the statements of the President, see: 1465th meeting, para. 166, and 1529th meeting, para. 201, in connexion with the situation in Namibia; 1491st meeting, para. 38, in connexion with the complaint by Zambia; 1520th meeting, para. 68 and 1601st meeting, para. 133, in connexion with the complaint by Senegal; 1557th meeting, para. 34 in connexion with the situation in Southern Rhodesia; 1563rd meeting, para. 190, in connexion with the complaint by Guinea.

B. RULE 11

1. Retention and deletion of items from the Secretary-General's Summary Statements on matters of which the Security Council is seized

This tabulation supplements those appearing in the *Repertoire*, 1946-1951, the *Supplement*, 1952-1955, pp. 33-40, the *Supplement*, 1956-1958, pp. 38-45, the *Supplement*, 1959-1963, pp. 49-61, the *Supplement*, 1964-1965, pp. 29-41, and the *Supplement*, 1966-1968, pp. 40-54. Part 1 indicates items added to the list of matters of which the Security Council is seized during the period 1969-1971, part 2 indicates items appearing on previous lists concerning which new information was included in the summary statements during that period, and part 3 indicates items which were deleted from the list during the same period. The titles used are those occurring in the Summary Statements except for some abridgements.

**I. ITEMS ADDED TO THE LIST OF MATTERS OF WHICH THE SECURITY COUNCIL IS SEIZED
DURING THE PERIOD 1969-1971**

Item	First inclusion in the agenda	First entry in Summary Statement	Last action of the Council as of 31 December 1971	Final entry in Summary Statement as of 31 December 1971
Complaint by Zambia: letter dated 15 July 1969 from the Permanent Representative of Zambia addressed to the President of the Security Council (S/9331)	1486th meeting, 18 July 1969	S/9346, 22 July 1969	Adopted joint draft resolution (S/10365/Rev.1) 1592nd meeting, 12 October 1971	
Letter dated 18 August 1969 from the Permanent Representative of the United States of America addressed to the President of the Security Council (S/9397) (The question of Micro-States)	1505th meeting, 27 August 1969	S/9427, 25 August 1969	Established a committee of experts to study the question 1506th meeting, 29 August 1969	

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in Summary Statement</i>	<i>Last action of the Council as of 31 December 1971</i>	<i>Final entry in Summary Statement as of 31 December 1971</i>
Letter dated 23 September 1969 from the President of the General Assembly addressed to the President of the Security Council (S/9462)	1514th meeting, 23 October 1969	S/9488, 27 October 1969	Adopted draft resolution submitted by the President (resolution 272 (1969)) 1514th meeting, 23 October 1969	S/9488, 27 October 1969
Election of members of the International Court of Justice	1515th meeting, 27 October 1969	S/9495, 3 November 1969	Recommended five candidates to fill vacancies 1515th meeting, 27 October 1969	S/9495, 3 November 1969
Complaint by Guinea: letter dated 4 December 1969 from the Chargé d'affaires a.i. of Guinea addressed to the President of the Security Council (S/9528)	1522nd meeting, 15 December 1969	S/9577, 22 December 1969	President read text of consensus on the question 1603rd meeting, 30 November 1971	
The question of Bahrain	1536th meeting, 11 May 1970	S/9805, 19 May 1970	Adopted draft resolution submitted by the President (resolution 278 (1970)) 1536th meeting, 11 May 1970	
The question of initiating periodic meetings of the Security Council	1544th meeting, 12 June 1970	S/9837, 16 June 1970	President read statement expressing consensus of the Council 1544th meeting, 12 June 1970	
The situation created by increasing incidents involving the hijacking of commercial aircraft	1552nd meeting, 9 September 1970	S/9937, 14 September 1970	Adopted by consensus a draft resolution submitted by the President (resolution 286 (1970)) 1552nd meeting, 9 September 1970	
Admission of new Members: Fiji	1554th meeting, 10 October 1970	S/9961, 13 October 1970	Recommended 1554th meeting, 10 October 1970	S/9961, 13 October 1970
Bhutan	1565th meeting, 9 February 1971	S/10121, 15 February 1971	Recommended 1566th meeting, 10 February 1971	S/10121, 15 February 1971
Bahrain	1574th meeting, 16 August 1971	S/10296, 23 August 1971	Recommended 1575th meeting, 18 August 1971	S/10296, 23 August 1971
Qatar	1577th meeting, 14 September 1971	S/10327, 21 September 1971	Recommended 1578th meeting, 15 September 1971	S/10327, 21 September 1971
Oman	1574th meeting, 16 August 1971	S/10296, 23 August 1971	Recommended 1587th meeting, 30 September 1971	S/10351, 5 October 1971
United Arab Emirates	1608th meeting, 6 December 1971	S/10462, 17 December 1971	Recommended 1609th meeting, 8 December 1971	S/10462, 17 December 1971
The situation in the India/Pakistan subcontinent*	1606th meeting, 4 December 1971	S/10435, 6 December 1971	Adopted joint draft resolution (S/10465) 1621st meeting, 21 December 1971	

2. ITEMS WHICH APPEARED IN PREVIOUS VOLUMES OF THE *Repertoire* ON WHICH NEW ACTION BY THE SECURITY COUNCIL WAS REPORTED IN SUMMARY STATEMENTS ISSUED DURING THE PERIOD 1969-1971

Rules of procedure of the Security Council	1st meeting, 17 January 1946	S/45, 23 April 1946	Amended rules 1463rd meeting, 24 January 1969
The question of race conflict in South Africa resulting from the policies of <i>apartheid</i> of the Republic of South Africa: Letter dated 11 July 1963	1040th meeting, 22 July 1963	S/5377, 30 July 1963	Adopted Five-Power draft resolution (S/9882/Rev.2) 1549th meeting, 23 July 1970

* The Council decided on this title at its 1614th meeting on 14 December 1971.

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in Summary Statement</i>	<i>Last action of the Council as of 31 December 1971</i>	<i>Final entry in Summary Statement as of 31 December 1971</i>
Letter dated 26 December 1963 from the Permanent Representative of Cyprus addressed to the President of the Security Council (S/5488)	1085th meeting, 27 December 1963	S/5500, 31 December 1963	Adopted draft resolution submitted by the President (resolution 305 (1971)) 1612th meeting, 13 December 1971	
The situation in the Middle East ^b	1341st meeting, 24 May 1967	S/7913, 29 May 1967	Adopted draft resolution submitted by Somalia (S/10337) 1582nd meeting, 25 September 1971	
The situation in Namibia ^c	1387th meeting, 25 January 1968	S/8367, 30 January 1968	Adopted joint draft resolution (S/10372/Rev.1) 1598th meeting, 20 October 1971	

3. ITEMS WHICH WERE DELETED FROM THE LIST OF MATTERS OF WHICH THE SECURITY COUNCIL IS SEIZED DURING THE PERIOD 1969-1971

Letter dated 23 September 1969 from the President of the General Assembly addressed to the President of the Security Council (S/9462)	1514th meeting, 23 October 1969	S/9488, 27 October 1969	Adopted draft resolution submitted by the President (resolution 272 (1969)) 1514th meeting, 23 October 1969	S/9488, 27 October 1969
Election of members of the International Court of Justice	1515th meeting, 27 October 1969	S/9495, 3 November 1969	Recommended five candidates to fill vacancies 1515th meeting, 27 October 1969	S/9495, 3 November 1969
Admission of new Members:				
Fiji	1554th meeting, 10 October 1970	S/9961, 13 October 1970	Recommended 1554th meeting, 10 October 1970	S/9961, 13 October 1970
Bhutan	1565th meeting, 9 February 1971	S/10121, 15 February 1971	Recommended 1566th meeting, 10 February 1971	S/10121, 15 February 1971
Bahrain	1574th meeting, 16 August 1971	S/10296, 23 August 1971	Recommended 1575th meeting, 18 August 1971	S/10296, 23 August 1971
Qatar	1577th meeting, 14 September 1971	S/10327, 21 September 1971	Recommended 1578th meeting, 15 September 1971	S/10327, 21 September 1971
Oman	1574th meeting, 16 August 1971	S/10296, 23 August 1971	Recommended 1587th meeting, 30 September 1971	S/10351, 5 October 1971
United Arab Emirates	1608th meeting, 6 December 1971	S/10462, 17 December 1971	Recommended 1609th meeting, 8 December 1971	S/10462, 17 December 1971

****2. Proceedings of the Security Council regarding the retention and deletion of items from the agenda**

^b First included in the agenda under the heading "Letter dated 23 May 1967 from the Permanent Representatives of Canada and Denmark addressed to the President of the Security Council." The new heading was included in the Council's agenda at the 1369th meeting on 24 October 1967.

^c At the 1464th meeting on 20 March 1969 the Council, without objection, included the question of "South West Africa" in its agenda under a new heading entitled "The situation in Namibia."

Chapter III

PARTICIPATION IN THE PROCEEDINGS OF THE SECURITY COUNCIL

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INTRODUCTORY NOTE

As indicated previously in the *Repertoire*, Articles 31 and 32 of the Charter and rules 37 and 39 of the provisional rules of procedure provide for invitations to non-members of the Security Council in the following circumstances: (1) where a member of the United Nations brings a dispute or a situation to the attention of the Security Council in accordance with Article 35, paragraph 1 (rule 37); (2) where a Member of the United Nations or a State which is not a Member of the United Nations is a party to a dispute (Article 32); (3) where the interests of a Member of the United Nations are specially affected (Article 31 and rule 37); and (4) where members of the Secretariat or other persons are invited to supply information or give other assistance (rule 39). Of these four categories, only category (2) involves an obligation of the Council. In extending invitations, the Council, as earlier, has made no distinction between a complaint involving a dispute within the meaning of Article 32, or a situation, or a matter not of such nature.

The classification of material relevant to participation in the proceedings of the Security Council is designed to facilitate the presentation of the varieties of practice to which the Council has had recourse,

adhering where possible to a classification based on Articles 31 and 32 of the Charter and rules 37 and 39 of the provisional rules of procedure. The reasons why the material cannot be satisfactorily arranged within a classification derived from the texts of these Articles and rules of procedure, have been set forth in the *Repertoire*, 1946-1951.

The relevant material is assembled under parts I and III of the present chapter. During the period under review there has been no discussion of the terms and provisions of Article 32. Consequently, there are no entries in part II.

Part I includes a summary account of the proceedings of the Council in the consideration of those proposals to extend an invitation to participate in the discussion where objections or other questions were raised with special emphasis on consideration of the basis on which the invitation might be deemed to rest. Included also in this part is a tabulation of invitations extended by the Council.

Part III presents a summary account of procedures relating to the participation of invited representatives after the Council had decided to extend invitations.

Part I

BASIS OF INVITATIONS TO PARTICIPATE

NOTE

Part I includes all instances in which proposals to extend invitations to participate in the discussion have been put forward in the Security Council. The types and varieties of practice to which the Council has had recourse in connexion with the extension of invitations are dealt with in three sections: section B: Invitations to representatives of subsidiary organs or other United Nations organs;¹ section C: Invitations to Members of the United Nations;² section D: Invitations to non-member States and other invitations. Presented in case histories are those instances in which special problems arose regarding a request for an invitation to participate in the proceedings of the Council. In each case history, the general features of the proceedings together with the decision of the Council and the main positions taken in the course of the debate are outlined.

In most instances in which Member States submitting matters to the Council in accordance with

Article 35, paragraph 1, have asked to participate in the deliberations of the Council, the invitations have been extended as a matter of course and without discussion. This has been true also of invitations under Article 31 to Members of the United Nations to participate in the discussion of a question when their interests were considered by the Council to be specially affected.

Of the two hundred and one instances in which routine invitations were extended by the Security Council, fifty-four have been recorded in tabular form in section C. 1(a), whereas the other one hundred and forty-seven appear in section C. 2(a). As indicated in the previous volume, the tabulation is chronologically arranged to provide information on the following points: (1) agenda item; (2) State invited; (3) request for invitation, and (4) decision of the Council. Included also is an instance in which thirty-seven African States, in submitting a question to the Council, delegated the President of the Islamic Republic of Mauritania and the Ministers for Foreign Affairs of Sudan, Ethiopia, Nigeria, Liberia and Chad to submit to the Council the concern of all peoples of

¹ See Case 1.

² See tabulations C. 1(a), C. 2(a).

Africa about the situation in Namibia.³ One of the three case histories following the tabulation deals with the question of extending invitations to the representatives of these African States in accordance with Article 35 of the Charter.⁴ Two other cases are concerned with the question of extending invitations to States whose interests were claimed to be specially affected by the situation under consideration. They present the proceedings in which the question of the applicability of Article 31 and rule 37 of the provisional rules of procedure was raised in connexion with the request for an invitation from a member State.⁵

In section D those proceedings are reported which involved the extension of an invitation under rule 39 of the provisional rules of procedure. In the first of three cases presented, the invitation was extended expressly under rule 39⁶ while in the second case its basis was not specified.⁷ In the third case there has been extensive discussion on the applicability of rule 39 in connexion with a request for an invitation; however, no decision of the Council was taken.⁸

³ S/10326, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 64.

⁴ See Case 2.

⁵ See Cases 3 and 4.

⁶ See Case 5.

⁷ See Case 6.

⁸ See Case 7.

**A. IN THE CASE OF PERSONS INVITED IN AN INDIVIDUAL CAPACITY

B. IN THE CASE OF REPRESENTATIVES OF UNITED NATIONS ORGANS OR SUBSIDIARY ORGANS

CASE 1

At the 1464th meeting on 20 March 1969 in connexion with the situation in Namibia the President (Hungary) informed the members of the Security Council that a request to participate in the debate had been made by the representative of the United Arab Republic in his capacity as President of the United Nations Council for Namibia.

The President stated further "If there is no objection, I shall invite the representative of the United Arab Republic to take a place at the Council table in order to participate, without vote in the Security Council's debate in accordance with the usual practice and with rules of procedure."⁹

At the invitation of the President, the representative of the United Arab Republic took a seat at the Council table.¹⁰

⁹ 1464th meeting: President (Hungary), para. 9.

¹⁰ At the 1527th meeting on 28 January 1970 (para. 26) the representative of Turkey, and at the 1584th meeting on 27 September 1971 (para. 49) the representative of Nigeria, each in his capacity as President of the United Nations Council, were invited to participate in the discussion.

C. IN THE CASE OF MEMBERS OF THE UNITED NATIONS

1. Invitation when the Member brought to the attention of the Security Council

(a) A MATTER IN ACCORDANCE WITH ARTICLE 35, PARAGRAPH 1, OF THE CHARTER

<i>Question ^a</i>	<i>State Invited</i>	<i>Basis of invitation</i>	<i>Decision of the Council: Invitations extended and renewed ^b</i>
1. The situation in the Middle East	Jordan	S/9113, <i>OR</i> , 24th yr., <i>Suppl. for Jan.-March 1969</i> , pp. 142-143	1466th meeting (1467th-1473rd meetings)
	Israel	S/9114, <i>OR</i> , 24th yr., <i>Suppl. for Jan.-March 1969</i> , p. 143 S/9115	1466th meeting (1467th-1473rd meetings)
	Lebanon	S/9385, <i>OR</i> , 24th yr., <i>Suppl. for July-Sept. 1969</i> , p. 153 S/9390	1498th meeting (1499th-1502nd, 1504th meetings)
	Lebanon	S/9794, <i>OR</i> , 25th yr., <i>Suppl. for April-June 1970</i> , p. 181 S/9797	1537th meeting (1538th-1542nd meetings)
	Israel	S/9795, <i>OR</i> , 25th yr., <i>Suppl. for April-June 1970</i> , p. 182 S/9796	1537th meeting (1538th-1542nd meetings)
	Lebanon	S/9925, <i>OR</i> , 25th yr., <i>Suppl. for July-Sept. 1970</i> , p. 141 S/9926	1551st meeting

^a Questions entered in this tabulation are arranged under agenda items. The items appearing herein are listed chronologically according to the sequence of the first meeting held on each item. Any reconsideration of an item or discussion of a sub-item under the general heading at subsequent meetings does not reappear as a new agenda item, but has been grouped under the item which first appeared. Questions in respect of which invitations were extended to other Members because

their interests were considered to be specially affected are indicated by an asterisk and the invitations are listed separately in a tabulation entitled "Invitations when the interests of a Member were considered specially affected" as explained in the introductory note (see C.2 below).

^b The meetings at which the invitations were renewed are indicated by parentheses.

Question ^a	State invited	Basis of invitation	Decision of the Council: Invitations extended and renewed ^b
2. Complaint by the Government of Cyprus	Cyprus	S/5488, <i>OR</i> , 18th yr., <i>Suppl. for Oct.-Dec. 1963</i> , pp. 112-114 S/9245 S/9553 S/9828 S/10033 S/10208 S/10448	1474th meeting 1521st meeting 1543rd meeting 1564th meeting 1567th meeting (1568th meeting) 1612th meeting (1613th meeting)
3. Situation in Southern Rhodesia	Mauritania Tanzania Guinea Somalia India Sudan Saudi Arabia Burundi Algeria	S/9237 and Add.1 and 2, <i>OR</i> , 24th yr., <i>Suppl. for April-June 1969</i> , p. 187 S/9257 S/9260 S/9262 S/9267 S/9261 S/9268 S/9269 S/9272 S/9682, <i>OR</i> , 25th yr., <i>Suppl. for Jan.-March 1970</i> , p. 153 S/9685 S/9689 S/9690 S/9697 S/9699 S/9710	1477th meeting (1478th-1481st meetings) 1477th meeting (1478th-1481st meetings) 1477th meeting (1478th-1481st meetings) 1478th meeting (1479th-1481st meetings) 1478th meeting (1479th-1481st meetings) 1478th meeting (1479th-1481st meetings) 1480th meeting (1481st meeting) 1531st meeting (1532nd-1535th meetings) 1531st meeting (1532nd-1535th meetings) 1531st meeting (1532nd-1535th meetings) 1532nd meeting (1533rd-1535th meetings) 1533rd meeting (1534th-1535th meetings) 1534th meeting (1535th meeting)
4. Situation in Namibia	Chile India Pakistan Mauritania Ethiopia Guyana Liberia South Africa Sudan Chad Nigeria Mauritius Uganda	S/9359, <i>OR</i> , 24th yr., <i>Suppl. for July-Sept. 1969</i> , p. 138 S/9369 S/9376 S/9616/Add.1-3, <i>OR</i> , 25th yr., <i>Suppl. for Jan.-March 1970</i> , p. 112 S/9627 S/9628 S/10326, <i>OR</i> , 26th yr., <i>Suppl. for July-Sept. 1971</i> , p. 64 S/10333 S/10340 S/10339 S/10334 S/10336 S/10326 S/10326 S/10347 S/10374	1492nd meeting (1493rd-1497th meetings) 1493rd meeting (1494th-1497th meetings) 1529th meeting 1529th meeting 1583rd meeting 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1584th meeting (1585th, 1587th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1587th meeting (1588th-1589th, 1593rd-1595th, 1597th-1598th meetings) 1595th meeting (1597th-1598th meetings)
5. Complaint by Senegal	Guinea Senegal	S/9528, <i>OR</i> , 24th yr., <i>Suppl. for Oct.-Dec. 1969</i> , p. 147 S/10251, <i>OR</i> , 26th yr., <i>Suppl. for July-Sept. 1971</i> , p. 28	1516th meeting (1517th-1520th meetings) 1569th meeting (1570th-1572nd meetings)
6. Complaint by Guinea	Guinea	S/9528, <i>OR</i> , 24th yr., <i>Suppl. for Oct.-Dec. 1969</i> , p. 147 S/9987, <i>OR</i> , 25th yr., <i>Suppl. for Oct.-Dec. 1970</i> , p. 51 S/9991 S/10280, <i>OR</i> , 26th yr., <i>Suppl. for July-Sept. 1971</i> , pp. 41-42 S/10282	1522nd meeting (1523rd-1526th meetings) 1558th meeting (1559th-1563rd meetings) 1573rd meeting (1574th-1576th, 1586th, 1593rd meetings)
7. The Question of Race Conflict in South Africa	Mauritius	S/9867, <i>OR</i> , 25th yr., <i>Suppl. for July-Sept. 1970</i> , p. 106 S/9872	1545th meeting (1546th-1549th meetings)

<i>Question ^a</i>	<i>State invited</i>	<i>Basis of invitation</i>	<i>Decision of the Council: Invitations extended and renewed ^b</i>
7. Question of Race Conflict in South Africa (cont'd)	India	S/9873	1545th meeting (1546th-1549th meetings)
	Somalia	S/9874	1545th meeting (1546th-1549th meetings)
	Ghana	S/9876	1546th meeting (1547th-1549th meetings)
	Pakistan	S/9877	1546th meeting (1547th-1549th meetings)
8. Question concerning the Islands of Abu Musa, the Greater Tunb and the Lesser Tunb	Algeria	S/10409, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 79	1610th meeting
	Iraq	<i>Ibid.</i>	1610th meeting
	Libyan Arab Republic	<i>Ibid.</i>	1610th meeting
	People's Democratic Republic of Yemen	<i>Ibid.</i>	1610th meeting

(b) IN THE CASE OF MEMBER STATES OF THE UNITED NATIONS IN THEIR CAPACITY AS REPRESENTATIVES OF OTHER INTERNATIONAL ORGANIZATIONS THAN THE UNITED NATIONS

CASE 2

At the 1583rd meeting on 27 September 1971 in connexion with the situation in Namibia, the President (Japan) informed the Council that the representatives of thirty-five African Member States submitted the request that the Council be convened in order to enable the current Chairman of the Organization of African Unity, to participate personally in the debate in the Security Council. On behalf of the Security Council, the President invited without objections the President of the Islamic Republic of Mauritania, to take a seat at the Council table and to address the Council on the subject before it in his capacity as the Chairman of the eighth session of the Assembly of Heads of State and Government of the Organization of African Unity.¹¹

¹¹ For texts of relevant statements, see: 1583rd meeting, President (Japan), paras. 1, 2.

At the 1584th meeting on 27 September 1971 the President informed the Council that he had received a letter from the Chairman of the African Group of State in which he stated that the Ministers for Foreign Affairs of Sudan, Ethiopia, Nigeria, Liberia and Chad were serving as members of the delegation of the Organization of African Unity, headed by the President of Mauritania, Moktar Ould Daddah and he requested that they be invited to participate in the Security Council's discussion on the question of Namibia without the right to vote.

The President stated further that three of the Ministers mentioned in that letter had already been invited to participate in the discussion, having submitted separate requests to that effect. He proposed that the Council invite the other two members of the OAU delegation—namely, the Ministers for Foreign Affairs of Nigeria and Chad to participate in the discussion without the right to vote.

The President invited without objection the representatives of Nigeria and Chad to take the places reserved for them at the side of the Council Chamber.¹²

¹² For texts of relevant statements see: 1584th meeting, President (Japan), paras. 91-94.

** (c) A MATTER NOT BEING EITHER A DISPUTE OR A SITUATION.

2. Invitations when the interests of a Member were considered specially affected

(a) TO PARTICIPATE WITHOUT VOTE IN THE DISCUSSIONS

<i>Question ^a</i>	<i>State invited</i>	<i>Basis of invitation</i>	<i>Decision of the Council: Invitations extended and renewed ^b</i>
1. The situation in the Middle East	Saudi Arabia	S/9116	1467th meeting (1468th-1473rd meetings)
	Jordan	S/9284	1482nd meeting (1483rd-1485th meetings)
	Israel	S/9288	1482nd meeting (1483rd-1485th meetings)
	United Arab Republic	S/9290	1482nd meeting (1483rd-1485th meetings)
	Saudi Arabia	S/9294	1482nd meeting (1483rd-1485th meetings)
	Syrian Arab Republic	S/9295	1482nd meeting (1483rd-1485th meetings)
	Morocco	S/9296	1482nd meeting (1483rd-1485th meetings)

^a Questions entered in this tabulation are arranged under agenda items. The items appearing herein are listed chronologically according to the sequence of the first meeting held on each item. Any reconsideration of an item or discussion of a subitem under the general heading at subsequent meetings does

not reappear as a new agenda item, but has been grouped under the item which first appeared.

^b The meetings at which the invitations were renewed are indicated by parentheses.

<i>Question ^a</i>	<i>State invited</i>	<i>Basis of invitation</i>	<i>Decision of the Council: invitations extended and renewed ^b</i>
1. The situation in the Middle East (cont'd)	Iraq	S/9297	1483rd meeting (1484th-1485th meetings)
	Indonesia	S/9298	1483rd meeting (1484th-1485th meetings)
	Lebanon	S/9300	1483rd meeting (1484th-1485th meetings)
	Malaysia	S/9302	1484th meeting (1485th meeting)
	Sudan	S/9304	1485th meeting
	Afghanistan	S/9305	1485th meeting
	Yemen	S/9306	1485th meeting
	Tunisia	S/9307	1485th meeting
	Kuwait	S/9310	1485th meeting
	Israel	S/9435	1507th meeting (1508th-1512th meetings)
	United Arab Republic	S/9436	1507th meeting (1508th-1512th meetings)
	Indonesia	S/9437	1507th meeting (1508th-1512th meetings)
	India	S/9439	1508th meeting (1509th-1512th meetings)
	Somalia	S/9440	1508th meeting (1509th-1512th meetings)
	Jordan	S/9441	1509th meeting (1510th-1512th meetings)
	Saudi Arabia	S/9443	1509th meeting (1510th-1512th meetings)
	Ceylon	S/9442	1510th meeting (1511th-1512th meetings)
	Malaysia	S/9444	1510th meeting (1511th-1512th meetings)
	Lebanon	S/9446	1511th meeting (1512th meeting)
	Tunisia	S/9448	1511th meeting (1512th meeting)
	Saudi Arabia	S/9798	1537th meeting (1538th-1542nd meetings)
	Morocco	S/9799	1537th meeting (1538th-1542nd meetings)
	Israel	S/9927	1551st meeting
	Jordan	S/10314	1579th meeting (1580th-1582nd meetings)
	United Arab Republic	S/10317	1579th meeting (1580th-1582nd meetings)
Israel	S/10319	1579th meeting (1580th-1582nd meetings)	
Mali	S/10321	1580th meeting (1581st-1582nd meetings)	
Lebanon	S/10322	1580th meeting (1581st-1582nd meetings)	
Morocco	S/10323	1580th meeting (1581st-1582nd meetings)	
Saudi Arabia	S/10324	1580th meeting (1581st-1582nd meetings)	
Tunisia	S/10325	1581st meeting (1582nd meeting)	
2. Complaint by the Government of Cyprus	Turkey	S/9242	1474th meeting
	Greece	S/9239	1477th meeting
	Turkey	S/9551	1521st meeting
	Greece	S/9547	1521st meeting
	Turkey	S/9829	1543rd meeting
	Greece	S/9830	1543rd meeting
	Turkey	S/10034	1564th meeting
	Greece	S/10035	1564th meeting
	Turkey	S/10207	1567th meeting (1568th meeting)
	Greece	S/10204	1567th meeting (1568th meeting)
	Turkey	S/10447	1612th meeting (1513th meeting)
	Greece	S/10449	1612th meeting (1513th meeting)
	3. Complaint by Zambia	Portugal	S/9335
Tanzania		S/9341	1487th meeting (1488th-1491st meetings)
Somalia		S/9348	1487th meeting (1488th-1491st meetings)
Kenya		S/9350	1488th meeting (1489th-1491st meetings)
United Arab Republic		S/9351	1488th meeting (1489th-1491st meetings)
Liberia		S/9355	1489th meeting (1490th-1491st meetings)
Madagascar		S/9355	1489th meeting (1490th-1491st meetings)
Sierra Leone		S/9355	1489th meeting (1490th-1491st meetings)
Tunisia		S/9355	1489th meeting (1490th-1491st meetings)
Gabon		S/9356	1489th meeting (1490th-1491st meetings)
Democratic Republic of the Congo		S/9357	1489th meeting (1490th-1491st meetings)

Question ^a	State invited	Basis of invitation	Decision of the Council: invitations extended and renewed ^b
3. Complaint by Zambia (cont'd)	Zambia	S/10358	1590th meeting (1591st-1592nd meetings)
	Tanzania	S/10357	1590th meeting (1591st-1592nd meetings)
	Nigeria	S/10359	1590th meeting (1591st-1592nd meetings)
	South Africa	S/10360	1590th meeting (1591st-1592nd meetings)
	Kenya	S/10361	1590th meeting (1591st-1592nd meetings)
	Guinea	S/10363	1590th meeting (1591st-1592nd meetings)
	Yugoslavia	S/10367	1591st meeting (1592nd meeting)
	India	S/10370	1591st meeting (1592nd meeting)
Pakistan	S/10371	1591st meeting (1592nd meeting)	
4. Complaint by Senegal	Portugal	S/9519	1516th meeting (1517th-1520th meetings)
	Morocco	S/9529	1516th meeting (1517th-1520th meetings)
	Liberia	S/9531	1517th meeting (1518th-1520th meetings)
	Madagascar	S/9531	1517th meeting (1518th-1520th meetings)
	Sierra Leone	S/9531	1517th meeting (1518th-1520th meetings)
	Tunisia	S/9531	1517th meeting (1518th-1520th meetings)
	Mali	S/9533	1517th meeting (1518th-1520th meetings)
	Saudi Arabia	S/9534	1517th meeting (1518th-1520th meetings)
	Syria	S/9536	1517th meeting (1518th-1520th meetings)
	Yemen	S/9535	1517th meeting (1518th-1520th meetings)
	United Arab Republic	S/9538	1517th meeting (1518th-1520th meetings)
	Mauritania	S/9539	1518th meeting (1519th-1520th meetings)
	Guinea	S/10258	1569th meeting (1570th-1572nd, 1599th-1601st meetings)
	Mali	S/10260	1570th meeting (1571st-1572nd, 1599th-1601st meetings)
	Sudan	S/10262	1570th meeting (1571st-1572nd, 1599th-1601st meetings)
	Mauritania	S/10261	1570th meeting (1571st-1572nd, 1599th-1601st meetings)
	Togo	S/10263	1571st meeting (1572nd, 1599th-1601st meetings)
	Mauritius	S/10264	1571st meeting (1572nd, 1599th-1601st meetings)
	Zambia	S/10265	1571st meeting (1572nd, 1599th-1601st meetings)
	Senegal	S/10342	1586th meeting (1599th-1601st meetings)
5. Complaint by Guinea	Portugal	S/9555	1522nd meeting (1523rd-1526th meetings)
	Mali	S/9549	1523rd meeting (1524th-1526th meetings)
	Syria	S/9561	1523rd meeting (1524th-1526th meetings)
	Congo	S/9562	1523rd meeting (1524th-1526th meetings)
	Liberia	S/9563	1523rd meeting (1524th-1526th meetings)
	Madagascar	S/9563	1523rd meeting (1524th-1526th meetings)
	Sierra Leone	S/9563	1523rd meeting (1524th-1526th meetings)
	Tunisia	S/9563	1523rd meeting (1524th-1526th meetings)
	Lesotho	S/9564	1523rd meeting (1524th-1526th meetings)
	Saudi Arabia	S/9565	1523rd meeting (1524th-1526th meetings)
	Libya	S/9566	1524th meeting (1525th-1526th meetings)
	Yemen	S/9567	1524th meeting (1525th-1526th meetings)
	India	S/9568	1524th meeting (1525th-1526th meetings)
	Bulgaria	S/9573	1525th meeting (1526th meeting)
	Mauritius	S/9572	1525th meeting (1526th meeting)
	Senegal	S/9992	1558th meeting (1559th-1563rd meetings)
	Mali	S/9993	1558th meeting (1559th-1563rd meetings)
	Saudi Arabia	S/9994	1558th meeting (1559th-1563rd meetings)
	Mauritania	S/9995	1558th meeting (1559th-1563rd meetings)
	Algeria	S/10010	1559th meeting (1560th-1563rd meetings)
	Liberia	S/10011	1559th meeting (1560th-1563rd meetings)
	Tanzania	S/10012	1559th meeting (1560th-1563rd meetings)
	Congo	S/10013	1559th meeting (1560th-1563rd meetings)
Yugoslavia	S/10015	1559th meeting (1560th-1563rd meetings)	

<i>Question ^a</i>	<i>State invited</i>	<i>Basis of invitation</i>	<i>Decision of the Council: invitations extended and renewed ^b</i>
5. Complaint by Guinea (cont'd)	Mauritius	S/10016	1559th meeting (1560th-1563rd meetings)
	Sudan	S/10017	1559th meeting (1560th-1563rd meetings)
	United Arab Republic	S/10018	1559th meeting (1560th-1563rd meetings)
	Ethiopia	S/10019	1559th meeting (1560th-1563rd meetings)
	Southern Yemen	S/10021	1560th meeting (1561st-1563rd meetings)
	Cuba	S/10022	1560th meeting (1561st-1563rd meetings)
	Uganda	S/10023	1561st meeting (1562nd-1563rd meetings)
	India	S/10025	1561st meeting (1562nd-1563rd meetings)
	Somalia	S/10026	1561st meeting (1562nd-1563rd meetings)
	Haiti	S/10027	1562nd meeting (1563rd meeting)
	Pakistan	S/10029	1562nd meeting (1563rd meeting)
6. The question of Bahrain	Iran	S/9784	1536th meeting
	Yemen	S/9788	1536th meeting
	Pakistan	S/9793	1536th meeting
7. Situation in Namibia	Saudi Arabia	S/10353	1589th meeting (1593rd, 1595th, 1597th, 1598th meetings)
	India	S/10373	1595th meeting (1597th, 1598th meetings)
8. Situation in Southern Rhodesia	Saudi Arabia	S/10398	1602nd meeting (1603rd-1605th, 1609th, 1622nd-1623rd meetings)
	Tanzania	S/10399	1603rd meeting (1604th-1605th, 1609th, 1622nd-1623rd meetings)
	Kenya	S/10400	1603rd meeting (1604th-1605th, 1609th, 1622nd-1623rd meetings)
	Zambia	S/10404	1604th meeting (1605th, 1609th, 1622nd-1623rd meetings)
	Ghana	S/10407	1604th meeting (1605th, 1609th, 1622nd-1623rd meetings)
	Uganda	S/10478	1623rd meeting
	Nigeria	S/10482	1623rd meeting
	Algeria	S/10483	1623rd meeting
	India	S/10484	1623rd meeting
9. The situation in the India/Pakistan Subcontinent	India		1606th meeting (1607th, 1608th, 1611th, 1614th-1617th, 1621st meetings)
	Pakistan		1606th meeting (1607th, 1608th, 1611th, 1614th-1617th, 1621st meetings)
	Tunisia	S/10414	1607th meeting (1608th, 1611th, 1614th-1617th, 1621st meetings)
	Saudi Arabia	S/10424	1608th meeting (1611th, 1614th-1617th, 1621st meetings)
	Ceylon	S/10454	1615th meeting (1616th, 1617th, 1621st meetings)
10. Question concerning the Islands of Abu Musa, the Greater Tunb and the Lesser Tunb	Kuwait	S/10431	1610th meeting
	Iran	S/10436	1610th meeting
	The United Arab Emirates	S/10439	1610th meeting

CASE 3

At the 1606th meeting on 4 December 1971 in connexion with the situation in the India/Pakistan subcontinent, the President (Sierra Leone) drew attention to a letter¹³ from the representative of Tunisia, requesting that his delegation be allowed to participate in the debate, without the right to vote. The President then said that if there were no objections he would invite the representative of Tunisia to participate in the debate in accordance with rule 37 of the provisional rules of procedure of the Council.

The representative of Italy stated that owing to the urgency of the crisis the Security Council was facing, it should restrict the deliberations to the members of

the Council and to the main parties concerned. In that connexion he asked to convey invitations only to the representatives of India and Pakistan.

The representative of the USSR stated that his delegation would be unable to support the Italian proposal. Normally the Security Council did not erect any barriers to the participation of the representatives of any States Members of the United Nations and did not preclude their taking part in the work of the Security Council. That had not happened in the past and it would not be appropriate to establish in the system and practice of the work of the Security Council any precedents of that kind for the future.

The representative of Italy, after reiterating his proposal, said that the Security Council should try to restrict deliberations to members of the Council and

¹³ S/10414.

the main parties concerned, "at this preliminary stage, at this first meeting". It could, however, decide later whether to accept participation from other Members of the United Nations in the discussions.¹⁴

At the 1607th meeting on 5 December 1971, the President recalled the request of the representative of Tunisia and proposed "to extend such an invitation to him in accordance with the practice that has been followed on previous occasions".

The representative of the United States said that the matter was so urgent that the invitations should be limited to the representatives of Pakistan and India. He said: "Our own view reluctantly remains the way it was yesterday in support of the Italian representative's position that until we get a first-step resolution we must insist that participation be confined to the members that are at the table right now."

The representative of Italy believed that the Council should let the representative of Tunisia speak. He added that it would, however, be better not to get involved with or speak about other requests at that time; the Council could consider that "later on in order not to embarrass anybody".

The representative of the USSR stated that to deprive a delegation of a Member State of its right to take part in the discussion would be unprecedented. All this time in the Security Council the practice had been strictly observed whereby every delegation of a Member State had had the right to participate in the discussion of questions that had been considered by the Security Council and to present its view. Keeping in mind that established practice of the Council, there were absolutely no grounds whatsoever for depriving the Tunisian delegation of that right at any time. Moreover, there was no need to link the granting of that right to the representative of Tunisia with the question of whether there were any other delegations wishing to speak at the meetings of the Security Council. If there were any requests from other delegations, those delegations could likewise be invited.

The representative of Somalia having referred to Article 31 of the Charter said that the matter before the Council was one which intimately affected all States Members of the United Nations, and therefore, his delegation would support the request of the representative of Tunisia and the request of any other delegation which might have submitted a similar request.¹⁵

The President (Sierra Leone) invited the representative of Tunisia to participate in the discussion.¹⁶

CASE 4

At the 1584th meeting on 27 September 1971 in connexion with the situation in Namibia, the representative of Somalia raised a point of order regarding the request of South Africa for participation in the Council's discussion and the terminology contained in that request. He stated that the item inscribed on the agenda related to the question of Namibia, not of South West Africa. Therefore, he would like to have some clarification on that point.

¹⁴ For texts of relevant statements, see: 1606th meeting: President (Sierra Leone), para. 2; Italy, paras. 3, 13-15; USSR, paras. 9, 32.

¹⁵ For texts of relevant statements, see: 1607th meeting: President (Sierra Leone), para. 4; United States, paras. 5, 6; Italy, para. 7-9; USSR, paras. 10, 11; Somalia, paras. 13-15.

¹⁶ 1607th meeting, para. 18.

The representative of the Syrian Arab Republic said that there ought to be uniformity in the terminology used. It was established beyond any doubt that the question under discussion was Namibia not South West Africa. That was true also of the report submitted to the Security Council. He then suggested that the wording of the letter from the representative of South Africa should be changed to conform with the wording of the agenda and with the report submitted to the Security Council.

The representative of the USSR said that the official designations of States and Territories in accepted international practice must correspond to the designations determined by the Government of the country itself in the case of a sovereign state or, in the case of a Territory, to the official designation which was accepted in the United Nations.

The representative of the United Kingdom stated that the question of terminology should not prevent the Council from following its normal practice of allowing a Member State to participate in discussions in accordance with Article 31 of the Charter and rule 37 of the Council's provisional rules of procedure. It could not be denied that the interests of South Africa, a Member State, were "specially affected" and it could hardly be imagined that South Africa would not be mentioned in those discussions.

The representative of the United States pointed out that on the cover of the Advisory Opinion of the International Court of Justice, the words: "Namibia (South West Africa)" were used. He found it difficult to understand the technicalities that had been raised when the opinion of the Court itself used those words.

The President (Japan) stated: "Although the terminology used in the letter requesting the participation of the permanent representative of South Africa is neither proper, nor desirable, I believe that since the International Court of Justice uses, in parenthesis, the words 'South West Africa' the representative of South Africa should be invited to participate in the debate. If there are any objections to that ruling, I shall put the matter to the vote".

The representative of Somalia said that he did not believe there was any need to put the matter to the vote. He wanted to place on record his delegation's strong reservations concerning the procedure South Africa had adopted in trying to appear before the Council by attempting to avoid any acknowledgement of the fact that the Territory of Namibia was clearly within the competence and responsibility of the United Nations. Evidently South Africa did not wish to recognize that fact.¹⁷

After further discussion the President stated that the observations that had been made would appear in the verbatim record and invited the representative of South Africa to participate in the Security Council's discussion without the right to vote.¹⁸

**** (b) TO SUBMIT WRITTEN STATEMENTS**

****3. Invitations denied**

¹⁷ For texts of relevant statements see: 1584th meeting: President (Japan), para. 41; Somalia, paras. 3, 5, 7, 42, 43; Syrian Arab Republic, paras. 9, 10; USSR, paras. 12-15; United Kingdom, para. 29; France, para. 31; United States, paras. 32-34; Italy, para. 35.

¹⁸ 1584th meeting, paras. 45-47.

D. IN THE CASE OF NON-MEMBER STATES AND OTHER INVITATIONS

*1. Invitations expressly under Article 32

2. Invitations expressly under rule 39 of the provisional rules of procedure

CASE 5

At the 1587th meeting on 30 September 1971 in connexion with the situation in Namibia the President (Japan) informed the Council that he had received a letter¹⁹ from the representatives of Burundi, Sierra Leone and Somalia requesting that Mr. Nujoma, President of SWAPO (South West Africa People's Organization) be invited to participate in the Council's discussion on the question before it. He said further that, perhaps, the members of the Council would be willing to agree that at the appropriate time in the debate an invitation would be extended to Mr. Nujoma under rule 39, of the provisional rules of procedure as requested in the letter from the three members of the Council in view of the special relationship between the United Nations and the Territory of Namibia. "As I hear no objection," he stated, "I take it that the Council agrees."²⁰

At the 1588th meeting on 5 October 1971, the President reminded the Council that at its meeting on 30 September, it had agreed to invite Mr. Nujoma and he believed that it was appropriate to hear Mr. Nujoma's statement. Accordingly at the invitation of the President, Mr. Nujoma, representative of the South West Africa People's Organization took a seat at the Council table.²¹

CASE 6

At the 1602nd meeting on 25 November 1971 in connexion with the situation in Southern Rhodesia, the representative of the USSR stated that in view of the attitude on the part of the Africans towards the Home-Smith agreement, the Security Council was well within its rights to ascertain the views of the people of Zimbabwe and its representatives. The USSR delegation then proposed that the leaders of two parties, Mr. Nkomo (ZAPU) and Mr. Sithole (ZAWU) be invited to the meetings of the Security Council so that the Council could hear them and obtain from them information concerning the true position in South Africa and their appraisal of the Home-Smith agreements.

The representative of Somalia supported the USSR proposal and said that a request should be addressed to the United Kingdom Government to invite the leaders of those two political parties.

The President (Poland) stated that he intended to enter into the customary consultations on that subject and he should keep members of the Council informed of the results of those consultations.²²

At the 1604th meeting on 2 December 1971 the President (Sierra Leone) stated: "The President promised to hold consultations with his colleagues. These consultations have continued; they have almost reached

a conclusion. Up to this date I have heard no objection to the proposal. If as I have stated, there is no objection to this suggestion to invite Mr. Nkomo and Mr. Sithole, as indicated, the suggestion may be regarded as adopted."²³

The Council decided to invite Mr. Joshua Nkomo and Mr. N. Sithole to appear before it and to state their views on the proposals on Southern Rhodesia.²⁴

CASE 7

At the 1606th meeting on 4 December 1971 in connexion with the situation in the India/Pakistan sub-continent the representative of the USSR having drawn the attention of the members of the Security Council to a letter²⁵ from the delegation of Bangladesh, transmitted by the representative of India, proposed that a representative of Bangladesh should be invited to the meetings of the Council and should be heard.

The representative of Poland supported the USSR proposal and stated that the invitation would be helpful in getting the best picture of the situation and reaching the best solution.

The representative of China stated that extending invitation to the representatives of rebellious elements within East Pakistan would be tantamount to asking the Security Council to interfere in the internal affairs of a sovereign Member State.

The representative of Argentina stated that if the Council were to accept this proposal, it could constitute a precedent which could be invoked in the future by any group from any country, which was a member of the United Nations, whether the group resided in that country or was in exile. He also expressed doubt that this would be in accord with the provisions of rule 39 of the provisional rules of procedure.

The representative of the USSR, after reading out the text of rule 39 of the rules of procedure, stated that attempts to prevent an invitation being issued would not be conducive to a positive discussion of the question. The representative of Bangladesh spoke for the 75 million inhabitants of East Pakistan and those who were trying to prevent them from participating by invoking the "rebel" concept, were deliberately forgetting that there did exist a concept of national liberation forces and national liberation movements which had been recognized by the United Nations.

The representative of Pakistan said that any move under rule 39 of the Council's rules of procedure which ran counter to the fundamental principle of the Charter—territorial integrity of Member States was outside the competence of the United Nations and of the Security Council because the Security Council had to interpret its rules in consistence with the fundamental provisions of the Charter. By accepting the proposal to invite representatives of a so-called entity to address the Security Council, the Council would have struck at the territorial integrity of a Member State and would be seeking to dismember Pakistan by according that kind of recognition.

The representative of India said that the problem before the Council was essentially an issue between West Pakistan and the people of Bangladesh. There-

¹⁹ S/10346.

²⁰ 1587th meeting: the President (Japan), paras. 2, 3.

²¹ 1588th meeting, paras. 87-88.

²² For texts of relevant statements, see: 1602nd meeting, President (Poland), para. 144; USSR, paras. 78, 79; Somalia, para. 138.

²³ 1604th meeting, President (Sierra Leone), paras. 43-45.

²⁴ *Ibid.*, para. 48.

²⁵ S/10415, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 89-90.

fore, without the participation of the people of Bangladesh it was impossible to obtain proper perspective. Although the representative of Pakistan had brushed aside those people as groups of either refugees or rebels, they were in reality the elected representatives of 75 million people. It was essential that the representatives of Bangladesh should be present and the Council should hear from them before going any further in the debate.

The President (Sierra Leone) ruled that that question should be deferred until the next meeting because the application about the invitation had reached him only a few minutes before the meeting and the members of the Security Council could not receive copies of it.²⁶

At the 1607th meeting on 5 December 1971, the representative of the USSR raised again the question of an invitation to a representative of Bangladesh.

The representative of China stated that it was a substantive and not a procedural issue and that attempts to subvert and dismember a sovereign state ran counter to the United Nations Charter and was definitely impermissible.

The representative of India maintained that Bangladesh was a major party to the problem and could supply the Security Council with information and extend other assistance in discussing the matter. Therefore, a representative of Bangladesh should be heard under rule 39 of the provisional rules of procedure.

The representative of Pakistan said that such an invitation would contravene not only the fundamental provisions of the Charter but rule 39 itself, because the latter applied to individuals rather than those claiming to represent a non-member Government.

The representative of Argentina asked whether the intent of the USSR motion was to invite a person or the representative of a Government.

The representative of Italy suggested further consultations on the issue.

The representative of the USSR stated that his delegation had proposed to invite the representative of Bangladesh as the person competent to provide information to the Council on the question under its consideration; and, it was in that connexion that reference to rule 39 had been made. He emphasized that no one would be better able than the representatives of Bangladesh to tell the Council what was happening in that country. He pointed out that the suggestion of the representative of Italy that consultations be held, was a reasonable one which deserved attention.

The President adjourned the question to a later date for further consultations.²⁷

At the 1613th meeting on 13 December 1971 the representative of the USSR, speaking on a point of order, recalled his delegation's proposal that the representative of Bangladesh be invited to make a statement

²⁶ For texts of relevant statements, see: 1606th meeting: President (Sierra Leone), para. 48; USSR, paras. 5-8, 33-40; Poland, para. 18; China, paras. 20-21; Argentina, para. 25; Pakistan, paras. 140-145; India, paras. 152-153.

²⁷ 1607th meeting: President (Sierra Leone), para. 72; USSR, paras. 25-27, 71; China, paras. 27-30; India, paras. 37-39; Pakistan, paras. 42-45; Argentina, paras. 64-66.

before the Security Council under rule 39 of the provisional rules of procedure. New changes had taken place in Bangladesh and a third force had arisen there. It would, therefore, be advisable for the Security Council to invite the representative of Bangladesh to hear his views and an assessment of the events which had occurred in East Pakistan.

The representative of Argentina objecting to the USSR proposal stated that it would create a bad precedent if representatives of secessionist or subversive movements were allowed a hearing by the Council. It would be a clear case of interference in the internal affairs of a Member State.

The President (Sierra Leone), invoking rule 30 of the Council's provisional rules of procedure pointed out that there was a difference in international law between recognition of a state and recognition of a government and that his opinion, Bangladesh did not possess the necessary criteria for recognition as a state. He added: "Accordingly, I rule that in accordance with rule 39, I cannot admit to the presence in the Security Council of any representatives from a State, the criteria of existence of which have not fully satisfied my mind. This does not mean that if individuals who are concerned in the matter before the Council wish to be heard, they cannot be heard in accordance with the provisions of rule 39."

The representative of the USSR stated that he had not spoken of inviting representatives of a State but of inviting competent persons under rule 39, who might enlighten the Security Council and give some useful explanations and information. The ruling related to inviting representatives of a State and therefore was based on a not entirely accurate assumption and gave rise to a misunderstanding. Subsequently, the representative of the USSR further raised the question of inviting Justice Abu Sayeed Chowdhury mentioned by the representative of India in his letter to the President of the Security Council, as a person competent to assist the Council in coming to a decision on the matter before it.

The representative of India stated that apart from the armed forces of India and Pakistan engaged in the conflict in Bangladesh, there was also a large number of armed and organized persons who accepted the orders of the government of Bangladesh and participated in partisan activities for maintaining their freedom. In that capacity the persons were competent to give information regarding what happened in the area, which would enable the Security Council to decide on adequate measures.

The representative of Poland said that the persons mentioned constituted a political movement and were competent to bring information to the Security Council which could assist it in its work.

The representative of China opposed extending invitation to persons of Bangladesh and stated that he could not recognize them as the representatives of a national liberation movement.

The representative of Pakistan said that the individual mentioned by the representative of the USSR did not fall under rule 39. He had described himself as a representative of the government of the so-called

Bangladesh. As the President had pointed out already, there was a difference between recognizing a State or a government and that was covered by another Article of the Charter.

The President said that he considered the USSR proposal as a point of order in regard to which he would, in accordance with rule 30, state his ruling. He noted that he was satisfied that the representative of the USSR had named an individual who qualified as a competent person under rule 39 and who should accordingly be invited to address the Council. However, since an objection had been raised to inviting the individual named by the representative of the USSR, thereby constituting a challenge to his ruling,

he would submit his ruling to the Security Council for immediate decision.²⁸

The representative of the USSR then stated that he would not insist on a vote on his proposal, whereupon the President stated that he considered the proposal withdrawn.²⁹

****3. Invitations not expressly under Article 32 or rule 39**

****4. Invitations denied**

²⁸ 1613th meeting: President (Sierra Leone), paras. 80-82, 90-94, 115, 119, 120, 133-136; USSR, paras. 77-79; 108-114, 121, 137; Argentina, paras. 83-89; India, paras. 99-100; Poland, paras. 102-104; China, paras. 116-118; Pakistan, para. 128.
²⁹ *Ibid.*, para. 138. See also chapter I, case 28.

****Part II**

CONSIDERATION OF THE TERMS AND PROVISIONS OF ARTICLE 32 OF THE CHARTER

Part III

PROCEDURES RELATING TO PARTICIPATION OF INVITED REPRESENTATIVES

NOTE

Part III is concerned with procedures relating to the participation of invited representatives after an invitation has been extended and comprises material on participation by Members and non-members of the United Nations.

No question concerning either the stage at which invited states might be heard (section A), or the duration of participation of invited representatives (section B) arose during the period under review. The practice has been maintained, however, according to which the President, when consideration of a question has extended over several meetings, has renewed the invitation at each consecutive meeting immediately after the adoption of the agenda.³⁰

Section C deals with limitations of a procedural nature affecting invited representatives throughout the process of participation in the proceedings of the Security Council. During the period under review, there was one case³¹ concerning the order in which the invited representatives are called upon to speak. On another occasion³² a question was raised concerning the limitations affecting the submission of proposals or draft resolutions by the invited representatives. Discussion arose as to who, in accordance with rule 38, was acting on behalf of the invited representative in co-sponsoring the draft resolution.

Section D is concerned with those limitations connected with aspects of the business of the Council in which it has been deemed inappropriate that invited representatives should participate. The discussion in one case³³ dealt principally with the question of whether

the invited representative may speak on the question of the adoption of the agenda. Under the sub-heading "Extension of invitations" one instance is recorded in which invited representatives asked to be heard on the question of the extension of invitations.³⁴

****A. THE STAGE AT WHICH INVITED STATES ARE HEARD**

****B. THE DURATION OF PARTICIPATION**

C. LIMITATIONS OF A PROCEDURAL NATURE

1. Concerning the order in which invited representatives are called upon to speak

CASE 8

At the 1537th meeting on 12 May 1970 in connexion with the situation in the Middle East, the representative of Israel asked for the floor on a draft resolution put forward by the representative of Spain who requested that it be put to the vote immediately.

The representative of Syria speaking on a point of order asserted that since the draft resolution was submitted "on an immediate and urgent basis" the Security Council was engaged in the procedural process of the debate and a "non-member of the Council has no right to take the floor at that particular time."

The President (France) stated that the Council knew that in the case of a vote the representative of which was not a member of the Security Council could not take part in the vote. But that was a debate which had not been closed and before proceeding to the proposal made on the very substance of the matter, the participants in the debate might speak. He added: "I therefore think that we should hear the representative of Israel and then immediately proceed to the vote."

³⁰ In this connexion, see tabulation above, part I, C. 1(a), foot-note b and part I, C. 2(a), foot-note b.

³¹ Case 8.

³² Case 9.

³³ Case 10.

³⁴ Case 11.

The representative of the USSR pointed out that the representative of Spain had submitted an urgent proposal. The representative of Israel had already spoken and had expounded in some detail the position of the Government of Israel. The problem was either to involve the Security Council in a further discussion or to vote on the Spanish draft resolution and then to continue the discussion. Taking into account the realities of the situation it would be more sensible and expedient not to continue the discussion but to vote on the draft resolution and then to renew the discussion.

The representative of the United States said that the debate had not been terminated and that a member of the Council or a representative participating in the debate had a right to be heard before the vote if he so wished. That was clearly not a procedural but a substantive draft resolution and therefore, to comment upon it by non-members was entirely appropriate. The most expeditious way of dealing with that matter was to permit the representative of Israel to make whatever statement he wished and then to proceed to the vote.

The representative of the United Kingdom stated that it was in the practice of the Security Council that its members should always be prepared to hear the parties immediately concerned before taking a decision. It was the right action to permit the representative of Israel to be heard and then to proceed to the vote on the draft resolution.

The representative of Zambia after reading out the text of rule 30 of the provisional rules of procedure said that as he understood: "The representative of Israel asked to speak. The President was just about to call on him when a point of order was raised by the Ambassador of Syria. The President stated his ruling. The ruling was subsequently challenged. Therefore, I would have thought that under the circumstances the best thing would have been to submit this whole proposal to the Security Council as a whole in order to make a decision."³⁵

After further discussion the President put to the vote the proposal of the representative of Syria that the Council should proceed to the vote immediately. The result of the vote was 7 votes in favour, 2 against with 6 abstentions. The proposal was not adopted.³⁶

****2. Concerning the raising of points of order by invited representatives**

3. Concerning the submission of proposals or draft resolutions by invited representatives

CASE 9

At the 1607th meeting on 5 December 1971 in connexion with the situation in the India/Pakistan sub-continent, the representative of Italy introduced a joint draft resolution sponsored by the representatives of Belgium, Italy, Japan, Nicaragua, Sierra Leone and Tunisia.³⁷

At the 1608th meeting on 6 December 1971 the representative of the USSR speaking on a point of order pointed out that one of the co-sponsors of the draft resolution, Tunisia, was not a member of the

Security Council. He noted that it was not customary in the practice of the Council for a non-member to co-sponsor a draft resolution without its co-sponsorship being endorsed or taken over by a member of the Council.

The President (Sierra Leone) after reading out the text of rule 38 of the provisional rules of procedure stated: "It is quite clear that the representative of Tunisia applied for permission to participate and that that application was granted, and in fact he did participate, so it is for members of the Council now to decide."

The representative of the Syrian Arab Republic said that in accordance with rule 38, draft resolutions might be put to a vote only at the request of a representative on the Security Council. He asked: "So the question is, who is the member of the Security Council who, in accordance with rule 38, is acting on behalf of the representative of Tunisia in co-sponsoring the draft resolution?"

The representative of Italy asserted that if a representative of a Member State took part in the discussion on a particular item and was entitled to introduce a draft resolution on his own, he could be a co-sponsor of a resolution introduced by members of the Council itself. But the draft resolution could not be put to the vote unless that was requested by a representative on the Security Council. It was only at that stage that the question could be raised as to whether a Member State which was not a member of the Council could be a co-sponsor of a draft resolution.

The President (Sierra Leone) referred to the *Repertoire of the Practice of the Security Council, Supplement 1964-1965*³⁸ and said that at the 1188th meeting on 30 December 1964 in connexion with the situation in the Democratic Republic of the Congo, the President (Bolivia) had called attention to an amendment submitted by eighteen African States to the joint draft resolution under consideration before the Council. The President then explained that under rule 38 of the provisional rules of procedure the amendment could be put to the vote only at the request of a representative of the Security Council. The representative of the USSR, after commenting on the draft resolution, then requested that the amendment of the eighteen African States be put to the vote.

The representative of Tunisia stated that in order to facilitate the work of the Council and so that the debate would not be prolonged on a procedural question, Tunisia withdrew as a co-sponsor of the draft resolution.³⁹

D. LIMITATIONS ON MATTERS TO BE DISCUSSED BY INVITED REPRESENTATIVES

I. Adoption of the agenda

CASE 10

At the 1503rd meeting on 20 August 1969 in connexion with the letter⁴⁰ of 17 August 1969 from the representative of Ireland, the representative of Finland proposed that the Security Council, before taking a decision on its agenda, invite the Foreign Minister of

³⁵ For texts of relevant statements, see: 1537th meeting: President (France), paras. 56, 75; Spain, paras. 44-46; Syria, para. 55; USSR, paras. 57-60, 65; United States, paras. 61, 62; United Kingdom, paras. 69-70; Zambia, paras. 73, 74.

³⁶ 1537th meeting, para. 77.

³⁷ 1607th meeting, para. 260.

³⁸ See p. 56.

³⁹ 1608th meeting: President (Sierra Leone), paras. 16, 22; USSR, para. 15; Syria, para. 17; Italy, paras. 18-20; Tunisia, paras. 23-26.

⁴⁰ S/9394, OR, 24th yr., Suppl. for July-Sept. 1969, p. 159.

Ireland to make a statement to the Council in explanation of his Government's request for the meeting of the Security Council. He stated that in the event the agenda was not adopted the Council should have disposed of the matter without hearing the representative of the Member State which had brought this matter before the Council. It would be a matter of courtesy to let the Minister of Foreign Affairs of Ireland address the Security Council and it could be done in a way that it would not constitute a precedent for future procedure.

The representative of the United Kingdom stated that although the hearing of representatives from outside the Council before the adoption of the agenda was unusual and there were few, if any, precedents for doing so, his delegation, as a matter of courtesy to the Foreign Minister of Ireland, would not object to the proposal of the representative of Finland.

The President (Spain) stated that the Security Council, before taking a decision on the provisional agenda, agreed to invite the Minister for External Affairs of Ireland to make a statement to the Council in explanation of his Government's request for an urgent meeting of the Security Council.⁴¹

2. Extension of invitations

CASE 11

At the 1606th meeting on 4 December 1971 in connexion with the situation in the India/Pakistan sub-continent the representative of Italy drew the attention of members of the Security Council to the statement on a procedural matter concerning the invitation of the representative of Bangladesh to participate in the meetings of the Council, made by the representative of India and said that it was not in order for the representative of India to speak on that particular subject.

⁴¹ For text of relevant statements, see: 1503rd meeting (PV), President (Spain), p. 7; Finland, pp. 6-7; United Kingdom, p. 7.

The representative of Pakistan stated that the representative of India was out of order when he intervened on that question because only members of the Security Council could participate in a debate on procedural matter.⁴²

At the 1607th meeting on 5 December 1971 the representative of India noted that practically all those who had spoken about the application of the representative of Bangladesh to be heard by the Council had treated that problem as a substantive one. He added that following the point of order raised by the representative of Italy, he was not sure if under rules 37 and 38 of the provisional rules of procedure of the Council, delegations such as his which had been invited here by courtesy were really out of order in making comments on points of order.

The representative of Pakistan said that under the provisional rules of procedure of the Security Council, parties not members of the Council and who were invited to speak at the Council table could not participate in a discussion of the kind that had been raised by the representative of the USSR. He was, however, compelled to intervene since the representative of India had been allowed to make statements because he had considered the problem to be a substantive one.

The representative of Italy stated that he did not raise a point of order at that time since he assumed that the representatives of India and Pakistan, the main parties concerned, were within their right to speak on that question if they had considered that it was a substantive question.⁴³

**3. Postponement of consideration of a question

**4. Other matters

**E. EFFECT OF THE EXTENSION OF INVITATIONS

⁴² For texts of relevant statements see: 1606th meeting: Italy, para. 53; Pakistan, para. 140.

⁴³ 1607th meeting: India, para. 35; Pakistan, para. 41; Italy, para. 67.

Chapter IV

VOTING

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INTRODUCTORY NOTE

This chapter contains material from the *Official Records* relating to the practice of the Council under Article 27 of the Charter. The arrangement of the material in this chapter follows that of the corresponding chapter in earlier volumes of the *Repertoire*.

Part I presents evidence relating to the distinction between procedural and non-procedural matters. No material requiring treatment in part II relating to the practice of the Council in voting upon the question whether a matter is procedural within the meaning of Article 27, paragraph 2, has been found for the period under review. Part III is concerned with the abstention or absence of a Council member in relation to the requirements of Article 27, paragraph 3.

Material relating to voting in connexion with the election of Judges under Article 10 of the Statute of the International Court of Justice is included in chapter VI, part I, section D. Chapter VII, parts I and V, contains material on the voting procedure employed by the Council in connexion with applications for admission to membership in the United Nations.

As noted in preceding volumes of the *Repertoire*, most of the occasions on which the Council has voted afford no indication of the attitude of the Council regarding the procedural or non-procedural character of the matter voted upon. Where a decision has been arrived at by a unanimous vote, or with all permanent members voting in favour of the proposal, no indication of the view of the Council as to the procedural or non-procedural nature of the matter can be obtained from the vote. Nor can any indication be obtained

from proceedings in which a proposal, having been put to the vote, has failed to obtain nine votes in its favour.

Part I section A, comprises an instance (case 1) wherein the adoption of a proposal, obtained through nine or more votes, with one or more permanent members casting a negative vote, indicated the procedural character of the decision. The headings in this section have been derived from the subject matter dealt with in the decision and does not constitute a general proposition as to the procedural character of future proposals which might be deemed to fall under the same heading.

Part I, section B, includes six instances (cases 2-7) where the rejection of a proposal, having obtained nine or more votes with one or more permanent members casting a negative vote, indicated the non-procedural character of the decision. During the period under review, there has been no discussion in the Security Council of the procedural or non-procedural character of the decisions to be taken. The entries in this section are therefore restricted to a reference whereby the draft resolution or proposal and the vote thereon may be identified in the record of decisions in other parts of this *Supplement*.

Part III, section B, lists those occasions (cases 8-35) on which permanent members have abstained voluntarily considering that no affirmative decision could have been taken had they voted against the proposal.

Part III, section C, contains one case (case 36) where a permanent member did not participate in a vote.

Part I

PROCEDURAL AND NON-PROCEDURAL MATTERS

A. CASES IN WHICH THE VOTE INDICATED THE PROCEDURAL CHARACTER OF THE MATTER

- **1. Inclusion of items in the agenda
- **2. Order of items on the agenda
- **3. Deferment of consideration of items on the agenda
- **4. Removal of an item from the list of matters of which the Security Council is seized
 - **5. Rulings of the President of the Security Council
 - **6. Suspension of a meeting
 - **7. Adjournment of a meeting
- **8. Invitation to participate in the proceedings

9. Conduct of business

CASE 1

At the 1554th meeting on 10 October 1970 in connexion with the application by Fiji for admission to membership in the United Nations, the Council decided to suspend rule 59 of the Security Council's provisional rules of procedure, notwithstanding the negative vote of a permanent member.¹

**10. Convocation of an emergency special session of the General Assembly

B. CASES IN WHICH THE VOTE INDICATED THE NON-PROCEDURAL CHARACTER OF THE MATTER

- 1. In connexion with matters considered by the Security Council under its responsibility for the maintenance of international peace and security

CASE 2

Decision of 17 March 1970 (1534th meeting):

¹ 1554th meeting, para. 62.

Rejection of draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia in connexion with the situation in Southern Rhodesia.²

CASE 3

Decision of 10 November 1970 (1556th meeting): Rejection of draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia in connexion with the situation in Southern Rhodesia.³

CASE 4

Decision of 4 December 1971 (1606th meeting): Rejection of draft resolution submitted by the United States in connexion with the situation in the India/Pakistan subcontinent.⁴

CASE 5

Decision of 5 December 1971 (1607th meeting): Rejection of draft resolution submitted by Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Sierra

² 1534th meeting, para. 207. For vote on the draft resolution, see chapter VIII, part II, p. 130.

³ 1556th meeting, para. 212. For vote on the draft resolution, see chapter VIII, part II, p. 133.

⁴ 1606th meeting, para. 371. For vote on the draft resolution, see chapter VIII, part II, p. 158.

Leone, and Somalia in connexion with the situation in the India/Pakistan subcontinent.⁵

CASE 6

Decision of 13 December 1971 (1613th meeting): Rejection of draft resolution submitted by the United States in connexion with the situation in the India/Pakistan subcontinent.⁶

CASE 7

Decision of 30 December 1971 (1623rd meeting): Rejection of draft resolution submitted by Burundi, Sierra Leone, Somalia and Syria in connexion with the situation in Southern Rhodesia.⁷

**2. In connexion with other matters considered by the Security Council

** (a) IN CONNEXION WITH ADMISSION OF NEW MEMBERS TO THE UNITED NATIONS

** (b) IN CONNEXION WITH APPOINTMENT OF THE SECRETARY-GENERAL

⁵ 1607th meeting, para. 240. For vote on the draft resolution, see chapter VIII, part II, p. 158.

⁶ 1613th meeting, para. 231. For vote on the draft resolution, see chapter VIII, part II, p. 162.

⁷ 1623rd meeting, para. 272. For vote on the draft resolution, see chapter VIII, part II, p. 136.

**Part II

PROCEEDINGS OF THE SECURITY COUNCIL REGARDING VOTING UPON THE QUESTION WHETHER THE MATTER WAS PROCEDURAL WITHIN THE MEANING OF ARTICLE 27, PARAGRAPH 2, OF THE CHARTER

**A. PROCEEDINGS ON OCCASIONS WHEN THE SECURITY COUNCIL VOTED ON "THE PRELIMINARY QUESTION"

**B. CONSIDERATION OF PROCEDURES INVOLVED IN VOTING ON "THE PRELIMINARY QUESTION"

- **1. Consideration of the order in which the matter itself, and the question whether the matter is procedural, should be voted upon
- **2. Consideration whether the decision that the matter is procedural is itself a procedural decision
- **3. Consideration of the use of rule 30 of the provisional rules of procedure of the Security Council in determining whether a matter is procedural

Part III

ABSTENTION AND ABSENCE IN RELATION TO ARTICLE 27, PARAGRAPH 3 OF THE CHARTER

A. **OBLIGATORY ABSTENTION

- **1. Cases in which members have abstained in accordance with the proviso of Article 27, paragraph 3
- **2. Consideration of abstention in accordance with the proviso of Article 27, paragraph 3

B. VOLUNTARY ABSTENTION IN RELATION TO ARTICLE 27, PARAGRAPH 3

- 1. Certain cases in which permanent members have abstained otherwise than in accordance with the proviso of Article 27, paragraph 3

SITUATION IN THE MIDDLE EAST

CASE 8

Decision of 1 April 1969 (1473rd meeting): Draft resolution submitted by Pakistan, Senegal and Zambia, as amended.⁸

SITUATION IN SOUTHERN RHODESIA

CASE 9

Decision of 24 June 1969 (1481st meeting): Draft

⁸ 1473rd meeting, para. 92. For vote on the draft resolution, see chapter VIII, part II, p. 110.

resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia.⁹

SITUATION IN THE MIDDLE EAST

CASE 10

Decision of 3 July 1969 (1485th meeting): Draft resolution submitted by Pakistan, Senegal and Zambia (vote on paragraph 5).¹⁰

COMPLAINT BY ZAMBIA

CASE 11

Decision of 28 July 1969 (1491st meeting): Draft resolution submitted by Algeria, Nepal, Pakistan and Senegal.¹¹

SITUATION IN NAMIBIA

CASE 12

Decision of 12 August 1969 (1497th meeting): Draft resolution submitted by Algeria, Colombia, Pakistan, Paraguay, Senegal and Zambia.¹²

SITUATION IN THE MIDDLE EAST

CASE 13

Decisions of 15 September 1969 (1512th meeting):

- (i) Draft resolution submitted by Pakistan (vote on paragraph 4).¹³
- (ii) Draft resolution submitted by Pakistan (vote on draft resolution as a whole).¹⁴

COMPLAINT BY SENEGAL

CASE 14

Decision of 9 December 1969 (1520th meeting): Draft resolution submitted by Algeria, Nepal, Pakistan and Zambia, as amended.¹⁵

COMPLAINT BY GUINEA

CASE 15

Decision of 22 December 1969 (1526th meeting): Draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia.¹⁶

SITUATION IN NAMIBIA

CASE 16

Decision of 30 January 1970 (1529th meeting): Draft resolution submitted by Burundi, Finland, Nepal, Sierra Leone and Zambia, as amended.¹⁷

⁹ 1481st meeting, para. 78. For vote on the draft resolution, see chapter VIII, part II, p. 128.

¹⁰ 1485th meeting, para. 194. For vote on the draft resolution, see chapter VIII, part II, p. 111.

¹¹ 1491st meeting, para. 26. For vote on the draft resolution, see chapter VIII, part II, p. 137.

¹² 1497th meeting, para. 22. For vote on the draft resolution, see chapter VIII, part II, p. 101.

¹³ 1512th meeting, para. 136. For vote on the draft resolution (paragraph 4), see chapter VIII, part II, p. 114.

¹⁴ 1512th meeting, para. 137. For vote on the draft resolution, see chapter VIII, part II, p. 114.

¹⁵ 1520th meeting, para. 56. For vote on the draft resolution, see chapter VIII, part II, p. 141.

¹⁶ 1526th meeting, para. 48. For vote on the draft resolution, see chapter VIII, part II, p. 146.

¹⁷ 1529th meeting, para. 184. For vote on the draft resolution, see chapter VIII, part II, p. 103.

SITUATION IN SOUTHERN RHODESIA

CASE 17

Decisions of 17 March 1970 (1534th meeting):

- (i) Draft resolution submitted by the United Kingdom.¹⁸
- (ii) Draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (vote on paragraph 8).¹⁹
- (iii) Draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (vote on paragraph 9).²⁰
- (iv) Draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (vote on the draft resolution as a whole).²¹

SITUATION IN THE MIDDLE EAST

CASE 18

Decisions of 12 May 1970 (1537th meeting):

- (i) Sub-amendment submitted by the Union of Soviet Socialist Republics to the draft resolution submitted by Spain.²²
- (ii) United States amendment to the draft resolution submitted by Spain.²³

CASE 19

Decision of 19 May 1970 (1542nd meeting): Draft resolution submitted by Zambia.²⁴

QUESTION OF RACE CONFLICT IN SOUTH AFRICA

CASE 20

Decision of 23 July 1970 (1549th meeting): Draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, as amended.²⁵

SITUATION IN NAMIBIA

CASE 21

Decisions of 29 July 1970 (1550th meeting):

- (i) Draft resolution submitted by Burundi, Finland, Nepal, Sierra Leone and Zambia.²⁶
- (ii) Draft resolution submitted by Finland.²⁷

SITUATION IN THE MIDDLE EAST

CASE 22

Decision of 5 September 1970 (1551st meeting): Draft resolution submitted by Spain.²⁸

¹⁸ 1534th meeting, para. 185. For vote on the draft resolution, see chapter VIII, part II, p. 130.

¹⁹ 1534th meeting, para. 205. For vote on the draft resolution (paragraph 8), see chapter VIII, part II, p. 130.

²⁰ 1534th meeting, para. 206. For vote on the draft resolution (paragraph 9), see chapter VIII, part II, p. 130.

²¹ 1534th meeting, para. 207. For vote on the draft resolution, see chapter VIII, part II, p. 130.

²² 1537th meeting, para. 129. For vote on the sub-amendment, see chapter VIII, part II, p. 116.

²³ 1537th meeting, para. 130. For vote on the amendment, see chapter VIII, part II, p. 116.

²⁴ 1542nd meeting, para. 57. For vote on the draft resolution, see chapter VIII, part II, p. 117.

²⁵ 1549th meeting, para. 29. For vote on the draft resolution, see chapter VIII, part II, p. 153.

²⁶ 1550th meeting, para. 155. For vote on the draft resolution, see chapter VIII, part II, p. 104.

²⁷ 1550th meeting, para. 106. For vote on the draft resolution, see chapter VIII, part II, p. 105.

²⁸ 1551st meeting, para. 93. For vote on the draft resolution, see chapter VIII, part II, p. 118.

SITUATION IN SOUTHERN RHODESIA

CASE 23

Decision of 10 November 1970 (1556th meeting): Draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia.²⁹

COMPLAINT BY GUINEA

CASE 24

Decision of 22-23 November 1970 (1558th meeting): Oral amendment by the United States to the draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia.³⁰

CASE 25

Decision of 8 December 1970 (1563rd meeting): Draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia.³¹

COMPLAINT BY SENEGAL

CASE 26

Decision of 15 July 1971 (1572nd meeting): Draft resolution submitted by Burundi, Japan, Sierra Leone, Somalia and Syria.³²

SITUATION IN THE MIDDLE EAST

CASE 27

Decisions of 25 September 1971 (1582nd meeting):

- (i) Syrian amendment to the draft resolution submitted by Somalia.³³
- (ii) Draft resolution submitted by Somalia (vote on paragraph 5).³⁴

SITUATION IN NAMIBIA

CASE 28

Decision of 20 October 1971 (1598th meeting): Draft resolution submitted by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic, as amended.³⁵

COMPLAINT BY SENEGAL

CASE 29

Decision of 24 November 1971 (1601st meeting): Draft resolution submitted by Burundi, Sierra Leone and Somalia, as amended.³⁶

SITUATION IN THE INDIA/PAKISTAN SUBCONTINENT

CASE 30

Decision of 4 December 1971 (1606th meeting): Draft resolution submitted by the United States.³⁷

²⁹ 1556th meeting, para. 212. For vote on the draft resolution, see chapter VIII, part II, p. 133.

³⁰ 1558th meeting, para. 100. For vote on the amendment, see chapter VIII, part II, p. 147.

³¹ 1563rd meeting, para. 155. For vote on the draft resolution, see chapter VIII, part II, p. 148.

³² 1572nd meeting, para. 85. For vote on the draft resolution, see chapter VIII, part II, p. 143.

³³ 1582nd meeting, para. 335. For vote on the draft resolution, see chapter VIII, part II, p. 120.

³⁴ 1582nd meeting, para. 338. For vote on the draft resolution (paragraph 5), see chapter VIII, part II, p. 120.

³⁵ 1598th meeting, para. 31. For vote on the draft resolution, see chapter VIII, part II, p. 107.

³⁶ 1601st meeting, para. 38. For vote on the draft resolution, see chapter VIII, part II, p. 144.

³⁷ 1606th meeting, para. 371. For vote on the draft resolution, see chapter VIII, part II, p. 158.

CASE 31

Decisions of 5 December 1971 (1607th meeting):

- (i) Draft resolution submitted by the Soviet Union.³⁸
- (ii) Draft resolution submitted by Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Sierra Leone and Somalia.³⁹

CASE 32

Decision of 6 December 1971 (1608th meeting): Draft resolution submitted by Argentina, Burundi, Japan, Nicaragua, Sierra Leone, and Somalia.⁴⁰

CASE 33

Decision of 13 December 1971 (1613th meeting): Draft resolution as revised, submitted by the United States.⁴¹

CASE 34

Decision of 21 December 1971 (1621st meeting): Draft resolution submitted by Argentina, Burundi, Japan, Nicaragua, Sierra Leone, and Somalia.⁴²

SITUATION IN SOUTHERN RHODESIA

CASE 35

Decisions of 30 December 1971 (1623rd meeting):

- (i) Draft resolution (second preambular paragraph) submitted by Burundi, Sierra Leone, Somalia and Syria.⁴³
- (ii) Draft resolution (fifth preambular paragraph) submitted by Burundi, Sierra Leone, Somalia and Syria.⁴⁴
- (iii) Draft resolution (paragraph 3) submitted by Burundi, Sierra Leone, Somalia and Syria.⁴⁵
- (iv) Draft resolution (paragraph 4) submitted by Burundi, Sierra Leone, Somalia and Syria.⁴⁶
- (v) Draft resolution (paragraph 5) submitted by Burundi, Sierra Leone, Somalia and Syria.⁴⁷
- (vi) Draft resolution (as a whole) submitted by Burundi, Sierra Leone, Somalia and Syria.⁴⁸

³⁸ 1607th meeting, para. 217. For vote on the draft resolution, see chapter VIII, part II, p. 159.

³⁹ 1607th meeting, para. 240. For vote on the draft resolution, see chapter VIII, part II, p. 159.

⁴⁰ 1608th meeting, para. 322. For vote on the draft resolution, see chapter VIII, part II, p. 160.

⁴¹ 1613th meeting, para. 231. For vote on the draft resolution, see chapter VIII, part II, p. 162.

⁴² 1621st meeting, para. 14. For vote on the draft resolution, see chapter VIII, part II, p. 164.

⁴³ 1623rd meeting, para. 267. For vote on the 2nd preambular paragraph, see chapter VIII, part II, p. 136.

⁴⁴ 1623rd meeting, para. 268. For vote on fifth preambular paragraph, see chapter VIII, part II, p. 136.

⁴⁵ 1623rd meeting, para. 269. For vote on paragraph 3, see chapter VIII, part II, p. 136.

⁴⁶ 1623rd meeting, para. 270. For vote on paragraph 4, see chapter VIII, part II, p. 136.

⁴⁷ 1623rd meeting, para. 271. For vote on paragraph 5, see chapter VIII, part II, p. 136.

⁴⁸ 1623rd meeting, para. 272. For vote on the draft resolution as a whole, see chapter VIII, part II, p. 136.

****2. Consideration of the practice of voluntary abstention in relation to Article 27, paragraph 3**

C. ABSENCE OR NON-PARTICIPATION OF PERMANENT MEMBERS IN RELATION TO ARTICLE 27, PARAGRAPH 3

- 1. Certain cases in which permanent members have been absent or have not participated in the vote**

CYPRUS QUESTION

CASE 36

**Decision of 13 December 1971 (1612th meeting):
Draft resolution adopted.⁴⁹**

⁴⁹ 1612th meeting, para. 6. One permanent member did not participate in the voting. For vote on the draft resolution, see chapter VIII, part II, p. 125.

Chapter V

**SUBSIDIARY ORGANS ESTABLISHED BY OR IN PURSUANCE OF SECURITY
COUNCIL RESOLUTIONS**

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INTRODUCTORY NOTE

The material included in this chapter covers procedures of the Security Council in establishing or authorizing the establishment of subsidiary organs deemed necessary for the performance of its functions related to the maintenance of international peace and security.

Part I, "Occasions on which subsidiary organs of the Security Council have been established or proposed", includes two instances (Cases 4 and 5) in which the Council authorized the Secretary-General to set up a subsidiary organ; it also includes five instances (Cases 1, 2, 3, 7 and 9) in which the Council itself decided that a subsidiary organ be established.

In one case (Case 8) the Council decided to change the composition of a subsidiary organ already established and to redefine its mandate.

During the period covered by this *Supplement* there has been one instance (Case 6) in which a subsidiary organ was proposed but not established.

With regard to the case in which a subsidiary organ

has been set up by the Secretary-General pursuant to a Security Council resolution (Case 5), no implication is intended whether this body does or does not come within Article 29.

Part II of this chapter contains no entries, as there were no instances, during the period under review, of consideration by the Council of procedures to be followed relative to the establishment of subsidiary organs.

ARTICLE 29 OF THE CHARTER

"The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions."

RULE 28 OF THE PROVISIONAL RULES OF PROCEDURE

"The Security Council may appoint a commission or committee or a rapporteur for a specified question."

Part I

OCCASIONS ON WHICH SUBSIDIARY ORGANS OF THE SECURITY COUNCIL HAVE BEEN ESTABLISHED OR PROPOSED

NOTE

During the period under review, the Security Council: (i) established, in accordance with rule 28 of its provisional rules or procedure, an *ad hoc* sub-committee to study, in consultation with the Secretary-General, ways and means by which the resolutions of the Council concerning Namibia could be effectively implemented;¹ (ii) decided to send a special mission to the Republic of Guinea to report on the situation created by armed attacks alleged to have been committed by Portuguese forces against the territory of Guinea;² (iii) requested, in connexion with a complaint by Senegal that Portuguese regular armed forces based in Guinea-Bissau had violated its territorial integrity, the President of the Security Council and the Secretary-General to send to the spot a special mission to carry out an inquiry and to examine the situation along the border between Guinea-Bissau and Senegal;³ (iv) decided, in connexion with a complaint by Guinea that Portugal was preparing military aggression against it, to send a special mission to Guinea to consult with the Guinean authorities and to report on the situation;⁴ (v) requested the Secretary-General in consultation with the Security Council, and using such instrumentality as he might choose, including a representative or a mission, to report to the Council, as appropriate on

the implementation of resolution 298 (1971) concerning the measures and actions by Israel designed to change the status of Jerusalem;⁵ (vi) authorized the Secretary-General to appoint, if necessary, a special representative to lend his good offices for the solution of humanitarian problems resulting from the situation in the India/Pakistan subcontinent.⁶

Of the subsidiary organs established in connexion with the Security Council's discharge of its responsibilities for the maintenance of international peace and security, the United Nations Military Observers Group in India and Pakistan (UNMOGIP) and the United Nations Truce Supervision Organization (UNTSO) continued in existence during the period under review, while the mandate of the United Nations Force in Cyprus (UNFICYP) was extended several times throughout the period.⁷

With regard to the mediation functions in Cyprus as provided for in paragraph 7 of Security Council resolution 186 (1964) of 4 March 1964, the Secretary-General had reported⁸ to the Council that his efforts towards achieving a resumption of the mediation activities had been unavailing owing primarily to the widely

¹ Case 7, resolution 276 (1970).

² Case 1, resolution 289 (1970).

³ Case 2, resolution 294 (1971).

⁴ Case 3, resolution 295 (1971).

⁵ Case 4, resolution 298 (1971).

⁶ Case 5, resolution 307 (1971).

⁷ The mandate of the force was extended by the following resolutions of the Security Council: resolution 266 (1969); resolution 274 (1969); resolution 281 (1970); resolution 291 (1970); resolution 293 (1971); resolution 305 (1971).

⁸ S/7191, OR, 21st yr., Suppl. for Jan.-March 1966, p. 229.

differing and firmly held views on the matter by the three Governments most directly concerned.⁹ In subsequent reports within the period considered, the Secretary-General informed the Council that the situation regarding a resumption of the mediation functions remained unchanged.¹⁰

With regard to the Special Representative in the Middle East appointed pursuant to Security Council resolution 258 (1968), the Secretary-General, in a report¹¹ dated 30 November 1971, gave a comprehensive account of the activities of the Special Representative. The Secretary-General indicated that the talks under the auspices of the Special Representative had lapsed and that the Special Representative had found no possibility for actively resuming his mission.

With regard to subsidiary organs of the Security Council already established, the Council modified the composition of the Committee established in pursuance of Security Council resolution 253 (1968) and redefined its terms of reference.¹² The Council also reactivated the Committee on Admission of New Members by referring to it in accordance with rule 59 of the provisional rules of procedure of the Security Council, the applications for membership in the United Nations of Bhutan,¹³ Bahrain,¹⁴ Qatar,¹⁵ Oman¹⁶ and the United Arab Emirates.¹⁷ During the same period the Security Council also established a Committee of Experts to study the question which was considered by the Council at its 1505th and 1506th meetings. This question concerned the proposal of the United States for the "creation of a category of associate membership".¹⁸

It should be noted that during the period under review the representatives of the four permanent members of the Council—France, the USSR, the United Kingdom and the United States—held a series of consultative meetings on the question of promoting a peaceful political settlement in the Middle East on the basis of the implementation of Security Council resolution 242 of 22 November 1967 in all its parts. The other members of the Council were regularly informed about these consultations by the presiding member of these consultative meetings. Throughout this period the members of the Council on numerous occasions declared their support for these consultations, emphasized the special responsibility of the four permanent members for the implementation of resolution 242 (1967) and frequently asked that the Council conduct its own meetings in a manner supportive of the efforts of the four permanent members.¹⁹

⁹ See also *Repertoire of the Practice of the Security Council, Suppl. 1966-1968*, chapter V, p. 76, foot-note 6.

¹⁰ See reports of the Secretary-General mentioned in foot-note 7.

¹¹ S/10403, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 54.

¹² See Case 8.

¹³ 1565th and 1566th meetings.

¹⁴ 1574th and 1575th meetings.

¹⁵ 1577th and 1578th meetings.

¹⁶ 1574th and 1587th meetings.

¹⁷ 1608th and 1609th meetings.

¹⁸ See Case 9.

¹⁹ For relevant statements, see: 1468th meeting: Finland, para. 22; United Kingdom, para. 29; France, para. 39; Pakistan, para. 48; 1469th meeting: Spain, para. 62; Senegal, para. 68; Colombia, para. 82; Hungary (President), para. 135; 1470th meeting: Jordan, paras. 27-29; Paraguay, paras. 42-44; Saudi Arabia, paras. 98-103; 1472nd meeting: Pakistan, paras. 11, 19; Jordan, paras. 62-64; 1473rd meeting: France, para. 17; 1484th meeting: Morocco, paras. 48-49; Finland, para. 100; Lebanon, para. 137; Paraguay, para. 198; 1485th meeting: Pakistan, paras. 175, 184; 1500th meeting: United States, para. 6; 1501st

A. INVOLVING, TO FACILITATE THEIR WORK, MEETINGS AT PLACES AWAY FROM THE SEAT OF THE ORGANIZATION

1. Subsidiary organs established

CASE 1

Special Mission to the Republic of Guinea

Establishment and terms of reference

At the 1558th meeting on 22 November 1970, the Security Council, in connexion with the complaint by Guinea of the same date²⁰ that the territory of Guinea had been the object of an armed attack by Portuguese forces which had landed at several points in the capital, unanimously adopted a resolution²¹ originally sponsored by Burundi, Nepal, Sierra Leone, Syria and Zambia by which it decided:

"3. . . to send a special mission to the Republic of Guinea to report on the situation immediately.

"4. . . that the special mission be formed after consultation between the President of the Security Council and the Secretary-General."

Before the Council adopted the draft resolution a discussion developed about paragraph 4 concerning the composition of the proposed special mission and the method of selecting its members.

The representative of the United States indicated that since the sponsors preferred a mission composed of representatives of Governments, his delegation would accept that procedure, although it initially wanted to suggest that the Council ask the Secretary-General to send a representative to that area. His delegation held, however, that the composition of the proposed mission should be determined through consultation among all members of the Council and not merely among the President of the Council and the Secretary-General. Accordingly, he appealed to the sponsors of the draft resolution to change paragraph 4 to read:

"[The Security Council] *Decides* that this special mission be formed after consultation."

The representative of Burundi said that his delegation, as a sponsor of the draft resolution, held that the consultations between the President of the Council and the Secretary-General required also consultations with all members of the Council. He hoped that those who were reluctant to support paragraph 4 would realize that this provision did not exclude consultations with the Council members, and would therefore support it.

The representative of the USSR emphasized that the proposal of the five African-Asian delegations was fully

meeting: Lebanon, para. 36; 1511th meeting: Tunisia, paras. 46-47; United States, para. 74; 1540th meeting: Zambia, paras. 5-6; Nepal, paras. 55-56; USSR, paras. 106, 108, 111, 120; 1541st meeting: Colombia, paras. 11-14; Spain, paras. 26, 31. For documents pertaining to the meetings of the four permanent members, see S/9196, Letter of the USSR to the Secretary-General, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 144; S/9599, Letter of Lebanon to the President of the Council, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, p. 104; S/9485, Note by the Secretary-General transmitting the text of a statement by the Foreign Ministers of the four permanent members, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, p. 95; S/10070, Report of the Secretary-General on the activities of the Special Representative to the Middle East, *OR*, 26th yr., *Suppl. for Jan.-March 1971*, pp. 18-23, para. 32.

²⁰ S/9987, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, p. 51.

See also chapter VIII, part II, p. 146 and chapter X, Case 1.

²¹ Resolution 289 (1970).

compatible with the Charter, that in the critical situation speedy action was mandatory and that the members of the Council should place their confidence in the President of the Council and the Secretary-General and enable them to discharge their responsibilities without delay.

The representative of the United States maintained that the designation of such a mission was very important and he therefore submitted his proposal as an amendment to paragraph 4 of the draft resolution. The amendment received 3 votes in favour, none against, with 12 abstentions and was not adopted.

Following the unanimous adoption of the draft resolution as a whole, several representatives expressed their appreciation of the statement by the representative of Burundi concerning the implementation of paragraph 4, which enabled them to support the resolution.²²

Composition

In a report²³ submitted jointly to the Security Council on 24 November the President of the Council and the Secretary-General stated that, in accordance with Security Council resolution 289 (1970), and following consultations between themselves and between the President and the members of the Council, it had been decided that the Special Mission to the Republic of Guinea would be composed of Nepal (Chairman), Colombia, Finland, Poland and Zambia. The report further stated that the Mission would be accompanied by a staff member from the Secretariat and that it would leave for Guinea that same night.

Termination

The report of the Special Mission²⁴ submitted on 3 December 1970 was included in the agenda of the Security Council and was considered together with the complaint by Guinea at five further meetings (1559th to 1563rd, 4-8 December 1970). At its 1563rd meeting on 8 December, the Security Council adopted by 11 votes to none with 4 abstentions resolution 290 (1970) by which *inter alia* the Security Council endorsed the conclusions of the Special Mission's report.²⁵

CASE 2

Special Mission of the Security Council established in accordance with resolution 294 (1971) of 15 July 1971

Establishment and terms of reference

At the 1572nd meeting, on 15 July 1971, in connexion with the complaint by Senegal of 6 July 1970²⁶ concerning alleged violations of Senegal's territorial integrity by Portuguese regular armed forces based in Guinea-Bissau, the representatives of Burundi, Japan, Sierra Leone, Somalia and Syria submitted a draft resolution (S/10266) under which the Security Council would, *inter alia*,

"4. Request the President of the Security Council

²² For the votes on the amendment and on the draft resolution, see: 1558th meeting, paras. 100-101. For relevant statements, see: *ibid.*, United States, paras. 84-86, 91-92, 102; Burundi, paras. 87-88; USSR, paras. 90, 93, 96; United Kingdom, para. 104; Finland, para. 110.

²³ S/9999, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 53.

²⁴ S/10009, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 73.

²⁵ 1563rd meeting, para. 155.

²⁶ S/10251, OR, 26th yr., Suppl. for July-Sept. 1971, p. 28. See also chapter VIII, part II, p. 142 and chapter X, Case 2.

and the Secretary-General to send to the spot, as a matter of urgency, a special mission of members of the Council assisted by their military experts to carry out an inquiry into the facts of which the Council has been informed, to examine the situation along the border between Guinea (Bissau) and Senegal and to report to the Council, making any recommendations aimed at guaranteeing peace and security in this region."

This paragraph, which was voted upon separately at the request of the representative of the United States, was adopted unanimously. The draft resolution as a whole was then adopted by 13 votes to none with 2 abstentions as resolution 294 (1971).²⁷

Composition

The President of the Security Council and the Secretary-General announced on 21 July that the Special Mission of the Security Council would be composed of representatives of Nicaragua (Chairman), Belgium, Burundi, Japan, Poland and the Syrian Arab Republic, who would be assisted by their military experts.²⁸

In response to a request by the Chairman of the Special Mission to the Governments of Portugal and Senegal to extend to the Mission all needed facilities, the Government of Portugal, in a letter dated 24 July,²⁹ stated that inasmuch as Portugal had been unjustifiably condemned by the Security Council without any evidence having been advanced in support of Senegal's charges, it could not collaborate with the Mission, as to do so would presuppose an acceptance of a condemnation that it had repudiated.

On 16 September, the Special Mission submitted its report³⁰ to the Security Council. At its 1586th and 1599th to 1601st meetings held between 29 September and 24 November, the Council considered the report of the Special Mission.

At the 1586th meeting on 29 September, the representative of Nicaragua, as Chairman of the Special Mission, introduced the report and said that the Special Mission could be regarded as one of the most important of those appointed by the Council, because it was the first to which the Council had given authority to make recommendations necessary to guarantee peace and security in the region. He thanked the Senegalese authorities for their co-operation and expressed regret that the Mission had not been invited by the Government of Portugal to visit Guinea (Bissau).

The representative of the USSR noted with satisfaction that the Council had reinstated the practice of sending highly authoritative missions composed of members of the Council to carry out investigations on the spot and that this marked a return to the working methods envisaged for the Council in the Charter and in the Council's rules of procedure. He hoped that the Council would continue the practice, as it would expand the role of the Council in strengthening international security and help to solve problems of peace-keeping.

The representative of France agreed that the practice was an extremely useful one that could benefit the United Nations and enhance the prestige of the Secu-

²⁷ 1572nd meeting, paras. 84-85. S/10266 adopted as resolution 294 (1971).

²⁸ S/10274, OR, 26th yr., Suppl. for July-Sept. 1971, p. 40.

²⁹ S/10284, *Ibid.*, p. 42.

³⁰ S/10308 and Corr.1, *Ibid.*, Special Supplement No. 3.

ity Council, though the membership and balance of individual missions might have to differ, according to circumstances, as each case was unique.³¹

Termination

At its 1601st meeting on 24 November, the Council adopted by 14 votes to none with one abstention, an amended text originally sponsored by Burundi, Sierra Leone and Somalia³² with the inclusion of an additional paragraph proposed by Argentina, as resolution 302 (1971). In this resolution the Security Council, *inter alia*, took note with satisfaction of the recommendation of the Special Mission and requested the President of the Security Council and the Secretary-General to keep the question under review and report on the implementation of the present resolution of the Security Council within an appropriate period of time and the latest within six months.

CASE 3

Special Mission to the Republic of Guinea

Establishment and terms of reference

At the 1573rd meeting on 3 August 1971, in connexion with the complaint by Guinea concerning alleged preparations by Portugal for imminent military aggression against Guinea,³³ a draft resolution was submitted by Burundi, Sierra Leone, Somalia and Syria, by which the Council would decide to send a special representative to Guinea to consult with the authorities and to report on the situation immediately. Following a brief recess, the representative of Somalia read out some modifications of the draft resolution that had been agreed upon during consultations.³⁴ The modified paragraphs 2 and 3 read as follows:

"2. *Decides* to send a special mission of three members of the Security Council to Guinea to consult with the authorities and to report on the situation immediately;

"3. *Decides* that this special mission be appointed after consultation between the President of the Security Council and the Secretary-General."

At the same meeting, the draft resolution was adopted unanimously as resolution 295 (1971).³⁵

Composition

At the 1576th meeting on 26 August, the President of the Security Council read out the following statement expressing the consensus of the Council, which was approved without objection:

"It is the consensus of the Security Council that the Special Mission called for in resolution 295 (1971) should be composed of two members of the Council instead of three. The Special Mission will proceed to Conakry to consult the Government of the Republic of Guinea on its complaint and will report back to the Council as soon as possible."³⁶

³¹ For texts of relevant statements, see: 1586th meeting, paras. 8, 78-87.

³² S/10395, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 40. The amendments were read out on behalf of the sponsors at the 1601st meeting. See 1601st meeting, paras. 6-7. See para. 11 for Argentina addition.

³³ S/10280, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 41. See also chapter X, Case 3, and chapter VIII, part II, p. 149.

³⁴ 1573rd meeting, paras 65-71.

³⁵ *Ibid.*, para. 80. S/10281 adopted as amended.

³⁶ 1576th meeting, paras. 4-5.

In a note submitted on 26 August, the President of the Security Council and the Secretary-General stated that in accordance with Security Council resolution 295 (1971), and in pursuance of the consensus adopted by the Security Council at its 1576th meeting, the Special Mission would be composed of Argentina and the Syrian Arab Republic.³⁷

Termination

On 14 September the Special Mission, established under resolution 295 (1971) submitted its report³⁸ to the Security Council, which considered it at the 1586th and 1603rd meetings held on 29 September and 30 November 1971.

The representative of Somalia noted that the report of the Special Mission was a factual one, containing neither an assessment of the facts or charges nor any recommendations and leaving it to the members of the Security Council to provide those themselves.³⁹

The representative of Nicaragua said that his delegation agreed that special missions and missions of inquiry, investigation and information, such as those dispatched to the Republic of Guinea, were important and should be appointed by the Security Council whenever it considered it necessary in order to safeguard peace and security in any particular area in the world.⁴⁰

The representative of the Syrian Arab Republic pointed out that the report did not contain conclusions, assessments or recommendations because the members of the Special Mission had decided that their role was consultative and that their task was to report on whatever information and documentary evidence it obtained from the Government of Guinea.⁴¹

The representative of the USSR welcomed the information placed before the Security Council by the Council's Special Mission and noted with satisfaction the resumption of the practice of establishing Security Council missions to perform direct and immediate tasks connected with the maintenance and strengthening of peace which were entrusted to the Security Council.⁴²

At the 1603rd meeting on 30 November, the President of the Security Council, on behalf of the Council and with the authorization of its members, read out the text of a consensus reached on the basis of the consideration of the report of the Special Mission.⁴³

CASE 4

Mission under resolution 298 (1971) concerning Jerusalem

Establishment and terms of reference

At the 1582nd meeting on 25 September 1971, in connexion with the situation created by alleged illegal measures taken by Israel in Jerusalem designed to change the status and character of the Holy City, the representative of Somalia submitted a draft resolution⁴⁴ under paragraph 5 of which the Security Council would:

"5. *Request* the Secretary-General, in consultation with the President of the Security Council and

³⁷ S/10299, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 56.

³⁸ S/10309/Rev.1; *OR*, 26th yr., *Special Suppl. No. 4*.

³⁹ 1586th meeting, para. 119.

⁴⁰ *Ibid.*, paras. 126-127.

⁴¹ *Ibid.*, para. 147.

⁴² *Ibid.*, para. 155.

⁴³ 1603rd meeting, para. 5.

⁴⁴ S 10337, *OR*, 26th yr. *Suppl. for July-Sept. 1971*, p. 67.

using such instrumentality as he may choose, including a representative or a mission, to report to the Security Council as appropriate and in any event within 60 days on the implementation of this resolution."

The representative of Syria proposed the replacement in paragraph 5 of the words "as he may choose" by the words "as they may choose". With regard to the same paragraph, he proposed that the Secretary-General should report in 30 days instead of 60 days.

At the same meeting, paragraph 5 of the draft of Somalia was adopted by 12 votes to none with 3 abstentions (Poland, Syria and USSR); the draft resolution as a whole was adopted by 14 votes to none with one abstention as resolution 298 (1971).⁴⁵

Composition

In a report⁴⁶ dated 19 November submitted pursuant to Security Council resolution 298 (1971), the Secretary-General stated that in accordance with the terms of that resolution, he had held consultations with the President of the Security Council on its implementation and subsequently had informed Israel of his intention to nominate a mission consisting of three members of the Council with a view to enabling him to report to the Council as requested. On 1 October, he had indicated to the Foreign Minister of Israel that he had in mind to nominate the representatives of Argentina, Italy and Sierra Leone whose Governments had expressed their willingness to serve on that mission. He had reminded Israel that, under the terms of the resolution, he had a 60-day limit for reporting and therefore was bound to report within that period. The Secretary-General reported to the Council that in the light of Israel's failure to abide by the decision of the Security Council, he had been unable to fulfil his mandate under resolution 298 (1971).

CASE 5

Special Representative of the Secretary-General in the India/Pakistan subcontinent

Establishment and terms of reference

At the 1621st meeting on 21 December 1971, in connexion with the situation in the India/Pakistan subcontinent, the President of the Security Council introduced and put to the vote a draft resolution⁴⁷ sponsored by Argentina, Burundi, Japan, Nicaragua, Sierra Leone and Somalia that had been agreed upon after intensive consultations with the parties concerned and represented a compromise of the numerous draft resolutions that had been presented to the Council.⁴⁸ Paragraphs 5 and 6 read as follows:

"5. *Authorizes* the Secretary-General to appoint if necessary a special representative to lend his good offices for the solution of humanitarian problems;

"6. *Requests* the Secretary-General to keep the Council informed without delay on developments relating to the implementation of the present resolution."

At the same meeting, the Security Council adopted the six-power draft resolution by a vote of 13 in favour

to none against with two abstentions (Poland, USSR), as resolution 307 (1971).⁴⁹

Composition

On 25 December 1971, the Secretary-General reported⁵⁰ that, in accordance with paragraph 5 of Security Council resolution 307 (1971), he had appointed Mr. Vittorio Winspeare Guicciardi as his special representative and asked him to proceed to the subcontinent immediately.

2. Subsidiary organs proposed but not established

CASE 6

At the 1606th meeting on 4 December 1971, in connexion with the situation in the India/Pakistan subcontinent, the representative of the United States introduced a draft resolution⁵¹ by which the Council would, *inter alia*,

"3. *Authorize* the Security Council, at the request of the Governments of India and Pakistan, to place observers along the India/Pakistan borders to report on the implementation of the cease-fire and troop withdrawals, drawing as necessary on the UNMOGIP personnel."

The draft was put to the vote at the same meeting. It received 11 votes in favour, 2 against (Poland, USSR) with 2 abstentions (France, United Kingdom) and was not adopted owing to the negative vote of a permanent member of the Security Council.⁵²

At the 1613th meeting on 13 December, the representative of Italy introduced a draft resolution⁵³ sponsored also by Japan, paragraph 7 of which read as follows:

"7. *Decides* to appoint, with the consent of India and Pakistan, a Committee composed of three members of the Security Council to assist them in their efforts to bring about normalcy in the area of conflict, as well as to achieve reconciliation, in accordance with the principles of the Charter and in keeping with the aforesaid resolutions, and to report to the Council;"

The representative of Italy drew attention to the fact that, although the sponsors had introduced the words "three members" in paragraph 7, it was not the final text, and that they intended to insert the names of the members of the Security Council, or whatever other formulation the Council might decide upon in order to establish the committee. The immediate formulation was just a reminder of what the sponsors had in mind.⁵⁴

At the 1615th meeting on 15 December, the representative of the Syrian Arab Republic introduced a draft resolution,⁵⁵ paragraph 3 of which read as follows:

"3. *Requests* the Secretary-General to appoint a special representative with a view to

"(a) Supervising the orderly process of the above-mentioned operations;

⁴⁵ 1582nd meeting, para. 338.

⁴⁶ S/10392, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 123.

⁴⁷ S/10416, *Ibid.*, p. 90.

⁴⁸ 1606th meeting, para. 371.

⁴⁹ S/10451, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 108.

⁵⁰ 1613th meeting, para. 305.

⁵¹ 1615th meeting, para. 111. S/10456, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 111.

⁴⁵ 1582nd meeting, para. 338.

⁴⁶ S/10392, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 35.

⁴⁷ S/10465, adopted without change as resolution 307 (1971) of the Council.

⁴⁸ See Case 6 below.

"(b) Assisting the elected representatives of East Pakistan and the Government of Pakistan to reach a comprehensive settlement, compatible with the principles of the Charter;

"(c) Establishing the propitious conditions for the voluntary return of the refugees;

"(d) Normalizing the relations between India and Pakistan."

At the same meeting the representatives of the United Kingdom and France introduced a draft resolution,⁵⁰ paragraph 6 of which read:

"6. Invites the Secretary-General to appoint a special representative to lend his good offices, in particular, for the solution of humanitarian problems."

At the 1617th meeting on 16 December, the representative of the United States introduced a new draft resolution subsequently amended,⁵¹ on behalf of Japan and the United States, paragraph 5 of which read:

"5. Invites the Secretary-General to appoint a special representative to lend his good offices, in particular, for the solution of humanitarian problems."⁵²

B. NOT INVOLVING, TO FACILITATE THEIR WORK, MEETINGS AT PLACES AWAY FROM THE SEAT OF THE ORGANIZATION

1. Subsidiary organs established

CASE 7

(a) Ad Hoc Sub-Committee established in pursuance of Security Council resolution 276 (1970)

Establishment and terms of reference

At the 1529th meeting on 30 January 1970, in connexion with the situation in Namibia, Finland, Burundi, Nepal, Sierra Leone and Zambia sponsored a revised draft resolution,⁵³ by which the Council, *inter alia*:

"6. Decides to establish, in accordance with rule 28 of the provisional rules of procedure, an *ad hoc* sub-committee of the Council to study, in connexion with the Secretary-General, ways and means by which the relevant resolutions of the Council, including the present resolution, can be effectively implemented in accordance with the appropriate provisions of the Charter, in the light of the flagrant refusal of South Africa to withdraw from Namibia, and to submit its recommendations by 30 April 1970."

In introducing the draft resolution, the representative of Finland stated⁵⁴ that the *ad hoc* sub-committee would have a broad mandate. It would examine all proposals and ideas for such effective steps as might be taken by the Security Council to enable the United Nations to discharge its special responsibility towards the people of Namibia. However, he added, the *ad hoc* sub-committee was not intended to become another United

⁵⁰ 1615th meeting, para. 114. S/10455, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 111.

⁵¹ 1617th meeting, para. 14. S/10459 amended as S/10459/Rev.1, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 112.

⁵² See case 5 *supra* for subsequent decisions by the Security Council in connexion with the situation in the India/Pakistan subcontinent.

⁵³ S/9620/Rev.1, 5-power draft, adopted as resolution 276 (1970).

⁵⁴ 1527th meeting, paras. 41, 44. S/9620, OR, 25th yr., Suppl. for Jan.-March 1970, p. 114.

Nations organ or to replace or detract any existing body.⁶¹

It was understood after consultations among members of the Council⁶² that the *ad hoc* sub-committee to be established by the Security Council would consist of all members of the Security Council.

On 30 April the *Ad Hoc* Sub-Committee established in pursuance of resolution 276 (1970) submitted to the Security Council an interim report⁶³ on its work. The report indicated that the *Ad Hoc* Sub-Committee had given preliminary consideration to various questions concerning the implementation of the relevant resolutions of the Security Council concerning Namibia but was not yet in a position to formulate specific recommendations and to submit them to the Security Council by 30 April, as provided for in resolution 276 (1970). The *Ad Hoc* Sub-Committee intended to continue its work in accordance with its terms of reference and hoped to submit its report by the end of June 1970.

Termination

In a note⁶⁴ dated 15 May the President of the Security Council stated that, after consultations with all members of the Security Council, the Council had taken note of the interim report of the *Ad Hoc* Sub-Committee and agreed that the *Ad Hoc* Sub-Committee should continue its work in accordance with its terms of reference in order to be in a position to formulate its recommendations to the Security Council by the end of June 1970 at the latest. On 7 July 1970, the *Ad Hoc* Sub-Committee submitted its report to the Security Council.⁶⁵

(b) Ad Hoc Sub-Committee on Namibia

Decision to re-establish the Ad Hoc Sub-Committee

At its 1550th meeting on 29 July 1970, the Council considered the report of the *Ad Hoc* Sub-Committee. A draft resolution⁶⁶ was submitted by Burundi, Finland, Nepal, Sierra Leone and Zambia by which, among other things, the Security Council:

"14. Decides to re-establish, in accordance with rule 28 of the provisional rules of procedure, the *Ad Hoc* Sub-Committee on Namibia and to request the Sub-Committee to study further effective recommendations on ways and means by which the relevant resolutions of the Council can be effectively implemented in accordance with the appropriate provisions of the Charter of the United Nations, in the light of the flagrant refusal of South Africa to withdraw from Namibia;

"15. Requests the Sub-Committee to study the replies submitted by Governments to the Secretary-General in pursuance of operative paragraph 13 of the present resolution and to report to the Council as appropriate."

At the 1550th meeting on 29 July 1970, the five-power draft resolution was adopted by 13 votes to none, with two abstentions, as resolution 283 (1970).⁶⁷

⁶¹ See also statements by Zambia, 1527th meeting, para. 56; Nepal, 1528th meeting, para. 133 and Poland, 1529th meeting, para. 26.

⁶² 1529th meeting, paras. 197-201.

⁶³ S/9771, OR, 25th yr., Suppl. for Apr.-June 1970, p. 165.

⁶⁴ S/9803, *Ibid.*, p. 184.

⁶⁵ S/9863 and Add.1/Rev.1. *Ibid.*, Suppl. for July-Sept. 1970, p. 81.

⁶⁶ S/9891, adopted without change as resolution 283 (1970).

⁶⁷ 1550th meeting, para. 155.

Composition

On 18 August the President of the Security Council issued a note⁶⁸ stating that, after consultations among members of the Council, it had been agreed that the *Ad Hoc* Sub-Committee on Namibia established under Security Council resolution 283 (1970) should be composed of all members of the Security Council and that its rules of procedure and its officers should be the same as those of the former *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970).

On 23 September 1971, the *Ad Hoc* Sub-Committee submitted a report⁶⁹ describing its activities at 17 meetings held between 21 August 1970 and 23 September 1971.

Terms of reference

At the 1595th meeting on 15 October 1971, in connexion with the situation in Namibia, the representative of Somalia introduced a draft resolution⁷⁰ sponsored by Burundi, Sierra Leone, Somalia and Syria which, among others, contained the following provisions: (i) the Security Council

"Requests the *Ad Hoc* Sub-Committee on Namibia to continue to carry out the tasks entrusted to it under paragraphs 14 and 15 of Security Council resolution 283 (1970) and, in particular, taking into account the need to provide for the effective protection of Namibian interests at the international level, to study appropriate measures for the fulfilment of the responsibility of the United Nations towards Namibia;

"Requests the *Ad Hoc* Sub-Committee on Namibia to review all treaties and agreements which are contrary to the provisions of the present resolution in order to ascertain whether States have entered into agreements which recognize South Africa's authority over Namibia, and to report periodically thereon."

At the 1598th meeting on 20 October 1971, the four-power draft resolution was adopted by 13 votes in favour to none against with 2 abstentions (France, United Kingdom) as resolution 301 (1971).⁷¹

CASE 8

*Committee established in pursuance of Security Council resolution 253 (1968)**Changes in composition*

In connexion with the implementation of resolution 253 (1968) of 29 May 1968, the President of the Security Council announced, in notes circulated as Security Council documents, the measures which had been approved by the Council. On 10 April 1970, the President issued a note⁷² stating that, after consultations with the members of the Council, it had been agreed that until a further decision was reached the Committee established in pursuance of Security Council resolution 253 (1968) would be composed of: France, Nepal,

⁶⁸ S/9911, OR, 25th yr., Suppl. for July-Sept. 1970, p. 131.

⁶⁹ S/10330 and Corr.1 and Add.1, OR, 26th yr., Special Suppl. No. 5.

⁷⁰ S/10372, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 25-26.

⁷¹ 1598th meeting, para. 31. S/10372/Rev.1 adopted as resolution 301 (1971).

⁷² S/9748, OR, 25th yr., Suppl. for Apr.-June 1970, p. 148.

Nicaragua, Sierra Leone, USSR, United Kingdom and United States.⁷³

On 30 September 1970, the President issued a note⁷⁴ stating that, after consultations, it had been agreed that as of 1 October 1970 the Committee established in pursuance of Security Council resolution 253 (1968) would be composed of all the members of the Council, and that the Chairmanship of the Committee would rotate every month in the English alphabetical order according to the Presidency of the Council.

Terms of reference as defined in resolution 277 (1970) of 18 May 1970

At the 1535th meeting on 18 May 1970, the Security Council, in connexion with the situation in Southern Rhodesia, adopted by 14 votes to none with one abstention resolution 277 (1970)⁷⁵ which included the following provisions:

"21. Decides that the Committee of the Security Council established in pursuance of resolution 253 (1968), in accordance with rule 28 of the provisional rules of procedure of the Council, shall be entrusted with the responsibility of:

"(a) Examining such reports on the implementation of the present resolution as will be submitted by the Secretary-General;

"(b) Seeking from Member States such further information regarding the effective implementation of the provisions laid down in the present resolution as it may consider necessary for the proper discharge of its duty to report to the Security Council;

"(c) Studying ways and means by which Member States could carry out more effectively the decisions of the Security Council regarding sanctions against the illegal régime of Southern Rhodesia and making recommendations to the Council."

CASE 9

*Committee of Experts established by the Security Council at its 1506th meeting**Establishment and terms of reference*

At the 1505th meeting on 27 August 1969, in connexion with the question of the "Creation of a category of associate membership", the representative of the United States proposed that in order to facilitate the General Assembly's consideration of this question, the Security Council should establish a Committee of Experts to examine it and report the results of its study and its recommendations to the Council within two months so that the Council could in turn make its own recommendations to the twenty-fourth session of the General Assembly.

At the 1505th and 1506th meetings, a number of representatives spoke in favour of entrusting to a Committee of Experts of the Security Council the task of carrying out a careful and thorough study of all aspects of the question and to report to the Security Council.⁷⁶

⁷³ The composition of the Committee, as originally established, is given in documents S/8697 of 31 July 1968 and S/8697/Add.1 of 27 January 1969, see: OR, 23rd yr., Suppl. for July-Sept. 1968, pp. 71-72 and *ibid.*, 24th yr. Suppl. for Jan.-March 1969, p. 32.

⁷⁴ S/9951, OR, 25th yr., Suppl. for July-Sept. 1970, p. 147.

⁷⁵ 1535th meeting, para. 85.

⁷⁶ 1505th meeting, paras. 26, 27, 33, 54, 65, 68, 70; 1506th meeting, paras. 1, 2, 6, 11, 26, 31, 37, 44, 50, 59.

Composition

At the conclusion of the 1506th meeting on 29 August, the President made a statement on the decision of the Security Council, after consultations, that there was no objection to the establishment of a Committee of Experts consisting of all members of the Security Council to study the question which was examined at the 1505th and 1506th meetings.⁷⁷

⁷⁷ 1506th meeting, para. 61. In an interim report submitted on 15 June 1970, the Committee of Experts gave an account

****2. Subsidiary organs proposed
but not established**

of its work at meetings held between 12 September 1969 and 10 June 1970. It stated that inasmuch as a number of its members had not yet made their statements on the substantive aspects of the question, the Committee was not in a position to formulate specific recommendations and to submit them to the Council. The report concluded by stating that the Committee would continue its work in accordance with its terms of reference and submit a further report at a later stage. S/9836, *OR*, 25th yr., *Suppl. for April-June 1970*, pp. 210-211.

Part II

****CONSIDERATION OF PROCEDURES RELATIVE TO SUBSIDIARY ORGANS**

Chapter VI

RELATIONS WITH OTHER UNITED NATIONS ORGANS

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INTRODUCTORY NOTE

The present chapter, as in previous volumes, deals with relations of the Security Council with all the other organs of the United Nations. Consequently, its scope is broader than that of chapter XI of the provisional rules of procedure of the Security Council (rule 61), which governs only certain procedures related to the election by the Council of Members of the International Court of Justice.

This chapter contains material concerning the relations of the Security Council with the General Assembly (part I), and also brings up to date the account in the previous volumes of the *Repertoire* of the transmission by the Trusteeship Council to the Security Council of questionnaires and reports (part III).

During the period under review, the Security Council requested, for the first time, an advisory opinion from the International Court of Justice. The material

treated under the heading "Relations with the International Court of Justice" (part IV) deals with the proceedings of the Security Council which resulted in the adoption of a draft resolution requesting the Court's opinion, the transmission to the Security Council by the Secretary-General of that opinion, and the subsequent action taken by the Security Council on it.

No material has been found for the period under review which would require treatment under parts II and V relating respectively to relations with the Economic and Social Council and the Military Staff Committee. The functions of the Secretariat in relation to the Security Council, to the extent that they are governed by the provisional rules of procedure of the Council, are covered in chapter I, part IV. Proceedings regarding the appointment of the Secretary-General under Article 97 are treated in part I of this chapter.

Part I

RELATIONS WITH THE GENERAL ASSEMBLY

NOTE

In this part the arrangement of the material remains essentially the same as in the previous volumes of the *Repertoire*. However, a new section C has been included which deals with the question of referral by the Security Council, under resolution 377 (V), to a regular session of the General Assembly of an item being considered by the Council.¹

As previously, part I is concerned mainly with instances where the responsibility of the Security Council and of the General Assembly is, under the provisions of the Charter or the Statute of the Court, either exclusive or mutual; that is, where a final decision is or is not to be taken by one organ without a decision to be taken in the same matter by the other. The proceedings in these instances fall into three broad categories.

The first category, treated in section A, includes practices and proceedings in relation to Article 12, paragraph 1, limiting the authority of the General Assembly in respect of any dispute or situation while the Council is exercising the functions assigned to it by the Charter. No material for inclusion in this section was found for the period covered by this *Supplement*. The section, therefore, contains only a note concerning notifications by the Secretary-General to the General Assembly under Article 12, paragraph 2, of the Charter.²

In the second category of instances, treated in section D, in which the responsibilities of the Security Council and of the General Assembly are mutual, and in which the decision must be taken by the Security Council before the General Assembly, one case concerning the appointment of the Secretary-General has been entered.³ There was no material for the period under review bearing on conditions of accession to the Statute of the International Court of Justice. However, a new sub-heading has been set in connexion with the participation of States not Members of the United Nations but parties to the Statute of the International Court of Justice in the amendment of the Statute. Within the context of this new sub-heading one case has been treated.⁴

The third category, dealing with cases where the final decision depends upon action to be taken by both the organs concurrently, such as the election of Members of the International Court of Justice, is treated in section E.⁵ Section F includes two cases giving account of the relations of the Security Council with subsidiary organs established by the General Assembly.⁶ Section G contains a tabulation of recommendations to the Security Council adopted by the General Assembly in the form of resolutions. Section H contains references to the annual and special reports of the Security Council to the General Assembly.

¹ Case 1.

² For references to Article 12 in the proceedings of the Council connected with resolution 303 (1971) see, in this chapter, Case 1.

³ Case 2.

⁴ Case 3.

⁵ Case 4.

⁶ Cases 5 and 6.

A. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLE 12 OF THE CHARTER

"Article 12 of the Charter

"1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

"2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters."

[*Note:* During the period under review, there was no discussion in the Security Council on the question of the respective competence of the Security Council and the General Assembly to deal with a matter relating to the maintenance of international peace and security, which the Security Council had considered and then referred to the General Assembly.

Notifications to the General Assembly under Article 12, paragraph 2, by the Secretary-General, with the consent of the Security Council, of "matters relative to the maintenance of international peace and security which are being dealt with by the Security Council", and of matters with which the Council has ceased to deal, have been drafted on the basis of the "Summary Statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration", which is circulated each week by the Secretary-General in accordance with rule 11 of the provisional rules of procedure.

The notification issued before each regular session of the General Assembly contains the same agenda items as those in the current Summary Statement, except that certain items in the Statement which are not considered as "matters relative to the maintenance of international peace and security" for the purpose of Article 12, paragraph 2, are excluded from the notification, e.g., rules of procedure of the Council, applications for membership, and the application of Articles 87 and 88 with regard to strategic areas. In addition, the notification issued before each regular session, contains a list of any items with which the Council has ceased to deal since the previous session of the General Assembly.⁷

Matters being dealt with by the Security Council have been listed in the notification, since 1951, in two categories: (1) matters which are being dealt with by the Council and which have been discussed during the period since the last notification, and (2) matters of which the Council remains seized, but which have not been discussed since the last notification.

Since 1947, the consent of the Council required by Article 12, paragraph 2, has been obtained through

⁷ No items were removed from the list of matters of which the Council was seized during the period under review. See the Secretary-General's notifications issued before the twenty-fourth, twenty-fifth and twenty-sixth sessions of the General Assembly (A/7670, 15 September 1969; A/8064, 15 September 1970, and A/8396, 20 September 1971).

the circulation, by the Secretary-General to the members of the Council, of copies of the draft notifications.]

**B. PRACTICES AND PROCEEDINGS IN RELATION TO THE CONVOCATION OF A SPECIAL SESSION OF THE GENERAL ASSEMBLY

[*Note:* No special session of the General Assembly was convened at the call of the Security Council during the period under review. Nor did the Security Council call an emergency special session of the General Assembly.]

C. REFERRAL, UNDER RESOLUTION 377 A (V), TO THE GENERAL ASSEMBLY OF AN ITEM BEING CONSIDERED BY THE SECURITY COUNCIL

[*Note:* On one occasion⁸ the Security Council decided to refer an item which it had under its consideration to the General Assembly, as provided for in General Assembly resolution 377 A (V) of 3 November 1950.⁹ Since the General Assembly was in session at the time, the question of convening an emergency special session had not arisen.

The decision adopted stated that the lack of unanimity of the permanent members of the Security Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security. There were no negative votes cast when the decision to refer the item to the General Assembly was taken by the Security Council. Three permanent members of the Council abstained in the vote. The resolution adopted by the Council defined the matter to be dealt with only by reference to the agenda of the Council and made explicit reference to General Assembly resolution 377 A (V). The relevant proceedings of the Council on this occasion are set forth in the case history given below.]

CASE 1

At the 1608th meeting on 6 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the representative of Somalia pointed out that the Council had had three days of intensive consultations on a number of draft resolutions trying to find a formula acceptable to it as a whole. However, it had not yet reached that agreement. His own delegation, in association with a number of other delegations, in an attempt to formulate a draft resolution which would not only reflect the concern of the United Nations in the present question but also be based upon the Purposes and Principles of the Charter, had submitted a draft resolution, contained in document S/10423,

⁸ See Case 1 below.

⁹ The relevant passage from resolution 377 A (V) follows: "*The General Assembly, . . . 1. Resolves* that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations." (Under the amendment to Article 27 of the Charter, which came into force in 1965, decisions of the Security Council on procedural matters shall be made on the affirmative vote of any nine of its members.)

which, however, had failed to be adopted due to the negative vote of a permanent member of the Security Council. It nevertheless had the support of the majority of the members of the Council. Meanwhile, the conflagration in the area was continuing. In the circumstances, the United Nations could not remain inactive and could not be diverted from its obligations for the maintenance of international peace and security. After quoting from General Assembly resolution 377 (V), the representative of Somalia introduced the following draft resolution¹⁰ jointly sponsored by the representatives of Argentina, Burundi, Japan, Nicaragua, Sierra Leone and Somalia:

"The Security Council,

"Having considered the item on the agenda of its 1606th meeting, as contained in document S/Agenda/1606,

"Taking into account that the lack of unanimity of its permanent members at the 1606th and 1607th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"Decides to refer the question contained in document S/Agenda/1606 to the General Assembly at its twenty-sixth session, as provided for in General Assembly resolution 377 A (V) of 3 November 1950."

The representative of Argentina, after enumerating the draft resolutions which failed to be adopted by the Council and the instances in which a negative vote was cast by a permanent member,¹¹ stated that the Security Council, because of the many and complex facts of the conflict, had been unable to take a decision providing peace in the region. Recognizing that fact, the Council should transfer responsibility immediately to the General Assembly.

The representative of Burundi contended that there being no solution forthcoming from the Security Council, it was imperative for the Council to discharge its duty by transferring the question to the General Assembly.

The representative of the United States said that because of the exercise of the veto by one of the permanent members, the Council had been unable to adopt measures to restore peace and security in South Asia or even to call for a halt to the fighting. However, there were additional steps that could be taken and which would allow the full membership of the United Nations to examine the question envisaged in the draft resolution before the Council.

The representative of the USSR stated that the referral of the question to the General Assembly would constitute an indication of the wish to avoid finding a solution on the matter and the adoption of measures to eliminate the main source of conflict on the India/Pakistan subcontinent. The five-Power draft resolution (S/10429) was neither correct in terms of substance nor from the procedural standpoint: any resolutions adopted by the General Assembly were only recommendations, whereas, resolutions of the Security Council were mandatory decisions which, under the Charter, must be implemented by Member States. The attempt to transfer the question to the General Assembly was

only to confuse the issue and to avoid adopting realistic measures that the present situation demanded on the subcontinent.

The representative of France stated that the procedure contained in the "Uniting for peace" resolution was very clear when the Assembly was not in session because as that resolution stated, the Assembly could be convened in an emergency special session. However, when the Assembly was already in session the procedure contained in General Assembly resolution 377 (V) was equivocal. Now that the Assembly was in session and the resolution was vague on which procedure to be followed, it would be sufficient to seize the matter under Article 12 of the Charter, that is, without recourse to the "Uniting for peace" resolution. Hence, his delegation had interpreted the draft resolution before the Council as a request to the General Assembly to take up the matter, not so much in terms of the text of the "Uniting for peace" resolution but under Article 12 of the Charter. In this connexion, he also observed that the phrase "decides to refer the question . . . to the twenty-sixth session of the General Assembly" contained in operative paragraph 1 of the draft resolution was not pertinent. It would be correct if an assembly referred a question to a subordinate organ, but the Assembly was not a subordinate body to the Council any more than the Council was subordinate to the General Assembly. Since they were two different organs, each having different functions and powers, it would be more correct to say "to bring the question contained . . . before the General Assembly". He pointed out that the question of form had a consequence: the fact of bringing the matter before the General Assembly in no way implied that the Council was no longer seized of it. Quite the contrary, regardless of the debates in the General Assembly or its results, the question remained before the Council and therefore the consultations might continue. Turning to the substantive part of the draft resolution, the representative added that the proposal to bring the question to the General Assembly would cause new delays in order to lead to the adoption of a resolution which would be only a recommendation. The powers of the General Assembly should not be confused with those of the Security Council. Nevertheless, his delegation would not oppose the draft resolution, giving a chance to those who believed to find a solution in the Assembly debate. However, the situation was likely to deteriorate and the Council sooner or later would have to shoulder again its responsibility in the matter.

Decision: At the 1608th meeting on 6 December 1971, the Council adopted the joint draft resolution by 11 votes in favour, none against and four abstentions.¹²

After the vote the representative of the United Kingdom stated that it was the nature of the international situation itself that had imposed limitations on the Security Council and had made it impossible for members of the Council to reach agreement and a discussion of the item in the General Assembly was not likely to change matters or immediately overcome the limitations faced in its consideration by the Security Council.¹³

¹² 1608th meeting, para. 322; resolution 307 (1971).

¹³ For text of relevant statements, see: 1608th meeting: Argentina, paras. 139-148; Burundi, paras. 149-157; France, paras. 302-306; Somalia, paras. 128-138; USSR, paras. 281-282; United Kingdom, para. 325; United States, paras. 202-211.

¹⁰ S/10429, adopted without change as resolution 303 (1971).

¹¹ See in chapter VIII, pp. 156-160.

D. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLES OF THE CHARTER INVOLVING RECOMMENDATIONS BY THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

1. Appointment of the Secretary-General

"Article 97 of the Charter

"The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization."

[*Note:* In accordance with rule 48 of the provisional rules of procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of the Secretary-General have been held in private, and the Council has voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, has indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted a recommendation of this kind (Case 2).]

CASE 2

At the 1620th meeting held in private on 21 December 1971, the Security Council considered the question of the recommendation for the appointment of Secretary-General of the United Nations, and unanimously decided to recommend to the General Assembly that Mr. Kurt Waldheim be appointed as Secretary-General of the United Nations.¹⁴ On the same date the President (Sierra Leone) transmitted this recommendation to the President of the General Assembly.¹⁵

****2. Conditions of accession to the Statute of the International Court of Justice**

3. Conditions of participation of States not Members of the United Nations but parties to the Statute of the International Court of Justice in the amendment of the Statute

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

"Article 22

"1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

"2. The President and the Registrar shall reside at the seat of the Court."

"Article 23

"1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

"2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be

fixed by the Court, having in mind the distance between The Hague and the home of each judge.

"3. Members of the Courts shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court."

"Article 28

"The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague."

"Article 69

"Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of States which are parties to the present Statute but are not Members of the United Nations."

CASE 3

By letter¹⁶ dated 23 September 1969, the President of the General Assembly informed the Security Council of the inclusion in the agenda for its twenty-fourth session of an item entitled "Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28".

The Security Council included¹⁷ the letter from the President of the General Assembly in its agenda at its 1514th meeting on 23 October 1969.

The President (United Kingdom) stated that Liechtenstein, San Marino and Switzerland were parties to the Statute of the International Court of Justice, but were not Members of the United Nations. In accordance with the provisions of Article 69 of the Statute, the Council might wish to recommend to the General Assembly for adoption of certain provisions, concerning the participation of States which were parties to the Statute but were not Members of the United Nations, in the procedure for effecting amendments to the Statute. He added that after consultations with members of the Council, a draft resolution¹⁸ on the subject had been prepared and circulated, which he believed carried general support.

The representative of the USSR stated that States which were parties to the Statute but were not Members of the United Nations could take part in the consideration of problems relating to amendments to the Statute which were on the agenda of the twenty-fourth session of the General Assembly. Since operative paragraph 2 of the draft resolution clearly reflected the important provisions of Article 69 of the Statute and of Article 108 of the Charter, the Security Council should adopt it. However, in agreeing to the draft resolution relating only to the procedure for allowing States which were parties to the Statute but were not Members of the

¹⁴ See Official Communiqué of the 1620th meeting held in private on 21 December 1971.

¹⁵ A/8496 (mimeo.).

¹⁶ Circulated by the President of the Security Council in document S/9462, OR, 24th yr., Supplement for October-December 1969, p. 86.

¹⁷ 1514th meeting, immediately preceding para. 6.

¹⁸ Adopted without change as resolution 272 (1969).

United Nations to take part in the consideration of amendments to the Statute, his delegation in no way prejudged its position on the substance of the problem. In that context, the representative drew the attention of the Security Council to the continuing discriminatory practice against several sovereign socialist States. He said that the formula which limited the number of States that could take part in activities under the aegis of the United Nations only to States Members of the United Nations, members of the specialized agencies, the IAEA and parties to the Statute of the International Court of Justice was contrary to the spirit of the United Nations Charter and ran counter to the principle of universality of the Organization.

The representatives of France and the United States stated that they were in agreement with the final text of the draft resolution.

The representatives of France, the United Kingdom and the United States, however, reserved their right to comment on the issue raised by the representative of the USSR, which, they said, was not on the agenda of the Council.¹⁹

Decision: At the 1514th meeting on 23 October 1969, the President, in the absence of objections, declared the draft resolution acceptable to the Security Council. Consequently, the draft resolution was adopted without a vote. It read as follows:

"The Security Council,

"Noting that the General Assembly has included in the agenda of its twenty-fourth regular session an item relating to the amendment of the Statute of the International Court of Justice,

"Recalling that, under Article 69 of the Statute of the International Court of Justice, the Security Council may recommend to the General Assembly for adoption provisions concerning the participation of States which are parties to the Statute, but are not Members of the United Nations, in the procedure for effecting amendments to the Statute,

"Recommends to the General Assembly the adoption of the following provisions concerning such participation:

"(a) A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;

"(b) Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."²⁰

¹⁹ For relevant statements, see 1514th meeting: President (United Kingdom), paras. 6-10, 38-39; France, paras. 28-32; USSR, paras. 11-26; United States, paras. 33-36.

²⁰ *Ibid.*, para. 38. By resolution 2520 (XXIV) of 4 December 1969, the General Assembly adopted the recommendation without change.

****4. Conditions under which a non-member State, party to the Statute, may participate in electing Members of the International Court of Justice**

E. PRACTICES AND PROCEEDINGS IN RELATION TO THE ELECTION OF MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

"Article 4

"1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration . . ."

"Article 8

"The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court."

"Article 10

"1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

"2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

"3. In the event of more than one national of the same State obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected."

"Article 11

"If, after this first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place."

"Article 12

"1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

"2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its lists, even though he was not included in the list of nominations referred to in Article 7.

"3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have ob-

tained votes either in the General Assembly or in the Security Council.

"4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote."

"Article 14

"Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council."

PROVISIONAL RULES OF PROCEDURE

Rule 61

Relations with other United Nations Organs

"Any meeting of the Security Council held in pursuance of the Statute of the International Court of Justice for the purpose of the election of members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority of votes."

CASE 4

At the 1515th meeting on 27 October 1969, the Security Council proceeded to the election of five Members of the International Court of Justice to fill the seats which were to become vacant on 5 February 1970.²¹ Prior to the balloting, the President (United Kingdom), referring to the memorandum²² submitted by the Secretary-General, stated that, in accordance with Article 10, paragraph 1, of the Statute of the Court, the candidate who obtained an absolute majority of votes both in the General Assembly and in the Security Council, would be considered elected as a Member of the Court. He further reminded that the required majority in the Security Council was eight votes. However, should there be more than five candidates obtaining the required majority, a new vote on all candidates would be taken according to the procedure which had been followed in the past.

A vote was taken by secret ballot, and four candidates received the required majority. The President stated that in view of this fact the Council had to proceed to a ballot for the fifth seat. At the sixth ballot, the fifth candidate received the required majority. The President thereupon stated that he would transmit the results of the election to the President of the General Assembly, and asked the Council to remain in suspended session until the President of the General Assembly had informed the Council of the results of the voting in the Assembly.²³ After a brief suspension of the meeting, the President announced that he had received a letter from the President of the General Assembly informing the Council that five candidates had been elected Members of the International Court of Justice by the General Assembly at the 1790th plenary meeting.

The President then stated that inasmuch as the same candidates had also received the majority of votes in the Security Council, they had been elected Members

²¹ 1515th meeting, paras. 1-3.

²² S/9353. Also circulated as document A/7569, see *GAOR, 24th sess. ann.*, a.i. 18, doc. A/7569.

²³ 1515th meeting, paras. 4-12.

of the International Court of Justice for a term of office of nine years beginning on 6 February 1970.²⁴

F. RELATIONS WITH SUBSIDIARY ORGANS ESTABLISHED BY THE GENERAL ASSEMBLY

[*Note:* The case histories included herein give accounts of the relation between a subsidiary organ established by the General Assembly and the Security Council and also relations between the Security Council and three subsidiary organs established by the General Assembly which sent communications to the Security Council jointly as well as separately.]

CASE 5

By letter²⁵ dated 28 February 1969 the President of the United Nations Council for Namibia²⁶ drew the attention of the President of the Security Council to the deteriorating situation in Namibia brought about by its continuing illegal occupation by the South African authorities in defiance of General Assembly resolutions 2145 (XXI) of 27 October 1966, 2248 (S-V) of 19 May 1967, 2325 (XXII) of 16 December 1967, 2372 (XXII) of 12 June 1968 and 2403 (XXIII) of 16 December 1968. The letter also stressed the fact that there had been no advance towards the exercise of the right of self-determination and the attainment of independence by the people of Namibia and that the Council for Namibia had been denied the right to exercise its responsibilities under the aforementioned resolutions. The Council for Namibia considered that urgent consideration and necessary measures by the Security Council were required to secure the immediate withdrawal of South Africa from Namibia where, due to the oppressive and illegal measures taken by the Government of South Africa, a serious threat to international peace and security had developed. Subsequently, at the request²⁷ of forty-six Member States dated 14 March 1969 the situation in Namibia was included in the agenda of the Security Council.²⁸ The Council considered it at its 1464th and 1465th meetings, both held on 20 March 1969. At the 1464th meeting, following the adoption of the agenda, the representative of the United Arab Republic was invited, at his request, to participate in the discussion in his capacity as President of the United Nations Council for Namibia.²⁹ At the 1465th meeting the representative of the United Arab Republic* stated that the United Nations Council for Namibia had not been able to discharge its responsibilities of administering Namibia until its independence due to the policy of defiance and obstruction pursued by the South African Government. The continued and illegal presence of South Africa in Namibia constituted an act of aggression which the United Nations had the responsibility to suppress by all means provided to it by the Charter. The Council for Namibia could discharge its responsibility only if all necessary measures

²⁴ *Ibid.*, paras. 13-14.

²⁵ S/9032, *OR, 24th yr., Suppl. for Jan.-March 1969*, pp. 92-93.

²⁶ *The Repertoire of the Practices of the Security Council, Supplement 1966-1968* (chapter VI, part I, Case 4) dealt with the relations between the United Nations Council for South West Africa and the Security Council. In accordance with General Assembly resolution 2372 (XXII) of 12 June 1968 the name of the United Nations Council for South West Africa was changed to the United Nations Council for Namibia as that resolution had proclaimed that henceforth, South West Africa should be known as Namibia.

²⁷ S/9090 and Add.1-3, *OR, 24th yr., Suppl. for Jan.-March 1969*, pp. 126-127.

²⁸ 1464th meeting, preceding para. 8.

²⁹ *Ibid.*, para. 9.

were taken for the removal of South Africa's presence from the territory.³⁰

In its decision³¹ of 20 March 1969, the Security Council recalled its resolutions 245 (1968) of 25 January 1968 and 246 (1968) of 14 March 1968 which had taken into consideration respectively, the letter of 25 January 1968 and the letter of 10 February 1968 from the President of the United Nations Council for South West Africa (Namibia).

By letter³² dated 23 July 1969, the President of the United Nations Council for Namibia conveyed to the President of the Security Council that the Council for Namibia had considered the situation resulting from the reaction of the Government of South Africa to Security Council resolution 264 (1969), as included in the report³³ of the Secretary-General of 14 May 1969. In view of South Africa's continued defiance of the resolutions of the General Assembly and the Security Council, including the latest Security Council resolution (S/RES/264 (1969)), and the fresh measures that it had taken to divide Namibia into separate "homelands" the United Nations Council for Namibia had concluded that the Security Council be asked to take urgent measures to ensure the speediest possible implementation of its resolution 264 (1969). By a further letter³⁴ dated 24 July 1969 representatives of eleven States, members of the United Nations Council for Namibia, requested an urgent meeting of the Council to consider the situation resulting from the refusal of the Government of South Africa to comply with General Assembly and Security Council resolutions relating to Namibia. By letter³⁵ dated 1 August 1969, addressed to the President of the Security Council, the representatives of fifty-one Member States associated themselves with that request.

At its 1492nd meeting on 30 July 1969 the Security Council included in its agenda³⁶ the letter of the members of the United Nations Council for Namibia, and considered the situation in Namibia at its 1492nd to 1497th meetings held between 30 July and 12 August 1969. At the 1492nd meeting on 30 July the Security Council invited, at his request, the representative of Chile, in his capacity as President of the United Nations Council for Namibia to participate in the discussion.³⁷ In its decision of 12 August 1969, the Security Council recalled its resolution 264 (1969) of 20 March 1969.³⁸

By letter³⁹ dated 10 October 1969, the President of the United Nations Council for Namibia informed the Security Council that at its 70th meeting held that day, the Council for Namibia had expressed its grave concern at the defiant and negative response of the Government of South Africa to Security Council resolution 269 (1969). The persistent refusal of that Government to comply with decisions of the Security Council in violation of Article 25 of the Charter had constituted a rejection of the authority of the Security Council and

thus presented a grave challenge to the United Nations as a whole. In view of the special responsibilities of the United Nations to the people of Namibia, the Council for Namibia would draw the Security Council's attention to the urgent need for effective action to implement its resolution 269 (1969). By letter⁴⁰ dated 26 January 1970 the representatives of fifty-seven Member States requested an urgent meeting of the Security Council to examine the situation resulting from the failure of the Government of South Africa to comply with the letter and spirit of Security Council resolution 269 (1969). At the 1527th meeting on 28 January 1970, following the adoption of the agenda,⁴¹ the representative of Turkey was invited to participate in the discussion in his capacity as the President of the United Nations Council for Namibia.⁴² The Council considered the question at the 1527th to 1529th meetings, held between 28 and 30 January 1970. At the 1528th meeting, the representative of Turkey,* speaking in his capacity as President of the United Nations Council for Namibia, stated that the intransigence of South Africa on the question of Namibia followed a long historical process which begun with the decision by the General Assembly (resolution 2145 (XXI)) to terminate the mandate of South Africa over the Territory of Namibia. Since then the Government of South Africa had refused to release its hold on Namibia and had constantly opposed the establishment of any contact with the Council set up to administer the Territory. Such a flagrant challenge to the General Assembly and the Security Council constituted a violation of Article 25 of the Charter and represented a threat to the international order. At its recent meetings, the Council for Namibia had examined new ways and means, practical and effective steps, which would not necessarily stand in the way to the application of the provisions of Chapter VII of the Charter by the Security Council.⁴³ In its decision of 30 January 1970, the Security Council reaffirmed resolution 264 (1969), established an *Ad Hoc* Sub-Committee of the Security Council to study ways and means by which the relevant Council's resolutions could be effectively implemented and requested all States, as well as the specialized agencies and other relevant organs of the United Nations, to give to the Sub-Committee all the information and other assistance it might require.⁴⁴

By letter⁴⁵ dated 23 July 1970 the representatives of Burundi, Finland, Nepal, Sierra Leone and Zambia requested a meeting of the Security Council to consider a report⁴⁶ of the *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970). At its 1550th meeting on 29 July 1970, the Council included in its agenda the report of the *Ad Hoc* Sub-Committee, as well as the letter from the representatives requesting the meeting. In its decision of the same date, the Security Council reaffirmed its resolutions 264 (1969) of 20 March 1969 and 276 (1970) of 30 January 1970 and requested the United Nations Council for Namibia to make available to the Security Council the results of its study and proposals with

³⁰ 1465th meeting, paras. 99-102.

³¹ Resolution 264 (1969) of 20 March 1969, third preambular para. *Resolutions and Decisions of the Security Council 1969, OR, 24th yr., p. 1.*

³² S/9352, *OR, 24th yr., Suppl. for July-Sept. 1969, p. 136.*

³³ S/9204, *OR, 24th yr., Suppl. for April-June 1969, pp. 153-158.*

³⁴ S/9359, *OR, 24th yr., Suppl. for July-Sept. 1969, p. 138.*

³⁵ S/9372/Add.1-3, *OR, 24th yr., Suppl. for July-Sept. 1969, p. 147.*

³⁶ 1492nd meeting, preceding para. 1.

³⁷ *Ibid.*, para. 1.

³⁸ Resolution 269 (1969) of 12 August 1969, first preambular para.

³⁹ S/9471.

⁴⁰ S/9616, and Add. 1-3, *OR, 25th yr., Suppl. for Jan.-March 1970, p. 112.*

⁴¹ 1527th meeting, preceding para. 24.

⁴² *Ibid.*, para. 26.

⁴³ 1528th meeting, paras. 16, 19.

⁴⁴ Resolution 276 (1970) of 30 January 1970, third preambular para. and paras. 6 and 7.

⁴⁵ S/9886, *OR, 25th yr., Suppl. for July-Sept. 1970, p. 117.*

⁴⁶ S/9863, *Ibid.*, pp. 81-103.

regard to the issuance of passports and visas for Namibians, and to undertake a study and make proposals with regard to special passport and visa regulations to be adopted by States concerning travel of their citizens to Namibia.⁴⁷

CASE 6

By letter⁴⁸ dated 2 September 1971, the Acting Chairman of the Special Committee on the Situation with regard to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples transmitted to the Security Council the text of a consensus adopted by the Special Committee on 2 September 1971, in which the Special Committee, after expressing its grave concern at the extremely dangerous situation existing in Namibia as a result of South Africa's continued defiance of the authority of the United Nations, condemned South Africa's policies in Namibia, as well as the support it had received from its allies in pursuit of those policies; and called upon the Governments concerned to withdraw such support forthwith. The Special Committee also expressed the hope that the Security Council would, in the light of the opinion of the International Court of Justice,⁴⁹ consider without further delay taking all effective measures envisaged under the Charter to ensure the attainment of the goals set out in the Declaration with respect to Namibia and fully endorsed the call for a meeting of the Security Council contained in a resolution adopted by the Organization of African Unity at its eighth session on 23 June 1971. By letter⁵⁰ dated 17 September 1971, the representatives of thirty-seven African States Members of the United Nations requested that the Security Council be convened to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligations decided upon by the International Court of Justice. The letter stated that the request was being made in accordance with the resolution of the Assembly of the Heads of State and Government of the Organization of African Unity at its eighth session. By letter⁵¹ dated 23 September 1971, the Chairman of the ninth Joint Meeting of the Special Committee on *Apartheid*, of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and of the United Nations Council for Namibia transmitted to the Security Council the text of a consensus adopted on 13 September 1971, by which the Joint Meeting proposed that the presiding officers of the three bodies, or their representatives, should conduct periodic consultations to recommend for the consideration of the three bodies appropriate measures for co-ordination and submission of joint or parallel recommendations to the General Assembly and the Security

⁴⁷ Resolution 283 (1970) of 29 July 1970, second preambular para. and para. 10.

⁴⁸ S/10303, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, pp. 59-60.

⁴⁹ See this chapter, Case 7.

⁵⁰ S/10326, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 64.

⁵¹ S/10331, *Ibid.*, p. 65.

Council on matters of common interest. In regard to the situation in Namibia, the Joint Meeting further recommended that the Security Council should take effective and positive measures in furtherance of General Assembly resolutions 2145 (XXI) and 2248 (S-V) and the decisions of the Security Council itself, in the light of the recent Advisory Opinion of the International Court of Justice which confirmed the illegality of South Africa's occupation of Namibia. By letter⁵² dated 6 October 1971, the President of the United Nations Council for Namibia, transmitted to the President of the Security Council the text of a letter dated 3 September 1971 from Chief Clemens Kapuuo of Namibia, complaining that the natural mineral resources of Namibia were being exploited by foreign firms with the full knowledge and permission of the South African Government and to the detriment of the indigenous people of the Territory.

The Security Council considered the situation in Namibia at its 1583rd to 1585th, 1587th to 1589th, 1593rd to 1595th and 1597th to 1598th meetings held between 27 September and 20 October 1971.

At the 1584th meeting on 27 September 1971 the representative of Nigeria,* speaking in his capacity as President of the United Nations Council for Namibia, declared that the Advisory Opinion of the International Court of Justice meant that the Court had recognized the United Nations Council for Namibia as the *de jure* Government of Namibia. The Council's identity and travel documents for Namibians were recognized by more than seventy Governments. However, if the Council had the legal powers of a sovereign entity vis-à-vis Namibia, it lacked the resources and was unable to exercise those powers, particularly inside the Territory. To enable the Council for Namibia to carry out its responsibilities, the Security Council would have to put an end to the illegal occupation of Namibia by South Africa by the application of the strongest possible measures against that country, including those provided in Chapter VII of the Charter if necessary.⁵³ In its decision⁵⁴ of 20 October the Security Council reaffirmed its resolutions 264 (1969) of 20 March 1969, 276 (1970) of 30 January 1970 and 283 of 29 July 1970 and noted the statement of the President of the United Nations Council for Namibia.

G. RECOMMENDATIONS MADE BY THE GENERAL ASSEMBLY TO THE SECURITY COUNCIL IN THE FORM OF RESOLUTIONS

[*Note:* During the period under review, the General Assembly made a number of recommendations to the Security Council regarding items which were already on the agenda of the Council. As in the previous *Supplement of the Repertoire* an appropriate heading has been established for the last column of the tabulation below related to the action taken by the Council in connexion with such recommendations.]

⁵² S/10356, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 22-23.

⁵³ 1584th meeting, paras. 71-90.

⁵⁴ Resolution 301 (1971).

TABULATION OF RECOMMENDATIONS

Entry No.	General Assembly resolutions	Subject of recommendations	Action by the Security Council
1.	2498 (XXIV) 31 October 1969	Question of Namibia	Took up for consideration at the 1527th meeting at the request of forty-eight Member States dated 26 January 1970 (S/9616) and again at the 1550th meeting at the request of Burundi, Finland, Nepal, Sierra Leone and Zambia dated 27 July 1970 (S/9886) ^a

Entry No.	General Assembly resolutions	Subject of recommendations	Action by the Security Council
2.	2506B (XXIV) 21 November 1969	The policies of <i>apartheid</i> of the Government of South Africa	Took up for consideration at the 1545th meeting at the request of forty African States dated 15 July 1970 (S/9867) ^a
3.	2507 (XXIV) 21 November 1969	Question of Territories under Portuguese Administration	None
4.	2508 (XXIV) 21 November 1969	Question of Southern Rhodesia	Took up for consideration at the 1530th meeting at the request of the United Kingdom dated 30 March 1970 (S/9675) and again at the 1556th meeting at the request of Burundi, Nepal, Sierra Leone, Syria and Zambia dated 6 November 1970 (S/9975/Rev.1) ^a
5.	2517 (XXIV) 1 December 1969	Question of Namibia	Took up for consideration at the 1527th meeting at the request of forty-eight Member States dated 26 January 1970 (S/9616) ^a
6.	2628 (XXV) 4 November 1970	The situation in the Middle East	None
7.	2652 (XXV) 3 December 1970	Question of Southern Rhodesia	Took up for consideration at the 1602nd meeting at the request of the United Kingdom dated 24 November 1971 (S/10396) ^a
8.	2671F (XXV) 8 December 1970	The policies of <i>apartheid</i> of the Government of South Africa	None
9.	2678 (XXV) 9 December 1970	Question of Namibia	Took up for consideration at the 1583rd meeting at the request of thirty-seven African States dated 17 September 1971 (S/10303) ^a
10.	2734 (XXV) 16 December 1970	Declaration on the Strengthening of International Security	None
11.	2775A (XXVI) 29 November 1971	The policies of <i>apartheid</i> of the Government of South Africa	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) ^a
12.	2775F (XXVI) 29 November 1971	The policies of <i>apartheid</i> of the Government of South Africa	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) ^a
13.	2787 (XXVI) 6 December 1971	Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights	None
14.	2796 (XXVI) 10 December 1971	Question of Southern Rhodesia	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) ^a
15.	2797 (XXVI) 10 December 1971	Question of Territories under Portuguese Administration	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) ^a
16.	2799 (XXVI) 13 December 1971	The situation in the Middle East	None
17.	2871 (XXVI) 20 December 1971	Question of Namibia	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) ^a
18.	2877 (XXVI) 20 December 1971	Question of Southern Rhodesia	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) ^a
19.	2880 (XXVI) 21 December 1971	Implementation of the Declaration on the Strengthening of International Security	None

^aNo inference is intended that the action of the Security Council in this instance has been taken in response to the recommendation of the General Assembly.

H. REPORTS OF THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

"Article 24, paragraph 3 of the Charter

"The Security Council shall submit annual and

when necessary, special reports to the General Assembly for its consideration"

[Note: In accordance with Article 24, paragraph 3, the Security Council has continued, during the period under review, to submit annual reports to the General

Assembly.⁵⁵ It further transmitted to the General Assembly its recommendations concerning several applications for membership,⁵⁶ pursuant to paragraph 2 of

⁵⁵ Annual reports were approved by the Security Council at the following meetings held in private: 25th report, 1513th meeting, 15 October 1969; 26th report, 1553rd meeting, 10 October 1970; 27th report, 1596th meeting, 19 October 1971.

⁵⁶ Fiji (A/8119, 12 October 1970); Bhutan (A/8278, 11 February 1971); Bahrain (A/8359, 18 August 1971); Qatar (A/8381, 15 September 1971); Oman (A/8449, 30 September

rule 60 of its provisional rules of procedure. During the period covered by this *Supplement*, no special report was submitted to the General Assembly concerning the question of admission of a new Member, in accordance with paragraph 3 of rule 60 of the provisional rules of procedure.]

1971); and the United Arab Emirates (A/8561, 8 December 1971). For consideration of the aforementioned applications by the Security Council, see chapter VII, pp. 85-87.

Part II

**RELATIONS WITH THE ECONOMIC AND SOCIAL COUNCIL

Part III

RELATIONS WITH THE TRUSTEESHIP COUNCIL

**A. PROCEDURE UNDER ARTICLE 83, PARAGRAPH 3, IN APPLICATION OF ARTICLES 87 AND 88 OF THE CHARTER WITH REGARD TO STRATEGIC AREAS UNDER TRUSTEESHIP

B. TRANSMISSION TO THE SECURITY COUNCIL BY THE TRUSTEESHIP COUNCIL OF QUESTIONNAIRES AND REPORTS

During the period under review, no questionnaires have been transmitted to the Security Council by the Trusteeship Council. The report of the latter body on the exercise of its functions in respect of the strategic areas under trusteeship, have, therefore, continued to be based on the revised questionnaire transmitted to the Security Council on 24 July 1953.⁵⁷

⁵⁷ The revised questionnaire was further amended at the 1166th meeting of the Trusteeship Council on 7 July 1961. The document was circulated as T/1010/Rev.1.

Between 1 January 1969 and 31 December 1971, the Secretary-General transmitted to the Security Council the following reports of the Trusteeship Council on the Trust Territory of the Pacific Islands, which has continued to be the only Territory designated as a strategic area:

Twenty-first report adopted during the thirty-sixth session of the Trusteeship Council, 19 June 1969;⁵⁸

Twenty-second report adopted during the thirty-seventh session of the Trusteeship Council, 19 June 1970;⁵⁹

Twenty-third report adopted during the thirty-eighth session of the Trusteeship Council, 17 June 1971.⁶⁰

⁵⁸ S/9400, OR, 24th yr., *Special Supplement No. 1*, pp. 1-79.

⁵⁹ S/9893, OR, 25th yr., *Special Supplement No. 1*, pp. 1-81.

⁶⁰ S/10237, OR, 26th yr., *Special Supplement No. 1*, pp. 1-69.

Part IV

RELATIONS WITH THE INTERNATIONAL COURT OF JUSTICE

Article 96 of the Charter

"1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

"2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

CASE 7

At the 1550th meeting on 29 July 1970, in connexion with the situation in Namibia, the President of the Security Council (Nicaragua) drew the attention of the Council to a draft resolution⁶¹ sponsored by the representative of Finland. It read as follows:

"*The Security Council,*

"*Reaffirming the special responsibility of the United Nations with regard to the Territory and the people of Namibia,*

"*Recalling its resolution 276 (1970) of 30 January 1970 on the question of Namibia,*

"*Taking note of the report and recommendations submitted by the Ad Hoc Sub-Committee established in pursuance of Security Council resolution 276 (1970),*

"*Taking further note of the recommendation of the Ad Hoc Sub-Committee on the possibility of requesting an advisory opinion from the International Court of Justice,*

"*Considering that an advisory opinion from the International Court of Justice would be useful for the Security Council in its further consideration of the question of Namibia and in furtherance of the objectives the Council is seeking,*

"1. *Decides to submit, in accordance with Article 96, paragraph 1, of the Charter of the United Nations, the following question to the International Court of Justice, with the request for an advisory opinion which shall be transmitted to the Security Council at an early date:*

⁶¹ S/9892, adopted without change as resolution 284 (1970).

“What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?”;

“2. Requests the Secretary-General to transmit the present resolution to the International Court of Justice, in accordance with Article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question.”

Introducing the draft resolution, the representative of Finland stated that an advisory opinion from the International Court of Justice would have considerable value in defining and spelling out in legal terms the implications for States of the continued presence of South Africa in Namibia as well as in defining more precisely the rights of Namibians. Furthermore, an advisory opinion of the International Court of Justice could underline the fact that South Africa had forfeited its Mandate over South West Africa because of its violation of the terms of the Mandate itself, and because it had acted contrary to its international obligations, the international status of the Territory and international law. It was also important to expose the false front of legality which South African authorities had attempted to present to the world.⁶²

The representative of Nepal stated that the draft resolution was based on the report⁶³ of the *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970). He added that the understanding of his delegation was that the International Court of Justice would limit the scope of its opinion strictly to the question put to it and that it would not review or examine the legality or validity of the resolutions adopted by both the General Assembly and the Security Council. The scope of the question put to the world Court was restricted. It would be surprising if it spurred the major trading partners and military collaborators of South Africa into any positive effective actions because it was too much to expect that they would change their minds on the basis of the Court's opinion, whose effect would only be advisory. Nevertheless, this recourse to the Court might result in the provision of highest legal guidance and assistance for many law-abiding States, which wished to implement the United Nations resolution on the subject.⁶⁴

The representative of Spain stated that it was appropriate to request a ruling from the International Court of Justice, for this would make it possible for everybody to be aware of the International legal consequences of a failure to comply with resolutions of a United Nations body, and specifically in the present case, with Security Council resolutions 264 (1969), 269 (1969) and 276 (1970).⁶⁵

The representative of the USSR stated that the draft resolution could not be regarded as an effective measure which could help to drive the South Africans out of Namibia. Moreover, the adoption of such a decision would only delay the solution of the Namibian problem

and create false illusions as to the possibility of solving it by legal means, rather than by serious political action on the part of the Security Council.⁶⁶

The Council then proceeded to the vote on the draft resolution submitted by Finland. The representative of France requested⁶⁷ in accordance with rule 32 of the provisional rules of procedure, a separate vote on the last passage of operative paragraph 1 of this draft resolution, reading as follows:

“... notwithstanding Security Council resolution 296 (1970)”. The phrase was retained⁶⁸ by 11 votes to none with 4 abstentions. The Council then adopted⁶⁹ the Finnish draft resolution as a whole by 12 votes to none with 3 abstentions.

After the vote, the representative of the United States stated that that was the very first time that the Security Council had availed itself of the procedures contained in Article 96, paragraph 1, of the Charter. He expressed further the view that the international community had a serious need for impartial and authoritative legal advice on the question of Namibia. In its advisory opinions of 1950,⁷⁰ 1955⁷¹ and 1956,⁷² the Court had already provided useful guidance to the Assembly on legal issues concerning Namibia, and now it could give the Council the benefit of its impartial and authoritative views both as to the duties of South Africa and the responsibility of other Members of the United Nations in light of resolution 276 (1970).⁷³

The representative of France stated that the imprecise language of the request to the International Court of Justice might be a matter of regret. Since, however, the resolution would make it possible for the International Court of Justice to clarify the legality of the revocation of the mandate he would support the text.⁷⁴

The representative of the United Kingdom stated that his Government had been quite willing to support a request for an advisory opinion from the International Court of Justice provided that that request sought the Court's opinion on the basic issue of the status of South West Africa as a whole. The present request was, however, based upon an assumption which should be examined rather by the Court itself. It should first be determined whether the General Assembly was competent to terminate the mandate over South West Africa as it claimed to do by virtue of its resolution 2145 (XXI). Secondly, if it were established that the General Assembly was so competent then there would still remain the question whether it was entitled to vest in the United Nations responsibility for the Territory. Those basic legal issues had not yet been the subject of any advisory opinion. The question which was being submitted at present to the International Court was of such a nature that it might inhibit the Court from pronouncing on the fundamental issue concerning the present status of South West Africa.

⁶² *Ibid.*, para. 132.

⁶³ *Ibid.*, para. 157.

⁶⁴ 1550th meeting, para. 159.

⁶⁵ *Ibid.*, para. 160. Resolution 284 (1970).

⁶⁶ International status of South West Africa, Advisory Opinion: *I.C.J. Reports 1950*, p. 128.

⁶⁷ South West Africa—Voting procedure, Advisory Opinion of 7 June 1955: *I.C.J. Reports 1955*, p. 67.

⁶⁸ Admissibility of hearings of petitions by the Committee on South West Africa, Advisory Opinion of 1 June 1956: *I.C.J. Reports 1956*, p. 23.

⁶⁹ 1550th meeting: paras. 169-170.

⁷⁰ *Ibid.*, paras. 157, 178-179.

⁶² 1550th meeting, paras. 38-41.

⁶³ S/9863, *OR*, 25th yr., *Suppl. for July-Sept. 1970*, pp. 81-83.

⁶⁴ 1550th meeting: paras. 81-83. Similar views were expressed at the same meeting by a number of other representatives. For their statements, see: 1550th meeting: Burundi, paras. 149-151; Sierra Leone, paras. 50-52; Syria, paras. 96-97; Zambia, para. 108.

⁶⁵ *Ibid.*, para. 116.

for those reasons that his delegation had abandoned the draft resolution.⁷⁵

On 16 July 1971, the Secretary-General referred to the members of the Security Council the advisory opinion given by the International Court of Justice on 21 June 1971 in response to the request contained in Security Council resolution 284 (1970) of 29 July 1970. The Court, replying to the question "what are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?" stated:

"by 13 votes to 2,

"(1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory;

"by 11 votes to 4,

"(2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf or concerning Namibia and to refrain from any acts and, in particular, any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) that it is incumbent upon States which are not members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia."

By letter⁷⁷ dated 13 July 1971, the Executive Secretary of the Organization of African Unity (OAU) transmitted to the President of the Security Council the texts of resolutions adopted on 23 June 1971 by the Assembly of Heads of State and Government at its eighth session, held in Addis Ababa. The resolution concerning Namibia noted with approval the advisory opinion of the International Court of Justice and called for a special meeting of the Security Council to discuss ways and means of enforcing the past decisions of the United Nations in the light of that opinion.

By letter⁷⁸ dated 30 July 1971, the Secretary-General informed the President of the Security Council that he had received a letter dated 12 July 1971 from the Minister of Foreign Affairs of Sudan, in the latter's capacity as Chairman of the Council of Ministers of OAU, requesting that a meeting of the Security Council be convened on 27 September 1971 to consider the question of Namibia in the light of the advisory opinion of the International Court of Justice.

By letter⁷⁹ dated 17 September the representatives of thirty-seven African States, requested that the Security Council be convened on 27 September 1971 to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligation imposed on the world community by the decision of the International Court of Justice. Their request was

being made in accordance with the resolution of the Assembly of Heads of State and Government of OAU, adopted by its eighth session.

On 23 September 1971, the Security Council's *Ad Hoc* Sub-Committee on Namibia submitted its report,⁸⁰ describing its activities at seventeen meetings held between 21 August 1970 and 23 September 1971, at which it had studied measures that it could recommend to the Security Council in accordance with its terms of reference as laid down in paragraph 14 of resolution 283 (1970).

At the 1583rd meeting on 27 September 1971, the Council included in its agenda the letter from the thirty-seven African States as well as the report of the *Ad Hoc* Sub-Committee on Namibia and considered the question at the 1583rd to 1585th, 1587th to 1589th, 1593rd to 1595th, 1597th and 1598th meetings held between 27 September and 20 October 1971.

At the 1583rd meeting on 27 September 1971 the President of Mauritania* and Chairman of the OAU at that time, stated that he had been authorized by the Conference of Heads of State and Government of OAU to discuss with the Security Council the most appropriate means of implementing all the decisions of the General Assembly and the Security Council. Since the Advisory Opinion had categorically declared that the continued presence of South Africa in Namibia was illegal, the OAU was asking the Security Council to apply the pertinent provisions of Chapter VII of the Charter against the Government of South Africa for its persistent refusal to turn the administration of Namibia over to the United Nations.⁸¹

At the 1584th meeting on the same date, the representative of Burundi, speaking in his capacity as Chairman of the *Ad Hoc* Sub-Committee on Namibia, introduced its report and added that since the time of the advisory opinion, two parallel and complementary processes had started: on the one hand, the unanimous decision at the last meeting of the Heads of State and Government of the OAU to call an emergency meeting of the Security Council, and, on the other, the Security Council *Ad Hoc* Sub-Committee had begun, in the framework of the terms of reference contained in operative paragraphs 14 and 15 of resolution 283 (1970), to work out recommendations for the Security Council in conformity with the opinion of the International Court of Justice. He added that the confirmation by the Security Council of the advisory opinion of the International Court would not only benefit the Namibians but would also restore the honour of the Court and strengthen the United Nations as a whole.⁸²

The President of the United Nations Council for Namibia stated that the United Nations could administer the Territory. The Court had, in other words,

⁸⁰ S/10330 and Corr.1 and Add.1, *OR*, 26th yr., *Special Supplement No. 5*.

⁸¹ 1583rd meeting, paras. 4-30. Similar views were expressed during the discussion by a number of representatives and by the President of the South West Africa People's Organization (SWAPO) invited to participate in the debate under rule 39 of the provisional rules of procedure. For their statements, see: 1584th meeting: Guyana,* paras. 213-217, 223; Somalia, paras. 178-182; 1585th meeting: Liberia,* paras. 27-34, 43-51; Sierra Leone, paras. 52-90, 105-110; 1587th meeting: Ethiopia,* paras. 10-42; Mauritius,* paras. 68-80; Nigeria,* paras. 48-65; 1588th meeting: Chad,* paras. 40-58; Sudan,* paras. 64-83; President of SWAPO, paras. 90-93, 95, 113, 120; 1593rd meeting: Syrian Arab Republic, paras. 58, 79, 81-82; 1595th meeting: Burundi, para. 34; India,* paras. 57-60, 62; Uganda,* para. 43.

⁸² 1584th meeting, paras. 55-67.

⁷⁵ 1550th meeting, paras. 189-193.

⁷⁶ S/10267. Mimeo. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, *I.C.J. Reports 1971*, p. 16.

⁷⁷ S/10272, *OR*, 26th yr., *Suppl. for July-Sept., 1971*, p. 36.

⁷⁸ S/10277, *Ibid.*, p. 40.

⁷⁹ S/10326, *Ibid.*, p. 64.

recognized the United Nations Council for Namibia as *de jure* Government of Namibia.⁸³

The representative of South Africa* stated that the Court's advisory opinion was completely unacceptable to his Government. The primary issues which were before the Court were related to the powers of the General Assembly and of the Security Council and the question of the factual justification for the purported revocation of South Africa's title to administer the Territory. The Court itself had said that the powers of the Assembly were derived from and based upon the Charter. The Assembly could not, therefore, act outside it. The Assembly was empowered to discuss and recommend but not to make binding decisions or take direct action. The Court had avoided the issue and had failed to indicate what provision of the Charter could have authorized the Assembly to revoke the Mandate. He added that the question which the Court was called upon to answer was precisely whether the Assembly's purported revocation was within the framework of its competence. That framework of competence was to be found only in the provisions of the Charter—not in a bare assertion by the Court. The Court also had in the past repeatedly stressed that even when operating as a successor to the Council of the League, the General Assembly could not act otherwise than in accordance with the Charter. If the Court's findings were unconvincing in regard to the action taken by the General Assembly, they were even more so in regard to that of the Security Council. Although Article 24 of the Charter conferred upon the Security Council the primary responsibility for the maintenance of international peace and security, it did not itself confer any powers upon the Council. What it provided was that the Council, in order to discharge that responsibility, should have the specific powers laid down in Chapters VI, VII, VIII and XII. However, when the Court came to deal with the Council's power to adopt resolution 276 (1970), it stated that Article 24 conferred upon the Council general powers which might be exercised whenever a situation might lead to a breach of the peace. These powers were additional to those specifically granted to the Council under the Chapters indicated and were limited only by the extremely wide purposes and principles of the United Nations. Moreover, according to the Court, should the Council so intend, any decision which it might take would be binding in terms of Article 25. Those were important and far-reaching findings and it should be expected that the Court would explain them. Instead the Court had ignored arguments presented to the contrary. In support of its interpretation of Article 24 the Court merely referred to a statement by the Secretary-General in 1947.⁸⁴ The correctness of that statement was itself an issue which was controverted during the proceedings. But the Court accepted its correctness without giving any reason for that acceptance. The Court had further asserted that the Council was acting for the maintenance of peace, an assertion which the Council itself avoided making in any one of its resolutions.⁸⁵

⁸³ 1584th meeting, paras. 72, 78.

⁸⁴ S/10267. Mimeo. Legal consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, *I.C.J. Reports 1971*, para. 110, p. 52. Reference is made to a statement by the Secretary-General at the 93rd meeting of the Security Council on 10 January 1947. See 93rd meeting, pp. 44-45.

⁸⁵ 1584th meeting, paras. 96-140.

The representative of Guyana* noted that a most important aspect of the Court's opinion was that the Court had specifically adverted in it to the obligations of non-Member States to act in accordance with the decisions of the General Assembly and the Security Council. It must be trusted that non-Member States of the Organization that had previously considered themselves free to pursue courses of conduct in or in relation to Namibia inconsistent with the United Nations decisions would now desist and acknowledge themselves as being under obligations of a similar nature to those of all Member States.⁸⁶

At the 1588th meeting on 5 October 1971, the representative of France stated that his delegation could not accept the advisory opinion in which was set forth a number of general considerations on the jurisdiction of the General Assembly and of the Security Council, which went far beyond the question of Namibia. It also rejected the Court's contention in paragraph 105 of its opinion, that the Assembly might not only make recommendations but also could take decisions binding on States on the sole condition that it kept within the framework of questions which it was empowered to discuss. If such a view were accepted, it would make the General Assembly the parliament of a world super-State. Similarly, although the Security Council was empowered to take decisions binding on all States, those decisions were limited to cases which fell within the framework of Chapter VII of the Charter and had been adopted as a result of determination of threats to the peace, as required by Article 39.⁸⁷

At the 1589th meeting on 6 October 1971, the representative of South Africa* stated that an advisory opinion was, as its name indicated, advisory only and its weight should ultimately be attached on the cogency of its reasoning. He contended further that General Assembly resolution 2145 (XXI) and the resolutions to which it gave rise legally were invalid, since the Charter did not confer any power to the Assembly to adopt binding decisions, with the exceptions expressly spelled out in the Charter such as the admission of Members, the approval of a budget or the apportionment of expenses.⁸⁸

The representative of Japan stated that there was no doubt as to the rightness of the Court's conclusions, and the Security Council should respect those conclusions when formulating ways and means to implement its relevant resolutions on the Namibian problem.⁸⁹

The representative of Italy noted that his delegation agreed with the conclusions of the Court and thought that its reasoning on the main question put to it was sound. However, the Court also pronounced itself on various other questions, some of which involved delicate constitutional problems. The opinion expressed on those problems might raise very controversial issues which were not essential for dealing with the question of Namibia, as a far-reaching interpretation of Articles 24 and 25 of the Charter—an interpretation not shared by his Government.⁹⁰

At the 1593rd meeting on 13 October 1971, the representative of Argentina stated that it would be

⁸⁶ 1584th meeting, para. 218.

⁸⁷ 1588th meeting, paras. 15-19. A similar view was expressed by the representative of the United Kingdom. For his statement, see 1589th meeting, paras. 49-61.

⁸⁸ 1589th meeting, paras. 70-76.

⁸⁹ *Ibid.*, para. 94.

⁹⁰ *Ibid.*, paras. 112, 116.

improper for the Security Council to judge the juridical value of an opinion rendered by the Court. If, however, the interpretations of various provisions of the Charter, for example Articles 24, 25, 27(3) and 32, were to give rise to reservations among Member States, it was doubtful that the Security Council would be the appropriate forum in which to debate them. The *Ad Hoc* Sub-Committee correctly approached its task to decide which was the best course of action to follow by considering the new prospects opened by the advisory opinion, but without discussing its legal basis.⁹¹

At the 1594th meeting on 14 October 1971, the representative of Belgium stated that his Government agreed with the conclusions of the Court that South Africa had the obligation to put an immediate end to its illegal presence in Namibia. However, the Court stressed a number of general matters on which his Government had felt that the Security Council could adopt decisions mandatory for all Member States of the United Nations only when, in conformity with Chapter VII of the Charter, it had found that there was a threat to the peace or an act of aggression.⁹²

The representative of Liberia* stated that South Africa's obligations under the Mandate were legal obligations. The International Court of Justice had upheld that position and the Security Council had similarly endorsed it by stating that the supervisory authority of the League of Nations, including the power to terminate the Mandate, now rested with the United Nations. In its 1950 advisory opinion on the International Status of South West Africa,⁹³ the Court stated that the supervisory functions of the League were to be exercised by the United Nations, and that South Africa was obliged to submit the annual reports provided for in the Mandate and to transmit petitions from the inhabitants of the Territory to the General Assembly, and the subsequent advisory opinions in 1955⁹⁴ and 1956,⁹⁵ had reaffirmed the Mandatory's legal obligations and the General Assembly's supervisory role. Since South Africa had violated its obligations and those violations provided the basis for the revocation of the Mandate even though such power had not been specifically expressed in the Covenant of the League, such an implication must be drawn from the instrument establishing the Mandate for South West Africa. The early practice of the United Nations also supported the conclusion that it had the competence to terminate mandates established by the League of Nations. In connexion with the Palestine Mandate the General Assembly adopted in 1947 resolution 181 (II) which terminated that Mandate. As to the contention that the Security Council decisions were binding only if taken under Chapter VII of the Charter, and after a determination under Article 39 thereof that a particular situation constituted a threat to the peace, a breach of the peace or an aggression, the representative of Liberia noted that it was necessary to point out that there was not and had never been such a "clear understanding" on the limits of the Council's decision-making authority. The powers of the Security Council as provided for in Article 24 did not seem to be so

limited. It had been generally accepted that the Council, in the discharge of its responsibilities, could exercise powers beyond those specifically listed in Article 24, paragraph 2, provided that such powers were consistent with the purposes and principles of the Charter. The records showed that during the United Nations Conference on International Organization which met at San Francisco in 1945 attempts to restrict the powers of the Council were defeated. Likewise, attempts to limit obligations of Member States under Article 25 to those decisions taken by the Council in the exercise of its specific powers under Chapters VI, VII and VIII of the Charter had failed. Then he added:

"In addition, it is indicated in the *Repertory of Practice of United Nations Organs* that Article 25 'contains no precise delimitation of the range of questions to which it relates,' and that 'the Security Council has on no occasion defined the scope of the obligation incurred by Members of the United Nations under Article 25'.⁹⁶

The representative of Liberia also recalled that at the 550th meeting of the Council on 1 August 1951 the representative of the United Kingdom argued that the Council had undoubted authority to take a decision that the restrictions on the passage of ships through the Suez Canal be removed and that the draft resolution (S/2298) co-sponsored by France and the United Kingdom providing for the Council to take action in the matter, contained no determination by the Council that the conditions fell under Article 39. Furthermore, in the absence of any formal determination under Article 39, the Security Council took important decisions considered by all Member States, to be binding in connexion with the situation in the Congo such as resolutions 145 (1960) and 146 (1960).⁹⁷

At the 1595th meeting on 19 October 1971, the representative of Somalia introduced⁹⁸ a draft resolution⁹⁹ submitted jointly by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic. The relevant paragraphs of the draft resolution read:

"The Security Council

"...

"Recalling its resolution 284 (1970) requesting the International Court of Justice for an advisory opinion on the question:

"What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?",

"Gravely concerned at the refusal of the Government of South Africa to comply with the resolutions of the Security Council pertaining to Namibia,

"...

"Having considered the report of the *Ad Hoc* Sub-Committee on Namibia (S/10330),

"1. Reaffirms that the Territory of Namibia is the direct responsibility of the United Nations and that this responsibility includes the obligation to support and promote the rights of the people of

⁹¹ 1593rd meeting, paras. 33-35, 38-40, 45.

⁹² 1594th meeting, para. 51.

⁹³ International Status of South West Africa, Advisory Opinion: *I.C.J. Reports 1950*, p. 128.

⁹⁴ South West Africa—Voting procedure, Advisory Opinion of June 7, 1955: *I.C.J. Reports 1955*, p. 67.

⁹⁵ Admissibility of Hearings of Petitioners by the Committee on South West Africa, Advisory Opinion of June 1, 1956: *I.C.J. Reports 1956*, p. 23.

⁹⁶ *Repertory of Practice of United Nations Organs, Supplement No. 1*, vol. I, p. 257.

⁹⁷ 1594th meeting, paras. 19-42.

⁹⁸ 1595th meeting, para. 106.

⁹⁹ S/10372, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 25-26.

Namibia in accordance with General Assembly resolution 1514 (XV);

"2. *Reaffirms* the national unity and territorial integrity of Namibia;

"...

"4. *Declares* that South Africa's continued illegal presence in Namibia constitutes an internationally wrongful act and a breach of international obligations and that South Africa remains accountable to the international community for any violations of its international obligations or rights of the people of the Territory of Namibia;

"5. *Takes note* of the advisory opinion of the International Court of Justice, in particular the following conclusions:

"(1) That the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory;

"(2) That States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) That it is incumbent upon States which are not Members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia;

"...

"9. *Reaffirms* the provisions of resolution 283 (1970) and in particular paragraphs 1 to 8 and 11;

"10. *Calls upon* all States in discharge of their responsibilities towards the people of Namibia and subject to the exceptions set forth in paragraphs 122 and 125 of the advisory opinion of the International Court of Justice:

"(a) To abstain from entering into treaty relations with South Africa in all cases in which the Government of South Africa purports to act on behalf of or concerning Namibia;

"(b) To abstain from invoking or applying those treaties or provisions of treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation;

"(c) To review their bilateral treaties with South Africa in order to ensure that they are not inconsistent with paragraphs 5 and 6 above;

"(d) To abstain from sending diplomatic or special missions to South Africa including in their jurisdiction the Territory of Namibia;

"(e) To abstain from sending consular agents to Namibia and to withdraw any such agents already there;

"(f) To abstain from entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory;

"11. *Declares* that franchises, rights, titles or contracts relating to Namibia granted to individuals or companies by South Africa after the adoption of General Assembly resolution 2145 (XXI) are not subject to protection or espousal by their States against claims of a future lawful Government of Namibia;

"...".

The representative of Argentina suggested that a new fifth paragraph of the preamble could be introduced or an addition to paragraph 5 could be made as follows: "Takes note with appreciation of the advisory opinion...".¹⁰⁰

At the 1597th meeting on 19 October 1971, the representative of Somalia introduced the revised text¹⁰¹ of the four-Power draft resolution.

Introducing the revised text the representative of Somalia stated that as a result of consultations the majority of the suggestions made by the representative of Argentina were incorporated in the draft resolution. Paragraph 5 of the revised draft resolution stated that the Council "Takes note with appreciation of the advisory opinion of the International Court of Justice" and paragraph 6 went a step further to endorse the Court's opinion expressed in paragraph 133 of the advisory opinion. He added that the sponsors would have wished to see the Council endorse the whole of the advisory opinion but in view of the positions which individual delegations had adopted on it, the sponsors had singled out paragraph 133, since it had important relevance and quite neatly summed up the opinion requested from the Court by the Security Council.¹⁰²

At the 1598th meeting on 19 October 1971, the representative of Somalia informed the Council that after further consultations with various delegations the sponsors agreed that in paragraph 6 the word "Endorses" should be replaced by "Agrees with".¹⁰³ Then the revised draft resolution¹⁰⁴ was put to the vote and adopted¹⁰⁵ by 13 votes in favour, none against and 2 abstentions.

¹⁰⁰ 1595th meeting, para. 133.

¹⁰¹ S/10372/Rev.1.

¹⁰² 1597th meeting, paras. 6, 9.

¹⁰³ 1598th meeting, para. 4.

¹⁰⁴ S/10372/Rev.1. Adopted without further changes as resolution 301 (1971).

¹⁰⁵ 1598th meeting, para. 31.

Part V

**RELATIONS WITH THE MILITARY STAFF COMMITTEE

Chapter VII

PRACTICES RELATIVE TO RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING THE ADMISSION OF NEW MEMBERS

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INTRODUCTORY NOTE

The material covered in this chapter is dealt with on lines similar to those followed in the previous supplements to the *Repertoire*. Part I sets forth in tabular form the applications considered and the decisions taken by the Council during the period under review. The other parts of this chapter concern the procedures employed by the Council in the consideration of applications for admission.

The proceedings of the Council in respect of admission of new Members from 1 January 1969 to 31 December 1971 have not involved constitutional questions. There was, however, a procedural discussion related to reference to applications to the Committee on Admission of New Members. Since the Council has not adopted new rules of procedure nor amended the existing rules relating to the admission of new Members, there is nothing to include under Part II of the present chapter.

Part I

TABLE OF APPLICATIONS, 1969-1971, AND OF ACTIONS TAKEN THEREON BY THE SECURITY COUNCIL AND THE GENERAL ASSEMBLY

NOTE

The following table is a continuation of the one in the previous volumes of the *Repertoire*, which should be consulted for an explanation of its organization. The modifications in the table introduced in the earlier *Supplements* have been maintained.

A. APPLICATIONS RECOMMENDED BY THE SECURITY COUNCIL

In the period 1 January 1969-31 December 1971, the Security Council recommended the following States for admission to membership in the United Nations:

- (i) At the 1554th meeting on 10 October 1970, Fiji was unanimously recommended.
- (ii) At the 1566th meeting on 10 February 1971, Bhutan was unanimously recommended.
- (iii) At the 1575th meeting on 18 August 1971, Bahrain was unanimously recommended.
- (iv) At the 1578th meeting on 15 September 1971, Qatar was unanimously recommended.
- (v) At the 1587th meeting on 30 September 1971, Oman was unanimously recommended.

- (vi) At the 1609th meeting on 8 December 1971, the United Arab Emirates was unanimously recommended.

B. APPLICATIONS WHICH FAILED TO OBTAIN A RECOMMENDATION

During the period under review, no application to membership in the United Nations considered by the Council failed to obtain its recommendation.

C. DISCUSSION OF THE QUESTION IN THE COUNCIL FROM 1969-1971

[As in the previous four supplements, beginning with 1956-1958 supplement, the system of grouping the discussion under "debates", used for the sake of convenience in the volumes prior to 1956, is not followed in the present chapter.]

The Council held a total of ten meetings¹ to consider applications for admission during this period of three years. In all cases, the discussion involved applications of newly independent States.

¹ 1554th (10 October 1970), 1565th (9 February 1971), 1566th (10 February 1971), 1574th (16 August 1971), 1575th (18 August 1971), 1577th (14 September 1971), 1578th (15 September 1971), 1587th (30 September 1971), 1608th (6 December 1971) and 1609th (8 December 1971).

D. APPLICATIONS PENDING ON 1 JANUARY 1969

<i>Applicant</i>	<i>Date of application</i>	<i>Document</i>
Republic of Korea ...	19 January 1949	<i>OR, Suppl. for Feb. 1949, 4th yr.</i>
Democratic People's Republic of Korea ..	9 February 1949	<i>OR, 12, 4th yr., p. 18 (S/1247)</i>
Viet-Nam	17 December 1951	<i>OR, 7th yr., Suppl. for Jan.-Mar. 1952, p. 1 (S/2446)</i>
Democratic Republic of Viet-Nam	(i) 22 November 1948 ^a	<i>OR, 7th yr., Suppl. for July-Sept. 1952, pp. 57-58 (S/2780)</i>
	(ii) 29 December 1951	<i>OR, 7th yr., Suppl. for Jan.-Mar. 1952, pp. 3-4 (S/2466)</i>

^a Circulated on 17 September 1952 as S/2780 (see *Repertoire of the Practice of the Security Council, Supplement 1952-1955, p. 91, Case 1*).

**E. APPLICATIONS SUBMITTED BETWEEN 1 JANUARY 1969
AND 31 DECEMBER 1971^a**

<i>Applicant</i>	<i>Date of application</i>	<i>Document^b</i>
(XXII) in 1969 (no applications were submitted in 1969)		
(XXIII) in 1970		
Fiji	10 October 1970	OR, 25th yr., <i>Suppl. for Oct.-Dec. 1970</i> , p. 22 (S/9957)
Bhutan	22 December 1970	OR, 25th yr., <i>Suppl. for Oct.-Dec. 1970</i> , p. 88 (S/10050)
(XXIV) in 1971		
Oman	24 May 1971	OR, 26th yr., <i>Suppl. for Apr.-June 1971</i> , p. 69 (S/10216)
Bahrain	15 August 1971	OR, 26th yr., <i>Suppl. for July-Sept. 1971</i> , p. 53 (S/10291)
Qatar	4 September 1971	OR, 26th yr., <i>Suppl. for July-Sept. 1971</i> , p. 61 (S/10306)
United Arab Emirates	2 December 1971	OR, 26th yr., <i>Suppl. for Oct.-Dec. 1971</i> , p. 91 (S/10420)

^a The material set forth in this table is a continuation, for the period covered by this *Supplement*, of the historical data included in part III of earlier volumes concerning presentation of applications.

^b Includes the formal declaration in each case.

**F. VOTES IN THE SECURITY COUNCIL (1969-1971) ON DRAFT RESOLUTIONS AND AMENDMENTS
CONCERNING APPLICATIONS FOR ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS**

<i>Draft resolution</i>	<i>Subject of vote</i>	<i>Meeting and date</i>	<i>Result of the vote^a</i>	<i>Participation by non-members of the Security Council</i>
<i>Fiji, Sierra Leone, United Kingdom and Zambia d.r. (S/9959) recommending admission</i>	Same	1554th, 10.10.70	Unanimously adopted	—
<i>Bhutan, Committee on the Admission of New Members d.r. (S/10109) recommending admission</i>	Same	1566th, 10.2.71	Unanimously adopted	India Pakistan
<i>Bahrain, Committee on the Admission of New Members d.r. (S/10294) recommending admission</i>	Same	1575th, 18.8.71	Unanimously adopted	—
<i>Qatar, Committee on the Admission of New Members d.r. (S/10318) recommending admission</i>	Same	1578th, 18.9.71	Unanimously adopted	People's Republic of Yemen
<i>Oman, Committee on the Admission of New Members d.r. (S/10345) recommending admission</i>	Same	1587th, 30.9.71	Unanimously adopted	People's Republic of Yemen
<i>United Arab Emirates, Committee on the Admission of New Members d.r. (S/10430) recommending admission</i>	Same	1609th, 8.12.71	Unanimously adopted	—

^a Both the subject and the result of the vote are usually given in the form announced by the President.

**G. VOTES IN THE GENERAL ASSEMBLY (1969-1971) ON DRAFT RESOLUTIONS CONCERNING
SECURITY COUNCIL RECOMMENDATIONS FOR ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS**

<i>Application and G.A. resolutions</i>	<i>Plenary meeting and date</i>	<i>Vote</i>	<i>Result of proceedings</i>
1969 (None)			
1970			
Fiji ^a	1863rd plen. mtg., 13.10	Acclamation	Admitted
1971			
Bhutan ^b	1934th plen. mtg., 21.9	Unanimous	Admitted
Bahrain ^c	1934th plen. mtg., 21.9	119 in favour none against	Admitted

^a Resolution 2622 (XXV).

^b Resolution 2751 (XXVI).

^c Resolution 2752 (XXVI).

<i>Application and G.A. resolutions</i>	<i>Plenary meeting and date</i>	<i>Vote</i>	<i>Result of proceedings</i>
Qatar ^d	1934th plen. mtg., 21.9	126 in favour 1 against	Admitted
Oman ^e	1957th plen. mtg., 7.10	117 in favour 1 against	Admitted
United Arab Emirates ^f	2007th plen. mtg., 9.12	93 in favour 1 against	Admitted

^d Resolution 2753 (XXVI).

^e Resolution 2754 (XXVI).

^f Resolution 2794 (XXVI).

Part II

**CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 58, 59 AND 60 OF THE PROVISIONAL RULES OF PROCEDURE

Part III

PRESENTATION OF APPLICATIONS

NOTE

The material concerning the presentation of applications is substantially the same, for the period under review, as the list of applications submitted between 1 January 1969 and 31 December 1971 which appears in Part I, section E, of the table of applications. Therefore, to avoid duplication, the historical data relating to the presentation of applications which appeared in Part III of the original volume and the first two supplements of the *Repertoire* may be found here in section E of the above table.

Part IV

REFERENCE OF APPLICATIONS TO THE COMMITTEE ON THE ADMISSION OF NEW MEMBERS

NOTE

During the period under review, the Security Council on one occasion adopted a proposal to waive the application of rule 59 of the provisional rules of procedure, and to consider the application directly without referring it to the Committee on the Admission of New Members.²

The discussion in the Council dealt mainly with the interpretation of the provision of rule 59 that, unless the Security Council decides otherwise, new applications shall be referred by the President to the Committee on the Admission of New Members. Since then, however, five successive applications were referred by the President to the Committee. Implicit references to rule 59 were also made when the Council was convened to consider the question of "Creation of a Category of Associate Membership".³

A. BEFORE A RECOMMENDATION HAS BEEN FORWARDED OR A REPORT SUBMITTED TO THE GENERAL ASSEMBLY

1. Applications referred to the Committee by the President

CASE 1

At the 1565th meeting on 9 February 1971, in connexion with the application of Bhutan, the President (United States), stated:

"... in accordance with procedures which have been agreed upon in informal consultations among members of the Council in regard to the application for membership in the United Nations submitted . . . by the Government of Bhutan . . . the President refers the application, as provided in rule 59 of the Security Council's provisional rules of procedure, to the Committee on Admission of New Members for examination and a prompt report . . ."

² Case 3.

³ See in this Supplement, chapter V, Case 9.

The application of Bhutan was referred to the Committee by the President.⁴

CASE 2

At the 1574th meeting on 16 August 1971, in connexion with the application of Oman and Bahrain, the President (Italy), stated:

"... as members of the Council are aware, rule 59 of the provisional rules of procedure provides that, unless the Council decides otherwise, applications shall be referred by the President to the Committee on the Admission of New Members. Accordingly, unless I hear a proposal to the contrary, I shall ask that Committee to meet at once in order to examine the applications of Oman and Bahrain and to report its conclusions to the Council in the shortest possible time so that the further provisions of rule 59 can be complied with and the report of the Committee can be submitted to the Council not less than 35 days in advance of the twenty-sixth session of the General Assembly."

The applications of Oman and Bahrain were referred to the Committee by the President.⁵

**2. Applications referred to the Committee by decision of the Security Council

3. Applications considered by the Security Council without reference to the Committee

CASE 3

At the 1554th meeting on 10 October 1970, in connexion with the application of Fiji, the representative of the United States referring to rule 59 of the provisional rules of procedure of the Security Council stated that that rule had been adopted in strict accordance with the intent of the Charter and it was designed to enable the Council itself to carry out its responsibilities under Article 4 of the Charter, that is, to assure itself that the applicant was a peace-loving State which accepted the obligations contained in the Charter and was able and willing to carry them out. Rule 59 had fallen into abeyance and in recent years had not been applied as it should have been. The time had come for the Council to pay strict attention to its responsibility laid down in the Charter in this regard. If the Council and the Assembly were so to deviate from the Charter as to admit in the future considerable numbers of States not able to carry out the obligations of membership, not only would that amount to a revision of the Charter, but would also seriously weaken the United Nations. He pointed out that in the Security Council Committee of Experts established by the Security Council at its 1506th meeting, the United States had joined in proposals made by a number of its members for the reactivation of the procedures laid down in rule 59. If no formal report to that effect had yet been submitted to the Council, it was because of an understanding that the Committee of Experts would act by consensus only. The United States therefore considered it appropriate to raise the subject in connexion with the first application for membership submitted since the establishment of the Committee of Experts by the Security Council

⁴ 1565th meeting, para. 126.

⁵ 1574th meeting, paras. 1 and 2. The applications submitted by Qatar and the United Arab Emirates were also referred to the Committee by the President in the absence of objections to reference to the Committee and in the absence of other proposals of a procedural nature; 1577th meeting, para. 2 (Qatar); 1608th meeting, para. 5 (United Arab Emirates).

in August 1969. Had there been any doubt about the suitability for membership of Fiji, to reactivate the procedure at this moment might have seemed invidious. However, since there was no doubt that Fiji should be admitted, it appeared to be a particularly appropriate occasion to re-establish the Charter procedure.

After the representative of the USSR asked the representative of the United States whether or not he was making a formal proposal, the representative of the United States replied:

"... I was merely inviting the attention of the Council to its rule 59 and to the fact that, as that is worded, unless the Council decides otherwise applications for membership should be referred by the President to a committee of the Security Council. Therefore, I was assuming that the rule would be followed, unless the Council should decide otherwise."

Then he added:

"... I do not think any proposal is necessary. This is provided for in our rules of procedure. If someone wishes to propose that the Council should decide otherwise obviously he is at liberty to do so. But members do not need to make proposals that we carry out our rules of procedure..." The representative of the USSR then stated:

"If I understand the proposal of the delegation of the United States it is in essence that we must transmit Fiji's application... to a committee, and the committee must report on its conclusions to the Council not less than thirty-five days in advance of a regular session of the General Assembly. We cannot therefore consider this request at this session. Is this what the United States delegation has in mind? That is the rule."

The representative of the United States stated that:

"... I have always assumed that the last sentence of that rule (rule 59) referred to applications submitted in intervals when the Assembly was not in session. Common sense... would lead us to the conclusion that it does not apply when the General Assembly is already in session. There certainly could have been no intent on the part of the authors of the rules of procedure to provide that an applicant for membership during a session of the General Assembly would have to wait a full year. I think we could apply the rule of reason to this interpretation..."

The representative of Zambia formally proposed that the Council suspend rule 59 on this occasion and stressed that his proposal was meant to accelerate action on Fiji's application. He added that he would like it to be recorded that his request for suspension of rule 59 applied only to that particular case.⁶

After further discussion, the President (Spain) put the proposal of the representative of Zambia to the vote, which was adopted by 10 votes in favour, one against and 4 abstentions.⁷

**4. Applications reconsidered by the Security Council after reference to the Committee

**B. AFTER AN APPLICATION HAS BEEN SENT BACK BY THE GENERAL ASSEMBLY TO THE SECURITY COUNCIL FOR RECONSIDERATION

⁶ For relevant statements, see: 1554th meeting: USSR, paras. 16, 18, 20. 51-56; United States, paras. 10-13, 17, 19, 21-22, 59-61; Zambia, paras. 24-27.

⁷ *Ibid.*, para. 62.

Part V

PROCEDURES IN THE CONSIDERATION OF APPLICATIONS WITHIN
THE SECURITY COUNCIL

NOTE

In the course of the proceedings, the Security Council referred all applications but one⁸ to the Committee on the Admission of New Members in the chronological order of their submission and voted upon the draft resolutions recommending admissions submitted by the Committee, also in the chronological order of their submission. In one instance, however, the Council decided to refer simultaneously two separate applications to the Committee. In the case of the application not referred to the Committee, the submission of a draft resolution preceded the vote on the pending application.

A. DISCUSSION OF APPLICATIONS

1. Order of the discussion of applications

CASE 4

At the 1574th meeting on 16 August 1971, the Council adopted an agenda which included the following:

⁸ Case 3.

"Admission of New Members;

"(a) Letter dated 24 May 1971 from the Prime Minister and Minister for Foreign Affairs of the Sultanate of Oman to the Secretary-General (S/10216);

"(b) Letter dated 15 August 1971 from the Amir of the State of Bahrain to the Secretary-General (S/10291)."

The President (Italy) stated that in accordance with rule 59 of the provisional rules of procedure, and unless the Council decided otherwise, he would refer the applications of Oman and Bahrain to the Committee on the Admission of New Members.

Having been no proposal to the contrary, the two applications before the Council were referred by the President to the Committee.⁹

**2. Documentation submitted
to the Security Council

**B. VOTING ON APPLICATIONS

⁹ 1574th meeting, paras. 1-2.

Part VI

**THE ROLE OF THE GENERAL ASSEMBLY AND THE SECURITY COUNCIL

Chapter VIII

CONSIDERATION OF QUESTIONS UNDER THE COUNCIL'S RESPONSIBILITY FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

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INTRODUCTORY NOTE

The principles underlying the organization and presentation of the material presented in chapters VIII-XII of this *Supplement* are the same as for the previous volumes of the *Repertoire*. Those volumes should be consulted for a full statement of such principles.

Chapter VIII indicates the chain of proceedings on the substance of each of the questions included in the report of the Security Council to the General Assembly under the heading: "Questions considered by the Security Council under its responsibility for the maintenance of international peace and security". The range of questions covers broadly those which may be deemed to fall under chapters VI and VII of the Charter. In chapters X, XI and XII of the *Repertoire* is presented ancillary material from the Official Records bearing on relevant Articles of the Charter. References to the ancillary material are given at the appropriate points in the entries for each question in this chapter.

As an outline of the proceedings of the Council in respect of the questions included in its agenda, chapter VIII constitutes a framework within which the ancillary legal and constitutional discussion recorded in chapters X to XII may be considered. The chapter is, therefore, an aid to the examination of the deliberations of the Council expressly related to the provisions of the Charter within the context of the chain of proceedings on the agenda item.

The questions are dealt with in the chronological order of their inclusion in the agenda of the Council.¹ The complaint by Senegal,² the question of race conflict in South Africa,³ the situation in Southern Rho-

desia,⁴ the complaint by the Government of Cyprus,⁵ the situation in the Middle East,⁶ and the situation in Namibia,⁷ which were included in the Council's agenda before the period under review, are discussed in the order of resumption of their consideration by the Council.

The framework of the material for each question is provided by the succession of affirmative and negative decisions within the purview of this chapter. Decisions related to the subject matter of chapters I-VI of the *Repertoire* are, as a rule, omitted as not relevant to the purpose of this chapter or of the ancillary chapters X-XII. The decisions are entered in uniform manner. Affirmative decisions are entered under a heading indicative of the content of the decision, and negative decisions are entered under a heading indicative solely of the origin of the proposal or draft resolution. Affirmative decisions have been reproduced in full as constitutive of the practice of the Council, while negative decisions are indicated in summarized form. Where the negative decision relates to a draft resolution in connexion with which discussion has taken place concerning the application of the Charter, the text of the relevant parts of the draft resolution will in most instances be found in chapters X-XII.

As in the previous volumes of the *Repertoire*, an analytical table of measures adopted by the Council arranged broadly by type of measure has been included as part I of chapter VIII. This table should be regarded as of the nature of an index to chapter VIII; and no constitutional significance should be attached to the headings adopted in the compilation of this table or to the inclusion of particular measures under the individual headings. In certain instances main headings and subheadings have been added, deleted or modified in order to adjust the table to the recent changes in the nature of the measures adopted by the Security Council.

¹ For a tabulation of the data on submission, see chapter X, part III, as indicated in the editorial note, the questions included in the agenda of the Council during the years 1969-1971 appear under conventional short titles.

² *Repertoire of the Practice of the Security Council, Supplement 1959-1963*, pp. 204-206; *ibid.*, *Supplement 1964-1965*, pp. 153f.

³ *Ibid.*, *Supplement 1959-1963*, pp. 213-217; *ibid.*, *Supplement 1964-1965*, pp. 131-135.

⁴ *Ibid.*, *Supplement 1959-1963*, pp. 217-219; *ibid.*, *Supplement 1964-1965*, pp. 143-149; *ibid.*, *Supplement 1966-1968*, pp. 113-124.

⁵ *Ibid.*, *Supplement 1959-1963*, pp. 219f.; *ibid.*, *Supplement 1964-1965*, pp. 108-127; *ibid.*, *Supplement 1966-1968*, pp. 105-113.

⁶ *Ibid.*, *Supplement 1966-1968*, pp. 134-164.

⁷ *Ibid.*, *Supplement 1966-1968*, pp. 164-168 (formerly Question of South West Africa).

Part I

ANALYTICAL TABLE OF MEASURES ADOPTED BY THE SECURITY COUNCIL

NOTE

As in the previous volumes of the *Repertoire*, the entries in this tabulation are restricted to a reference to the question, the date of the decision and the serial number of the decision.

I. Preliminary measures for the elucidation of fact

A. Hearing of interested governments and authorities Situation in Northern Ireland:

Decision: President's statement of 20 August 1969.

B. Establishment of a special mission of inquiry

(i) Complaint by Guinea:

Decision of 23 November 1970 (res. 289 (1970)), paras. 3, 4.

Decision of 3 August 1971 (res. 295 (1971)), paras. 2, 3.

Decision: President's statement of 26 August 1971.

(ii) Complaint by Senegal:

Decision of 15 July 1971 (res. 294 (1971)), para. 4.

- II. Determination of the nature of the question**
- A. Determination of the existence of a threat to the peace
Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), preamble.
- III. Injunctions to Governments and authorities involved in disputes and situations**
- A. Call for cessation of hostilities
Complaint by Guinea:
Decision of 18 March 1970 (res. 277 (1970)), para. 1.
- B. Call for adherence to cease-fire
Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), preamble, para. 1.
- C. Call to refrain from action in contravention of resolutions and decisions of the Security Council
Situation in the Middle East:
Decision of 15 September 1969 (res. 271 (1969)), para. 3.
- D. Call to refrain from actions in violation of the sovereignty, territorial integrity and security of another State or territory
- (i) Complaint by Zambia:
Decision of 28 July 1969 (res. 268 (1969)), para. 2.
Decision of 12 October 1971 (res. 300 (1971)), para. 2.
- (ii) Complaint by Senegal:
Decision of 9 December 1969 (res. 273 (1969)), para. 2.
Decision of 15 July 1971 (res. 294 (1971)), para. 1.
Decision of 24 November 1971 (res. 302 (1971)), para. 5
- (iii) Complaint by Guinea:
Decision of 22 December 1969 (res. 275 (1969)), para. 2
- IV. Measures (in connexion with injunctions) to be taken by Governments and authorities directly involved in disputes and situations**
- A. Withdrawal of fighting personnel
- (i) Situation in the Middle East:
Decision of 12 May 1970 (res. 279 (1970)).
Decision of 5 September 1970 (res. 285 (1970)).
- (ii) Complaint by Guinea:
Decision of 23 November 1970 (res. 289 (1970)), para. 2.
- (iii) Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), para. 1.
- B. Call for the observance of the Geneva Conventions of 1949
- (i) Situation in the Middle East:
Decision of 15 September 1969 (res. 271 (1969)), para. 4.
- (ii) Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), para. 3.
- C. Call for restraint by the parties
Cyprus question:
Decision of 10 June 1969 (res. 266 (1969)), para. 2.
- Decision of 11 December 1969 (res. 274 (1969)), para. 2.
Decision of 9 June 1970 (res. 281 (1970)), para. 2.
Decision of 10 December 1970 (res. 291 (1970)), para. 2.
Decision of 26 May 1971 (res. 293 (1971)), para. 2.
Decision of 13 December 1971 (res. 305 (1971)), para. 2.
- V. Measures (in connexion with injunctions) to be taken by other Governments and authorities**
- A. Measures under Chapter VII of the Charter
Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), preamble, paras. 1-17.
Decision of 17 November 1970 (res. 288 (1970)), preamble, paras. 1-3.
- B. Measures under Article 41 of the Charter
Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), paras. 9-11.
- C. Compliance with decisions of the Council in accordance with Article 25 of the Charter
- (i) Situation in Southern Rhodesia:
Decision of 17 November 1970 (res. 288 (1970)), para. 4.
- (ii) Complaint by Guinea:
Decision of 8 December 1970 (res. 290 (1970)), para. 9.
- D. Withholding of assistance including armed personnel and arms
- (i) Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), paras. 2, 7.
- (ii) Question of race conflict in South Africa:
Decision of 23 July 1970 (res. 282 (1970)), paras. 4, 6.
- (iii) Complaint by Guinea:
Decision of 8 December 1970 (res. 290 (1970)), para. 6.
- E. Withholding of funds for investment purposes and of other financial resources to a territory
Situation in Namibia:
Decision of 29 July 1970 (res. 283 (1970)), paras. 4-7.
- F. Refrain from any action which may aggravate the situation
Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), para. 2.
- VI. Measures for settlement**
- A. Inadmissibility of the acquisition of territory by war
Situation in the Middle East:
Decision of 3 July 1969 (res. 267 (1969)), preamble.
Decision of 15 September 1969 (res. 271 (1969)), preamble.
Decision of 25 September 1971 (res. 298 (1971)), preamble.
- B. Affirmation of the national unity, territorial integrity and inviolability of States and former dependent territories
- (i) Situation in Namibia:
Decision of 20 March 1969 (res. 264 (1969)), para. 4.
Decision of 12 August 1969 (res. 269 (1969)), para. 3.
Decision of 20 October 1971 (res. 301 (1971)), para. 2.

- (ii) Complaint by Guinea:
Decision of 3 August 1971 (res. 295 (1971)), para. 1.
Decision: President's statement of 30 November 1971.
- (iii) Complaint by Zambia:
Decision of 12 October 1971 (res. 300 (1971)), para. 1.
- C. Affirmation of the inalienable right of peoples to freedom and independence
- (i) Situation in Namibia:
Decision of 20 March 1969 (res. 264 (1969)), preamble.
Decision of 30 January 1970 (res. 276 (1970)), preamble.
Decision of 29 July 1970 (res. 283 (1970)), preamble.
Decision of 20 October 1971 (res. 301 (1971)), preamble.
- (ii) Complaint by Guinea:
Decision of 8 December 1970 (res. 290 (1970)), preamble.
- D. Recognition of the legitimacy of the struggle for freedom and independence
- (i) Situation in Namibia:
Decision of 12 August 1969 (res. 269 (1969)), para. 4.
Decision of 20 October 1971 (res. 301 (1971)), preamble.
- (ii) Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), preamble.
- (iii) Question of race conflict in South Africa:
Decision of 23 July 1970 (res. 282 (1970)), preamble.
- E. Call for the withdrawal from former mandated territories
Situation in Namibia:
Decision of 20 March 1969 (res. 264 (1969)), para. 3.
Decision of 12 August 1969 (res. 269 (1969)), para. 5.
Decision of 20 October 1971 (res. 301 (1971)), paras. 8, 9.
- F. Call for measures to respect and implement the right of self-determination and independence
- (i) Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), para. 4.
Decision of 17 November 1970 (res. 288 (1970)), para. 2.
- (ii) Complaint by Guinea:
Decision of 8 December 1970 (res. 290 (1970)), para. 7.
- (iii) Complaint by Senegal:
Decision of 24 November 1971 (res. 302 (1971)), paras. 6, 7.
- VII. Provisions bearing on specific issues relating to the settlement**
- A. Deprecation of actions incompatible with the purposes and principles of the Charter
- (i) Situation in Namibia:
Decision of 20 March 1969 (res. 264 (1969)), paras. 2, 4.
- (ii) Situation in the Middle East:
Decision of 26 August 1969 (res. 270 (1969)), para. 1.
- B. Deprecation of events affecting a situation
Situation in the Middle East:
Decision of 15 September 1969 (res. 271 (1969)), para. 2.
- C. Deprecation of loss of life and damage to property
- (i) Situation in the Middle East:
Decision of 1 April 1969 (res. 265 (1969)), para. 2.
Decision of 19 May 1970 (res. 280 (1970)), para. 4.
- (ii) Complaint by Guinea:
Decision of 22 December 1969 (res. 275 (1969)), para. 1.
- D. Request that appropriate reparations be made
- (i) Complaint by Zambia:
Decision of 28 July 1969 (res. 268 (1969)), paras. 3, 4.
- (ii) Complaint by Guinea:
Decision of 22 December 1969 (res. 275 (1969)), paras. 3, 4.
Decision of 8 December 1970 (res. 290 (1970)), para. 3.
- E. Call for settlement of refugee problems
Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), para. 4.
- F. Condemnation of invasions, armed attacks and other acts of violence
- (i) Situation in the Middle East:
Decision of 1 April 1969 (res. 265 (1969)), para. 3.
Decision of 26 August 1969 (res. 270 (1969)), paras. 1-4.
Decision of 19 May 1970 (res. 280 (1970)), paras. 2, 3.
- (ii) Complaint by Zambia:
Decision of 28 July 1969 (res. 268 (1969)), para. 1.
- (iii) Complaint by Senegal:
Decision of 9 December 1969 (res. 273 (1969)), para. 1.
Decision of 15 July 1971 (res. 294 (1971)), paras. 2, 3.
- (iv) Complaint by Guinea:
Decision of 8 December 1970 (res. 290 (1970)), para. 2.
- G. Condemnation of illegal occupation and political repression
- (i) Situation in Namibia:
Decision of 12 August 1969 (res. 269 (1969)), para. 3.
Decision of 30 January 1970 (res. 276 (1970)), para. 4.
- (ii) Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), para. 5.
- (iii) Question of race conflict in South Africa:
Decision of 23 July 1970 (res. 282 (1970)), preamble, para. 1.
- H. Censuring illegal legislative and administrative measures and declaring them invalid
- (i) Situation in Namibia:
Decision of 20 March 1969 (res. 264 (1969)), paras. 2, 4, 5.
Decision of 30 January 1970 (res. 276 (1970)), preamble, para. 2.
Decision of 20 October 1971 (res. 301 (1971)), paras. 3, 4, 12.

- (ii) Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), para. 1.
 - Decision of 17 November 1970 (res. 288 (1970)), para. 1.
 - (iii) Situation in the Middle East:
 - Decision of 3 July 1969 (res. 267 (1969)), paras. 3, 4.
 - Decision of 25 September 1971 (res. 298 (1971)), para. 3.
 - I. Call for rescission of measures designed to change the status of a territory
 - Situation in the Middle East:
 - Decision of 3 July 1969 (res. 267 (1969)), para. 5.
 - Decision of 15 September 1969 (res. 271 (1969)), para. 3.
 - Decision of 25 September 1971 (res. 298 (1971)), para. 4.
 - J. Call for measures by administering authority to end the rule of a rebellious regime in a Non-Self-Governing territory
 - Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), para. 10.
 - Decision of 17 November 1970 (res. 288 (1970)), para. 2.
 - K. Affirmation of special United Nations responsibilities towards the people of a former mandated territory
 - Situation in Namibia:
 - Decision of 20 March 1969 (res. 264 (1969)), preamble, para. 1.
 - Decision of 29 July 1970 (res. 284 (1970)), preamble.
 - Decision of 20 October 1971 (res. 301 (1971)), para. 1.
 - L. Urging assistance to peoples in their efforts to achieve or to maintain freedom and independence
 - (i) Situation in Namibia:
 - Decision of 12 August 1969 (res. 269 (1969)), para. 8.
 - Decision of 29 July 1970 (res. 283 (1970)), paras. 8, 10-12.
 - Decision of 20 October 1971 (res. 301 (1971)), paras. 7, 15.
 - (ii) Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), paras. 14, 15.
 - (iii) Complaint by Guinea:
 - Decision of 8 December 1970 (res. 290 (1970)), para. 4.
 - M. Call for denial of international recognition and of membership in international organizations to an illegal régime
 - (i) Situation in Namibia:
 - Decision of 12 August 1969 (res. 269 (1969)), para. 7.
 - Decision of 30 January 1970 (res. 276 (1970)), para. 5.
 - Decision of 29 July 1970 (res. 283 (1970)), paras. 1-3.
 - Decision of 20 October 1971 (res. 301 (1971)), para. 11.
 - (ii) Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), paras. 2, 3, 12, 13.
 - Decision of 17 November 1970 (res. 288 (1970)), para. 5.
 - N. Determination of duration of stationing of UN Force and mode of financing
 - Cyprus question:
 - Decision of 10 June 1969 (res. 266 (1969)), para. 3.
 - Decision of 11 December 1969 (res. 274 (1969)), para. 3.
 - Decision of 9 June 1970 (res. 281 (1970)), para. 3.
 - Decision of 10 December 1970 (res. 291 (1970)), para. 3.
 - Decision of 26 May 1971 (res. 293 (1971)), para. 3.
 - Decision of 13 December 1971 (res. 305 (1971)), para. 3.
 - O. Seeking an advisory opinion of the International Court of Justice, in accordance with Article 96 of the Charter
 - Situation in Namibia:
 - Decision of 29 July 1970 (res. 284 (1970)), para. 1.
 - P. Taking note of advisory opinion of the International Court of Justice
 - Situation in Namibia:
 - Decision of 20 October 1971 (res. 301 (1971)), paras. 5, 6.
- VIII. Measures to promote the implementation of resolutions**
- A. Request to Member States to co-operate in the implementation of resolutions and decisions of the Security Council
 - (i) Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), para. 17.
 - (ii) Question of race conflict in South Africa:
 - Decision of 23 July 1970 (res. 282 (1970)), para. 6.
 - (iii) Situation in Namibia:
 - Decision of 20 October 1971 (res. 301 (1971)), para. 15.
 - B. Establishment or employment of subsidiary organs
 - (i) Situation in Namibia:
 - Decision of 30 January 1970 (res. 276 (1970)), para. 6.
 - Decision of 29 July 1970 (res. 283 (1970)), paras. 14, 15.
 - Decision of 20 October 1971 (res. 301 (1971)), paras. 13, 14.
 - (ii) Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), para. 21.
 - (iii) Complaint by Guinea:
 - Decision of 23 November 1970 (res. 289 (1970)), paras. 3, 4.
 - Decision of 3 August 1971 (res. 295 (1971)), paras. 2, 3.
 - Decision: President's statement of 26 August 1971.
 - (iv) Complaint by Senegal:
 - Decision of 15 July 1971 (res. 294 (1971)), para. 4.
 - C. Call for co-operation with subsidiary organs
 - (i) Situation in Namibia:
 - Decision of 30 January 1970 (res. 276 (1970)), paras. 7, 8.
 - (ii) Situation in Southern Rhodesia:
 - Decision of 18 March 1970 (res. 277 (1970)), paras. 22, 23.
 - D. Authorizations and requests to the Secretary-General
 - 1. To follow implementation of resolutions and decisions of the Security Council and to report thereon
 - (i) Situation in Namibia:

- Decision of 20 March 1969 (res. 264 (1969)), para. 9.
- Decision of 12 August 1969 (res. 269 (1969)), para. 9.
- Decision of 20 October 1971 (res. 301 (1971)), para. 16.
- (ii) Situation in the Middle East:
- Decision of 3 July 1969 (res. 267 (1969)), para. 8.
- Decision of 15 September 1969 (res. 271 (1969)), para. 7.
- Decision of 25 September 1971 (res. 298 (1971)), para. 5.
- (iii) Situation in Southern Rhodesia:
- Decision of 18 March 1970 (res. 277 (1970)), para. 20.
- (iv) Question of race conflict in South Africa:
- Decision of 23 July 1970 (res. 282 (1970)), para. 5
- (v) Complaint by Guinea:
- Decision of 8 December 1970 (res. 290 (1970)), para. 11.
- (vi) Complaint by Senegal:
- Decision of 24 November 1971 (res. 302 (1971)), para. 8.
- (vii) Situation in the India/Pakistan subcontinent:
- Decision of 21 December 1971 (res. 307 (1971)), para. 6.
2. To study a question
- Situation in Namibia:
- Decision of 29 July 1970 (res. 283 (1970)), para. 9.
3. To give assistance to a subsidiary body
- Situation in Namibia:
- Decision of 30 January 1970 (res. 276 (1970)), para. 8.
- Decision of 29 July 1970 (res. 283 (1970)), para. 16.
4. To transmit a resolution of the Security Council to the International Court of Justice
- Situation in Namibia:
- Decision of 29 July 1970 (res. 284 (1970)), para. 2.
5. To designate a special representative to lend his good offices for the solution of humanitarian problems
- Situation in the India/Pakistan subcontinent:
- Decision of 21 December 1971 (res. 307 (1971)), para. 5.
- E. Taking note of reports of the Secretary-General, Special Representatives, special commissions and subsidiary organs
- (i) Question of Bahrain:
- Decision of 11 May 1970 (res. 278 (1970)), preamble.
- (ii) Complaint by Guinea:
- Decision of 8 December 1970 (res. 290 (1970)), preamble, para. 1.
- Decision: President's statement of 30 November 1971.
- (iii) Complaint by Senegal:
- Decision of 24 November 1971 (res. 302 (1971)), paras. 1, 2.
- F. Measures to obtain compliance
1. Reaffirmation of previous decisions
- (a) of the Security Council
- (i) Situation in the Middle East:
- Decision of 1 April 1969 (res. 265 (1969)), para. 1.
- Decision of 3 July 1969 (res. 267 (1969)), para. 1.
- Decision of 15 September 1969 (res. 271 (1969)), para. 1.
- Decision of 25 September 1971 (res. 298 (1971)), para. 1.
- (ii) Cyprus question:
- Decision of 10 June 1969 (res. 266 (1969)), para. 1.
- Decision of 11 December 1969 (res. 274 (1969)), para. 1.
- Decision of 9 June 1970 (res. 281 (1970)), para. 1.
- Decision of 10 December 1970 (res. 291 (1970)), para. 1.
- Decision of 26 May 1971 (res. 293 (1971)), para. 1.
- Decision of 13 December 1971 (res. 305 (1971)), para. 1.
- (iii) Situation in Namibia:
- Decision of 12 August 1969 (res. 269 (1969)), para. 1.
- Decision of 30 January 1970 (res. 276 (1970)), preamble.
- Decision of 29 July 1970 (res. 283 (1970)), preamble.
- Decision of 20 October 1971 (res. 301 (1971)), preamble, para. 10.
- (iv) Situation in Southern Rhodesia:
- Decision of 18 March 1970 (res. 277 (1970)), preamble.
- Decision of 17 November 1970 (res. 288 (1970)), preamble, paras. 1, 3.
- (v) Question of race conflict in South Africa:
- Decision of 23 July 1970 (res. 282 (1970)), para. 2.
- (vi) Complaint by Senegal:
- Decision of 24 November 1971 (res. 302 (1971)), para. 3.
- (b) of the General Assembly
- Situation in Namibia:
- Decision of 30 January 1970 (res. 276 (1970)), preamble.
- Decision of 29 July 1970 (res. 283 (1970)), preamble.
- Decision of 20 October 1971 (res. 301 (1971)), para. 1.
2. Request for compliance with previous resolutions
- (i) Situation in the Middle East:
- Decision of 15 September 1969 (res. 271 (1969)), para. 5.
- (ii) Situation in Southern Rhodesia:
- Decision of 18 March 1970 (res. 277 (1970)), para. 8.
- Decision of 17 November 1970 (res. 288 (1970)), para. 4.
3. Warning against failure to comply with Council decisions
- (i) Situation in the Middle East:
- Decision of 1 April 1969 (res. 265 (1969)), para. 3.
- Decision of 19 May 1970 (res. 280 (1970)), para. 3.
- (ii) Complaint by Guinea:
- Decision of 22 December 1969 (res. 275 (1969)), para. 5.

- Decision of 8 December 1970 (res. 290 (1970)), para. 8.
4. Request to States to exert influence to induce compliance
 - (i) Situation in Namibia:

Decision of 20 March 1969 (res. 264 (1969)), para. 7.
 - (ii) Complaint by Guinea:

Decision of 8 December 1970 (res. 290 (1970)), para. 10.
 5. Declaration of intention to consider further measures under the Charter
 - (i) Situation in Namibia:

Decision of 20 March 1969 (res. 264 (1969)), para. 8.
 - (ii) Situation in the Middle East:

Decision of 1 April 1969 (res. 265 (1969)), para. 3.

Decision of 3 July 1969 (res. 267 (1969)), para. 7.

Decision of 26 August 1969 (res. 270 (1969)), para. 4.

Decision of 15 September 1969 (res. 271 (1969)), para. 6.

Decision of 19 May 1970 (res. 280 (1970)), para. 3.
 - (iii) Complaint by Zambia:

Decision of 28 July 1969 (res. 268 (1969)), para. 5.

Decision of 12 October 1971 (res. 300 (1971)), para. 3.
 - (iv) Complaint by Senegal:

Decision of 9 December 1969 (res. 273 (1969)), para. 3.

Decision of 24 November 1971 (res. 302 (1971)), para. 9.
 6. Urging States not Members of the United Nations, in accordance with Article 2 of the Charter, to observe the provisions of the resolutions of the Council

Situation in Southern Rhodesia:

Decision of 18 March 1970 (res. 277 (1970)), para. 18.
 7. Invoking Article 6 of the Charter

Situation in Namibia:

Decision of 12 August 1969 (res. 269 (1969)), preamble.
- G. Deprecation of refusal or failure to implement resolutions and decisions of the Security Council
- (i) Situation in Namibia:

Decision of 20 March 1969 (res. 264 (1969)), para. 6.

Decision of 12 August 1969 (res. 269 (1969)), para. 2.

Decision of 30 January 1970 (res. 276 (1970)), para. 1.
 - (ii) Situation in the Middle East:

Decision of 1 April 1969 (res. 265 (1969)), para. 3.

Decision of 3 July 1969 (res. 267 (1969)), para. 2.

Decision of 26 August 1969 (res. 270 (1969)), para. 1.

Decision of 15 September 1969 (res. 271 (1969)), para. 5.

Decision of 19 May 1970 (res. 280 (1970)), para. 1.

Decision of 25 September 1971 (res. 298 (1971)), para. 2.
 - (iii) Question of race conflict in South Africa:

Decision of 23 July 1970 (res. 282 (1970)), para. 3.
 - (iv) Situation in Southern Rhodesia:

Decision of 17 November 1970 (res. 288 (1970)), para. 4.
 - (v) Complaint by Senegal:

Decision of 24 November 1971 (res. 302 (1971)), para. 4.
- H. Deprecation of refusal or failure to implement the resolutions of the General Assembly
- (i) Situation in Namibia:

Decision of 20 March 1969 (res. 264 (1969)), para. 6.

Decision of 30 January 1970 (res. 276 (1970)), para. 1.
 - (ii) Situation in the Middle East:

Decision of 3 July 1969 (res. 267 (1969)), para. 2.

Decision of 15 September 1969 (res. 271 (1969)), para. 5.

Decision of 25 September 1971 (res. 298 (1971)), para. 2.
- I. Deprecation of actions in defiance of the authority of the United Nations
- (i) Situation in Namibia:

Decision of 12 August 1969 (res. 269 (1969)), para. 2.

Decision of 30 January 1970 (res. 276 (1970)), para. 3.
 - (ii) Situation in Southern Rhodesia:

Decision of 18 March 1970 (res. 277 (1970)), para. 6.
- IX. Measures to ensure further consideration**
- A. Request for information on implementation of resolutions or developments in a situation
1. From the parties

Situation in the Middle East:

Decision of 3 July 1969 (res. 267 (1969)), para. 6.
 2. From Member States or all States
 - (i) Situation in Southern Rhodesia:

Decision of 18 March 1970 (res. 277 (1970)), paras. 19, 23.
 - (ii) Situation in Namibia:

Decision of 29 July 1970 (res. 283 (1970)), para. 13.
 3. From the Secretary-General
 - (i) Situation in Namibia:

Decision of 20 March 1969 (res. 264 (1969)), para. 9.

Decision of 12 August 1969 (res. 269 (1970)), para. 9.

Decision of 20 October 1971 (res. 301 (1971)), para. 16.
 - (ii) Situation in the Middle East:

Decision of 3 July 1969 (res. 267 (1969)), para. 8.

Decision of 15 September 1969 (res. 271 (1969)), para. 7.

Decision of 25 September 1971 (res. 298 (1971)), para. 5.
 - (iii) Situation in Southern Rhodesia:

Decision of 18 March 1970 (res. 277 (1970)), para. 20.
 - (iv) Question of race conflict in South Africa:

Decision of 23 July 1970 (res. 282 (1970)), para. 5.

- (v) Complaint by Senegal:
Decision of 24 November 1971 (res. 302 (1971)), para. 8.
- (vi) Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), para. 6.
4. From specialized agencies and other organs of the United Nations
- (i) Situation in Namibia:
Decision of 30 January 1970 (res. 276 (1970)), para. 7.
- (ii) Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), para. 23.
- B. Provision by express decision to consider the matter further
- (i) Situation in Namibia:
Decision of 20 March 1969 (res. 264 (1969)), para. 10.
Decision of 12 August 1969 (res. 269 (1969)), para. 10.
Decision of 30 January 1970 (res. 276 (1970)), para. 9.
Decision of 29 July 1970 (res. 283 (1970)), para. 17.
- (ii) Complaint by Zambia:
Decision of 28 July 1969 (res. 268 (1969)), para. 6.
- (iii) Complaint by Senegal:
Decision of 9 December 1969 (res. 273 (1969)), para. 4.
Decision of 24 November 1971 (res. 302 (1971)), para. 10.
- (iv) Situation in Southern Rhodesia:
Decision of 18 March 1970 (res. 277 (1970)), para. 24.
- Decision of 17 November 1970 (res. 288 (1970)), para. 6.
- (v) Complaint by Guinea:
Decision of 23 November 1970 (res. 289 (1970)), para. 5.
Decision of 8 December 1970 (res. 290 (1970)), para. 12.
Decision of 3 August 1971 (res. 295 (1971)), para. 4.
- (vi) Situation in the India/Pakistan subcontinent:
Decision of 21 December 1971 (res. 307 (1971)), para. 7.
- C. Deferment of consideration for other efforts to materialize Question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb:
Decision: President's statement of 9 December 1971.
- X. Measures in connexion with the inability of the Security Council to reach an agreement
- A. Referring question to the General Assembly under General Assembly resolution 377 A (V)
Situation in the India/Pakistan subcontinent:
Decision of 6 December 1971 (res. 303 (1971)), last para.
- XI. Measures to promote international peace and security
- A. Periodic meetings of the Security Council in accordance with Article 28 (2) of the Charter
Initiation of a periodic meeting⁸
Decision: President's statement of 12 June 1970.

⁸ Pursuant to the decision taken on 12 June 1970, a periodic meeting of the Council (1555th meeting) was held in private on 21 October 1970. At the close of the meeting a communiqué was issued by the Secretary-General in accordance with rule 55 of the provisional rules of procedure of the Council.

Part II

SITUATION IN NAMIBIA

INITIAL PROCEEDINGS

By letter⁹ dated 14 March 1969 addressed to the President of the Security Council, the representatives of Afghanistan, Algeria, Burundi, Cameroon, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Equatorial Guinea, Gabon, Ghana, Guinea, India, Indonesia, Ivory Coast, Madagascar, Mali, Mauritania, Mauritius, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Syria, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Yugoslavia and Zambia requested an urgent meeting of the Security Council to examine the deteriorating situation in Namibia. In the letter, it was recalled that the General Assembly, by its resolution 2145 (XXI), had terminated the mandate of the South African Government to administer Namibia (South West Africa), and had decided that "henceforth South West Africa comes under the direct responsibility of the United Nations". That resolution had also reaffirmed the inalienable rights of the people of the Territory to self-determination, freedom and independence in accordance with the relevant provisions of the Charter of the United Nations and General Assembly resolution

⁹ S/9090.

1514 (XV). It was further recalled in the letter that the Security Council, in its resolution 246 (1968), had recognized its special responsibilities towards the people and Territory of Namibia. In spite of the decisions of the General Assembly and the Security Council, the Government of South Africa continued to maintain its occupation of the Territory of Namibia, constituting "a grave threat to international peace and security". Having regard to General Assembly resolutions 2372 (XXII) and 2403 (XXIII), it was thus incumbent upon the Security Council to examine urgently the grave situation and to take, in accordance with the relevant provisions of the Charter, appropriate measures to enable the people of Namibia to exercise their right to self-determination and independence. The representatives of Cyprus, Ethiopia, Liberia, Libya, Mongolia and Turkey subsequently associated themselves with that request.¹⁰

At the 1464th meeting on 20 March 1969, following the adoption of the agenda,¹¹ the representative of the United Arab Republic, who had requested participation in the discussion in his capacity as President of the United Nations Council for Namibia for that month, was invited to participate in the discussion.¹² The

¹⁰ S/9090 and Add.1-3, *OR*, 24th yr., *Suppl. for Jan.-March 1969*, pp. 126-127.

¹¹ 1464th meeting, preceding para. 8.

¹² *Ibid.*, para. 9.

Council considered the question at its 1464th and 1465th meetings, both held on 20 March 1969.

Decision of 20 March 1969: Resolution 264 (1969)

At the 1464th meeting, the President (Hungary) stated that a change had been made in the title of the item from "The Question of South West Africa" to "The situation in Namibia" in view of General Assembly resolution 2372 (XXII) of 12 June 1968 which had proclaimed that, henceforth, South West Africa should be known as Namibia. He added that the agenda for the meeting had been drawn up in accordance with that decision of the General Assembly.

At the same meeting, the representative of Algeria, referring to the fact that the General Assembly had terminated the mandate exercised by South Africa over Namibia and that the Security Council had recognized its special responsibility towards its people and the Territory, stated that the Council must now determine the means of imposing the collective will of the Members of the United Nations in order to achieve the right of self-determination for the Namibians. The United Nations, he added, must assume direct responsibility for the administration of Namibia until its accession to full sovereignty. In so doing, the United Nations would be simply performing its cardinal task of decolonization under General Assembly resolution 1514 (XV). The continued occupation of Namibia by South Africa was not only a case of "direct armed aggression" and a serious violation of the fundamental principles of the Charter, but that Government was also engaged in the systematic destruction of the unity of the Namibian people and of the integrity of its territory, which must be recognized as "the gravest threat to international peace and security". The Council should, therefore, consider practical measures to secure the withdrawal of the South African authorities from Namibia, even if it had to be accomplished through enforcement measures.¹³

Decision of 20 March 1969 (1465th meeting): resolution 264 (1969)

At the 1464th meeting, the representative of Zambia introduced¹⁴ a draft resolution, jointly submitted by Colombia, Nepal, Pakistan, Paraguay, Senegal and Zambia.¹⁵ Referring to its paragraph 2,¹⁶ he stated that the sponsors of the draft resolution would have liked it to state that South Africa's continued presence in Namibia was an act of aggression and, therefore, a threat to international peace and security. However, they had had to accommodate the feelings of certain members who were averse to the idea of an inevitable confrontation with South Africa. He pointed out that, in the view of the sponsors of the draft resolution, paragraph 8¹⁷ did not entirely exclude the application of Chapter VII of the Charter.¹⁸

¹³ 1464th meeting, paras. 17-29.

¹⁴ *Ibid.*, para. 33.

¹⁵ S/9100, *ibid.*

¹⁶ According to paragraph 2, the Security Council would consider that the continued presence of South Africa in Namibia was illegal and contrary to the principles of the Charter and the previous decisions of the United Nations and was detrimental to the interests of the population of the territory and those of the international community.

¹⁷ Paragraph 8 provided that, in the event of failure on the part of the Government of South Africa to comply with the provisions of the present resolution, the Security Council would meet immediately to determine upon necessary steps in accordance with the relevant provisions of the Charter of the United Nations.

¹⁸ 1464th meeting, paras. 38, 43.

At the 1465th meeting on 20 March 1969, the representative of the United Arab Republic* speaking as the President of the United Nations Council for Namibia, stated that the Council which had been charged with the administration of the Territory of Namibia on behalf of the United Nations until the attainment of independence, had not been able to discharge its responsibility due to the policy of defiance and obstruction pursued by the South African authorities. The continued and illegal presence of South Africa in Namibia constituted an act of aggression which the United Nations had the responsibility to suppress by all the means provided to it by the Charter. It was only if all necessary measures were taken for the removal of South Africa's presence from the Territory that the Council for Namibia could be expected to discharge its responsibility and the people of Namibia achieve their freedom and independence.¹⁹

At the same meeting, the Council adopted²⁰ the draft resolution by 13 votes to none with 2 abstentions.

The resolution²¹ read as follows:

"The Security Council,

"Taking note of General Assembly resolutions 2248 (S-V) of 19 May 1967, 2324 (XXII) and 2325 (XXII) of 16 December 1967, 2372 (XXII) of 12 June 1968 and 2403 (XXIII) of 16 December 1968,

"Taking into account General Assembly resolution 2145 (XXI) of 27 October 1966 by which the General Assembly of the United Nations terminated the Mandate of South West Africa and assumed direct responsibility for the territory until its independence,

"Recalling its resolutions 245 (1968) of 25 January 1968 and 246 (1968) of 14 March 1968,

"Reaffirming the inalienable right of the people of Namibia to freedom and independence in accordance with the provisions of General Assembly resolution 1514 (XV) of 14 December 1960,

"Mindful of the grave consequences of South Africa's continued occupation of Namibia,

"Reaffirming its special responsibility toward the people and the territory of Namibia,

"1. Recognizes that the United Nations General Assembly terminated the Mandate of South Africa over Namibia and assumed direct responsibility for the territory until its independence;

"2. Considers that the continued presence of South Africa in Namibia is illegal and contrary to the principles of the Charter and the previous decisions of the United Nations and is detrimental to the interests of the population of the Territory and those of the international community;

"3. Calls upon the Government of South Africa to withdraw immediately its administration from the Territory;

"4. Declares that the actions of the Government of South Africa designed to destroy the national unity and territorial integrity of Namibia through the establishment of Bantustans are contrary to the provisions of the Charter of the United Nations;

¹⁹ 1465th meeting, paras. 99-102.

²⁰ *Ibid.*, para. 165.

²¹ Resolution 264 (1969).

"5. Declares that the Government of South Africa has no right to enact the 'South West Africa Affairs Bill', as such an enactment would be a violation of the relevant resolutions of the General Assembly;

"6. Condemns the refusal of South Africa to comply with General Assembly resolutions 2145 (XXI), 2248 (S-V), 2324 (XXII), 2325 (XXII), 2372 (XXII) and 2403 (XXIII) and Security Council resolutions 245 (1968) and 246 (1968);

"7. Invites all States to exert their influence in order to obtain compliance by the Government of South Africa with the provisions of the present resolution;

"8. Decides that in the event of failure on the part of the Government of South Africa to comply with the provisions of the present resolution, the Security Council will meet immediately to determine upon necessary steps or measures in accordance with the relevant provisions of the Charter of the United Nations;

"9. Requests the Secretary-General to follow closely the implementation of the present resolution and to report to the Security Council as soon as possible;

"10. Decides to remain actively seized of the matter."

Decision of 12 August 1969 (1497th meeting): resolution 269 (1969)

By letter²² dated 24 July 1969 addressed to the President of the Security Council, the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, Turkey, United Arab Republic, Yugoslavia and Zambia, members of the United Nations Council for Namibia, requested an urgent meeting of the Security Council to consider the situation resulting from the wholly negative reaction of South Africa to Security Council resolution 264 (1969) and from the measures which it was continuing to take in defiance of the authority of the Security Council and the General Assembly. It was recalled in the letter that the above-mentioned resolution had called upon the Government of South Africa immediately to withdraw its administration from the Territory of Namibia and had decided that in the event of failure on the part of South Africa to comply, the Security Council would meet immediately to determine upon necessary steps in accordance with the relevant provisions of the Charter of the United Nations.

By letter²³ dated 1 August 1969, the representatives of Afghanistan, Algeria, Burma, Burundi, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Dahomey, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Iran, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Laos, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Mongolia, Morocco, Nepal, Niger, Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Syria, Thailand, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Yemen associated themselves with the above-mentioned request for an urgent Council action to deal with the dangerous situation in Namibia. The letter stated that the situation arising out of South Africa's refusal to comply with the decisions

of the United Nations, in particular with Council resolutions 245 (1968), 246 (1968) and 264 (1969), was urgent and serious, whose continuance would aggravate the already serious threat to international peace and security in the area, and that only resolute action by the Security Council under the provisions of Chapter VII of the United Nations Charter could achieve the objective of securing the immediate withdrawal of South Africa from Namibia.

At the 1492nd meeting on 30 July 1969, the Security Council included the question in its agenda,²⁴ and considered it at the 1492nd to 1497th meetings, held between 30 July and 12 August 1969. At the 1492nd meeting, the representative of Chile was invited to participate in the discussion.²⁵ Subsequently, at the 1493rd meeting, an invitation was also extended to the representative of India.²⁶

At the 1492nd meeting, the representative of Colombia called the Council's attention to a letter²⁷ dated 23 July 1969 which he had addressed in his capacity as President of the United Nations Council for Namibia for that month to the President of the Security Council, and in which he had pointed out that the Council for Namibia had been unable to discharge its responsibility under the terms of General Assembly resolutions 2145 (XXI) and 2248 (S-V) owing to the South African Government's defiance of these resolutions and of the United Nations authority in continuing the illegal occupation of the Territory. He had also expressed concern in that letter at the policy pursued by South Africa of dismembering the Territory of Namibia by the establishment of "homelands" and prosecuting Namibians in an arbitrary trial. The Security Council had reached the point when it could not allow South Africa to continue its illegal occupation of Namibia and thus challenge the authority of the Council and of the United Nations. Pursuant to operative paragraph 8 of its resolution 264 (1969), the Security Council had now to decide upon the necessary measures in accordance with the relevant provisions of the Charter of the United Nations.²⁸

The representative of Zambia emphasized that, in view of South Africa's defiance of Security Council resolution 264 (1969) and other decisions of the United Nations there was no other way of dealing with this problem but to apply Chapter VII of the Charter of the United Nations.²⁹

Subsequently, at the 1497th meeting on 12 August 1969, the representative of Zambia introduced³⁰ a draft resolution,³¹ jointly submitted by Algeria, Colombia, Pakistan, Paraguay, Senegal and Zambia and requested that a vote be taken on the draft resolution on that day.

At the same meeting, the draft resolution was adopted³² by 11 votes to none with 4 abstentions. The resolution³³ read as follows:

"The Security Council,
"Recalling its resolution 264 (1969) of 20 March 1969,

²⁴ 1492nd meeting, preceding para. 1.

²⁵ *Ibid.*, para. 1.

²⁶ 1493rd meeting, para. 64.

²⁷ S/9352, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 136.

²⁸ 1492nd meeting, paras. 6-25.

²⁹ *Ibid.*, paras. 28-44.

³⁰ 1497th meeting, paras. 10-13.

³¹ S/9384; same text as resolution 269 (1969).

³² 1497th meeting, para. 22.

³³ Resolution 269 (1969).

²² S/9359, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 138.

²³ S/9372 and Add.1-3, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 147.

"Taking note of the report of the Secretary-General contained in document S/9204,

"Mindful of its responsibility to take necessary action to secure strict compliance with the obligations entered into by States Members of the United Nations under the provisions of Article 25 of the Charter of the United Nations,

"Mindful also of its responsibilities under Article 6 of the Charter of the United Nations,

"1. Reaffirms its resolution 264 (1969);

"2. Condemns the Government of South Africa for its refusal to comply with resolution 264 (1969) and for its persistent defiance of the authority of the United Nations;

"3. Decides that the continued occupation of the Territory of Namibia by the South African authorities constitutes an aggressive encroachment on the authority of the United Nations, a violation of the territorial integrity and a denial of the political sovereignty of the people of Namibia;

"4. Recognizes the legitimacy of the struggle of the people of Namibia against the illegal presence of the South African authorities in the Territory;

"5. Calls upon the Government of South Africa to withdraw its administration from the Territory immediately and in any case before 4 October 1969;

"6. Decides that in the event of failure on the part of the Government of South Africa to comply with the provisions of the preceding paragraph of the present resolution, the Security Council will meet immediately to determine upon effective measures in accordance with the appropriate provisions of the relevant Chapters of the Charter of the United Nations;

"7. Calls upon all States to refrain from all dealings with the Government of South Africa purporting to act on behalf of the Territory of Namibia;

"8. Requests all States to increase their moral and material assistance to the people of Namibia in their struggle against foreign occupation;

"9. Requests the Secretary-General to follow closely the implementation of the present resolution and to report to the Security Council as soon as possible;

"10. Decides to remain actively seized of the matter."

Decision of 30 January 1970 (1529th meeting): resolution 276 (1970)

By letter³⁴ dated 26 January 1970 addressed to the President of the Security Council, the representatives of Afghanistan, Algeria, Burundi, Cambodia, Ceylon, Chad, Congo (Democratic Republic of), Congo (People's Republic of), Dahomey, Ethiopia, Gabon, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Laos, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Morocco, Nepal, Niger, Nigeria, Pakistan, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Syria, Togo, Tunisia, Turkey, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Yugoslavia and Zam-

³⁴ S/9616.

bia referred to paragraph 6 of Security Council resolution 269 (1969) and requested an urgent meeting of the Security Council to examine the situation resulting from the failure of the Government of South Africa to comply with the letter and spirit of that resolution, in particular its paragraph 4.³⁵ The representatives of Cameroon, Cyprus, Ghana, Guinea, Japan, Kenya, Philippines, Thailand and Yemen subsequently associated themselves with this request.³⁶

At the 1527th meeting on 28 January 1970, following the adoption of the agenda,³⁷ the representative of Turkey, who had requested to participate in the Council discussion in his capacity as President of the United Nations Council for Namibia for that month, was invited to participate in the discussion.³⁸ Subsequently, at the 1529th meeting, the Council also decided to invite the representatives of India and Pakistan.³⁹ The Council considered the question at the 1527th to 1529th meetings held between 28 and 30 January 1970.

At the 1527th meeting, the representative of Finland introduced⁴⁰ a draft resolution,⁴¹ jointly submitted by Burundi, Finland, Nepal, Sierra Leone and Zambia.

In introducing the draft resolution, the representative of Finland observed that its purpose was to make it possible, in the absence of the possibility of action under Chapter VII of the Charter, on which the division of opinion in the Council seemed irreconcilable, for the Security Council to explore the possibilities of practical action by which it could advance the cause of the people of Namibia. It sought to define the area of agreement between the great majority of Members and purposely avoided those issues which tended to divide the Council.⁴²

At the 1528th meeting on 29 January 1970, the representative of Finland, on behalf of the sponsors of the five-Power draft resolution, submitted a number of revisions⁴³ to the draft resolution which had been arrived at as a result of consultations both within the Council and with delegations from outside the Council.

At the same meeting, the representative of Turkey,* as the President of the United Nations Council for Namibia, stated that the Council, at its recent meetings, had examined new ways and means, practical and effective steps, which would not necessarily stand in the way of the stern solutions set out in Chapter VII of the Charter and which only the Security Council could invoke. It had considered an interim report from a sub-committee entrusted with examining the ways and means of assisting the Security Council to promote the implementation of the previous resolutions adopted, and particularly resolution 269 (1969). In the light of the foregoing, he expressed the hope that the *ad hoc* sub-committee envisaged in the draft resolution would work as quickly as possible and submit to the Security Council recommendations in keeping with the views of

³⁵ Paragraph 4 of resolution 260 (1969) provided that the Security Council "recognizes the legitimacy of the struggle of the people of Namibia against the illegal presence of the South African authorities in the Territory".

³⁶ S/9616/Add.1-3, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, p. 112.

³⁷ 1527th meeting, preceding para. 24.

³⁸ *Ibid.*, para. 26.

³⁹ 1529th meeting, paras. 2, 70.

⁴⁰ 1527th meeting, paras. 30, 31.

⁴¹ S/9620, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, p. 114.

⁴² 1527th meeting, paras. 35-38.

⁴³ S/9620/Rev.1, 1528th meeting, paras. 4-9.

the United Nations Council for Namibia regarding the need for effective action.⁴⁴

The representative of the USSR held that the position of South Africa in disregarding the decisions of the United Nations, including those of the Security Council which were binding on all States Members of the United Nations under Article 25 of the Charter, represented a threat to peace and international security. He recalled that Security Council resolution 269 (1969) had warned the Government of South Africa that, if by 4 October 1969 it had not withdrawn its administration from Namibia, the Council would determine upon "effective measures in accordance with the appropriate provisions of the relevant Chapters of the Charter of the United Nations". In order to exert effective pressure on South Africa and bring about an end to the occupation of Namibia, the Security Council must call upon all States to discontinue completely all economic, trade, transport and other relationships with the Republic of South Africa in accordance with Article 41 of the Charter.⁴⁵

At the 1529th meeting, on 30 January 1970, the revised draft resolution was put to the vote and adopted⁴⁶ by 13 votes to none, with 2 abstentions. It read as follows:⁴⁷

"The Security Council,

"Reaffirming the inalienable right of the people of Namibia to freedom and independence recognized in General Assembly resolution 1514 (XV) of 14 December 1960,

"Reaffirming General Assembly resolution 2145 (XXI) of 27 October 1966, by which the United Nations decided that the Mandate for South West Africa was terminated and assumed direct responsibility for the Territory until its independence,

"Reaffirming Security Council resolution 264 (1969) of 20 March 1969 in which the Council recognized the termination of the Mandate and called upon the Government of South Africa to withdraw immediately its administration from the Territory,

"Reaffirming that the extension and enforcement of South African laws in the Territory together with the continued detentions, trials and subsequent sentencing of Namibians by the Government of South Africa constitute illegal acts and flagrant violations of the rights of the Namibians concerned, the Universal Declaration of Human Rights and the international status of the Territory, now under direct United Nations responsibility,

"Recalling Security Council resolution 269 (1969) of 12 August 1969,

"1. Strongly condemns the refusal of the Government of South Africa to comply with the resolutions of the General Assembly and Security Council pertaining to Namibia;

"2. Declares that the continued presence of the South African authorities in Namibia is illegal and that consequently all acts taken by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid;

"3. Declares further that the defiant attitude of the Government of South Africa towards the Council's decisions undermines the authority of the United Nations;

"4. Considers that the continued occupation of Namibia by the Government of South Africa in defiance of the relevant United Nations resolutions and of the Charter of the United Nations has grave consequences for the rights and interests of the people of Namibia;

"5. Calls upon all States, particularly those which have economic and other interests in Namibia, to refrain from any dealings with the Government of South Africa which are inconsistent with paragraph 2 of the present resolution;

"6. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, an *Ad Hoc* Sub-Committee of the Council to study, in consultation with the Secretary-General, ways and means by which the relevant resolutions of the Council, including the present resolution, can be effectively implemented in accordance with the appropriate provisions of the Charter, in the light of the flagrant refusal of South Africa to withdraw from Namibia, and to submit its recommendations by 30 April 1970;

"7. Requests all States, as well as the specialized agencies and other relevant organs of the United Nations, to give the Sub-Committee all the information and other assistance it may require in pursuance of the present resolution;

"8. Further requests the Secretary-General to give every assistance to the Sub-Committee in the performance of its task;

"9. Decides to resume consideration of the question of Namibia as soon as the recommendations of the Sub-Committee have been made available."

Decision of 29 July 1970 (1550th meeting): resolutions 283 (1970) and 284 (1970)

By letter⁴⁸ dated 23 July 1970 addressed to the President of the Security Council, the representatives of Burundi, Finland, Nepal, Sierra Leone and Zambia, referring to paragraph 9 of Security Council resolution 276 (1970) whereby the Council had decided to resume consideration of the question of Namibia as soon as the recommendations of the *Ad Hoc* Sub-Committee, established in pursuance of that resolution, were made available and noting that the Sub-Committee had submitted its report⁴⁹ to the Council, requested an early meeting of the Security Council to resume consideration of the question of Namibia.

At the 1550th meeting on 29 July 1970, the Council included in its agenda the report of the *Ad Hoc* Sub-Committee as well as the letter from the representatives of the five countries and considered the question at that meeting.

After the adoption of the agenda,⁵⁰ the President called the Council's attention⁵¹ to two draft resolutions which had been submitted to the Council for consideration, one sponsored jointly by Burundi, Finland, Nepal, Sierra Leone and Zambia⁵² and the other sponsored by Finland.⁵³

⁴⁴ 1528th meeting, paras. 27-29.

⁴⁵ *Ibid.*, paras. 102, 103, 118, 119.

⁴⁶ 1529th meeting, para. 184.

⁴⁷ Resolution 276 (1970).

⁴⁸ S/9886, OR, 25th yr., Suppl. for July-Sept. 1970, p. 117.

⁴⁹ S/9863, *ibid.*, p. 81.

⁵⁰ 1550th meeting, preceding para. 1.

⁵¹ *Ibid.*, para 1.

⁵² S/9891.

⁵³ S/9892.

In introducing the five-Power draft resolution, the representative of Burundi stated that the rapid expansion of the armed forces of South Africa in recent years was not only the chief cause of its refusal to withdraw from Namibia but also the certain source of a future world conflagration, a danger that the Security Council, in its capacity of guarantor of international peace, could not minimize. He observed that the draft resolution was inspired by the main conclusions of the report of the *Ad Hoc* Sub-Committee on Namibia.⁵⁴

The representative of Finland introduced the second draft resolution, whereby the Council would request an advisory opinion of the International Court of Justice, and stated that his proposal was also intended to reactivate the International Court of Justice itself. It was one of the principal organs of the United Nations and the highest international authority on law whose role was essential for the development of a peaceful international order.⁵⁵

At the same meeting, the five-Power draft resolution was put to the vote and was adopted⁵⁶ by 13 votes to none with 2 abstentions. It read as follows:⁵⁷

"The Security Council,

"Reaffirming once more the inalienable right of the people of Namibia to freedom and independence recognized in General Assembly resolution 1514 (XV) of 14 December 1960,

"Reaffirming Security Council resolutions 264 (1969) of 20 March 1969 and 276 (1970) of 30 January 1970 in which the Council recognized the decision of the General Assembly to terminate the Mandate for South West Africa and assume direct responsibility for the Territory until its independence and in which the continued presence of the South African authorities in Namibia, as well as all acts taken by that Government on behalf of or concerning Namibia after the termination of the Mandate, were declared illegal and invalid,

"Recalling its resolution 269 (1969) of 12 August 1969,

"Noting with great concern the continued flagrant refusal of the Government of South Africa to comply with the decisions of the Security Council demanding the immediate withdrawal of South Africa from the Territory,

"Deeply concerned that the enforcement of South African laws and juridical procedures in the Territory have continued in violation of the international status of the Territory,

"Reaffirming its resolution 282 (1970) of 23 July 1970 on the arms embargo against the Government of South Africa and the significance of that resolution with regard to the Territory and people of Namibia,

"Recalling the decision taken by the Security Council on 30 January 1970 to establish, in accordance with rule 28 of its provisional rules of procedure, an *Ad Hoc* Sub-Committee of the Council to study, in consultation with the Secretary-General, ways and means by which the relevant resolutions of the Council, including resolution 276 (1970),

could be effectively implemented in accordance with the appropriate provisions of the Charter of the United Nations, in the light of the flagrant refusal of South Africa to withdraw from Namibia, and to submit its recommendations to the Council,

"Having examined the report submitted by the *Ad Hoc* Sub-Committee and the recommendations contained in that report,

"Bearing in mind the special responsibility of the United Nations with regard to the Territory of Namibia and its people,

"1. Requests all States to refrain from any relations—diplomatic, consular or otherwise—with South Africa implying recognition of the authority of the Government of South Africa over the Territory of Namibia;

"2. Calls upon all States maintaining diplomatic or consular relations with South Africa to issue a formal declaration to the Government of South Africa to the effect that they do not recognize any authority of South Africa with regard to Namibia and that they consider South Africa's continued presence in Namibia illegal;

"3. Calls upon all States maintaining such relations to terminate existing diplomatic and consular representation as far as they extend to Namibia, and to withdraw any diplomatic or consular mission or representative residing in the Territory;

"4. Calls upon all States to ensure that companies and other commercial and industrial enterprises owned by, or under direct control of, the State cease all dealings with respect to commercial or industrial enterprises or concessions in Namibia;

"5. Calls upon all States to withhold from their nationals or companies of their nationality not under direct governmental control, government loans, credit guarantees and other forms of financial support that would be used to facilitate trade or commerce with Namibia;

"6. Calls upon all States to ensure that companies and other commercial enterprises owned by, or under direct control of, the State cease all further investment activities, including concessions in Namibia;

"7. Calls upon all States to discourage their nationals or companies of their nationality not under direct governmental control from investing or obtaining concessions in Namibia, and to this end to withhold protection of such investment against claims of a future lawful government of Namibia;

"8. Requests all States to undertake without delay a detailed study and review of all bilateral treaties between themselves and South Africa in so far as these treaties contain provisions by which they apply to the Territory of Namibia;

"9. Requests the Secretary-General to undertake without delay a detailed study and review of all multilateral treaties to which South Africa is a party and which, either by direct reference or on the basis of relevant provisions of international law, might be considered to apply to the Territory of Namibia;

"10. Requests the United Nations Council for Namibia to make available to the Security Council the results of its study and proposals with regard to the issuance of passports and visas for Namibians,

⁵⁴ 1550th meeting, paras. 3, 12, 13, 31, 32.

⁵⁵ *Ibid.*, paras. 38-42.

⁵⁶ *Ibid.*, para. 155.

⁵⁷ Resolution 283 (1970).

and to undertake a study and make proposals with regard to special passport and visa regulations to be adopted by States concerning travel of their citizens to Namibia;

"11. *Calls upon* all States to discourage the promotion of tourism and emigration to Namibia;

"12. *Requests* the General Assembly, at its twenty-fifth session, to set up a United Nations fund for Namibia to provide assistance to Namibians who have suffered from persecution and to finance a comprehensive educational and training programme for Namibians, with particular regard to their future administrative responsibilities in the Territory;

"13. *Requests* all States to report to the Secretary-General on measures they have taken in order to give effect to the provisions set forth in the present resolution;

"14. *Decides* to re-establish, in accordance with rule 28 of its provisional rules of procedure, the *Ad Hoc* Sub-Committee on Namibia and to request the Sub-Committee to study further effective recommendations on ways and means by which the relevant resolutions of the Council can be effectively implemented in accordance with the appropriate provisions of the Charter of the United Nations, in the light of the flagrant refusal of South Africa to withdraw from Namibia;

"15. *Requests* the Sub-Committee to study the replies submitted by Governments to the Secretary-General in pursuance of paragraph 13 of the present resolution and to report to the Council as appropriate;

"16. *Requests* the Secretary-General to give every assistance to the Sub-Committee in the performance of its tasks;

"17. *Decides* to remain actively seized of this matter."

The Council then proceeded to the vote on the draft resolution submitted by Finland. The representative of France requested⁵⁸ in accordance with rule 32 of the provisional rules of procedure, a separate vote on the last passage of paragraph 1 of this draft resolution, reading as follows: "... notwithstanding Security Council resolution 296 (1970)". The phrase was retained⁵⁹ by 11 votes to none with 4 abstentions. The Council then adopted⁶⁰ the Finnish draft resolution as a whole by 12 votes to none with 3 abstentions. It read as follows:⁶¹

"*The Security Council,*

"*Reaffirming* the special responsibility of the United Nations with regard to the Territory and the people of Namibia,

"*Recalling* its resolution 276 (1970) of 30 January 1970 on the question of Namibia,

"*Taking note* of the report and recommendations submitted by the *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970),

"*Taking further note* of the recommendation of the *Ad Hoc* Sub-Committee on the possibility of

requesting an advisory opinion from the International Court of Justice,

"*Considering* that an advisory opinion from the International Court of Justice would be useful to the Security Council in its further consideration of the question of Namibia and in furtherance of the objectives the Council is seeking,

"1. *Decides* to submit, in accordance with Article 96, paragraph 1, of the Charter of the United Nations, the following question to the International Court of Justice, with the request for an advisory opinion which shall be transmitted to the Security Council at an early date;

"What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?"

"2. *Requests* the Secretary-General to transmit the present resolution to the International Court of Justice, in accordance with Article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question."

Decision of 20 October 1971 (1598th meeting): resolution 301 (1971)

By letter⁶² dated 17 September 1971 addressed to the President of the Security Council, the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Zambia referred to resolution AHG/Res. 65 (VIII) adopted on 23 June 1971 at the eighth session of the Assembly of Heads of State and Government of the Organization of African Unity, held at Addis Ababa, which had urged the immediate summoning of a special session of the Security Council to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligation imposed on the world community by the decision of the International Court of Justice.⁶³ In pursuance of that resolution, the Member States submitting the letter requested that the Security Council be convened on 27 September 1971, in order to enable His Excellency Moktar Ould Daddah, Chairman of the Organization of African Unity at that time, to participate personally in the debates of the Security Council. The representatives of Swaziland and Dahomey subsequently became co-signatories of this letter.⁶⁴

At the 1583rd meeting on 27 September 1971, the Council included in its agenda the above-mentioned letter as well as the report of the *Ad Hoc* Sub-Committee on Namibia⁶⁵ and considered the question at the 1583rd to 1585th, 1587th to 1589th, 1593rd to 1595th, 1597th and 1598th meetings between 27 September and 20 October 1971. At the 1583rd meeting,

⁶² S/10326, OR, 26th yr., Suppl. for July-Sept. 1971, p. 64.

⁶³ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, I.C.J. Reports, 1971, p. 16.*

⁶⁴ 1583rd meeting, para. 1; 1588th meeting, para. 9.

⁶⁵ S/10330 and Corr.1 and Add.1, OR, 26th yr., Special Supplement No. 5.

⁵⁸ 1550th meeting, para. 157.

⁵⁹ *Ibid.*, para. 159.

⁶⁰ *Ibid.*, para. 160.

⁶¹ Resolution 284 (1970). For discussion in relation to Article 96, see chapter VI, Case 6.

the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity was invited to address the Council.⁶⁶ Subsequently, invitations were also extended to the representatives of Ethiopia, Guyana, Liberia, South Africa, and Sudan⁶⁷ Chad,⁶⁸ Nigeria, Mauritius,⁶⁹ Saudi Arabia,⁷⁰ India and Uganda.⁷¹ The Council also decided to invite, in accordance with rule 39 of the provisional rules of procedure, the President of the United Nations Council for Namibia⁷² and the representative of the South West Africa People's Organization.⁷³

At the 1583rd meeting on 27 September 1971, the President of Mauritania and Chairman of the Organization of African Unity at that time, called the Council's attention to the fact that since 1960 the South African Government had constantly violated all the pertinent resolutions of both the General Assembly and the Security Council and observed that, in the light of the advisory opinion of the International Court of Justice which categorically stated that the continued presence of South Africa in Namibia was illegal and that it must immediately withdraw its administration and end its occupation of that Territory, the Organization of African Unity had asked that the Security Council apply the pertinent provisions of Chapter VII of the United Nations Charter against the Government of South Africa. When the Security Council had decided to apply the necessary measures against the Government of South Africa, then the United Nations, in consultation with the Namibian people and the Organization of African Unity, should undertake consultations in order to create the necessary conditions for the implementation of the declaration of independence of Namibia as a sovereign State. The Organization of African Unity was now urging the Security Council to go beyond mere declarations of principle by taking concrete action to put an end to the occupation of the international Territory of Namibia by a foreign Power. The Organization was fully aware of the difficulties in implementing the terms of Chapter VII, but the challenge by South Africa to the international community might well shatter the very basis of the Charter and be a real threat to international peace and security. The international community should be called upon scrupulously and rigorously to apply political, economic and military sanctions that might be called for by the circumstances. In that respect, the great Powers, particularly the permanent members of the Security Council, bore special responsibility. He therefore appealed to the Security Council to apply all the means necessary to ensure that the principles, the objectives and the decisions of the United Nations were fully respected.⁷⁴

At the 1584th meeting on 27 September 1971, a point of order was raised by the representative of Somalia regarding the request of South Africa for participation in the Council's discussion and the terminology contained in this request. Following a proce-

dural discussion, the Council decided,⁷⁵ without vote, to invite the representative of South Africa.

At the same meeting, the representative of Nigeria speaking in his capacity as President of the United Nations Council for Namibia, declared that the advisory opinion of the International Court of Justice meant that the Court had recognized the United Nations Council for Namibia as the *de jure* Government of Namibia. The Council's identity and travel documents for Namibians were recognized by more than 70 Governments. However, if the Council had the legal powers of a sovereign entity vis-à-vis Namibia, it lacked the resources and was unable to exercise those powers, particularly inside the Territory. To enable the Council for Namibia to carry out its responsibilities, the Security Council would have to put an end to the illegal occupation of Namibia by South Africa by the application of the strongest possible measures against that country, including those provided in Chapter VII of the Charter if necessary.⁷⁶

The representative of South Africa* said that the advisory opinion of the International Court of Justice was completely unacceptable to his Government. The Court had not answered the fundamental question in dispute, namely, under which provision of the Charter could the General Assembly, which had the power to discuss and to recommend but not to make binding decisions or to take direct action, have terminated South Africa's right of administration. Nor had the Court met the issues involved concerning the powers of the Security Council. Article 24⁷⁷ conferred upon the Security Council the primary responsibility for the maintenance of international peace and security, but, contrary to the Court's opinion, it granted no general powers which the Council could exercise whenever it deemed that a situation "might lead to a breach of the peace". The Court had further stated that, should the Security Council so intend, any decision which it might take would be binding in terms of Article 25.⁷⁸ The powers that the Charter conferred upon the Council to discharge its responsibilities, however, were specifically provided for and carefully circumscribed in Chapters VI, VII, VIII and XII in order to deal with "a threat to the peace" or situations "likely to endanger" the peace. Furthermore, while the Court had recognized that the Council could validly have acted only for the purpose of maintaining international peace and security, the Court had failed to deal with the clear evidence that the Council had in fact acted for a completely different purpose, namely, to secure as an end in itself the removal of South Africa from South West Africa. As for the question of the factual justification for the purported revocation of South Africa's administration of the Territory, the Court had censured South Africa while refusing to hear detailed evidence or to cooperate with South Africa in holding a plebiscite. The purpose of the Court's censure was thus clearly political rather than legal and emphasized the basically political nature of the Opinion. Acceptance of the Opinion, which sought to confer upon the General Assembly and the Security Council powers far surpassing anything agreed upon by the framers of the Charter, would mean

⁶⁶ 1583rd meeting, para. 2.

⁶⁷ 1584th meeting, paras. 46, 48.

⁶⁸ *Ibid.*, para. 94.

⁶⁹ 1587th meeting, para. 4.

⁷⁰ 1589th meeting, para. 128.

⁷¹ 1595th meeting, para. 5.

⁷² 1584th meeting, para. 49.

⁷³ 1588th meeting, para. 88. For discussion on rule 39, see chapter III, Case 5, p. 41.

⁷⁴ 1583rd meeting, paras. 17-25.

⁷⁵ 1584th meeting, para. 48. For consideration of the application of rule 37, see chapter III, Case 4.

⁷⁶ 1584th meeting, paras. 78-82.

⁷⁷ For the consideration of the provisions of Article 24, see in chapter XII, part III.

⁷⁸ For the consideration of the provisions of Article 25, see in chapter XII, part IV.

that, in almost any situation in which two thirds of the Members of the Organization wished to impose their will upon a particular State or group of States, they could now do so without regard to the provisions of the Charter as these had hitherto been understood. There was peace, prosperity and progress in South West Africa and no threat to international peace and security as a result of conditions there; there was thus no possible role for the Security Council to play in the affairs of the Territory.⁷⁹

At the 1585th meeting on 28 September 1971, the representative of Liberia* maintained that South Africa's determination to continue its illegal presence in Namibia constituted an act of aggression and must be regarded as satisfying one of the requirements of Article 39 of the Charter, by virtue of which the Security Council could take action to restore international peace and security, including those measures listed under Article 41 of the Charter. He called upon the permanent members of the Security Council to respect their obligations under the Charter, which were concomitant with their special positions under the terms of Articles 23 and 27, for the protection of the international community against arbitrary violations of the principles of the Charter and the decisions of the Organization.⁸⁰

The representative of Sierra Leone stated that, contrary to what the representative of South Africa had said, the majority opinion of the Court had examined the question of the competence of the General Assembly and had concluded that, in respect of Mandates, it was not limited to the form of recommendations. The majority opinion had also stated that the Security Council, when it had adopted its resolutions on the situation in Namibia, had been acting in the exercise of what it deemed to be its primary responsibility, the maintenance of peace and security, which, under the Charter, embraced situations that might lead to a breach of the peace. With respect to the South African complaint that the Court had issued its opinion without having heard factual evidence of progress in the Territory, the Court had found that no factual evidence was needed for the purpose of determining that the policy of *apartheid* as applied by South Africa in Namibia, which was a matter of public record, constituted a denial of fundamental human rights and was a flagrant violation of the purposes and principles of the Charter.⁸¹

At the 1589th meeting on 6 October 1971, the representative of the United Kingdom stated that the part of the Advisory Opinion which asserted that certain resolutions of the Security Council in connexion with the item on Namibia were legally binding was open to the most serious legal objection. His Government considered that the Security Council could take decisions generally binding on Member States only when it had made a determination under Article 39 that a threat to the peace, breach of the peace or act of aggression existed. It had been the understanding, well founded on the Charter, that only in these circumstances were the decisions binding under Article 25.⁸² No such determination existed in relation to the item on the agenda.⁸³

At the 1593rd meeting on 13 October 1971, the representative of Syria stated that four Afro-Asian

members of the *Ad Hoc* Sub-Committee on Namibia, namely, Burundi, Sierra Leone, Somalia and Syria, had come to the conclusion, presented in Part B of paragraph 19 of the Committee's report (S/10330), that the national liberation movement in Namibia was entitled to wage its struggle by all available means and that any further refusal of South Africa to withdraw from Namibia would constitute an act of aggression and a threat to international peace and security within the context of Chapter VII of the Charter. He added that he fully endorsed the conclusion of the International Court of Justice that Article 25 of the Charter applied not only to enforcement measures adopted under Chapter VII but also to existing resolutions of the Security Council in connexion with the situation in Namibia.⁸⁴

At the 1595th meeting on 15 October 1971, the representative of Somalia introduced⁸⁵ a draft resolution,⁸⁶ submitted jointly with Burundi, Sierra Leone and Syrian Arab Republic.

At the 1597th meeting on 19 October 1971, the representative of Somalia introduced⁸⁷ the revised text⁸⁸ of the four-Power draft resolution which, he said, had been arrived at as a result of consultations and by incorporating a number of suggestions made on the original text of the draft resolution.

At the 1598th meeting on 20 October 1971, the revised draft resolution, which had been further amended⁸⁹ by its sponsors as a result of consultations with members of the Council, was put to the vote and adopted⁹⁰ by 13 votes in favour, none against with 2 abstentions. It read as follows:⁹¹

"The Security Council,

"Reaffirming the inalienable right of the people of Namibia to freedom and independence, as recognized in General Assembly resolution 1514 (XV) of 14 December 1960,

"Recognizing that the United Nations has direct responsibility for Namibia, following the adoption of General Assembly resolution 2145 (XXI) of 27 October 1966, and that States should conduct any relations with or involving Namibia in a manner consistent with that responsibility,

"Reaffirming its resolutions 264 (1969) of 20 March 1969, 276 (1970) of 30 January 1970 and 283 (1970) of 29 July 1970,

"Recalling its resolution 284 (1970) of 29 July 1970, in which it requested the International Court of Justice for an advisory opinion on the question:

"What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?"

"Gravely concerned at the refusal of the Government of South Africa to comply with the resolutions of the Security Council pertaining to Namibia,

⁸⁴ 1593rd meeting, paras. 71-76, 81-82.

⁸⁵ 1595th meeting, para. 106.

⁸⁶ S/10372, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 25-26.

⁸⁷ 1597th meeting, para. 5.

⁸⁸ S/10372/Rev.1. Same text as resolution 301 (1971).

⁸⁹ In the amended text the word "endorses" in operative paragraph 6 was replaced by the words "agrees with". 1598th meeting, para. 4.

⁹⁰ 1598th meeting, para. 31.

⁹¹ Resolution 301 (1971).

⁷⁹ 1584th meeting, paras. 96-131.

⁸⁰ 1585th meeting, paras. 48-50.

⁸¹ *Ibid.*, paras. 65-67, 71, 72, 106, 107.

⁸² For the consideration of the provisions of Article 25, see in chapter XII, part IV.

⁸³ 1589th meeting, paras. 50-51.

"*Recalling* its resolution 282 (1970) of 23 July 1970 on the arms embargo against the Government of South Africa and stressing the significance of that resolution with regard to the Territory of Namibia,

"*Recognizing* the legitimacy of the movement of the people of Namibia against the illegal occupation of their Territory by the South African authorities and their right to self-determination and independence,

"*Taking note* of the statements of the delegation of the Organization of African Unity, led by the President of Mauritania in his capacity as current Chairman of the Assembly of Heads of State and Government of that organization,

"*Noting further* the statement of the President of the United Nations Council for Namibia,

"*Having heard* the statements of the delegation of the Government of South Africa,

"*Having considered* the report of the *Ad Hoc* Sub-Committee on Namibia,

"1. *Reaffirms* that the Territory of Namibia is the direct responsibility of the United Nations and that this responsibility includes the obligation to support and promote the rights of the people of Namibia in accordance with General Assembly resolution 1514 (XV);

"2. *Reaffirms* the national unity and territorial integrity of Namibia;

"3. *Condemns* all moves by the Government of South Africa designed to destroy that unity and territorial integrity, such as the establishment of Bantustans;

"4. *Declares* that South Africa's continued illegal presence in Namibia constitutes an internationally wrongful act and a breach of international obligations and that South Africa remains accountable to the international community for any violations of its international obligations or the rights of the people of the Territory of Namibia;

"5. *Takes note with appreciation* of the advisory opinion of the International Court of Justice of 21 June 1971;

"6. *Agrees* with the Court's opinion, as expressed in paragraph 133 of its advisory opinion:

"(1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory;

"(2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) that it is incumbent upon States which are not Members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia.;

"7. *Declares* that all matters affecting the rights of the people of Namibia are of immediate concern to all Members of the United Nations and, as a result, the latter should take this into account in their dealings with the Government of South Africa, in particular in any dealings implying recognition of the legality of, or lending support or assistance to, such illegal presence and administration;

"8. *Calls once again* upon South Africa to withdraw from the Territory of Namibia;

"9. *Declares* that any further refusal of the South African Government to withdraw from Namibia could create conditions detrimental to the maintenance of peace and security in the region;

"10. *Reaffirms* the provisions of resolution 283 (1970), in particular paragraphs 1 to 8 and 11;

"11. *Calls upon* all States, in the discharge of their responsibilities towards the people of Namibia and subject to the exceptions set forth in paragraphs 122 and 125 of the advisory opinion of 21 June 1971:

"(a) To abstain from entering into treaty relations with South Africa in all cases in which the Government of South Africa purports to act on behalf of or concerning Namibia;

"(b) To abstain from invoking or applying those treaties or provisions of treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation;

"(c) To review their bilateral treaties with South Africa in order to ensure that they are not inconsistent with paragraphs 5 and 6 above;

"(d) To abstain from sending diplomatic or special missions to South Africa that include the Territory of Namibia in their jurisdiction;

"(e) To abstain from sending consular agents to Namibia and to withdraw any such agents already there; ;

"(f) To abstain from entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory;

"12. *Declares* that franchises, rights, titles or contracts relating to Namibia granted to individuals or companies by South Africa after the adoption of General Assembly resolution 2145 (XXI) are not subject to protection or espousal by their States against claims of a future lawful Government of Namibia; ;

"13. *Requests* the *Ad Hoc* Sub-Committee on Namibia to continue to carry out the tasks entrusted to it under paragraphs 14 and 15 of Security Council resolution 283 (1970) and, in particular, taking into account the need to provide for the effective protection of Namibian interests at the international level, to study appropriate measures for the fulfilment of the responsibility of the United Nations towards Namibia;

"14. *Requests* the *Ad Hoc* Sub-Committee on Namibia to review all treaties and agreements which

are contrary to the provisions of the present resolution in order to ascertain whether States have entered into agreements which recognize South Africa's authority over Namibia, and to report periodically thereon;

"15. *Calls upon* all States to support and promote the rights of the people of Namibia and to this end to implement fully the provisions of the present resolution;

"16. *Requests* the Secretary-General to report periodically on the implementation of the provisions of the present resolution."

Decision of 20 October 1971 (1598th meeting):

Adjournment of the meeting

At the 1598th meeting on 20 October 1971, the representative of Argentina introduced⁹² a draft resolution⁹³ under which the Security Council would: (1) invite the Secretary-General, acting on behalf of the United Nations, to take all necessary steps as soon as possible, including making contact with all parties concerned, with a view to establishing the necessary conditions so as to enable the people of the Territory of Namibia, freely and with strict regard to the principles of human equality, to exercise their right to self-determination and independence, in accordance with the Charter of the United Nations; and (2) request the Secretary-General to report to the Security Council on the implementation of the resolution. He then stated that the course of action outlined in the proposed draft resolution, which was the result of extensive consultations, was not in any way incompatible with that envisaged in the resolution that the Council had then adopted. It was based on the belief that every possible alternative had to be explored to ensure the future of Namibia in accordance with the basic principles which had been established regarding the Territory by previous resolutions of the United Nations.⁹⁴

In the course of the discussion that followed, a number of suggestions for the revision of the draft resolution were made and a number of representatives expressed the wish that the draft resolution be voted upon at a later meeting so that members of the Council could consider further the text and to engage in consultations.

The President (Nicaragua) then suggested⁹⁵ that the meeting be adjourned and that the consideration of the Argentine draft resolution continue at a subsequent meeting on a date to be set by the President. Consultations would continue among the members and the President would be at their disposal. There being no objection, it was so decided.⁹⁶

On 22 October 1971, the representative of Argentina submitted the revised text⁹⁷ of his delegation's draft resolution, in which, *inter alia*: (1) the words "and without prejudice to other resolutions adopted by the Security Council on this matter" were added to the first preambular paragraph; and (2) a new operative paragraph 2 was added which read: "*Calls upon* the Government of South Africa to co-operate fully with

the Secretary-General in the implementation of this resolution."

The question remained on the list of matters of which the Security Council is seized.

SITUATION IN THE MIDDLE EAST

Decision of 1 April 1969 (1473rd meeting): resolution 265 (1969)

By letter⁹⁸ dated 26 March 1969 addressed to the President of the Security Council, the representative of Jordan, having referred to his earlier letters of 16 and 17 March 1969⁹⁹ concerning active Israeli aggression against civilian centres in Jordan, complained that earlier that day Israeli jet fighters had attacked, using heavy bombs and rockets, Jordanian villages and civilian centres in the area of Es Salt, causing heavy loss of life and damage to property. In view of this grave attack, an urgent meeting of the Security Council was requested to consider these continuous and grave violations by Israel and to adopt more adequate and effective measures to check Israeli acts of aggression and restore international peace and security.

By letter¹⁰⁰ dated 27 March 1969 addressed to the President of the Security Council, the representative of Israel, having referred to his letter of 17 March 1969¹⁰¹ regarding persistent armed attacks against Israel by regular and irregular forces from Jordan necessitating measures of self-defence by Israel, requested an urgent meeting of the Security Council to consider the complaint of grave and continual violations by Jordan of the cease-fire, the provisions of the United Nations Charter, and of international law, including: (a) armed attacks, armed infiltration and acts of murder and violence by terrorist groups operating from Jordan territory with the official support, aid and encouragement of the Jordanian Government and armed forces; (b) firing across the cease-fire lines by Jordanian forces, and in particular the wanton shelling of Israeli villages.

At the 1466th meeting on 27 March 1969, after a procedural discussion on the adoption of the agenda,¹⁰² the Council decided¹⁰³ without vote to include the two letters in its agenda and invited¹⁰⁴ the representatives of Jordan and Israel to participate in the discussion of the question without the right to vote. Invitation¹⁰⁵ was also extended to the representative of Saudi Arabia at the 1467th meeting. The Council considered the question at the 1466th to 1473rd meetings, held between 27 March and 1 April 1969.

At the 1466th meeting on 27 March 1969, the representative of Jordan* stated that during the last three months acts of aggression committed by Israel from the air and the land against civilian centres and means of communication deep inside Jordan territory had not only been continuing, as reported¹⁰⁶ by the

⁹⁸ S/9113, *OR*, 24th yr., *Suppl. for Jan.-March 1969*, pp. 142-143.

⁹⁹ S/9083 and S/9085, *Ibid.*, p. 124.

¹⁰⁰ S/9114, *Ibid.*, p. 143.

¹⁰¹ S/9089, *Ibid.*, p. 126.

¹⁰² For the discussion and the decision on the agenda, see in chapter II, Case 3.

¹⁰³ 1466th meeting, para. 24.

¹⁰⁴ *Ibid.*, para. 25.

¹⁰⁵ 1467th meeting, para. 1.

¹⁰⁶ Reference was made to the following communications: S/8911 and S/8916, *OR*, 23rd yr., *Suppl. for Oct.-Dec. 1968*, pp. 133-134 and 158 respectively; S/9039, S/9083 and S/9085, *OR*, 24th yr., *Suppl. for Jan.-March 1969*, pp. 97-100 and 124 respectively.

⁹² 1598th meeting, para. 45.

⁹³ S/10376, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 27.

⁹⁴ 1598th meeting, paras. 44-45.

⁹⁵ *Ibid.*, paras. 94-95.

⁹⁶ *Ibid.*, para. 100.

⁹⁷ S/10376/Rev.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 27.

representative of Jordan in his communications to the Security Council, in direct violation of the cease-fire resolutions and in utter disregard for the Armistice Agreement, but had intensified and culminated in an air raid by Israeli jet fighters on civilian areas between the East Bank and the West Bank of the Jordan River where there were no military installations in the immediate area and where no anti-aircraft fire had been directed against the Israeli planes. The attacks showed that Israeli policy was not one of self-defence, but the incident under consideration constituted a clear-cut act of aggression; it was also a challenge and a test for the Security Council which organ, in its resolution 262 (1968) of 31 December 1968, had condemned Israel for its premeditated military action and had issued a warning that if such acts were to be repeated, the Council would have to consider further steps to give effect to its decisions.¹⁰⁷ In this connexion, the Council was called upon to take adequate and effective measures under Chapter VII of the Charter.¹⁰⁸

The representative of Israel,* noted that the basic United Nations doctrine on Arab terror warfare was contained in the provisions of Security Council resolution 56 (1948) of 19 August 1948. Jordan's role in warfare by terror against the people of Israel was a major one since Jordanian territory served as the central jumping-off ground for the main terror organizations which maintained headquarters, branches, recruiting offices and terror bases there. In the incidents under consideration, Israel had acted in self-defence to disable those centres of attack and bases for terror operations against Israel. Until an end was put to the Arab war against Israel which was being pursued in particular by the method of terror warfare and until the Arab States maintained the cease-fire to which they had pledged themselves, Israel's right to self-defence would remain inalienable. It could not be questioned or curtailed by labelling Israeli counter-actions as reprisals, a concept which had no application to the present situation in the Middle East.¹⁰⁹

At the 1472nd meeting on 1 April 1969, the representative of Pakistan, on behalf of the delegations of Senegal, Zambia and Pakistan, introduced a draft resolution¹¹⁰ which, he stated, was the result of prolonged consultations not only among the Asian-African members of the Security Council, but also with other permanent and non-permanent members.

At the 1473rd meeting on 1 April 1969, the representative of Pakistan pointed out that revisions had been made in the original draft resolution in order to accommodate to a wider extent certain views expressed to the three sponsors in the course of further intensive consultations with a view to moving towards unanimity if possible.

At the same meeting the three-Power draft resolution was put to the vote and adopted¹¹¹ by 11 votes in favour, none against with 4 abstentions. It read as follows:¹¹²

"The Security Council,

"Having considered the agenda contained in document S/Agenda/1466/Rev.1,

¹⁰⁷ Resolution 262 (1968), paras. 1 and 3.

¹⁰⁸ 1466th meeting, paras. 30, 37-39, 40, 43, 45, 48, 49-51, 53, 55.

¹⁰⁹ *Ibid.*, paras. 62-69, 85, 87-88, 95-96, 100.

¹¹⁰ 1472nd meeting, para. 8, circulated as document S/9120.

¹¹¹ 1473rd meeting, para. 92.

¹¹² Resolution 265 (1971).

"Having heard the statements made before the Council,

"Recalling its resolution 236 (1967) of 12 June 1967,

"Observing that numerous premeditated violations of the cease-fire have occurred,

"Viewing with deep concern that the recent air attacks on Jordanian villages and other populated areas were of a preplanned nature, in violation of resolutions 248 (1968) of 24 March 1968 and 256 (1968) of 16 August 1968,

"Gravely concerned about the deteriorating situation which endangers peace and security in the area,

"1. Reaffirms resolutions 248 (1968) and 256 (1968);

"2. Deplores the loss of civilian life and damage to property;

"3. Condemns the recent premeditated air attacks launched by Israel on Jordanian villages and populated areas in flagrant violation of the United Nations Charter and the cease-fire resolutions, and warns once again that if such attacks were to be repeated the Security Council would have to meet to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such attacks."

Decision of 3 July 1969 (1485th meeting): resolution 267 (1969)

By letter¹¹³ dated 26 June 1969 addressed to the President of the Security Council, the representative of Jordan stated that Israel continued to violate basic human rights in Jerusalem and to take measures contrary to the provisions of Security Council resolution 252 (1968) and the United Nations Charter. Referring to Israeli actions and planned measures for the establishment of Israeli settlements in the Holy City and replacement of the City's inhabitants, he requested an urgent meeting of the Security Council to consider the continued Israeli defiance of its resolution 252 (1968) on Jerusalem.

At the 1482nd meeting on 30 June 1969 following the adoption¹¹⁴ of the agenda, the Council invited¹¹⁵ the representatives of Jordan and Israel to participate without vote in the discussion of the question. Invitations¹¹⁶ were also extended to the representatives of the United Arab Republic, Saudi Arabia, Syria and Morocco at the 1482nd meeting, to the representatives of Iraq, Indonesia and Lebanon at the 1483rd meeting, to the representative of Malaysia at the 1484th meeting and to the representatives of Afghanistan, Sudan, Yemen, Tunisia and Kuwait at the 1485th meeting. The Council considered the question at its 1482nd to 1485th meetings held between 30 June and 3 July 1969.

At the 1482nd meeting on 30 June 1969, the representative of Jordan,* having stated that in recent weeks and months Israel, in its determination to achieve its plan for expansion, had repeatedly committed acts of aggression in violation of the Armistice Agreement and

¹¹³ S/9284, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, pp. 345-346.

¹¹⁴ 1482nd meeting, immediately preceding para. 1.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*, paras. 1, 98; 1483rd meeting, paras. 4 and 24; 1484th meeting, para. 2; 1485th meeting, para. 2.

the cease-fire, maintained that the situation in the Jerusalem area was threatening not only the political, social and economic life of Christian and Moslem Jordanian citizens in Jerusalem but also international peace and security. Recalling the terms of Security Council resolution 252 (1968) of 21 May 1968 by which the Council had declared that all legislative and administrative measures and actions taken by Israel which tended to change the legal status of Jerusalem were invalid, he pointed out that on 23 August 1968, the Israeli authorities had passed and published the so-called Legal and Administrative Matters (Regulation) Law the object of which had been to complete the process of Israel's unilateral annexation of Jerusalem and other surrounding areas. Emphasizing that the issue before the Council was resolution 252 (1968) adopted by the Council and defied by Israel, together with continued defiance and the further violations that had been committed, the representative of Jordan urged the Council to take the following steps: (1) to take note of the report submitted by the Secretary-General¹¹⁷ on 11 April and 30 June 1969 in pursuance of Security Council resolution 252 (1968) of 21 May 1968 concerning the status of Jerusalem; to deplore the failure of Israel to show any regard for Security Council resolution 252 (1968) and to condemn in the strongest terms the non-compliance of Israel with that resolution; (2) to emphasize once more the established principle that acquisition of territory by military conquest was inadmissible; (3) as an interim measure, once more to call urgently upon Israel to rescind all measures taken by it that had resulted or might result in changing the status of the city of Jerusalem and, in the future, to refrain from all actions likely to have such effect; (4) to issue a solemn warning to Israel that unless the above-mentioned illegal acts of legislation were rescinded, the Council would convene without delay to take action, including the application of Article 41 of the Charter; (5) to request that Israel inform the Council, within a fortnight, of its intentions with regard to the implementation of the provisions of the resolution; (6) as an interim measure, to appeal to all Member States to refrain from sending arms and military equipment to Israel until it has complied with the above-mentioned requests of the Council. The representative of Jordan* further called upon the Council to reaffirm its resolution 252 (1968) of 21 May 1968, as well as General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967, respectively, on Jerusalem, and to declare the new Israeli legislation dated 23 August 1968 and the subsequent decrees and legislation null and void. He also expressed the hope that the Security Council would call upon the Secretary-General to submit a report to the Council on the implementation of its resolution.¹¹⁸

At the same meeting, the representative of Israel* contended that the present Jordanian complaint was but a manoeuvre to divert attention from the fact that the Arab Governments had hardened even further their refusal to conclude peace with Israel and that Arab aggressive warfare against Israel continued unabated. The pretext for Jordan's call for an emergency meeting was a year-old law which provided for the issuance of licences and permitted for the exercise of commerce and professions, i.e., regulations which were required

for the welfare of the population, Jewish and Arab alike: the generally accepted principles of human rights and political democracy could not be suspended in the case of Jerusalem whose unity, growth, welfare and security would be maintained and protected by Israel.¹¹⁹

At the 1483rd meeting on 1 July 1969, the representative of the United Kingdom reaffirmed the position of his Government, as stated in the General Assembly on 21 June 1967, that it followed from Article 2 of the Charter that war should not lead to territorial aggrandizement and reaffirmed the principle that no unilateral action should or could change the status of Jerusalem. He held it to be essential for the Council to require that nothing should be done by unilateral action to prejudice the future of Jerusalem which had to be kept open and be discussed and decided as part of a final settlement ensuring a permanent peace. Noting that the vital concern of the countries of the Middle East for peace in the area could not be disputed and that agreement by outside Powers without the agreement of the countries and peoples directly concerned would not secure a permanent peace, the representative of the United Kingdom observed that the Security Council had a legitimate interest in, and international responsibility for, peace and security. The Council was not to be told by anyone that its primary responsibility for the maintenance of international peace and security was diminished or deferred.¹²⁰ He emphasized that in so far as Jerusalem was the heart of the whole problem, a just and complete settlement should not be ruled out in advance and should not be rendered impossible by any act designed to prejudice the future status of the City.¹²¹

At the 1485th meeting on 3 July 1969, the representative of Pakistan referred to the total disregard by Israel of General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967 and Security Council resolution 252 (1968) of 21 May 1968, and that country's refusal to rescind the legislative and administrative measures and actions taken by it to change the legal status of Jerusalem. He expressed the view of his delegation that any decision that the Council might take had to be a firm vindication of the principle of the inadmissibility of territorial acquisition by war and recalled that this principle had been emphasized in Council resolution 242 (1967) of 22 November 1967 and reaffirmed in resolution 252 (1968).¹²² Subsequently, the representative of Pakistan, on behalf of the delegations of Senegal, Zambia and Pakistan, introduced a draft resolution¹²³ which, he stated, was the result of the consultations held among members of the Security Council.

At the same meeting, the President stated that a separate vote had been requested on operative paragraph 5 of the three-Power draft resolution.¹²⁴ Thereupon, the said operative paragraph was put to the vote and adopted¹²⁵ by 14 votes in favour, none against with 1 abstention. Subsequently, the draft resolution as a whole was put to the vote and adopted¹²⁶ unanimously. It read¹²⁷ as follows:

¹¹⁹ *Ibid.*, paras. 53, 71, 74.

¹²⁰ For discussion of this question, see chapter XII, part III, under Article 24.

¹²¹ 1483rd meeting, paras. 27, 33, 36, 37.

¹²² 1485th meeting, paras. 163, 181.

¹²³ *Ibid.*, para. 185, circulated as document S/9311.

¹²⁴ 1485th meeting, para. 194.

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*, para. 195.

¹²⁷ Resolution 267 (1969).

¹¹⁷ S/9149 and Add.1, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, pp. 106-113.

¹¹⁸ 1482nd meeting, paras. 5, 6, 7, 9, 12, 14-17, 44, 78, 81, 82.

"The Security Council,

"Recalling its resolution 252 (1968) of 21 May 1968 and the earlier General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967, respectively, concerning measures and actions by Israel affecting the status of the City of Jerusalem,

"Having heard the statements of the parties concerned on the question,

"Noting that since the adoption of the above-mentioned resolutions Israel has taken further measures tending to change the status of the City of Jerusalem,

"Reaffirming the established principle that acquisition of territory by military conquest is inadmissible,

"1. Reaffirms its resolution 252 (1968);

"2. Deplores the failure of Israel to show any regard for the resolutions of the General Assembly and the Security Council mentioned above;

"3. Censures in the strongest terms all measures taken to change the status of the City of Jerusalem;

"4. Confirms that all legislative and administrative measures and actions taken by Israel which purport to alter the status of Jerusalem, including expropriation of land and properties thereon, are invalid and cannot change that status;

"5. Urgently calls once more upon Israel to rescind forthwith all measures taken by it which may tend to change the status of the City of Jerusalem, and in future to refrain from all actions likely to have such an effect;

"6. Requests Israel to inform the Security Council without any further delay of its intentions with regard to the implementation of the provisions of the present resolution;

"7. Determines that, in the event of a negative response or no response from Israel, the Security Council shall reconvene without delay to consider what further action should be taken in this matter;

"8. Requests the Secretary-General to report to the Security Council on the implementation of the present resolution."

Decision of 26 August 1969 (1504th meeting): resolution 270 (1969)

By letter¹²⁸ dated 12 August 1969 addressed to the President of the Security Council, the representative of Lebanon, pursuant to his earlier letter¹²⁹ of 11 August 1969 by which he had informed the Security Council of the premeditated and unprovoked aggression committed by Israel against civilian villages in southern Lebanon, and in view of the gravity of the situation endangering the peace and security of Lebanon, requested the convening of an urgent meeting of the Security Council.

By letter¹³⁰ dated 12 August 1969 addressed to the President of the Security Council, the representative of Israel stated that the cease-fire to which Lebanon was committed forbade all military activities. In explicit violation of this obligation, repeated attacks had been launched against Israel from Lebanese terri-

tory. It was generally known that Lebanon harboured on its territory, and particularly in its southern region bordering with Israel, considerable concentrations of irregular forces which were engaged in waging terror warfare against Israel. During the past month alone twenty-one attacks by shelling, firing and mining had been carried out against inhabited localities in Israel. In the face of these attacks Israel had been compelled to take, on 11 August 1969, action in self-defence against the terror encampments. In view of the gravity of the armed attacks perpetrated against Israel from Lebanese territory, the representative of Israel requested the President to convene an urgent meeting of the Security Council.

At the 1498th meeting on 13 August 1969, the Council decided¹³¹ without vote to include the letters in its agenda and invited¹³² the representatives of Lebanon and Israel to participate in the debate without the right to vote. The Council considered the question at its 1498th to 1502nd and 1504th meetings, held between 13 and 26 August 1969.

At the 1498th meeting on 13 August 1969, the representative of Lebanon* maintained that Israel, by a sudden and unprovoked air strike, including the use of napalm bombs, against villages in southern Lebanon, had committed an act of flagrant, unprovoked and massive aggression. Referring to the Israeli countercharge that the strike was in retaliation for attacks alleged to have been launched from Lebanese territory against inhabited localities in Israel, he held that in so far as Israel refused to resort to the Mixer Armistice Commission established under the Armistice Agreement or to allow any investigation on its territory to establish unbiased evidence, these allegations remained unsubstantiated. He maintained further that Lebanon could not be held responsible for the actions of Palestinian Arabs who, as freedom fighters and people seeking self-determination, were fighting in self-defence against the aggressor and occupier. In view of the provisions of Security Council resolution 262 (1968) of 31 December 1968, the representative of Lebanon requested the Council to take prompt and effective action in the form of sanctions provided for in the Charter in order to forestall any similar acts of aggression in the future and to prevent the deterioration of the general situation in the Middle East.¹³³

The representative of Israel* contended that the Government of Lebanon could not be absolved of responsibility for the use of its territory as a base of terror warfare against Israel. Having noted that the Lebanese authorities seemed unable or unwilling to put an end to the utilization of their territory for armed attacks against Israel, in breach of the cease-fire, he maintained that their failure to do so had necessitated Israel's recourse to the right of self-defence in order to disable the terror bases situated in Lebanon.¹³⁴

At the 1504th meeting on 26 August 1969, the President (Spain) announced that as a result of intensive consultation among Council members, agreement had been reached on the text of a draft resolution which represented a consensus among the members of the Council.¹³⁵

¹³¹ 1498th meeting, para. 9.

¹³² *Ibid.*, para. 10.

¹³³ *Ibid.*, paras. 12, 14-22, 30, 31, 34, 35, 38, 39.

¹³⁴ *Ibid.*, paras. 47, 48, 66, 67, 82, 83, 86.

¹³⁵ 1504th meeting, para. 2.

¹²⁸ S/9385, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 153.

¹²⁹ S/9383, *Ibid.*, p. 152.

¹³⁰ S/9387, *ibid.*, p. 156.

At the same meeting the President, in the absence of objections, declared the draft resolution to have been unanimously adopted.¹³⁶ It read¹³⁷ as follows:

"The Security Council,

"Having considered the agenda contained in document S/Agenda/1498/Rev.1,

"Having noted the contents of the letter of the *Chargé d'affaires ad interim* of Lebanon (S/9383),

"Having heard the statements of the representatives of Lebanon and Israel,

"Grieved at the tragic loss of civilian life and property,

"Gravely concerned about the deteriorating situation resulting from the violation of Security Council resolutions,

"Recalling the General Armistice Agreement between Israel and Lebanon of 23 March 1949, and the cease-fire established pursuant to resolutions 233 (1967) and 234 (1967) of 6 and 7 June 1967, respectively,

"Recalling its resolution 262 (1968) of 31 December 1968,

"Mindful of its responsibility under the relevant provisions of the Charter of the United Nations,

"1. *Condemns* the premeditated air attack by Israel on villages in southern Lebanon in violation of its obligations under the Charter and Security Council resolutions;

"2. *Deplores* all violent incidents in violation of the cease-fire;

"3. *Deplores* the extension of the area of fighting;

"4. *Declares* that such actions of military reprisal and other grave violations of the cease-fire cannot be tolerated and that the Security Council would have to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such acts."

Decision of 15 September 1969 (1512th meeting): resolution 271 (1969)

By letter¹³⁸ dated 29 August 1969 addressed to the President of the Security Council, the representatives of Afghanistan, Algeria, Guinea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Mauritania, Morocco, Niger, Pakistan, Saudi Arabia, Somalia, Southern Yemen, Sudan, Syria, Tunisia, Turkey, the United Arab Republic and Yemen, pursuant to their telegraphic communication¹³⁹ of 22 August 1969 regarding the grave event of 21 August 1969 in Jerusalem, i.e. the outbreak of fire in the Holy Mosque of Al Aqsa, requested the convening of an urgent meeting of the Security Council to consider the grievous situation resulting from the extensive damage caused by arson to the Holy Al Aqsa Mosque in Jerusalem.

At the 1507th meeting on 9 September 1969 following the adoption of the agenda,¹⁴⁰ the Council decided

¹³⁶ 1504th meeting.

¹³⁷ Resolution 270 (1969).

¹³⁸ S/9421 and Add.1 and 2, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 166.

¹³⁹ S/9447, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, pp. 173-184; Annex I, p. 177.

¹⁴⁰ 1507th meeting, para. 2.

to invite¹⁴¹ the representatives of Israel, the United Arab Republic and Indonesia to participate, without the right to vote, in the discussion of the question. Invitations¹⁴² were also extended to the representatives of India and Somalia at the 1508th meeting, to the representatives of Jordan and Saudi Arabia at the 1509th meeting, to the representatives of Ceylon and Malaysia at the 1510th meeting and to the representatives of Lebanon and Tunisia at the 1511th meeting. The Council considered the question at the 1507th to 1512th meetings, held between 9 and 15 September 1969.

At the 1507th to 1512th meetings held on 9-12 and 15 September 1969, ten¹⁴³ of the twenty-five signatories to the letter dated 29 August 1969¹⁴⁴ requesting an urgent meeting of the Security Council, as well as two other States¹⁴⁵ non-members of the Security Council who were invited to participate in the debate, contended that the grievous situation resulting from the extensive damage caused by arson to the Holy Al Aqsa Mosque arose from a set of political circumstances which were part of the larger Middle East situation and that this incident was inextricably associated with the military occupation of the Old City by Israel and with Israel's attempts to annex Jerusalem in defiance of the decisions of the Security Council, in violation of the resolutions of the General Assembly, and in breach of the principle repeatedly affirmed and emphasized by both the Security Council and the General Assembly that acquisition of territory by military conquest was inadmissible. It was maintained that holy places were organically related to the City itself and could not be isolated from their physical environment nor from the social and political order imposed on it. Accordingly, the desecration committed on the Holy Al Aqsa Mosque, and the attendant question of the protection of the sanctity and security of holy shrines, had to be considered in the context of the general situation prevailing in the Middle East and as a part of the question of the future of Jerusalem and the status of the Old City. In this connexion, reference was made to Security Council resolutions 252 (1968) of 21 May 1968 and 267 (1969) of 3 July 1969 by which that organ had confirmed that all legislative and administrative measures and actions taken by Israel designed to alter the status of Jerusalem were invalid, had censured such measures and had called upon Israel to rescind them. It was noted that on the basis of these resolutions neither the Security Council nor any Member of the United Nations could extend even an implicit recognition to the validity or legitimacy of Israeli authority over the Holy City nor give even tacit consent to the measures being taken by Israel against the arsonist and for the restitution of damages caused. The very minimum required of

¹⁴¹ *Ibid.*, para. 4.

¹⁴² 1508th meeting, para. 2; 1509th meeting, paras. 3 and 105; 1510th meeting, para. 3; and 1511th meeting, para. 3.

¹⁴³ 1507th meeting: Indonesia, paras. 66-70, 72, 76, 77; Pakistan, paras. 9, 10, 11, 13, 26, 28-30, 32; UAR, paras. 36, 39, 50-51; 1508th meeting: Algeria, paras. 13-14, 16, 17, 27-29; Somalia, paras. 45, 57-58, 59, 60, 61-64; 1509th meeting: Jordan, paras. 47, 54; Saudi Arabia, para. 181; 1510th meeting: Malaysia, paras. 40, 42, 43, 44; 1511th meeting: Lebanon, paras. 22, 23, 25, 26, 27, 28; Tunisia, paras. 33, 34, 37, 43; 1512th meeting: Jordan, paras. 14, 18; Pakistan, paras. 94-97, 100, 101-105, 107-109.

¹⁴⁴ See foot-note 43 above.

¹⁴⁵ 1508th meeting: India, paras. 35, 37, 38, 40, 41; 1510th meeting: Ceylon, paras. 26, 27, 28, 31.

the Council at this time was decisive action to break the deadlock created by Israel's non-compliance with, and to ensure implementation of, its past resolutions pertaining to the City of Jerusalem.

At the 1507th and 1509th meetings held on 9 and 11 September 1969, the representative of Israel* maintained that the real question before the Security Council was how to deal with the exploitation of the fire at the Al Aqsa Mosque for political purposes and how to prevent the vindication of incitement to belligerency. Having pointed out that all necessary measures had already been taken by the Israeli authorities to ascertain the circumstances of the fire by arson and to restore the building, he stated that all attempts, whether in the area or in the Security Council, to seize on the fire as a weapon for intensifying belligerency towards Israel and assailing Israel's rights and standing were unacceptable.¹⁴⁶

At the 1510th meeting on 12 September 1969, the representative of Pakistan introduced¹⁴⁷ a draft resolution,¹⁴⁸ the text of which, he noted, reflected the consensus of the twenty-five Member States that had requested the Council to meet to consider the situation resulting from the incident of 21 August 1969. With regard to the third operative paragraph which would have the Council determine that the desecration of the Holy Al Aqsa Mosque emphasized the immediate necessity of Israel's desisting from acting in violation of Council resolutions 252 (1960) and 267 (1969), he wished to make it clear that in this paragraph Pakistan alleged no complicity by Israel in the act of arson and that to make such a connexion would be to give an unwarranted meaning to the text.¹⁴⁹

At the 1511th meeting on 15 September 1969, the representative of the United States, having observed that the facts surrounding the fire at the Holy Al Aqsa Mosque had to be investigated thoroughly and impartially and that there could be no disagreement on the necessity for more adequate precautions against repetition of such desecration, stated that his delegation did not consider it appropriate or desirable to re-examine and pronounce upon the status of Jerusalem or to link the fire in Al Aqsa to the whole Arab-Israeli conflict. He further maintained that the draft resolution before the Council had gone far beyond the purpose for which the Security Council had been called into session and that the draft resolution, having reaffirmed Council resolution 267 (1969), should have dealt substantively only with measures for the maintenance, repair and protection of the Holy Places, including provisions for adequate participation of Moslem representatives.¹⁵⁰

At the 1512th meeting held also on 15 September 1969, the representative of the USSR stated that all decisions of the United Nations on the question of Jerusalem were based on the principle reflecting the legal consciousness of the States Members of the United Nations that the military takeover by Israel of the Arab part of Jerusalem was an unlawful act. He observed that the Security Council, in its resolution 242 (1967) of 22 November 1967 calling for the

withdrawal of Israeli troops from occupied Arab territories, had not made any exclusion or exception either for the Arab part of Jerusalem or for any other Arab territory taken by Israel. Having noted that the decisions of the Security Council were binding upon all Member States who, under Article 25 of the Charter, had the obligation to implement such, the representative of the USSR stated that non-implementation by Israel of the decisions of the Security Council on Jerusalem had worsened the situation, increased the threat to peace and had created an atmosphere of arbitrariness under an occupation régime that had led to a new flagrant act of vandalism. He held that in so far as the setting of the fire to the Al Aqsa Mosque was a direct result of the aggression, occupation and policy of aggression being carried out by Israel with respect to Jerusalem and other Arab territories, the Council had to clearly state the political and moral responsibility of that country for the arson in the Mosque and for the tense situation in the Arab part of Jerusalem and other occupied Arab territories.¹⁵¹

At the same meeting, the representative of Pakistan, on behalf of the co-sponsors of the draft resolution before the Council, made an oral amendment to operative paragraph 4 of the Pakistan draft resolution whereby that paragraph would refer to not only "Geneva Conventions" but also to "international law" governing military occupation.¹⁵²

Subsequently, the representative of France, having stated the position of his delegation that in the case before the Council a reference to the 1954 Convention and Protocol for the Protection of Cultural Property in the event of Armed Conflict would have been more appropriate than the "Geneva Conventions governing military occupation", requested, in accordance with rule 32 of the provisional rules of procedure of the Council, a separate vote on operative paragraph 4 of the draft resolution.¹⁵³ Accordingly, that paragraph was put to the vote first and adopted¹⁵⁴ by 10 votes in favour, none against with 5 abstentions. Subsequently, the draft resolution as a whole was put to the vote and adopted¹⁵⁵ by 11 votes in favour, none against with 4 abstentions. It read¹⁵⁶ as follows:

"The Security Council,

"Grieved at the extensive damage caused by arson to the Holy Al Aqsa Mosque in Jerusalem on 21 August 1969 under the military occupation of Israel,

"Mindful of the consequent loss to human culture,

"Having heard the statements made before the Council reflecting the universal outrage caused by the act of sacrilege in one of the most venerated shrines of mankind,

"Recalling its resolutions 252 (1968) of 21 May 1968 and 267 (1969) of 3 July 1969 and the earlier General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967, respectively, concerning measures and actions by Israel affecting the status of the City of Jerusalem,

"Reaffirming the established principle that acquisition of territory by military conquest is inadmissible,

¹⁴⁶ 1507th meeting, paras. 115-121, 123, 125; 1509th meeting, para. 101.

¹⁴⁷ 1510th meeting, para. 57.

¹⁴⁸ S/9445 incorporated into the record of the 1510th meeting, para. 57 and adopted, without change but with an interpolation to paragraph 4, as resolution 271 (1969).

¹⁴⁹ 1510th meeting, para. 67.

¹⁵⁰ 1511th meeting, paras. 63-65, 71-73.

¹⁵¹ 1512th meeting, paras. 35-40, 46, 47-49, 51, 55.

¹⁵² *Ibid.*, para. 112.

¹⁵³ *Ibid.*, para. 118.

¹⁵⁴ *Ibid.*, para. 136.

¹⁵⁵ *Ibid.*, para. 137.

¹⁵⁶ Resolution 271 (1969).

"1. *Reaffirms* its resolutions 252 (1968) and 267 (1969);

"2. *Recognizes* that any act of destruction or profanation of the Holy Places, religious building and sites in Jerusalem or any encouragement of, or connivance at, any such act may seriously endanger international peace and security;

"3. *Determines* that the execrable act of desecration and profanation of the Holy Al Aqsa Mosque emphasizes the immediate necessity of Israel's desisting from acting in violation of the aforesaid resolutions and rescinding forthwith all measures and actions taken by it designed to alter the status of Jerusalem;

"4. *Calls upon* Israel scrupulously to observe the provisions of the Geneva Conventions and international law governing military occupation and to refrain from causing any hindrance to the discharge of the established functions of the Supreme Moslem Council of Jerusalem, including any co-operation that Council may desire from countries with predominantly Moslem population and from Moslem communities in relation to its plans for the maintenance and repair of the Islamic Holy Places in Jerusalem;

"5. *Condemns* the failure of Israel to comply with the aforementioned resolutions and calls upon it to implement forthwith the provisions of these resolutions;

"6. *Reiterates* the determination in paragraph 7 of resolution 267 (1969) that, in the event of a negative response or no response, the Security Council shall convene without delay to consider what further action should be taken in this matter;

"7. *Requests* the Secretary-General to follow closely the implementation of the present resolution and to report thereon to the Security Council at the earliest possible date."

Decision of 12 May 1970 (1537th meeting): resolution 279 (1970)

Decision of 19 May 1970 (1542nd meeting): resolution 280 (1970)

By letter¹⁵⁷ dated 12 May 1970 addressed to the President of the Security Council, the representative of Lebanon stated that Israeli armed forces had launched, earlier that day, an invasion of Lebanon. Israeli armoured and infantry units in large proportions had penetrated Lebanese territory and Israeli air force and artillery were at this time bombarding several towns and villages. This act of aggression against Lebanon was in flagrant violation of the Lebanon-Israel armistice agreement and the provisions of the United Nations Charter. An urgent meeting of the Security Council was requested in view of the gravity of the situation endangering the peace and security of Lebanon and of the area.

By letter¹⁵⁸ dated 12 May 1970 addressed to the President of the Security Council, the representative of Israel requested an urgent meeting of the Security Council to consider the acts of armed attack, shelling, incursion, murder and violence perpetrated from Lebanese territory against the territory and population of

Israel in flagrant violation of the cease-fire and the United Nations Charter.

At the 1537th meeting on 12 May 1970 following the adoption¹⁵⁹ of its agenda, the Council invited¹⁶⁰ the representatives of Lebanon and Israel to participate in the debate of the Council. At the same meeting, invitations¹⁶¹ were also extended to the representatives of Morocco and Saudi Arabia. The Council considered the question at its 1537th to 1542nd meetings, held between 12 and 19 May 1970.

At the 1537th meeting on 12 May 1970 the Secretary-General stated that he had received information from the Acting Chief of Staff of UNTSO that an armoured attack had been launched by Israel into Lebanon with the support of artillery and air force. He noted further that he was unable to give detailed information of the actions in progress in view, amongst others, of the fact that his efforts to increase substantially the number of observers in both sides in that area were unsuccessful.¹⁶²

In his opening statement, the representative of Lebanon* informed the Council that early that morning Israel had launched a large-scale aggression against his country: Israeli armoured and infantry units had crossed the Lebanese border into southern and eastern parts of a district situated in the south-eastern part of Lebanon and that the Israeli air force and heavy artillery had, since then, been bombarding the civilian towns and villages in the area. Emphasizing that this aggression had occurred in the wake of several threats made by Israeli officials against Lebanon in the last few months, one of which Lebanon had conveyed to the Security Council by letter dated 7 March 1970,¹⁶³ he held that note had to be taken of "the official calculating thinking of the planners of aggression in Israel". Having recalled the terms of resolution 262 (1968) of 31 December 1968 in which the Security Council had issued a warning to Israel that if acts such as the premeditated and large-scale military action by the armed forces of Israel against the civil International Airport of Beirut were to be repeated, the Council would have to consider further steps to give effect to its decisions, the representative of Lebanon stated that the action his country sought from the Council at this time was the immediate withdrawal of all Israeli troops from Lebanese territory, a strong condemnation of Israel and the application of Chapter VII of the United Nations Charter.¹⁶⁴

The representative of Israel,* having referred to his letters of 5, 15 and 29 January, 27 February, 4 and 10 March and 10 May 1970¹⁶⁵ in which he had informed the Security Council of the acts of aggression being perpetrated from Lebanese territory against the territory and population of Israel in violation of the cease-fire and the United Nations Charter, stated that his Government had requested this urgent meeting of the Security Council to consider those acts. Noting

¹⁵⁹ 1537th meeting, para. 2.

¹⁶⁰ *Ibid.*, para. 4.

¹⁶¹ *Ibid.*, para. 28.

¹⁶² *Ibid.*, paras. 6-8.

¹⁶³ S/9683, *OR*, 25th yr., *Suppl. for Jan.-Mar. 1970*, pp. 153-154.

¹⁶⁴ 1537th meeting, paras. 11-15, 17, 19, 23, 24.

¹⁶⁵ S/9593, S/9604, S/9621, S/9670, S/9678 and S/9691, *OR*, 25th yr., *Suppl. for Jan.-Mar. 1970*, pp. 101-102, 105-106, 114-115, 146, 150 and 155-156 respectively; S/9790, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, pp. 180-181.

¹⁵⁷ S/9794, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, p. 181.

¹⁵⁸ S/9795, *ibid.*, p. 182.

that Israel had repeatedly called on the Government of Lebanon to observe the cease-fire and to put an end to those attacks and had also requested organs of the United Nations and Governments of Member States to apprise Lebanon of the gravity of the situation created by the continuation of warfare from its territory, he maintained that in so far as the acts of aggression had not ended but on the contrary had grown in number and scope, Israel had been compelled to act in self-defence. On the morning of 12 May 1970, Israel defence forces had taken action against bases of aggression concentrated in south-east Lebanon in order to comb the area of the irregular forces and the terrorist squads engaged in terror warfare against Israel; the Israeli forces would leave the area on completion of their mission. The representative of Israel further maintained that under the cease-fire and the Charter, the Government of Lebanon bore full responsibility for armed attacks carried out from its territory against Israel — whether by regular or irregular forces. He added that this responsibility was evident, in the light of the official agreements between the Government of Lebanon and the irregular forces operating against Israel from Lebanese territory. At the close of his statement, the representative of Israel informed the Security Council that he had received a communiqué issued by an Israeli army spokesman that the operation had been concluded and that the Israeli forces were deploying to leave the area.¹⁶⁶

At the same meeting the representative of Spain, having observed that the military invasion of Lebanon by armed Israeli forces in flagrant violation of the Charter could not be condoned and that it was not appropriate for the Council to remain passive in the face of events which the parties had recognized as factual, submitted¹⁶⁷ a draft resolution¹⁶⁸ and requested that it be put to the vote immediately.¹⁶⁹ It was formally seconded by the representative of Zambia.¹⁷⁰

The President (France) observed that the draft resolution before the Council was an interim proposal which in no way prejudged the discussion and the continuation of the debate.¹⁷¹ Following a procedural discussion as to whether the representative of Israel should be allowed to speak at that stage,¹⁷² the President put to the vote the proposal of the representative of Syria that the Council should proceed to the vote immediately. The proposal was not adopted,¹⁷³ there being 7 votes in favour, 2 against with 6 abstentions.

Subsequently the representative of Israel contended that in so far as Israeli action had been terminated and that Israeli forces were being withdrawn from Lebanese territory, the draft resolution proposed by the representative of Spain was divorced from reality and did not take cognizance of the facts of the situation because it did not refer to the warfare being waged against Israel in flagrant breach of the Charter. The Israeli action under consideration had been directed solely against the terrorist bases imposed on Lebanon against Lebanese interests. He held that the Security Council

should not proceed to take any action whatever before clarifying those facts positively and definitively.¹⁷⁴

The representative of Spain stated that his delegation had submitted the given draft resolution, without prejudice to whatever further action the Security Council might wish to take, in view of the fact that the principle contained in Article 2(4) of the Charter had been violated by the Israeli action.¹⁷⁵

At the same meeting the representative of the United States proposed an oral amendment which would add to the Spanish draft resolution, "and an immediate cessation of all military operations in the area".¹⁷⁶

The representative of the USSR proposed an oral sub-amendment to the amendment of the United States to substitute "immediate stopping of aggression and withdrawal" for "immediate cease-fire".¹⁷⁷

After the representative of the United States drew attention to the fact that the word "cease-fire" did not appear in his amendment, the sub-amendment was modified by the representative of the USSR to read "and stopping of Israeli aggression against Lebanon".¹⁷⁸

At the 1537th meeting on 12 May 1970, the USSR sub-amendment to the United States amendment was put to the vote and was not adopted,¹⁷⁹ there being 3 votes in favour, none against with 12 abstentions. Thereupon, the United States amendment was voted on and not adopted,¹⁸⁰ there being 2 votes in favour, none against with 13 abstentions.

Subsequently, the draft resolution submitted by Spain was put to the vote and adopted¹⁸¹ unanimously. It read¹⁸² as follows:

"The Security Council

"Demands the immediate withdrawal of all Israeli armed forces from Lebanese territory."

At the 1538th meeting held also on 12 May 1970, the representative of Lebanon stated that according to information he had just received from his country, the Israeli forces were still in large numbers in the region of southern Lebanon and had not given any indication of withdrawing.¹⁸³

The representative of Israel stated that in so far as it was already night in the region, the Israeli forces which were still on Lebanese soil refrained from withdrawal in order to avoid shooting incidents in the dark.¹⁸⁴

At the 1539th meeting on 13 May 1970, the President conveyed to the Security Council a message from the Secretary-General that he had as yet received no information from the Acting Chief of Staff of UNTSO regarding the implementation of Council resolution 279 (1970) of 12 May 1970, due to the fact that verification of information in the field was not possible because of the absence of direct means of observation on both sides in the Israel-Lebanese sector.¹⁸⁵

¹⁷⁴ *Ibid.*, paras. 81, 100.

¹⁷⁵ *Ibid.*, para. 84.

¹⁷⁶ *Ibid.*, para. 91.

¹⁷⁷ *Ibid.*, para. 113.

¹⁷⁸ *Ibid.*, para. 128.

¹⁷⁹ *Ibid.*, para. 129.

¹⁸⁰ *Ibid.*, para. 130.

¹⁸¹ *Ibid.*, para. 132.

¹⁸² Resolution 279 (1970).

¹⁸³ 1538th meeting, para. 30.

¹⁸⁴ *Ibid.*, para. 108.

¹⁸⁵ 1539th meeting, para. 3.

¹⁶⁶ 1537th meeting, paras. 31, 34, 36, 38, 39, 40, 41.

¹⁶⁷ *Ibid.*, para. 44.

¹⁶⁸ *Ibid.*, para. 46; circulated as document S/9800.

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.*, para. 47.

¹⁷¹ *Ibid.*, para. 50.

¹⁷² See chapter I, Case 30, and chapter III, Case 8.

¹⁷³ 1537th meeting, para. 77.

Subsequently, a communication¹⁸⁶ dated 13 May 1970 from the permanent representative of Israel, transmitting to the United Nations a message from the Prime Minister of Israel, was read out in the Security Council. The message, *inter alia*, stated that the combing operation, which circumstances had compelled Israel to undertake, had been carried out and concluded according to plan and that the Israeli forces which were involved in this defensive action had returned to their base.¹⁸⁷

At the same meeting the representative of Lebanon stated that during the previous night the Israeli air force, covering the withdrawal of Israeli forces from Lebanon, had bombed and shelled Lebanese military and civilian positions contrary to the contention by Israel that the so-called combing operation was directed against commando positions in Lebanon.¹⁸⁸

At the 1540th meeting on 14 May 1970, the representative of the United States emphasized the continued opposition of his Government to all acts of violence across frontiers in violation of the cease-fire from any source. The way to end such violence, he believed, was to make an all-out effort to bring about a peaceful political settlement of the Arab-Israeli conflict encompassing all States in the area. As a first step in that direction, he urged that there be renewed consultations between Israel, Lebanon and the Secretary-General, in connexion with the latter's earlier suggestion to station observers in adequate numbers on both sides of the border between Israel and Lebanon, to work out a mutually acceptable arrangement, without prejudice to the legal positions of those involved, by which UNTSO could carry out an effective observer operation.¹⁸⁹

The representative of Israel informed the Council that during the previous night a unit of irregular forces had penetrated from across the Lebanese border and opened fire on an Israeli village. Having noted that fire had been returned in this and other instances of similar hostilities in the night, he stated that these constituted acts of aggression of the kind that compelled Israel to take defensive actions to protect its territory and its citizens.¹⁹⁰

At the same meeting, the Security Council received a communication from the Secretary-General stating that the Acting Chairman of the Israel-Lebanon Mixed Armistice Commission had informed the Acting Chief of Staff of UNTSO that the complete withdrawal of the Israeli forces from Lebanon had been officially confirmed by the Lebanese authorities.¹⁹¹

At the 1541st meeting on 15 May 1970, the representative of Colombia, referring to the provisional nature of the recently adopted Council resolution¹⁹² and to the fact that the measures taken by the Council in the past had not been complied with, suggested that the Security Council might consider the possibility of setting up a committee composed of three members of the Council that were not directly linked to the conflict to hear the parties, to take note of the efforts at negotiation made by the Secretary-General and be given access to the political formulas of the four Great

Powers and then, within a reasonable period of time, to present to the Council a series of solutions covering all aspects of the problem, namely, the refugees, the frontiers, Jerusalem, disarmament, etc.¹⁹³

At the 1542nd meeting on 19 May 1970, after the President had suspended the meeting in order to provide certain delegations with time for consultation on a draft resolution,¹⁹⁴ the representative of Zambia read out the text of the draft resolution¹⁹⁵ arrived at during those consultations.

At the same meeting, the draft resolution was put to the vote and adopted¹⁹⁶ by 11 votes in favour, none against with 4 abstentions. It read¹⁹⁷ as follows:

"The Security Council,

"Having considered the agenda contained in document S/Agenda/1537,

"Having noted the contents of the letters of the Permanent Representative of Lebanon and the Permanent Representative of Israel,

"Having heard the statements of the representatives of Lebanon and Israel,

"Gravely concerned about the deteriorating situation resulting from violations of resolutions of the Security Council,

"Recalling its resolutions 262 (1968) of 31 December 1968 and 270 (1969) of 26 August 1969,

"Convinced that the Israeli military attack against Lebanon was premeditated and of a large scale and carefully planned in nature,

"Recalling its resolution 279 (1970) of 12 May 1970 demanding the immediate withdrawal of all Israeli armed forces from Lebanese territory,

"1. Deplores the failure of Israel to abide by resolutions 262 (1968) and 270 (1969);

"2. Condemns Israel for its premeditated military action in violation of its obligations under the Charter of the United Nations;

"3. Declares that such armed attacks can no longer be tolerated and repeats its solemn warning to Israel that if they were to be repeated the Security Council would, in accordance with resolution 262 (1968) and the present resolution, consider taking adequate and effective steps or measures in accordance with the relevant Articles of the Charter to implement its resolutions;

"4. Deplores the loss of life and damage to property inflicted as a result of violations of resolutions of the Security Council."

Decision of 5 September 1970 (1551st meeting): resolution 285 (1970)

By a letter¹⁹⁸ dated 5 September 1970 addressed to the President of the Security Council, the representative of Lebanon having referred to his earlier letter¹⁹⁹ of 4 September 1970 regarding the continuous acts of aggression that had been committed by Israel

¹⁸⁶ S/9801, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, p. 182.

¹⁸⁷ 1539th meeting, para. 6.

¹⁸⁸ *Ibid.*, para. 140.

¹⁸⁹ 1540th meeting, paras. 32, 34, 36.

¹⁹⁰ *Ibid.*, paras. 59, 63.

¹⁹¹ *Ibid.*, para. 84.

¹⁹² Resolution 279 (1970).

¹⁹³ 1541st meeting, paras. 13-14.

¹⁹⁴ 1542nd meeting, paras. 31-32.

¹⁹⁵ *Ibid.*, para. 34, circulated as document S/9807 and adopted without change as resolution 280 (1970).

¹⁹⁶ *Ibid.*, para. 57.

¹⁹⁷ Resolution 280 (1970).

¹⁹⁸ S/9925, *OR*, 25th yr., *Suppl. for July-Sept. 1970*, p. 141.

¹⁹⁹ S/9924, *Ibid.*, pp. 140-141.

against Lebanon in the past few weeks, complained that earlier that day two infantry companies of Israeli armed forces, under heavy air support, had penetrated inside Lebanese territory, bombing civilian installations and opening roads for Israeli military use, permitting further expansionist operations. In view of the extreme gravity of the situation endangering the peace and security of Lebanon, the President was requested to convene an urgent meeting of the Security Council.

At the 1551st meeting on 5 September 1970 following the adoption²⁰⁰ of the agenda, the Council decided to invite²⁰¹ the representatives of Lebanon and Israel to participate without vote in the discussion of the question which was considered at that meeting only.

At the beginning of the meeting, the Secretary-General read to the Security Council the texts of two cables he had received from the Chief of Staff of UNTSO regarding the matter before the Council. In the messages it was, *inter alia*, stated: that on 5 September 1970 the Lebanese authorities had informed the Israel-Lebanon Mixed Armistice Commission (ILMAC) of an attack by Israeli aircraft and penetration by Israeli mixed infantry and armoured force into Lebanese territory, and had requested confirmation by a UN Military Observer on the spot, as well as the immediate withdrawal of the Israeli unit from Lebanese territory; that the Assistant Israel Defence Force Liaison Officer, who initially had had no information on the alleged attack, had later that day informed the Chief of UNTSO that all Israeli defence forces had withdrawn from Lebanese territory. The Secretary-General recalled the statement he had made on 12 May 1970 on a similar occasion²⁰² that he had long sought, without success, to increase substantially the number of United Nations observers on both sides in that area and that this accounted for the lack of detailed information of actions such as the one under consideration.²⁰³

The representative of Lebanon,* having noted that during the past two weeks Israeli armed forces had committed fifty-eight acts of aggression against Lebanon, repeated the charge made in his letter requesting an urgent meeting of the Council that Israeli armed forces, backed by its air force and tanks, had penetrated from the border and launched an attack inside Lebanese territory. He stated that the Israeli military operations were still continuing and Israeli forces were still engaging units of the Lebanese army inside Lebanese territory. The representative of Lebanon stated also that his country requested from the Security Council the immediate and complete withdrawal of all Israeli forces from all Lebanese territory; condemnation of Israel for its repeated acts of aggression against Lebanon, in violation of the Charter and the pertinent resolutions of the Security Council — resolutions 262 (1968) of 31 December 1968, 270 (1969) of 26 August 1969, 279 (1970) of 12 May 1970 and 280 (1970) of 19 May 1970; the application of Chapter VII of the Charter against Israel, in accordance with operative paragraph 3 of Council resolution 280 (1970) whereby Israel had been warned that in case of a repetition of armed attack, the Council would consider taking adequate and effective steps or meas-

ures in accordance with the relevant Articles of the Charter to implement its resolutions.²⁰⁴

The representative of Israel* maintained that an attempt by Lebanon to dramatize a "minor patrolling incident" could not justify the urgent meeting of the Security Council. He contended further that the inequitable and one-side text of resolution 280 (1970) of 19 May 1970 had given encouragement to the aggressor and that since the adoption of that resolution over two hundred acts of aggression had been committed from Lebanese territory with the connivance of the Lebanese authorities against the territory and population of Israel. The so-called "Cairo Agreement" signed between Lebanon and the Palestinian commandos on 3 November 1969, he maintained, provided the basis for terrorist activity against Israel from Lebanon. Under the terms of that agreement, he noted, the Palestinians' armed struggle was reaffirmed to be in Lebanon's interest and the Lebanese army had undertaken to co-operate in the installation of supplies, rest and aid posts for Palestinian commandos. It was against this background of continuous acts of aggression committed from Lebanese territory and of the admitted helplessness of the Lebanese authorities to control their own territory that Israel had been compelled to exercise its right of self-defence in the present instance. On 4 and 5 September 1970, a small unit of the Israel Defence Forces had carried out a search and comb mission directed solely against terrorists in the affected part of Lebanon. Those units had evacuated Lebanese territory upon completion of their mission. In this minor Israeli action of defensive and limited nature, the Lebanese Army had not been directly involved except for some shelling from a distance. He further stressed that Lebanon was obliged as a Member of the United Nations to prevent irregular, as well as regular, forces from using its territory for aggression against another Member State. If Lebanon chose to repudiate this principle, it could not claim to be immune to Israel's defence against aggression.²⁰⁵

The representative of Spain maintained that in so far as an invasion of Lebanon by Israel had occurred, the fact that a withdrawal had been initiated was not sufficient proof for the Council to remain inactive. Bearing in mind that the incident under consideration was repetition of actions which had occurred in the past with flagrant violation of certain principles of the Charter, he urged that the Council should act with all the urgency required by the situation and submitted²⁰⁶ a draft resolution.²⁰⁷ He requested that it be put to the vote before the conclusion of the meeting.²⁰⁸

Subsequently, the draft resolution was put to the vote and adopted²⁰⁹ by 14 votes in favour, none against with 1 abstention. It read²¹⁰ as follows:

"The Security Council

"Demands the complete and immediate withdrawal of all Israeli armed forces from Lebanese territory."

Decision of 25 September 1971 (1582nd meeting): resolution 298 (1971)

²⁰⁴ *Ibid.*, paras. 16-25.

²⁰⁵ *Ibid.*, paras. 46, 47, 48, 51, 52, 53, 54, 55.

²⁰⁶ *Ibid.*, paras. 59, 60-64.

²⁰⁷ *Ibid.*, circulated as document S/9928.

²⁰⁸ *Ibid.*, para. 64.

²⁰⁹ *Ibid.*, para. 93.

²¹⁰ Resolution 285 (1970).

²⁰⁰ 1551st meeting, para. 7.

²⁰¹ *Ibid.*, para. 8.

²⁰² 1537th meeting, paras. 6-8.

²⁰³ 1551st meeting, paras. 11-14.

By letter²¹¹ dated 13 September 1971 addressed to the President of the Security Council, the representative of Jordan requested an urgent meeting of the Security Council to consider Israel's illegal measures in Jerusalem in defiance of Security Council resolutions 252 (1968), 267 (1969) and 271 (1969). He stated that Israel had been continuing its illegal and unilateral measures and steps to change the Arab character of the City and its environs and was presently contemplating a new legislation to extend the border of Jerusalem to include 30 new Arab towns and villages with a population over 100,000. These measures were referred to in the Jordanian delegation's latest letters,²¹² as well as the Secretary-General's reports of 18 February 1971²¹³ and 20 April 1971.²¹⁴ Israel's negative attitude had been demonstrated since it had started to implement the so-called "master plan" for Jerusalem. In so far as the situation created by illegal Israeli measures constituted a direct threat to the character of Jerusalem and the surrounding suburbs and villages, the lives and destiny of its people and international peace and security, it called for immediate consideration by the Security Council.

At the 1579th meeting of the Security Council on 16 September 1971, the representative of Syria proposed that in so far as the reports from the Secretary-General which had been called for by the Security Council in its resolutions 252 (1968), 267 (1969) and 271 (1969) related to the question to be considered by the Council, the item on the provisional agenda regarding the situation in the Middle East should be divided into two sections and include these reports in addition to the letter dated 13 September 1971 from the representative of Jordan.²¹⁵ The agenda as amended was adopted²¹⁶ without objection. It read:

"The situation in the Middle East:

"(a) Letter dated 13 September 1971 from the Permanent Representative of Jordan to the United Nations addressed to the President of the Security Council (S/10313)

"(b) Reports of the Secretary-General (S/8052, S/8146, S/9149 and Add.1, S/9537, S/10124 and Add.1 and 2)".

Subsequently, the Council invited²¹⁷ the representatives of Jordan, Egypt and Israel to participate without vote in the discussion of the question before the Council. Invitations²¹⁸ were also extended to the representatives of Mali, Morocco, Lebanon and Saudi Arabia at the 1580th meeting and to the representative of Tunisia at the 1581st meeting. The Council considered the question at its 1579th to 1582nd meetings, held between 16 and 25 September 1971.

At the 1579th meeting on 16 September 1971, the representative of Jordan* stated that the worsening situation in Jerusalem was the result of the Israeli persistence in the implementation of measures designed

(i) to change the status and character of the Holy City, in disregard of the repeated General Assembly and Security Council resolutions and (ii) to prevent the conclusion of a just and peaceful settlement, in the hope that the cease-fire lines would ultimately become the new borders of Israel. New legislation now being contemplated by Israel would extend the borders of Jerusalem by annexing 3 more Arab towns and 27 Arab villages over and above what had already been unilaterally and illegally annexed in June 1967. Furthermore, reports emanating from the occupied territories referred to attempts in the Israeli Parliament to enact a law to confine holy Moslem religious places in Haram Esh-Sherif area to Al Aqsa and the Dome of the Rock mosques whereby the plaza of Haram Esh-Sherif and other religious and cultural buildings which constituted part of it and which were held sacred by the Moslems, would be subject to future illegal Israeli regulations and excavations. He stated that the Israeli authorities still declined to supply the Secretary-General, in spite of his repeated requests, with information on the "master plan" for "greater Jerusalem" which envisaged, *inter alia*, developments affecting the premises of the "Government House"—the headquarters of the UNTSO situated in the "no-man's land" in Jerusalem. At the close of his statement, the representative of Jordan reiterated the charge that Israel followed a systematic and determined policy of "Judaizing" the Holy City and its environs, and in this connexion, drew attention to the following points: that the Israeli annexationist measures in Jerusalem constituted a renunciation of the Israeli commitments under the Armistice Agreement of which Israel was a signatory; that they were a breach of the cease-fire Agreement which implied that troop movements must be halted and "any attempt to gain legal and geographical advantages from the current situation must be deplored"; that these measures were contrary to contemporary international law and practice which did not recognize the right of conquest or the right of the conqueror to acquire territory as a result of his conquest; that they were in contradiction of the principles of the United Nations Charter which reaffirmed the established principle that acquisition of territory by military conquest was inadmissible; that they were in violation of General Assembly and Security Council resolutions pertaining to Jerusalem, particularly General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) and Security Council resolutions 252 (1968), 267 (1969) and 271 (1969); that they were also in violation of the Hague Convention of 1907 and the Geneva Conventions of 1949 and international law and practice governing military occupation, the 1955 Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict, the Declaration of Human Rights, 1948 and the United Nations Convention on Civil and Political Rights; and that these measures undermined the sovereignty and territorial integrity of an independent and sovereign Member State of the United Nations. In view of the repeated Israeli violation of the United Nations resolutions, as well as international conventions, he felt that the Security Council should invoke whatever sanctions it deemed fit under Chapter VII of the Charter to ensure respect for its decisions and to prevent a fait accompli in Jerusalem from interfering with a just solution to the Middle East problem.²¹⁹

²¹¹ S/10313, OR, 26th yr., Suppl. for July-Sept. 1971, p. 63.

²¹² S/10075, S/10123, S/10130/Corr.1, S/10139, S/10149 and S/10152, OR, 26th yr., Suppl. for Jan.-Mar. 1971, pp. 36-39, 77, 81-86, 96, 102, 103-104 respectively; S/10169, OR, 26th yr., Suppl. for Apr.-June 1971, p. 21-22.

²¹³ S/10124, OR, 26th yr., Suppl. for Jan.-Mar. 1971, p. 77-79.

²¹⁴ S/10124/Add.1, OR, 26th yr., Suppl. for Apr.-June 1971, p. 20-21.

²¹⁵ 1579th meeting, paras. 3-5.

²¹⁶ *Ibid.*, para. 7.

²¹⁷ *Ibid.*, para. 9.

²¹⁸ 1580th meeting, paras. 2, 75; 1581st meeting, para. 45.

²¹⁹ 1579th meeting, paras. 17, 19, 20, 27, 28, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 76-86.

At the 1580th meeting on 16 September 1971, the representative of Israel* contended that the present complaint before the Security Council constituted an attempt on the part of Jordan to divert attention from its internal difficulties. He maintained that Jordan had been associated with Jerusalem only through its invasion of 1948, in violation of the Charter and of United Nations resolutions, and through the subsequent illegal occupation of the city's eastern sector. That occupation, he added, did not accord Jordan any rights, especially now that it had been terminated. It had never been recognized by any of the States Members of the United Nations and could not serve as a basis for invoking international conventions and instruments; nor could it be used as a lever to infringe upon the City's right to normal existence, to reconstruction and development. Contrary to the Jordanian allegations, there was no "master plan". The development of Jerusalem, including construction, having been interrupted by war and the subsequent bisection of the city had to proceed once more on its normal course. He denied Jordanian allegations that Israel contemplated the extension of the city's municipal boundaries to include neighbouring Arab towns and villages and their populations, and stated that the legislation referred to in the Jordanian complaint had been a private bill submitted by an individual member of the Israeli Parliament which had long ago been withdrawn. In conclusion, the representative of Israel declared that while rejecting any claims based on aggression against Jerusalem and the city's former illegal division, Israel would continue to be guided by the legitimate rights and interests of Jerusalem's citizens irrespective of nationality and faith and would scrupulously ensure the sanctity of the Holy Places, freedom of access to them and the jurisdiction of the various religious communities over them.²²⁰

At the 1582nd meeting on 25 September 1971, the representative of the USSR stated that the resolutions adopted by the Security Council and the General Assembly on the question of Jerusalem and on the situation in the Middle East were based on a generally recognized principle of international law that it was inadmissible to acquire territory through war.²²¹ Despite those resolutions, Israel continued to wage a policy aimed at conquering and assimilating Arab territories and preventing and subverting a peaceful political settlement in the area as provided for by Security Council resolution 242 (1967) of 22 November 1967. He concluded by expressing support for the demand of the Arab countries that a special mission of the Security Council be dispatched to Jerusalem.²²²

At the same meeting the representative of Somalia introduced²²³ a draft resolution²²⁴ which, he noted, took cognizance of the main issues of the question and attempted to chart a course of action for the Council that would take the United Nations one step forward in meeting its responsibilities.²²⁵

Subsequently the representative of Syria submitted²²⁶

²²⁰ 1580th meeting, paras. 6, 9, 11, 21, 28, 34, 61, 69-72.

²²¹ For discussion on the question of inadmissibility of acquisition of territory by force in connexion with Article 2(4), see chapter XII. Case 6.

²²² 1582nd meeting, paras. 4, 7, 8-15, 20, 26, 30. The suggestion was made by an invited member (Morocco) at the 1581st meeting, paras. 24, 25.

²²³ 1582nd meeting, para. 126.

²²⁴ S/10337, OR, 26th yr., Suppl. for July-Sept. 1971, p. 67.

²²⁵ 1582nd meeting, paras. 105, 106, 107, 108, 109, 110, 111, 127-133.

²²⁶ *Ibid.*, para. 154.

a number of amendments²²⁷ to the Somalian draft resolution.

In response to an appeal made by the representatives of France,²²⁸ the United States,²²⁹ United Kingdom,²³⁰ Somalia²³¹ and Italy²³² to withdraw his amendments in the interest of unanimity, the representative of Syria withdrew the second, third and fourth amendments which he had submitted but requested²³³ a vote to be taken on the first amendment.

At the 1582nd meeting on 25 September 1971, the Syrian amendment to the draft resolution submitted by Somalia was put to the vote and adopted²³⁴ by 13 votes in favour, none against with 2 abstentions.

Subsequently, paragraph 5 of the draft resolution was voted upon, a separate vote having been requested thereon by the representative of the USSR²³⁵ and adopted²³⁶ by 12 votes in favour, none against with 3 abstentions.

At the same meeting, the draft resolution, as amended, as a whole was put to the vote and adopted²³⁷ by 14 votes in favour, none against with 1 abstention. It read²³⁸ as follows:

"The Security Council,

"Recalling its resolutions 252 (1968) of 21 May 1968 and 267 (1969) of 3 July 1969 and the earlier General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967 concerning measures and actions by Israel designed to change the status of the Israeli-occupied section of Jerusalem,

"Having considered the letter of the Permanent Representative of Jordan on the situation in Jerusalem and the reports of the Secretary-General, and having heard the statements of the parties concerned on the question,

"Reaffirming the principle that acquisition of territory by military conquest is inadmissible,

"Noting with concern the non-compliance by Israel with the above-mentioned resolutions,

"Noting with concern also that since the adoption of the above-mentioned resolutions Israel has taken further measures designed to change the status and character of the occupied section of Jerusalem.

"1. Reaffirms its resolutions 252 (1968) and 267 (1969);

"2. Deplores the failure of Israel to respect the previous resolutions adopted by the United Nations concerning measures and actions by Israel purporting to affect the status of the City of Jerusalem;

"3. Confirms in the clearest possible terms that all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem, including expropriation of land and properties, trans-

²²⁷ S/10338/Rev.1, OR, 26th yr., Suppl. for July-Sept. 1971, p. 67.

²²⁸ 1582nd meeting, paras. 252-253.

²²⁹ *Ibid.*, para. 257.

²³⁰ *Ibid.*, para. 314.

²³¹ *Ibid.*, para. 317.

²³² *Ibid.*, para. 324.

²³³ *Ibid.*, para. 328.

²³⁴ *Ibid.*, para. 335.

²³⁵ *Ibid.*, paras. 279, 280, 330, 331, 332.

²³⁶ *Ibid.*, para. 338.

²³⁷ *Ibid.*, para. 339.

²³⁸ Resolution 298 (1971).

fer of populations and legislation aimed at the incorporation of the occupied section, are totally invalid and cannot change that status;

"4. *Urgently calls* upon Israel to rescind all previous measures and actions and to take no further steps in the occupied section of Jerusalem which may purport to change the status of the City or which would prejudice the rights of the inhabitants and the interests of the international community, or a just and lasting peace;

"5. *Requests* the Secretary-General, in consultation with the President of the Security Council and using such instrumentalities as he may choose, including a representative or a mission, to report to the Council as appropriate and in any event within sixty days on the implementation of the present resolution."

COMPLAINT BY THE GOVERNMENT OF CYPRUS

Decision of 10 June 1969 (1474th meeting): resolution 266 (1969)

On 2 June 1969, the Secretary-General submitted to the Security Council his report²³⁹ on the United Nations Operation in Cyprus covering developments from 3 December 1968 to 2 June 1969. In his report the Secretary-General noted that the situation during the period under review had been generally calm. There had been no major breaches of the cease-fire, although certain incidents had, at times, created tension. Relations between Greek and Turkish Cypriots had continued to show some improvements; in particular, there had been a marked increase in the number of contacts between members of both communities. An atmosphere more conducive to normalization had thus been created. He was further convinced that in the then existing circumstances, the peace-keeping work of the United Nations Force represented an indispensable element in maintaining and further improving the calm atmosphere in the island and in promoting the steps toward normalization. He therefore considered a further extension of the stationing of the United Nations Force to be imperative. Moreover, all the parties concerned supported its continued presence in Cyprus.

The Security Council considered the report of the Secretary-General at its 1474th meeting on 10 June 1969, at which meeting the agenda was adopted,²⁴⁰ without objection. The representatives of Cyprus, Greece and Turkey were invited²⁴¹ to participate in the discussion.

At the same meeting, as a result of the consultations held among members of the Council prior to the meeting, an agreement was reached on the text of a draft resolution²⁴² which read as follows:

"The Security Council,

"Noting from the report of the Secretary-General of 3 June 1969 (S/9233) that in the present circumstances the United Nations Peace-keeping Force in Cyprus is still needed if peace is to be maintained in the island,

"Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in

the Island it is necessary to continue the Force beyond 15 June 1969,

"Noting, from the observations in the report, that the improvement of the situation in Cyprus has been maintained during the period under review,

"1. *Reaffirms* its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August, 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June and 244 (1967) of 22 December 1967, and 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December 1968, and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 24 November 1967;

"2. *Urges* the parties concerned to act with the utmost restraint and to continue determined co-operative efforts to achieve the objectives of the Security Council by availing themselves in a constructive manner of the present auspicious climate and opportunities;

"3. *Extends* once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 December 1969, in the expectation that by then sufficient progress toward a final solution will make possible a withdrawal or substantial reduction of the Force."

At the same meeting the President (Paraguay) put to the vote the draft resolution which was adopted²⁴³ unanimously. After the vote the representative of the USSR stated that having regard to the wishes of the parties directly concerned, his Government would not object to the proposal for an extension of another six months of the stay of the United Nations Force in Cyprus in view of the fact that such an extension was in full conformity with the provisions of the Security Council resolution of 4 March 1964, i.e., they would continue to function under the existing mandate and be financed on a voluntary basis.²⁴⁴

Decision of 11 December 1969 (1521st meeting):

On 3 December 1969, the Secretary-General submitted to the Security Council his report²⁴⁵ on the United Nations operation in Cyprus covering developments from 3 June 1969 to 1 December 1969. In the report, the Secretary-General stated that despite the fact that there had been a great improvement as a result of nearly six years of patient and persistent efforts, in which the UNFICYP had played a vital role, the situation in Cyprus remained basically unstable and uncertain. He thus saw no other alternative but to recommend a further extension of the stationing of the United Nations Force in Cyprus.²⁴⁶

The Security Council considered the report of the Secretary-General at its 1521st meeting on 11 December

²³⁹ *Ibid.*, para. 64; resolution 266 (1969).

²⁴⁴ *Ibid.*, paras. 137-139.

²⁴⁵ S/9521 and Add.1, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, pp. 120-142.

²⁴⁶ The parties concerned had expressed their agreement to the proposed extension.

²³⁹ S/9233, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, pp. 175-185.

²⁴⁰ 1474th meeting, preceding para. 8.

²⁴¹ *Ibid.*, para. 8.

²⁴² *Ibid.*, paras. 10-11.

1969, at which meeting the agenda was adopted²⁴⁷ without objection. The representatives of Cyprus, Greece and Turkey were invited²⁴⁸ to participate in the discussion.

At the same meeting the President (Zambia) stated that as a result of prior informal consultations a draft resolution had been prepared. Subsequently, he announced that further consultations held with the members of the Council had resulted in a minor modification of the third preambular paragraph.²⁴⁹

The representative of the USSR while emphasizing that the United Nations peace-keeping operation in Cyprus should not continue indefinitely and having regard to the position of the interested parties, stated that his Government did not object to the proposed extension of the stationing of the United Nations Force for a further period of six months on condition that its mandate would be carried out in full accordance with the provisions of the Council resolution 186 of 4 March 1964 and its financing continued to be done on a voluntary basis.²⁵⁰

At the same meeting the President (Zambia) put to the vote the draft resolution which was adopted²⁵¹ unanimously. The text read²⁵² as follows:

"The Security Council,

"Noting from the report of the Secretary-General of 3 December 1969 (S/9521) that in the present circumstances the United Nations Peace-keeping Force in Cyprus is still needed if peace is to be maintained in the island,

"Noting that the Government (of) Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to continue the Force beyond 15 December 1969;

"Noting, from the observations in the report, that the improvement of the situation in Cyprus has continued during the period under review,

"1. Reaffirms its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August and 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June and 244 (1967) of 22 December 1967, and 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December 1968, and 266 (1969) of 10 June 1969 and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 24/25 November 1967;

"2. Urges the parties concerned to act with the utmost restraint and to continue determined co-operative efforts to achieve the objectives of the Security Council by availing themselves in a constructive manner of the present auspicious climate and opportunities;

²⁴⁷ 1521st meeting: preceding para. 1.

²⁴⁸ *Ibid.*, para. 1.

²⁴⁹ The amended third preambular paragraph read: "Noting from the observations in the report that the improvement of the situation in Cyprus has continued during the period under review."

²⁵⁰ 1521st meeting, paras. 69-70.

²⁵¹ *Ibid.*, para. 72; S/9550/Rev.1.

²⁵² Resolution 274 (1969).

"3. Extends once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 June 1970, in the expectation that by then sufficient progress toward a final solution will make possible a withdrawal or substantial reduction of the Force."

Decision of 9 June 1970 (1543rd meeting): resolution 281 (1970)

On 1 June 1970, the Secretary-General submitted to the Security Council his report²⁵³ covering the developments from 2 December 1969 to 1 June 1970. Having observed that in the prevailing circumstances it would be unrealistic to expect an early solution of the basic problems of Cyprus and having noted that reductions both in strength and the cost of UNFICYP had been put into effect in the past six months and that this process had been viewed with anxiety by both the Government of Cyprus and the Turkish Cypriot leadership which attached importance to the continued presence of United Nations troops for tranquillity and peace, the Secretary-General recommended that UNFICYP at its existing strength should be continued for a further six months.

The Security Council considered the report of the Secretary-General at its 1543rd meeting on 9 June 1970 at which meeting the provisional agenda was adopted without objection,²⁵⁴ and the representatives of Cyprus, Greece and Turkey were invited to participate in the Council's discussion.²⁵⁵

At the same meeting, the President (Nepal) announced that in the course of informal consultations among the members of the Security Council, a draft resolution²⁵⁶ had been prepared for consideration by the Council.²⁵⁷ He put to the vote the said draft resolution and it was adopted unanimously.²⁵⁸ The text read as follows:²⁵⁹

"The Security Council,

"Noting from the report of the Secretary-General of 1 June 1970 that in the present circumstances the United Nations Peace-keeping Force in Cyprus is still needed if peace is to be maintained in the island,

"Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to continue the Force beyond 15 June 1970,

"Noting also from the report the conditions prevailing in the island,

"1. Reaffirms its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August and 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June and 244 (1967) of 22 December 1967, 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December

²⁵³ S/9814, OR, 25th yr., Suppl. for April-June 1970, pp. 190-200.

²⁵⁴ 1543rd meeting, para. 4.

²⁵⁵ *Ibid.*, para. 5.

²⁵⁶ S/9831, adopted without change as resolution 281 (1970).

²⁵⁷ 1543rd meeting, para. 7.

²⁵⁸ *Ibid.*, para. 87.

²⁵⁹ Resolution 281 (1970).

1968, and 266 (1969) of 10 June and 274 (1969) of 11 December 1969, and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 25 November 1967;

"2. *Urges* the parties concerned to act with the utmost restraint and to continue determined co-operative efforts to achieve the objectives of the Security Council, by availing themselves in a constructive manner of the present auspicious climate and opportunities;

"3. *Extends* once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 December 1970, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force."

Subsequently, the representative of the USSR took note of the fact that over six years had elapsed since the United Nations Force in Cyprus had first appeared on the island. He considered it necessary to stress that the carrying out of this United Nations operation in the field of peace-keeping could not and must not continue indefinitely. By the very nature and length of this operation, it could not, in his view, serve as a prototype or model for a normal United Nations peace-keeping operation. The presence on the territory of an independent and sovereign State of foreign forces in itself, even under the aegis of the United Nations, could only be an extraordinary measure, which must end at the first opportunity. He stated that the USSR did not object to extending the stay of UNFICYP for another six-month period, it being understood that this extension was in full conformity with Security Council resolution 186 (1964) of 4 March 1964, in other words with the present functions of United Nations forces in Cyprus and the existing system for their financing on a voluntary basis.²⁶⁰

Decision of 10 December 1970 (1564th meeting): resolution 291 (1970)

On 2 December 1970, the Secretary-General submitted to the Security Council his report²⁶¹ covering the developments from 2 June 1970 to 1 December 1970. Noting that the situation prevailing in Cyprus was one of "negative stability", that is, the record of the past six months showed neither progress towards further normalization and the elimination of confrontation nor a return to the tense and explosive situation which had existed prior to the commencement of the intercommunal talks in June 1968, the Secretary-General recommended to the Security Council the extension of UNFICYP's mandate with agreement of the Governments of Cyprus, Greece and Turkey, for another period of six months in view of the fact that its withdrawal would involve an acute risk of a return to the pattern of intercommunal violence.

The Security Council considered the report of the Secretary-General at its 1564th meeting on 10 December 1970, at which meeting the provisional agenda was adopted without objection²⁶² and the representatives of Cyprus, Greece and Turkey were invited to participate in the discussion.²⁶³

At the same meeting, the President (USSR) stated that pursuant to informal consultations which had been held among the members of the Council, a draft resolution²⁶⁴ had been prepared.²⁶⁵ He put to the vote the said draft resolution and it was adopted unanimously.²⁶⁶ The text read as follows:²⁶⁷

"*The Security Council,*

"*Noting* from the report of the Secretary-General of 2 December 1970 that in the present circumstances the United Nations Peace-keeping Force in Cyprus is still needed if peace is to be maintained in the island,

"*Noting* that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to continue the Force beyond 15 December 1970,

"*Noting also* from the report the conditions prevailing in the island,

"1. *Reaffirms* its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August and 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June and 244 (1967) of 22 December 1967, 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December 1968, 266 (1969) of 10 June and 274 (1969) of 11 December 1969 and 281 (1970) of 9 June 1970, and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 25 November 1967;

"2. *Urges* the parties concerned to act with the utmost restraint and to continue determined co-operative efforts to achieve the objectives of the Security Council, by availing themselves in a constructive manner of the present auspicious climate and opportunities;

"3. *Extends* once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 June 1971, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force."

Subsequently, the representative of the USSR reiterated the position of his Government that so lengthy a stay as the seven-year presence of the United Nations troops in Cyprus could not be regarded as normal in any way and that the presence of foreign troops on the territory of an independent and sovereign State, even under the auspices of the United Nations, could be only a temporary and extraordinary measure to be terminated at the first opportunity. Having expressed the hope that that opportunity would arise not later than the end of the latest six-months term for the stay of the United Nations Force in Cyprus, he stated that it was on this understanding and also taking into account the position in this matter of the interested

²⁶⁰ 1543rd meeting, paras. 126-128.

²⁶¹ S/10005, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 57-71.

²⁶² 1564th meeting, preceding para. 1.

²⁶³ *Ibid.*, para. 1.

²⁶⁴ S/10036 adopted without change as resolution 291 (1970).

²⁶⁵ 1564th meeting, para. 3.

²⁶⁶ *Ibid.*, para. 86.

²⁶⁷ Resolution 291 (1970).

parties, that the USSR had not, at this time, raised the question of the withdrawal of these troops from Cyprus. He also noted that his Government had not objected to the extension of the stay of the United Nations troops in Cyprus for a further six-months period, on the understanding that the extension was to be effected in complete accordance with the provisions of Council resolution 186 (1964), namely that the present restricted functions of the troops would remain as before and the present operating arrangements for their financing on a voluntary basis would be maintained.²⁶⁸

Decision of 26 May 1971 (1568th meeting): resolution 293 (1971)

On 20 May 1971, the Secretary-General submitted to the Security Council his report²⁶⁹ covering the developments from 2 December 1970 to 19 May 1971. The Secretary-General reported that in the period under review there had been little perceptible improvement in the situation in Cyprus and no indication of progress towards a negotiated solution of the underlying problems of the island. On the contrary, there had, on occasion, been a tendency on the part of spokesmen both for the Cyprus Government and for the Turkish Cypriot community to adopt uncompromising attitudes in their public statements which had resulted in an aggravation of tension. There were strong indications that unless renewed effort was made on all sides to bridge the existing difficulties, Cyprus could be entering a new period of tension in which little substantial progress towards the solution of the main problems could be expected and the danger of renewed unrest was to be feared. In view of such circumstances, the Secretary-General recommended that the Council extend the mandate of the UNFICYP for a further period of six months until 15 December 1971. Having noted that all the parties principally concerned were in agreement with this recommendation, he stated that any sizable reduction of the operation would be inadvisable until an appreciable degree of elimination of confrontation between the forces on the island could be achieved. In this connexion, the Secretary-General, drawing attention to the fact that this constituted the nineteenth time that he had recommended to the Security Council the extension of the mandate of UNFICYP, observed that the prospect of an apparently indefinite commitment for the United Nations in Cyprus posed fundamental questions for the Organization in facing its responsibilities for the maintenance of international peace and security. He believed the time had come for a comprehensive review of this problem and expressed hope that members of the Security Council would give it serious consideration in the coming months and would give thought especially to constructive alternatives to the present arrangement.

The Security Council considered the report of the Secretary-General at its 1567th and 1568th meetings held on 26 May 1971.

At the 1567th meeting the Security Council adopted,²⁷⁰ without objection, the provisional agenda and invited the representatives of Cyprus, Greece and Turkey to participate in the discussion.²⁷¹

Subsequently, the President (Burundi) announced that during informal consultations which had been held

among the members of the Council a draft resolution²⁷² had been prepared.²⁷³

At the same meeting, the President put the draft resolution to the vote and it was adopted unanimously.²⁷⁴ The text read as follows:²⁷⁵

"The Security Council,

"Noting from the report of the Secretary-General of 20 May 1971 that in the present circumstances the United Nations Peace-keeping Force in Cyprus is still needed if peace is to be maintained in the island,

"Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to continue the Force beyond 15 June 1971,

"Noting also from the report the conditions prevailing in the island,

1. *Reaffirms* its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August and 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June and 244 (1967) of 22 December 1967, 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December 1968, 266 (1969) of 10 June and 274 (1969) of 11 December 1969, and 281 (1970) of 9 June and 291 (1970) of 10 December 1970, and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 25 November 1967;

"2. Urges the parties concerned to act with the utmost restraint and to continue determined cooperative efforts to achieve the objectives of the Security Council, by availing themselves in a constructive manner of the present auspicious climate and opportunities;

"3. Extends once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 December 1971, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force."

At the 1568th meeting held also on 25 May 1971, the representative of the USSR stated that his country's position on the Cyprus question remained valid and in force. The question of Cyprus had to be settled on the basis of independence, sovereignty and territorial integrity of the Republic of Cyprus and without any outside interference. All foreign forces had to be withdrawn from its territory. He emphasized once again that many years had elapsed since foreign military contingents called United Nations forces had for the first time been dispatched to Cyprus. Such a lengthy United Nations operation for the maintenance of peace could not serve as a model for other such operations. In itself, the presence on the territory of a sovereign and independent State of foreign troops—even under the

²⁶⁸ 1564th meeting, paras. 163-164.

²⁶⁹ S/10199, OR, 26th yr., Suppl. for Apr.-June 1971, pp. 50-60.

²⁷⁰ 1567th meeting, para. 1.

²⁷¹ *Ibid.*, para. 2.

²⁷² S/10209 adopted without change as resolution 293 (1971).

²⁷³ 1567th meeting, para. 3.

²⁷⁴ *Ibid.*, para. 127.

²⁷⁵ Resolution 293 (1971).

aegeis and in the name of the United Nations—could only be an extraordinary and short-term measure to be ended as soon as possible. On this understanding and taking into account the position of the parties concerned, his delegation had not at this time raised the question of complete withdrawal of United Nations forces from the territory of Cyprus. Further, the USSR had agreed with the extension on the understanding that it would be in full conformity with Council resolution 186 (1964) and subsequent resolutions on the question of Cyprus, that is, by adhering to the present functions of the forces and the present procedure for financing on a voluntary basis.²⁷⁶

Decision of 13 December 1971 (1613th meeting): resolution 305 (1971)

On 30 November 1971, the Secretary-General submitted to the Security Council his report²⁷⁷ covering the developments from 20 May to 30 November 1971. Having stated that the period under review had been marked by a deterioration of the general situation in Cyprus, the Secretary-General stated that the prevailing uneasiness had been due to the uncertainties of the intercommunal talks which had been deadlocked. He remained convinced that the best way of achieving a solution to the Cyprus problem was through a negotiated agreement between the two communities on its constitutional aspects. The Secretary-General also observed that the intercommunal talks in their present form had reached an impasse which could not be overcome without a new impetus. With this in mind, he had made some procedural suggestions designed to reactivate these talks and make them more effective. It was his suggestion that with a view to facilitating the future conduct of the intercommunal talks, his Special Representative in Cyprus should, in the exercise of the Secretary-General's good offices, take part in the talks between the representatives of the two communities and that the Governments of Greece and Turkey should each make available a constitutional expert who would attend the talks in an advisory capacity. He emphasized that there was no intention that the Special Representative should act as a mediator or put forward substantive proposals concerning solutions to the problem.

In his report, the Secretary-General also observed that two fears especially dominated the Cyprus problem—on the Greek Cypriot side the fear of partition and on the Turkish Cypriot side the fear of *enosis*. It was his view that if the Security Council were able to assist the parties in dispelling the difficulties created by these two ideas and, in doing so, to reaffirm its own determination to ensure that a just settlement would be reached in Cyprus within the principles of the Charter and the spirit and letter of its resolutions on the subject, an improvement in the atmosphere of the intercommunal talks and in the relations between the parties might result. He also expressed the view that on some of the basic issues the Council's advice, guidance and new initiatives, with the agreement of the parties, would be a reassuring and constructive element in their efforts to reach a settlement. It would be for the Council itself, he noted, to consider how best it might play such a role. In view of the present tension in Cyprus and the fact that it was essential to maintain quiet in the island while the search for a

solution to the Cyprus problem continued, the Secretary-General recommended, with the agreement of the parties concerned, an extension of the mandate of UNFICYP for a further period of six months, until 15 June 1972.

Referring to the fundamental problems that the prospect of an indefinite commitment for the United Nations in Cyprus posed for the Organization in facing its responsibilities for the maintenance of international peace and security, the Secretary-General stated that he had not put forward any suggestions regarding constructive alternatives to the present arrangement because the possibility of such alternatives depended on the outcome of ongoing efforts to reactivate the intercommunal talks and on the effect of such a development on the situation in the island.

The Security Council considered the report of the Secretary-General at its 1612th and 1613th meetings held on 13 December 1971. At the 1612th meeting of the Security Council, the provisional agenda was adopted without objection²⁷⁸ and the representatives of Cyprus, Greece and Turkey were invited to participate in the Council's discussion.²⁷⁹

Subsequently, the President announced that as a result of consultations held among the members of the Security Council prior to that meeting, a draft resolution²⁸⁰ had been prepared.²⁸¹ The draft resolution was put to the vote and adopted by 14 votes in favour to none against with 1 member not participating in the vote.²⁸² The text read as follows:²⁸³

"The Security Council,

"Noting from the report of the Secretary-General of 30 November 1971 that in the present circumstances the United Nations Peace-keeping Force in Cyprus is still needed if peace is to be maintained in the island,

"Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to continue the Force beyond 15 December 1971,

"Noting also from the report the conditions prevailing in the island,

"1. Reaffirms its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August and 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June and 244 (1967) of 22 December 1967, 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December 1968, 266 (1969) of 10 June and 274 (1969) of 11 December 1969, 281 (1970) of 9 June and 291 (1970) of 10 December 1970, and 293 (1971) of 26 May 1971, and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 25 November 1967;

²⁷⁸ 1612th meeting, preceding para. 1.

²⁷⁹ *Ibid.*, para. 3.

²⁸⁰ S/10441 adopted, without change but with the insertion in paragraph 2 of the words "and accelerate", which had been omitted, after the word "continue", as resolution 305 (1971).

²⁸¹ 1612th meeting, para. 5.

²⁸² *Ibid.*, para. 6.

²⁸³ Resolution 305 (1971).

²⁷⁶ 1568th meeting, paras. 111-115.

²⁷⁷ S/10401, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 42-55.

"2. Urges the parties concerned to act with the utmost restraint and to continue and accelerate determined co-operative efforts to achieve the objectives of the Security Council, by availing themselves in a constructive manner of the present auspicious climate and opportunities;

"3. Extends once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 June 1972, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force."

At the same meeting, the representative of Cyprus* stated, *inter alia*, that his Government had decided to accept, despite certain reservations, the Secretary-General's suggestions regarding the intercommunal talks, on the understanding that it did not create a precedent. He held that if the new effort, under the proposal of the Secretary-General, failed to bring about the achievement of the objectives of the Security Council—as stated in its resolution 186 (1964) of 4 March 1964—either the Council on its own initiative, or the Government of Cyprus, would ask the Security Council to utilize the Secretary-General's further suggestion that the Council should become more actively involved in assisting the parties in the search for a solution to the Cyprus problem.²⁸⁴

The representative of Turkey*, expressed confidence that continuation of contacts with the Secretary-General on the matter of reactivation of intercommunal talks by the parties concerned would soon produce a consensus upon which the talks might be resumed.²⁸⁵

The representative of Greece,* reiterated his Government's acceptance of the Secretary-General's suggestions regarding the reactivation of intercommunal talks and pointed out that participation of a representative of the Secretary-General in these conversations, and within the framework of the Secretary-General's good offices, could be in keeping with Council resolution 244 (1967) of 22 December 1967, specifically paragraph 3, on the basis of which the dialogues had begun.²⁸⁶

The representative of the USSR stated that his Government's earlier position on the question of Cyprus still remained valid and that it shared the view, expressed in the Secretary-General's report and also put forth by the Representative of Cyprus, that the Security Council should be more actively engaged in the search for a solution to the problem of Cyprus. The Security Council should once again study all possibilities for a settlement of the situation in Cyprus leading to a withdrawal of United Nations troops from the island. He noted that it was on this understanding and also bearing in mind the position on this issue of the parties concerned that the Soviet delegation had not at this time raised the question of a withdrawal of the United Nations troops from Cyprus.²⁸⁷

At the 1613th meeting on 13 December 1971, the President, on behalf of the Council, appealed to the interested parties to agree on the modalities of reactivating the talks in accordance with the suggestions made by the Secretary-General.²⁸⁸

²⁸⁴ 1612th meeting, paras. 30-31, 33-35, 37-38.

²⁸⁵ *Ibid.*, para. 52.

²⁸⁶ *Ibid.*, para. 68.

²⁸⁷ *Ibid.*, paras. 145, 147, 148, 152-156.

²⁸⁸ 1613th meeting, para. 72.

SITUATION IN SOUTHERN RHODESIA

Decision of 17 June 1969 (1477th meeting):
Statement by the President

Decision of 24 June 1969 (1481st meeting):
Rejection of the joint draft resolution

By letter²⁸⁹ dated 6 June 1969 addressed to the President of the Security Council, the representatives of Afghanistan, Algeria, Botswana, Burundi, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Laos, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Southern Yemen, Sudan, Swaziland, Syria, Thailand, Togo, Tunisia, Turkey, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia and Zambia requested the President of the Security Council to call an urgent meeting of the Council to consider the situation in Southern Rhodesia (Zimbabwe). It was stated in the letter that because of the lack of co-operation on the part of several Member States, notably South Africa and Portugal, the comprehensive mandatory sanctions imposed by Security Council resolution 253 (1968) of 29 May 1968 had failed to bring about the desired result. The illegal racist minority régime had continued to strengthen its authority over the Territory and its population and was contemplating further new measures designed to formalize the system of *apartheid* already in operation in the Territory. The rapid deterioration in the situation and the refusal of the United Kingdom to act in an appropriate manner—namely, to resort to the use of force—had created a serious situation which constituted an increased threat to international peace and security. The Council must take more energetic measures within the framework of Chapter VII of the Charter so that the people of Southern Rhodesia (Zimbabwe) could exercise their right to self-determination in accordance with General Assembly resolution 1514 (XV).

At the 1475th meeting on 13 June 1969, the Council adopted the agenda,²⁹⁰ including also at the request of the representatives of Algeria two reports²⁹¹ of the Committee established in pursuance of Security Council resolution 253 (1968). The Council considered the

²⁸⁹ S/9237 and Add.1 and 2, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 187. Document S/9237/Add.1, dated 9 June 1969, indicated the addition of Ivory Coast and Mongolia, and document S/9237/Add.2, dated 13 June 1969, the addition of Cyprus to the list of signatories of the letter.

²⁹⁰ 1475th meeting, para. 1.

²⁹¹ S/8954, *OR*, 23rd yr., *Suppl. for Oct.-Dec. 1968*, pp. 181-295 and S/9252 and Add.1, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, pp. 195-329. In its first report (S/8954) the Committee stated, among other things, that in contravention of resolution 232 (1966) there were some countries, besides South Africa and Portugal, which had continued to trade with Southern Rhodesia. In its second report (S/9252 and Add.1) the Committee stated that, as a result of the refusal of South Africa and Portugal to take measures in accordance with the Council's decisions and the failure of some other States to implement fully the provisions of resolution 253 (1968), it was compelled to observe that the sanctions established by that resolution against the illegal régime in Southern Rhodesia had not yet brought about the desired results. The Committee therefore felt that consideration should be given to more effective measures to ensure full implementation of Security Council resolution 253 (1968).

question at its 1475th to 1481st meetings, between 13 and 24 June 1969. The representatives of Burundi, Guinea, India, Mauritania, Somalia, Sudan, Saudi Arabia and the United Republic of Tanzania were invited to participate in the discussion.²⁹²

At the 1475th meeting, the President drew the attention²⁹³ of the Council to a letter²⁹⁴ dated 10 June 1969 from the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples transmitting the text of a resolution adopted on that date by the Special Committee on the situation in Southern Rhodesia.

At the same meeting, the representative of Algeria stated that a new examination of the problem of Southern Rhodesia by the Security Council was indispensable in view of the ineffectiveness of the economic sanctions imposed by Security Council resolution 253 (1968) and the progressive deterioration of the situation which the Council had already recognized as a threat to peace. Instead of facing insurmountable difficulties as a result of the sanctions, the illegal régime of Southern Rhodesia was on the verge of taking a new step to consolidate and blatantly reaffirm its racist character by putting its draft constitution to a referendum. The ineffectiveness of the economic sanctions was due primarily to the fact that the Territory had had sources of supply offered by South Africa and Portugal and also to the fact that certain other States had failed to implement fully the provisions of resolution 253 (1968). The administering Power, which was still primarily responsible for the situation in Southern Rhodesia, was refusing to take more determined measures called for by the African countries to put an end to the rebellion. The Security Council must therefore implement more extensive and effective measures with all the determination which the situation required and by bringing to bear the entire authority of the Council to ensure a more strict implementation of its decisions.²⁹⁵

The representative of Zambia said that the basic issue in Southern Rhodesia was the denial of the right of self-determination to the majority of the people by the illegal racist régime which controlled that Territory. In the face of the defiance of South Africa and Portugal which had doomed the sanctions to failure, the obvious course of action for the Security Council would be to extend the mandatory sanctions against those two countries. In order to succeed in Southern Rhodesia, the Security Council must be prepared to apply the provisions of Articles 41 and 42 of Chapter VII of the Charter. The United Kingdom had ruled out the only weapon by which it could have put an end to the rebellion for the reason that use of force would lead to unnecessary loss of life and property and that possibilities for a negotiated settlement existed. The

²⁹² 1477th meeting, paras. 1-2, 74; 1478th meeting, paras. 1-4; 1480th meeting, paras. 1-3.

²⁹³ 1475th meeting, para. 6.

²⁹⁴ S/9244, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 190. The resolution adopted by the Special Committee on Southern Rhodesia, among other things, drew the attention of the Security Council to the gravity of the situation in Southern Rhodesia which constituted a threat to international peace and security, and to the urgent necessity of applying certain measures envisaged under Chapter VII of the Charter to the illegal régime in Southern Rhodesia and the Governments of South Africa and Portugal, which had refused to carry out the mandatory decisions of the Security Council. For discussion concerning action under Chapter VII, see chapter XI, Case 4.

²⁹⁵ 1475th meeting, paras. 9-24.

proposed draft constitution made it clear, however, that there was no possibility for a negotiated settlement and a racial war appeared inevitable. In the absence of effective measures by the Council, there would be no choice left but to use force; the only question was whether it would be applied by the administering Power or by the people of Zimbabwe themselves. He urged the Council to ponder the consequences and to take effective measures on the matter.²⁹⁶

The representatives of Burundi,* Guinea,* Hungary, India,* Mauritania,* Nepal, Pakistan, Senegal, Somalia,* Sudan,* the USSR and the United Republic of Tanzania* also deplored the ineffectiveness of the economic sanctions and the failure of certain Member States to fully implement the relevant decisions of the Security Council and called for more determined and effective measures including the application of the provisions of Chapter VII of the Charter and the use of force by the administering Power.²⁹⁷

Speaking at the 1475th meeting, the representative of the United Kingdom stressed the importance of an urgent and unanimous action by the Security Council, prior to the proposed referendum in Southern Rhodesia, to condemn the proposals for a new constitution, whose blatantly racist character offended every democratic principle, and again to call upon all States to refuse to recognize the illegal régime in whatever form. Thereafter, the British Government would be prepared to consult other Governments, particularly African Governments, on further action. On its part, his Government was resolved to pursue steadily the current course of denying recognition and maintaining sanctions against the illegal régime. The most important principle was that no settlement should be accepted which was not approved by the people of Rhodesia as a whole.²⁹⁸

At the 1477th meeting on 17 June 1969, the President of the Council (Paraguay) made the following statement:²⁹⁹

"In the debate on the question under consideration, so far all members of the Security Council have expressed their views. In the course of their statements, the members of the Security Council unanimously regarded the proposed referendum that the illegal régime in Southern Rhodesia is planning to hold on 20 June as illegal, considered that the so-called constitutional proposals are invalid, and declared that any constitution promulgated by the régime of the racist minority could have no legal effect.

"In view of the continuing danger to international peace and security presented by the situation in Southern Rhodesia, the Council will now continue its consideration of this question."

At the 1479th meeting on 19 June 1969, the representative of Algeria introduced³⁰⁰ a draft resolution,³⁰¹

²⁹⁶ *Ibid.*, paras. 31-45.

²⁹⁷ For texts of relevant statements, see: 1475th meeting, Pakistan, paras. 87-118; Senegal, paras. 49, 50, 63; 1476th meeting, Hungary, paras. 82-85; Nepal, paras. 17-23; USSR, paras. 24-52; 1477th meeting, Guinea,* paras. 60-69; Mauritania,* paras. 20-30; Somalia,* paras. 77-90; United Republic of Tanzania,* paras. 38-51; 1478th meeting, India,* paras. 9-21; Sudan,* paras. 26-32; 1480th meeting, Burundi,* paras. 27-34.

²⁹⁸ 1475th meeting, paras. 70-83.

²⁹⁹ 1477th meeting, paras. 4-5.

³⁰⁰ 1479th meeting, paras. 7-21.

³⁰¹ S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338.

jointly sponsored by Algeria, Nepal, Pakistan, Senegal and Zambia, under which the Council, reaffirming its resolution 232 (1966) in which it had determined that the situation in Southern Rhodesia constituted a threat to international peace and security, would emphasize the responsibility of the Government of the United Kingdom, as the administering Power, for the situation prevailing in Southern Rhodesia and condemn the so-called constitutional proposals of the illegal racist minority régime aimed at perpetuating its power and sanctioning the system of *apartheid* in Southern Rhodesia; urge the United Kingdom to take urgently all necessary measures, including the use of force, to bring to an end the rebellion in Southern Rhodesia and enable the people of Zimbabwe to exercise their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV); decide that all States should sever immediately all economic and other relations with the illegal régime in Southern Rhodesia, including railway, maritime, air transport, postal, telephonic and wireless communications and other means of communication; censure the assistance given by the Governments of Portugal and South Africa to the illegal régime in defiance of resolutions of the Security Council; decide that Member States and members of the specialized agencies should carry out the measures dealing with imports and exports envisaged in resolution 253 (1968) and in the present resolution against the Republic of South Africa and the Portuguese colony of Mozambique; call upon all Member States and members of the specialized agencies to carry out the decisions of the Security Council in accordance with their obligations under the Charter; call upon Member States and, in particular, those with primary responsibility under the Charter for the maintenance of international peace and security to assist effectively in the implementation of the measures called for by the present resolution; urge all States to render moral and material assistance to the national liberation movements of Zimbabwe in order to enable them to achieve their freedom and independence; request all States to report to the Secretary-General on the measures taken to implement the present resolution; and request the Secretary-General to report to the Security Council on the progress of the implementation of the resolution.

At the same meeting, the representative of the United Kingdom referred to the demand by a number of representatives for the use of force by his Government and stated that, since Rhodesia was first formed as a self-governing colony in 1923, there had never been a British army there or any British official in administrative authority. The question therefore was not one of merely taking local action to maintain order, but one of invasion and of starting a war. The United Kingdom was not in a position to take action of that kind because, once force was used, escalation could easily ensue and its results were incalculable. As for the call to extend the sanctions to Portugal and South Africa, he reiterated his Government's position that, in view of the long and extensive economic ties between the United Kingdom and South Africa, it could not proceed to the extreme action of a full trade boycott backed by a naval blockade of all southern Africa. In conclusion, ruling out the use of force and the extension of the sanctions to South Africa and Portugal, he reaffirmed his Government's view that the sanctions against Southern Rhodesia must be maintained and, if possible, intensified.³⁰²

³⁰² 1479th meeting, paras. 30-39.

The representatives of Colombia, Finland, France, Paraguay and the United States, after condemning the draft constitution that the illegal régime of Southern Rhodesia was putting to a vote, stated that the Council should concentrate on finding effective measures on the basis of unanimity rather than on proposals such as the use of force and the extension of the economic sanctions to South Africa and Portugal, which were bound to divide the Council.³⁰³

At the 1481st meeting on 24 June 1969, the five-Power draft resolution was put to the vote and was not adopted. It received 8 votes in favour, none against and 7 abstentions.³⁰⁴

Decision of 17 March 1970 (1534th meeting):
Rejection of a motion for adjournment

Decision of 17 March 1970 (1534th meeting):
Rejection of a motion for suspension

Decision of 17 March 1970 (1534th meeting):
Rejection of the United Kingdom draft resolution

Decision of 17 March 1970 (1534th meeting):
Rejection of the joint draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia

Decision of 18 March 1970 (1535th meeting): resolution 277 (1970)

By letter³⁰⁵ dated 3 March 1970, the representative of the United Kingdom informed the President of the Security Council that "the illegal régime in Southern Rhodesia has purported to declare the dissolution of its illegal parliament and the assumption of republican status". Stating further that that declaration, like the 1965 declaration of independence and subsequent acts, was illegal, the United Kingdom Government requested an urgent meeting of the Council.

At the 1530th meeting on 6 March 1970, the Security Council included the letter from the representative of the United Kingdom in its agenda³⁰⁶ and considered the question at the 1530th to 1535th meetings held between 6 and 18 March 1970. At its 1531st meeting on 11 March 1970, the Council also included in its agenda a letter³⁰⁷ dated 6 March 1970 addressed to the President of the Security Council by the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Congo (People's Republic of), Dahomey, Equatorial Guinea, Ethiopia, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia, requesting an urgent meeting of the Council to consider "the deterioration in the situation in Southern Rhodesia as a result of the proclamation of a so-called republic by the illegal, racist, minority régime in Salisbury, which is thereby endangering international peace and security". The repre-

³⁰³ For texts of relevant statements, see: 1475th meeting, United States, paras. 119-136; 1476th meeting, Colombia, paras. 61-62; Finland, paras. 54-58; France, paras. 6-10; 1480th meeting, Finland, paras. 6-9; 1481st meeting, Colombia, para. 109; France, para. 103; Paraguay, paras. 129-139; United States, paras. 110-115.

³⁰⁴ 1481st meeting, para. 78.

³⁰⁵ S/9675, OR, 25th yr., Suppl. for Jan.-March 1970, p. 149.

³⁰⁶ 1530th meeting, para. 3.

³⁰⁷ S/9682, OR, 25th yr., Suppl. for Jan.-March 1970, p. 153.

representative of Gabon subsequently associated himself with the above request.³⁰⁸

At the 1531st meeting on 11 March the representatives of Algeria, Senegal and Pakistan were invited to participate in the discussion.³⁰⁹ At subsequent meetings, the Council also invited the representatives of Yugoslavia,³¹⁰ India³¹¹ and Saudi Arabia³¹² to participate in the discussion.

At the 1530th meeting on 6 March 1970, the President drew the attention of the Council to a United Kingdom draft resolution submitted on 3 March 1970,³¹³ which was subsequently revised. Under the revised draft resolution,³¹⁴ the Security Council, after recalling and reaffirming its resolutions 216 (1965), 217 (1965), 221 (1966), 232 (1966) and 253 (1968), would condemn the illegal acts of the racist minority régime in Southern Rhodesia, including the purported assumption of a republican status; and decide, in accordance with Article 41 of the United Nations Charter, that all Member States of the United Nations should refrain from recognizing the illegal régime or from rendering any assistance to it, and urge States not Members of the United Nations, having regard to the principles stated in Article 2 of the Charter, to act accordingly.

Introducing the revised text, the representative of the United Kingdom stated that the Council should concentrate on a single purpose, namely, to deny firmly and unanimously recognition of the republican status purportedly declared by the illegal régime in Salisbury. He urged the Council to act in full agreement and without delay in adopting the draft resolution, as it had done earlier in adopting resolution 216 (1965).³¹⁵

At the request of the representative of Zambia, who, speaking on behalf of the delegations of Burundi, Sierra Leone and Zambia, explained that the Organization of African Unity had decided to send a delegation of Foreign Ministers to participate in the Security Council discussion, the Council decided to adjourn until 10 March 1970.³¹⁶

At the 1531st meeting on 11 March 1970, the representative of Zambia stated that he had been directed by the Organization of African Unity to place before the Council the following specific requests: that the existence of an illegal régime in Rhodesia should be condemned and no recognition given to it; that all States should undertake all appropriate measures to ensure that no act should be performed in their territories by anyone or any institution whatsoever on behalf of the illegal minority régime; that all States should, in accordance with Chapter VII of the Charter, immediately sever all consular, economic, military or other relations with that régime, including rail, maritime and air transport and postal, telegraphic, radio and other means of communication; and that those measures should also be applied by the specialized agencies and organs of the United Nations. The African countries believed that the permanent members of the Security Council had a special responsibility to see to it that an end was put to the threat to international

peace and security posed by the illegal régime. Furthermore, the United Kingdom had the primary responsibility over the Territory and should apply all means at its disposal, including the use of force, to end the rebellion.³¹⁷

The representative of Sierra Leone noted that in view of the open defiance of Council decisions by South Africa and Portugal, there was no alternative but to extend the sanctions to cover them as well and to take measures under Articles 41 and 42 of Chapter VII of the Charter, since the Council had recognized in its previous resolutions that the situation in Southern Rhodesia constituted a threat to international peace and security.³¹⁸

The representative of the United Kingdom reiterated his appeal for an urgent and unanimous decision to deny recognition of the illegal régime and the illegal declaration of republican status, and added that he had never intended that the matter before the Council should solely be a question of recognition. In particular, his delegation would not retreat from any of the Council's previous decisions and would be ready to examine every aspect of the matter in consultation with the other members of the Council.³¹⁹

At the 1532nd meeting on 12 March 1970, the representative of the USSR stated that the Security Council had already taken certain measures against the illegal régime in South Africa. These measures were taken within the framework of Article 41 of Chapter VII of the Charter. They were also pursuant to Article 25 of the Charter which was mandatory for all Member States. However these measures had failed due to the fact that Portugal and South Africa had flouted the decision of the Council and had continued to maintain broadly based trade, transport, military and all kinds of relations with Southern Rhodesia. Moreover, through arrangements with its NATO allies the United Kingdom had effectively prevented the adoption by the Security Council of more effective measures against Southern Rhodesia, and the principal violators of the sanctions, South Africa and Portugal. At the same time it had refused to take any substantive measures of its own. The Security Council was, however, duty bound to take further effective measures in order to enable the people of Southern Rhodesia to exercise their right to self-determination.³²⁰

At the same meeting the representative of Syria introduced³²¹ a draft resolution³²² jointly sponsored by Burundi, Nepal, Sierra Leone, Syria and Zambia. Under its provisions, the Security Council, acting under Chapter VII of the Charter, would: (1) condemn the proclamation of a republic in Zimbabwe by the racist minority régime in Salisbury and declare null and void any form of government not based on the principle of majority rule; (2) decide that all States Members of the United Nations should refrain from recognizing the illegal régime and urge States not members of the Organization, having regard to the principles set out in Article 2 of the Charter, to act accordingly; (3) call upon all States to take measures as appropriate, at the national level, to ensure that any act performed by officials and institutions of the illegal régime in South-

³⁰⁸ 1531st meeting, para. 1.

³⁰⁹ *Ibid.*, para. 2.

³¹⁰ 1532nd meeting, para. 2.

³¹¹ *Ibid.*, para. 122.

³¹² 1534th meeting, para. 48.

³¹³ S/9676 (mimeo).

³¹⁴ S/9676/Rev.1, 1530th meeting, para. 9.

³¹⁵ 1530th meeting, paras. 16-23.

³¹⁶ *Ibid.*, para. 84.

³¹⁷ 1531st meeting, paras. 21, 23-27.

³¹⁸ *Ibid.*, paras. 40-41.

³¹⁹ *Ibid.*, paras. 94-96.

³²⁰ 1532nd meeting, paras. 5-32.

³²¹ *Ibid.*, para. 72.

³²² S/9696, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, pp. 160-161.

ern Rhodesia or by persons and organizations purporting to act for it should not be accorded any official recognition, including judicial notice, by the competent organs of their State; (4) emphasize the responsibility of the Government of the United Kingdom, as the administering Power, with regard to the situation in Southern Rhodesia; (5) condemn the persistent refusal of the Government of the United Kingdom to use force to bring an end to the rebellion in Southern Rhodesia and enable the people of Zimbabwe to exercise their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV); (6) decide that all States should immediately sever all diplomatic, consular, economic, military and other relations with the illegal régime in Southern Rhodesia, including railway, maritime, air transport, postal, telegraphic and wireless communications and other means of communication; (7) request the Government of the United Kingdom, as the administering Power, to rescind any existing agreements on the basis of which foreign consular, trade and other representations might currently be maintained in or with Southern Rhodesia; (8) condemn the assistance given by the Governments of Portugal and South Africa and by other imperialist Powers to the illegal régime in defiance of Security Council resolutions and demand the immediate withdrawal of South African troops from the Territory of Zimbabwe; (9) decide that Member States and members of the specialized agencies should apply against South Africa and Portugal measures set out in resolution 253 (1968) and in the present resolution; (10) call upon all Member States and members of the specialized agencies to carry out the decisions of the Security Council in accordance with their obligations under the Charter; (11) call upon all States Members of the United Nations, and, in particular, those with primary responsibility under the Charter for the maintenance of international peace and security, to assist effectively in the implementation of the present resolution; (12) urge all States to render moral and material assistance to the national liberation movements of Zimbabwe in order to enable them to regain their freedom and independence; (13) request all States to report to the Secretary-General on the measures taken to implement the present resolution; and (14) request the Secretary-General to report to the Security Council on the progress made in implementing the present resolution.⁸²⁵

The representative of Finland observed that neither of the two draft resolutions before the Council provided a basis for unanimous action. Consequently, the Security Council should make every effort to agree on a course of action acceptable to all of its members. In this regard, his delegation suggested that the Council might, under the mandatory provisions of Article 41 of the Charter,⁸²⁴ decide that all Member States should immediately sever diplomatic, consular, trade, military and other relations with the illegal régime and interrupt any existing means of transportation to and from Southern Rhodesia. It should also exclude that régime from participation in any multilateral relations between States and suspend its membership in some of the specialized agencies. Furthermore, the Council should call upon Member States to carry out the sanctions more effectively and might give a wider and more

⁸²³ 1532nd meeting, paras. 65-86.

⁸²⁴ For consideration of applicability of Article 41, see chapter XI, Case 5.

active role to the Committee established by resolution 253 (1968). Finally, his delegation suggested that more assistance should be given by States Members of the United Nations and by members of the specialized agencies and other international organizations to Zambia, a country that very strongly felt the impact of the consequences of the measures taken against Southern Rhodesia.⁸²⁵

At the 1534th meeting on 17 March 1970, the representative of the United Kingdom, referring to the demands made by several delegations for the use of force, reiterated his Government's position that it could not undertake to start a war by invading Southern Rhodesia which had been self-governing for half a century. Nor was his Government in a position to extend sanctions against all southern Africa.⁸²⁶

At the same meeting, the representative of the United Kingdom formally proposed, in view of the new suggestions made at the previous meeting by the representative of Finland, a twenty-four hour adjournment in order to facilitate further consultations before voting.⁸²⁷ After a brief procedural discussion, the Council voted upon the United Kingdom motion and rejected it⁸²⁸ by 6 votes in favour, 7 against and 2 abstentions.

At the same meeting, the representative of the United States formally moved that, in view of the possibility that the five-Power draft resolution might be voted upon paragraph-by-paragraph, the Council suspend its meeting for half an hour, in order to give the members time to reflect on the new situation before voting on the draft resolution before it.⁸²⁹ After further procedural discussion, the Security Council rejected⁸³⁰ the United States proposal by 6 votes in favour, 7 against with 2 abstentions.

The Security Council proceeded then to vote upon the United Kingdom draft resolution, which was not adopted.⁸³¹ There were 5 votes in favour, none against, with 10 abstentions.

The President (Colombia) stated that in putting to the vote in accordance with the request by the representative of Spain and in the absence of objections to it, separate votes would be taken on operative paragraphs 8 and 9 of the five-Power draft resolution. Operative paragraphs 8 and 9 were not adopted. Each of them received 7 votes in favour, none against with 8 abstentions. The five-Power draft resolution, as modified by the deletion of operative paragraphs 8 and 9, was then voted upon. The result of the vote was 9 in favour, 2 against, with 4 abstentions. It failed of adoption, owing to the negative votes of two permanent members of the Security Council.⁸³²

Speaking after the vote, the representative of Finland maintained that the Council therefore must make every effort to agree on a course of action which would intensify the international pressures on the illegal régime in Southern Rhodesia. Bearing that in mind, his delegation was submitting to the Council a draft resolution⁸³³

⁸²⁵ 1533rd meeting, paras. 47-58.

⁸²⁶ 1534th meeting, paras. 10-19.

⁸²⁷ *Ibid.*, para. 132.

⁸²⁸ *Ibid.*, para. 138. See also chapter I, part V.

⁸²⁹ *Ibid.*, paras. 139-149.

⁸³⁰ *Ibid.*, para. 172. See also chapter I, part VI.

⁸³¹ *Ibid.*, para. 185.

⁸³² *Ibid.*, paras. 205-207.

⁸³³ S/9709, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 165-166.

along the lines of his suggestions made to the Council at its previous meeting.³³⁴

At the 1535th meeting on 18 March 1970, the representative of Finland stated that, after consultations with the sponsors of the various draft resolutions that had been considered by the Council, he was submitting a revised text³³⁵ of his delegation's draft resolution.³³⁶

At the same meeting, the revised draft resolution was adopted³³⁷ by 14 votes in favour, none against, with 1 abstention. The resolution³³⁸ read:

"The Security Council,

"Reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968,

"Reaffirming that, to the extent not superseded in the present resolution, the measures provided for in resolutions 217 (1965), 232 (1966) and 253 (1968), as well as those initiated by Member States in implementation of those resolutions, shall continue in effect,

"Taking into account the reports of the Committee established in pursuance of Security Council resolution 253 (1968),

"Noting with grave concern that:

"(a) The measures so far taken have failed to bring the rebellion in Southern Rhodesia to an end,

"(b) Some States, contrary to resolutions 232 (1966) and 253 (1968) of the Security Council and to their obligations under Article 25 of the Charter of the United Nations, have failed to prevent trade with the illegal régime of Southern Rhodesia,

"(c) The Governments of the Republic of South Africa and Portugal have continued to give assistance to the illegal régime of Southern Rhodesia, thus diminishing the effects of the measures decided upon by the Security Council,

"(d) The situation in Southern Rhodesia continues to deteriorate as a result of the introduction by the illegal régime of new measures, including the purported assumption of republican status, aimed at repressing the African people in violation of General Assembly resolution 1514 (XV) of 14 December 1960,

"Recognizing the legitimacy of the struggle of the people of Southern Rhodesia to secure the enjoyment of their rights as set forth in the Charter and in conformity with the objectives of General Assembly resolution 1514 (XV),

"Reaffirming that the present situation in Southern Rhodesia constitutes a threat to international peace and security,

"Acting under Chapter VII of the Charter,

"1. Condemns the illegal proclamation of republican status of the Territory by the illegal régime in Southern Rhodesia;

"2. Decides that Member States shall refrain from recognizing this illegal régime or from rendering any assistance to it;

"3. Calls upon Member States to take appropriate measures, at the national level, to ensure that any act performed by officials and institutions of the illegal régime in Southern Rhodesia shall not be accorded any recognition, official or otherwise, including judicial notice, by the competent organs of their State;

"4. Reaffirms the primary responsibility of the Government of the United Kingdom of Great Britain and Northern Ireland to enable the people of Zimbabwe to exercise their right to self-determination and independence, in accordance with the Charter of the United Nations and in conformity with General Assembly resolution 1514 (XV), and urges that Government to discharge fully its responsibility;

"5. Condemns all measures of political repression, including arrests, detentions, trials and executions, which violate fundamental freedoms and rights of the people of Southern Rhodesia;

"6. Condemns the policies of the Government of South Africa and Portugal, which continue to maintain political, economic, military, and other relations with the illegal régime in Southern Rhodesia in violation of the relevant resolutions of the United Nations;

"7. Demands the immediate withdrawal of South African police and armed personnel from the Territory of Southern Rhodesia;

"8. Calls upon Member States to take more stringent measures in order to prevent any circumvention by their nationals, organizations, companies and other institutions of their nationality, of the decisions taken by the Security Council in resolutions 232 (1966) and 253 (1968), all provisions of which shall fully remain in force;

"9. Decides, in accordance with Article 41 of the Charter and in furthering the objective of ending the rebellion, that Member States shall:

"(a) Immediately sever all diplomatic, consular, trade, military and other relations that they may have with the illegal régime in Southern Rhodesia, and terminate any representation that they may maintain in the Territory;

"(b) Immediately interrupt any existing means of transportation to and from Southern Rhodesia;

"10. Requests the Government of the United Kingdom, as the administering Power, to rescind or withdraw any existing agreements on the basis of which foreign consular, trade and other representation may at present be maintained in or with Southern Rhodesia;

"11. Requests Member States to take all possible further action under Article 41 of the Charter to deal with the situation in Southern Rhodesia, not excluding any of the measures provided in that Article;

"12. Calls upon Member States to take appropriate action to suspend any membership or associate membership that the illegal régime of Southern Rhodesia has in the specialized agencies of the United Nations;

"13. Urges member States of any international or regional organizations to suspend the membership of the illegal régime of Southern Rhodesia from their respective organizations and to refuse any request for membership from that régime;

³³⁴ 1534th meeting, paras. 209-221.

³³⁵ S/9709/Rev.1, adopted without change as resolution 277 (1970).

³³⁶ 1535th meeting, paras. 4-17.

³³⁷ *Ibid.*, para. 85.

³³⁸ Resolution 277 (1970).

"14. *Urges* Member States to increase moral and material assistance to the people of Southern Rhodesia in their legitimate struggle to achieve freedom and independence;

"15. *Requests* the specialized agencies and other international organizations concerned, in consultation with the Organization of African Unity, to give aid and assistance to refugees from Southern Rhodesia and those who are suffering from oppression by the illegal régime of Southern Rhodesia;

"16. *Requests* Member States, the United Nations, the specialized agencies and other international organizations in the United Nations system to make an urgent effort to increase their assistance to Zambia as a matter of priority with a view to helping it solve such special economic problems as it may be confronted with arising from the carrying out of the decisions of the Security Council on this question;

"17. *Calls upon* Member States, in particular those with primary responsibility under the Charter for the maintenance of international peace and security, to assist effectively in the implementation of the measures called for by the present resolution;

"18. *Urges*, having regard to the principle stated in Article 2 of the Charter, States not Members of the United Nations to act in accordance with the provisions of the present resolution;

"19. *Calls upon* Member States to report to the Secretary-General by 1 June 1970 on the measures taken to implement the present resolution;

"20. *Requests* the Secretary-General to report to the Security Council on the progress of the implementation of the present resolution, the first report to be submitted no later than 1 July 1970;

"21. *Decides* that the Committee of the Security Council established in pursuance of resolution 253 (1968), in accordance with rule 28 of the provisional rules of procedure of the Council, shall be entrusted with the responsibility of:

"(a) Examining such reports on the implementation of the present resolution as will be submitted by the Secretary-General;

"(b) Seeking from Member States such further information regarding the effective implementation of the provisions laid down in the present resolution as it may consider necessary for the proper discharge of its duty to report to the Security Council;

"(c) Studying ways and means by which Member States could carry out more effectively the decisions of the Security Council regarding sanctions against the illegal régime of Southern Rhodesia and making recommendations to the Council;

"22. *Requests* the United Kingdom, as the administering Power, to continue to give maximum assistance to the Committee and to provide the Committee with any information it may receive in order that the measures envisaged in the present resolution as well as resolutions 232 (1966) and 253 (1968) may be rendered fully effective;

"23. *Calls upon* Member States, as well as the specialized agencies, to supply such information as may be sought by the Committee in pursuance of the present resolution;

"24. *Decides* to maintain this item on its agenda for further action as appropriate in the light of developments."

Decision of 10 November 1970 (1556th meeting):

Rejection of the joint draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia

Decision of 17 November 1970 (1557th meeting): resolution 288 (1970)

By letter³³⁹ dated 6 November 1970 addressed to the President of the Security Council, the representatives of Burundi, Nepal, Sierra Leone, Syria and Zambia stated that, since the adoption of Security Council resolution 277 (1970), a number of disturbing political and economic developments had taken place in the Territory of Southern Rhodesia which required the close examination and attention of the Security Council and requested an early meeting of the Security Council.

At the 1556th meeting on 10 November 1970, the Council included³⁴⁰ the above-mentioned letter together with the third report of the Committee established in pursuance of Security Council resolution 253 (1968)³⁴¹ in the agenda. The question was considered at the 1556th and 1557th meetings of the Council on 10 and 17 November 1970.

At the same meeting, the President drew the attention of the Council to a draft resolution,³⁴² submitted by the representatives of Burundi, Nepal, Sierra Leone, Syria and Zambia, by which the Security Council, acting under Chapter VII of the Charter, would (1) call upon the United Kingdom as the administering Power not to grant independence to Southern Rhodesia without the fulfilment of majority rule; (2) decide that the current sanctions against Southern Rhodesia should remain in force; (3) urge all States to fully implement all Security Council resolutions pertaining to Southern Rhodesia in accordance with their obligations under Article 25 of the Charter and deplore the attitude of those States that had persisted in giving moral, political and economic assistance to the illegal régime; and (4) urge all States not to grant any form or recognition to the illegal régime in Southern Rhodesia.

The representative of Nepal, introducing the above draft resolution, stated that the third report of the Security Council Committee on sanctions, dated 15 June 1970³⁴³ and the Secretary-General's introduction to his annual report³⁴⁴ presented the incontrovertible evidence that the policies of sanctions had failed in their objective of bringing down the illegal régime of Southern Rhodesia. That failure was due to lack of co-operation of certain States. The draft resolution, therefore, expressed grave concern that certain States, contrary to their obligations under Article 25 of the Charter, had not complied with the provisions of previous Security Council resolutions concerning application of sanctions. The most important part of the draft resolution was operative paragraph 1, which sought to clarify the central issue involved in the situation in Southern Rhodesia, namely, the denial of the inalienable right of self-determination to the majority

³³⁹ S/9975/Rev.1, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 36.

³⁴⁰ 1556th meeting, preceding para. 67.

³⁴¹ S/9844 and Add.1-3, OR, 25th yr., Special Supplements Nos. 3 and 3A.

³⁴² S/9976, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 36-37.

³⁴³ S. 9844 and Add.1-3. See foot-note 340 above.

³⁴⁴ A/8001, Add.1, GA, OR, 25th Session, Suppl. No. 1A, para. 11.

of the population by a racist minority régime. The responsibility of the United Nations and that of the administering Power would not end with the overthrow of the illegal régime but with the full and effective application of the principle of self-determination. Accordingly, the administering Power was requested not to grant independence to Southern Rhodesia without the fulfilment of majority rule.³⁴⁵

The representative of Zambia said that, since the Council had last considered the situation in Southern Rhodesia in March 1970, the illegal régime in Southern Rhodesia had consolidated its political, military and economic position. One of the most disturbing developments was the attitude of the new Government of the United Kingdom towards the question of sanctions. Although at one time the British Government had accepted the policy of no independence before majority rule, the present Government appeared to be willing to negotiate with the rebel régime and to accept a settlement that would leave the African majority of the Territory under the control of the white minority.³⁴⁶

The representative of the United Kingdom stated that his Government had been taking positive steps to meet its responsibilities with regard to the situation in Southern Rhodesia. Thus, it was considering whether there was a basis for a settlement of this problem in accordance with the five principles it had formulated. The first of those principles was the principle and intention that unimpeded progress to majority rule would have to be maintained and guaranteed. He added that his Government was committed to seeing that any settlement should be acceptable to the Rhodesian people as a whole. The British Government could not accept any fresh commitment in the Security Council that would restrict it in any way in reaching such a settlement, if that proved practicable; nor did it consider it acceptable that the Security Council should, at that juncture, seek to lay down any conditions for a settlement. Regarding the question of sanctions, his delegation regretted that they had not achieved their immediate political objective. However, it was undeniable that sanctions continued to exert pressure on the Rhodesian economy and to restrict its rate of development. Contrary to what had been alleged, his Government had just renewed the annual legislation that imposed sanctions. Referring to the draft resolution before the Council, he said that it was too little in that two of its operative paragraphs seemed to repeat in less precise terms steps that the Council had already taken; it was too much, on the other hand, in that operative paragraph 1 attempted to bind the United Kingdom not to grant independence to Southern Rhodesia without the fulfilment of majority rule. His Government had never accepted that commitment in a United Nations resolution and still could not do so. In conclusion, he said that the United Kingdom had always accepted and continued to accept its primary responsibility concerning Southern Rhodesia. However, it was not prepared to enter into negotiations with its negotiating position publicly dictated from outside.³⁴⁷

The representative of France stated that the United Nations should prefer, over recommendations that would not facilitate attainment of the objectives sought, concrete initiatives taken in concert with the administering Power. The United Kingdom was the responsible

authority which was in duty bound to take measures that fit the circumstances to end the Rhodesian rebellion. The Council could not tell the British Government what it should do. Although his delegation had no objection to the substance of the draft resolution, it found operative paragraph 1 legally doubtful, as its language seemed to go beyond the powers of the Council under Article 41.³⁴⁸

At the same meeting, the Council proceeded to vote upon the five-Power draft resolution. The result of the vote was 12 in favour, 1 against with 2 abstentions. The draft resolution failed of adoption,³⁴⁹ owing to the negative vote of a permanent member of the Council.

At the 1557th meeting, on 17 November 1970, the President (Syria) announced that, during consultations held since the previous meeting, a draft resolution had been prepared which appeared to have the support of all the members of the Council. He further stated that, although the delegation of France had repeated the reservations which it had expressed at the 1556th meeting on 10 November 1970,³⁵⁰ that delegation had nevertheless associated itself with the consensus that had emerged in favour of the draft resolution.³⁵¹

At the same meeting, the draft resolution was put to the vote and was adopted³⁵² unanimously. It read as follows:³⁵³

"The Security Council,

"Having considered the question of Southern Rhodesia,

"Reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966, 253 (1968) of 29 May 1968 and 277 (1970) of 18 March 1970,

"Gravely concerned that certain States have not complied with the provisions of resolutions 232 (1966), 253 (1968) and 277 (1970), contrary to their obligations under Article 25 of the Charter of the United Nations,

"Reaffirming the primary responsibility of the Government of the United Kingdom of Great Britain and Northern Ireland to enable the people of Southern Rhodesia to achieve self-determination and independence, and in particular their responsibility of bringing the illegal declaration of independence to an end,

"Taking into account the third report of the Committee established in pursuance of Security Council resolution 253 (1968),

"Acting in accordance with previous decisions of the Security Council on Southern Rhodesia, taken under Chapter VII of the Charter,

"1. Reaffirms its condemnation of the illegal declaration of independence in Southern Rhodesia;

"2. Calls upon the United Kingdom of Great Britain and Northern Ireland, as the administering Power in the discharge of its responsibility, to take urgent and effective measures to bring to an end the

³⁴⁸ *Ibid.*, paras. 164-167. For discussion of the applicability of Article 41, see chapter XI, Case 6.

³⁴⁹ *Ibid.*, para. 212.

³⁵⁰ *Ibid.*, para. 167. See foot-note 59 above.

³⁵¹ 1557th meeting, para. 1.

³⁵² *Ibid.*, para. 3.

³⁵³ Resolution 288 (1970).

³⁴⁵ 1556th meeting, paras. 72, 73, 78-80.

³⁴⁶ *Ibid.*, paras. 87, 91.

³⁴⁷ *Ibid.*, paras. 131-143.

illegal rebellion in Southern Rhodesia and enable the people to exercise their right to self-determination, in accordance with the Charter of the United Nations and in conformity with the objectives of General Assembly resolution 1514 (XV) of 14 December 1960;

"3. *Decides* that the present sanctions against Southern Rhodesia shall remain in force;

"4. *Urges* all States to fully implement all Security Council resolutions pertaining to Southern Rhodesia, in accordance with their obligations under Article 25 of the Charter, and deplores the attitude of those States which have persisted in giving moral, political and economic assistance to the illegal régime;

"5. *Further urges* all States, in furtherance of the objectives of the Security Council, not to grant any form of recognition to the illegal régime in Southern Rhodesia;

"6. *Decides* to remain actively seized of the matter."³⁵⁴

Decision of 30 December 1971 (1623rd meeting):

Rejection of the draft resolution

By letter³⁵⁵ dated 24 November 1971 addressed to the President of the Security Council, the representative of the United Kingdom requested a meeting of the Security Council to be held on 25 November 1971, or as soon as possible thereafter, in order that he might make a statement about the results of the discussions which the Secretary of State for Foreign and Commonwealth Affairs of his Government had had in Salisbury regarding the situation in Southern Rhodesia.

At the 1602nd meeting on 25 November 1971, the Council included³⁵⁶ in its agenda the letter of the representative of the United Kingdom as well as the fourth report of the Committee established in pursuance of Security Council resolution 253 (1968)³⁵⁷ and considered the question at the 1602nd to 1605th, 1609th, 1622nd and 1623rd meetings held between 25 November and 30 December 1971. The representatives of Saudi Arabia,³⁵⁸ the United Republic of Tanzania and Kenya,³⁵⁹ Zambia and Ghana,³⁶⁰ Uganda, Nigeria, Algeria and India³⁶¹ were invited to participate in the discussion.

At the 1602nd meeting, the representative of the United Kingdom stated that although there had never been any doubt in the Security Council that the settlement of the situation in Southern Rhodesia was primarily a matter for his Government, it had also always been recognized that the question was one of legitimate and continuing concern to the world community. For that reason it seemed to his Government right and fitting that it should inform the Security Council of the agreement that had been reached between the United Kingdom Foreign Secretary and Mr. Ian Smith in

Salisbury on 24 November 1971 on proposals for a settlement of the Southern Rhodesian problem. The central parts of the proposals, the text of which he said would be made available to all members of the Council,³⁶² were the constitutional arrangement which, he asserted, would enable unimpeded progress towards majority rule and thus constituted a substantial change in direction away from the existing state of affairs embodied in the 1969 constitution. The proposals also contained a new declaration of rights, which would afford protection to the fundamental rights and freedoms of the individual. The other main provisions in the proposals related to amendment of the Rhodesian constitution. Certain specially entrenched provisions of the constitution, including the new provisions to give effect to increased African representation and the new Declaration of Rights, would be guaranteed against retrogressive amendment. The proposals also provided for a review of existing legislation through an independent commission to examine the problem of racial discrimination, as well as other provisions having a direct bearing on the status and rights of the Africans, such as the release of a significant number of detainees and restrictees, the ending of the state of emergency, and important provisions concerning land and development, which would include a development programme assisted by the British Government aimed at increasing education and job opportunities for Africans. The agreement on the above proposals constituted only a first step and no change in the existing situation, including the application of sanctions, would be made before the people of Rhodesia as a whole had had a full and free opportunity to demonstrate that those proposals were acceptable. In that connexion, he said his Government would appoint a commission to ascertain directly from all sections of the population of Rhodesia their views on the acceptability of the proposals and report thereon to the British Government.³⁶³

The representative of the USSR maintained that the (British-Rhodesian) talks had been conducted with an unlawful, racist régime, already condemned as such by the United Nations, and had resulted in an agreement concluded without the participation or consultation of the majority of the people of Zimbabwe or their political parties, contrary to the appeal made by the General Assembly in its resolution 2652 (XXV). It was clear, he asserted, that the proposals were aimed at maintaining for a long time the existing racist order prevailing in the Territory. It was therefore necessary that the leaders of the Zimbabwe African People's Union (ZAPU) and the Zimbabwe African National Union (ZANU) should be invited to address the Council and give it their opinion of the proposals.³⁶⁴

At the 1604th meeting on 2 December 1971, the Security Council, acting on the proposal made by the representative of the USSR and supported by the representative of Somalia,³⁶⁵ decided, without objection, to invite Mr. Joshua Nkomo and Mr. N. Sithole to appear before the Council to state their views on the proposals on Southern Rhodesia.³⁶⁶

³⁵⁴ For the consideration of the provisions of Chapter VII of the Charter, see chapter XI, part V.

³⁵⁵ S/10396, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 40.

³⁵⁶ 1602nd meeting, preceding para. 1.

³⁵⁷ S/10229 and Add.1 and 2, *OR*, 26th yr., *Special Supplement No. 2*. At the 1609th meeting, the Council also included in its agenda an interim report of the same Committee (S/10408, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 78-79). See 1609th meeting, para. 68.

³⁵⁸ 1602nd meeting, para. 99.

³⁵⁹ 1603rd meeting, para. 88.

³⁶⁰ 1604th meeting, para. 8.

³⁶¹ 1623rd meeting, para. 2.

³⁶² By a letter dated 1 December 1971, the representative of the United Kingdom transmitted to the President of the Security Council the text of a White Paper entitled "Rhodesia: proposals for a settlement", S/10405, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 60-73.

³⁶³ 1602nd meeting, paras. 1-59.

³⁶⁴ *Ibid.*, paras. 62-79.

³⁶⁵ *Ibid.*, paras. 79, 137-138.

³⁶⁶ 1604th meeting, paras. 44-48. For the consideration of the invitations to Mr. Nkomo and Mr. Sithole, see chapter III, Case 6.

At the 1609th meeting on 8 December 1971, the representative of China said that, since the illegal declaration of the so-called independence in November 1965, the colonialist authorities of Southern Rhodesia had intensified their fascist rule over the people of Zimbabwe and their suppression of the struggle of the people of Zimbabwe for national independence. The experience of Afro-Asian countries had proved that without political independence economic and social progress could not be achieved, and therefore, under the United Kingdom proposals, majority rule by the Africans in Southern Rhodesia could never be achieved. The proposals were only aimed at legalizing the fascist and racist rule over the Zimbabwe people and at enabling the colonialists to openly cancel the sanctions against the Rhodesian colonialist authorities. The only solution to the question of Southern Rhodesia was the realization of national independence of the Zimbabwe people.³⁰⁷

During the debate, the representatives of Algeria,* Burundi, Ghana,* India,* Kenya,* Nigeria,* Saudi Arabia,* Sierra Leone, Somalia, the Syrian Arab Republic, Uganda,* the United Republic of Tanzania* and Zambia* stated their objections to the proposals for a settlement of the Southern Rhodesian problem on the grounds that they had been negotiated and agreed upon without the participation of the political leaders of the majority of the Zimbabwe people, were contrary to the principles and objectives laid down in the United Nations Charter and in General Assembly resolution 1514 (XV) and disregarded the relevant General Assembly and Security Council resolutions concerning the question of Southern Rhodesia. The terms of the proposals, they stressed, did not enable the majority of the people of Southern Rhodesia to exercise freely and equally their right to self-determination nor did they correspond to the principle of unimpeded progress towards majority rule. They also disputed the United Kingdom's contention that the proposals fulfilled the five principles set by the British Government and pointed out, in that connexion, that those principles had never been accepted by the United Nations, the Organization of African Unity or the independent African States as a basis for a settlement. They emphatically urged the Council to reject the proposals and to strengthen sanctions against the illegal régime of Southern Rhodesia and expressed their concern about the recent violations of sanctions reported by the Committee established in pursuance of Security Council resolution 253 (1968).³⁰⁸

The representatives of Belgium, France and Italy stated that the proposals had the merit of ending the *status quo* and offering the people of Rhodesia the possibility of setting in motion machinery that could and should transform their institutions. It was important therefore not to prejudge the agreement before

the results of the test of acceptability were known.³⁰⁹

At the 1622nd meeting on 29 December 1971, the representative of Somalia explained the contents of a working paper that had been drawn up by his delegation and circulated informally, which he hoped would form the basis of a draft resolution.³⁷⁰

At the 1623rd meeting on 30 December 1971, the representative of the United Kingdom said that his delegation did not believe that any resolution by the Security Council was called for at that juncture and that the Council should await the outcome of the test of acceptability before contemplating any further action.³⁷¹

At the same meeting, the representative of Somalia introduced³⁷² a draft resolution³⁷³ jointly sponsored by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic, which was based on the working paper that had been submitted to the Council at the previous meeting by his delegation. By the operative paragraphs of the draft resolution, the Security Council would (1) decide that the terms of the proposals did not fulfil the conditions necessary to ensure that all the people of Southern Rhodesia would be able to exercise freely and equally their right to self-determination; (2) reject the "proposals for a settlement" as they did not guarantee the inalienable rights of the majority of the people of Southern Rhodesia; (3) consider that the principle of universal adult suffrage for the people of Southern Rhodesia without regard to colour or race must be the basis for any constitutional and political arrangements for the Territory; (4) urge the United Kingdom, pursuant to paragraph 3 above, not to accord any form of recognition to an independent State of Southern Rhodesia which was not based on majority rule or on the will of the majority as determined by universal adult suffrage; (5) call upon the United Kingdom to ensure that, in any exercise to ascertain the wishes of the people of Southern Rhodesia as to their political future, the procedure to be followed would be by secret referendum on the basis of one vote, without regard to race or colour or to educational, property or income considerations; (6) further call upon the United Kingdom, after having ensured the establishment of conditions under which all the people of Southern Rhodesia would be able to exercise freely and equally their right to self-determination on the basis of paragraphs 3 and 5 above, to facilitate the participation of a United Nations team of observers during the preparation for, and in the actual conduct of, any exercise to ascertain the wishes of the people of Southern Rhodesia as to their political future; (7) decide to continue political, diplomatic and economic sanctions against Southern Rhodesia until the rebellious régime in that territory was brought to an end; and (8) request the Government of the United Kingdom not to transfer under any circumstances to its colony of Southern Rhodesia, as at present governed, any of the powers or attributes of sovereignty, but to promote that country's attainment of independence by a democratic system of Government in accordance with the aspirations of the majority of the population.

³⁰⁷ 1609th meeting, paras. 74-81.

³⁰⁸ For text of relevant statements, see: 1602nd meeting (PV): Burundi, paras. 81-97, 131-132; Somalia, paras. 133-142; Syrian Arab Republic, paras. 125-127; 1603rd meeting: United Republic of Tanzania,* paras. 92-141; 1604th meeting: Saudi Arabia,* paras. 56-96; Somalia, paras. 11-38; 1605th meeting: Ghana,* paras. 31-68; Kenya,* paras. 73-105; Zambia,* paras. 6-27; 1609th meeting: Sierra Leone, paras. 84-116; 1622nd meeting: Saudi Arabia,* paras. 93-103; Somalia, paras. 6-36; Syrian Arab Republic, paras. 63-69; 1623rd meeting: Algeria,* paras. 135-153; India,* paras. 96-119; Nigeria,* paras. 88-94; Uganda,* paras. 44-85.

³⁰⁹ For text of relevant statements see: 1623rd meeting: Belgium, paras. 155-162; France, paras. 33-35, 189-191; Italy, paras. 18-32, 184-187.

³⁷⁰ 1622nd meeting, paras. 8-9.

³⁷¹ 1623rd meeting, paras. 178-179.

³⁷² *Ibid.*, paras. 231-233.

³⁷³ S/10489, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 129-130.

Following a brief suspension of the meeting, the representative of Somalia requested separate votes on the second and fifth preambular paragraphs and operative paragraphs 3, 4, and 5.³⁷⁴

At the same meeting the draft resolution was put to the vote with the following results:³⁷⁵

The second preambular paragraph, which would have the Council note that the proposals for a settlement had not been negotiated in consultation with the accredited political leaders of the majority of the people of Southern Rhodesia, was adopted by 10 votes to none, with 5 abstentions.

The fifth preambular paragraph, which stated that the Council was mindful of the conditions necessary to permit the free expression of the right to self-determination, was adopted by 14 votes to none, with 1 abstention.

Operative paragraph 3 was adopted by 14 votes to none, with 1 abstention.

Operative paragraphs 4 and 5 were each adopted by 10 votes to none, with 5 abstentions.

The draft resolution as a whole failed of adoption, owing to a negative vote by one of the permanent members of the Security Council. It received 9 votes in favour, 1 against with five abstentions.³⁷⁶

COMPLAINT BY ZAMBIA

INITIAL PROCEEDINGS

By letter³⁷⁷ dated 15 July 1969 addressed to the President of the Security Council, the Permanent Representative of Zambia requested an early meeting of the Council to discuss the recent Portuguese violations of the territorial integrity of Zambia, and also the bombing of a village, destruction of property and the wounding and killing of two innocent and unarmed civilians at Lote village in the Katete District of Eastern Province of Zambia on 30 June 1969. He recalled that several unprovoked activities of the Portuguese Government had been brought to the attention of the Security Council and added that the recent aggression was a proof of the bellicose intentions of the Lisbon Government. Lest its application of the inherent right of self-defence as envisaged in Article 51 of the Charter might result in a more serious situation, his Government now requested the Security Council to take corrective measures in order to bring an end to those acts which constitute a threat to international peace and security.

Subsequently, in a letter³⁷⁸ dated 18 July 1969 addressed to the President of the Council, thirty-five Member States acting on behalf of the Organization of African Unity expressed their support for the request for a meeting of the Security Council.

At the 1486th meeting on 18 July 1969, the item was included in the Council's agenda.³⁷⁹ The Council considered the question at its 1486th to 1491st meetings between 22 and 29 July 1969. The representatives

of Portugal,³⁸⁰ Tanzania,³⁸¹ Somalia,³⁸² Kenya,³⁸³ the United Arab Republic,³⁸⁴ Liberia, Madagascar, Sierra Leone, Tunisia, Gabon,³⁸⁵ and Democratic Republic of the Congo³⁸⁶ were invited to participate in the discussions.

At the 1486th meeting the representative of Zambia* stated that since his request for a meeting there was yet another armed attack by Portuguese soldiers on Zambian civilians in Balovale District which had resulted in the killing of two persons. He further stated that the reason why his Government had not brought the matter to the Council sooner was that it thought it preferable to resolve such matters bilaterally. However, since the Portuguese authorities had become intransigent, his Government found it necessary to seek now recourse before the Council. He further stated that in the period between 18 May 1966 and 30 June 1969 there were some sixty Portuguese military incursions into the Zambian territory, thirty-five by land and twenty-five by air. Those were aggressive acts causing a continuous turmoil and instability and threatening the peace and security not only in Zambia alone but in Africa as a whole. They were in open violation of Article 2, paragraph 4 of the Charter.

The representative of Zambia went on to recount a few of the instances of the alleged Portuguese armed aggression against Zambian territory as well as technical data relating to fragments of bombs, mines and grenades so as to substantiate the direct involvement of the Portuguese armed forces in the incidents complained of and to indicate to the members of NATO that such arms as they made available to Portugal were being used not for the defence of Portugal or for the member countries of NATO, but for the oppression of the peoples of Mozambique and Angola and for launching attacks against Zambia. In the light of this chain of acts of aggression, it was incumbent upon the Council to consider whether Portugal, a Member of the United Nations, was observing that principle. In conclusion, the representative of Zambia, after stating that his Government reserved its inherent right to take action in self-defence under Article 51 of the Charter, requested the Council to condemn Portugal for its unprovoked and premeditated aggression against unarmed Zambian civilians, to call on Portugal to cease all its acts of aggression, to return Zambian nationals kidnapped by Portuguese soldiers in Angola and Mozambique and to demand that it make amends for the destruction of Zambian homes and property.³⁸⁷

The representative of Portugal* stated that he found it strange that the Zambian Government had brought the matter to the Security Council bypassing bilateral talks which had been adopted by agreement by the two Governments. Moreover, its allegations lacked any substance. The only incident concretely mentioned which was alleged to have taken place on 30 June, i.e., the bombing of Lote village in Eastern Zambia, was also devoid of any foundation. He further wondered why the representative of Zambia should have submitted to the Council a list of incidents which took place since 1966 inasmuch as all those past incidents

³⁷⁴ 1623rd meeting, paras. 249-259.

³⁷⁵ *Ibid.*, paras. 266-272.

³⁷⁶ *Ibid.*, para. 272.

³⁷⁷ S/9331, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 127.

³⁷⁸ S/9340 and Add.1-3, *ibid.*, p. 131.

³⁷⁹ 1486th meeting, preceding para. 1.

³⁸⁰ *Ibid.*, para. 1.

³⁸¹ 1487th meeting, para. 12.

³⁸² *Ibid.*, para. 13.

³⁸³ 1488th meeting, para. 2.

³⁸⁴ *Ibid.*, para. 44.

³⁸⁵ 1489th meeting, para. 2.

³⁸⁶ *Ibid.*, para. 31.

³⁸⁷ 1486th meeting, paras. 6-9, 14-21, 51, 52, 58.

had been considered as settled through bilateral talks. He went on to say that there had been no incidents prior to 1966. However, in 1966 the Zambian Government decided to open its territory to hostile activities against Angola and Mozambique; it had authorized in its territory the establishment of training and supply bases for armed attacks on the adjoining Portuguese territories.

It was therefore the Zambian Government that had embarked on a policy of hostility to Portugal. Its policy of permitting violence against Portugal gave rise to attacks carried out from Zambian territory against Portuguese territories.

The Portuguese Government, faced with that situation, had on the one hand, tried to reason with Zambia and on the other, had issued strict instructions to its own security forces to respect the territorial integrity and the sovereignty of the Republic of Zambia. Moreover, it could not allow its security forces in the frontier area to be harassed and fired upon by hostile elements stationed across the border without those security forces reacting in self-defence. It was up to the Zambian Government to take measures to stop the firing across the border from its territory into Portuguese territory. Thus his Government expected the Security Council to call upon the Government of Zambia to abide by the norms of international good conduct in this respect.

He further emphasized that not only had the Zambian Government authorized hostile elements to carry out unlawful violent activities against the Portuguese security forces, but also Zambian armed forces were sometimes involved in the incidents. Portuguese air space had also been repeatedly violated by the Zambian Air Force. Thus, Portugal had patiently tried to come to an understanding with Zambia through their bilateral talks in New York, London and Zambia itself. But Zambia did not seem to want that understanding and instead brought unfounded charges against Portugal before the Security Council.

In conclusion, the representative of Portugal stated that his Government would give Zambia all assurances of its continued desire of co-operation and good neighbourliness and he wished that Zambia would still come to realize the advantages of mutual co-operation in the furtherance of the well-being of the respective populations. Referring to Article 33 of the Charter, he expressed the belief that the Luso-Zambian Mixed Commission might still be an instrument of understanding and co-operation between Zambia and Portugal.³⁸⁸

In reply, the representative of Zambia,* referring to the Portuguese assertion of the existence of a permanent Zambian-Portuguese commission to deal with frontier incidents, stated that there had never been a permanent Zambian-Portuguese joint commission to look into such border incidents. Only committees from both sides had met from time to time on an *ad hoc* basis. Zambia, he added, had used that channel in the past. However, no sooner had an agreement been reached than the Portuguese attacked another Zambian village. As to the complaint of the representative of Portugal about the activities of the Angolan and Mozambique nationals inside Mozambique or inside Angola, he asserted that the Government of Zambia could not accept responsibility for them since that was the

³⁸⁸ 1486th meeting, paras. 63-69, 71, 73, 74, 85, 86, 92.

responsibility of the Government of Portugal as it was the duty of every Government to control the activities of its own nationals.³⁸⁹

At the 1488th meeting on 23 July 1969 the representative of Portugal,* commenting on the specific charges brought by Zambia to the Council, stated that it became apparent that either the Zambian Government could not or did not wish to control its frontiers. Nevertheless, it could not escape responsibility for the attacks made on Portuguese territory. In conclusion, he denied the allegations that his Government was using NATO arms in Africa.³⁹⁰

At the 1489th meeting on 24 July 1969 the representative of Zambia* stated that his Government had brought the Lote incident to the Council because for four years Portugal had been violating its territorial integrity. In connexion with three series of incidents, the Zambian Government had invited the representatives of the Portuguese Government to see for themselves the results of their aggression. They accepted responsibility only for one incident. For the two other incidents, they claimed that they had acted in the exercise of the so-called right of pursuit. Following that rejection, the Zambian Government had come to the conclusion that pacific settlement had no meaning for the Portuguese.

Decision of 28 July 1969 (1491st meeting): resolution 268 (1969)

At the 1491st meeting on 28 July 1969 the representative of Pakistan introduced a draft resolution jointly sponsored by Algeria, Nepal, Pakistan and Senegal.³⁹¹ Subsequently, the President put to the vote the four-Power draft resolution which was adopted³⁹² by 11 votes in favour, none against, with 4 abstentions. The resolution³⁹³ read:

"The Security Council,

"Having heard the statements by the parties,

"Mindful of its responsibility to take effective collective measures for the prevention and removal of threats to international peace and security,

"Bearing in mind that all States should 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 manner inconsistent with the purposes of the United Nations,

"Concerned about the grave situation created by the Portuguese bombing of Lote village in the Katete District of the Eastern Province of Zambia bordering the Territory of Mozambique,

"Gravely concerned that incidents of this nature endanger international peace and security,

"1. Strongly censures the Portuguese attacks on Lote village in the Katete District of the Eastern Province of Zambia resulting in the loss of Zambian civilian life and property;

"2. Calls upon Portugal to desist forthwith from violating the territorial integrity of, and from carrying out unprovoked raids against, Zambia;

"3. Demands the immediate release and repatriation of all civilians from Zambia kidnapped by

³⁸⁹ *Ibid.*, paras. 109, 110, 117.

³⁹⁰ 1488th meeting, paras. 27, 28, 40-42.

³⁹¹ 1491st meeting, paras. 3, 4.

³⁹² *Ibid.*, para. 26.

³⁹³ Resolution 268 (1969).

Portuguese military forces operating in the colonial Territories of Angola and Mozambique;

"4. *Further demands* from Portugal the return of all property unlawfully taken by Portuguese military forces from Zambian territory;

"5. *Declares* that in the event of failure on the part of Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider further measures;

"6. *Decides* to remain seized of the matter."

Decision of 12 October 1971 (1592nd meeting): resolution 300

By letter³⁹⁴ dated 6 October 1971 addressed to the President of the Security Council, the Permanent Representative of Zambia requested to convene as soon as possible a meeting of the Council to consider a series of serious incidents and violations of the sovereignty, air space and territorial integrity of Zambia by the forces of the Government of South Africa. In the letter it was further stated that for a considerable time numerous such incidents had taken place at the border area between Zambia and the international Territory of Namibia, where South Africa illegally maintained its military and police forces to suppress the Namibian liberation movement. As recently as 5 October 1971 South African forces illegally crossed into Zambian territory from the Caprivi Strip of Namibia.

In a letter³⁹⁵ dated 7 October 1971 addressed to the President of the Council, forty-seven Member States³⁹⁶ associated themselves with Zambia's request for the convening of the meeting. Subsequently, Lesotho also associated itself with the request for a meeting of the Council.³⁹⁷

At the 1590th meeting on 8 October 1971, the item was included in the Council's agenda. The Council considered the question at its 1590th to 1592nd meetings held between 8 and 12 October 1971. The representatives of Zambia, Tanzania, Nigeria, South Africa, Kenya,³⁹⁸ Guinea,³⁹⁹ Yugoslavia,⁴⁰⁰ India and Pakistan⁴⁰¹ were invited to participate in the discussions.

At the 1590th meeting on 8 October 1971, the representative of Zambia* stated that there had been a series of systematic and premeditated violations of the sovereignty, air space and territorial integrity of Zambia by the armed forces of South Africa. On 5 October 1971, at 19:30 hours Zambian time, units of the South African Army entered Zambia illegally at Katime Mulilo in speed-boats and helicopters, allegedly pursuing freedom-fighters who they assumed had entered the Caprivi Strip in the United Nations Territory of Namibia, through Zambia. After having

spent some time searching vainly inside Zambia, the South African armed forces retreated to their military base at the Caprivi Strip. He further enumerated 24 incidents which had occurred between 26 October 1968 and 5 October 1971. Those serious incidents were conducted against Zambia because it happened to border the international territory of Namibia which was under an illegal minority régime; it believed in a policy of non-racialism; it was opposed to a dialogue with South Africa and the so-called outward looking policy; it believed that the peoples of southern Africa and Guinea-Bissau had the right to self-determination and independence in accordance with General Assembly resolution 1514 (XV); it was opposed to white supremacy; and it adhered to its obligations under Article 25 of the Charter. The Zambian Government, he stressed, had no responsibility for the activities of the Namibian freedom-fighters inside Namibia in their just struggle to resist South Africa's occupation and oppression.

Furthermore, South Africa had interfered in the domestic affairs of Zambia by financing opposition parties inside Zambia. While Zambia desired peace and stability on its borders, it was unrealistic to talk about peace with South Africa until the major problems of *apartheid* and race were resolved. Although he had certain reservations regarding the sending of fact-finding missions, his Government would welcome the despatch of such a mission by the Council provided it would also be given uninhibited access to Namibia.⁴⁰²

At the same meeting the representative of South Africa* stated that on 4 and 5 October incidents had indeed occurred in the Caprivi Strip. On 4 October members of the South African police force were patrolling near the border between the Eastern Caprivi and Zambia when their vehicle was hit by a land mine. As a result, four of the occupants were seriously injured. On the following day, when other members of the police force were dispatched to investigate the incident, another land mine exploded, killing one of the police officers. The trail of four persons was found leading from the direction of the Zambian border to the location of the land mine and back again in the direction of the Zambian border. The Prime Minister of South Africa had repeatedly warned that his country would not tolerate attacks upon its people or the people of "South West Africa" from across the borders of the Republic or of the Territory. Steps were being taken to pursue the culprits and the pursuers would defend themselves if they were attacked. The South African police force, however, had not crossed the Zambian border. They had followed the trail left by the four persons to where it had disappeared within the area of the Caprivi Strip and had returned to their stations. He admitted that unauthorized border crossings and trespassing in air-space had previously occurred in the area of the Zambian Eastern Caprivi border, but both sides had been responsible, not only South Africa. They were unintentional and were caused by the twisting river boundary between Zambia and the Caprivi Strip and the fact that the border was not always in the mid-stream.

In the period between 23 October 1969 and 5 May 1970, Zambia complained of eight violations of air space by South Africa. On the other hand, Zambia had between November 1969 and July 1971 violated South West African air space on twelve occasions. He stressed that the charges of the Zambian Government were

³⁹⁴ S/10352, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 20.

³⁹⁵ S/10364, *Ibid.*, p. 24.

³⁹⁶ *Ibid.*, Forty-seven Member States: Algeria, Barbados, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Democratic Republic of), Dahomey, Egypt, Ethiopia, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guyana, India, Ivory Coast, Jamaica, Kenya, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Pakistan, People's Republic of the Congo, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Upper Volta, Yugoslavia and Zambia.

³⁹⁷ S/10368, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 25.

³⁹⁸ 1590th meeting, paras. 1-2.

³⁹⁹ *Ibid.*, para. 143.

⁴⁰⁰ 1591st meeting, para. 2.

⁴⁰¹ *Ibid.*, paras. 3-4.

⁴⁰² 1590th meeting, paras. 7-23.

entirely unfounded. However, there were incidents of a far more serious nature which involved the infiltration of armed bands across the border from Zambia into the Caprivi Strip causing death and destruction. Five mine explosions had occurred in 1971. Those armed bands operated from camps situated in Zambia, they were given shelter on Zambian soil and received the support of the Zambian Government. The South African Government had asked Zambia to prevent armed incursions from Zambia into South West Africa, but there had been no response. While it was the policy of his Government to avoid border incidents and violations of the air space of neighbouring countries, in the case of incursions of terrorists, it had a duty to protect the inhabitants of South Africa and "South West Africa" against the acts of terrorism and such acts would not be tolerated.⁴⁰³

At the same meeting the representative of the Syrian Arab Republic introduced⁴⁰⁴ a draft resolution jointly sponsored by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic.

At the 1592nd meeting on 12 October 1971, the representative of Somalia stated that as a result of extensive consultations among the members of the Council, the three African sponsoring countries had decided⁴⁰⁵ to revise the draft resolution to take into account the various positions of members and to bring forward a resolution which would ensure a unanimous vote.

The President then put to the vote the revised draft resolution which was adopted⁴⁰⁶ unanimously. The text⁴⁰⁷ read as follows:

"The Security Council,

"Having received the letter of the Permanent Representative of Zambia contained in document S/10352 and also the letter from 47 Member States contained in document S/10364,

"Taking note of the statements made by the Permanent Representative of Zambia at its 1590th meeting, concerning violations of the sovereignty, air space and territorial integrity of Zambia by South Africa,

"Taking note of the statement made by the Minister of Foreign Affairs of the Republic of South Africa,

"Bearing in mind that all Member States must refrain in their relations from resorting to threat or the use of force against the territorial integrity or political independence of any State,

"Conscious that it has the responsibility to take efficient collective measures to prevent and eliminate threats to peace and security,

"Concerned by the situation on the borders of Zambia and Namibia, in the vicinity of the Caprivi Strip,

"1. Reiterates that any violation of the sovereignty and territorial integrity of a Member State is contrary to the Charter of the United Nations;

"2. Calls upon South Africa to fully respect the sovereignty and territorial integrity of Zambia;

"3. Further declares that in the event of South Africa violating the sovereignty or the territorial integrity of Zambia, the Security Council will meet again to examine the situation further in accordance with the relevant provisions of the Charter."

SITUATION IN NORTHERN IRELAND

INITIAL PROCEEDINGS

In a letter⁴⁰⁸ dated 17 August 1969, the representative of Ireland requested, in accordance with Article 35 of the Charter, an urgent meeting of the Security Council. It was stated in the letter that the preceding week had witnessed the development of a situation in the six counties of Northern Ireland, resulting from the continuous suppression of the people of these counties. The Royal Ulster Constabulary had been unable to control that situation and that had led to the intervention of British military forces. Proposals by his Government that the United Kingdom ask for the dispatch of a United Nations peace-keeping force and, subsequently, that a joint British-Irish peace-keeping force be established had been rejected by the British Government. The Government of Ireland therefore felt obliged to appeal to the Security Council for the dispatch of a United Nations peace-keeping force, since it could not stand by and see the people in the six counties of Northern Ireland suffer injury; nor could it tolerate the tensions created along the border between the two areas which might give rise to serious disturbances in its own State. The letter requested that the Irish delegation be permitted to be heard at all stages of the consideration by the Council in order to present its case.

The Security Council met to consider the situation in Northern Ireland at its 1503rd meeting held on 20 August 1969.

In connexion with the adoption of the agenda, the representative of the United Kingdom stated that the principle of domestic jurisdiction set out in Article 2, paragraph 7 of the Charter was fundamental. If this principle were breached or eroded, the consequences would be most serious for the United Nations.⁴⁰⁹

The representative of Finland proposed that the Security Council, before taking a decision on its agenda, invite the Minister for External Affairs of Ireland to make a statement to the Council in explanation of his Government's request for the meeting of the Security Council.⁴¹⁰

Decision of 20 August 1969 (1503rd meeting):

Statement by the President

At the 1503rd meeting on 20 August 1969, the President (Spain) stated that the Security Council, before taking a decision on the provisional agenda, agreed to invite the Minister for External Affairs of Ireland to make a statement to the Council in explanation of his Government's request for an urgent meeting of the Security Council.⁴¹¹

At the same meeting, the Minister for External Affairs of Ireland,* after taking exception to the argument that the situation in Northern Ireland fell exclu-

⁴⁰³ 1590th meeting, paras. 59-72.

⁴⁰⁴ *Ibid.*, paras. 175-177.

⁴⁰⁵ 1592nd meeting, paras. 3-18.

⁴⁰⁶ *Ibid.*, para. 20.

⁴⁰⁷ Resolution 300 (1971).

⁴⁰⁸ S/9394, OR, 24th yr., Suppl. for July-Sept. 1969, p. 159.

⁴⁰⁹ 1503rd meeting, paras. 2-14. For consideration of Article 2(7), see in chapter XII, Case 12.

⁴¹⁰ 1503rd meeting, paras. 15-17.

⁴¹¹ *Ibid.*, para. 20.

sively within the domestic jurisdiction of the United Kingdom,⁴¹² stated that the present situation in the Six Counties of Northern Ireland had its origins in the partition of Ireland, a unilateral act on the part of the United Kingdom Government which had never been conceded to by the Government of Ireland whose declared policy was to bring about reunification by peaceful means. The persistent denial by the United Kingdom Government of their civil rights to a large part of the population of Northern Ireland had culminated in the present crisis. It was the position of the delegation of Ireland* that while that aspect of the matter alone would be sufficient to justify the request for a Council meeting, another consideration as to why the Council should deal with this question was that the grave situation in Northern Ireland could become aggravated to a degree which would affect relations between Great Britain and Ireland. There was no doubt that the situation in Northern Ireland was grave and could affect relations between Great Britain and Ireland. The current crisis had been brought about by the decision of the Government of the six counties to allow the holding of a provocative parade by a Protestant sectarian organization at Derry, despite the warnings of his Government about the dangers involved. The disturbances at Derry had quickly spread to other towns in the area and had led to the loss of life, the destruction of property and the virtual collapse of law and order. The calling of British troops had been a confession of the inability of the Government of the six counties to maintain law and order impartially through its police force. There was need, he stressed, for an impartial peace-keeping force, inasmuch as the use of British troops constituted a basic factor in the perpetuation of partition. The Council must consider also that the tension created by these events might spread beyond the area itself and lead to friction between two neighbouring Member States.⁴¹³

Decision of 20 August 1969 (1503rd meeting):

Adjournment

At the 1503rd meeting on 20 August 1969, the representative of Zambia stated that the question before the Council was whether or not to adopt the agenda. In the light of the statements so far made it might be wise for the Council to adjourn a decision on that matter. Consequently he proposed that in accordance with the rules of procedure, and particularly rule 33, paragraph 2, the meeting be adjourned.⁴¹⁴

The proposal for adjournment was unanimously adopted.

COMPLAINT BY SENEGAL

Decision of 9 December 1969 (1520th meeting):
resolution 273 (1969)

By letter⁴¹⁵ dated 27 November 1969 addressed to the President of the Security Council, the representative of Senegal informed the Council that on 25 November 1969 the regular Portuguese Army, based at Bégène in Guinea (Bissau), had shelled the village of Samine in southern Senegal, leaving one person dead and eight seriously wounded and causing property damage. It was not the first time that the Portuguese forces had

attacked Senegal's nationals and violated its territory. In view of the growing loss of life and destruction of property, the Government of Senegal was obliged to denounce Portugal's policy of systematic provocation and to request the convening of the Security Council as soon as possible to consider the question.

By letter⁴¹⁶ dated 2 December 1969 to the President of the Security Council, the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia supported Senegal's request. Recalling that other African States bordering on the Territories under Portuguese domination had also been the object of Portugal's acts of aggression, the signatories to the letter expressed Africa's concern at the constant threat and acts of aggression committed by Portugal and expressed the hope that the Security Council would be able to take the necessary measures to put an end to those acts of aggression in accordance with Chapter VII of the United Nations Charter.

At the 1516th meeting on 4 December 1969, the Security Council adopted⁴¹⁷ the agenda and considered the question at the 1516th to 1520th meetings between 4 and 9 December 1969. At the 1516th meeting on 4 December, the representatives of Portugal, Guinea and Morocco were invited⁴¹⁸ to take part in the discussion. Subsequently, at the 1517th meeting on 5 December the representatives of Liberia, Madagascar, Sierra Leone, Tunisia, Mali, Saudi Arabia, Syria, Yemen and the United Arab Republic,⁴¹⁹ and at the 1518th meeting on 8 December the representative of Mauritania⁴²⁰ were also invited to participate.

At the 1516th meeting on 4 December 1969, the representative of Senegal recounted the incident described in his letter of 27 November, which his Government considered sufficiently grave to constitute a threat to international peace and security. He then referred to numerous earlier violations of Senegal's sovereignty and territorial integrity committed by Portuguese forces since April 1963 and recalled previous Council resolutions⁴²¹ in which those actions were deplored and Portugal was requested to take all effective and necessary action to prevent such violations. Notwithstanding those resolutions Portugal had committed further acts of provocation and since January 1969 incidents had become more frequent and more serious as Portuguese forces violated Senegalese air space and shelled Senegalese villages, killing, wounding and kidnapping villagers. If Portugal were to persist in its policy of systematic provocations and violations of the territorial integrity of African countries, in which it was being supported by its allies, particularly South Africa, Senegal would have no alternative but to resort to force in order to impose respect of its territorial sovereignty. However, Senegal was convinced that the Security Council would make such an action unneces-

⁴¹² For consideration of Article 2(7), see in chapter XII, Case 12.

⁴¹³ 1503rd meeting, paras. 23-43.

⁴¹⁴ *Ibid.*, para. 68.

⁴¹⁵ S/9513, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, p. 117.

⁴¹⁶ S/9524 and Add.1, *ibid.*, p. 144.

⁴¹⁷ 1516th meeting, preceding para. 40.

⁴¹⁸ *Ibid.*, paras. 40-41.

⁴¹⁹ 1517th meeting, paras. 4, 59, 92.

⁴²⁰ 1518th meeting, para. 3.

⁴²¹ Resolution 178 (1963) and resolution 204 (1965).

sary by passing an effective resolution to condemn severely the Portuguese authorities and their acts of aggression.⁴²²

At the same meeting, the representative of Portugal* stated in reply that the attacks had come in every case from Senegal and that Portugal had limited itself to actions strictly in conformity with the needs of self-defence. It was a matter of common knowledge that for several years anti-Portuguese organizations had operated against Portuguese Guinea from bases in Senegal, of which Samine was one. After enumerating the incidents of violations of the territory of Portuguese Guinea, including artillery attacks, raids and violations of air space, the representative of Portugal stated that no one could contest Portugal's right of self-defence, which it had exercised within its own territory and to the indispensable minimum. In the particular incident under consideration, Portugal did not exclude the possibility *a priori* that, following artillery attacks and raids coming from Senegal, Portugal's return fire might have produced results alleged by Senegal. If it had, it was incumbent on Senegal to contact Portugal to settle the question through investigation and conciliation under the terms of Article 33 of the Charter. On its part, Portugal was prepared to discuss the case with Senegal and, after a proper bilateral investigation, to compensate Senegal for any damage which might have occurred.⁴²³

At the 1518th meeting on 8 December 1969, the President (Zambia) informed⁴²⁴ the Council that, by a letter⁴²⁵ dated 7 December, the representative of Senegal had requested an urgent meeting of the Council to consider a further complaint concerning the renewed shelling of Samine on that day which had resulted in further casualties and property damage. The letter was included⁴²⁶ in the agenda along with the previous complaint.

At the same meeting, the representative of Senegal stated that Portugal had committed the new act of aggression, as mentioned in his delegation's letter, at the time that the Council was considering the previous complaint by Senegal and thus had defied the authority of the Security Council. He also recalled the four-point peace plan for Guinea (Bissau) publicly proposed by the President of Senegal, according to which there would be a cease-fire followed immediately by negotiations between Portugal and the nationalist movements leading to a period of internal autonomy to be followed by independence within the framework of a Lusitanian-African community. The shellings of Senegalese villages were the only Portuguese response to that peace plan. He therefore asked the Security Council to condemn Portugal severely and without delay for its repeated acts of aggression.⁴²⁷

In the course of the discussion, a number of representatives expressed the view that Portugal's claim of the right of self-defence was unacceptable because Portugal's continued colonial presence in Africa was illegitimate and in contravention of the United Nations Charter and Security Council and General Assembly resolutions.⁴²⁸

At the 1519th meeting on 8 December 1969, the Council had before it a draft resolution⁴²⁹ jointly sponsored by Algeria, Nepal, Pakistan and Zambia that was subsequently revised⁴³⁰ by the sponsors as a result of consultations.

At the 1520th meeting on 9 December 1969, the representative of Portugal* stated that, contrary to what had been asserted during the debate, his delegation had not admitted the charges contained in Senegal's original complaint. He had emphasized Portugal's inalienable right of self-defence against attacks against its territory, attacks which were contrary to the Charter and could not be legitimized by any resolutions of the General Assembly, which were no more than recommendations, or even of the Security Council. There was nothing in the Charter to justify a "double standard" in the interpretation of Article 51 so as to deny the right of self-defence to Portugal. He emphasized that Portugal had been admitted as a Member State with all its territories as defined in the Portuguese Constitution and it was not within the competence of the United Nations to question the territorial integrity of the Portuguese State. Referring to the incident alleged in Senegal's complaint of 7 December, the representative of Portugal stated that information obtained by his delegation did not indicate that Portuguese security forces had been involved. However, a clash appeared to have taken place at Samine involving the local population and rival armed groups organized there to attack Portuguese Guinea. He reiterated his call for investigation *in loco* in order to discover the truth of the situation.⁴³¹

At the same meeting, the revised draft resolution was adopted⁴³² by 13 votes to none, with 2 abstentions. The resolution⁴³³ read:

"The Security Council,

"Taking note of the complaints by Senegal against Portugal contained in documents S/9513 and S/9541,

"Conscious of its responsibility for taking effective collective measures to forestall and eliminate threats to international peace and security,

"Bearing in mind that all States must refrain in their international relations from recourse to the threat or use of force against the territorial integrity or political independence of any State or in any manner incompatible with the purposes of the United Nations,

"Concerned about the serious situation created by the shelling of the village of Samine in the southern region of Senegal from the Bégène base,

"Deeply concerned at the fact that incidents of this nature jeopardize international peace and security,

"Bearing in mind its resolution 178 (1963) of 24 April 1963 and 204 (1965) of 19 May 1965,

"1. Strongly condemns the Portuguese authorities for the shelling of the village of Samine, which (1) on 25 November 1969 caused one death and seriously wounded eight persons, struck a building of the Senegalese *gendarmerie* and completely destroyed two

⁴²² 1516th meeting, paras. 47-69.

⁴²³ *Ibid.*, paras. 101-135.

⁴²⁴ 1518th meeting, para. 4.

⁴²⁵ S/9541, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, p. 151.

⁴²⁶ 1518th meeting, preceding para. 1.

⁴²⁷ *Ibid.*, paras. 5-13.

⁴²⁸ For texts of relevant statements, see 1518th meeting: Madagascar,* paras. 18-19; Mauritania,* paras 131-132; Nepal,

paras. 116-121; Tunisia,* paras. 37, 42-44; USSR, paras. 104-105; United Arab Republic,* paras. 57-62; 1519th meeting: Pakistan, para. 17; Syria,* para. 46.

⁴²⁹ S/9542, 1519th meeting, para. 3.

⁴³⁰ S/9542/Rev.1, *ibid.*, paras. 28-29.

⁴³¹ 1520th meeting, paras. 9-19.

⁴³² *Ibid.*, para. 56.

⁴³³ Resolution 273 (1969).

houses in the village of Samine, and (2) on 7 December 1969 caused five deaths and seriously wounded one woman;

"2. *Again calls upon* Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal;

"3. *Declares* that in the event of failure by Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider other measures;

"4. *Decides* to remain seized of the question."

Decision of 15 July 1971 (1572nd meeting): resolution 294 (1971)

By letter⁴³⁴ dated 6 July 1971 addressed to the President of the Security Council, the representative of Senegal informed the Security Council of "further obvious and flagrant violation of Senegal's sovereignty and territorial integrity", including laying of anti-tank and anti-personnel mines, which had been committed by the regular Portuguese forces since May 1971 and which had resulted in death, injury and destruction. In view of those incidents as well as those related in his earlier letters dated 27 April⁴³⁵ and 16 June 1971,⁴³⁶ he requested that a meeting of the Security Council should be convened as a matter of urgency.

In a letter⁴³⁷ dated 10 July addressed to the President of the Security Council, the representative of Portugal expressed regret that Senegal had requested a meeting of the Council without first seeking to clarify the truth of the facts through direct contacts with Portugal as provided for in the Charter. Moreover, Senegal had systematically attributed responsibility for incidents on the Luso-Senegalese frontier to Portugal without presenting evidence to substantiate those charges. Portugal had continued to suffer from aggressions committed by the Partido Africano da Independência da Guiné e Cabo Verde (PAIGC), a subversive group which organized and prepared, in Senegalese territory, armed attacks against Portuguese Guinea and which bore responsibility for all the problems that had arisen in their respective frontier areas. Referring to the incidents related in Senegal's complaint, the Portuguese representative stated that circumstances appeared to indicate that PAIGC had been responsible for them. His Government therefore repudiated Senegal's charges and categorically rejected any responsibility for the incidents.

In a letter⁴³⁸ dated 12 July 1971 addressed to the President of the Security Council, the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia supported Senegal's request for a Council meeting and requested the Security Council to take such measures as were necessary to

ensure that Portugal conformed to the relevant Security Council and General Assembly resolutions by putting an end to its flagrant acts of aggression and by granting self-determination and independence to its colonies in accordance with General Assembly resolution 1514 (XV).

At the 1569th meeting on 12 July 1971, the Security Council included⁴³⁹ the item in the agenda and considered it at its 1569th to 1572nd meetings between 12 and 15 July 1971. At the 1569th meeting on 12 July, the representatives of Senegal and Guinea were invited⁴⁴⁰ to participate in the discussion. Subsequently, at the 1570th meeting on 13 July the representatives of Mali, Sudan and Mauritania,⁴⁴¹ and at the 1571st meeting on 14 July the representatives of Mauritius, Togo and Zambia⁴⁴² were also invited to participate.

At the 1569th meeting on 12 July 1971, the representative of Senegal* stated that the latest acts of aggression by Portuguese forces added to a long list of violations of the territorial integrity of Senegal and were closely linked with Portuguese repression of the nationalist movements in Guinea (Bissau). After recalling the Security Council's consideration of earlier Senegalese complaints against Portugal, he added that Portuguese violence had escalated since the Council last considered the question in December 1969, resulting in mounting casualties and material damage, and now included the laying of anti-tank and anti-personnel mines on Senegalese territory. The representative of Senegal then recounted the incidents related in the latest Senegalese complaint and stated that the African States were convinced that Portugal could carry the burden of its policy of repression only because it received support from its NATO allies. He recalled that his Government had proposed a peace plan that would end the armed struggle in Guinea (Bissau) between Portugal and the nationalists and would lead to independence through negotiation. The plan had been approved by the liberation movement but Portugal had not made any response. Recalling Security Council resolution 273 (1969), whereby the Council had declared that "in the event of failure by Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider other measures",⁴⁴³ the representatives of Senegal said that his Government, having exhausted all the procedures provided for under the Charter, was requesting the Security Council to take effective measures to implement its decisions and to fulfil its responsibility under the Charter to repress any acts of aggression.⁴⁴⁴

At the 1570th meeting on 13 July 1971, the representative of the USSR recalled the resolution⁴⁴⁵ adopted by the Security Council in April 1963, which condemned Portuguese incursion into the territory of Senegal and demanded that Portugal take all necessary measures to prevent any violations of the sovereignty and territorial inviolability of Senegal, and asserted that Portugal had ignored this decision which was obligatory under the United Nations Charter and had continued its policy of aggression against Senegal and other

⁴³⁹ 1569th meeting, preceding para. 7.

⁴⁴⁰ *Ibid.*, paras. 7-9.

⁴⁴¹ 1570th meeting, paras. 2, 3, 45.

⁴⁴² 1571st meeting, paras. 4-5.

⁴⁴³ Resolution 273 (1969), para. 3. In its para. 2, the Security Council called upon Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal.

⁴⁴⁴ 1569th meeting, paras. 14-72.

⁴⁴⁵ Resolution 178 (1963).

⁴³⁴ S/10251, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 28.

⁴³⁵ S/10182, *OR*, 26th yr., *Suppl. for April-June 1971*, pp. 33-34.

⁴³⁶ S/10227, *ibid.*, p. 81.

⁴³⁷ S/10255, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, pp. 29-30.

⁴³⁸ S/10259 and Add.1 and 2, *ibid.*, pp. 32-33.

African States. These aggressive actions were a direct continuation of Portugal's colonial policy and could be halted only if the provisions of the General Assembly resolution 1514 (XV) on the Declaration on the Granting of Independence to Colonial Countries and Peoples were implemented. Colonialism, racism and *apartheid* were by no means internal matters of Portugal, South Africa and Southern Rhodesia, but were permanent and dangerous sources of acute conflicts, wars and international tension. In its resolution 290 (1970) the Security Council already had solemnly warned Portugal that, should its armed attacks against independent African States be repeated, the Council would immediately consider appropriate effective steps in accordance with the relevant provisions of the Charter.⁴⁴⁶ It was, therefore, incumbent upon the Security Council to take immediate effective measures against Portugal to halt its aggressive acts.⁴⁴⁷

At the 1572nd meeting on 15 July 1971, the representative of Somalia noted that Senegal had sought solutions to the dispute by negotiation and other peaceful means in accordance with the provisions of Article 33 of the United Nations Charter. The Security Council was now faced with the responsibility, which it could not shirk, of dealing with acts of aggression. Referring to the report⁴⁴⁸ of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights, which had toured extensively the Casamance region in Senegal in 1970 and had obtained at first-hand some revealing evidence about the situation on the border between Senegal and Guinea (Bissau), he said that his delegation believed that the Security Council should use to the full its investigative powers under Article 34 of the Charter so that effective measures to preserve peace in the region might be undertaken on a sound and informed basis.⁴⁴⁹ He then introduced a draft resolution⁴⁵⁰ jointly sponsored by Burundi, Japan, Sierra Leone, Somalia and Syria.⁴⁵¹

At the same meeting, at the request of the representative of the United States, operative paragraph 4 of the draft resolution was put to a separate vote and adopted⁴⁵² unanimously. The draft resolution as a whole was then adopted⁴⁵³ by 13 votes to none, with 2 abstentions.

The resolution⁴⁵⁴ read:

"The Security Council,

"Taking note of the complaints by Senegal against Portugal contained in documents S/10182 and S/10251,

"Taking note of the letter of the Chargé d'affaires *ad interim* of Portugal,

"Having heard the statement of the Minister for Foreign Affairs of Senegal,

"Bearing in mind that all States Members of the United Nations must 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 purpose of the United Nations,

⁴⁴⁶ Resolution 290 (1970), para. 8.

⁴⁴⁷ 1570th meeting, paras. 23-44.

⁴⁴⁸ E/CN.4/1050.

⁴⁴⁹ For consideration of Article 34, see in chapter X, Case 2.

⁴⁵⁰ S/10266, 1572nd meeting, para. 37.

⁴⁵¹ 1572nd meeting, paras. 26-37.

⁴⁵² *Ibid.*, paras. 12-84.

⁴⁵³ *Ibid.*, para. 85.

⁴⁵⁴ Resolution 294 (1971).

"Conscious of its duty to take effective collective measures for the prevention and removal of threats to international peace and security and for the suppression of acts of aggression,

"Disturbed by the increasingly serious situation created by acts of violence perpetrated by the Portuguese armed forces against Senegal since the adoption of Security Council resolution 273 (1969) of 9 December 1969,

"Deeply distressed by the repeated laying of mines in Senegalese territory,

"Gravely concerned that incidents of this nature, by threatening the sovereignty and territorial integrity of Senegal, might endanger international peace and security,

"Bearing in mind its resolutions 178 (1963) of 24 April 1963, 204 (1965) of 19 May 1965 and 273 (1969) of 9 December 1969,

"Having taken note of the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights concerning Portuguese acts of violence in Senegalese territory,

"Noting that Portugal has not complied with the provisions of paragraph 2 of resolution 273 (1969),

"1. Demands that the Government of Portugal should stop immediately any acts of violence and destruction in Senegalese territory and respect the sovereignty, territorial integrity and security of Senegal;

"2. Condemns the acts of violence and destruction perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against the population and villages of Senegal;

"3. Condemns the unlawful laying of anti-tank and anti-personnel mines in Senegalese territory;

"4. Requests the President of the Security Council and the Secretary-General to send to the spot, as a matter of urgency, a special mission of members of the Council assisted by their military experts to carry out an inquiry into the facts of which the Council has been informed, to examine the situation along the border between Guinea (Bissau) and Senegal and to report to the Council, making any recommendations aimed at guaranteeing peace and security in this region."

Decision of 24 November 1971 (1601st meeting): resolution 302 (1971)

On 16 September 1971 the Special Mission established in accordance with Security Council resolution 294 (1971) submitted its report⁴⁵⁵ to the Security Council. In its conclusions the Special Mission stated that, from the statements made to it, as well as from its own observations, it was clear that it was a strict principle of the foreign policy of the Republic of Senegal to avoid any engagement with Portuguese forces other than for the actual defence of its territory and that the recurrent armed attacks against Senegal caused considerable loss of human life and material damage and created a climate of insecurity and instability which was fraught with a threat to peace and security in the region. All the evidence of acts of violence and destruction found by the Mission itself was along the frontier

⁴⁵⁵ S/10308 and Corr.1, OR, 26th yr., *Special Supplement* No. 3.

between Senegal and Guinea (Bissau), an area in which, according to the observations of the Mission, PAIGC was not engaged in any military activity. The Special Mission found the indications such as to designate the Portuguese authorities in Guinea (Bissau) as responsible and it further concluded that the above-mentioned acts of violence and destruction appeared to be the consequence of the special situation prevailing in Guinea (Bissau), which was in contradiction to the General Assembly resolution 1514 (XV) on the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Mission recommended that the Security Council should take all appropriate steps and initiatives in order to induce Portugal, on the one hand, to respect the sovereignty and territorial integrity of Senegal and to cease immediately acts of violence and destruction against its territory and people and, on the other, to respect the inalienable right to self-determination and independence of the people of Guinea (Bissau) and to enable that right to be exercised without further delay.

In a letter⁴⁵⁶ dated 29 September 1971 addressed to the President of the Security Council, the Minister for Foreign Affairs of Portugal said that his Government categorically rejected the conclusions of the Special Mission, which were also wholly in contradiction to the facts verified by the Mission in Senegal. While PAIGC itself admitted to the Special Mission that its members were engaged in acts of violence in Portuguese Guinea, the Special Mission assigned the responsibility for those acts to the authorities in Portuguese Guinea, who were only exercising their right of legitimate self-defence under Article 51 of the Charter. He recalled that the Ministers for Foreign Affairs of Portugal and Senegal had agreed to set up a permanent mixed commission to investigate the situation along the frontier between Senegal and Portuguese Guinea and asserted that, while Portugal had offered forthwith to implement the agreement, the Government of Senegal had failed to carry it out. Notwithstanding this, his Government, in a constructive spirit to find a practicable system of co-operation, would reiterate its proposal to establish a permanent commission for control of the frontier.

At the 1586th meeting on 29 September 1971, the Security Council adopted⁴⁵⁷ its agenda and considered the question at the 1586th and 1599th to 1601st meetings held between 29 September and 24 November 1971. At the 1586th meeting on 29 September the representative of Senegal,⁴⁵⁸ and at the 1599th meeting on 23 November the representatives of Guinea, Mali, Mauritania, Mauritius, Sudan, Togo and Zambia⁴⁵⁹ were invited to participate in the discussion.

At the 1586th meeting on 29 September 1971, the representative of Nicaragua, in his capacity as Chairman of the Special Mission, introduced the report and stressed that that Mission was the first to which the Council had granted authority to make recommendations necessary to guarantee peace and security in the region.⁴⁶⁰

The representative of Senegal* said that his Government was pleased with the report and hoped that its

recommendations would be satisfactorily applied. His Government demanded the immediate and final cessation of acts of aggression committed against its people and believed, as did the members of the Special Mission, that the problem could be solved only if the right of self-determination was restored to the people of Guinea (Bissau).⁴⁶¹

The representative of the USSR noted with satisfaction that the Security Council had reinstated the practice of sending missions composed of Council members to carry out direct and immediate tasks such as on-the-spot investigations in the maintenance of international peace and was thus returning to the practical working methods envisaged for it in the United Nations Charter and in the Council's rules of procedure. He hoped that the Council would continue the practice and reiterated his Government's belief that the Security Council, as the main organ responsible for the maintenance of international peace and security, should be the organ that organized and executed peace-keeping operations.⁴⁶²

At the 1599th meeting on 23 November 1971, the representative of Senegal* referred to Portugal's letter of 29 September and explained that there had been a meeting in May 1971 between the Foreign Ministers of Senegal and Portugal at the latter's request, but that no positive decision had been reached and Senegal had never accepted the establishment of a joint commission. Referring to further incidents, cited in his letter⁴⁶³ dated 15 November 1971, which had occurred since the investigation by the Special Mission on the frontier between Senegal and Guinea (Bissau) on 30 October and on the night of 3/4 November, and recalling that the Security Council had already condemned Portugal's acts of aggression and had warned that, should they continue, it would consider other measures, he asserted that the Council could not consider what additional measures to take against Portugal without taking into account the causes underlying the chronic insecurity in the region and that it could not take measures any less firm and decisive than those provided in its earlier resolutions.⁴⁶⁴

At the same meeting, the representative of Burundi introduced a draft resolution⁴⁶⁵ jointly submitted by Burundi, Sierra Leone and Somalia, which was subsequently revised⁴⁶⁶ by the sponsors as a result of consultations with other members of the Council.

At the 1601st meeting on 24 November 1971, the revised draft resolution was adopted⁴⁶⁷ by 14 votes to none, with 1 abstention. The resolution⁴⁶⁸ read:

"The Security Council,

"Considering the complaints by Senegal against Portugal contained in documents S/10182 and S/10251,

"Recalling its resolutions 178 (1963) of 24 April 1963, 204 (1965) of 19 May 1965 and 273 (1969) of 9 December 1969,

"Having considered the report of the Special Mission of the Security Council established in accordance with resolution 294 (1971) of 15 July 1971,

⁴⁶¹ 1586th meeting, paras. 28-30.

⁴⁶² *Ibid.*, paras. 79-86.

⁴⁶³ S/10388, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 34.

⁴⁶⁴ 1599th meeting, paras. 114-126.

⁴⁶⁵ S/10395, 1599th meeting, paras. 143-152.

⁴⁶⁶ 1601st meeting, paras. 5-14.

⁴⁶⁷ *Ibid.*, para. 38.

⁴⁶⁸ Resolution 302 (1971).

⁴⁵⁶ S/10343, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 67-69.

⁴⁵⁷ 1586th meeting, preceding para. 1.

⁴⁵⁸ *Ibid.*, para. 2.

⁴⁵⁹ 1599th meeting, paras. 99-100.

⁴⁶⁰ 1586th meeting, paras. 5-8. For consideration of Article 34, see in chapter X, Case 2.

"Deeply concerned at the climate of insecurity and instability, fraught with a threat to peace and security in the region,

"Affirming the need to ensure the prerequisites for eliminating the causes of tension in the region and creating an atmosphere of trust, peace and security, as recommended by the Special Mission in its report,

"1. Expresses its appreciation for the work accomplished by the Special Mission of the Security Council established under resolution 294 (1971);

"2. Takes note with satisfaction of the recommendations of the Special Mission contained in paragraph 128 of its report;

"3. Reaffirms the provisions of its resolution 294 (1971) condemning the acts of violence and destruction perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against the population and villages of Senegal;

"4. Strongly deplures the lack of co-operation with the Special Mission on the part of the Portuguese Government, which prevented the Special Mission from implementing fully the mandate given to it under paragraph 4 of resolution 294 (1971);

"5. Calls upon the Government of Portugal to take immediate effective measures:

"(a) So that the sovereignty and territorial integrity of Senegal shall be fully respected;

"(b) To prevent acts of violence and destruction against the territory and the people of Senegal, in order to contribute to the safeguarding of peace and security in the region;

"6. Calls upon the Government of Portugal to respect fully the inalienable right to self-determination and independence of the people of Guinea (Bissau);

"7. Calls upon the Government of Portugal to take without further delay the necessary measures, so that this inalienable right of the people of Guinea (Bissau) shall be exercised;

"8. Requests the President of the Security Council and the Secretary-General to keep this question under review and report on the implementation of the present resolution to the Council within an appropriate period and at the latest within six months;

"9. Declares that, in the event of failure by Portugal to comply with the provisions of the present resolution, the Security Council will meet to consider the initiatives and steps that the situation requires;

"10. Decides to remain seized of the question."

COMPLAINT BY GUINEA

INITIAL PROCEEDINGS

By letter⁴⁶⁹ dated 4 December 1969 addressed to the President of the Security Council, the representative of Guinea requested that a meeting of the Security Council be convened to consider the "aggression recently committed by the Portuguese colonial army against the territorial integrity of the Republic of Guinea". In the letter the representative of Guinea referred to his pre-

vious letter⁴⁷⁰ dated 2 December in which he had informed the Council of the shelling of two Guinean frontier villages a few days previously by Portuguese forces. The representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Dahomey, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia subsequently associated themselves with Guinea's request in a letter⁴⁷¹ dated 5 December 1969 in which they hoped that the Council would take necessary steps under Chapter VII of the Charter to end Portuguese acts of aggression.

In a further letter⁴⁷² dated 12 December 1969, the representative of Guinea informed the Security Council of several incidents of bombing and other acts of "provocation and violations . . . of Guinean national territory" which were said to have been committed by Portuguese forces between 13 April and 13 November 1969. These incidents had resulted in a number of deaths and injuries as well as considerable property damage and the Guinean motor barge *Patrice Lumumba* and twenty-one of its passengers were still being detained by Portuguese authorities.

At the 1522nd meeting on 15 December 1969, the Security Council included⁴⁷³ the item in its agenda and invited the representatives of Guinea and Portugal to participate in the discussion.⁴⁷⁴ At subsequent meetings, invitations were extended also to the representatives of Congo (Brazzaville), Liberia, Madagascar, Mali, Sierra Leone, Syria, Tunisia,⁴⁷⁵ Lesotho, Saudi Arabia,⁴⁷⁶ Libya, Yemen,⁴⁷⁷ India,⁴⁷⁸ Bulgaria and Mauritius.⁴⁷⁹ The Council considered the question at the 1522nd to 1526th meetings held between 15 and 22 December 1969.

Decision of 22 December 1969 (1526th meeting): resolution 275 (1970)

At the 1522nd meeting on 15 December 1969, the representative of Guinea* stated that provocations by Portugal against his country and against other African States had persisted and posed a serious threat to the peace and security of the African continent. After reiterating the account of the incidents listed in his letter of 12 December⁴⁸⁰ and also referring to the continued detention by Portuguese authorities since March 1968 of a Guinean aircraft and its two crew members, he expressed his confidence that the Security Council would unanimously condemn Portugal for its occupation of Mozambique, Angola and Guinea (Bissau) and its acts of aggression against the Republic of Guinea. It would also ask Portugal to free immediately the Guinean nationals being detained, return the Guinean aircraft and motor barge, compensate the victims of its

⁴⁷⁰ S/9525, *ibid.*, p. 145.

⁴⁷¹ S/9549, *ibid.*, p. 154.

⁴⁷² S/9554, *ibid.*, pp. 155-157.

⁴⁷³ 1522nd meeting, preceding para. 1, para. 2.

⁴⁷⁴ *Ibid.*, para. 1.

⁴⁷⁵ 1523rd meeting, para. 3.

⁴⁷⁶ *Ibid.*, para. 26.

⁴⁷⁷ 1524th meeting, para. 2.

⁴⁷⁸ *Ibid.*, para. 27.

⁴⁷⁹ 1525th meeting, para. 2.

⁴⁸⁰ S/9554. See foot-note 472 above.

⁴⁶⁹ S/9528. *OR*, 24th yr., Suppl. for Oct.-Dec. 1969, p. 147.

aggression and cease all acts of provocation on the frontiers of the Republic of Guinea.⁴⁸¹

At the same meeting, the representative of Portugal* stated that it was Portuguese Guinea that had been subjected to constant attacks coming from the Republic of Guinea. After citing a number of such incidents, he proposed that the Security Council investigate the charges made by both sides in order to determine the facts and to place the responsibility where it belonged. With regard to the Guinean motor barge and its passengers and the aircraft and its crew detained in Portuguese Guinea, Portugal was prepared to consider their release only when twenty-four Portuguese military personnel, unlawfully kidnapped and detained in the Republic of Guinea, had been set free.⁴⁸²

At the 1524th meeting on 18 December 1969, the representative of Portugal* further stated that, on the basis of the investigation conducted since the matter had been brought to the Council, his Government rejected as unfounded in fact the shelling incidents and air raids which had been alleged by the Government of Guinea. He emphasized that, whatever the allegations, any action taken by Portugal was always taken within its own territory and in the exercise of its right of self-defence.⁴⁸³

At the 1525th meeting on 19 December 1969, the representative of Nepal introduced a draft resolution⁴⁸⁴ jointly sponsored by Algeria, Nepal, Pakistan, Senegal and Zambia.

At the 1526th meeting on 22 December 1969, the draft resolution was put to the vote and was adopted⁴⁸⁵ by 9 votes in favour, none against with 6 abstentions. The resolution⁴⁸⁶ read as follows:

"The Security Council,

"Having noted the contents of the letters of the representative of Guinea in document S/9525, S/9528 and S/9554,

"Observing that incidents of this nature jeopardize international peace and security,

"Mindful that no State should act in any manner inconsistent with the principles and purposes of the Charter of the United Nations,

"Gravely concerned with any and all such attacks by Portugal directed against independent African States,

"Grieved at the extensive damage caused by the Portuguese shelling of Guinean villages from positions in the Territory of Guinea (Bissau),

"1. Deeply deploring the loss of life and heavy damage to several Guinean villages inflicted by the Portuguese military authorities operating from bases in Guinea (Bissau);

"2. Calls upon Portugal to desist forthwith from violating the sovereignty and territorial integrity of the Republic of Guinea;

"3. Calls upon the Portuguese authorities in Guinea (Bissau) to immediately release the Guinean civilian plane which was captured on 26 March 1968 together with the pilots thereon;

⁴⁸¹ 1522nd meeting, paras. 7-39.

⁴⁸² *Ibid.*, paras. 44-90.

⁴⁸³ 1524th meeting, paras. 71-73.

⁴⁸⁴ S/9574, 1525th meeting, para. 9.

⁴⁸⁵ 1526th meeting, para. 48.

⁴⁸⁶ Resolution 275 (1969).

"4. Further calls upon the Portuguese authorities in Guinea (Bissau) to immediately release the Guinean motor barge, Patrice Lumumba, which was captured on 27 August 1969 together with the passengers thereon;

"5. Solemnly warns Portugal that if such acts were to be repeated in future, the Council would have to seriously consider further steps to give effect to this decision."

Decision of 23 November 1970 (1558th meeting): resolution 289 (1970)

By letter⁴⁸⁷ dated 22 November 1970 addressed to the President of the Security Council, the representative of Guinea requested the convening of the Security Council as a matter of extreme urgency. It was stated in the letter further that that morning the territory of Guinea had been the object of an armed attack by Portuguese forces who had landed at several points in the capital and that mercenary commando troops had shelled the town, and contained a request for immediate intervention by airborne United Nations troops to assist the National Army of the Republic of Guinea.

In a telegram⁴⁸⁸ of the same date addressed to the Secretary-General, the President of the Republic of Guinea reiterated the charge of Portuguese aggression and the request for United Nations intervention.

In a letter⁴⁸⁹ also dated 22 November 1970 addressed to the President of the Security Council, the representative of Portugal denied the accusations of the Government of Guinea. Stating that Portugal had no connexion with the matter to which the Guinean letter had referred, he expressed the hope that the Security Council would reject as groundless the charges made by Guinea.

At the 1558th meeting on 22/23 November 1970, the Security Council included the item in the agenda⁴⁹⁰ and considered it at that meeting. The representatives of Guinea, Mali, Mauritania, Saudi Arabia and Senegal were invited⁴⁹¹ to participate in the discussion.

The Secretary-General informed the Council of the message⁴⁹² he had received from the President of the Republic of Guinea as well as of the message from the resident representative of the United Nations Development Programme in Conakry, sent at the request of the Government of Guinea, which confirmed that disembarkment of external forces described by the Government as Portuguese had taken place that morning in Conakry and that the representative had personally seen four ships disembark and fighters fly over the city.⁴⁹³

After calling the Council's attention to earlier complaints brought before it by his Government and by a number of other African States against Portugal, the representative of Guinea* informed the Council that the Republic of Guinea had that morning been the object of premeditated armed aggression by Portuguese colonial forces. Mercenaries had left Guinea (Bissau) on ten Portuguese ships and had landed at several points in Conakry and fighting was continuing. In view of the serious situation, he requested that the Security Council should demand the immediate cessation of the aggression and the immediate withdrawal of all Portu-

⁴⁸⁷ S/9987, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, p. 51.

⁴⁸⁸ S/9988, 1558th meeting, para. 7.

⁴⁸⁹ S/9989, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 51-52.

⁴⁹⁰ 1558th meeting, preceding para. 1.

⁴⁹¹ *Ibid.*, paras. 2, 3.

⁴⁹² S/9988. See foot-note 488 above.

⁴⁹³ 1558th meeting, paras. 7, 10.

guese and mercenary troops and all military equipment. The Council should also unequivocally condemn the Government of Portugal for the premeditated attack against the sovereignty and territorial integrity of the Republic of Guinea and should decide to send the troops necessary to restore peace and security in the area.⁴⁹⁴

After a suspension of the meeting for purposes of consultation, the President (Syria) called the Council's attention to the draft resolution⁴⁹⁵ which had been submitted jointly by Burundi, Nepal, Sierra Leone, Syria and Zambia and which had been revised by the co-sponsors.⁴⁹⁶

The representative of Nepal, in introducing on behalf of its co-sponsors the revised five-power draft resolution,⁴⁹⁷ whereby the Security Council would, *inter alia*, send a special mission to Guinea to report on the situation, stated that it was interim in nature and expressed confidence that the Council would take appropriate decisions upon receipt of all available evidence. He requested that the draft resolution be put immediately to the vote.⁴⁹⁸

The representative of the United States, referring to paragraph 4 of the draft resolution which provided that the special mission would be formed after consultation between the President of the Security Council and the Secretary-General, said that the Security Council might request the Secretary-General to send a representative to the area, a procedure which had often been used in the past. If, on the other hand, the sponsors preferred that the mission be composed of representatives of Governments, his delegation considered it important that all members of the Council be consulted. Accordingly, he proposed an amendment whereby the special mission would be formed after consultation among members of the Security Council.⁴⁹⁹

The United States amendment was put to the vote and was not adopted.⁵⁰⁰ The vote was 3 in favour, none against, with 12 abstentions. The draft resolution was then put to the vote and was adopted⁵⁰¹ unanimously. The resolution read:⁵⁰²

"The Security Council,

"Having heard the statement made by the Permanent Representative of the Republic of Guinea,

"Having taken note of the request made by the President of the Republic of Guinea,

"1. Demands the immediate cessation of the armed attack against the Republic of Guinea;

"2. Demands the immediate withdrawal of all external armed forces and mercenaries, together with the military equipment used in the armed attack against the territory of the Republic of Guinea;

"3. Decides to send a special mission to the Republic of Guinea to report on the situation immediately;

"4. Decides that this special mission be formed after consultation between the President of the Security Council and the Secretary-General;

"5. Decides to maintain the matter on its agenda."

Decision of 8 December 1970 (1563rd meeting): resolution 290 (1970)

On 3 December 1970, the Special Mission to the Republic of Guinea, established under resolution 289 (1970), submitted its report⁵⁰³ to the Security Council. In its conclusions, the report stated that, in the best judgement of the Special Mission, the force of 350-400 men that invaded the Republic of Guinea in several ships on 22/23 November had been assembled in Guinea (Bissau) and was composed of naval and military units of the Portuguese armed forces acting in conjunction with Guinean dissident elements from outside Guinea.

In a letter⁵⁰⁴ dated 4 December 1970 addressed to the President of the Security Council, the representative of Portugal, referring to the report of the Special Mission, declared that his Government had not ordered, authorized or consented to any military operations against the Republic of Guinea. Reiterating his Government's desire for peace and co-operation, particularly with those States contiguous to its territories, he said he considered it lacking in elementary justice for the Special Mission to have reached its conclusions or for the Security Council to pronounce itself without first informing the Portuguese Government of the findings. In view of this, his Government would reject any resolution seeking to establish the culpability of Portuguese entities or individuals in the situation.

At its 1559th meeting on 4 December 1970, the Security Council included⁵⁰⁵ the report of the Special Mission in its agenda and considered it at the 1559th to 1563rd meetings held between 4 and 8 December. At the 1559th meeting, the Council decided to invite the representatives of Guinea, Algeria, Liberia, Mali, Mauritania, Mauritius, People's Republic of the Congo, Saudi Arabia, Senegal, Sudan, United Republic of Tanzania, Yugoslavia, Ethiopia and United Arab Republic⁵⁰⁶ to participate in the discussion. Subsequently, at the 1560th meeting on 5 December the representatives of Cuba and Southern Yemen,⁵⁰⁷ at the 1561st meeting on 7 December the representatives of Uganda, India and Somalia,⁵⁰⁸ and at the 1562nd meeting on 7 December the representatives of Haiti and Pakistan⁵⁰⁹ were also invited to participate.

At the 1559th meeting on 4 December 1970, the representative of Nepal, in his capacity as Chairman of the Special Mission, introduced the report and expressed the hope that it would serve the purpose of fully clarifying the situation in order that the Security Council might take any further action considered necessary.⁵¹⁰

The representative of Guinea* recalled the series of violations of Guinea's sovereignty and territorial integ-

⁴⁹⁴ 1558th meeting, paras. 15, 17, 18, 20, 25.

⁴⁹⁵ S/9990, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 52.

⁴⁹⁶ 1558th meeting, para. 79.

⁴⁹⁷ S/9990/Rev.1, 1558th meeting, para. 81.

⁴⁹⁸ 1558th meeting, para. 82.

⁴⁹⁹ 1558th meeting, paras. 84-86.

⁵⁰⁰ *Ibid.*, para. 100.

⁵⁰¹ *Ibid.*, para. 101.

⁵⁰² Resolution 289 (1970).

⁵⁰³ S/10009 and Add.1, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 73-77.

⁵⁰⁴ S/10014, *ibid.*, p. 77.

⁵⁰⁵ 1559th meeting, preceding para. 9.

⁵⁰⁶ *Ibid.*, para. 94.

⁵⁰⁷ 1560th meeting, para. 4.

⁵⁰⁸ 1561st meeting, paras. 2, 92, 111.

⁵⁰⁹ 1562nd meeting, paras. 2, 29.

⁵¹⁰ 1559th meeting, paras. 16-18.

ity by Portugal since 1961, which his Government had brought to the attention of the Council, and stated that thus the latest act of aggression was not an isolated incident but was rooted in the determination of imperialism to re-establish its hegemony and to deny African peoples their sovereignty and independence. The grave situation resulting from the persistence of the Portuguese colonial régimes in Guinea (Bissau), Mozambique and Angola constituted a constant threat to international peace and security and therefore the United Nations faced the issue not only of Portugal's aggressive policy against Africa but of what steps it should take to ensure respect for the principles in whose name the Organization had been founded.⁵¹¹

The representative of Algeria* stated that the complaint before the Council was not just a complaint of Guinea but of all Africa and that Algeria considered itself as being directly concerned by the aggression against Guinea. He deplored the fact that, two weeks after that aggression, the Security Council had not yet taken any positive action to assist the victims of the aggression and to condemn the aggressors.⁵¹²

The representative of Tanzania* stated that the situation in Guinea, as determined by the Special Mission of the Security Council, constituted a threat to the peace and act of aggression within the meaning of Article 39 of the Charter. It was now incumbent upon the Security Council not only to condemn Portugal but also to take effective measures in accordance with the provisions of Articles 39 and 41.⁵¹³

In the course of the discussion, calls for effective action by the Security Council under Articles 39,⁵¹⁴ 41,⁵¹⁵ and, if necessary, 42⁵¹⁶ or under Chapter VII⁵¹⁷ of the Charter were also made by a number of other representatives.

At the 1562nd meeting on 7 December 1970, the President (USSR) informed⁵¹⁸ the members of the Council of a letter⁵¹⁹ of that date addressed to him by the representative of Portugal transmitting the text of an official communiqué issued that day by the Minister for Foreign Affairs of Portugal. In it, the Portuguese Government had stated that the sources of information available to the Security Council's Special Mission had all been under the control of the Government of Guinea and that, in view of this disregard of the most elementary procedural principles, the conclusions of the Special Mission's report could not be acceptable.

At the same meeting, following a brief suspension, the representative of Burundi introduced a draft resolution⁵²⁰ jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia.

⁵¹¹ 1559th meeting, paras. 21-39, 45.

⁵¹² *Ibid.*, paras. 52-56.

⁵¹³ *Ibid.*, paras. 102, 111-113.

⁵¹⁴ For text of relevant statement, see: 1560th meeting (PV): Yugoslavia,* para. 73.

⁵¹⁵ For text of relevant statements, see: 1560th meeting: Southern Yemen,* paras. 9, 13; USSR, paras. 139-140; Yugoslavia,* para. 74.

⁵¹⁶ For text of relevant statements, see: 1560th meeting: Southern Yemen,* para. 9; USSR, para. 140; Yugoslavia,* para. 74.

⁵¹⁷ For text of relevant statements, see: 1560th meeting: UAR,* para. 60; 1561st meeting: Poland, para. 69; Somalia,* para. 137; Syria, para. 50; Uganda,* para. 88; Zambia, para. 20.

⁵¹⁸ 1562nd meeting, para. 4.

⁵¹⁹ S/10024, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 78-79.

⁵²⁰ S/10030, 1562nd meeting, paras. 49, 50.

At the 1563rd meeting on 8 December 1970, the five-Power draft resolution was put to the vote and was adopted⁵²¹ by 11 votes to none, with 4 abstentions. The resolution⁵²² read:

"The Security Council,

"Having considered with appreciation the report of the Security Council Special Mission to the Republic of Guinea established under resolution 289 (1970) of 23 November 1970,

"Having heard further statements by the Permanent Representative of the Republic of Guinea,

"Gravely concerned that the invasion of the territory of the Republic of Guinea on 22 and 23 November 1970 from Guinea (Bissau) was carried out by naval and military units of the Portuguese armed forces, and by the armed attack against the Republic of Guinea on 27 and 28 November 1970,

"Gravely concerned that such armed attacks directed against independent African States pose a serious threat to the peace and security of independent African States,

"Mindful of its responsibility to take effective collective measures for the prevention and removal of threats to international peace and security,

"Recalling its resolutions 218 (1965) of 23 November 1965 and 275 (1969) of 22 December 1969 which condemned Portugal and affirmed that the situation resulting from the policies of Portugal both as regards the African population of its colonies and the neighbouring States adversely affects the peace and stability of the African continent,

"Reaffirming the inalienable right of the people of Angola, Mozambique and Guinea (Bissau) to freedom and independence in accordance with the Charter of the United Nations and the provisions of General Assembly resolution 1514 (XV) of 14 December 1960,

"Grieved at the loss of life and extensive damage caused by the armed attack and invasion of the Republic of Guinea,

"1. Endorses the conclusions of the report of the Special Mission to the Republic of Guinea;

"2. Strongly condemns the Government of Portugal for its invasion of the Republic of Guinea;

"3. Demands that full compensation by the Government of Portugal be paid to the Republic of Guinea for the extensive damage to life and property caused by the armed attack and invasion and requests the Secretary-General to assist the Government of the Republic of Guinea in the assessment of the extent of the damage involved;

"4. Appeals to all States to render moral and material assistance to the Republic of Guinea to strengthen and defend its independence and territorial integrity;

"5. Declares that the presence of Portuguese colonialism on the African continent is a serious threat to the peace and security of independent African States;

"6. Urges all States to refrain from providing the

⁵²¹ 1563rd meeting, para. 155.

⁵²² Resolution 290 (1970).

Government of Portugal with any military and material assistance enabling it to continue its repressive actions against the peoples of the Territories under its domination and against independent African States;

"7. *Calls upon* the Government of Portugal to apply without further delay to the peoples of the Territories under its domination the principles of self-determination and independence in accordance with the relevant resolutions of the Security Council and General Assembly resolution 1514 (XV);

"8. *Solemnly warns* the Government of Portugal that in the event of any repetition of armed attacks against independent African States, the Security Council shall immediately consider appropriate effective steps or measures in accordance with the relevant provisions of the Charter of the United Nations;

"9. *Calls upon* the Government of Portugal to comply fully with all the resolutions of the Security Council, in particular the present resolution, in accordance with its obligations under Article 25 of the Charter;

"10. *Requests* all States, in particular Portugal's allies, to exert their influence on the Government of Portugal to ensure compliance with the provisions of the present resolution;

"11. *Requests* the President of the Security Council and the Secretary-General to follow closely the implementation of the present resolution;

"12. *Decides* to remain actively seized of the matter."

Decision of 3 August 1971 (1573rd meeting): resolution 295 (1971)

Decision of 26 August 1971 (1576th meeting):

Statement by the President

By letter⁵²³ dated 3 August 1971 addressed to the President of the Security Council, the representative of Guinea stated that the intelligence service of his Government had intercepted conversations between units of Portuguese colonial forces discussing an imminent military aggression by Portugal against the Republic of Guinea, in particular against the main points along the frontier with Guinea (Bissau) and against Conakry, with the aim, presumably, of liberating those taken prisoner in the course of the aggression of 22 November 1970 against Guinea. In view of the imminent threat to international peace and security, he requested an immediate meeting of the Security Council.

At the 1573rd meeting on 3 August 1971, the Security Council included⁵²⁴ the item in the agenda and considered the question at the 1573rd and 1576th meetings on 3 and 26 August 1971. At the 1573rd meeting the representative of Guinea was invited⁵²⁵ to participate in the discussion.

At the 1573rd meeting on 3 August 1971, the representative of Guinea* recalled that his country had been the victim of aggression by Portugal for twelve years, including the most recent incident on 22 November 1970. At that time the Special Mission sent to Guinea by the Security Council had found incontrovertible evidence of Portuguese acts of aggression and, on the

basis of its report, the Security Council, in resolution 290 (1970), had strongly condemned Portugal for its invasion of Guinea and had decided to remain actively seized of the matter. Notwithstanding that resolution, Portuguese violations of Guinea's territory had continued. In view of the new serious acts of aggression being prepared against it, the Government of Guinea had decided to take preventive action and to draw the Council's attention to the situation in time so that it might take appropriate and effective steps.⁵²⁰

At the same meeting, the representative of Somalia introduced a draft resolution,⁵²⁷ jointly submitted by Burundi, Sierra Leone, Somalia and Syria, whereby the Security Council would, *inter alia*, decide to send a "special representative of the Security Council" to Guinea to consult with the authorities and to report on the situation immediately.

Following a brief suspension of the meeting, the representative of Somalia stated that the draft resolution had been revised as a result of consultations so that the Security Council would decide to send a "special mission of three members of the Security Council" rather than a "representative".⁵²⁸ The draft resolution was then put to the vote and was adopted⁵²⁹ unanimously. The resolution⁵³⁰ read:

"The Security Council,

"Taking note of the letter addressed to the President of the Security Council by the Permanent Representative of Guinea,

"Having heard the statement of the Permanent Representative of Guinea,

"Bearing in mind that all States Members of the United Nations must 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. *Affirms* that the territorial integrity and political independence of the Republic of Guinea must be respected;

"2. *Decides* to send a special mission of three members of the Security Council to Guinea to consult with the authorities and to report on the situation immediately;

"3. *Decides* that this special mission be appointed after consultation between the President of the Security Council and the Secretary-General;

"4. *Decides* to maintain the matter on its agenda."

In a letter⁵³¹ dated 4 August 1971 to the President of the Security Council, the representative of Guinea requested that the dispatch of the Special Mission established under resolution 295 (1971) be postponed. Subsequently, in a letter⁵³² dated 12 August 1971, he informed the President of the Council that his Government was prepared to receive the Special Mission as soon as possible.

⁵²⁰ *Ibid.*, paras. 9-23.

⁵²⁷ S/10281, 1573rd meeting, paras. 40-41.

⁵²⁸ 1573rd meeting, paras. 68-70.

⁵²⁹ *Ibid.*, para. 80.

⁵³⁰ Resolution 295 (1971).

⁵³¹ S/10283, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 42.

⁵³² S/10287, *ibid.*, p. 44.

⁵²³ S/10280, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, pp. 41-42.

⁵²⁴ 1573rd meeting, preceding para. 5.

⁵²⁵ *Ibid.*, para. 5.

At the 1576th meeting on 26 August 1971, the President (Italy) read out the following statement expressing the consensus of the Council, which was approved without objection:⁵³³

"It is the consensus of the Security Council that the Special Mission called for in resolution 295 (1971) should be composed of two members of the Council instead of three. The Special Mission will proceed to Conakry to consult the Government of the Republic of Guinea on its complaint and will report back to the Council as soon as possible."

Decision of 30 November 1971 (1603rd meeting):

Statement by the President

On 14 September 1971, the Security Council Special Mission to the Republic of Guinea established under resolution 295 (1971) submitted its report.⁵³⁴ The report described the meetings at which Guinean officials had given detailed accounts of Guinea's complaint and had responded to questions by the members of the Special Mission as well as documentary and other material relating to that complaint submitted to the Special Mission by the Government of Guinea.

In a letter⁵³⁵ dated 29 September 1971 addressed to the President of the Security Council, the representative of Portugal stated that a perusal of the report of the Special Mission had made it clear that the Mission had found no evidence to support Guinea's charges concerning imminent military aggression by Portugal but showed that the alleged intercepted conversations on which Guinea had based its complaint had taken place between two Guinean nationals. He expressed regret that the Security Council should have been asked to convene on such vague and misleading information.

At the 1586th meeting on 29 September 1971, the Security Council included⁵³⁶ the Special Mission's report in the agenda and considered it at that meeting and at the 1603rd meeting on 30 November 1971. At the 1586th meeting the representative of Guinea was invited⁵³⁷ to participate in the discussion.

At the 1586th meeting on 29 September 1971, the representative of Syria, one of the two members of the Special Mission, introduced⁵³⁸ the report.

The representative of Guinea* stated that the report was a faithful record of observed facts which clearly indicated the continuing threat posed by Portugal to the security of his country. He appealed to the Security Council to ensure the security of Guinea by enforcing General Assembly resolution 1514 (XV) which guaranteed the right of self-determination to all peoples and by applying the necessary sanctions to Portugal in order to ensure its compliance with the relevant resolutions of the Council.⁵³⁹

At the 1603rd meeting on 30 November 1971, the President (Poland), with the authorization of the members of the Council,⁵⁴⁰ made the following statement of consensus on behalf of the Council:⁵⁴¹

⁵³³ 1576th meeting, paras. 4-5. See *OR, 26th yr., Resolutions and Decisions of the Security Council 1971*, p. 4.

⁵³⁴ S/10309/Rev.1, *OR, 26th yr., Special Supplement No. 4*.

⁵³⁵ S/10344, *OR, 26th yr., Suppl. for July-Sept. 1971*, p. 69.

⁵³⁶ 1586th meeting, preceding para. 92.

⁵³⁷ *Ibid.*, para. 92.

⁵³⁸ *Ibid.*, paras. 94-101.

⁵³⁹ *Ibid.*, paras. 109-112.

⁵⁴⁰ 1603rd meeting, para. 5.

⁵⁴¹ Decision of 30 November 1971, *OR, 26th yr., Resolutions and Decisions of the Security Council 1971*, p. 5.

"It will be recalled that on 3 August the Security Council decided to dispatch a Special Mission to the Republic of Guinea. The Special Mission, consisting of the representative of Syria, Ambassador George J. Tomeh and the deputy representative of Argentina, Minister Julio César Carasales, visited Guinea from 30 August to 2 September 1971 and held extensive consultations with officials of the Government of Guinea.

"In those consultations, the Guinean authorities co-operated fully with the Special Mission and extended to it all the facilities necessary for the successful achievement of its task.

"Upon its return to New York and in accordance with its terms of reference, the Special Mission submitted its report to the Security Council, circulated as document S/10309. The Council began its first examination of the report of the Special Mission at its 1586th meeting on 29 September 1971.

"It is evident from this report that there is continuing concern in Guinea regarding the possibility of renewed acts against that country's territorial integrity and political independence similar to those which led to the events of November 1970. In this respect, the view has been expressed by the Government of Guinea that action should be taken by the Security Council to prevent Portugal from violating the territorial integrity and political independence of Guinea.

"It is also clear that the failure by Portugal to apply the principle of self-determination, including the right to independence, in Guinea (Bissau) is having an unsettling effect on conditions in the area.

"The Security Council, having taken note with appreciation of the report of the Special Mission and of the representations made by the Government of Guinea, reiterates paragraph 1 of resolution 295 (1971) which 'affirms that the territorial integrity and political independence of the Republic of Guinea must be respected'."

QUESTION OF BAHRAIN

INITIAL PROCEEDINGS

In a report⁵⁴² dated 28 March 1970, the Secretary-General informed the members of the Security Council that, in response to requests by the Governments of Iran and the United Kingdom and following extended consultations with the two parties, he had agreed to exercise his good offices in a matter pertaining to Bahrain. In agreeing to that, he had in mind that such action by the Secretary-General, at the request of Member States, had become customary in United Nations practice and in certain situations had proved to be a valuable means of relieving and preventing tension which could otherwise be prolonged or aggravated by premature disclosure and public debate.

The report contained the text of an announcement issued by the Secretary-General, after consultation with the parties, in which the Secretary-General outlined the events leading to his decision to exercise his good offices and quoted the terms of reference agreed upon by the Governments of Iran and the United Kingdom as follows: "Having regard to the problem created by the differing views of the parties concerned about the

⁵⁴² S/9726, *OR, 25th yr., Suppl. for Jan.-March 1970*, pp. 175-176.

status of Bahrain and the need to find a solution to this problem in order to create an atmosphere of tranquillity, stability and friendliness throughout the area, the Secretary-General of the United Nations is requested by the parties concerned to send a personal representative to ascertain the wishes of the people of Bahrain". The announcement went on to state that, following consultations with the parties, the Secretary-General had designated Mr. Vittorio Winspeare Guicciardi, Under-Secretary-General and Director-General of the United Nations Office at Geneva, as his personal representative. The Secretary-General had been assured that the people of Bahrain would be enabled to express their wishes to him freely and privately. The personal representative was to submit his findings in a report to the Secretary-General, who would, in turn, as agreed by the parties concerned, transmit them to the Security Council for its consideration and endorsement.

In a note⁵⁴³ dated 30 April 1970, transmitting to the Security Council the report of his personal representative, the Secretary-General recalled that the Governments of Iran and the United Kingdom had undertaken to accept the results of his findings after, and subject to, their endorsement by the Security Council. The Secretary-General indicated that with the submission of his personal representative's report, his responsibilities in the exercise of his good offices with regard to Bahrain had been fully discharged. In his report, the personal representative stated that his consultations had convinced him that the overwhelming majority of the people of Bahrain wished to gain recognition of their identity in a fully independent and sovereign State, free to decide for itself its relations with other States.

By letter⁵⁴⁴ dated 4 May 1970, the representative of Iran requested a meeting of the Security Council to consider a report of the Secretary-General on the question of Bahrain.

By letter⁵⁴⁵ dated 5 May 1970, the representative of the United Kingdom submitted a similar request.

The item was included in the agenda⁵⁴⁶ and was considered by the Council at its 1536th meeting on 11 May 1970. The representatives of Iran,⁵⁴⁷ Southern Yemen⁵⁴⁸ and Pakistan⁵⁴⁹ were invited to participate in the discussion.

Decision of 11 May 1970 (1536th meeting): resolution 278 (1970)

At the beginning of the 1536th meeting, the President (France) drew attention to a draft resolution,⁵⁵⁰ formulated as a result of consultation by the members of the Security Council prior to the meeting.

At the 1536th meeting on 11 May 1970 the draft resolution was unanimously adopted.⁵⁵¹ The resolution⁵⁵² read as follows:

"The Security Council,

"Noting the communication from the Secretary-General to the Security Council of 28 March 1970,

"Noting the statements made by the representatives of Iran and the United Kingdom of Great Britain and Northern Ireland in their letters to the Secretary-General of 9 March 1970 and 20 March 1970,

"1. *Endorses* the report of the Personal Representative of the Secretary-General which has been circulated to the Security Council, under cover of a note from the Secretary-General, on 30 April 1970;

"2. *Welcomes* the conclusions and findings of the report, in particular that 'the overwhelming majority of the people of Bahrain wish to gain recognition of their identity in a fully independent and sovereign State free to decide for itself its relations with other States'."

The representative of Iran* stated that with the decision taken by the Council the long-standing dispute between Iran and the United Kingdom had come to an end, both sides having agreed to defer to the wishes of the inhabitants of Bahrain as ascertained by the Secretary-General, if his findings were endorsed by the Security Council. The reduction of tension and the peaceful adjustment of an international difference would be welcomed by all who cherished the principles of the Charter. The Security Council had endorsed the Secretary-General's report, and Iran was abiding by that outcome and was certain that the basic human rights of persons of Iranian origin would be fully respected and safeguarded.⁵⁵³

The representative of the United Kingdom referred to the agreement reached on Bahrain as a classic example of how disputes could be settled peacefully. A deeply rooted dispute, which could have led to suspicion, mistrust and perhaps disruption, to the detriment of the people directly concerned, had been peacefully settled, thanks to a number of convergent favourable factors.⁵⁵⁴

The representatives of China, Colombia, Finland, France, Nepal, Pakistan,* Sierra Leone, the United States and Zambia referred to the agreement reached on Bahrain as an example of how disputes could be settled peacefully. By submitting the problem to the good offices of the Secretary-General and by accepting the results of his findings, the Governments of Iran and the United Kingdom had shown their faith in the principle of peaceful settlement. By agreeing to exercise his good offices the Secretary-General had acted in the best tradition of the United Nations. The results accomplished, said the representative of France, were within the spirit of the United Nations Charter, which under Article 33(1) provided that Member States could use any peaceful means they chose.⁵⁵⁵

The representative of the USSR stated that, regarding the procedure followed in the action undertaken by the Secretary-General, his Government adhered to the position set forth in its letter of 2 April 1970 to the Secretary-General.⁵⁵⁶ With regard to the substance of

⁵⁴³ S/9772, *OR*, 25th yr., *Suppl.*, for April-June 1970, pp. 166-170.

⁵⁴⁴ S/9779, *ibid.*, p. 175.

⁵⁴⁵ S/9783, *ibid.*, p. 178.

⁵⁴⁶ 1536th meeting, para. 3.

⁵⁴⁷ *Ibid.*, para. 4.

⁵⁴⁸ *Ibid.*, para. 5.

⁵⁴⁹ *Ibid.*, para. 33.

⁵⁵⁰ S/9772 (mimeo).

⁵⁵¹ 1536th meeting, para. 7.

⁵⁵² Resolution 278 (1970).

⁵⁵³ 1536th meeting, paras. 10-16.

⁵⁵⁴ *Ibid.*, paras. 23-32.

⁵⁵⁵ For consideration of the provisions of Chapter VI, see chapter X, part 1.

⁵⁵⁶ S/9737, *OR*, 25th yr., *Suppl.* for April-June 1970, p. 143.

In the letter addressed to the President of the Security Council, the USSR Permanent Mission to the United Nations drew attention to the fact that the Secretary-General had considered it possible to communicate information to the members of the Security Council on an *ex post facto* basis, without consulting the members of the Council beforehand, concerning the adop-

the question under discussion, he stressed that the USSR had always favoured the implementation of the principles of self-determination, freedom and national independence of countries and nations under colonial domination, or in colonial or semi-colonial dependence on imperialism.⁵⁵⁷

QUESTION OF RACE CONFLICT IN SOUTH AFRICA

Decision of 23 July 1970 (1549th meeting): resolution 282 (1970)

By letter⁵⁵⁸ dated 15 July 1970, the representatives of Algeria, Burundi, Cameroon, Central African Republic, Congo (Democratic Republic of), Dahomey, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, India, Ivory Coast, Kenya, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Pakistan, People's Republic of the Congo, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Yugoslavia and Zambia requested an urgent meeting of the Security Council to resume consideration of the question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Republic of South Africa with a view to examining in particular the situation arising from violations of the arms embargo called for in Security Council resolutions 181 (1963), 182 (1963) and 191 (1964). Despite these resolutions, the letter added, a number of Member States continued to furnish South Africa with all types of aircraft, helicopters, heavy arms and other equipment which were being used for the imposition of its racist policies and for military aggression against freedom-loving peoples. The information on the extent of these violations had been provided over the years in the reports of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, including the most recent communication⁵⁵⁹ from the Chairman of the Committee to the President of the Security Council.

tion of measures in connexion with the problem of Bahrain, which related to a type of situation that could lead to complications in international relations. It emphasized that under the United Nations Charter, decisions on matters connected with action by the United Nations relating to the maintenance of international peace and security should be taken by the Security Council. In his reply (S/9738, OR, 25th yr., Suppl. for April-June 1970, pp. 143-144), the Secretary-General stated that his position on the exercise of his good offices had been set forth in his letter of 7 March 1969 (S/9055, OR, 24th yr., Suppl. for Jan.-March 1969, p. 110). However, the Secretary-General felt that it might be useful to call attention to one aspect of the question. From time to time, States Members approached the Secretary-General directly, asking for the exercise of his good offices, because they considered that a difference between them might be capable of an amicable solution if dealt with at an early stage quietly and diplomatically. If the proposals were fully consistent with the purposes and principles of the Charter and in no way impinged upon the authority of the Security Council or any other United Nations organ, he felt obligated to assist Member States in the manner requested. To do otherwise would be to thwart a commendable effort by Member States to abide by the principle of peaceful settlement of disputes. The good offices in Bahrain entailed only a fact-finding mission, and a report thereon would be presented to the Council, so that any substantive action would be taken only by that organ.

⁵⁵⁷ 1536th meeting, paras. 73-86. For texts of other relevant statements, see: *ibid.*: China, paras. 125-126; Colombia, para. 89; Finland, paras. 131-132; France, paras. 154-158; Nepal, paras. 120-122; Pakistan, paras. 143-150; Sierra Leone, paras. 94-97; Spain, paras. 63-66; United States, paras. 53-56; Zambia, paras. 111-116.

⁵⁵⁸ S/9867, OR, 25th yr., Suppl. for July-Sept. 1970, p. 106.

⁵⁵⁹ S/9859 and Corr. 1, *ibid.*, pp. 75-76.

cil. The failure of the Security Council to denounce the violations had encouraged other States to reconsider their commitment to the observance of the embargo. The violations of the embargo had enabled the Government of South Africa to amass considerable military power, which it used not only to impose its racist policies but also to flout the decisions of the United Nations with regard to Namibia, Southern Rhodesia and the Portuguese-occupied Territories of Angola and Mozambique. In addition, its military power was being employed to threaten the sovereignty of neighbouring independent African States. Any further weakening of the arms embargo would have grave consequences both for the United Nations and for the peoples of southern Africa and would seriously prejudice relations between African States and those States who were contravening the embargo. Subsequently, the representative of Chad associated himself with the above request for a Council meeting.⁵⁶⁰

At the 1545th meeting on 17 July 1970, the Security Council included the item in its agenda⁵⁶¹ and considered the question at the 1545th to 1549th meetings between 17 and 23 July 1970. The representatives of India, Mauritius, Somalia,⁵⁶² Ghana and Pakistan⁵⁶³ were invited to participate in the discussion.

At the 1545th meeting on 17 July 1970, the representative of Mauritius,* speaking as Chairman of the African group at that time, stated that, in spite of the arms embargo imposed by the Council, the South African Government had continued to receive arms and military equipment as well as spare parts from a number of countries and had been able to receive licences, technical assistance and foreign capital for an expanded manufacture of arms, ammunition, military vehicles and other equipment. The views of these States that the embargo covered only arms which could be used for internal repression and for imposing *apartheid* and that, consequently, they could provide South Africa with the arms and equipment it needed for its external defence was no longer valid, inasmuch as South Africa had committed itself not only to a policy of repression of the organized opposition to its own racial policies but also to a policy of military and economic support of the white minority régimes elsewhere in southern Africa. South Africa and Southern Rhodesia had been conducting against the combined forces of the liberation movements of South Africa and Zimbabwe a guerrilla warfare in which South Africa had been using arms and equipment supposedly supplied for its external defence. Furthermore, South Africa had repeatedly threatened the independent States of southern Africa for their support of the opponents of *apartheid*. The African States therefore called for a complete and mandatory embargo on arms, ammunition, military equipment and vehicles to South Africa, not only because the military build-up of South Africa enabled her to defy the United Nations but also because it constituted a serious threat to international peace and security.⁵⁶⁴

At the same meeting, the representative of Somalia,* who was Chairman of the Special Committee on *Apartheid*, stated that, contrary to the hopes that had been raised by establishment of the arms embargo and by

⁵⁶⁰ 1545th meeting, President (Nicaragua), paras. 11-13.

⁵⁶¹ *Ibid.*, preceding para. 10.

⁵⁶² *Ibid.*, para. 10.

⁵⁶³ 1546th meeting, para. 13.

⁵⁶⁴ 1545th meeting, paras. 17-38.

the renewed commitment of the permanent members of the Security Council to take appropriate action to persuade South Africa to abandon its racist policies, the political situation in that country and the neighbouring Territories had deteriorated since the Council last considered it in 1963 and 1964. At that time, the Council had described the situation as "seriously disturbing international peace and security"⁵⁶⁵ and several Council members, including the African and Asian members, had considered the situation dangerous enough to warrant action under Chapter VII of the Charter. Subsequent developments had made the situation a clear threat to international peace and security, as evidenced by the intensification of racist and repressive measures, the deployment of South African military units in Southern Rhodesia and by further collaboration between South Africa and the Portuguese colonial régimes in Angola and Mozambique. Correspondingly there had been an increase in resistance to those measures by the liberation movements in southern Africa. With these developments in mind, the Security Council should specifically inquire how the South African Government had been able to acquire the military and economic power to carry out its internal and external aggressions with impunity while it was subject to an arms embargo. It was necessary that the arms embargo be strengthened by eliminating the loop-holes to which some States had resorted in justifying their continued supply of arms and equipment to the South African authorities and that universal adherence to the embargo be secured.⁵⁶⁶

A number of representatives also expressed their concern at the reported intention of the Government of the United Kingdom to resume sale of arms to the Pretoria Government.⁵⁶⁷

At the 1548th meeting on 22 July 1970, the President (Nicaragua) called the Council's attention⁵⁶⁸ to the draft resolution⁵⁶⁹ which had been submitted jointly on 21 July by Burundi, Nepal, Sierra Leone, Syria and Zambia.

The representative of Zambia, in introducing the draft resolution, stated that it was intended to reaffirm previous Security Council resolutions on the arms embargo and to strengthen it by incorporating measures contained in operative paragraph 4.⁵⁷⁰

At the 1549th meeting on 23 July 1970, the draft resolution, in its revised form,⁵⁷¹ was put to the vote and was adopted⁵⁷² by 12 votes to none, with 3 abstentions. The resolution⁵⁷³ read as follows:

⁵⁶⁵ Resolution 181 (1963), eighth preambular para.; resolution 182 (1963), ninth preambular para.; resolution 191 (1964), fifth preambular para.

⁵⁶⁶ 1545th meeting, paras. 59-61, 66-74, 103-111.

⁵⁶⁷ For text of relevant statements, see: 1545th meeting: Mauritius,* paras. 33-38; Somalia,* paras. 77-81; India,* paras. 94-95; Zambia, paras. 128-129; 1546th meeting: Ghana,* paras. 31-32; Sierra Leone, paras. 99-105; Pakistan,* paras. 155-156; 1547th meeting: USSR, paras. 18-20; Poland, paras. 69-75; Burundi, paras. 83-111; 1548th meeting: China, paras. 23-24; Zambia, paras. 27-28.

⁵⁶⁸ 1548th meeting, para. 4.

⁵⁶⁹ S/9882, OR, 25th yr., Suppl. for July-Sept. 1970, pp. 113-114.

⁵⁷⁰ 1548th meeting, paras. 31-33.

⁵⁷¹ S/9882/Rev. 2. The revision included replacing the words "constitutes a serious threat to international peace and security" in the seventh preambular paragraph with the words "constitutes a potential threat to international peace and security". See 1549th meeting, para. 6.

⁵⁷² 1549th meeting, para. 29.

⁵⁷³ Resolution 282 (1970).

"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 forty Member States,

"Reiterating its condemnation of the evil and abhorrent policies of *apartheid* and the measures being taken by the Government of South Africa to enforce and extend those policies beyond its borders,

"Recognizing the legitimacy of the struggle of the oppressed people of South Africa in pursuance of their human and political rights as set forth in the Charter of the United Nations and the Universal Declaration of Human Rights,

"Gravely concerned by the persistent refusal of the Government of South Africa to abandon its racist policies and to abide by the resolutions of the Security Council and the General Assembly on this question and others relating to southern Africa,

"Gravely concerned by the situation arising from violations of the arms embargo called for in its resolutions 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963 and 191 (1964) of 18 June 1964,

"Convinced of the need to strengthen the arms embargo called for in the above resolutions,

"Convinced further that the situation resulting from the continued application of the policies of *apartheid* and the constant build-up of the South African military and police forces, made possible by the continued acquisition of arms, military vehicles and other equipment and of spare parts for military equipment from a number of Member States and by local manufacture of arms and ammunition under licences granted by some Member States, constitutes a potential threat to international peace and security,

"Recognizing that the extensive arms build-up of the military forces of South Africa poses a real threat to the security and sovereignty of independent African States opposed to the racial policies of the Government of South Africa, in particular the neighbouring States,

"1. *Reiterates* its total opposition to the policies of *apartheid* of the Government of the Republic of South Africa;

"2. *Reaffirms* its resolutions 181 (1963), 182 (1963) and 191 (1964);

"3. *Condemns* the violations of the arms embargo called for in resolutions 181 (1963), 182 (1963) and 191 (1964);

"4. *Calls upon* all States to strengthen the arms embargo

"(a) By implementing fully the arms embargo against South Africa unconditionally and without reservations whatsoever;

"(b) By withholding the supply of all vehicles and equipment for use of the armed forces and paramilitary organizations of South Africa;

"(c) By ceasing the supply of spare parts for all vehicles and military equipment used by the armed forces and paramilitary organizations of South Africa;

“(d) By revoking all licences and military patents granted to the South African Government or to South African companies for the manufacture of arms and ammunition, aircraft and naval craft or other military vehicles and by refraining from further granting such licences and patents;

“(e) By prohibiting investment in, or technical assistance for, the manufacture of arms and ammunition, aircraft, naval craft, or other military vehicles;

“(f) By ceasing provision of military training for members of the South African armed forces and all other forms of military co-operation with South Africa;

“(g) By undertaking the appropriate action to give effect to the above measures;

“5. Requests the Secretary-General to follow closely the implementation of the present resolution and report to the Security Council from time to time;

“6. Calls upon all States to observe strictly the arms embargo against South Africa and to assist effectively in the implementation of the present resolution.”

REVIEW OF THE INTERNATIONAL SITUATION

Communiqué of 21 October 1970 (1555th meeting):

In a note⁵⁷⁴ dated 19 October 1970, the Secretary-General, in accordance with the final paragraph of the consensus⁵⁷⁵ expressed and approved by the Security Council on 12 June 1970, issued the following provisional agenda of the first periodic meeting of the Security Council which he had drawn up, in consultation with the members of the Council, and which had been approved by the Council's President:

“1. Adoption of the agenda

“2. Review of the international situation.”

The first periodic meeting of the Security Council, its 1555th meeting, was held in private on 21 October 1970. In accordance with rule 55 of the provisional rules of procedure of the Security Council,⁵⁷⁶ the following communiqué⁵⁷⁷ was issued by the Secretary-General at the close of that meeting in place of a verbatim record:

“1. The first periodic meeting of the Security Council envisaged in Article 28, paragraph 2, of the Charter was held on 21 October 1970 at the Headquarters of the United Nations in New York. The meeting was presided over by the Foreign Minister of Spain and attended by the Foreign Ministers of China, Colombia, Finland, France, Nepal, Nicaragua, Poland, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, by the Deputy Foreign Minister of Syria, and the Permanent Representatives to the United Nations of Burundi, Sierra Leone and Zambia.

“2. At the meeting the Secretary-General delivered a statement on the international situation. The representatives of the member States of the Security Council had a general exchange of views on current

issues affecting international peace and security. They pledged their full support for seeking peaceful solutions to outstanding international disputes and conflicts in accordance with the principles and purposes of the Charter of the United Nations.

“3. In reviewing issues currently before the Security Council, members of the Council also consulted on how to contribute to a peaceful political settlement in the Middle East. They reaffirmed their conviction that Security Council resolution 242 (1967) of 22 November 1967 should be supported and carried out in all its parts, and that to this end all concerned should fully co-operate in a concerted effort to promote the establishment of a just and lasting peace in the Middle East.

“4. With regard to the problems of southern Africa which have been considered by the Security Council, members of the Council reaffirmed their determination to continue their search for practicable means in conformity with the Charter, which would enable the peoples of that area to exercise their inalienable right to self-determination and to enjoy their fundamental human rights in freedom and dignity.

“5. Members of the Security Council declared that the capability of the Council to act effectively for the maintenance of international peace and security should be further strengthened. They agreed that the holding of periodic meetings in accordance with Article 28, paragraph 2, of the Charter was an important step in that direction. They also agreed to examine possibilities for further improvements in the methods of work of the Security Council in promoting the peaceful settlement of disputes in accordance with the Charter.

“6. In view of the primary responsibility of the Security Council for the maintenance of international peace and security, members of the Council emphasized the importance of reaching early agreement on guidelines for future peace-keeping operations in conformity with the Charter.

“7. It was agreed that the date of the next periodic meeting of the Security Council will be determined through consultations between the members of the Council.

“8. The representatives of Burundi, Sierra Leone and Zambia reserved their position on paragraph 4. The representative of Syria stated that his Government's position was reflected in his delegation's statement made at the meeting.”

SITUATION IN THE INDIA/PAKISTAN SUBCONTINENT

INITIAL PROCEEDINGS

By a report⁵⁷⁸ dated 3 December 1971, the Secretary-General brought to the attention of the Security Council the efforts he had so far made in regard to the further grave deterioration in the situation along the borders of East Pakistan and elsewhere in the subcontinent which, in his view, constituted a threat to international peace and security. The Secretary-General noted that while he had kept the President of the Security Council informed of these efforts under the broad terms of Article 99 of the United Nations Charter, he felt that the initiative on this matter in the Security

⁵⁷⁴ S/9965, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, p. 28.

⁵⁷⁵ 1544th meeting, paras. 2 and 3. See also chapter I, Case 2.

⁵⁷⁶ S/96/Rev.5 (1969).

⁵⁷⁷ 1555th meeting, para. 1. See also Decision of 21 October 1970, *OR*, 25th yr., *Resolutions and Decisions of the Security Council 1970*, p. 11.

⁵⁷⁸ S/10410 and Add.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 80-85.

Council could best be taken by the parties themselves or by the members of the Council.

By letter⁵⁷⁹ dated 4 December 1971, the representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, the United Kingdom and the United States requested an urgent meeting of the Security Council to consider the recent deteriorating situation that had led to armed clashes between India and Pakistan. By letter⁵⁸⁰ dated 4 December 1971, the representative of Tunisia supported the request that the Council be convened.

At the 1606th meeting on 4 December 1971, the Security Council decided,⁵⁸¹ without vote, to include in its agenda the following items: "(a) Letter dated 4 December 1971 from the representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, the United Kingdom and the United States of America to the President of the Security Council (S/10411)," and "(b) Report of the Secretary-General (S/10410)".

The question was considered by the Council at its 1606th to 1608th meetings on 4 to 6 December 1971.

At the 1606th meeting on 4 December 1971, in view of an announcement made by the President (Sierra Leone) that he had received a request for participation from the representative of Tunisia,⁵⁸² the representative of Italy stated that, owing to the urgency of the crisis that the Council was facing, the discussion should be restricted, for the first meeting of the Council on the item under consideration, to the members of the Council and the main parties concerned, i.e., India and Pakistan, if they wished to take part in the debate. He requested the President to convey invitations to the representatives of India and Pakistan to present their views to the Council.⁵⁸³

The representative of the USSR, having drawn the attention of the members of the Council to a letter⁵⁸⁴ from the delegation of Bangladesh which had been distributed to them, proposed that in so far as the said letter concerning current events in East Pakistan showed the emergence of the situation before the Council, it be issued in the form in which documents were customarily published in the United Nations, and that, as requested therein, a representative of Bangladesh be invited to participate in the meetings of the Security Council.⁵⁸⁵

The President (Sierra Leone) informed the Council that he had received a letter from the representative of India in which the latter had requested that his letter, together with a communication attached thereto and also addressed to the President of the Security Council by the delegation of Bangladesh, be circulated as a document of the Security Council. Noting that he had given instructions to that effect, the President ruled

that the Council defer consideration of the question of inviting Bangladesh until the document containing the application was before the Council.⁵⁸⁶

After a procedural discussion on the question of invitations,⁵⁸⁷ and on the circulation of documents in the Council, the representatives of India and Pakistan were invited to take part in the debate.⁵⁸⁸ Invitations were also extended to the representatives of Tunisia⁵⁸⁹ and Saudi Arabia⁵⁹⁰ at the 1607th meeting of the Council after a procedural discussion.

Decision of 4 December 1971 (1606th meeting):

Suspension of the meeting

Decision of 4 December 1971 (1606th meeting):

Rejection of the United States draft resolution

Decision of 5 December 1971 (1607th meeting):

Rejection of the USSR draft resolution

Decision of 5 December 1971 (1607th meeting):

Rejection of the eight-Power draft resolution

Decision of 6 December 1971 (1608th meeting):
resolution 303 (1971)

In his opening statement, the representative of Pakistan* stated that the situation which had occasioned the request by nine delegations for the present meeting of the Security Council was the outbreak of full-scale hostilities between India and Pakistan on 3 December 1971. Having recalled that certain aspects of the situation in Pakistan, i.e., developments in East Pakistan and the adjacent Indian states, and their actual and possible consequences, had, on two previous occasions, already been brought to the attention of the members of the Security Council by the Secretary-General acting in fact, though not explicitly, in the exercise of his functions under Article 99, he held that in so far as the Security Council had not thought it fit to meet to consider the situation on the basis of the information provided by the Secretary-General, it should now interpret the letter from the nine delegations strictly and not with retrospective effect, that is, confine its consideration to the outbreak, on 3 December 1971, of full-scale hostilities between India and Pakistan. Noting that Pakistan's eastern province had been under massive attack by India's regular troops, tanks and aircraft since 21 November 1971, the representative of Pakistan stated that this unprovoked, pre-planned, large-scale and co-ordinated attack had culminated in full-scale war on 3 December 1971. India had not only launched an aggression against the territory of Pakistan but had openly demanded that Pakistan dismember itself, and in pursuance of that demand, had escalated its aggressive activities to bring about the disintegration of Pakistan. In his view, these two facts had to be the basis for the Security Council consideration of the question for the situation before the Council devolved on the Charter principle of territorial integrity of States, constituted a breach of the peace and involved not only Pakistan but all States in danger of being overrun by larger, more powerful, predatory neighbours. Having

⁵⁷⁹ S/10411, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, p. 86.

⁵⁸⁰ S/10413, *Ibid.*, p. 89.

⁵⁸¹ 1606th meeting, para. 1.

⁵⁸² *Ibid.*, para. 2.

⁵⁸³ *Ibid.*, paras. 3, 10-15, 53-55.

⁵⁸⁴ S/10415, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, pp. 89-90. By a letter dated 4 December 1971 the representative of India transmitted to the President of the Security Council a copy of a letter also dated 4 December 1971 and addressed to the President of the Security Council by Justice Abu Sayud Chowdhury requesting to be allowed to make a statement before the Security Council on behalf of the people and Government of Bangladesh and signing himself "Leader, Bangladesh delegation to the United Nations."

⁵⁸⁵ 1606th meeting, paras. 5-9, 33.

⁵⁸⁶ *Ibid.*, paras. 28, 56. For a procedural discussion on deferment, the ruling of the President and the challenge thereto, see chapter I, part V under rules 30 and 35.

⁵⁸⁷ For the procedural discussion on the question of participation in the proceedings of the Security Council, see chapter III, part I, Case 1.

⁵⁸⁸ 1606th meeting, paras. 43-44.

⁵⁸⁹ 1607th meeting, para. 18.

⁵⁹⁰ *Ibid.*, paras. 20, 22.

recalled that India had first denied the involvement of its forces in the fighting which had begun in Pakistan territory on 21 December 1971, the representative of Pakistan noted that India had subsequently cited the right of self-defence thereby admitting its direct participation in the fighting. He observed that under the Charter of the United Nations it was not permissible for a Member State which had not been attacked to enter the territory of another Member State in the name of self-defence. Noting that India had alleged intrusion by Pakistan forces into Indian territory as an excuse for launching an armed attack on his country, the representative of Pakistan stated that prior to 3 December 1971, Pakistan had been the victim of acts of sabotage, subversion and terrorism committed by armed bands organized by India and that these acts had involved armed incursions into Pakistan from bases in Indian territory. He maintained that even the most elementary considerations of internal security had demanded the capture and expulsion of these bands from the territory of Pakistan but that at no time and place had the armed forces of Pakistan stationed in the East taken any steps beyond those which were adequate to safeguard the borders of the State and maintained its internal security. Invoking the principle that a State which is the victim in its own territory of subversive and/or terrorist acts by irregular, volunteer or armed bands organized by another State, was entitled to take all reasonable and adequate steps to safeguard its existence and its institutions, the representative of Pakistan emphasized that his country had not exceeded this right in suppressing armed and terrorist bands which aimed to bring about a dismemberment of the State. Having maintained, on the basis of statements by the Prime Minister of India, that India considered the preservation of Pakistan's territorial integrity, i.e., presence of Pakistan troops in East Pakistan as a threat to India's security, he held that whatever the nature of the internal crisis in Pakistan, it had posed no military threat to India. He held further that India's belligerence had given a dimension to Pakistan's internal crisis which it would not have had otherwise. He charged that the present situation, which gravely threatened international peace and security, was in fact an outcome of India's intervention in Pakistan's internal affairs and cited a number of acts of this intervention. Noting that his country acknowledged the international character of only one result of its internal crisis, i.e., the migration from East Pakistan of a large number of people into India, the representative of Pakistan pointed out that this was not a political problem but rather a humanitarian one, and that it would have been political if Pakistan were to deny their right to return to their homes. Such, however, was not the case. In closing, the representative of Pakistan requested the Security Council to find the means to make India desist from its act of aggression and stated that only means devised by the Security Council, consistent with Pakistan's independence, sovereignty and territorial integrity and with the principle of non-intervention in the domestic affairs of Member States, would command Pakistan's support and co-operation.⁵⁹¹

The representative of India,* after pointing out that he was participating in the debate not under Article 31 of the Charter but under rules 37 and 38 of the Rules of Procedure, stated that the problem before the Council could not properly be considered as from any particular date: it had a long history behind it which

was essentially a history between the West Pakistan régime and the people of Bangladesh, and that therefore it would be impossible for the Council to obtain a proper perspective of the problem without the participation of the elected representatives of the people of Bangladesh. He maintained that by attempting to suppress militarily the wishes of the people as expressed in the outcome of the elections as to what kind of government they wanted, Pakistan itself, not India, was breaking up Pakistan, and, in the process, creating aggression against India. He charged that in view of its failure to suppress the rebellion in East Bengal, and its failure to obtain India's co-operation for the repression of the East Bengalis, Pakistan had attempted to internationalize the problem, that is, to turn it into an Indo-Pakistan dispute, by involving India first through refugee aggression, i.e., disruption of India's social and economic structure through an influx of refugees, and then through military aggression. After citing numerous complaints of border violations and stating that the Pakistan army had shelled civilian villages, the representative of India maintained that Indian troops had gone into Pakistan territory after 21 November 1971 only in the exercise of the right of self-defence. Having stated that India would not permit its national security to be jeopardized and that it would continue to help the people of Bangladesh in any way it could, short of fighting their battles, he warned the Security Council that India would not be a party to any solution that would mean continuation of the oppression of East Pakistani people. In closing, he emphasized that the question of a cease-fire was not one between India and Pakistan but between the Pakistan Army and the people of Bangladesh and that, therefore, the latter had to be heard before the Council.⁵⁹²

At the same meeting, the representative of the United States, having noted that civil strife in East Pakistan had created a new refugee community in India of unparalleled dimensions and had brought India and Pakistan into a state of open hostilities which could escalate into an all-out conflict, held that the situation constituted a grave threat to the peace and stability of Asia. He pointed out that the proposal by the United States Government that both sides should withdraw their military forces from their borders had been accepted by Pakistan but not by India. He also recalled that India had not joined Pakistan in heeding the Secretary-General's offer of his good offices to assist in the reconciliation of their differences. Referring to admitted incursions of Indian troops across the border of East Pakistan, the representative of the United States declared as unacceptable a situation in which a government intervened across its borders in the affairs of another with military force in violation of the Charter. He expressed the willingness of his government to support effective measures by the Security Council to bring about a cessation of hostilities and a withdrawal of forces so that progress could be made in building the political, economic and social conditions in East Pakistan in which the refugees would return from India and in which peace could be ensured.⁵⁹³ To this end, he submitted a draft resolution⁵⁹⁴ under the terms of which the Security Council, convinced that hostilities along the India-Pakistan border constituted an immediate threat to international peace and security, would: (1) call upon the Governments of India and

⁵⁹² *Ibid.*, paras. 150-185.

⁵⁹³ *Ibid.*, paras. 186-200.

⁵⁹⁴ S/10416, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 90.

⁵⁹¹ 1606th meeting, paras. 69-139.

Pakistan to take all steps required for an immediate cessation of hostilities; (2) call for an immediate withdrawal of armed personnel present on the territory of the other to their own sides of the India-Pakistan borders; (3) authorize the Secretary-General, at the request of the Government of India or Pakistan, to place observers along the borders to report on the implementation of the cease-fire and troops withdrawal, drawing as necessary on UNMOGIP personnel; (4) call upon the Governments of India and Pakistan and others concerned to exert their best efforts towards the creation of a climate conducive to the voluntary return of refugees to East Pakistan; (5) call upon all States to refrain from any action that would endanger the peace in the area; (6) invite the Governments of India and Pakistan to respond affirmatively to the proposal of the Secretary-General offering his good offices to secure and maintain peace in the subcontinent; and (7) request the Secretary-General to report to the Security Council as soon as possible on the implementation of the resolution.

The representative of France observed that the situation in the Indo-Pakistan subcontinent had two aspects: the first was political in nature and affected the relations between the Government of Pakistan and the population of East Pakistan; the second was derived from the first, by reason of the influx of refugees to India, and affected relations between India and Pakistan. He felt that consideration by the Security Council of the first aspect of the situation only could be regarded as interference in internal affairs of Pakistan; consideration of the second aspect only could be regarded as partial and superficial in view of the millions of refugees under India's care. The representative of France held that it was the duty of the members of the Council to put an end to the hostilities, to alleviate the suffering of the people, and to deal with the causes of the crisis, with the consent of the parties, by negotiation, to reach a just and peaceful settlement.⁵⁹⁵

The representative of China stated that India, using the question of East Pakistan, had committed armed aggression against Pakistan. He asked the Security Council to condemn this act of aggression and to demand the immediate and unconditional withdrawal of all armed forces of India from Pakistan.⁵⁹⁶

The representative of the USSR stated that as a result of the political crisis in East Pakistan, the interruption of talks between the military administration of Pakistan and the lawful representatives of the Pakistan people, and the application of force and terror by the military authorities against the people of East Pakistan, ten million people had been compelled to flee their homeland and take refuge in India. Having recalled that the representative of Pakistan had, in his statement before the Council, acknowledged that there was a serious domestic crisis in his country which had acquired an international character, he referred to the question of whether the Security Council should deal with the root causes of that crisis, inasmuch as that might constitute interference in Pakistan's internal affairs. He held that under Articles 39, 40 and 41 of the Charter, the Council unquestionably had the right to examine the causes of the emergence of dangerous situations which threatened international peace and security. The representative of the USSR maintained

that the dangerous course of events in the Indo-Pakistan subcontinent called for a speedy attainment of a political settlement in East Pakistan which would take into account the inalienable rights and lawful interests of its population and permit the refugees to return to their homes peacefully and in an atmosphere of security. Commenting on the draft resolution submitted by the United States, he expressed the position of his delegation that it was one-sided and unacceptable because it tried to shift responsibility from the guilty to the innocent.⁵⁹⁷

The representative of the United States requested a suspension of the meeting for twenty minutes to give the members of the Council time to hold consultations on his delegation's draft resolution.⁵⁹⁸

The representative of the USSR made an amendment to the United States proposal to the effect that the meeting should be adjourned for twenty-four hours instead of twenty minutes.⁵⁹⁹

After a brief procedural discussion, the United States proposal to suspend the meeting for twenty minutes was put to the vote. It was adopted⁶⁰⁰ by 10 votes in favour, none against, with 4 abstentions and one member of the Council not participating in the vote.

After a brief suspension of the meeting, the representative of the USSR, introduced a draft resolution⁶⁰¹ by which the Security Council would call for a political settlement in East Pakistan which would inevitably result in a cessation of hostilities; and call upon the Government of Pakistan to take measures to cease all acts of violence by Pakistani forces in East Pakistan which had led to the deterioration of the situation.

The President (Sierra Leone), having noted that there were now two draft resolutions before the Council, one submitted by the United States and the other by the USSR, proposed that in the absence of further speakers, the Council should proceed to the vote.⁶⁰²

Thereafter, the representative of Somalia introduced a draft resolution,⁶⁰³ jointly sponsored by the delegations of Argentina, Burundi, Nicaragua and Sierra Leone, under the terms of which the Security Council, convinced that hostilities along the India-Pakistan border constituted an immediate threat to international peace and security, would recognize the need to deal appropriately at a subsequent stage, within the framework of the Charter of the United Nations, with the issues which had given rise to the hostilities; call upon the Governments of India and Pakistan to take forthwith all measures for an immediate cease-fire and withdrawal of their armed forces on the territory of the other to their own side of the India-Pakistan border; and request the Secretary-General to keep the Council promptly and currently informed on the situation.

Subsequently, the representative of Italy announced that his delegation, together with two other delegations, had prepared a draft resolution and proposed to introduce it after the first vote, that is, the vote on the

⁵⁹⁷ *Ibid.*, paras. 251-278.

⁵⁹⁸ *Ibid.*, para. 342.

⁵⁹⁹ *Ibid.*, para. 349.

⁶⁰⁰ *Ibid.*, para. 354.

⁶⁰¹ S/10418 (mimeo) incorporated into the text of 1606th meeting, para. 358.

⁶⁰² 1606th meeting, para. 368.

⁶⁰³ S/10419, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 91. 1606th meeting, para. 369. This draft resolution was superseded by draft resolution S/10423. See foot-note 617 below.

⁵⁹⁵ 1606th meeting, paras. 220-227.

⁵⁹⁶ *Ibid.*, paras. 235-240.

United States draft resolution, in order that the Council might have all the different proposals before it.⁶⁰⁴

The Council then proceeded to vote on the United States draft resolution which failed of adoption. The vote was 11 in favour, 2 against with 2 abstentions, one of the negative votes being that of a permanent member of the Council.⁶⁰⁵

After a brief procedural discussion on a point of order raised by the representative of the USSR,⁶⁰⁶ the representative of Italy introduced a joint draft resolution⁶⁰⁷ sponsored by the representatives of Belgium, Japan and Italy, which provided that the Security Council would: (1) call upon the Governments concerned forthwith as a first step, for an immediate cease-fire and for a cessation of all military activities; (2) urge the Governments concerned to intensify their efforts to bring about conditions necessary for the speedy and voluntary repatriation of the millions of refugees to their homes; (3) call for the full co-operation of all States with the Secretary-General for rendering assistance to and relieving the distress of those refugees; (4) request the Secretary-General to keep the Council promptly and currently informed on the situation; and (5) decide to follow closely the situation and to meet again as soon as necessary.

In introducing the draft resolution, the representative of Italy stated that its sponsors felt that the Council should not adjourn without making a further attempt to adopt a decision in order to stop the fighting and to take a first step towards the final political solution of the question under consideration. He pointed out that its operative paragraphs 2 and 3 contained the provisions of a resolution that had already been adopted by the Third Committee of the General Assembly.⁶⁰⁸ He added that the sponsors of the draft resolution were ready to consider any suggestions and amendments leading to a Security Council consensus.⁶⁰⁹

After a procedural debate about another suspension of the meeting and the order in which the draft resolutions should be voted upon, the meeting was adjourned.⁶¹⁰

At its 1607th meeting on 5 December 1971, the Security Council included⁶¹¹ on its agenda an additional report⁶¹² from the Secretary-General transmitting the texts of two messages he had received from the Prime Minister of India and the President of Pakistan respectively in which the latter had charged and the former had denied that India had launched an attack on West Pakistan. Also included on the agenda was the report⁶¹³ of the Secretary-General on the situation along the

⁶⁰⁴ 1606th meeting, para. 370.

⁶⁰⁵ *Ibid.*, para. 371.

⁶⁰⁶ *Ibid.*, para. 378. See also chapter I, part V, Case 37 of this Supplement.

⁶⁰⁷ S/10417, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 90-91. This draft resolution was superseded by draft resolution S/10423. See foot-note 617.

⁶⁰⁸ Later adopted as General Assembly resolution 2790A (XXVI). See GA, OR, 26th session, Suppl. No. 29 (A/8429), pp. 84-85.

⁶⁰⁹ 1606th meeting, paras. 384-387.

⁶¹⁰ *Ibid.*, para. 449. For the question of precedence in the voting of draft resolutions, see chapter I, Case 37.

⁶¹¹ 1607th meeting, para. 1.

⁶¹² S/10410/Add.1, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 85-86.

⁶¹³ S/10412, *Ibid.*, pp. 87-88. Note that at the 1608th meeting, the Council also included in its agenda an additional report on the situation along the cease-fire line in Kashmir (S/10412/Add.1, *Ibid.*, pp. 88-89).

cease-fire line in Kashmir. In view of the question before the Security Council, the Secretary-General had considered it appropriate to make available to the Council members information regarding violations and admitted systematic non-observance of the Karachi Agreement along the cease-fire line in the State of Jammu and Kashmir.

After an initial procedural discussion on participation, the Security Council decided⁶¹⁴ to adjourn the consideration of the question of extending an invitation to a representative of Bangladesh to a later date for further consultations.

At the same meeting, the representative of China introduced a draft resolution⁶¹⁵ by which the Security Council, after strongly condemning the Indian Government's acts of creating a so-called "Bangladesh" and of subverting, dismembering and committing aggression against Pakistan, would call upon the Government of India to withdraw its armed forces and personnel from Pakistan territory immediately and unconditionally and call upon the Government of Pakistan to withdraw the armed forces it had sent into Indian territory for counter-attacks; call upon India and Pakistan to cease hostilities and to withdraw respectively from the international border between India and Pakistan and to disengage from each other so as to create conditions for a peaceful settlement of their disputes; call upon all States to support the Pakistan people in their just struggle to resist Indian aggression; and request the Secretary-General to submit as early as possible a report on the implementation of this resolution.

Introducing his draft resolution, the representative of China expressed his objection to the argument that a request could first be made for a cease-fire by both India and Pakistan and the cessation of all military actions while the question of withdrawal of military forces could be deferred to a later date. He held that in so far as India had carried out subversion and committed aggression by sending troops to invade Pakistan territory, the demand for immediate, unconditional and complete withdrawal of Indian troops, would be tantamount to encouraging aggression and recognizing the presence of Indian troops on Pakistan territory as legal. He called upon the Member States sponsoring draft resolutions before the Council to give serious consideration to such consequences.⁶¹⁶

At the same meeting, the representative of Argentina introduced a draft resolution⁶¹⁷ jointly sponsored with the representatives of Belgium, Burundi, Italy, Japan, Nicaragua, Sierra Leone and Somalia, by which the Security Council would: (1) call upon the Governments of India and Pakistan to take forthwith all measures for an immediate cease-fire and withdrawal for

⁶¹⁴ 1607th meeting, para. 72. For a discussion of the applicability of rule 39 of the provisional rules of procedure, see chapter III, part I, Case 7 of this Supplement.

⁶¹⁵ S/10421, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 92. At the 1607th meeting the representative of China stated that he did not ask to have this draft resolution put to a vote because his delegation was holding consultations in connexion with it (1607th meeting, para. 239). At the 1608th meeting, the President (Sierra Leone), stated that the Chinese draft resolution was not pressed to the vote (1608th meeting, para. 277).

⁶¹⁶ 1607th meeting, paras. 74-76.

⁶¹⁷ S/10423, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 93. This draft resolution superseded draft resolutions contained in documents S/10419 and S/10417 (see foot-notes 603 and 607 above) as stated by the President of the Council at the 1607th meeting. (1607th meeting, para. 215.)

their armed forces on the territory of the other to their own side of the India-Pakistan borders; (2) urge that efforts be intensified in order to bring about, speedily and in accordance with the Charter, conditions necessary for the voluntary return of the East Pakistan refugees to their homes; (3) call for the full co-operation of all States with the Secretary-General for rendering assistance to and relieving the distress of those refugees; (4) request the Secretary-General to keep the Council promptly and currently informed on the implementation of this resolution; and (5) decide to follow the situation closely and to meet again as soon as necessary.

Introducing the joint draft resolution, the representative of Argentina stated that the sponsors' primary concern was to seek a way to find a solution that would be satisfactory to the parties to the conflict. The draft resolution had taken cognizance of the need to deal adequately, at a later stage and within the framework of the Charter, with the questions which had given rise to the hostilities. However, at present the most urgent task was to restore peace in the region. The draft resolution was the result of consultations among the sponsors of the two draft resolutions previously submitted to the Council (S/10417 and S/10419), who were able to overcome their differences.⁶¹⁸

At the same meeting, the Security Council voted upon the draft resolution submitted by the USSR which was not adopted. It received 2 votes in favour, 1 against and 12 abstentions.⁶¹⁹

Then the Council voted upon the joint draft resolution submitted by Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Sierra Leone and Somalia, which received 11 votes in favour, 2 against with 2 abstentions and failed of adoption owing to the negative vote of one of the permanent members of the Council.⁶²⁰

The representative of Italy then introduced⁶²¹ a joint draft resolution,⁶²² sponsored by the representatives of Belgium, Italy, Japan, Nicaragua, Sierra Leone and Tunisia,* which, in the view of its sponsors, did not prejudice any of the issues raised during the debate nor any of the measures which the Council would have to take in the future. Under the terms of this draft resolution, the Security Council would: (1) call upon the Governments concerned forthwith, as a first step for an immediate cease-fire; (2) request the Secretary-General to keep the Council promptly and currently informed of the implementation of this resolution; and (3) decide to continue to discuss further measures to be taken in order to restore peace in the area.

At the 1608th meeting on 6 December 1971, the representative of the USSR pointed out that one of the co-sponsors of the draft resolution contained in document S/10425, Tunisia, was not a member of the Security Council. He pointed out that it was not customary in the practice of the Council for a non-member State to co-sponsor a draft resolution, without its co-sponsorship being endorsed or taken over by a member of the Council.⁶²³

After a procedural debate regarding rule 38 of the rules of procedure,⁶²⁴ the representative of Tunisia* stated, that, in order to facilitate the work of the Council, Tunisia would withdraw as a co-sponsor of the draft resolution.⁶²⁵

Subsequently, the representative of France stated that his delegation, together with the delegation of the United Kingdom, had drawn up a draft resolution largely based upon previous texts because it had seemed to them that such a draft resolution could marshal the greatest support without bringing about any irreducible opposition. However, the draft resolution would not be submitted because the consultations that they had undertaken had convinced them that it would be faced with exceptions and objections. He wished none the less to read it out because it was important to have it set down in the archives of the Council. By the operative paragraphs of that draft resolution the Security Council would have: called upon the Governments concerned to order forthwith, as a first step, an immediate cease-fire, the cessation of all military activities and mutual disengagement; urged that efforts be deployed to create the necessary conditions for the voluntary return of refugees from East Pakistan in accordance with the Charter; asked all States to co-operate fully with the Secretary-General with a view to lending assistance to these refugees and alleviating their plight; requested the Secretary-General to keep the Council promptly and regularly informed of the implementation of this resolution; and decided to follow the situation closely and to meet again as soon as necessary.⁶²⁶

At the same meeting the representative of the USSR, commenting on the draft resolution submitted by the representatives of Belgium, Italy, Japan, Nicaragua, and Sierra Leone (S/10425), maintained that the five-Power draft resolution was inadequate in meeting the situation created by the policy of repression pursued by the Government of Pakistan against the people of East Pakistan. Under the circumstances, the only correct course for the Council to follow would be the adoption of a decision in which both the question of the cease-fire and the question of the political settlement of the crisis in East Pakistan were organically and inseparably bound together. Accordingly, he submitted the following amendments⁶²⁷ to the five-Power draft resolution: in operative paragraph 1, to replace the words "all Governments concerned" by the words "all parties concerned", and at the end of the same paragraph, to add the words "and cessation of all military operations"; between operative paragraphs 1 and 2, to insert two new operative paragraphs, by which the Security Council would call upon the Government of Pakistan simultaneously to take effective action towards a political settlement in East Pakistan, giving immediate recognition to the will of the East Pakistan population as expressed in the elections of December 1970, and would declare that the provisions of operative paragraphs 1 and 2 of this resolution constituted a single whole.⁶²⁸

The representative of Italy announced that the sponsors of the five-Power draft resolution (S/10425)

⁶¹⁸ 1607th meeting, paras. 199-202.

⁶¹⁹ *Ibid.*, para. 217.

⁶²⁰ *Ibid.*, para. 240.

⁶²¹ *Ibid.*, para. 260.

⁶²² S/10425, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 94.

⁶²³ 1608th meeting, para. 15.

⁶²⁴ For consideration of question concerning the submission of proposals or draft resolutions by invited representatives, see in chapter III, Case 9 of this *Supplement*.

⁶²⁵ 1608th meeting, paras. 23 and 24.

⁶²⁶ *Ibid.*, paras. 42-45, 116, 279.

⁶²⁷ S/10426 and Rev.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 94.

⁶²⁸ 1608th meeting, paras. 46-63.

had decided to withdraw it because in the last twenty-four hours the situation had radically changed whereby the draft resolution was no longer up to date.⁶²⁹

The representative of Somalia introduced a draft resolution⁶³⁰ jointly sponsored with the representatives of Argentina, Burundi, Japan, Nicaragua and Sierra Leone. He observed that in spite of the proliferation of draft resolutions submitted to the Council, it was not possible to reach a formula acceptable to all its members despite the fact that there was no aspect of the problem which could not be related to one provision or another of the Charter and which could not be settled within its scope. He noted that in the course of the debate, his delegation, together with other delegations, had attempted to formulate a resolution which would not only reflect the concern of the United Nations with the situation under consideration but also be predicated upon the principles and purposes of the Charter. As a result of that attempt the Council had had before it the draft resolution S/10423, which had received the negative vote of a permanent member of the Council. He held that the time had come for the Council to transfer the question to the General Assembly under section A of the "Uniting for peace" resolution, so that it might receive the consideration of all the Member States of the United Nations.⁶³¹

The representative of the USSR also introduced⁶³² a draft resolution⁶³³ which contained the provisions of the five-Power draft resolution (S/10425) together with the amendments to it, previously submitted by his own delegation (S/10426).

Subsequently, the six-Power draft resolution introduced by Somalia (S/10429) was voted upon and adopted⁶³⁴ by 11 votes in favour, none against and 4 abstentions. It read as follows:⁶³⁵

"The Security Council,

"Having considered the item on the agenda of its 1606th meeting, as contained in document S/Agenda/1606,

"Taking into account that the lack of unanimity of its permanent members at the 1606th and 1607th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"Decides to refer the question contained in document S/Agenda/1606 to the General Assembly at its twenty-sixth session, as provided for in General Assembly resolution 377 A (V) of 3 November 1950."

Decision of 13 December 1971 (1613th meeting):

Rejection of the United States draft resolution

Decision of 14 December 1971 (1614th meeting):

Adjournment of the meeting

⁶²⁹ 1608th meeting, paras. 65-68.

⁶³⁰ S/10429, adopted without change as resolution 303 (1971).

⁶³¹ 1608th meeting, paras. 128-138. For consideration of the question of transferring the consideration of the item in the agenda under General Assembly resolution 377 A (V) of 3 November 1950 and practices and proceedings in relation to Article 12 of the Charter, see chapter VI, part I.

⁶³² 1608th meeting, paras. 160-162.

⁶³³ S/10428, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 95. This draft resolution was not pressed to the vote. In this connexion see the statement made by the President (Sierra Leone), 1608th meeting, para. 277.

⁶³⁴ 1608th meeting, para. 322.

⁶³⁵ Resolution 303 (1971).

Decision of 21 December 1971 (1621st meeting): resolution 307 (1971)

By letter⁶³⁶ dated 12 December 1971, the representative of the United States stated that the war on the India-Pakistan subcontinent continued to rage unabated. Urgent efforts by the Security Council to effect a cease-fire and withdrawal at its 1606th, 1607th and 1608th meetings had failed, thus necessitating immediate referral of the crisis to the General Assembly under the "Uniting for peace" procedure.⁶³⁷ The Assembly had considered this grave situation and had adopted resolution 2793 (XXVI)⁶³⁸ which *inter alia* called on India and Pakistan to institute a cease-fire and to withdraw troops from each other's territories. One of the parties, Pakistan, had accepted the resolution. The other party, India, had not yet done so. The United States believed that the Security Council had an obligation to end this threat to world peace on a most urgent basis and it had therefore requested the convening of an immediate meeting of the Security Council.

At the 1611th meeting on 12 December 1971, the Security Council had before it a provisional agenda which read as follows:

"Letter dated 12 December 1971 from the permanent representative of the United States of America to the United Nations addressed to the President of the Security Council S/10444."⁶³⁹

The agenda was adopted⁶⁴⁰ without any objection.

The question was considered by the Security Council at its 1611th, 1613th to 1617th and 1621st meetings between 12 and 21 December 1971. In accordance with previous decisions⁶⁴¹ the representatives of India, Pakistan, Saudi Arabia and Tunisia were invited to participate in the discussion. At the 1615th meeting, the representative of Ceylon⁶⁴² was also invited to participate in the discussion.

At the request of the representative of the United States, the Under-Secretary-General for Political and Security Council Affairs, on behalf of the Secretary-General, reported that immediately after the adoption by the General Assembly on 17 December 1971 of resolution 2793 (XVI), the Secretary-General had communicated the text of that resolution to the Governments of India and Pakistan. The replies were to be distributed later that date.⁶⁴³

The representative of the United States stated that in view of India's defiance of world opinion, expressed in the adoption of GA resolution 2793 (XXVI) by such an overwhelming majority, the United States was referring the issue back to the Security Council. Pakistan had accepted the General Assembly resolution,

⁶³⁶ S/10444, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 104 and 105.

⁶³⁷ In accordance with General Assembly resolution 377 (V).

⁶³⁸ GA, OR, 26th sess., plen. m., 2003rd meeting, para. 490.

⁶³⁹ At the 1614th meeting, at the suggestion of the representative of Somalia, the agenda was amended to read as follows: "The situation in the India/Pakistan subcontinent". For the adoption of the agenda, see chapter II, Case 8.

⁶⁴⁰ 1611th meeting, paras. 1-2.

⁶⁴¹ See foot-notes 588, 589 and 590 above.

⁶⁴² 1615th meeting, para. 3.

⁶⁴³ 1611th meeting, para. 8. The reply from the Government of Pakistan is contained in document S/10440, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 103. The reply from the Government of India is contained in document S/10445, *ibid.*, pp. 105-106. For the statement of the Under-Secretary-General see in chapter I, Case 20.

and the Council had the responsibility to demand immediate compliance by India. The Council should also insist that India give a clear and unequivocal assurance that it did not intend to annex Pakistan territory or change the *status quo* in Kashmir, contrary to United Nations resolutions.⁶⁴⁴ The representative of the United States concluded his statement by submitting a draft resolution⁶⁴⁵ under the terms of the revised text of which, the Security Council would *inter alia*: call upon the Governments of India and Pakistan to take forthwith all measures for an immediate cease-fire and withdrawal of their armed forces on the territory of the other to their own side of the India-Pakistan borders; urge that efforts be intensified in order to bring about, speedily and in accordance with the purposes and principles of the Charter of the United Nations, conditions necessary for the voluntary return of the East Pakistan refugees to their homes; call for the full co-operation of all States with the Secretary-General for rendering assistance to and relieving the distress of those refugees; call upon the parties concerned to take all possible measures and precautions to safeguard the lives and well-being of the civilian population in the area; and request the Secretary-General to keep the Security Council promptly and currently informed on the implementation of this resolution.

The representative of India outlined in detail the views of his Government on the events that had led to the crisis and stated that it was essential for the Council to take note of them in seeking a constructive solution to the conflict. He noted that his Government had endeavoured, since the beginning of the crisis in East Pakistan on 25 March 1971, to put the problem in perspective and though the genesis of the problem had been explained and the prognosis of its implications outlined repeatedly, the international community had failed to understand fundamental causation and had thus found itself unable to remedy it at its roots. He stated that it was after Pakistan's massive attacks and military provocations against his country that India had decided to move into Bangladesh and to repel the Pakistan aggression in the west. In face of unprovoked aggression India had been compelled to take the necessary steps to defend its territorial integrity and security. The people of Bangladesh, battling for their very existence, and the people of India, fighting to defeat aggression, had found themselves partisans in the same cause, and therefore the Government of India had accorded recognition to the People's Republic of Bangladesh on 6 December 1971. That recognition had been delayed to avoid any precipitation of the crisis, but the emergence of Bangladesh had been based on the manifest will of the people of East Bengal. The entry of Indian armed forces into Bangladesh had not been motivated by any intention of territorial aggrandizement. India had recognized Bangladesh to provide a proper juridical and political basis for the presence of the Indian army in support of the Bangladesh Government in that country, and Indian armed forces would remain in Bangladesh territory only as long as Bangladesh required their presence. India earnestly hoped that the United Nations would consider once again the realities of the situation, so that the basic causes of

the conflict could be removed and peace restored. However any resolution of the Council would be ineffective, if it did not take full note of the successful struggle of the people of Bangladesh and of the fact that the Government of Bangladesh was in effective control of its territory.⁶⁴⁶

The representative of Pakistan said that his country's fight was for principles that affected all States. The first principle concerned in this struggle was that a sovereign, independent State, brought into being by its own will, should not be dismembered by force; the second principle was that the United Nations, and particularly the Security Council upon which the Charter had placed the primary responsibility for the maintenance of international peace and security, must discharge its responsibilities towards collective security. Another basic unalterable principle of international law was non-interference in the internal affairs of other countries, but all that the Indian Foreign Minister had spoken about was the internal affairs of Pakistan. The basic issue was not, as India had claimed, a question of self-determination. Had India believed in self-determination, the people of the state of Jammu and Kashmir, would have been allowed a long time ago to decide whether they were going to be a part of India or Pakistan; but the people of Kashmir had never been allowed to exercise their right to self-determination. On 7 December, the General Assembly had decided, by an overwhelming and massive vote of 104 in favour on an international referendum, that Pakistan was one and must remain one. Pakistan had no diplomatic relations with some of the countries that had voted for maintaining the integrity of Pakistan as a matter of principle. If Pakistan were dismembered, the germs of dismemberment would spread. Concluding his statement the representative of Pakistan, said that his country should be given the chance to decide on its own affairs, its own social system and its own evolution without interference from outside.⁶⁴⁷

The President (Sierra Leone) stated that since there was a need for further consultations to be held both among the representatives and their respective Governments and among the representatives themselves with regard to the matter under consideration, he would, in the absence of an objection, consider suspending the discussion on the item on the agenda.⁶⁴⁸ After a procedural debate⁶⁴⁹ in which the representatives of China, France, Somalia, the USSR and the United States participated, the meeting was adjourned.

At the 1613th meeting on 13 December 1971, the representative of the USSR raised a point of order and proposed again⁶⁵⁰ that representatives of Bangladesh be heard by the Council in accordance with rule 39 of the provisional rules of procedure. After a procedural discussion on participation⁶⁵¹ in which the President of the Council (Sierra Leone) and the representatives of Argentina, China, India,* Pakistan,* Poland and the USSR participated, the President (Sierra Leone), invoking rule 30 of the Council's provisional rules of procedure, gave the ruling⁶⁵² that, he could not admit to the presence in the Security Council of any representatives from a State which, in his view, had not yet

⁶⁴⁴ 1611th meeting, paras. 15-31.

⁶⁴⁵ S/10446/Rev.1, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 107. The original draft resolution S/10446 contained a paragraph calling upon the Government of India forthwith to accept a cease-fire and withdrawal of armed forces as set forth in General Assembly resolution 2793 (XXVI) (S/10446, *ibid.*, pp. 106-107). This paragraph was deleted in the revised text.

⁶⁴⁶ 1611th meeting, paras. 33-135.

⁶⁴⁷ *Ibid.*, paras. 141-243.

⁶⁴⁸ *Ibid.*, paras. 244-246.

⁶⁴⁹ For the discussion of this question see chapter I, Case 42.

⁶⁵⁰ For the earlier proposal, see foot-note 585 above.

⁶⁵¹ For discussion of this question see chapter III, part 1. See also foot-note 587 above.

⁶⁵² 1613th meeting, paras. 90-94.

satisfied the necessary criteria for recognition. He noted, at the same time, that his ruling did not mean that, if individuals who were concerned in the matter before the Council wished to be heard, they could not be heard in accordance with the provisions of rule 39.

The representative of the USSR raised the question of inviting Justice Abu Sayud Chowdbury, mentioned by the representative of India in his letter to the President of the Security Council,⁶⁵³ as a person competent to assist the Council in coming to a decision on the matter before it.⁶⁵⁴

The President (Sierra Leone), having noted that he considered the USSR proposal as a point of order, proposed to put it to the vote.⁶⁵⁵ The representative of the USSR stated that he did not insist on a vote,⁶⁵⁶ and the President considered the proposal withdrawn.⁶⁵⁷

Subsequently, the representative of the United States pointed out that a suggestion by the Government of Japan for a change⁶⁵⁸ in the United States draft resolution before the Council (S/10446) had been accepted and the text was revised accordingly.⁶⁵⁹

At the same meeting the United States' revised draft resolution was put to the vote. It received 11 votes in favour, 2 against with 2 abstentions and it was not adopted owing to the negative vote of one of the permanent members of the Council.⁶⁶⁰

Thereafter, the representative of Italy introduced⁶⁶¹ a draft resolution,⁶⁶² co-sponsored by Italy and Japan, under the terms of which the Security Council would, *inter alia*: call upon all Member States to refrain from any action or threat of action likely to worsen the situation in the Indo-Pakistan subcontinent or to endanger international peace; call upon all parties concerned, to take forthwith, as a first step, all measures to bring about an immediate cease-fire and cessation of all hostilities; urge India and Pakistan both to carry on operations of disengagement and withdrawal; call for immediate steps aimed at achieving a comprehensive political settlement; call for the full co-operation of all States with the Secretary-General in rendering assistance to and relieving the distress of the East Pakistan refugees; call upon all parties concerned to take all possible measures and precautions to safeguard the lives and well-being of the civilian population in the area and to ensure the full observation of all the Geneva Conventions; decide to appoint, with the consent of India and Pakistan, a committee composed of three members of the Security Council to assist them in their efforts to bring about normalcy in the area of conflict and to achieve reconciliation; request the Secretary-General to keep the Security Council currently informed on the implementation of this resolution; and, decide to remain seized of the matter.

At the 1614th meeting on 14 December 1971, the representative of Somalia suggested that the question under discussion should be entitled as follows on the

agenda of the Security Council: "The situation in the India/Pakistan sub-continent".⁶⁶³ In the absence of further suggestions or comments, the President (Sierra Leone) considered the suggestion by Somalia as accepted.⁶⁶⁴

At the same meeting, the representative of the United Kingdom made a formal motion under rule 33, that the meeting be suspended for the purpose of consultations.⁶⁶⁵ After a procedural debate, the United Kingdom proposal was voted upon and adopted by 11 votes in favour, none against, with 4 abstentions.⁶⁶⁶

At its 1615th meeting on 15 December 1971, the Security Council had before it a draft resolution⁶⁶⁷ submitted by the representative of Poland,⁶⁶⁸ under the terms of the revised text⁶⁶⁹ of which the Security Council would have decided that: (a) in the eastern theatre of conflict, the power would be peacefully transferred to the representatives of the people lawfully elected in December 1970; (b) immediately after the beginning of the process of power transfer, the military actions would be ceased and an initial cease-fire would start for a period of 72 hours; (c) after the immediate commencement of the initial period of cease-fire, the Pakistan armed forces would start withdrawal to the pre-set locations in the eastern theatre of conflict with a view to evacuation from the eastern theatre of conflict; (d) similarly, the entire West Pakistan, as well as the entire East Pakistan civilian personnel and other persons in West Pakistan willing to return home, would be given an opportunity to do so under the supervision of the United Nations, with the guarantee that nobody would be subjected to repressions; (e) as soon as within the period of seventy-two hours the withdrawal of the Pakistan troops and their concentration for that purpose would have started, the cease-fire would have become permanent. The Indian armed forces would be withdrawn from East Pakistan upon consultations with the newly established authorities organized as a result of the transfer of power; and, (f) recognizing the principle according to which territorial acquisitions made through the use of force would not be retained by either party to the conflict, the Governments of India and Pakistan would immediately begin negotiations with a view to the speediest implementation of this principle in the western theatre of military operations.

In view of the continuing consultations, the representative of Somalia made a motion, under rule 33 of the provisional rules of procedure, for a brief suspension.⁶⁷⁰ In the absence of objections, the meeting was suspended.⁶⁷¹

Upon resumption of the meeting, the representative of the Syrian Arab Republic read out⁶⁷² the text of a draft resolution⁶⁷³ by which the Security Council would have urged the Government of Pakistan to immediately

⁶⁵³ See foot-note 584 above.

⁶⁵⁴ 1613th meeting, paras. 113-114.

⁶⁵⁵ *Ibid.*, para. 122.

⁶⁵⁶ *Ibid.*, paras. 123, 125, 137.

⁶⁵⁷ *Ibid.*, para. 138.

⁶⁵⁸ See foot-note 645 above.

⁶⁵⁹ 1613th meeting, paras. 142-143.

⁶⁶⁰ *Ibid.*, para. 231.

⁶⁶¹ *Ibid.*, paras. 298-301, 305-307.

⁶⁶² S/10451, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 108.

Subsequently, the representative of Italy stated that the co-sponsors would not insist upon their draft resolution being considered (1617th meeting, para. 34).

⁶⁶³ 1614th meeting, para. 8.

⁶⁶⁴ *Ibid.*, para. 9.

⁶⁶⁵ *Ibid.*, para. 40.

⁶⁶⁶ *Ibid.*, para. 49. For discussion of this question see chapter I, Case 43.

⁶⁶⁷ S/10453, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 109.

⁶⁶⁸ 1615th meeting, paras. 62-67.

⁶⁶⁹ S/10453/Rev.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 110. Prior to the revision, paragraphs (a) and (e) had contained references to "the lawfully elected representatives of the people headed by Sheikh Mujibur Rahman".

⁶⁷⁰ 1615th meeting, paras. 104, 108.

⁶⁷¹ *Ibid.*, para. 109.

⁶⁷² *Ibid.*, paras. 110-112.

⁶⁷³ S/10456, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 111.

release all political prisoners to enable the elected representatives of East Pakistan to resume their mandate; decided an immediate cease-fire on all fronts and a disengagement of all those engaged in hostilities, including the withdrawal of the armed forces under the respective command of India and Pakistan to their own side of the border and the cease-fire line in Jammu and Kashmir; requested the Secretary-General to appoint a special representative with a view to supervising the above-mentioned operations, assisting the elected representatives of East Pakistan and the Government of Pakistan to reach a comprehensive settlement, establishing the conditions for the voluntary return of the refugees and normalizing the relations between India and Pakistan; and requested the Secretary-General to keep the Council informed of the implementation of this resolution.

Subsequently, the representative of the United Kingdom introduced⁶⁷⁴ a draft resolution⁶⁷⁵ jointly sponsored with the representative of France. Under its provisions, the Security Council would call upon the Governments of India and Pakistan to institute an immediate and durable cease-fire and cessation of all hostilities in all areas of conflict in the western theatre and in East Pakistan, to remain in effect until operations of disengagement leading to withdrawal had taken place in both theatres; call for the urgent conclusion of a comprehensive political settlement in accordance with the wishes of the people concerned; call upon all Member States to refrain from any action which might aggravate the situation; call upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949; call for full international assistance in the relief of suffering and the rehabilitation of refugees and their return to their homes; invite the Secretary-General to appoint a special representative to lend his good offices in particular for the solution of humanitarian problems; and request the Secretary-General to report to the Security Council on the implementation of this resolution.

Introducing the draft resolution, the representative of the United Kingdom stated that his delegation together with the delegation of France had been engaged in intensive negotiations in an effort to achieve a text of a resolution which could be agreed by the parties concerned, or, at least, which would not raise insuperable difficulties. Although there was not full agreement on the text that he had just introduced, he felt that the time had come to put before the Council the result of the efforts made and the position reached by the sponsors of the draft resolution. He hoped that further progress would be possible and noted that in so far as delegations might need time to reflect and ask for instructions, he was not asking the Council to take action on the draft resolution at the present time.⁶⁷⁶

The representative of the USSR also submitted⁶⁷⁷ a draft resolution⁶⁷⁸ by which the Security Council would call upon all countries concerned to take steps for bringing about immediate cease-fire and cessation of all hostilities on the eastern and western fronts; call for the simultaneous conclusion of a political settlement in accordance with the wishes of the people of East Pakistan; call upon all those concerned to take all

measures necessary to preserve human life and to observe the Geneva Conventions of 1949; request the Secretary-General to keep the Council informed of the implementation of this resolution; and decide to discuss the further measures to be taken in order to restore peace in the whole area.

At the 1616th meeting on 16 December 1971, the representative of India quoted a statement made by the Prime Minister of his country in which it was said that India had no territorial ambitions and that in view of the surrender of the Pakistani armed forces in Bangladesh, it was pointless to continue the existing conflict. Therefore Indian armed forces had been ordered to cease fire everywhere on the western front with effect from 17 December 1971. It was the Indian hope, the statement said, that there would be a corresponding immediate response from the Government of Pakistan.⁶⁷⁹

At the 1617th meeting on 16 December 1971, the representative of the USSR observed that in view of the statement made by the Government of India that it had taken the decision to cease-fire, the draft resolutions before the Council had no further sense. In the light of the new situation, he withdrew⁶⁸⁰ his delegation's draft resolution (S/10457) then before the Council and submitted⁶⁸¹ instead a new draft resolution⁶⁸² by the terms of which the Security Council would welcome the cessation of hostilities in East Pakistan and express the hope that the state of cease-fire would be observed by both sides which would guarantee unimpeded transfer of power to the lawful representatives of the people elected in December 1970, and appropriate settlement of problems related to the conflict in the area; call for immediate cease-fire and cessation of all other military actions along the entire border between India and West Pakistan and along the cease-fire line of 1965 in Jammu and Kashmir; welcome the statement of the Government of India to cease fire unilaterally and cease all military action in the area, and urgently call upon the Government of Pakistan to take identical decisions without delay; and call upon all Member States of the United Nations to render comprehensive assistance for the speediest cessation of military actions and to refrain from any steps which could impede normalization of the situation on the Indo-Pakistan subcontinent.

Upon resumption of the meeting after a brief suspension for further consultations,⁶⁸³ the representative of the United States submitted⁶⁸⁴ a draft resolution⁶⁸⁵ jointly sponsored with Japan. Under the terms of that draft resolution, the Security Council would have demanded that an immediate and durable cease-fire and cessation of all hostilities in all areas of conflict be strictly observed and remain in effect until operations of disengagement took place, leading to withdrawal of

⁶⁷⁹ 1616th meeting, para. 5.

⁶⁸⁰ 1617th meeting, para. 12.

⁶⁸¹ *Ibid.*, para. 7.

⁶⁸² S/10458, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 111-112.

⁶⁸³ 1617th meeting, paras. 11, 18.

⁶⁸⁴ *Ibid.*, paras. 14, 19.

⁶⁸⁵ S/10459/Rev.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 112-113. In the initial draft, the Security Council would have demanded that a durable cease-fire be observed and would have requested the Secretary-General to strengthen as appropriate the staff of the United Nations East Pakistan Relief Operation, headed by his special representative, in order to provide all possible assistance for the solution of humanitarian problems. See: S/10459, *ibid.*, p. 112, paras. 1 and 5.

⁶⁷⁴ 1615th meeting, para. 114.

⁶⁷⁵ S/10455, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 110.

⁶⁷⁶ 1615th meeting, paras. 114-115.

⁶⁷⁷ *Ibid.*, paras. 125-127.

⁶⁷⁸ S/10457, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 111.

the armed forces from all the occupied territories; called upon all Member States to refrain from any action which might aggravate the situation in the subcontinent or endanger international peace; called upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949; called for international assistance in the relief of suffering and the rehabilitation of refugees and their return to their homes and for full co-operation with the Secretary-General to that effect; invited the Secretary-General to appoint a special representative to lend his good offices in particular for the solution of humanitarian problems; requested the Secretary-General to keep the Council informed on the implementation of this resolution; and decided to continue to discuss the further measures to be taken in order to restore peace in the whole area.

At the 1621st meeting on 21 December 1971, the President (Sierra Leone) stated that whereas there had been a number of draft resolutions pending before the Council when it had adjourned for consultations, it had been possible, after intensive consultations with India and Pakistan, to reach agreement on a draft resolution⁶⁸⁶ sponsored by the representatives of Argentina, Burundi, Japan, Nicaragua, Sierra Leone and Somalia. The draft resolution, he noted, was factual and capable of commanding the support of all members of the Council. It was non-partisan and to a considerable extent represented a compromise of the multiplicity of draft resolutions that had been presented to the Council or discussed by the Council members during the last two weeks. It had been voided of all controversial aspects and took account of the realities of the existing situation.⁶⁸⁷

At the same meeting, the six-Power draft resolution was put to the vote and adopted⁶⁸⁸ by 13 votes in favour, none against and 2 abstentions. It read as follows:⁶⁸⁹

"The Security Council,

"Having discussed the grave situation in the subcontinent, which remains a threat to international peace and security,

"Noting General Assembly resolution 2793 (XXVI) of 7 December 1971,

"Noting the reply of the Government of Pakistan on 9 December 1971,

"Noting the reply of the Government of India on 12 December 1971,

"Having heard the statements of the Deputy Prime Minister of Pakistan and the Foreign Minister of India,

"Noting further the statement made at the 1616th meeting of the Security Council by the Foreign Minister of India containing a unilateral declaration of a cease-fire in the western theatre,

"Noting Pakistan's agreement to the cease-fire in

the western theatre with effect from 17 December 1971,

"Noting that consequently a cease-fire and a cessation of hostilities prevail,

"1. Demands that a durable cease-fire and cessation of all hostilities in all areas of conflict be strictly observed and remain in effect until withdrawals take place, as soon as practicable, of all armed forces to their respective territories and to positions which fully respect the cease-fire line in Jammu and Kashmir supervised by the United Nations Military Observer Group in India and Pakistan;

"2. Calls upon all Member States to refrain from any action which may aggravate the situation in the subcontinent or endanger international peace;

"3. Calls upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949 and to apply in full their provisions as regards the protection of the wounded and sick, prisoners of war and civilian population;

"4. Calls for international assistance in the relief of suffering and the rehabilitation of refugees and their return in safety and dignity to their homes, and for full co-operation with the Secretary-General to that effect;

"5. Authorizes the Secretary-General to appoint if necessary a special representative to lend his good offices for the solution of humanitarian problems;

"6. Requests the Secretary-General to keep the Council informed without delay on developments relating to the implementation of the present resolution;

"7. Decides to remain seized of the matter and to keep it under active consideration."

After the vote, the representative of Somalia made a brief statement on behalf of the co-sponsors in explanation of certain aspects of the resolution. He pointed out that the context in which the co-sponsors wished the terms, i.e., withdrawals of all armed forces, contained in paragraph 1 to be interpreted were the following: In the eastern theatre, the resolution called for complete withdrawal of foreign armed forces as soon as practicable; in the western theatre, it called for the commencement of the process of disengagement leading without delay to withdrawal of the armed forces of both parties. In so far as the Government of India had declared that it had no territorial ambitions, it was the view of the co-sponsors that, in the implementation of the resolution, the parties involved could make any mutually acceptable arrangement or adjustment that they deemed necessary.⁶⁹⁰

In connexion with the interpretative statement made by the representative of Somalia on behalf of the co-sponsors, the representative of Pakistan held that the word "territories" in paragraph 1 of resolution 307 (1971) could not mean anything but the national territories as constituted when the State of Pakistan came into existence in 1947. The United Nations could not, in any situation involving two or more organized States, distinguish between territories except in the national sense. In no circumstances could the Organiza-

⁶⁸⁶ S/10465, adopted without change as Security Council resolution 307 (1971).

⁶⁸⁷ 1621st meeting, paras. 3-8. For the discussion of the statement made by the President of the Council, see chapter I, part III, Case 17.

⁶⁸⁸ 1621st meeting, para. 14.

⁶⁸⁹ Resolution 307 (1971).

⁶⁹⁰ 1621st meeting, paras. 15-20.

tion violate the principle of the territorial integrity of Member States; consequently, it was precluded from according even implicit recognition to the result of any attempt, by aggression, subversion, or other use of force, to dismember Pakistan. Paragraph 1 could therefore mean nothing other than that the armed forces of India must withdraw from Pakistan to Indian territory, in both the East and West, and that the armed forces of Pakistan must withdraw from Indian territory. He emphasized that no legal distinction could be drawn between the withdrawals of Indian and Pakistan armed forces in the eastern theatre and those in the western theatre. If the wording of the interpretative statement with respect to the two theatres conveyed a sense of difference, it was only because in the eastern theatre there were no Pakistan forces on Indian territory but there were Indian forces on Pakistan territory, while in the western theatre forces of both sides were on each other's territory. In the eastern theatre withdrawals had to be one-sided and that meant that withdrawals would apply only to the Indian occupation forces while in the western theatre they had to be mutual.⁶⁹¹

The representative of India, on the other hand, contended, with reference to the eastern theatre, that Pakistan no longer had any right to keep any troops in Bangladesh, and any attempt by Pakistan to enter Bangladesh by force would create a threat to peace and security and could endanger peace and stability once again. As regards the western theatre, he stated that the international frontier between India and Pakistan was well defined. However, as a result of hostilities, certain areas of Pakistan were now under the control of Indian troops, and a much smaller area of India was under the control of Pakistani troops: India accepted the principle of withdrawals. He also noted that although the State of Jammu and Kashmir was an integral part of India, in order to avoid bloodshed and for preserving peace, India had respected the cease-fire line supervised by UNMOGIP. In the course of the present conflict, it had been crossed by troops of both sides. In order to avoid the repetition of such incidents, India proposed to discuss and settle with Pakistan certain necessary adjustments in the cease-fire line so that it would become more stable, rational and viable.⁶⁹²

Responding to the statement by the representative of India, the representative of Pakistan rejected the contention that Pakistan had no right to keep troops in so-called Bangladesh. He maintained that East Pakistan was an integral part of the territory of Pakistan, and the juridical status and the inalienable rights of the people of Pakistan could not be altered in any manner by an act of aggression and military occupation. The proclamation of the independence of a territory which was part of Pakistan in the capital of India had not been an act of self-determination of the people of East Pakistan but an act of dismemberment of a sovereign country by military aggression. He also maintained that the withdrawal of occupying armed forces could not be conditional upon negotiations. It was only after withdrawal that negotiations could take place which would lead to a settlement of a conflict. These negotiations did not, he added, require any recognition of any entity not accepted by the Government of Pakistan.⁶⁹³

QUESTION CONCERNING THE ISLANDS OF ABU MUSA, THE GREATER TUNB AND THE LESSER TUNB

INITIAL PROCEEDINGS

By letter⁶⁹⁴ dated 3 December 1971 addressed to the President of the Security Council, the representatives of Algeria, Iraq, the Libyan Arab Republic and the People's Democratic Republic of Yemen requested an urgent meeting of the Security Council to consider "the dangerous situation in the Arabian Gulf area arising from the occupation by the armed forces of Iran of the islands of Abu Musa, the Greater Tunb and the Lesser Tunb, on 30 November 1971".

By letter⁶⁹⁵ dated 7 December 1971, the representative of Iraq transmitted to the Secretary-General the text of a cable dated 30 November 1971 from the Ruler of Ras Al-Khaima in which the Ruler stated that Iranian troops had, that morning, invaded the two islands of Tunb which were an indivisible part of the territory of Ras Al-Khaima. Having charged Iran with aggression, the Ruler requested Iraq to take immediate and effective measures to repulse the aggression and to submit the matter to the Security Council, as well as the Council of the League of Arab States.

The question was considered by the Security Council at its 1610th meeting on 9 December 1971 and the representatives of Algeria, Iraq, the Libyan Arab Republic, the People's Democratic Republic of Yemen, Kuwait, Iran and the United Arab Emirates were invited to participate in the discussion.⁶⁹⁶

Decision of 9 December 1971 (1610th meeting):

Statement by the President

At the 1610th meeting on 9 December 1971, following the adoption⁶⁹⁷ of the agenda, without objection, the representative of Iraq* stated that the recent events in the Gulf had resulted in a tense and serious situation and a potential threat to the peace and security of the entire region. By the invasion of the two islands of Greater and Lesser Tunb which were an integral part of Ras Al-Khaima, and by partial occupation of the adjacent island of Abu Musa under the pretext of an alleged agreement with the Sheikh of Al-Sharjah of whose territory that island was a part, Iran had violated its international obligations under the Charter, in particular Article 2, paragraph 4, which recognized the inadmissibility of the acquisition of territory by the use of force. The representative of Iraq further maintained also that the invasion of the Tunb islands and the partial occupation of the island of Abu Musa was the latest step in a policy of territorial expansion by the Government of Iran. Referring to intermittent claims by Iranian rulers to certain areas and islands in the Gulf which had, for centuries, been under Arab jurisdiction, he maintained that these claims had, in recent years, been reduced in scope and had been concentrated on the three islands of Abu Musa and the Greater Tunb and the Lesser Tunb, particularly after the announcement in 1968 of the British Government's intentions to withdraw from the Gulf by the end of 1971.

The representative of Iraq charged further that the armed aggression by Iran, in contravention of Article

⁶⁹¹ 1621st meeting, paras. 106, 111-112.

⁶⁹² *Ibid.*, paras. 129-131.

⁶⁹³ *Ibid.*, paras. 145-146.

⁶⁹⁴ S/10409, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 79.

⁶⁹⁵ S/10434, *ibid.*, pp. 101-102.

⁶⁹⁶ 1610th meeting, paras. 44-52.

⁶⁹⁷ *Ibid.*, preceding para. 44.

2(4), also demonstrated the collusion between Iran and the United Kingdom. He held that in so far as the islands of the two Tunbs were an integral part of the territory of Ras Al-Khaima, and the island of Abu Musa was part of the territory of Al-Sharjah, both of which were among the Trucial States for whose protection and territorial integrity the United Kingdom was responsible under the "exclusive agreements" of 6 and 8 March 1892 concluded between the Sheiks of the Trucial Coast and the United Kingdom, the latter had failed to honour its international obligations in not defending the three islands.

Having noted that the Iranian aggressions and violations of the Charter directly threatened Iraqi interests and that his Government reserved the right to take any and every action in order to protect its territory integrity and its vital interests in the Gulf, the representative of Iraq appealed to the Security Council to take all effective measures to condemn Iran as an aggressor and Britain as its collaborator, and to ensure the withdrawal of the Iranian forces of occupation from the islands.⁶⁹⁸

The representative of Kuwait* stated that Iran had flagrantly annexed three islands by force in complete disregard of the Charter, in particular Article 2, and in contravention of paragraph 4 of Article 2, and the principle of inadmissibility of territorial acquisition by force. The representative of Kuwait called on the Security Council to adopt a resolution calling on Iran to withdraw its forces from the three Arab islands since the occupation of their territory not only was a violation of the Charter and its principles but it also endangered the stability and peace of the Gulf.⁶⁹⁹

The representative of Algeria,* having observed that over the entire period of British presence in the region as the Administering Power the islands of the Greater and Lesser Tunb, as well as the island of Abu Musa, had been part of the territory that had recently become the federation of the United Arab Emirates, held that the question of the proprietorship over the islands could not be dealt with by way of an agreement between Iran and the United Kingdom, nor by a military occupation such as Iran had carried out in contravention of the Charter principles and in violation of the United Nations Declaration on the Strengthening of International Security. Iran's resort to the use of force called for a condemnation by the Security Council.⁷⁰⁰

The representative of the People's Democratic Republic of Yemen,* having stated that the three islands of Abu Musa and the Greater and Lesser Tunbs had been always considered as parts of the Arab mainland, parts of the Gulf area as a whole, held that the British Government had to assume responsibility for the illegal act of aggression committed by Iran because the United Kingdom had declared itself responsible for this area until the end of 1971. Moreover, even if Iran's claim to the islands were valid, it would not be proper for it, as a Member of the United Nations, to seize the islands by force in violation of the purposes and principles of the Charter of the United Nations. His Government believed firmly that the British Government was responsible for the illegitimate action taken by Iran and that

Iran must immediately withdraw from Abu Musa and Greater and Lesser Tunbs.⁷⁰¹

The representative of Iran* stated that Iran had proceeded in accordance with its peace-loving policy in trying to find a peaceful settlement with regard to Abu Musa and the Tunb islands although there was no doubt that these islands belonged to Iran. Whereas the arrangements made concerning Abu Musa had met with the approval of Sharjah, efforts to find a negotiated solution with regard to the Tunb islands had failed and Iran had had no alternative but to establish the exercise of its sovereign rights over what was Iranian territory. The Iranian Government would not allow the territory of its off-shore islands to be violated; nor would it allow its sovereign rights over the islands in question to be infringed in any way.⁷⁰²

The representative of the United Kingdom recalled the decision of his Government, that the existing treaties between the United Kingdom and Bahrain, Qatar and the seven Trucial States would be terminated and the British forces would be withdrawn by the end of 1971. With regard to Abu Musa, an island administered by the ruler of Sharjah and situated towards the Arab side of the Gulf, the representative of the United Kingdom noted that, as a result of unremitting efforts on the part of the United Kingdom, an agreed settlement had eventually been reached between Iran and the ruler of Sharjah on 29 November 1971 under the terms of which neither gave up its claim to the island nor recognized the other's claim. It had been agreed that Iranian troops should be stationed in specified areas on the island and that oil revenues, should oil subsequently be found on or in the vicinity of the island, would be divided equally between Sharjah and Iran. As for the islands of the Greater and Lesser Tunb, he regretted that it had not been possible to reach a negotiated settlement. He observed that the ending of Britain's special position and responsibilities with the Gulf had meant the striking of a balance between the conflicting claims of neighbouring States, and taking into account of realities.

The representative of Libya* pointed out that his Government condemned the Iranian military aggression and occupation of the three islands in the Gulf; it condemned also the connivance of the British Government and its violation of treaty provisions and international law.⁷⁰³

The representative of the United Arab Emirates* held that the use of force by Iran to settle a territorial dispute arising out of a claim, which in the view of the United Arab Emirates was untenable both historically and juridically, was contrary to the Charter of the United Nations and incompatible with the traditional friendship between the Arab and Iranian peoples. He expressed the hope of his Government that Iran would reconsider its position on the three islands and find it possible to settle this problem in a manner that befitted relations between neighbours.⁷⁰⁴

The representative of Somalia observed that the parties should settle their dispute amicably so that the region might be assured of peace, security and stability. Noting that in discharging its responsibilities in matters so sensitive as unresolved territorial disputes, the Security Council had to act in strict conformity with the

⁶⁹⁸ 1610th meeting, paras. 56-67, 81-88, 90-113.

⁶⁹⁹ *Ibid.*, paras. 123-131, 142, 145-157.

⁷⁰⁰ *Ibid.*, paras. 159-166.

⁷⁰¹ *Ibid.*, paras. 174, 175, 177-181, 187-190.

⁷⁰² *Ibid.*, paras. 200-220.

⁷⁰³ *Ibid.*, paras. 233-240.

⁷⁰⁴ *Ibid.*, paras. 266-270, 274.

letter and spirit of the Charter, in particular, Chapter VI. He maintained that it would be precipitate at this stage for the Council to recommend any recourse under Article 36 for States friendly to both the complainants, and Iran had initiated governmental contacts in an attempt to bring the two sides together. His delegation, therefore, suggested that the Council defer consideration of this matter to a later date, so as to allow sufficient time for these efforts of quiet diplomacy to work. Should these third-party efforts fail, the Council could, at the request of complainants, or by exercising its

own discretion should the situation so demand, resume consideration of the complaint.⁷⁰⁵

The President (Sierra Leone) announced,⁷⁰⁶ in the absence of objections, that the Security Council had decided to defer consideration of the matter to a later date, so that sufficient time was allowed for thorough third-party efforts to materialize.⁷⁰⁷

⁷⁰⁵ 1610th meeting, paras. 275-281.

⁷⁰⁶ *Ibid.*, paras. 282-283.

⁷⁰⁷ Decision of 9 December 1971, *OR, 26th yr., Resolutions and Decisions of the Security Council 1971*, p. 11.

Chapter IX

DECISIONS IN THE EXERCISE OF OTHER FUNCTIONS AND POWERS

NOTE

Decisions of the Security Council relative to recommendations to the General Assembly regarding the admission of new Members have been dealt with in chapter VII, and the decisions on questions considered under the Council's responsibility for the maintenance of international peace and security in chapter VIII.

During the period under review, there has been one instance in which a decision¹ was taken by the Council in the exercise of other functions and powers under the Charter.² The case history is presented below.

¹ Resolution 286 (1970).

² Note that decisions concerning the relations of the Security Council with other organs of the United Nations, arising from Articles 12, 93 (2) and 97 of the Charter are covered in chapter VI.

THE SITUATION CREATED BY INCREASING INCIDENTS INVOLVING HIJACKING OF COMMERCIAL AIRCRAFT³

By a letter⁴ dated 9 September 1970 addressed to the President of the Security Council, the representative of the United States requested that an urgent meeting of the Security Council be called to consider the situation created by increasing incidents involving the hijacking of commercial aircraft engaged in international commerce and the threat to the lives of innocent travellers.

By a letter⁵ dated 9 September 1970 addressed to the President of the Security Council, the representative of the United Kingdom requested that an urgent meeting of the Security Council be convened to consider the question of the hijacking of civil aircraft with particular reference to the incidents which had taken place during the past few days.

By a letter⁶ dated 9 September 1970, the representative of Algeria requested to participate, without vote, in the Council's discussion on the question before it.

Similarly, by a letter⁷ dated 9 September 1970, the representative of Israel also requested participation in the Council's discussion in accordance with Article 31 of the Charter.

The Security Council considered the situation created by increasing incidents involving hijacking of commercial aircraft at its 1552nd meeting on 9 September 1970.

Decision of 9 September 1970 (1552nd meeting): resolution 286 (1970)

After adoption,⁸ without objection, of the agenda at the 1552nd meeting on 9 September 1970, the representative of Finland made a formal motion that the Council should, in view of the urgency of the situation and considering that as a result of consultations a consensus had been reached, adopt that consensus immediately and then adjourn without any debate.⁹

The Finnish motion was adopted without objection.¹⁰

Subsequently, the President (Sierra Leone) declared¹¹ the draft resolution adopted, without vote, and as representing the consensus¹² of the members of the Security Council:

"The Security Council,

"Gravely concerned at the threat to innocent civilian lives from the hijacking of aircraft and any other interference in international travel,

"1. Appeals to all parties concerned for the immediate release of all passengers and crews without exception, held as a result of hijackings and other interference in international travel;

"2. Calls on States to take all possible legal steps to prevent further hijackings or any other interference with international civil air travel."

Thereafter, the meeting was adjourned in conformity with the decision that had been reached earlier.¹³

³ In connexion with this item, the Security Council did not pronounce itself on the question of the Charter article under which it acted.

⁴ S/9931, *OR*, 25th yr., *Suppl. for July-Sept. 1970*, p. 142.

⁵ S/9932, *ibid.*

⁶ S/9934, mimeographed.

⁷ S/9935, mimeographed.

⁸ 1552nd meeting, preceding para. 2.

⁹ *Ibid.*, para. 2.

¹⁰ *Ibid.*, para. 3.

¹¹ *Ibid.*, paras. 11-12.

¹² S/9933/Rev.1 and Corr.1, adopted without vote as resolution 286 (1970).

¹³ 1552nd meeting, para. 13.

Chapter X

CONSIDERATION OF THE PROVISIONS OF CHAPTER VI OF THE CHARTER

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INTRODUCTORY NOTE

As in the previous volumes of the *Repertoire*, the criterion for inclusion of material in the present chapter is the occurrence of discussion in the Council directed to the text of Articles 33-38 of Chapter VI of the Charter. Thus, chapter X does not cover all the activities of the Council in the pacific settlement of disputes, for the debates preceding the major decisions of the Council in this field have dealt almost exclusively with the actual issues before the Council and the relative merits of measures proposed without discussion regarding the juridical problem of their relation to the provisions of the Charter. For a guide to the decisions of the Council in the pacific settlement of disputes, the reader should turn to the appropriate sub-headings of the Analytical Table of Measures adopted by the Security Council.¹

The material in this chapter constitutes only part of the material relevant to the examination of the operation of the Council under Chapter VI of the Charter, since the procedures of the Council reviewed in chapters I-VI, in so far as they relate to the consideration of disputes and situations, should be regarded as integral to the application of Chapter VI of the Charter. Chapter X is limited to presenting the instances of deliberate consideration by the Council of the relation of its proceedings or of measures proposed to the text of Chapter VI.

The case histories on each question require to be examined within the context of the chain of proceedings on the question presented in chapter VIII.

CHAPTER VI OF THE CHARTER. PACIFIC SETTLEMENT OF DISPUTES

"Article 33

"1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

"2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."

"Article 34

"The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security."

¹ Chapter VIII, part I.

"Article 35

"1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

"2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

"3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12."

"Article 36

"1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

"2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

"3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court."

"Article 37

"1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

"2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate."

"Article 38

"Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute."

Part I

CONSIDERATION OF THE PROVISIONS OF ARTICLE 33 OF THE CHARTER

NOTE

During the period under review, none of the communications submitting disputes or situations to the Security Council, and none of the statements made thereon during the initial stage of debates, contained references to prior effort at pacific settlement.²

The significance of Article 33 in the pacific settlement of disputes and situations rests not only on the discharge by the parties themselves of their obligation under that Article but also on the possibility of recourse to that Article by the Council itself by calling upon the parties to settle their disputes by means of pacific settlement. In this connexion, reference should be made to the various decisions of the Security Council entered under "Measures for Settlement" in the Analytical Table of Measures of chapter VIII of this *Supplement*.

Resolutions and decisions adopted by the Security Council during the period under review contained no explicit reference to Article 33 of the Charter. Nor did they contain provisions calling on the parties concerned to enter into direct negotiations or to resort to any of the means of pacific settlement contained in paragraph 1 of that Article, in order to settle their differences by peaceful means. The Council has, on occasion, however, adopted resolutions which might be considered as an indirect application of Article 33. In connexion with the complaint by the Government of Cyprus, for instance, the Council, in extending³ the stationing in Cyprus of the United Nations Peace-keeping Force for further periods, continued, not only to reaffirm⁴ its earlier resolutions on this question whereby it had, *inter alia*, recommended certain measures of pacific settlement,⁵ but also to urge⁶ the parties to continue determined co-operative efforts to achieve the objectives of the Security Council by availing themselves in a constructive manner of the present auspicious climate and opportunities.

In another instance, in connexion with the question of Bahrain, the Security Council endorsed⁷ the report⁸ of the Personal Representative of the Secretary-General of the Good Offices Mission to Bahrain for ascertaining the wishes of the people of Bahrain regarding their

² In one instance, the submitting State referred both in its initial communication and in its statement before the Council, to certain proposals it had made to the other party, prior to its appeal to the Security Council for dispatch to the area in question of a United Nations peace-keeping force. See letter dated 17 August 1969 from Ireland, in connexion with the situation in Northern Ireland, S/9394, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 159; and statement of the Minister for External Affairs of Ireland, in connexion therewith, 1503rd meeting, paras. 30-32.

³ Resolutions 266 (1969) of 10 June 1969; 274 (1969) of 11 December 1969; 281 (1970) of 9 June 1970; 291 (1970) of 10 December 1970; 293 (1971) of 26 May 1971; 305 (1971) of 13 December 1971, para. 3.

⁴ Resolution 305 (1971), para. 1.

⁵ See, in particular, resolution 186 (1964) of 4 March 1964, para. 7; and resolution 244 (1967) of 22 December 1967, paras. 3 and 5.

⁶ Resolutions 266 (1969); 281 (1970); 291 (1970); 293 (1971); 305 (1971), para. 2. See also the proceedings in connexion with the adoption of resolution 305 (1971) in chapter VIII, part II, p. 125 of this *Supplement*.

⁷ Resolution 278 (1970) of 11 May 1970, para. 1.

⁸ S/9772, *OR*, 25th yr., *Supplement for April-June 1970*, pp. 166-169.

status and welcomed⁹ the conclusions in the findings of the report.

On yet another occasion the Security Council, in the context of the grave situation in the India/Pakistan subcontinent which, in its view, remained a threat to international peace and security, resolved,¹⁰ *inter alia*, to authorize the Secretary-General to appoint if necessary a special representative to lend his good offices for the solution of humanitarian problems. Two other draft resolutions, which possibly fall within the scope of Article 33, were also submitted to the Security Council, one¹¹ of which failed of adoption and the other¹² was not pressed for consideration. No constitutional discussion, applying to Article 33, ensued.

During the period under review, Article 33 was invoked, explicitly and implicitly, by Council members in the debates to support conflicting viewpoints. These focused on the question of the timing of the involvement of the parties and of the Council in efforts at pacific settlement. Some argued that the matter had been brought before the Council because bilateral attempts to settle it peacefully had failed or that the conditions for using the procedures under Article 33 were lacking.¹³ Others asserted that the available bilateral instruments had not been exhausted, not even tried before the question was brought before the Security Council.¹⁴ Some arguments, in this connexion, were

⁹ Resolution 278 (1970), para. 2. For the debate and vote on the draft resolution see chapter VIII, part II, pp. 150-151. See also chapter I, part IV, Case 19.

¹⁰ In connexion with the situation in the India/Pakistan subcontinent, see: resolution 307 (1971) of 21 December 1971, para. 5.

¹¹ Under the provisions of a United States draft resolution, the Security Council, convinced that hostilities along the India/Pakistan border constituted an immediate threat to international peace and security, would have, *inter alia*, invited the Governments concerned to respond affirmatively to the proposal of the Secretary-General offering his good offices to secure and maintain peace in the area. (S/10416, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 90.) At the 1606th meeting of the Security Council on 4 December 1971 it was put to the vote and failed of adoption, with 11 votes in favour, 2 against and 2 abstentions, one of the negative votes being that of a permanent member of the Council. (1606th meeting, para. 371.)

¹² A joint draft resolution by Italy and Japan would, among other things, have the Security Council call for immediate steps toward a comprehensive political settlement and decide to appoint, with the consent of India and Pakistan, a committee composed of three members of the Security Council to assist them in their efforts to bring about normalcy in the area of conflict and to achieve reconciliation. (S/10451, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 108; 1613th meeting: Italy, paras. 298, 304-305.) It was not pressed for consideration by the Council, however, in view of the fact that progress was being made towards achieving an agreement on another text which would enable the Council to take a unanimous decision and act. (1617th meeting: Italy, paras. 33-34.)

¹³ In connexion with the complaint by Zambia: 1486th meeting: Zambia, paras. 12-13, 49; 1488th meeting: Nepal, para. 60; 1489th meeting: Sierra Leone, para. 71; Zambia, para. 92. In connexion with the complaint by Senegal: 1518th meeting: Madagascar, paras. 24-25; Nepal, paras. 116-117. In connexion with the complaint by Guinea: 1526th meeting: Finland, para. 13.

¹⁴ In connexion with the complaint by Zambia: 1486th meeting: Portugal, paras. 63, 78-80, 92; 1491st meeting: Spain, para. 18. In connexion with the complaint by Senegal: 1516th meeting: Portugal, paras. 127-129. In connexion with the complaint by Guinea: 1526th meeting: United States, paras. 8 and 9.

as follows: (1) while parties to a dispute have an obligation to settle it, in the first instance, along the lines of Article 33, every State is entitled, if these efforts to resort to that procedure fail, to bringing its complaint before the Security Council in order to find an adequate solution;¹⁵ (2) the Council should assist the parties in reaching for a peaceful bilateral solution through application of the many instruments under Article 33 of the Charter;¹⁶ (3) these instruments, in particular negotiations, are binding to the extent that all the parties so decide and that the situation which gave rise to the dispute lends itself to a settlement;¹⁷ (4) non-implementation by one of the parties of previous Council resolutions that deal with the subject of complaint justifies direct recourse by the other party to the Security Council;¹⁸ and (5) when the minimum measure of

¹⁵ In connexion with the complaint by Zambia: 1488th meeting: Finland, para. 88.

¹⁶ In connexion with the complaint by Zambia: 1491st meeting: United Kingdom, para. 13.

¹⁷ In connexion with the complaint by Zambia: 1489th meeting: Madagascar, para. 24. In connexion with the complaint by Senegal: 1518th meeting: Madagascar, para. 24.

¹⁸ In connexion with the complaint by Zambia: 1488th meeting: France, para. 93; 1489th meeting: Tunisia, para. 55; in connexion with the complaint by Senegal: 1518th meeting: Nepal, paras. 116-117.

mutual confidence between the parties, the necessary prerequisite for the successful utilization of the means under Article 33, is non-existent, it is the duty of the Security Council to investigate the complaint, and to recommend ways and means under chapter VI of the Charter, in order to prevent the recurrence of incidents and to halt the deterioration of the situation.¹⁹

On many other occasions, Article 33 was mentioned only briefly during the various Council debates: mostly as just an express reference to the exact phase in Article 33, and in some cases in support of one or the other viewpoints summarized above.²⁰

¹⁹ *Ibid.*: 1519th meeting: Finland, para. 35. In connexion with the complaint by Guinea: 1526th meeting: Finland, para. 13.

²⁰ In connexion with the complaint by Senegal: 1517th meeting: Sierra Leone, para. 28; 1520th meeting: Spain, para. 54; 1572nd meeting: Somalia, para. 31. In connexion with the complaint by Guinea: 1524th meeting: Mali, paras. 56-57; 1526th meeting: Spain, para. 5. In connexion with the question of Bahrain: 1536th meeting: France, para. 155. In connexion with the situation in the India/Pakistan subcontinent: 1606th meeting: Pakistan, para. 133. In connexion with the question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb: 1610th meeting: Iraq, paras. 256-257.

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 34 OF THE CHARTER

NOTE

During the period under review, there has been no instance of an explicit reference to Article 34 in the resolutions or decisions of the Security Council. Neither has there been any constitutional discussion regarding the juridical bearing of a proposal under consideration on the interpretation or application of Article 34.

The three case histories entered in part II of this chapter relate only marginally to the functions of investigation by the Security Council as envisaged in Article 34, since in none of these instances the stated purpose of the proposed investigation was to determine whether the continuance of the particular dispute or situation was in fact likely to endanger the maintenance of international peace and security.²¹ In two instances,²² the Council, while pronouncing itself on the charges made before it, also decided to send a special mission to the area subject of complaint. In the first instance,²³ the task of the special mission was to report on the situation immediately; in the second instance,²⁴ the special mission was to examine the situation of which

²¹ In one instance, in connexion with the complaint by Senegal, the Security Council, having considered the report of a special mission which it had sent to the area to examine the situation along the border between Guinea (Bissau) and Senegal, expressed deep concern at the "climate of insecurity and instability, fraught with a threat to peace and security in the region" and strongly deplored "the lack of co-operation with the Special Mission on the part of the Portuguese Government, which had prevented the Special Mission from implementing fully the mandate" given to it by the Security Council. See: resolution 302 (1971) of 24 November 1971, preambular paras. 3 and 4, para. 4. See also Case 2 of this chapter for the establishment of the Special Mission.

²² Cases 1 and 2 below.

²³ Case 1.

²⁴ Case 2.

the Council had been informed, and submit a report including recommendations aimed at guaranteeing peace and security in the area. In a third instance,²⁵ in which the State concerned maintained that another State was preparing aggression against it, the Council decided to send a special mission to the area for the purpose of consulting with the authorities and reporting on the situation immediately.

In another case²⁶ the Security Council requested the Secretary-General, in consultation with the President of the Council and using such instrumentalities as he may choose, including a representative or a mission, to report to the Council as appropriate and in any event within sixty days on the implementation of the present resolution pertaining to the status of the City of Jerusalem. The report was to contain information on how Israel was complying or failing to comply with earlier Council resolutions on Jerusalem.

During the Council debates, Article 34 was invoked once, together with Article 33, in support of the observation that the parties to the complaint before the Council could have sought a solution through negotiations and investigation in accordance with the provisions of the said Articles, since the State subject of complaint was prepared to accept some responsibility and pay adequate reparations, had the facts of the incident been clearly determined.²⁷ In another instance, Article 34 was cited, along with Article 33, in the context of the argument that events such as those submitted for consideration by the Council required investigation by that

²⁵ Case 3.

²⁶ See resolution 298 (1971) of 25 September 1971, para. 5. See also chapter VIII, pp. 120-121 of this *Supplement*.

²⁷ In connexion with the complaint by Senegal: 1520th meeting: Spain, para. 54.

organ so that its members could evaluate the situation on the basis of objective information.²⁸ No constitutional discussion, however, ensued on either case.

On one occasion²⁹ the reinstatement of the practice of sending investigation missions of the Security Council, rather than missions of the Secretariat was welcomed by one member as a positive development entirely in accord with the Charter and with the role of the Security Council as the organ primarily responsible for the maintenance of international peace and security. The Council, it was noted, is empowered by the relevant Articles of the Charter independently to carry out thorough examination of particular acts of aggression and to take appropriate steps to eliminate such acts utilizing the relevant provisions of Chapters VI and VII of the Charter.

On the same occasion, involving the discussion of border incidents between overseas Territories under the administration of one Member State and other Member States neighbouring those Territories, one representative proposed³⁰ that the Security Council should call upon the administering State to allow a special mission, to be appointed by the Council or by the General Assembly, to go to its overseas Territories to conduct an impartial investigation of conditions there in order to ascertain the wishes of the people in those areas. Another delegate suggested³¹ that it would be preferable if the Council established a commission acceptable to all parties to investigate border incidents and related questions and report periodically to the Security Council on progress towards self-determination in the Territories, and thereby helped to prevent border incidents and disputes arising from them.

CASE 1.³² COMPLAINT BY GUINEA: In connexion with a draft resolution submitted jointly by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9990/Rev.1), voted upon and adopted on 23 November 1970. [Resolution 289 (1970)]

[*Note:* While there was agreement that the Security Council should send a special investigation mission to the Republic of Guinea, there was a difference of opinion regarding the method of selecting it. The five-Power draft resolution that was adopted provided for its formation after consultation between the President of the Council and the Secretary-General, while a draft amendment proposed prior consultation among the members of the Security Council.]

At the 1558th meeting on 22-23 November 1970, the representative of Guinea* stated that on that morning the Republic of Guinea had been the object of premeditated armed aggression by Portuguese colonial forces. He conveyed to the Security Council the request by his Government that United Nations airborne troops be sent immediately to strengthen the national army.

The Secretary-General informed the Council of messages he had received from the President of the Republic of Guinea charging Portugal with aggression

²⁸ In connexion with the complaint by Guinea: 1526th meeting: Spain, para. 5.

²⁹ In connexion with the complaint by Senegal: 1586th meeting: USSR, paras. 79-80; 1600th meeting: USSR, paras. 29-30.

³⁰ In connexion with the complaint by Senegal: 1586th meeting: Somalia, para. 45.

³¹ *Ibid.*, 1600th meeting: United States, paras. 50-51.

³² For texts of relevant statements, see: 1558th meeting: Guinea,* paras. 18-22; Nepal, paras. 80-82; United States, paras. 84-86, 97-99; Secretary-General, paras. 7-13.

and from the Resident Representative of the United Nations Development Programme in Conakry who, at the request of the Government of Guinea, confirmed the disembarkment in Conakry of external forces described by the Government of Guinea as Portuguese.

The Council members also had before them a letter³³ dated 22 November 1970 from the representative of Portugal, in which he denied the accusation of the Government of Guinea stating that Guinea was trying to blame third parties for its internal troubles and expressed the hope that the Security Council would reject the Guinean accusations as unfounded.

During the deliberations in the Council, the representative of Nepal suggested that it was of the utmost importance for the Security Council, first to effect the withdrawal of the attacking forces, and, second to have an impartial report on the situation in Guinea. To that end, he submitted, on behalf of the delegations of Burundi, Sierra Leone, Syria, Zambia and Nepal, a draft resolution, the third and fourth paragraphs of which³⁴ read as follows:

"The Security Council,

" . . .

"3. Decides to send a special mission to the Republic of Guinea to report on the situation immediately;

"4. Decides that this special mission be formed after consultation between the President of the Security Council and the Secretary-General;

" . . ."

The representative of Nepal, requested, in the names of the five submitting delegations, that the draft resolution should immediately be put to the vote on an urgent basis.

In the ensuing debate the representative of the United States raised an objection to the wording of the fourth paragraph of the draft resolution and requested that it should be altered to read: "(The Security Council) *Decides* that this special mission be formed after consultation." He added that the purpose of this change would be to ensure adequate consultation among the members of the Council in connexion with the composition of the special mission.

After further discussion³⁵ the representative of the United States formally submitted his delegation's proposal as an amendment to paragraph 4 of the draft resolution.³⁶

Subsequently, the United States amendment was put to the vote³⁷ and was not adopted, the result of the vote being 3 in favour, none against with 12 abstentions.

³³ S/9989, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 51-52.

³⁴ S/9990/Rev.1 adopted without change as Security Council resolution 289 (1970), 1558th meeting, para. 81. In the original five-Power draft resolution (S/9990) to which the President of the Security Council drew the attention of the Council members (1558th meeting, para. 79) prior to the introduction by the representative of Nepal of the revised draft (S/9990/Rev.1), the third paragraph would have had the Security Council request its President "in consultation with the Secretary-General to send a special mission to the Republic of Guinea to report on the situation immediately". See: S/9990, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, p. 52.

³⁵ For the discussion on this issue see chapter VIII, part II, p. 147 and chapter V, Case 1, pp. 58-59.

³⁶ 1558th meeting, para. 99.

³⁷ *Ibid.*, para. 100.

The Council then proceeded to vote on the five-Power draft resolution which was adopted unanimously [Resolution 289 (1970)].³⁸

After the adoption of the resolution, the representative of the United Kingdom stated that in accepting paragraph 4 of the resolution, his delegation had taken note of the statement by one of the sponsors, Burundi, that the President of the Council would consult with members of the Council and secure their assent to his choice.

Pointing to the interim nature of the Council decision, the representative of Finland stated that before it could take more substantive action the Council needed the full facts of the situation established by an impartial investigation and that his delegation had voted for the resolution on the understanding that paragraphs 3 and 4 would be implemented in such a way as to meet those demands.

CASE 2.³⁹ COMPLAINT BY SENEGAL: In connexion with the draft resolution jointly submitted by Burundi, Japan, Sierra Leone, Somalia and Syria (S/10266), voted upon and adopted on 15 July 1971. [Resolution 294 (1971)]

[Note: In the course of the consideration of the question, there was general agreement that the Council should fully utilize its investigative powers under Article 34 so that any action it deemed necessary could be taken on an informed basis. In this connexion, reservations were expressed regarding justifiability of condemnation by the Security Council of a State or a particular act in the absence of an investigation by or under the authority of the Council to establish all the pertinent facts about alleged incidents. It was emphasized that the Security Council should not base its judgement on information contained in the report of a mission whose nomination and mandate were not decided upon by that organ, especially in instances where there were conflicting statements about what had actually occurred, and where the accused party denied responsibility for the alleged incidents.]

At the 1569th meeting on 15 July 1971, the representative of Senegal* charged that the latest acts of aggression by Portuguese troops added to a long list of violations of Senegalese territorial integrity. Noting that a colonial frontier separated Guinea (Bissau), still under Portuguese colonial domination and Senegal, whose populations on both sides belong to the same ethnic groups, the representative of Senegal detailed the various incidents that had occurred since April 1963. In this connexion, he pointed out that in January 1970, when Portugal renewed its violent attack, the Senegalese Chief of State had formally addressed the Secretary-General in order that a fact-finding mission be sent to Senegal to determine the daily damage inflicted by Portuguese troops on Senegalese territory. He also recalled that in June 1970 a Senegalese village near the frontier with Guinea (Bis-

sau) had been shelled by Portuguese artillery in the presence of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights who were then in Senegal.⁴⁰ He pointed out that a plan by the Senegalese Chief of State, that proposed a cease-fire between Portugal and the liberation movements in Guinea (Bissau), followed by internal autonomy and finally by independence within the framework of a Portuguese-African community, had been approved by the liberation movements but that Portugal had not responded to it. He claimed that Portuguese violence had now escalated to the laying of anti-tank and anti-personnel mines on Senegalese territory. He asked the Security Council to take effective measures against Portugal in pursuance of Council resolution 273 (1969) of 9 December 1969.⁴¹

At the same meeting, the Council had before it a letter⁴² dated 10 July 1971 from the representative of Portugal in which the latter categorically rejected any responsibility on the part of Portugal for the alleged incidents. The letter also expressed regret that the Government of Senegal had asked for the convening of the Security Council without first having sought recourse to the procedure, provided for in the Charter, for seeking to clarify, by means of direct contacts, the truth of the facts, and asserted that Senegal had not presented any factual evidence to substantiate its charges. The letter further claimed that the Portuguese Government had, on every occasion, drawn the attention of the Government of Senegal to the circumstance that all the problems in the frontier areas had arisen because the Senegalese Government had granted facilities to the subversive group PAIGC for the preparation on Senegalese territory of armed attacks against the population of the Portuguese province of Guinea. In the view of the Portuguese Government, the Senegalese complaint before the Security Council ought to be considered as a complaint by the Government of Senegal against these groups which disturbed the peace and security of its population by acts of aggression by which Portugal was also victimized.

At the 1570th meeting on 13 July 1971, the representative of Somalia, noting that in a situation such as the one before the Council, the Council should have at its disposal all pertinent information and facts to facilitate its decision, requested the Secretary-General to make available to the Security Council the results of the investigation carried out by an *Ad Hoc* Working Group of Experts of the Commission on Human Rights in June 1970 on incidents involving the Portuguese colonial forces and the African populations both in Guinea (Bissau) and along the frontiers between that Territory and Senegal.⁴³ It was agreed to make

⁴⁰ In pursuance of resolution 21 (XXV) of the Commission on Human Rights, the Commission's *Ad Hoc* Group of Experts visited Senegal during June 1970 in connexion with their investigation, among other things, of grave manifestations of colonialism in the African territories under Portuguese domination. See report of the *Ad Hoc* Working Group of Experts prepared in accordance with resolution 21 (XXV) of the Commission on Human Rights (E/CN.4/1050).

⁴¹ In the second and third paragraphs of resolution 273 (1969), the Security Council had called upon Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal and had declared that in the event of failure by Portugal to comply with its call, the Council would meet to consider other measures.

⁴² S/10255, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 29-30.

⁴³ See foot-note 40 above.

³⁸ 1558th meeting, para. 101. For the vote see *ibid.*, para. 101. For the decision on the composition of the special mission to Guinea see the report of the President of the Security Council and the Secretary-General of 24 November 1970. S/9999, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 53.

³⁹ For texts of relevant statements, see: 1569th meeting: Senegal,* paras. 15, 17, 20-60; 1570th meeting: Somalia, paras. 101-102; 1571st meeting: Sierra Leone, para. 77; 1572nd meeting: China, para. 42; France, para. 57; Italy, para. 70; Japan, paras. 8-9; Somalia, paras. 27, 31, 32, 33-36; United Kingdom, paras. 89-91; United States, paras. 77, 79.

the relevant documents available to the members of the Security Council before its next meeting.⁴⁴

At the 1571st meeting on 14 July 1971, the representative of Sierra Leone contended that Portugal had shown contempt for the United Nations by bombing Senegalese territory while the members of the group of experts sent by the United Nations were making on-the-spot investigation. Although due to the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights there was no need, in the view of his Government, for further evidence of Portuguese hostility, he urged that a special mission of the Security Council be sent to investigate the reports and satisfy those who still might entertain some doubts.

At the 1572nd meeting on 15 July 1971, the representative of Japan expressed the view that a fact-finding mission should be established immediately for the purpose of an on-the-spot investigation of the charges made by Senegal against Portugal. He held that the mission should be given a broad mandate and should be able to conduct its business freely and independently.

The representative of Somalia, invoking Article 34 of the Charter, held that the Security Council should use to the full its investigative powers so that any action it deemed necessary might be taken on an informed basis. Having noted that the report of the *Ad Hoc* Group of Experts of the Commission on Human Rights contained revealing evidence obtained at first-hand about the situation on the border between Senegal and Guinea (Bissau), he expressed the belief that an on-the-spot investigation by the Council was necessary to dispel any remaining doubts as to whether there was a proper basis for the charges against Portugal. He believed that the Security Council should send a special mission to investigate the charges and to report fully to the Council on the situation prevailing along the frontier of Senegal. In his opinion, the character of the hostile acts about which Senegal complained required both political and military expertise; the military experts could be provided by the States that would be appointed to the special mission. He stressed that the mission's report should clarify the nature and extent of military activities that had taken, or were taking place on the frontier of Senegal and should suggest measures necessary to prevent a recurrence of the hostile acts alleged by Senegal. He suggested that an investigation by such a mission would help the Council to decide on the peace-keeping machinery and political action which should be applied to ensure a return to peace and stability in the area. To this end, the members of the Afro-Asian Group of the Security Council had reached agreement on a draft resolution⁴⁵ jointly sponsored by the delegations of Burundi, Japan, Sierra Leone, Somalia and Syria which was being prepared for circulation.

The representative of China stated that it would be judicious and useful to have a special mission investigate the conditions on the spot in the border area between Senegal and Guinea (Bissau).

The representative of France, having emphasized that Senegal had to obtain the assurance that its sovereignty, its security and its territorial integrity were and would be respected, expressed the belief that there was a need to send to the area, with the approval of

the States concerned, a mission consisting of Council members, assisted by their military experts, to carry out the inquiry.

After a brief suspension of the meeting, the President (France) announced⁴⁶ that the Council would presently consider the five-Power draft resolution (S/10266).⁴⁷ Under the terms of that draft resolution, the Security Council, *inter alia*, "having taken note of the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights concerning Portuguese acts of violence in Senegalese territory",⁴⁸ would, among other things, condemn "the acts of violence and destruction perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against the population and villages of Senegal"⁴⁹ and request:

"... the President of the Security Council and the Secretary-General to send to the spot, as a matter of urgency, a special mission of members of the Council assisted by their military experts to carry out an inquiry into the facts of which the Council has been informed, to examine the situation along the border between Guinea (Bissau) and Senegal and to report to the Council, making any recommendations aimed at guaranteeing peace and security in this region."⁵⁰

The representative of Italy, while giving the support of his delegation to the five-Power draft resolution, expressed doubts concerning operative paragraph 2, whereby the Security Council would condemn acts of violence perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against Senegal. In his delegation's view that operative paragraph passed a judgement based upon the report of a group of experts, i.e., *Ad Hoc* Working Group of Experts of the Commission on Human Rights, whose nomination and mandate were not decided upon by the Security Council itself. The representative of the United States agreed with the reservation expressed by the representative of Italy and requested⁵¹ that a separate vote be taken on operative paragraph 4, which his delegation was ready to support even though it would abstain in the vote on the draft resolution as a whole.

Subsequently, in conformity with rule 32 of the rules of procedure, and in the absence of objection, paragraph 4 of the draft resolution was put to the vote and adopted unanimously. The Council then proceeded to vote on the draft resolution as a whole which was adopted by 13 votes in favour, none against with 2 abstentions.⁵²

After the adoption of the resolution, the representative of the United Kingdom observed that the debate in the Council had ranged far beyond the specific complaints made by the Government of Senegal and that subsequently the Council members had been asked to consider and condemn the series of incidents itemized in the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights. The resolution, in its second paragraph, allocated responsibility to Portugal for the incidents catalogued in the report of the *Ad Hoc* Working Group of Experts, al-

⁴⁶ 1572nd meeting, para. 61.

⁴⁷ See foot-note 45 above.

⁴⁸ S/10266, preambular para. 10.

⁴⁹ *Ibid.*, para. 2.

⁵⁰ *Ibid.*, para. 4.

⁵¹ 1572nd meeting, paras. 79-80.

⁵² For the vote on paragraph 4 of the draft resolution, see *ibid.*, paras. 82-84. For the vote on the draft resolution as a whole, see *ibid.*, para. 85.

⁴⁴ 1570th meeting, paras. 104-109.

⁴⁵ S/10266, adopted without change as resolution 294 (1971).

though such responsibility had been denied by the representative of Portugal in a letter dated 8 March 1971 to the Chairman of the Commission on Human Rights (E/CN.4/1064). He emphasized that there had been no investigation by or under the authority of the Security Council and since there existed ground for doubt as to what had actually occurred, the condemnation in paragraph 2 and implications of some other paragraphs, in his opinion, were not justified. The important point at issue was that the Security Council should not condemn any country or particular act before the truth of what has been alleged is established.

On 21 July 1971, in a report jointly submitted by the President of the Security Council and the Secretary-General, they informed the Council that the Special Mission would be composed of Nicaragua (Chairman), Belgium, Burundi, Japan, Poland and Syria.⁵³

CASE 3.⁵⁴ COMPLAINT BY GUINEA: In connexion with a draft resolution jointly submitted by Burundi, Sierra Leone, Somalia and Syria (S/10281), voted upon and adopted on 3 August 1971; [Resolution 295 (1971)] and, in connexion with the consensus of the Council as expressed by the President on 26 August 1971.

[Note: Consultations among the members of the Council resulted in unanimous agreement on a four-Power draft resolution to send to the Republic of Guinea a special mission to report on the situation immediately. After some delay, the President of the Security Council and the Secretary-General concluded their consultations regarding the membership of the special mission and the mission was dispatched.]

At the 1573rd meeting on 3 August 1971, the representative of Guinea* recalled that his country had been the victim of continuous acts of aggression by Portugal for twelve years and that the special mission of inquiry sent to Guinea by the Security Council in connexion with the most recent instance of such aggression, i.e., the incident of 22 November 1970,⁵⁵ had found incontrovertible and tangible evidence on the basis of which the Security Council had, by resolution 290 (1970) of 8 December 1970, strongly condemned the Government of Portugal for its invasion of Guinea.⁵⁶ He observed that despite that resolution, Portuguese violations of Guinean air space and territory had continued.

In the present instance his Government had decided to bring to the Council's attention further aggression by land, sea and air that Portugal was preparing against the Republic of Guinea. He read to the members of the Council a message from the Guinean Chief of State which stated that Guinean Intelligence Service had intercepted, on 2 August 1971, conversations between Overseas Marine Units and two other headquarters units of the Portuguese Colonial Army discussing imminent military aggression by Portugal against Guinea presumably to liberate mercenaries and others implicated in the aggression of 22 November 1970. He also reiterated the request contained in the message of the Guinean Chief of State that the Security Council take all necessary steps to safeguard the territorial integrity and the peace and security of the Republic of Guinea.

⁵³ See S/10274, OR, 26th yr., Supplement for July-September 1971, p. 40.

⁵⁴ For texts of relevant statements, see: 1573rd meeting: Guinea,* paras. 19-23; Somalia, paras. 40-41, 65-71; 1576th meeting: President (Italy), paras. 1-6.

⁵⁵ See Case 1, pp. 178-179 above.

⁵⁶ Resolution 290 (1970), oper. para. 2.

At the same meeting, the representative of Somalia stated that the Afro-Asian members of the Council had held consultations on this question and that in their view the situation warranted immediate action by the Council. To that end, he presented, on behalf of the delegation of Burundi, Sierra Leone, Syria and Somalia, a draft resolution,⁵⁷ under the second and third operative paragraphs of which the Security Council, to be appointed after consultation between the President of the Council and the Secretary-General, to the Republic of Guinea to consult the authorities and to report on the situation immediately.

After a brief suspension of the meeting, the representative of Somalia stated that the four-Power draft resolution had been revised as a result of consultations among the various delegations. Among other changes, operative paragraphs two and three had been revised⁵⁸ to read as follows:

"The Security Council,

" . . .

"2. Decides to send a special mission of three members of the Security Council to the Republic of Guinea to consult the authorities and to report on the situation immediately;

"3. Decides that this special mission be appointed after consultation between the President of the Security Council and the Secretary-General;

" . . ."

The representative of Somalia expressed the hope of the sponsors that if the draft resolution was adopted, the President of the Security Council and the Secretary-General would ensure the appointment of representatives of ambassadorial rank to the special mission.

The draft resolution was put to the vote and adopted unanimously.⁵⁹

At the 1576th meeting on 26 August 1971, the President of the Security Council (Italy) recalled that the consultations between the President and the Secretary-General concerning the appointment of the members of the special mission to the Republic of Guinea had been suspended following the receipt of a letter⁶⁰ dated 4 August 1971 from the representative of Guinea to the President of the Council requesting to delay the dispatch of the mission. Since, by a subsequent letter⁶¹ dated 12 August 1971, he had informed the President that his Government was prepared to receive the special mission as soon as possible, the consultations between the President of the Council and the Secretary-General had been resumed and after possible candidates had been sounded out, additional consultations had been held with all Council members.

As a result of those consultations, the President of the Security Council had been authorized to make the following statement expressing the consensus⁶² of the Council:

"It is the consensus of the Security Council that the Special Mission called for in resolution 295 (1971) should be composed of two members of the Council instead of three. The Special Mission will

⁵⁷ S/10281, incorporated in the text of 1573rd meeting, para. 40. Adopted after amendments as resolution 295 (1971).

⁵⁸ 1573rd meeting, paras. 68-69.

⁵⁹ *Ibid.*, para. 80.

⁶⁰ S/10283, OR, 26th yr., Suppl. for July-Sept. 1971, p. 42.

⁶¹ S/10287, OR, 26th yr., Suppl. for July-Sept. 1971, p. 44.

⁶² Decision of 26 August 1971, OR, 26th yr., Resolutions and Decisions of the Security Council 1971, pp. 4-5.

proceed to Conakry to consult the Government of the Republic of Guinea on its complaint and will report back to the Council as soon as possible.”

In the absence of objections, the President declared

the consensus formally approved⁶³ by the Security Council.

⁶³ 1576th meeting, para. 5.

Part III

APPLICATION OF THE PROVISIONS OF ARTICLE 35 OF THE CHARTER

NOTE

During the period under review, eleven⁶⁴ questions involving the maintenance of international peace and security were brought to the attention of the Security Council, all by Members of the United Nations.⁶⁵ The relevant data regarding the submission of these questions are summarized in the appended tabulation.

The Security Council has continued to consider, at the request of the parties or other Members of the United Nations, questions that had previously been included in the agenda: complaint by the Government of Cyprus;⁶⁶ the situation in Namibia;⁶⁷ the situation in the Middle East;⁶⁸ the situation in Southern Rhodesia;⁶⁹ complaint by Zambia;⁷⁰ complaint by Senegal;⁷¹ complaint by the Republic of Guinea;⁷² and the question of race conflict in South Africa.⁷³

SUBMISSION BY MEMBERS OF THE UNITED NATIONS

Members of the United Nations have generally submitted questions to the Security Council by means of a communication addressed to the President of the Security Council, although Article 35 was cited only once⁷⁴ as the basis for submission.⁷⁵

No question was submitted to the Council as a dispute. In seventeen instances⁷⁶ questions were explicitly

⁶⁴ It should be noted that in a number of cases the question was described in terms similar to those of Article 39 of the Charter. In a few instances the letter of submission invoked Chapter VII of the Charter. These cases are marked accordingly by foot-notes *b* and *c* in the tabulation below.

⁶⁵ Prior to the request on 4 December 1971 by certain Member States for an urgent meeting of the Security Council, in connexion with the situation in the India-Pakistan sub-continent, the Secretary-General had, by a report dated 3 December 1971, informed the Council about his efforts under the broad terms of Article 99 but had indicated that it would be for the parties themselves or members of the Council to take the initiative in this matter. (S/10410 and Add.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 80-85.)

⁶⁶ During the period under review, no new complaints were submitted under this agenda item. Accordingly, the item is not included in the Tabulation. The Security Council, however, considered under this item the reports of the Secretary-General on the United Nations operation in Cyprus. See: S/9233, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, pp. 175-185; S/9251 and Add.1, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, pp. 120-142; S/9814, *OR*, 25th yr., *Suppl. for April-June 1970*, pp. 190-201; S/10005, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 57-71; S/10199, *OR*, 26th yr., *Suppl. for Apr.-June 1971*, pp. 50-60; S/10401, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 42-55.

⁶⁷ See tabulation, section B, entry 1.

⁶⁸ See tabulation, section B, entry B, entry 2.

⁶⁹ See tabulation, section B, entry 3.

⁷⁰ See tabulation, section B, entry 4.

⁷¹ See tabulation, section B, entry 6.

⁷² See tabulation, section B, entry 7.

⁷³ See tabulation, section B, entry 9.

⁷⁴ See tabulation, section B, entry 5.

⁷⁵ In another instance, Article 51 was cited by the submitting State in connexion with the argument that the application of its inherent right of self-defence as recognized in that Article might bring about a more serious situation.

⁷⁶ See tabulation, section B: entries 1(i), (ii); 2(iv), (v), (vi), (vii), (ix), (x); 3(i), (iii); 4(iv); 5; 7(ii); 9; 10; 11(i), (ii).

described as situations; in twenty-one,⁷⁷ the letter of submission contained terms similar to those of Article 39; in three of these cases Chapter VII of the Charter was invoked. In one instance,⁷⁸ a number of Member States complained about the failure of another Member State to comply with a Security Council resolution regarding a Territory under the direct responsibility of the General Assembly. In another instance,⁷⁹ a meeting was requested to consider “continued defiance” by one Member State of a particular Security Council resolution. In three instances,⁸⁰ reports submitted to the Council for its consideration occasioned requests by Member States for a Council meeting. On one occasion,⁸¹ several Member States requested a meeting implementing a resolution by a regional international organization of which they are members. On another occasion⁸² a Member State asked for a meeting in order to make a statement on a matter of which the Council was already seized. In two instances,⁸³ the Council was requested to convene in view of certain political and economic developments in a Non-Self-Governing Territory.

STATES NOT MEMBERS OF THE UNITED NATIONS

During the period under review, there was no instance of a question being submitted by a non-member of the United Nations.

PROCEDURAL CONSEQUENCES OF SUBMISSION UNDER ARTICLE 35

Communications submitting questions for consideration by the Security Council have been dealt with in accordance with rules 6-9 of the provisional rules of procedure; material relating to the application of these rules is contained in chapter II, parts II and III, of this *Supplement*.

During the period under review, none of the letters of submission contained a draft resolution.

The Council has not considered whether or not to accept the designation of any of the new questions submitted for its consideration in the initial communication. Nor was any question raised as to the appropriate designation for a question included in the agenda at an earlier period.⁸⁴

⁷⁷ See tabulation, section B: entries 2(i), (ii), (iv), (v), (vii), (viii), (ix), (x); 3(i); 4(i), (ii), (iii); 6(ii), (iv), (v); 7(i); 7(ii), (iii), (iv); 11(iii); 12.

⁷⁸ See tabulation, section B, entry 1 (iii).

⁷⁹ See tabulation, section B, entry 2 (iii).

⁸⁰ See tabulation, section B, entries 1(iv) and 8(i) and (ii).

⁸¹ See tabulation, section B, entry 1(v).

⁸² See tabulation, section B, entry 3(v).

⁸³ See tabulation, section B, entries 3(ii) and (iv).

⁸⁴ In one instance, in connexion with an item placed on the provisional agenda of the Security Council—the situation in Northern Ireland—the invocation of Article 35 was contested on the grounds that the situation could in no way be considered a threat to international peace and security. Article 2(7) was mentioned as prohibiting the inclusion of this matter in the Council’s agenda and it was argued that neither Article 35, nor any other, could be regarded as prevailing over Article 2(7). After a brief exchange of views, the Council adjourned without taking a vote on the adoption of the agenda. See: chapter II, part III, Note; chapter VIII, pp. 139-140; chapter XII, part II, Case 12 of this *Supplement*.

Tabulation of questions submitted to the Security Council (1969-1971)

****SECTION A. QUESTIONS SUBMITTED BY MEMBERS AS DISPUTES
SECTION B. QUESTIONS SUBMITTED BY MEMBERS AS SITUATIONS**

<i>Questions</i>	<i>Submitted by</i>	<i>Other parties</i>	<i>Articles invoked in letter of submission</i>	<i>Description of question in letter of submission</i>	<i>Action required of the Security Council</i>	<i>Reference</i>
1. Situation in Namibia ^a (i) letter dated 14 March 1969)	Forty-six Member States		None	"... the deteriorating situation in Namibia."	"... to examine urgently this grave situation and to take ... appropriate measures and action to enable the people of Namibia to exercise their right to self-determination and independence."	S/9090 and Add.1-3, <i>OR</i> , 24th yr., <i>Suppl. for Jan.-March 1969</i> , pp. 126-127
(ii) letter of 24 July 1969)	Eleven Member States		None	"... the situation resulting from the wholly negative reaction of South Africa to ... [SC resolution 264 (1969) of 20 March 1969] and from the measures which it is continuing to take in defiance of the authority of the Security Council and the General Assembly."	"... urgently to convene in order that it may consider the situation ..."	S/9359, <i>OR</i> , 24th yr., <i>Suppl. for July-Sept. 1969</i> , p. 138
(iii) letter of 26 January 1970)	Sixty-six Member States		None	"... the failure of the Government of South Africa to comply with the letter and spirit of ... [SC resolution 269 (1969)] and in particular its paragraph 4".	"... to convene, on an urgent basis, ... in order to examine the failure of the Government of South Africa ..."	S/9616 and Add.1-3, <i>OR</i> , 25th yr., <i>Suppl. for Jan.-Mar. 1970</i> , pp. 112-113
(iv) letter of 23 July 1970)	Burundi, Finland, Nepal, Sierra Leone, Zambia		None	Submission by the <i>Ad Hoc</i> Subcommittee, established in pursuance of SC resolution 276 (1970), of its report [S/9863] to the Council.	"... to resume consideration of the question of Namibia".	S/9886, <i>OR</i> , 25th yr., <i>Suppl. for July-Sept. 1970</i> , p. 11
(v) letter of 17 September 1971)	Thirty-seven Member States		None	Adoption on 23 June 1971 of a resolution [AHG/Res.65 (VIII)] by the Assembly of Heads of State and Government of the Organization of African Unity, "urging the immediate summoning of a special session of the Security Council to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligation imposed on the world community by the decision of the International Court of Justice".	To convene "in order to enable ... current Chairman of the Organization of African Unity, to participate personally in the debates of the Security Council as the head of a large delegation of ministers".	S/10326, <i>OR</i> , 26th yr., <i>Suppl. for July-Sept. 1971</i> , p. 64

^a This item had initially been included in the agenda of the Security Council in 1968 under the heading "The Question of South West Africa". [SC, 23rd yr., 1387th mtg., para. 90; 1390th mtg., para. 17.] Subsequent to General Assembly resolution 2372 (XXII) of 12 June 1968—para. 1—whereby the Assembly decided that South West Africa would henceforth be known by the African name of Namibia, the previous heading of "The Question of South West Africa" was changed to "The Situation in Namibia" in the official records.

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
2. Situation in the Middle East (i) letter of 26 March 1969 (complaint by Jordan) ^b	Jordan	Israel	None	Execution by Israel jet fighters, on 26 March 1969, of "another grave attack, causing heavy loss of life and damage to property" in Jordanian villages and civilian centres in the area of Es Salt.	"... to consider these continuous and grave violations by Israel and to adopt more adequate and effective measures to check Israel acts of aggression and restore international peace and security."	S/9113, OR, 24th yr., Suppl. for Jan.-Mar. 1969, pp. 142-143
(ii) letter of 27 March 1969 (Complaint by Israel) ^b	Israel	Jordan	None	"... grave and continual violations by Jordan of the cease-fire... including armed attacks, armed infiltration and acts of... violence by terrorist groups operating from Jordan territory with the official support, aid and encouragement of the Jordanian Government and armed forces;... and... the wanton shelling of Israel villages" by Jordanian forces.	"... to consider the complaint of grave and continual violations by Jordan of the cease-fire, the provisions of the United Nations Charter, and of international law..."	S/9114, OR, 24th yr., Suppl. for Jan.-Mar. 1969, p. 143
(iii) letter of 26 June 1969)	Jordan	Israel	None	Israeli actions and planned measures "for the establishment of Israeli settlements in the [Holy] city" and replacement of the City's inhabitants in violation of basic human rights and in contravention of Security Council resolution 252 (1968).	"... to consider the continued Israeli defiance of its resolution 252 (1968) on Jerusalem."	S/9284, OR, 24th yr., Suppl. for April-June 1969, pp. 345-346
(iv) letter of 12 August 1969 (Complaint by Lebanon) ^b	Lebanon	Israel	None	"... the premeditated and unprovoked aggression committed by Israel against civilian villages in southern Lebanon..."	To convene an urgent meeting "in view of the gravity of the situation endangering the peace and security of Lebanon..."	S/9385, OR, 24th yr., Suppl. for July-Sept. 1969, p. 153
(v) letter of 12 August 1969 (Complaint by Israel) ^b	Israel	Lebanon	None	"... the situation created by the intensification of armed attacks carried out against Israel from Lebanese territory."	To convene an urgent meeting "in view of the gravity of the armed attacks perpetrated against Israel from Lebanese territory..."	S/9387, OR, 24th yr., Suppl. for July-Sept. 1969, p. 156
((vi) letter of 28 August 1969)	Twenty-five Member States		None	"... the grievous situation resulting from the extensive damage caused by arson to the holy Al Aqsa Mosque in Jerusalem."	To convene urgently "to consider the grievous situation..."	S/9421 and Add.1 and 2, OR, 24th yr., Suppl. for July-Sept. 1969, p. 166

^b In this case, the letter of submission employs terms similar to those of Article 39 of the Charter.

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((vii) letter of 12 May 1970 (Complaint by Lebanon)) ^b	Lebanon	Israel	None	"This [penetration into Lebanese territory by Israeli armoured and infantry units and bombarding of several towns and villages by Israeli air force and artillery] act of aggression against Lebanon in . . . violation of the Lebanese-Israel armistice agreement and the provisions of the . . . Charter."	To convene an urgent meeting "in view of the gravity of the situation endangering the peace and security of Lebanon and of the area . . ."	S/9794, OR, 25th yr., Suppl. for April-June 1970, p. 181
((viii) letter of 12 May 1970 (Complaint by Israel)) ^b	Israel	Lebanon	None	". . . acts of armed attack, shelling, incursion, murder and violence perpetrated from Lebanese territory against the territory and population of Israel in violation of the cease-fire and the . . . Charter."	To convene an urgent meeting to consider "these acts of aggression".	S/9795, OR, 25th yr., Suppl. for April-June 1970, p. 182
((ix) letter of 5 September 1970) ^b	Lebanon	Israel	None	Penetration into Lebanese territory by "two infantry companies of Israel armed forces under heavy air support . . . bombing civilian installations and opening roads for Israeli military use permitting further expansionist operations".	To convene an urgent meeting "in view of the gravity of the situation endangering the peace and security of Lebanon . . ."	S/9925, OR, 25th yr., Suppl. for July-Sept. 1970, p. 141
((x) letter of 13 September 1971) ^b	Jordan	Israel	None	"The situation created by . . . illegal Israeli measures constitutes a direct threat to the character of Jerusalem and the surrounding suburbs and villages, the lives and destiny of its people and international peace and security."	". . . to consider Israel's illegal measures in Jerusalem in defiance of Security Council resolution 252 (1968), 267 (1969) and 271 (1969)."	S/10313, OR, 26th yr., Suppl. for July-Sept. 1971, p. 63
3. Situation in Southern Rhodesia ((i) letter of 6 June 1969) ^b	Sixty Member States		None ^c	"The rapid deterioration in the situation [in Southern Rhodesia (Zimbabwe)] and the refusal of the Government of the United Kingdom to . . . resort to the use of force . . ."	". . . to examine as a matter of urgency the serious situation, which constitutes an increasing threat to international peace and security, and to take more energetic measures within the framework of Chapter VII of the Charter . . . so that the people of Southern Rhodesia (Zimbabwe) may exercise their right to self-determination in accordance with General Assembly resolution 1514 (XV)."	S/9237 and Add.1 and 2, OR, 24th yr., Suppl. for April-June 1969, p. 187

^c In this case, Chapter VII of the Charter was invoked.

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((ii) letter of 3 March 1970)	United Kingdom		None	The "illegal" declaration by "the illegal régime in Southern Rhodesia . . . [of] the dissolution of its illegal parliament and the assumption of republican status".	To convene an urgent meeting.	S/9675, OR, 25th yr., Suppl. for Jan.-Mar. 1970, p. 149
((iii) letter of 6 March 1970)	Thirty-eight Member States		None	". . . the deterioration in the situation in Southern Rhodesia as a result of the proclamation of a so-called Republic by the illegal racist minority régime in Salisbury, which is thereby endangering international peace and security."	". . . to consider the deterioration in the situation in Southern Rhodesia" and to "take all the necessary steps to safeguard the inalienable rights of the people of Zimbabwe to self-determination and independence".	S/9682, OR, 25th yr., Suppl. for Jan.-Mar. 1970, p. 153
((iv) letter of 9 November 1970)	Burundi, Nepal, Sierra Leone, Syria, Zambia		None	Occurrence of "a number of disturbing political and economic developments in that rebel territory" of Southern Rhodesia "since the adoption of [Security Council] resolution 277 (1970) . . ."	To convene an early meeting "to discuss the question of Southern Rhodesia" in view of disturbing developments "which require the close examination and attention of the Security Council".	S/9975/Rev.1, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 36
((v) letter of 24 November 1971)	United Kingdom		None	Readiness of the representative of the United Kingdom "to make a statement to the Council about the results of the recent discussions which the Secretary of State for Foreign and Commonwealth Affairs has had in Salisbury".	To hear a statement by the representative of the United Kingdom.	S/10396, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 40
4. Complaints by Zambia ((i) letter of 15 July 1969) ^b	Zambia	Portugal	51	". . . the recent calculated Portuguese violations of the territorial integrity of the Republic of Zambia, and also the bombing of a village, destruction of property and the wounding and killing of two innocent and unarmed civilians" in "one of the villages situated along the border of the Republic of Zambia and the Portuguese colony of Mozambique".	To discuss "the recent aggression" constituting "proof of the bellicose intentions of the Lisbon Government" and "to envisage corrective measures which will bring an end to these . . . acts which constitute a threat to international peace and security".	S/9331, OR, 24th yr., Suppl. for July-Sept. 1969, p. 127
((ii) letter of 6 October 1971) ^b	Zambia	South Africa	None	". . . repeated criminal acts of aggression against Zambia" by South African forces operating from "the bordering area between Zambia and the international Territory of Namibia and illegal crossing, on 5 October 1971, by "South African forces . . . into Zambian territory from the area . . ."	". . . to consider a series of serious incidents and violations of the sovereignty, air space and territorial integrity of . . . Zambia, by the forces of the . . . Government of South Africa . . ."	S/10352, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 20

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((iii) letter of 7 October 1971) ^b	Forty-seven Member States	South Africa	None	"... latest armed incursion by the South African military authorities not only constitutes a serious threat to the sovereignty and territorial integrity of Zambia but is also a threat to the peace and security of the region."	To convene an urgent meeting as requested by the Republic of Zambia and "to take immediate steps to end . . . illegal occupation of Namibia [by South Africa] and the consequent violation of the territorial integrity of a Member State . . ." in order "to avert further deterioration of the matter".	S/10364, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 24
((iv) letter of 11 October 1971)	Lesotho		None	A situation involving "direct responsibility" of the Security Council "for the maintenance of peace in the area and for underwriting the territorial integrity of Member States".	To convene a meeting as requested by the Republic of Zambia.	S/10368, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 25
5. Situation in Northern Ireland (letter of 17 August 1969)	Ireland	United Kingdom	35	"... a series of tragic events in [the six counties of Northern Ireland] set off by a parade in the city of Derry on 12 August . . .", the inability of the Belfast government to control the situation, "the intervention of British military forces" and rejection by the United Kingdom of proposals by Ireland either to apply to the United Nations "for the urgent dispatch of a peace-keeping force to the six counties of Northern Ireland" or to send "a joint peace-keeping force" to the area "composed of members of the British and the Irish Defence Forces".	To convene an "urgent meeting of the Security Council in connexion with the situation in the six counties of Northern Ireland" and to dispatch "to the area . . . a United Nations peace-keeping force".	S/9394, OR, 24th yr., Suppl. for July-Sept. 1969, p. 159
6. Complaints by Senegal ((i) letter of 27 November 1969)	Senegal	Portugal	None	Systematic and deliberate violation of Senegalese national territory by Portugal, in particular the shelling, on 25 November 1969, of "the village of Samine, situated in . . . the southern part of Senegal" by "the regular Portuguese Army, based at Bégène . . ."	To convene a meeting, "as quickly as possible, to consider this question".	S/9513, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 117

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

<i>Questions</i>	<i>Submitted by</i>	<i>Other parties</i>	<i>Articles invoked in letter of submission</i>	<i>Description of question in letter of submission</i>	<i>Action required of the Security Council</i>	<i>Reference</i>
((ii) letter of 2 December 1969) ^b	Thirty-six Member States	Portugal	None ^c	"... the recent deliberate violations of the territorial integrity of the Republic of Senegal by Portugal".	To convene a meeting, as requested by the Republic of Senegal and "to take the necessary action to put an end to . . . acts of overt aggression" committed by Portugal against the African States bordering on the Territories which are under Portuguese domination, "thereby acting in accordance with Chapter VII of the Charter . . ."	S/9524 and Add.1, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 144
((iii) letter of 7 December 1969)	Senegal	Portugal	None	Bombardment by Portuguese armed forces of the village of Samine and the announced Portuguese "intention of shelling . . . capital of the southern region of Casamance [the province bordering on Senegal, Guinea and Guinea (Bissau)]".	"... to convene an urgent meeting . . . to consider a further complaint by Senegal against Portugal . . ."	S/9541, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 151
((iv) letter of 6 July 1971) ^b	Senegal	Portugal	None	"... the laying of mines in Senegalese territory by the regular Portuguese armed forces constitutes a further obvious and flagrant violation of Senegal's sovereignty and territorial integrity . . ."	To convene a meeting "as a matter of urgency".	S/10251, OR, 26th yr., Suppl. for July-Sept. 1971, p. 28
((v) letter of 12 July 1971) ^b	Thirty-seven Member States	Portugal	None	"... the aggression and obvious and repeated violation of the territorial integrity of the Republic of Senegal due to the laying of mines in Senegalese territory by the regular Portuguese armed forces . . ."	To convene a meeting, as requested by the Republic of Senegal and "to take such measures as are necessary to ensure that Portugal conforms to the resolutions of the Security Council and the General Assembly by putting an end to . . . flagrant acts of aggression and by granting self-determination and independence to its colonies in accordance with . . . General Assembly resolution 1514 (XV)".	S/10259 and Add.1 and 2, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 32-33

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
7. Complaints by the Republic of Guinea ((i) letter of 4 December 1969) ^b	Guinea	Portugal	None	"... another act of aggression by the... Portuguese Government against... national sovereignty [of the Republic of Guinea]" by the repeated shelling of "two Guinean frontier villages" by the regular Portuguese Army. ^d	"... to convene a meeting... to consider the... aggression recently committed by the Portuguese colonial army against the territorial integrity of the Republic of Guinea."	S/9528, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 147
((ii) letter of 5 December 1969) ^b	Forty Member States	Portugal	None ^c	"... the recent deliberate violations by Portugal of the territorial integrity of the Republic of Guinea."	To convene a meeting as requested by the Republic of Guinea and "to deal with the situation and take the necessary steps under Chapter VII of the Charter... to put an end to these flagrant acts of aggression".	S/9549, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 154
((iii) letter of 22 November 1970) ^b	Guinea	Portugal	None	"... the national territory of Guinea was the object of an armed attack by Portuguese forces who landed at several points in the capital."	"... to convene... as a matter of extreme urgency" and to provide "immediate intervention by airborne United Nations troops to assist the National Army of the Republic of Guinea".	S/9987, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 51
((iv) letter of 3 August 1971) ^b	Guinea	Portugal	None	Interception, on 2 August 1971, by the Intelligence Service of the Republic of Guinea of "conversations between Overseas Marine Units and two other headquarters units of the Portuguese Colonial Army discussing an imminent military aggression by Portugal against the Republic of Guinea... presumably intended to liberate mercenaries and others, persons implicated in the aggression of 22 November 1970 launched against the Republic of Guinea".	To convene "an immediate meeting" in view of an "imminent threat to international peace and security".	S/10280, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 41-42
8. Question of Bahrain ((i) letter of 4 May 1970)	Iran		None	Submission by the Secretary-General to the Security Council of the report of his Personal Representative in charge of the Good Offices Mission, Bahrain, in pursuance of the request of, and as called for by the provisions of the agreement between, the Governments of Iran and the United Kingdom.	To convene for the purpose of considering the report of the Personal Representative of the Secretary-General in charge of the Good Offices Mission, Bahrain [S/9772].	S/9779, OR, 25th yr., Suppl. for Apr.-June 1970, p. 175

^d This description was contained in an earlier letter dated 2 December 1969 from the representative of Guinea to the President of the Security Council. (S/9525, O.R., 24th yr., Suppl. for Oct.-Dec. 1969, p. 145)

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((ii) letter of 5 May 1970)	United Kingdom		None	Submission by the Secretary-General to the Security Council of the report of his Personal Representative [to Bahrain] on 30 April 1970.	To convene an early meeting "to consider the Report of the Secretary-General's Personal Representative" sent, at the request of the parties, to Bahrain "to ascertain the wishes of the people of Bahrain".	S/9783, OR, 25th yr., Suppl. for Apr.-June 1970, p. 178
9. Question of race conflict in South Africa (letter of 15 July 1970)	Forty Member States		None	"... the refusal by a number of Member States to implement faithfully the arms embargo" and "the failure of the Security Council to denounce these violations" which has "encouraged others to reconsider their commitment to the observance of the embargo. These violations... have enabled the Government of South Africa to amass considerable military power, which it uses not only to impose its racist policies but also to flout the decisions of the United Nations with regard to Namibia, Southern Rhodesia... Angola and Mozambique" and also "to threaten the sovereignty of neighbouring independent African States".	"... to resume the consideration of the question of race conflict in South Africa resulting from the policies of <i>apartheid</i> of the Government of the Republic of South Africa with a view to examining in particular the situation arising from violations of the arms embargo called for in Security Council resolutions 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963 and 191 (1964) of 18 June 1964" and to find "ways and means... to strengthen the arms embargo and secure its full implementation".	S/9867, OR, 25th yr., Suppl. for July-Sept. 1970, p. 106
10. Question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb (letter of 3 December 1971) ^b	Algeria, Iraq, Libyan Arab Republic, People's Democratic Republic of Yemen		None	"... the dangerous situation in the Arabian Gulf area arising from the occupation by the armed forces of Iran of the Islands of Abu Musa, the Greater Tunb and the Lesser Tunb, on 30 November 1971."	To convene "an urgent meeting... to consider the dangerous situation in the Arabian Gulf area..."	S/10409, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 79
11. Situation in the Indo-Pakistan subcontinent ((i) letter of 4 December 1971)	Nine Member States		None	"... the recent deteriorating situation which has led to armed clashes between India and Pakistan."	"... to convene immediately an urgent meeting... to consider the recent deteriorating situation..."	S/10411, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 86
((ii) letter of 4 December 1971)	Tunisia		None	"... the deteriorating situation between India and Pakistan".	To convene as requested by nine Member States.	S/10413, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 89

Tabulation of questions submitted to the Security Council (1969-1971) (concluded)

<i>Questions</i>	<i>Submitted by</i>	<i>Other parties</i>	<i>Articles invoked in letter of submission</i>	<i>Description of question in letter of submission</i>	<i>Action required of the Security Council</i>	<i>Reference</i>
(iii) letter of 12 December 1971) ^b	United States		None	“The war on the Indian subcontinent continues to rage unabated. . . . One of the parties, Pakistan, has accepted the resolution [2793 (XXVI) adopted by the General Assembly under the “Uniting for Peace” procedure, “which <i>inter alia</i> called on India and Pakistan to institute a cease-fire and to withdraw troops from each other’s territories”]. The other party, India, had not yet done so.”	To convene an immediate meeting and to fulfil its “obligation to end this threat to world peace on a most urgent basis”.	S/10444, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 104-105

Part IV

CONSIDERATION OF THE PROVISIONS OF ARTICLES 36-38
AND OF CHAPTER VI IN GENERAL

NOTE

Part IV deals with cases in which discussion has arisen regarding the responsibility of the Security Council for the settlement of particular disputes or situations under consideration in the light of the provisions of Chapter VI of the Charter.⁸⁵

In the period under review, debates preceding decisions of the Council in this field have dealt almost exclusively with the actual issues before the Council. There has been no sustained discussion regarding the constitutional framework of Chapter VI of the Charter within which the Council may participate in the pacific settlement of disputes and other forms of conflict. Therefore, evidence for the relation of the decisions by the Council to the provisions of Articles 36-38, i.e., the application of those Articles in the working of the Security Council, has continued to be scant.

As a guide to relevant decisions of the Council adopted during the period under review, the appropriate headings in the Analytical Table of Measures of chapter VIII of this *Supplement* should be consulted, as well as the materials in the other parts of chapter X.

For discussions bearing on procedures of pacific settlement that have occurred in connexion with situations submitted to the Council as threats to peace, breaches of the peace or acts of aggression, reference should be made to relevant entries in chapter XI of this *Supplement*.

It should be noted that during the period covered by this *Supplement*, eight resolutions were adopted by the Security Council in connexion with the complaint by the Government of Cyprus.⁸⁶ In each instance, the Council, while mainly concerned with the maintenance of peace on the island,⁸⁷ continued to address itself to

the corollary measures of pacific settlement. Thus in each resolution, the Council not only extended⁸⁸ the stationing of the United Nations Peace-keeping Force in Cyprus beyond the period previously decided upon, but it also urged⁸⁹ the parties concerned to act with the utmost restraint and to continue determined co-operative efforts to achieve the objectives⁹⁰ of the Security Council.

In connexion with the question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb, it was observed that it would be precipitate, at the given time, for the Council to recommend any measures under Article 36 since States friendly both to the complainants and the State subject of complaint had initiated governmental contact, in order to bring both sides together and resolve the matter with justice. Accordingly, it was suggested that consideration of this matter be postponed, with the understanding that if these third-party efforts were to fail, the Council could resume consideration of the question at the request of the complainants or at its own discretion.⁹¹ Subsequently, the President (Sierra Leone) announced,⁹² that in the absence of objections, the Council had decided⁹³ to defer consideration of this matter to a later date to allow sufficient time for intensive third-party efforts.

⁸⁸ See preambular para. 2 and para. 3 in each of the resolutions cited above.

⁸⁹ See para. 2 in each of the resolutions cited above.

⁹⁰ See resolutions 186 (1964) of 4 March 1964 and 244 (1967) of 22 November 1967 for the objectives of the Security Council, including pacific settlement through the good offices of a Mediator and later of the Secretary-General. Note that in each of the resolutions adopted subsequent to resolution 186 (1964), the Security Council reaffirmed all of its earlier resolutions and expressions of consensus on this question. For treatment of the complaint by the Government of Cyprus in previous supplements, see *Repertoire of the Practice of the Security Council, Supplement 1964-1965*, chapter VIII, pp. 108-127, and chapter X, Case 8; *Supplement 1966-1968*, chapter VIII, pp. 105-113, and chapter X, Case 5.

⁹¹ 1610th meeting: Somalia, paras. 280, 281.

⁹² *Ibid.*, para. 282.

⁹³ Decision of 9 December 1971, *OR*, 26th yr., *Resolutions and Decisions of the Security Council 1971*, p. 11.

⁸⁵ For general criteria for entries under this part, see *Repertoire of the Practice of the Security Council 1946-1951*, pp. 296 and 410.

⁸⁶ Resolutions 266 (1969) of 10 June 1969; 274 (1969) of 11 December 1969; 281 (1970) of 9 June 1970; 291 (1970) of 10 December 1970; 293 (1971) of 26 May 1971; and, 305 (1971) of 13 December 1971.

⁸⁷ See preambular para. 1 in each of the resolutions cited above.

Chapter XI

CONSIDERATION OF THE PROVISIONS OF CHAPTER VII OF THE CHARTER

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INTRODUCTORY NOTE

The present *Supplement*, like the immediately preceding volume of the *Repertoire*, presents, in chapter XI, the decisions of the Security Council which either constitute explicit applications of the provisions of Chapter VII of the Charter or might be considered as instances of implicit applications thereof. Thus, like its predecessor it also departs from the practice of earlier volumes of the *Repertoire* which, in chapter XI, dealt with instances in which proposals placed before the Security Council evoked discussion regarding the application of Chapter VII of the Charter.

CHAPTER VII OF THE CHARTER: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

"Article 39

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

"Article 40

"In order to prevent any aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures."

"Article 41

"The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."

"Article 42

"Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations."

"Article 43

"1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in

accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

"2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

"3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes."

"Article 44

"When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces."

"Article 45

"In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee."

"Article 46

"Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee."

"Article 47

"1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

"2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

"3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

"4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees."

"Article 48

"1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine."

"2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members."

"Article 49

"The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council."

"Article 50

"If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems."

"Article 51

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

Part I

CONSIDERATION OF THE PROVISIONS OF ARTICLES 39 AND 40 OF THE CHARTER

NOTE

During the period under review, the Security Council has not taken any decisions explicitly under Article 39 of the Charter. It has, however, taken two decisions¹ which reaffirmed a previous Security Council resolution² in which an explicit reference to Article 39 had been made. One of the decisions³ also contained an explicit reference to Chapter VII of the Charter and an implicit reference to Article 39, while the other⁴ contained the phrase: "*Acting* in accordance with previous decisions of the Security Council on Southern Rhodesia, taken under Chapter VII of the Charter". The same previous Security Council resolution which had referred explicitly to Article 39 was also recalled and reaffirmed in four draft resolutions, two of which were not adopted⁵ having failed to obtain the required majority, and two others failed of adoption owing to the negative vote of a permanent member.⁶ In one instance, a draft resolution containing an implicit reference to Article 39 was adopted⁷ in a revised form with the implicit reference to Article 39 deleted, by re-

placing the phrase "serious threat to international peace and security" with the words "potential threat to international peace and security".⁸

On various occasions, letters of submission requesting Security Council consideration of a question contained language derived from that of Article 39, but none contained an explicit reference to that Article.⁹

During the period under review, there was no decision of the Security Council taken explicitly under Article 40 of the Charter. On two occasions, however, when the situation was similar, the Security Council adopted almost identical resolutions,¹⁰ in connexion with which views were expressed in the proceedings of the Council that they were provisional measures taken under Article 40.

A few incidental references to Article 39¹¹ and

¹ Resolution 277 (1970) of 18 March 1970 and resolution 288 (1970) of 17 November 1970; the adoption of neither of these resolutions was preceded by a constitutional discussion bearing on Article 39.

² Resolution 232 (1966) of 16 December 1966.

³ Resolution 277 (1970) of 18 March 1970.

⁴ Resolution 288 (1970) of 17 November 1970.

⁵ S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338; and S/9676/Rev.1, 1530th meeting, para. 9.

⁶ S/9696, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, pp. 160-161; and S/9976, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 36-37; none of the four draft resolutions evoked a constitutional discussion bearing on Article 39.

⁷ Resolution 282 (1970) of 23 July 1970; see Case 2.

⁸ In addition, a resolution adopted by the Security Council contained the paragraph, "*Having discussed* the grave situation in the sub-continent, which remains a threat to international peace and security", which might be considered to have bearing on Article 39; the adoption of this resolution, however, was not preceded by a constitutional discussion bearing on that Article; see resolution 307 (1971) of 21 December 1971.

⁹ See the tabulation in part III of chapter X.

¹⁰ Resolution 279 (1970) of 12 May 1970; see Case 1; and resolution 285 (1970) of 5 September 1970; see Case 3.

¹¹ 1546th meeting, para. 93, in connexion with the question of race conflict in South Africa; 1559th meeting, paras. 102, 112; 1560th meeting, para. 73; 1563rd meeting, para. 143, in connexion with the complaint by Guinea; 1585th meeting, para. 48; 1588th meeting, para. 18; 1594th meeting, paras. 19, 36, 41, 42, in connexion with the situation in Namibia; 1606th meeting, para. 263, in connexion with the situation in the India/Pakistan subcontinent.

Article 40¹² were made in the course of consideration of various items in the Security Council.

CASE 1.¹³ SITUATION IN THE MIDDLE EAST: In connexion with the draft resolution submitted by Spain (S/9800) and with the amendment thereto submitted by the United States and sub-amendment submitted by the USSR; the amendment and sub-amendment not adopted on 12 May 1970; the draft resolution adopted on the same day [Resolution 279 (1970)]

[Note: It was maintained that the draft resolution constituted a provisional measure. Following its adoption, it was also maintained that the draft resolution had been adopted implicitly under Article 40 of the Charter.]

At the 1537th meeting on 12 May 1970, the representative of Spain submitted¹⁴ a draft resolution¹⁵ in which it was provided:

"The Security Council

"Demands the immediate withdrawal of all Israeli armed forces from Lebanese territory."

In supporting the draft resolution, the representative of Zambia said that it was an interim draft resolution which did not in any way prejudice the position of any delegation with regard to the substance of the item on the agenda.

The USSR proposal, which was supported by Syria, that the Council proceed immediately to vote on the Spanish draft resolution was not adopted,¹⁶ the result of the vote being 7 in favour, 2 against, with 6 abstentions.

At the same meeting, the representative of Spain stated that the draft resolution was purely an interim measure submitted in view of the urgency of the situation without prejudice to whatever further action the Security Council might decide to take. The fact of the military invasion of Lebanon by Israeli forces had not been contested, and his delegation was prompted by the seriousness of the situation created by the action taken by Israel in contravention of Article 2, paragraph 4, of the Charter to submit the draft resolution as a provisional measure to put an end to the invasion.

The representative of Israel* said that the representative of Spain had referred to Israel's action as a violation of the Charter without, however, referring to the warfare which was being waged against Israel in flagrant breach of the Charter. No contribution to peace in the Middle East could be made by the adoption of one-sided resolutions. Moreover, as his delegation had already informed the Council, Israeli forces were already in the process of being withdrawn.

At the same meeting, the representative of the United States orally submitted¹⁷ an amendment to the Spanish draft resolution which would add to it the

phrase: "and an immediate cessation of all military operations in the area".

The representative of Spain reiterated that his delegation had been prompted by the urgency of the situation to propose a provisional measure to put an end to the invasion, and expressed concern that attempts to add amendments embodying concepts which had not been duly considered by the Council would defeat the purpose which his delegation had in mind while submitting its draft resolution.

After the representative of the United States reaffirmed his delegation's intention to submit its amendment, the representative of the USSR orally proposed¹⁸ a sub-amendment which would add to the end of the United States amendment the words: "and stopping of Israeli aggression against Lebanon".

At the same meeting, the sub-amendment submitted by the USSR was not adopted.¹⁹ It received 3 votes in favour, none against, with 12 abstentions. The United States amendment was also not adopted,²⁰ the result of the vote being 2 in favour, none against, with 13 abstentions. The draft resolution submitted by Spain was adopted²¹ unanimously as resolution 279 (1970).

After the vote, the representative of Syria stated that his delegation had voted in favour of the Spanish draft resolution in accordance with Article 40 of the Charter, which he then quoted.

At the 1538th meeting on 12 May 1970, the representative of Syria again referred to Article 40 which provided, *inter alia*, that the Security Council would duly take account of failure to comply with provisional measures, and stated that the Council had unanimously adopted a provisional measure with which the Government of Israel had refused to comply.

At the 1540th meeting on 14 May 1970, the representative of Poland stated that he had supported the draft resolution submitted by Spain and adopted by the Council as a provisional measure in view of the urgency of the situation.

At the 1541st meeting on 15 May 1970, the representative of Colombia also expressed the view that the draft resolution in question had been a provisional measure and stated that its very provisional nature required that the Council proceed to consider stable solutions, since Article 40 of the Charter, on which provisional measures rested, implied that those measures must be extended to all parties concerned, not only to one of them. A judgement of responsibilities regarding the situation must be made within the framework of Council resolution 242 (1967) and of the United Nations Charter in general.

CASE 2. QUESTION OF RACE CONFLICT IN SOUTH AFRICA: In connexion with the draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9882); subsequently revised (S/9882/

¹² 1606th meeting, para. 263; 1614th meeting, para. 93, in connexion with the situation in the India/Pakistan sub-continent.

¹³ For texts of relevant statements, see: 1537th meeting: Israel,* paras. 79-81; Spain, paras. 44, 45, 83-86, 115, 116; Syria, para. 133; Zambia, para. 49; 1538th meeting: Syria, paras. 120, 121; 1540th meeting: Poland, para. 13; 1541st meeting: Colombia, paras. 7-9.

¹⁴ 1537th meeting, para. 46.

¹⁵ S/9800; same text as resolution 279 (1970).

¹⁶ 1537th meeting, paras. 66, 76, 77.

¹⁷ 1537th meeting, para. 91.

¹⁸ 1537th meeting, para. 128.

¹⁹ 1537th meeting, para. 129.

²⁰ *Ibid.*, para. 130.

²¹ *Ibid.*, para. 131.

²² For texts of relevant statements, see: 1545th meeting: Mauritius,* paras. 19-23, 30; Somalia,* paras. 45, 60, 61; 1546th meeting: Nepal, paras. 136, 137; United Kingdom paras. 19-22; 1547th meeting: France, paras. 47-49.

Rev.2), voted upon and adopted on 23 July 1970.
[Resolution 282 (1970)]

[*Note:* In the course of the discussion, it was maintained that the continued arms build-up of South Africa in spite of the arms embargo previously imposed by the Security Council, and the use of these arms in the joint action of the Governments of South Africa and Southern Rhodesia against liberation movements and their threats to independent African States constituted a serious threat to international peace and security. It was maintained, on the other hand, that the situation in South Africa, however regrettable, could not be considered a threat to international peace within the meaning of Chapter VII of the Charter. In this connexion, it was also maintained that limited arms deliveries to South Africa were strictly for the purpose of external self-defence, and not for internal repression.]

At the 1545th meeting on 17 July 1970, the representative of Mauritius* said that, in spite of the arms embargo imposed by the Security Council, South Africa had continued to receive arms and military equipment from a number of Member States. Their argument that these arms and equipment were not covered by the embargo since they were for external defence and not to be used for internal repression or for imposing *apartheid* was no longer valid, in view of the fact that there existed in southern Africa an armed conflict between the liberation movements and armed forces of their oppressors. South Africa had committed itself not only to a policy of repression of the opponents of *apartheid*, but also to a policy of military and economic support of white minority régimes elsewhere in southern Africa and had repeatedly threatened the independent States of southern Africa for their support of opponents of *apartheid*. The military build-up of South Africa thus constituted a serious threat to international peace and security in the region.

At the same meeting, the representative of Somalia* recalled that the Security Council, when it considered the situation in 1963 and 1964, had described it as "seriously disturbing international peace and security". Subsequent developments had made the situation a clear threat to international peace and security, as evidenced by the intensification and extension of the *apartheid* laws, the illegal presence of the South African Government in Namibia—itsself an act of aggression—and the military collaboration of South Africa with the régimes in Southern Rhodesia and in Portuguese colonial territories. This in turn had prompted mounting resistance on the part of liberation movements. In view of this situation, the Security Council must examine how the South African Government had been able to acquire the military and economic power to carry out its internal and external aggressions despite the arms embargo and take measures to strengthen the embargo.

At the 1546th meeting on 20 July 1970, the representative of the United Kingdom said that some of the fears expressed by members of the Council regarding the status of the embargo did not correspond to the real situation, since the United Kingdom had no intention of lifting the arms embargo and was merely taking under study the question of deliveries of certain limited categories of arms for use in defence of sea-lanes, that is, a particular type of external defence.

The United Kingdom Government was determined that no arms would be sold for the enforcement of *apartheid* or internal repression.

At the same meeting, the representative of Nepal recalled that, as early as 1 April 1960, the Security Council had recognized that the situation in South Africa was one which had led to international friction and which, if continued, might endanger international peace and security (resolution 134 (1960)). He added that, ten years later, the situation had not only continued but greatly deteriorated and clearly represented a threat to the maintenance of international peace and security. In those circumstances, the least the Security Council could do was to take measures to strengthen the arms embargo against the Government of South Africa.

At the 1547th meeting on 21 July 1970, the representative of France maintained that there had been some signs of moderation in South Africa, to which the considerable moral pressure exerted on Pretoria, through the intervention of the United Nations, had undoubtedly contributed. However, if the Organization were to adopt in addition enforcement measures and interfere directly in the internal affairs of a Member State, it would be exceeding its authority as recognized by the Charter. No matter how regrettable the situation in South Africa might be, it could not be considered a threat to international peace within the meaning of Chapter VII of the Charter. In responding to the arms embargo, a number of States had made reservations in view of the right of self-defence recognized by Article 51 of the Charter, and had drawn a distinction between arms designed to serve the needs of external defence and those likely to be used in the implementation of *apartheid*. Such a distinction had been introduced in resolution 181 (1963), whose fifth preambular paragraph read:

"*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".

At the 1548th meeting on 22 July 1970, the representative of Zambia introduced²³ a draft resolution²⁴ jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, in which it was provided:

"*The Security Council,*

". . .

"*Gravely concerned* by the persistent refusal of the Government of South Africa to abandon its racist policies and to abide by the resolutions of the Security Council and the General Assembly on this question and others relating to southern Africa,

"*Gravely concerned* by the situation arising from violations of the arms embargo called for in its resolutions 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963 and 191 (1964) of 18 June 1964,

"*Convinced* of the need to strengthen the arms embargo called for in the above resolutions,

"*Convinced further* that the situation resulting from the continued application of the policies of *apartheid* and the constant build-up of the South

²³ 1548th meeting, para. 30.

²⁴ S/9882, OR, 25th yr., Suppl. for July-Sept. 1970, pp. 113-114.

African military and police forces made possible by the continued acquisition of arms, military vehicles and other equipment and of spare parts for military equipment from a number of Member States and by local manufacture of arms and ammunition under licenses granted by some Member States constitutes a serious threat to international peace and security, [preamble, para. 7]

“ . . . ”

At the 1549th meeting on 23 July 1970, the President (Nicaragua) drew the attention²⁵ of the Council to a revised text of the five-Power draft resolution.²⁶ The revisions included, *inter alia*, the seventh preambular paragraph, in which the phrase “a serious threat to international peace and security” had been replaced by the words “a potential threat to international peace and security”.

At the same meeting, the revised five-Power draft resolution was put to the vote and was adopted²⁷ by 12 votes to none, with 3 abstentions as resolution 282 (1970).

CASE 3.²⁸ SITUATION IN THE MIDDLE EAST: In connexion with the draft resolution submitted by Spain (S/9928): voted upon and adopted on 5 September 1970. [Resolution 285 (1970)]

[Note: In the course of the discussion, it was maintained that the draft resolution was an interim measure without prejudice to whatever further action the Security Council might decide to take.]

At the 1551st meeting on 5 September 1970, the representative of Spain submitted²⁹ a draft resolution³⁰ which read:

²⁵ 1549th meeting, para. 4.

²⁶ S/9882/Rev.2; same text as resolution 282 (1970).

²⁷ 1549th meeting, para. 29.

²⁸ For texts of relevant statements, see: 1551st meeting: President (Sierra Leone), para. 109; Israel,* paras. 73-74; Spain, paras. 59-64.

²⁹ 1551st meeting, para. 62.

³⁰ S/9928; same text as resolution 285 (1970).

“The Security Council,

“Demands the complete and immediate withdrawal of all Israeli armed forces from Lebanese territory.”

In introducing the draft resolution, the representative of Spain recalled that the situation was a repetition of actions which had occurred previously in May of that year and, recalling also the draft resolution submitted by his delegation and adopted by the Council (resolution 279 (1970)) on that occasion, stated that, in view of the fact that the armed forces of a Member State of the United Nations had penetrated the territory of another Member State, the Security Council should take urgent action and call for withdrawal, without prejudice to the fact that the Council might in further meetings consider the situation in detail and take further appropriate decisions. He then requested that the Council proceed urgently to vote on the draft resolution.

The representative of Israel* said that the representative of Spain had referred to Israel's action as invasion without, however, referring to the warfare which was being waged against Israel from Lebanese territory in flagrant breach of the Charter. The adoption of a one-sided resolution could not contribute to peace in the Middle East. Furthermore, he had informed the Council that Israel's action had been completed and that Israel forces had evacuated Lebanese territory.

At the same meeting, the draft resolution was put to the vote and was adopted³¹ by 14 votes to none, with 1 abstention, as resolution 285 (1970).

After the vote, the President (Sierra Leone) stated that the Council had devoted the meeting to the discussion of an interim measure, without prejudice to any further meetings which would be held to discuss the matter further.

³¹ 1551st meeting, para. 93.

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 41 OF THE CHARTER

NOTE

During the period under review, the Security Council, acting explicitly under Chapter VII and Article 41 of the Charter, adopted a resolution³² whereby the Council reaffirmed the sanctions established under earlier resolutions and expanded the scope of those sanctions. Another resolution³³ was adopted by the Security Council which reaffirmed the existing sanctions under Chapter VII. Five other draft resolutions contained provisions reaffirming or expanding existing sanctions or providing for related measures under Chapter VII; of these, two³⁴ were not adopted, and

three others³⁵ failed of adoption. One of the former³⁶ also contained an explicit reference to Article 41. The constitutional issues which arose in connexion with the draft resolutions which are dealt with below were concerned with the question of the type, scope and modalities of the sanctions and related measures under Chapter VII.

CASE 4.³⁷ SITUATION IN SOUTHERN RHODESIA: In con-

³⁵ S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161; see Case 5; S/9976, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 36-37; see Case 6; and S/10489, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 129-130; the consideration of this draft resolution did not evoke any constitutional discussion bearing on Article 41.

³⁶ S/9676/Rev.1.

³⁷ For texts of relevant statements, see: 1479th meeting: Algeria, paras. 12-16; United Kingdom, paras. 35-39; 1480th meeting: Finland, paras. 6-9; 1481st meeting: USSR, paras. 25-26.

³² Resolution 277 (1970); see Case 5.

³³ Resolution 288 (1970); see Case 6.

³⁴ S/9270/Rev.1, OR, 24th yr., Suppl. for April-June 1969, p. 338; see Case 4; and S/9676/Rev.1, 1530th meeting, para. 9; see Case 5.

nexion with the draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia (S/9270/Rev.1); voted upon and not adopted on 24 June 1969.

[*Note:* It was maintained on the one hand that, since the economic sanctions against Southern Rhodesia previously adopted by the Security Council had not achieved their desired ends, the Council should adopt comprehensive sanctions, mandatory for all States, severing all relations with Southern Rhodesia and extend the economic sanctions to South Africa and to the Portuguese colony of Mozambique. It was contended, on the other hand, that the situation did not justify a full campaign of sanctions which would have to be backed by a naval blockade of all southern Africa.]

At the 1479th meeting on 19 June 1969, the representative of Algeria introduced³⁸ a draft resolution³⁹ jointly submitted by Algeria, Nepal, Pakistan, Senegal and Zambia, in which it was provided:

"The Security Council,

"Recalling and reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968,

" . . .

"Gravely concerned that the measures so far taken have failed to resolve the situation in Southern Rhodesia,

"Gravely concerned further that the measures taken by the Security Council have not been fully complied with by all States,

"Noting that the Governments of the Republic of South Africa and Portugal, in particular, in contravention of their obligation under Article 25 of the Charter of the United Nations, have not only carried on trade with the illegal racist minority régime of Southern Rhodesia contrary to the terms of Security Council resolution 232 (1966) and 253 (1968) but have, in fact, given active assistance to that régime, enabling it to counter the effects of measures decided upon by the Security Council,

" . . .

"Acting under Chapter VII of the Charter of the United Nations,

" . . .

"3. Decides that all States shall sever immediately all economic and other relations with the illegal racist minority régime in Southern Rhodesia, including railway, maritime, air transport, postal, telephonic and wireless communications and other means of communication;

" . . .

"5. Decides that Member States and members of the specialized agencies shall carry out the measures dealing with imports and exports envisaged in Security Council resolution 253 (1968) and in the present resolution against the Republic of South Africa and the Portuguese colony of Mozambique;

" . . ."

³⁸ 1479th meeting, para. 7.

³⁹ S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338.

In introducing the five-Power draft resolution, the representative of Algeria said that the measures provided for in resolution 253 (1968) had not achieved the desired results, first because certain Member States had continued to trade with the illegal régime in Southern Rhodesia and secondly because South Africa and Portugal had refused to respect the decisions of the Security Council. Consequently, the sponsors considered that the Council should impose complete and mandatory sanctions by calling on all States to sever all economic and other relations with the illegal régime in accordance with Article 41 of the Charter, and at the same time take measures against South Africa and Portugal because of their continued defiance of the decisions of the Security Council.

At the same meeting, the representative of the United Kingdom stated that, in view of the long and extensive economic ties between the United Kingdom and South Africa, his Government could not agree that a situation existed in which it could justify proceeding to the full campaign of economic sanctions against South Africa, which would have to be backed by a naval blockade of all southern Africa. The Security Council should continue instead the policy of denying recognition and maintaining, and if possible intensifying, the economic sanctions against Southern Rhodesia.

At the 1480th meeting on 23 June 1969, the representative of Finland said that the Security Council should concentrate on ensuring full implementation of its resolution 253 (1968) rather than on far-reaching new proposals that were bound to divide the Council and would therefore remain without effect.

At the 1481st meeting on 24 June 1969, the representative of the USSR stated that, while his delegation supported the five-Power draft resolution, it believed that the Security Council should adopt an even stronger resolution by extending the sanctions not only to South Africa and to the Portuguese colony of Mozambique but also to Portugal itself. He supported the provision (para. 3) of the draft resolution whereby the Council would decide that the sanctions against Southern Rhodesia should be implemented not only by States Members of the United Nations but by all States, and further expressed the view that, in general, appeals by the Security Council for the implementation of its decisions should be addressed to all States without exception.

At the same meeting, the five-Power draft resolution was not adopted,⁴⁰ the result of the vote being 8 in favour, none against and 7 abstentions.

CASE 5.⁴¹ SITUATION IN SOUTHERN RHODESIA: In connexion with the draft resolution submitted by the United Kingdom (S/9676/Rev.1); with the draft resolution jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9696); and with the draft resolution submitted by Finland (S/9709/Rev.1); the United Kingdom draft resolution voted upon and not adopted on 17 March 1970; the five-

⁴⁰ 1481st meeting, para. 78.

⁴¹ For texts of relevant statements, see: 1530th meeting: United Kingdom, paras. 15-18; 1531st meeting: Algeria, paras. 67, 68, 70, 73; Sierra Leone, paras. 37-41; Zambia, paras. 7, 23, 24, 27; 1532nd meeting: Nepal, para. 41; Syria, paras. 71, 79, 80; USSR, paras. 30, 31; 1533rd meeting: Finland, paras. 51-55; Pakistan,* paras. 7-10; United States, paras. 19-24; 1534th meeting: Spain, para. 44; United Kingdom, paras. 15, 26; 1535th meeting: Finland, paras. 7-14.

Power draft resolution voted upon and failed of adoption on the same day; the Finland draft resolution voted upon and adopted on 18 March 1970. [Resolution 277 (1970)]

[*Note:* It was maintained on the one hand that, in view of the deteriorating situation which had already been determined to constitute a threat to international peace and security, the Security Council must take effective measures under Chapter VII of the Charter to sever all relations with the illegal régime in Southern Rhodesia in order to bring it to an end and to extend the sanctions to South Africa and Portugal which had defied the decisions of the Council. It was contended, on the other hand, that the Security Council should concentrate on reaching a speedy and unanimous decision under Article 41 to deny recognition which the illegal régime sought by its proclamation of republican status rather than to adopt decisions which were not practicable.]

At the 1530th meeting on 6 March 1970, the President (Colombia) drew attention of the Security Council⁴² to a draft resolution,⁴³ submitted by the United Kingdom on 3 March 1970, in which it was provided:

"The Security Council,

"Recalling and reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968,

"...

"2. Decides, in accordance with Article 41 of the United Nations Charter, that all Member States of the United Nations shall refrain from recognizing the illegal régime or from rendering any assistance to it, and urges States not Members of the United Nations, having regard to the principles stated in Article 2 of the United Nations Charter, to act accordingly."

In introducing the draft resolution, the representative of the United Kingdom said that the recent purported declaration by the illegal régime in Southern Rhodesia of a republican status was designed to achieve international recognition, without which the régime would have no future. The Security Council should therefore concentrate on reaching an urgent and unanimous decision to deny recognition to the illegal régime.

At the 1531st meeting on 11 March 1970, the representative of Zambia said that the measures proposed by the United Kingdom draft resolution were inadequate to achieve the purpose which had been professed by all members of the Security Council, namely, the removal of the illegal régime, the restoration of law and order and the granting of independence to the Territory on the basis of freedom and equality. It was time not only to deny recognition to the illegal régime but also to take effective measures to achieve the desired ends. All States must, in accordance with Chapter VII of the Charter, immediately sever all consular, economic, military or any other relations with the illegal régime, including rail, maritime and air transport as well as postal, telegraphic, radio and any other means of communication. The Security Council should also take appropriate measures under Chapter VII to

compel South Africa and Portugal to comply with its decisions.

At the same meeting, the representative of Sierra Leone said that, although his delegation had no differences with the call for non-recognition contained in the United Kingdom draft resolution, he felt that failure to take more forceful measures in the face of deteriorating situation would be tantamount to condoning the illegal régime. In view of the defiance of Security Council decisions by South Africa and Portugal, and since the Council had already determined that the situation in Southern Rhodesia constituted a threat to international peace and security, there was no alternative but to extend the sanctions to cover those two States under Articles 41 and 42 of the Charter.

The representative of Algeria stated that, in view of the failure of the economic sanctions previously adopted by the Security Council against Southern Rhodesia, the Council was duty bound to take broader and more effective measures in accordance with the Charter by extending the sanctions and barring all the doors to Southern Rhodesia, as well as South Africa and Portugal, in order to put an end to the illegal régime in Southern Rhodesia and to guarantee the security of the African continent.

At the 1532nd meeting on 12 March 1970, the President (Colombia) drew the attention of the Security Council⁴⁴ to a draft resolution⁴⁵ jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, in which it was provided:

"The Security Council,

"...

"Deeply concerned that the situation in Southern Rhodesia has deteriorated further as a result of the proclamation of a so-called republic and that the measures so far taken have proved inadequate to resolve the situation in Southern Rhodesia,

"Gravely concerned further that the decisions taken by the Security Council have not been fully complied with by all States,

"Noting that the Governments of the Republic of South Africa and Portugal, in particular, in contravention of their obligation under Article 25 of the Charter of the United Nations, have not only continued to trade with the illegal racist minority régime of Southern Rhodesia, contrary to the terms of Security Council resolutions 232 (1966) and 253 (1968), but have in fact given assistance to that régime, enabling it to counter the effects of measures decided upon by the Security Council,

"...

"Acting under Chapter VII of the Charter of the United Nations,

"...

"2. Decides that all States Members of the United Nations shall refrain from recognizing the illegal régime and urges States not members of the Organization, having regard to the principles set out in Article 2 of the Charter of the United Nations, to act accordingly;

⁴² 1530th meeting, para. 4.

⁴³ S/9676/Rev.1, 1530th meeting, para. 9.

⁴⁴ 1532nd meeting, para. 3.

⁴⁵ S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161.

"3. *Calls upon* all States to take measures as appropriate, at the national level, to ensure that any act performed by officials and institutions of the illegal régime in Southern Rhodesia or by persons and organizations purporting to act for it or in its behalf shall not be accorded any official recognition, including judicial notice, by the competent organs of their State;

". . .

"6. *Decides* that all States shall immediately sever all diplomatic, consular, economic, military and other relations with the illegal racist minority régime in Southern Rhodesia, including railway, maritime, air transport, postal, telegraphic and wireless communications and other means of communication;

". . .

"9. *Decides* that Member States and members of specialized agencies shall apply against the Republic of South Africa and Portugal the measures set out in resolution 253 (1968) and in the present resolution;

". . .".

At the same meeting, the representative of the USSR said that the five-Power draft resolution, whose purpose was to isolate the illegal régime in Salisbury politically, economically and in every other way, provided the necessary basis for finally turning the development of events in Southern Rhodesia in the direction of liberating the Zimbabwe people and eliminating the threat to peace in Africa.

The representative of Nepal stated that it was time that the nature and scope of the sanctions were extended also to the Governments which had defied them.

In introducing the five-Power draft resolution, the representative of Syria declared that a decision by the Security Council to bar recognition to the illegal régime and its so-called republican status was quite pertinent and was therefore embodied in that draft resolution. This was, however, only one aspect of the question. The Security Council must adopt effective measures to ensure the end of the illegal régime and to grant all the people of Zimbabwe their right to independence based on equality. Accordingly, the sponsors proposed that all States sever all relations with the illegal minority régime and apply the sanctions also to South Africa and Portugal.

At the 1533rd meeting on 13 March 1970, the representative of Pakistan* contended that, since the Security Council had already determined the situation in Southern Rhodesia as constituting a threat to international peace and security and had initiated certain coercive measures under Chapter VII of the Charter, any further action to be taken by the Council must be judged solely by the criterion of effectiveness in forcing a reversal of the course adopted by the Salisbury régime. In this respect, another reaffirmation of the illegality of the régime would be totally ineffective. It was imperative that all States sever all relations with the illegal régime and that the sanctions be extended to South Africa and Portugal.

The representative of the United States called for a speedy and unanimous decision to deny recognition to the so-called republic of Southern Rhodesia. He ex-

pressed the view that, while the failure of South Africa and Portugal to adhere to the sanctions programme was regrettable, the application of sanctions to those two States would not be sufficiently supported by the international community, especially States most directly concerned, and would merely demonstrate the limitations of the United Nations and further entrench the Smith régime. His delegation was also opposed to imposing a communication ban, not only because of the traditional attachment of the United States to freedom of movement and speech, but also because it believed that cutting off communication and free flow of information would not contribute to a solution of the problem, but rather tend to harden further the attitude of the white minority.

The representative of Finland stated that in order to increase the international pressure against the illegal régime in Southern Rhodesia, the Security Council should decide, in accordance with Article 41 of the Charter, that all Member States should immediately sever all diplomatic, consular, trade, military and other relations with the Salisbury régime and also cut off all means of transportation to and from Southern Rhodesia. Steps should be taken to exclude Southern Rhodesia from participation in any specialized agencies and regional and other international organizations. The Council should also call upon Member States to make a greater effort to carry out more effectively the economic sanctions provided for in resolution 253 (1968).

At the 1534th meeting on 17 March 1970, the representative of the United Kingdom reiterated his Government's view that it was not possible and would be beyond the capacity of the Organization to initiate a major economic and strategic blockade of southern Africa, which would be required in order to extend sanctions against South Africa. He pointed out that his delegation's proposal was not mere reaffirmation of the condemnation of the illegal régime, but called for action on the question of recognition and of representation of the illegal régime, on which there was unanimous agreement in the Council.

The representative of Spain expressed the view that the policy of sanctions should be understood, within the context of the Charter, as a continuing and intensifying process directed toward the goal of putting an end to a situation which, under the terms of the Charter, had been determined to constitute a threat to international peace and security. In this respect, his delegation considered the proposal contained in the United Kingdom draft resolution to be inadequate, and called for a resolution which focused on the direct responsibility of the United Kingdom as the administering Power for Southern Rhodesia.

At the same meeting, the draft resolution submitted by the United Kingdom (S/9676/Rev.1) was voted upon and not adopted,⁴⁶ having failed to receive the affirmative vote of nine members, the result of the vote being 5 in favour, none against, with 10 abstentions.

The Security Council then proceeded to vote on the five-Power draft resolution (S/9696). Paragraph 9 was voted upon separately and was not adopted,⁴⁷ having received 7 votes in favour, none against, with 8 abstentions. The draft resolution as a whole, as modi-

⁴⁶ 1534th meeting, para. 185.

⁴⁷ *Ibid.*, para. 206.

fied, failed of adoption.⁴⁸ It received 9 votes in favour, 2 against, with 4 abstentions, negative votes being those of permanent members.

At the 1535th meeting on 18 March 1970, the representative of Finland introduced⁴⁹ a draft resolution,⁵⁰ which had been revised⁵¹ as a result of consultations with the sponsors of the two earlier draft resolutions, provided that:

"The Security Council,

" . . .

"Reaffirming that, to the extent not superseded in the present resolution, the measures provided for in resolutions 217 (1965), 232 (1966) and 253 (1968), as well as those initiated by Member States in implementation of those resolutions, shall continue in effect,

" . . .

"Acting under Chapter VII of the Charter,

" . . .

"2. Decides that Member States shall refrain from recognizing this illegal régime or from rendering any assistance to it;

"3. Calls upon Member States to take appropriate measures, at the national level, to ensure that any act performed by officials and institutions of the illegal régime in Southern Rhodesia shall not be accorded any recognition, official or otherwise, including judicial notice, by the competent organs of their State;

"8. Calls upon Member States to take more stringent measures in order to prevent any circumvention by their nationals, organizations, companies and other institutions of their nationality, of the decisions taken by the Security Council in resolutions 232 (1966) and 253 (1968), all provisions of which shall fully remain in force;

"9. Decides, in accordance with Article 41 of the Charter and in furthering the objective of ending the rebellion, that Member States shall:

"(a) Immediately sever all diplomatic, consular, trade, military and other relations that they may have with the illegal régime in Southern Rhodesia, and terminate any representation that they may maintain in the Territory;

"(b) Immediately interrupt any existing means of transportation to and from Southern Rhodesia;

"10. Requests the Government of the United Kingdom, as the administering Power, to rescind or withdraw any existing agreements on the basis of which foreign consular, trade and other representation may at present be maintained in or with Southern Rhodesia;

"11. Requests Member States to take all possible further action under Article 41 of the Charter to deal with the situation in Southern Rhodesia, not excluding any of the measures provided in that Article;

" . . ."

In introducing the revised draft resolution, the repre-

⁴⁸ 1534th meeting, para. 207.

⁴⁹ 1535th meeting, paras. 4-16.

⁵⁰ S/9709, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 165-166.

⁵¹ S/9709/Rev.1. Same text as resolution 277 (1970).

sentative of Finland drew attention to the revisions, which, *inter alia*, deleted the words "in accordance with Article 41 of the United Nations Charter" from operative paragraph 2, added the phrase "[resolutions 232 1966 and 253 (1968)], all provisions of which shall fully remain in force" at the end of operative paragraph 8, and added a new operative paragraph 10.

At the same meeting, the revised draft resolution (S/9709/Rev.1) submitted by Finland was voted upon and adopted⁵² by 14 votes in favour, none against, with 1 abstention, as resolution 277 (1970).

CASE 6.⁵³ SITUATION IN SOUTHERN RHODESIA: In connexion with the draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9976); and with the draft resolution submitted by the members of the Security Council (S/9980); the five-Power draft resolution voted upon and failed of adoption on 10 November 1970; the latter voted upon and adopted unanimously on 17 November 1970 [Resolution 288 (1970)]

[Note: In the course of the discussion, it was maintained that the Security Council must reaffirm its policy of sanctions against Southern Rhodesia and put it in proper perspective by affirming the goal of full application of the principle of self-determination and calling upon the administering Power not to grant independence without the fulfilment of majority rule. It was contended, on the other hand, that such a step would go beyond the powers of the Security Council.]

At the 1556th meeting on 10 November 1970, the President (Syria) drew the attention of the Security Council⁵⁴ to a draft resolution,⁵⁵ which had been submitted jointly on 6 November by Burundi, Nepal, Sierra Leone, Syria and Zambia, and in which it was provided:

"The Security Council,

" . . .

"Gravely concerned that certain States have not complied with the provisions of resolution 232 (1966), 253 (1968) and 277 (1970), contrary to their obligations under Article 25 of the Charter of the United Nations,

"Reaffirming the primary responsibility of the Government of the United Kingdom to enable the people of Southern Rhodesia to achieve self-determination and independence, and in particular their responsibility of bringing the illegal declaration of independence to an end,

"Acting under Chapter VII of the United Nations Charter,

"1. Calls upon the United Kingdom as the administering Power not to grant independence to Southern Rhodesia without the fulfilment of majority rule;

"2. Decides that the present sanctions against Southern Rhodesia shall remain in force;

" . . .

⁵² 1535th meeting, para. 85.

⁵³ For texts of relevant statements, see: 1556th meeting: France, para. 167; Nepal, paras. 71-80; United Kingdom, paras. 134-136; United States, para. 222.

⁵⁴ 1556th meeting, para. 68.

⁵⁵ S/9976, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 36-37.

"4. *Further urges* all States in furtherance of the objectives of the Security Council not to grant any form of recognition to the illegal régime in Southern Rhodesia;

". . .".

In introducing the five-Power draft resolution, the representative of Nepal said that the third report of the Security Council Committee on Sanctions⁵⁸ and the Secretary-General's introduction to his annual report⁵⁷ gave incontrovertible evidence that the policies of sanctions had failed and that the situation in Southern Rhodesia, over which the Security Council had a particular and continuing responsibility, continued to be grave. Accordingly, the sponsors of the draft resolution called for the continuation of the present policies of sanctions and for their full implementation by all States. The Security Council should further urge all States not to grant any form of recognition to the illegal régime. Operative paragraph 1 of the draft resolution sought to clarify the central issue involved, namely, the existence of a racist minority régime which had denied the majority their inalienable right to self-determination. The responsibility of the United Nations and that of the administering Power did not end with the overthrow of the illegal régime; the goal was to bring about the effective and full application of the principle of self-determination. Accordingly, the draft resolution called upon the administering Power not to grant independence to Southern Rhodesia without the fulfilment of majority rule.

The representative of the United Kingdom reaffirmed that the first of the five principles adhered to by his Government concerning Southern Rhodesia was that "the principle and intention [of] unimpeded progress to majority rule would have to be maintained and guaranteed". The United Kingdom Government was committed to seeing that any settlement was acceptable to the Rhodesian people as a whole. It could not, however, accept any fresh commitment in the Security Council which would restrict it in any way in reaching such a settlement if that proved practicable.

⁵⁸ S/9844/Rev.1, OR, 25th yr., Special Supplement Nos. 3 and 3A.

⁵⁷ GAOR, 25th Sess., Supplement No. 1A.

The representative of France, recalling the letter⁵⁸ addressed by his delegation to the President of the Security Council on 31 March 1970, reaffirmed his Government's position that it had difficulty agreeing that Article 41 of the Charter empowered the Security Council to decide that Member States should refrain from recognizing as a State any particular political entity whose status was in dispute. Paragraph 1 of the draft resolution, therefore, seemed to be legally questionable, as its language seemed to go beyond the powers of the Council.

At the same meeting, the five-Power draft resolution (S/9976) was voted upon and failed of adoption.⁵⁹ It received 12 votes in favour, 1 against, with 2 abstentions, the negative vote being that of a permanent member.

After the vote, the representative of the United States said that his delegation had abstained in the voting on the five-Power draft resolution because of its serious reservations regarding operative paragraph 1. Although his Government consistently supported the right of the people of Southern Rhodesia to self-determination and majority rule, it seemed inconsistent to reiterate in the fourth preambular paragraph the primary responsibility of the United Kingdom for the achievement of self-determination in Southern Rhodesia, and immediately thereafter in operative paragraph 1 to prescribe in advance under Chapter VII of the Charter how and when that goal was to be achieved.

At the 1557th meeting on 17 November 1970, the President (Syria) announced⁶⁰ that, during consultations held since the previous meeting, a draft resolution⁶¹ on the question had been prepared that appeared to have the support of all the members of the Council. He added that the French delegation repeated the reservations which it had expressed on 10 November, but it had nevertheless associated itself with the consensus in favour of the adoption of the draft resolution.

The draft resolution was immediately voted upon and was adopted unanimously⁶² as resolution 288 (1970).

⁵⁸ S/9732, OR, 25th yr., Suppl. for April-June 1970, p. 140.

⁵⁹ 1556th meeting, para. 212.

⁶⁰ 1557th meeting, paras. 1-2.

⁶¹ S/9980, same text as resolution 288 (1970).

⁶² 1557th meeting, para. 3.

Part III

CONSIDERATION OF THE PROVISIONS OF ARTICLES 42-47 OF THE CHARTER

NOTE

No decision was taken by the Security Council during the period under review concerning the use of force or the application of Article 42 of the Charter. In one instance,⁶³ a draft resolution calling upon the administering Power of a Non-Self-Governing Territory to take all necessary measures, including the use of force, under Chapter VII of the Charter in a situation which had been determined to constitute a threat to international peace and security was not adopted.

The constitutional issues dealt with during the con-

sideration of that draft resolution concerned the circumstances in which the Security Council could call for the use of force and the need to consult the State which was being requested to use it.⁶⁴

No questions arose in the Security Council during the period under review concerning the application and interpretation of Articles 43-47 of the Charter.

⁶⁴ A draft resolution which, *inter alia*, condemned the administering Power for refusing to use force failed of adoption without, however, any constitutional discussion concerning Article 42; see S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161.

⁶³ Case 7 below.

CASE 7.⁶⁵ SITUATION IN SOUTHERN RHODESIA: In connexion with the draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia (S/9270/Rev.1); voted upon and not adopted on 24 June 1969

[*Note:* In the course of the discussion, it was maintained that, in view of the failure of the economic sanctions previously imposed against Southern Rhodesia to achieve their ends, the Security Council should apply effective measures including the use of force under Article 42. It was contended, on the other hand, that every possible alternative should be explored before the use of force, and that the Security Council could decide upon the use of force only in consultation with the State which was being requested to implement it.]

At the 1479th meeting on 19 June 1969, the representative of Algeria introduced⁶⁶ a draft resolution⁶⁷ jointly submitted by Algeria, Nepal, Pakistan, Senegal and Zambia, in which it was provided:

"The Security Council,

" . . .

"Gravely concerned that the measures so far taken have failed to resolve the situation in Southern Rhodesia,

" . . .

"Affirming the primary responsibility of the Government of the United Kingdom to enable the people of Zimbabwe (Southern Rhodesia) to exercise their right of self-determination and independence,

" . . .

"Acting under Chapter VII of the Charter of the United Nations,

" . . .

"2. Urges the United Kingdom, as the administering Power, to take urgently all necessary measures, including the use of force, to bring an end to the rebellion in Southern Rhodesia and enable the people of Zimbabwe (Southern Rhodesia) to exercise

⁶⁵ For texts of relevant statements, see: 1475th meeting: Senegal, paras. 49, 63; Zambia, paras. 32-43; 1476th meeting: Nepal, para. 21; 1477th meeting: Somalia,* para. 88; Tanzania, paras. 42-48; 1478th meeting: India,* paras. 11-18; Sudan,* para. 32; 1479th meeting: Algeria paras. 13, 17; United Kingdom, paras. 30-33; 1480th meeting: Burundi, paras. 29-34; 1481st meeting: Colombia, para. 109.

⁶⁶ 1479th meeting, para. 7.

⁶⁷ S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338.

their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV);

" . . ."

In the course of the discussion, a number of representatives stated that the economic sanctions imposed against Southern Rhodesia by previous resolutions⁶⁸ of the Security Council had failed to achieve their objective of putting an end to the illegal minority régime and achieving the effective application of the principle of self-determination, and that, therefore, the Security Council must apply further effective measures under Articles 41 and 42 of the Charter and call upon the administering Power to take all necessary measures including the use of force to end the rebellion in Southern Rhodesia and enable the people of Zimbabwe to exercise their right to self-determination and independence.

At the 1479th meeting on 19 June 1969, the representative of the United Kingdom referred to the calls for his Government to use force against Southern Rhodesia and said that, since Rhodesia was first formed as a self-governing colony in 1923, there had never been any British army there, and thus it was not a question of merely taking local action in order to maintain order but was a question of an invasion and of starting a war. Once force was used, escalation could easily ensue and its consequences were incalculable. In view of that, the United Kingdom was opposed to starting a war and believed that, rather than the use of force, every possible alternative should be explored. He added that since the demand was that his country should undertake the military expedition, his Government had a right to be consulted.

At the 1481st meeting on 24 June 1969, the five-Power draft resolution was voted upon and not adopted,⁶⁹ having received 8 votes in favour, none against, with 7 abstentions.

After the vote, the representative of Colombia observed that the use of force was a step of such extreme gravity and such unpredictable consequences that force could be used only after every alternative had been exhausted.

⁶⁸ Resolutions 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968.

⁶⁹ 1481st meeting, para. 78.

Part IV

CONSIDERATION OF THE PROVISIONS OF ARTICLES 48-51 OF THE CHARTER

NOTE

Two resolutions adopted by the Security Council during the period under review contained provisions which might be considered to have some bearing on Article 49 of the Charter. In one instance,⁷⁰ the Security Council invited all States to exert their influence in order to obtain compliance by a Government with the provisions of that resolution; in the other,⁷¹ the Security Council called upon Member States, in par-

ticular those with primary responsibility under the Charter for the maintenance of international peace and security, to assist effectively in the implementation of the measures called for by that resolution.

A provision in a resolution⁷² adopted by the Security Council might be deemed to have been implicitly under Article 50 of the Charter. In it, the Security Council requested Member States, the United Nations, the specialized agencies and other international organizations in the United Nations system to make an urgent effort to increase their assistance to a State as a mat-

⁷⁰ Resolution 264 (1969), para. 7; see in chapter VIII, p. 100.

⁷¹ Resolution 277 (1970), para. 17; see in chapter VIII, p. 132.

⁷² Resolution 277 (1970), para. 16; see in chapter VIII, p. 132.

ter of priority with a view to helping it solve such special economic problems as it might be confronted with arising from the carrying out of the decisions of the Security Council.

Explicit references to Article 51 were made in connexion with the situation in the Middle East;⁷³ the

⁷³ 1470th meeting: China, para. 50.

complaint by Zambia;⁷⁴ the complaint by Senegal;⁷⁵ the complaint by Guinea;⁷⁶ and the question of race conflict in South Africa.⁷⁷

⁷⁴ 1486th meeting: Portugal, para. 72; Zambia, para. 57; 1487th meeting: Hungary, para. 26.

⁷⁵ 1520th meeting: Portugal, para. 14; 1600th meeting: Poland, para. 59.

⁷⁶ 1524th meeting: Portugal, para. 81.

⁷⁷ 1547th meeting: France, para. 48.

Part V

CONSIDERATION OF THE PROVISIONS OF CHAPTER VII OF THE CHARTER IN GENERAL

NOTE

During the period under review, no issue arose which concerned the application and interpretation of Chapter VII of the Charter in general. Two decisions⁷⁸ were taken by the Security Council which contained explicit references to Chapter VII, but without any constitutional discussion bearing on Chapter VII in general. Four letters of submission⁷⁹ explicitly called for consideration of an item by the Security Council under Chapter VII of the Charter, and references to Chapter VII or calls for measures under Chapter VII were made during the consideration by the Security Council of a number of items. Explicit references to Chapter VII were made in connexion with the consideration of the following items by the Security Council: the situation in Namibia;⁸⁰ the situation in the

Middle East;⁸¹ the situation in Southern Rhodesia;⁸² the question of race conflict in South Africa;⁸³ the complaint by Guinea;⁸⁴ the complaint by Senegal;⁸⁵ the complaint by Zambia;⁸⁶ and the situation in the India/Pakistan subcontinent.⁸⁷

1588th meeting: France, para. 18; Sudan,* para. 83; 1593rd meeting: Syria, paras. 69, 76, 77, 81; 1594th meeting: Belgium, para. 51; Liberia,* paras. 19, 20, 36, 37, 39;

1595th meeting: India,* paras. 62, 65.

⁸¹ 1466th meeting: Jordan,* para. 54;

1472nd meeting: Jordan,* para. 62;

1537th meeting: Lebanon,* para. 24;

1542nd meeting: Lebanon,* para. 124; Poland, para. 105; Syria, paras. 80, 81, 82, 83, 84; USSR, para. 53;

1551st meeting: Lebanon,* para. 25;

1579th meeting: Jordan,* para. 86;

1580th meeting: Egypt,* para. 105;

1581st meeting: Syria, para. 121;

1582nd meeting: Egypt,* para. 267; Syria, para. 150; USSR, para. 31.

⁸² 1475th meeting: Pakistan, paras. 87, 93, 94; Zambia, paras. 33, 34, 35;

1476th meeting: Finland, para. 58;

1477th meeting: Somalia,* para. 87; Tanzania,* para. 48;

1479th meeting: Algeria, para. 8;

1481st meeting: Zambia, paras. 90-93;

1531st meeting: Sierra Leone, para. 41; Zambia, paras. 18, 24, 27;

1532nd meeting: Syria, para. 73;

1533rd meeting: Pakistan,* paras. 6, 7, 12;

1535th meeting: France, para. 95;

1556th meeting: Nepal, paras. 71, 78; United States, para. 222;

1557th meeting: Nepal, paras. 10, 11;

1602nd meeting: Saudi Arabia,* para. 110.

⁸³ 1545th meeting: Somalia,* paras. 49, 60;

1546th meeting: Pakistan,* para. 150; Sierra Leone, para. 92;

1547th meeting: France, paras. 47, 48;

1549th meeting: United Kingdom, para. 24.

⁸⁴ 1560th meeting: Southern Yemen,* para. 9; United Arab Republic,* para. 60;

1561st meeting: Poland, paras. 69, 70; Somalia,* para. 137;

Syria, para. 50; Uganda,* para. 88; Zambia, para. 20;

1562nd meeting: Burundi, para. 54;

1563rd meeting: Finland, para. 120; France, para. 129;

Guinea,* para. 167; Pakistan,* para. 36; Saudi Arabia,* para. 63; USSR, para. 179; United Kingdom, para. 145; United States, paras. 52, 54.

⁸⁵ 1586th meeting: Sierra Leone, para. 67; USSR, para. 80.

⁸⁶ 1592nd meeting: Zambia,* para. 45.

⁸⁷ 1621st meeting: Pakistan,* para. 104.

⁷⁸ Resolutions 277 (1970) and 288 (1970). For references to chapter VII in these resolutions, see part I of this chapter.

⁷⁹ S/9237 and Add. 1 and 2, *OR, 24th yr., Suppl. for April-June 1969*, p. 187, in connexion with the situation in Southern Rhodesia; S/9372 and Add. 1-3, *OR, 24th yr., Suppl. for July-Sept. 1969*, p. 147, in connexion with the situation in Namibia; S/9524 and Add. 1, *OR, 24th yr., Suppl. for Oct.-Dec. 1969*, p. 144, in connexion with the complaint by Senegal; and S/9549, *ibid.*, p. 154, in connexion with the complaint by Guinea. See also the tabulation in chapter X, part III.

⁸⁰ 1464th meeting: Nepal, paras. 89, 92; Pakistan, paras. 119, 123; Zambia, paras. 43, 59;

1465th meeting: United Kingdom, para. 93; United States, para. 15;

1492nd meeting: Zambia, paras. 40, 41, 44;

1493rd meeting: Algeria, para. 18; Pakistan, para. 61;

1494th meeting: Finland, para. 15; Senegal, para. 35;

1495th meeting: China, para. 33;

1496th meeting: United Kingdom, para. 10; United States, paras. 21, 22, 23, 25;

1497th meeting: Nepal, para. 17; Zambia, paras. 6, 7;

1527th meeting: Finland, paras. 35, 36, 37; Zambia, para. 56;

1528th meeting: Nepal, para. 128; Turkey,* para. 27;

1529th meeting: India,* para. 82; Pakistan, paras. 116, 117, 122, 123; USSR, para. 188; United Kingdom, para. 33;

1550th meeting: Nepal, paras. 79, 80; Syria, para. 91; Zambia, para. 103;

1583rd meeting: Mauritania,* paras. 17, 19;

1584th meeting: Somalia, paras. 178, 191; South Africa,* para. 106;

1585th meeting: Liberia,* para. 39;

1587th meeting: Mauritius,* para. 80; Nigeria,* para. 63;

Chapter XII

CONSIDERATION OF THE PROVISIONS OF OTHER ARTICLES OF THE CHARTER

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INTRODUCTORY NOTE

Chapter XII covers the consideration by the Security Council of Articles of the Charter not dealt with in the preceding chapters.¹

Part I

CONSIDERATION OF THE PROVISIONS OF ARTICLE 1, PARAGRAPH 2, OF THE CHARTER

Article 1

"1. . . .

"2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace."

NOTE

In the proceedings of the Security Council during the period under review, there were no instances of constitutional discussion bearing on Article 1, paragraph 2, of the Charter. The principle of self-determination embodied in Article 1, paragraph 2, was, however, implicitly invoked in Security Council resolutions 264 (1969) of 20 March 1969; 269 (1969) of 12 August 1969; 276 (1970) of 30 January 1970; 283 (1970) of 29 July 1970; and 301 (1971) of 20 October 1971 regarding the situation in Namibia; resolutions 277 (1970) of 18 March 1970 and 288 (1970)

of 17 November 1970 regarding the situation in Southern Rhodesia; and 290 (1970) of 8 December 1970 regarding the Complaint by Guinea. In all these instances, the Security Council either directly referred² to General Assembly resolution 1514 (XV) of 14 December 1960³ or reaffirmed or recalled earlier Council resolutions⁴ containing, *inter alia*, explicit or implicit references to the above-cited General Assembly resolution.

² Resolution 264 (1969), preambular para. 4; resolution 276 (1970) preambular para. 1; resolution 283 (1970), preambular para. 1; resolution 301 (1971), preambular para. 1; resolution 290 (1970), preambular para. 7 and para. 7.

³ The resolution was entitled "Declaration on the Granting of Independence to Colonial Countries and Peoples".

⁴ Resolution 269 (1969), preambular para. 1; resolution 284 (1970), preambular para. 2; resolution 277 (1970), preambular para. 1; resolution 288 (1970), preambular para. 2.

¹ For observations on the methods adopted in compilation of this chapter, see *Repertoire of the Practice of the Security Council, 1946-1951*, introductory note to chapter VIII, part II; arrangement of chapters X-XII, p. 296.

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 2 OF THE CHARTER

A. Article 2, paragraph 4, of the Charter

"All Members 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."

NOTE

During the period covered by this *Supplement*, none of the resolutions adopted by the Council contained an explicit reference to Article 2, paragraph 4 of the Charter. Principles derived from the provisions of Article 2, paragraph 4, and the obligations ensuing from those Charter principles engaged the attention of the Security Council. Of the twelve resolutions adopted by the Council in connexion with discussions in which those principles were cited, seven⁵ have used language

derived from Article 2, paragraph 4, while the other five⁶ have implicit references to it.

Eleven case histories that could be considered to have a bearing on the obligations emanating from the provisions of Article 2, paragraph 4, are dealt with in this section, although no constitutional issue was raised in the relevant debates.

It might be recalled that during the discussion of the situation in the India-Pakistan subcontinent two draft resolutions⁷ were submitted which contained explicit

⁵ Resolution⁴ 267 (1969), preambular para. 4; resolution 268 (1969), preambular para. 3; resolution 273 (1969), preambular para. 3; resolution 275 (1969), preambular para. 3; resolution 294 (1971), preambular para. 3; resolution 298 (1971), preambular para. 3, p. 6.

⁶ Resolution 265 (1969), para. 3; resolution 270 (1969), para. 1; resolution 279 (1970), para. 3; resolution 280 (1970), para. 2; resolution 285 (1970).

⁷ S/10423, preambular para. 6 and S/10446/Rev.1, preambular para. 8; *OR, 26th yr., Suppl. for Oct.-Dec. 1971*.

references to Article 2, paragraph 4. These two draft resolutions failed of adoption. A detailed account of the discussion in the Council of these two draft resolutions is contained in chapter VIII.

CASE 1.⁸ SITUATION IN THE MIDDLE EAST: In connexion with the draft resolution jointly submitted by Pakistan, Senegal and Zambia, voted upon and adopted on 1 April 1969.

[Note: During the discussion, it was maintained that the attack launched by Israel against Jordan on 26 March 1969, constituted a unilateral exercise of force and as such should be condemned by the Security Council. The attack could not be justified as retaliatory action or an act of self-defence. It was also maintained that the policy of retaliation and reprisal operations were contrary to both the provisions of the Charter and of the various Security Council resolutions pertaining thereto. On the other hand, it was contended that all violent incidents, including those of terrorism and sabotage could not be condoned and that the Security Council had to consider the total situation within which acts of retaliation took place.]

At the 1466th meeting on 27 March 1969, the representative of Jordan* stated that during the last three months Israel had not only continued but had intensified acts of aggression against his country, as reported⁹ by him in his communications to the Security Council. The incident under consideration constituted a clear-cut act of aggression. He added that the complaint by his country constituted also a challenge and a test to the Security Council since the Council, in its resolution 262 (1968) of 31 December 1968, had condemned Israel for its premeditated military action and had issued a warning that if such actions were to be repeated, the Council would have to consider further steps to give effect to its decisions.¹⁰ Unless adequate action under Chapter VII of the Charter was adopted more and more Israeli acts of lawlessness would follow.

The representative of Israel* stated that Arab Governments, including that of Jordan, were directly engaged in sponsoring, organizing and assisting terror warfare in violation of the cease-fire and also in violation of resolution 56 (1948) of 19 August 1948.¹¹ It could not be questioned or curtailed by labelling Israeli counteractions as reprisals, a concept which had no application to the present situation in the Middle East.

At the 1467th meeting on 27 March, the representative of the USSR stated that Israel had violated the cease-fire resolutions of the Security Council by launch-

ing premeditated and planned acts of aggression against Jordan. The Security Council should condemn Israel's acts of aggression against Jordan and demand of Israel that it unconditionally comply with the Council's cease-fire resolutions and that it stop its actions aimed at disrupting efforts for a peaceful political settlement of the Middle East problem.

The representative of the United States after deploring the air attack carried out by Israeli Air Force planes in the area south of Es Salt, stated that in the face of that event his Government wished to make clear once again its opposition to attacks of that nature and to urge Israel to avoid such indiscriminate actions and all other violations of the cease-fire. However, that attack was not an isolated incident and it should be seen in the total context of the continuing absence of peace in the Middle East.

The representative of Algeria stated that to countenance the aggression committed by Israel, called for decisions by the Security Council designed to put an end to the occupation of Arab territories.

The representative of Finland stated that the Council could not accept as valid the claim of Israel that it acted in self-defence or any other arguments to justify unilateral military action that constituted a breach of the cease-fire. Yet, neither that nor the many other incidents the Security Council had previously dealt with could be considered in isolation. The Council should reject the use of force whenever and in whatever shape it occurred.

The representative of the United Kingdom stated that his delegation condemned all acts of violence and breaches of the cease-fire by both sides.

The representative of France stated that the reasoning of Israel that those repeated air raids represented a new tactic of carrying out preventive attacks on dwelling places where there were thought to be *fedayeen*, could never justify such operations, and condemned all violations of the cease-fire no matter from which side they came.

The representative of Pakistan stated that, the disregard of the principle of inadmissibility of territorial conquest, the relegation to oblivion in the name of realism of frontiers changed and people subjugated by military occupation, the assumption that solemn international agreements could be considered to have lapsed because one party had unilaterally violated them, all these were the antithesis of the principles of the United Nations Charter. The least the Council could do was to condemn the Israeli attack as flagrant violation of the Charter and the cease-fire resolutions and to issue a warning to Israel that the repetition of such attacks would result in the adoption by the Council of the necessary measures under the Charter.

At the 1469th meeting on 28 March 1969, the representative of Spain stated that it was inadmissible that a Member State might decide on its own initiative, without previously complying with the obligations imposed upon it by the Charter, when to attack another Member which had not taken direct action against it. Therefore, the Security Council, should take appropriate decisions to try to prevent a State Member from continuing to violate the Council's resolutions and from committing aggression against neighbouring States.

The representative of Colombia stated that the bombing of the civilian population of Jordan by the

93 and p. 107, respectively. See, in chapter VIII, The situation in the India/Pakistan subcontinent.

⁸ For texts of relevant statements, see: 1466th meeting: Jordan,* paras. 30, 37-39, 40, 43, 45, 48, 49-51; Israel,* paras. 62-69, 85, 87-88, 95-96, 100. 1467th meeting: Nepal, paras. 45-46; USSR, paras. 6-7, 13, 18, 22, 30; United States, paras. 48-49, 54. 1468th meeting: Algeria, para. 9; Finland, paras. 18-20; France, para. 34; Pakistan, paras. 51-54; United Kingdom, paras. 24-25. 1469th meeting: Colombia, paras. 73, 75; Hungary, paras. 130-131, 133, 138; Spain, paras. 60, 67; Zambia, para. 123. 1470th meeting: China, paras. 49-51; Paraguay, paras. 36-37. 1472nd meeting: United Kingdom, paras. 49-53; United States, para. 44. 1473rd meeting: Colombia, paras. 71-73; Paraguay, paras. 11-12.

⁹ See the following communications: S/8911 and S/8916, *OR*, 23rd yr., *Suppl. for Oct.-Dec. 1968*, pp. 133-134 and 158 respectively; S/9039, S/9083 and S/9085, *OR*, 24th yr., *Suppl. for Jan.-March 1969*, pp. 97-100 and 124.

¹⁰ Resolution 262 (1968), paras. 1 and 3.

¹¹ Resolution 56 (1948). See also: *Repertoire of the Practice of the Security Council, 1946-1951*.

military forces of Israel constituted part of the policy of reprisals which contradicted the mandate of the Charter.

The representative of Hungary stated that Israel's occupation of large Arab territories could not be invoked to demand the submission of the inhabitants of those territories to Israeli rule. The attacks of Israeli armed forces against Jordan and other Arab countries violated even the law of war, not just the law of peace. Even in wartime, no belligerent was entitled to attack civilian targets. No reference to the security or to defence of Israel could justify such practices.

The representative of China stated that the Israeli contentions that the action was taken by Israel as an act of self-defence could not be accepted either. The right of self-defence was recognized by Article 51 of the Charter. However, the action undertaken by Israel was not so much self-defence as punitive action.

At the 1472nd meeting on 1 April 1969, the representative of Pakistan, on behalf of the delegations of Senegal, Zambia and Pakistan, introduced a draft resolution¹² the relevant paragraphs of which read as follows:

"The Security Council,

"Reaffirming resolution 236 (1967) calling for respect for the cease-fire and resolutions 248 (1968) and 256 (1968), condemning the air attacks by Israel on the Jordanian territory in flagrant violation of the United Nations Charter and the cease-fire resolutions,

"Observing that numerous premeditated violations of the cease-fire have occurred,

"Viewing with deep concern that the recent air attacks on Jordanian villages and other populated areas were of a pre-planned nature, in violation of resolutions 248 (1968) and 256 (1968),

"...

"1. ...

"2. Condemns the recent premeditated air attacks launched by Israel on Jordanian villages and populated areas in flagrant violation of the United Nations Charter and the cease-fire resolutions and warns once again that if such attacks were to be repeated the Council would have to meet to consider further more effective steps as envisaged in the Charter to ensure against repetition of such attacks."

The representatives of Colombia, Paraguay, the United Kingdom and the United States stated that they failed to agree with the sponsors of the draft resolution because the draft resolution did not contain in its operative paragraph any reference to all other violations of the cease-fire which existence was recognized in the preamble of the draft resolution. For that reason they were not prepared to support the draft resolution before the Council.

At the 1473rd meeting on 1 April 1969, the representative of Pakistan pointed out that the following revisions had been made in the original draft resolution: the third preambular paragraph had been revised to read "Recalling resolution 236 (1967)," and the following paragraph had been inserted as

paragraph 1: "Reaffirms resolutions 248 (1968) and 256 (1968);" and paragraphs 1 and 2 of the original draft had been renumbered as paragraphs 2 and 3.¹³

At the same meeting the three-Power draft resolution was put to the vote and adopted¹⁴ by 11 votes in favour, none against with 4 abstentions.

CASE 2.¹⁵ SITUATION IN THE MIDDLE EAST: In connexion with the joint draft resolution submitted by Pakistan, Senegal and Zambia: voted upon and adopted on 3 July 1969.

[Note: During the discussion, it was maintained that unilateral measures, such as those taken by Israel that had resulted or might have resulted in changing the status of Jerusalem, run against the principles of the Charter, in particular, the principle of inadmissibility of acquisition of territory by force and, in consequence, should be rescinded.]

At the 1482nd meeting on 30 June 1969, the representative of Jordan,* recalling the terms of Security Council resolution 252 (1968)¹⁶ of 21 May 1968 by which the Council had declared that all legislative and administrative measures and actions taken by Israel which tended to change the legal status of Jerusalem were invalid, pointed out that on 23 August 1968, the Israeli authorities had passed and published the so-called Legal and Administrative Matters (Regulation) Law the object of which had been to complete the process of Israel's unilateral annexation of Jerusalem and other surrounding areas. Emphasizing that the issue before the Council was resolution 252 (1968) adopted by the Council and defied by Israel, together with continued defiance and the further violations that had been committed, the representative of Jordan urged the Council to take a number of steps.¹⁷

In reply, the representative of Israel* stated that the pretext of Jordan's call for an emergency meeting of the Security Council was a year-old law which provided for the issuance of licenses and permitted for the exercise of commerce and professions. The generally accepted principles of human rights and political democracy could not be suspended in the case of Jerusalem whose unity, growth, welfare and security would be maintained and protected by Israel.

At the 1483rd meeting on 1 July 1969, the representative of the United Arab Republic* stated that Israel disregarded the will of the United Nations and the principles of the Charter by persisting in its illegal measures of annexation and the systematic obliteration of all that was Arab in Jerusalem in spite of General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) as well as Security Council resolution 252 (1968) that had invalidated Israeli measures and reaffirmed the inadmissibility of acquisition of territories by war and called upon Israel to rescind and desist forthwith from changing the status of Jerusalem.

¹³ 1473rd meeting: paras. 3-4, circulated as document S/9120/Rev.1.

¹⁴ *Ibid.*, para. 92. Adopted as resolution 265 (1969).

¹⁵ For texts of relevant statements, see: 1482nd meeting: Jordan,* paras. 5, 7, 9, 12, 14-17, 44, 78, 81-82; Israel,* paras. 53, 71, 74; 1483rd meeting: Algeria, paras. 88-89; France, para. 51; United Arab Republic,* paras. 7, 15; United Kingdom, para. 27; United States, paras. 96-97; 1485th meeting: Pakistan, paras. 163, 181.

¹⁶ Resolution 252 (1968).

¹⁷ See in chapter VIII, *The Situation in the Middle East*, pp. 109-121.

¹² 1472nd meeting: para. 8, circulated as document S/9120.

The representative of the United Kingdom reaffirmed the position of his Government, as stated in the General Assembly on 21 June 1967, that it followed from Article 2 of the Charter that war should not lead to territorial aggrandizement and reaffirmed the principle that no unilateral action should or could change the status of Jerusalem.

The representative of France stated that all the legislative or other measures taken by the Israeli authorities with a view to facilitating and accelerating, by virtue of a *de facto* occupation, the process of integration of part of Jerusalem were contrary to the resolutions of the United Nations and some of them were also contrary to the rules of international law governing armed occupation and to the provisions of the Charter.

The representative of Algeria stated that the Council should take specific measures within the framework of the Charter to ensure compliance with General Assembly and Security Council resolutions, particularly Council resolution 252 (1968).

The representative of the United States stated that under the Geneva Convention of 12 August 1949 and the international law the occupier Power should maintain the occupied area as intact and unaltered as possible, without interfering with the customary life of the area. The actions of Israel in the occupied portion of Jerusalem presented a different picture, one which caused understandable concern that the eventual disposition of East Jerusalem might be prejudiced, and that the private rights and activities of the population were already affected and altered. He noted however that the status of Jerusalem was not an isolated problem, but an integral part of the whole complex of issues in the Middle East conflict which should be resolved. That fact was recognized by the Council in its resolution 242 (1967).

At the 1485th meeting on 3 July 1969, the representative of Pakistan on behalf of the delegations of Pakistan, Senegal and Zambia, introduced a draft resolution,¹⁸ which included the following paragraphs:

"The Security Council;

"Recalling its resolution 252 (1968) of 21 May 1968 and the earlier General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967, respectively, concerning measures and actions by Israel affecting the status of the City of Jerusalem,

". . .

"Noting that since the adoption of the above-mentioned resolutions Israel has taken further measures tending to change the status of the City of Jerusalem,

"Reaffirming the established principle that acquisition of territory by military conquest is inadmissible,

"1. Reaffirms its resolution 252 (1968);

"2. Deplores the failure of Israel to show any regard for the resolutions of the General Assembly and the Security Council mentioned above;

"3. Censures in the strongest terms all measures taken to change the status of the City of Jerusalem;

"4. Confirms that all legislative and administrative measures and actions taken by Israel which

purport to alter the status of Jerusalem, including expropriation of land and properties thereon, are invalid and cannot change the status;

"5. Urgently calls once more upon Israel to rescind forthwith all measures taken by it which may tend to change the status of the City of Jerusalem, and in future to refrain from all actions likely to have such an effect;

"6. Requests Israel to inform the Security Council without any further delay of its intentions with regard to the implementation of the provisions of the present resolution;

"7. Determines that, in the event of a negative response or no response from Israel, the Security Council shall reconvene without delay to consider what further action should be taken in this matter;

"8. . . ."

At the same meeting, the President (Senegal) stated that a separate vote had been requested on paragraph 5 of the three-Power draft resolution.¹⁹ Thereupon, the said paragraph was put to the vote and adopted²⁰ by 14 votes in favour, none against with 1 abstention. Subsequently, the draft resolution as a whole was put to the vote and adopted²¹ unanimously.

CASE 3.²² SITUATION IN THE MIDDLE EAST: In connexion with the draft resolution submitted by the President of the Security Council: adopted without any objections on 26 August 1969.

[*Note:* During the discussion it was maintained that while all acts of violence, in violation of the cease-fire, were to be deplored, the use of force in the form of military retaliation, no matter what the provocation, was inadmissible under the provisions of the Charter.]

At the 1498th meeting on 13 August 1969, the representative of Lebanon* maintained that Israel, by a sudden and unprovoked air strike, including the use of napalm bombs, against villages in southern Lebanon, had committed an act of flagrant, unprovoked and massive aggression. He maintained further that Lebanon could not be held responsible for actions of Palestinian Arabs who, as freedom fighters and people seeking self-determination, were fighting in self-defence against the aggressor and occupier. In view of the provisions of Security Council resolution 262 (1968) of 31 December 1968, the representative of Lebanon requested the Council to take prompt and effective action in the form of sanctions provided for in the Charter.

The representative of Israel* contended that the Government of Lebanon could not be absolved of responsibility for the use of its territory as a base of terror warfare against Israel. The failure of the Government to do so had necessitated Israel's recourse to the right of self-defence in order to disable the terror base situated in Lebanon.

At the 1499th meeting on 14 August 1969, the representative of Pakistan stated that in view of the fact that the attack alleged by Lebanon was admitted by Israel, the Security Council should do whatever pos-

¹⁹ 1485 meeting, para. 194.

²⁰ *Ibid.*

²¹ *Ibid.*, para. 195. Resolution 267 (1969).

²² For the texts of relevant statements, see: 1498th meeting: Israel,* paras. 47, 48, 66, 67, 82, 83, 86; Lebanon,* paras. 12, 14-22, 30, 31, 34, 35, 38, 39; 1499th meeting: Pakistan, paras. 51, 52, 57; 1500th meeting: United States, paras. 13, 17; 1502nd meeting: Spain, paras. 73, 74.

¹⁸ Circulated as document S/9311.

sible to ensure that Israel desist from any attack on the territory of Lebanon. Experts on international law had proclaimed that the provisions of the Charter pertaining to the avoidance of the use of force were to be regarded as prohibiting reprisals or retaliation of the kind that the Council was considering. Having determined that Israel had no right to launch the attack in question, the Council should hold Israel responsible for the damage to civilian life and property, and proceed to take some action to protect Lebanon against recurrence of such attacks.

At the 1500th meeting on 14 August 1969, the representative of the United States contended that the Security Council's contribution could best be made not by attempting the inevitably contentious business of apportioning degrees of guilt among the parties, but rather by insisting on the need to restore the cease-fire and to stop all violence in the area.

At the 1502nd meeting on 18 August 1969, the President, speaking as the representative of Spain, said that the attempts to justify the Israeli aggression against Lebanon by invoking the right of self-defence were completely unacceptable since such action was nothing but an act of force contrary to the provisions of Article 2, paragraph 4, of the Charter which prohibited the Members of the United Nations to resort to the threat or use of force against the territorial integrity or political independence of any State.

At the 1504th meeting on 26 August 1969, the President (Spain) announced that, as a result of intensive consultations, agreement had been reached on the text of a draft resolution²³ which represented a consensus of opinion among the members of the Council.

The draft resolution, *inter alia*, provided:

"The Security Council,

". . .

"Gravely concerned about the deteriorating situation resulting from the violation of Security Council resolutions,

"Recalling the General Armistice Agreement between Israel and Lebanon of 23 March 1949, and the cease-fire established pursuant to resolution 233 (1967) and 234 (1967) of 6 and 7 June 1967, respectively,

"Recalling its resolution 262 (1968) of 31 December 1968,

"Mindful of its responsibility under the relevant provisions of the Charter of the United Nations,

"1. Condemns the premeditated air attack by Israel on villages in southern Lebanon in violation of its obligations under the Charter and Security Council resolutions;

"2. Deplores all violent incidents in violation of the cease-fire;

"3. Deplores the extension of the area of fighting;

"4. Declares that such actions of military reprisal and other grave violations of the cease-fire cannot be tolerated and that the Security Council would have to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such acts."

²³ S/9410, adopted without change as resolution 270 (1969).

In the absence of objections, the President declared the draft resolution unanimously adopted.²⁴

CASE 4.²⁵ SITUATION IN THE MIDDLE EAST: In connexion with two draft resolutions: one submitted by the representative of Spain, voted upon and adopted on 12 May 1970 and another submitted by the representative of Zambia, voted upon and adopted on 19 May 1970.

[Note: In the course of the discussion, it was maintained that armed retaliatory attacks constituted a violation of the Charter and of several Security Council resolutions; and that such attacks could no longer be tolerated.]

At the 1537th meeting, on 12 May 1970, the representative of Lebanon* informed the Council that early that morning Israel had launched a large-scale aggression against his country: Israeli armoured and infantry units had crossed the Lebanese border into southern and eastern parts of a district situated in the southeastern part of Lebanon and that the Israeli air force and heavy artillery had, since then, been bombarding the civilian towns and villages in the area. The action his country sought from the Council at this time was the immediate withdrawal of all Israeli troops from Lebanese territory, a strong condemnation of Israel and the application of Chapter VII of the United Nations Charter.

The representative of Israel,* having referred to his letters of 5, 15, and 29 January, 27 February, 4 and 10 March and 10 May 1970²⁶ in which he had informed the Security Council of the acts of aggression being perpetrated from Lebanese territory against the territory and population of Israel in violation of the cease-fire and the United Nations Charter, stated that his Government had requested this urgent meeting of the Security Council to consider those acts. Since these acts of aggression had not ended but on the contrary had grown in number and scope, Israel had been compelled to act in self-defence. The representative of Israel then informed the Security Council that the operation had been concluded and that the Israeli forces were deploying to leave the area.

At the same meeting the representative of Spain submitted the following draft resolution:²⁷

"The Security Council,

"Demands the immediate withdrawal of all Israeli armed forces from Lebanese territory."

The representative of Zambia formally seconded the draft resolution.

The President (France) observed that the draft resolution before the Council was an interim proposal which in no way prejudged the discussion and the continuation of the debate.²⁸

²⁴ 1504th meeting, paras. 2, 3.

²⁵ For texts of relevant statements, see: 1537th meeting: Israel,* paras. 31, 34, 36, 38, 39-41, 79; Lebanon,* paras. 11-15, 17, 19, 23, 24; Spain, paras. 44-46, 84-86; Zambia, paras. 47-49; 1538th meeting: Israel, para. 108; Lebanon, para. 30; 1539th meeting: Finland, paras. 62, 63, 67; Lebanon, para. 140; USSR, paras. 29, 30, 33, 34, 39; 1540th meeting: Israel, paras. 59, 63; United States, paras. 32, 34, 36; 1541st meeting: Colombia, paras. 13, 14.

²⁶ S/9593, S/9604, S/9621, S/9670, S/9678 and S/9691, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, pp. 101-102, 105-106, 114-115, 146, 150 and 155-156 respectively; S/9790, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, pp. 180-181.

²⁷ Circulated as document S/9800.

²⁸ 1537th meeting, para. 50.

The representative of Israel contended that in so far as Israeli action had been terminated and that Israeli forces were being withdrawn from Lebanese territory, the draft resolution proposed by the representative of Spain was divorced from reality and did not take cognizance of the facts of the situation because it did not refer to the warfare being waged against Israel in flagrant breach of the Charter.

The representative of Spain stated that his delegation had submitted the given draft resolution, without prejudice to whatever further action the Security Council might wish to take, in view of the fact that the principle contained in Article 2(4) of the Charter had been violated by the Israeli action.

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At the same meeting the representative of the United States proposed an oral amendment which would add to the Spanish draft resolution, "and an immediate cessation of all military operations in the area".²⁹

The representative of the USSR proposed an oral sub-amendment to the amendment of the United States to substitute "immediate stopping of aggression and withdrawal" for "immediate cease-fire".³⁰

After the representative of the United States drew attention to the fact that the word "cease-fire" did not appear in his amendment, the sub-amendment was modified by the representative of the USSR to read "and stopping of Israeli aggression against Lebanon".³¹

At the 1537th meeting on 12 May 1970, the USSR sub-amendment to the United States amendment was put to the vote and was not adopted,³² there being 3 votes in favour, none against with 12 abstentions. Thereupon, the United States amendment was voted on and not adopted,³³ there being 2 votes in favour, none against with 13 abstentions.

Subsequently, the draft resolution submitted by Spain was put to the vote and adopted³⁴ unanimously. It read³⁵ as follows:

"The Security Council,

"Demands the immediate withdrawal of all Israeli armed forces from Lebanese territory."

At the 1538th meeting held also on 12 May 1970, the representative of Lebanon, stated that according to information he had just received from his country, the Israeli forces were still in large numbers in the region of southern Lebanon and had not given any indication of withdrawing.

In reply, the representative of Israel stated that in so far as it was already night in the region, the Israeli forces which were still on Lebanese soil refrained from withdrawal in order to avoid shooting incidents in the dark.

At the 1539th meeting on 13 May 1970, the President conveyed to the Security Council a message from the Secretary-General that he had as yet received no information from the Acting Chief of Staff of UNTSO regarding the implementation of Council resolution 279 (1970) of 12 May 1970, due to the fact that verification of information in the field was not possible because of the absence of direct means of observation on both sides in the Israel-Lebanese sector.³⁶

Subsequently, a communication³⁷ dated 13 May 1970 from the permanent representative of Israel, transmitting to the United Nations a message from the Prime Minister of Israel, was read out in the Security Council. The message, *inter alia*, stated that the combing operation, which circumstances had compelled Israel to undertake, had been carried out and concluded according to plan and that the Israeli forces which were involved in this defensive action had returned to their base.³⁸

The representative of the USSR stated that the Security Council had already twice—in December 1968 and in August 1969—condemned Israel for aggressive attacks on Lebanon, describing them as a threat to peace in the Middle East and a violation of Israel obligations under the Charter. On both those occasions of the Council warned Israel that if such acts were repeated, the Council would have to consider further steps for the implementation of its decisions.

The representative of Finland stated that the Israeli raid illustrated the almost total breakdown of the structure of international arrangements erected in the aftermath of the war of June 1967 for the purpose of putting an end to the fighting and creating the necessary prerequisites for making peace in the Middle East. The only way to put an end to the kind of attacks being considered by the Council and all other acts of violence was to work for a comprehensive political settlement of the conflict between the Arab States and Israel based on Security Council resolution 242 (1967).

At the same meeting the representative of Lebanon stated that during the previous night the Israeli air force, covering the withdrawal of Israeli forces from Lebanon, had bombed and shelled Lebanese military and civilian positions contrary to the contention by Israel that the so-called combing operation was directed against commando positions in Lebanon.

At the 1540th meeting on 14 May 1970, the representative of the United States maintained that as a first step for a peaceful political settlement of the Arab-Israeli conflict, renewed consultations between Israel, Lebanon and the Secretary-General be held in connexion with the Secretary-General's suggestion to station observers in adequate numbers on both sides of the border between Israel and Lebanon. These renewed consultations should be directed towards working out a mutually acceptable arrangement, without prejudice to the legal positions of the parties concerned and through which UNTSO could carry out an effective observer operation.

The representative of Israel informed the Council that during the previous night a unit of irregular forces had penetrated from across the Lebanese border and opened fire on an Israeli village. These constituted acts

²⁹ 1537th meeting, para. 91.

³⁰ *Ibid.*, para. 113.

³¹ *Ibid.*, para. 128.

³² *Ibid.*, para. 129.

³³ *Ibid.*, para. 130.

³⁴ 1537th meeting, para. 132.

³⁵ Resolution 279 (1970).

³⁶ 1539th meeting, para. 3.

³⁷ S/9801, *OR*, 25th yr., *Suppl. for Apr.-June 1970*, p. 182.

³⁸ 1539th meeting, para. 6.

of aggression of the kind that compelled Israel to take defensive actions to protect its territory and its citizens.

At the same meeting, the Security Council received a communication from the Secretary-General stating that the Acting Chairman of the Israel-Lebanon Mixed Armistice Commission had informed the Acting Chief of Staff of UNTSO that the complete withdrawal of the Israeli forces from Lebanon had been officially confirmed by the Lebanese authorities.³⁹

At the 1541st meeting on 15 May 1970, the representative of Colombia referring to the provisional nature of the recently adopted Council resolution⁴⁰ and to the fact that the measures taken by the Council in the past had not been complied with, suggested that the Security Council might consider the possibility of setting up a committee composed of three members of the Council that were not directly linked to the conflict to hear the parties, to take note of the efforts at negotiation made by the Secretary-General and be given access to the political formulas of the four Great Powers and then, within a reasonable period of time, to present to the Council a series of solutions covering all aspects of the problem, namely, the refugees, the frontiers, Jerusalem, disarmament, etc.

At the 1542nd meeting on 19 May 1970, after the President had suspended the meeting in order to provide certain delegations with time for consultations on a draft resolution,⁴¹ the representative of Zambia read out the text of a draft resolution⁴² arrived at during those consultations. The draft resolution, *inter alia*, read as follows:

"The Security Council,

"...

"Gravely concerned about the deteriorating situation resulting from violations of resolutions of the Security Council,

"Recalling its resolutions 262 (1968) of 31 December 1968 and 270 (1969) of 26 August 1969,

"Convinced that the Israeli military attack against Lebanon was premeditated and of a large scale and carefully planned in nature,

"Recalling its resolution 279 (1970) of 12 May 1970 demanding the immediate withdrawal of all Israeli armed forces from Lebanese territory,

"1. Deplores the failure of Israel to abide by resolutions 262 (1968) and 270 (1969);

"2. Condemns Israel for its premeditated military action in violation of its obligations under the Charter of the United Nations;

"3. Declares that such armed attacks can no longer be tolerated and repeats its solemn warning to Israel that if they were to be repeated the Security Council would, in accordance with resolution 262 (1968) and the present resolution, consider taking adequate and effective steps or measures in accordance with the relevant Articles of the Charter to implement its resolutions;

"4. Deplores the loss of life and damage to property inflicted as a result of violations of resolutions of the Security Council."

³⁹ 1540th meeting, para. 84.

⁴⁰ Resolution 279 (1970).

⁴¹ 1542nd meeting, paras. 31, 32.

⁴² *Ibid.*, para. 34, circulated as document S/9807 and adopted without change as resolution 280 (1970).

At the same meeting, the draft resolution was put to the vote and adopted⁴³ by 11 votes in favour, none against with 4 abstentions.

CASE 5.⁴⁴ SITUATION IN THE MIDDLE EAST: In connexion with a draft resolution submitted by Spain: voted upon and adopted on 5 September 1970.

[Note: During the discussion, it was maintained that the attack by Israeli aircraft and penetration by Israeli mixed infantry and armoured force into Lebanese territory on 4 September 1970 was a repetition of several acts of aggression previously committed by Israel against Lebanon and subsequently condemned by the Security Council as constituting a violation of Security Council resolutions and the provisions of the Charter, particularly those contained in Article 2(4). It was further maintained that the Security Council should demand the immediate withdrawal of Israeli armed forces from Lebanese territory.]

At the 1551st meeting on 5 September 1970, the Secretary-General read to the Security Council the text of two cables he had received from the Chief of Staff of UNTSO regarding the matter before the Council.⁴⁵

The representative of Lebanon,* having noted that during the past two weeks Israeli armed forces had committed fifty-eight acts of aggression against Lebanon, repeated the charge made in his letter⁴⁶ requesting an urgent meeting of the Council that Israeli armed forces, backed by its air force and tanks, had penetrated from the border and launched an attack inside Lebanese territory. He stated that the Israeli military operations were still continuing and Israeli forces were still engaging units of the Lebanese army inside Lebanese territory. The representative of Lebanon stated also that his country requested from the Security Council⁴⁷ the withdrawal of all Israeli forces from Lebanese territory; condemnation of Israel for its repeated acts of aggression against Lebanon and the application of chapter VII of the Charter against Israel, in accordance with operative paragraph 3 of Council resolution 280 (1970).

The representative of Israel* maintained that it was against the background of continuous acts of aggression committed from Lebanese territory and of the admitted helplessness of the Lebanese authorities to control their own territory that Israel had been compelled to exercise its right of self-defence in the present instance. Lebanon was obliged as a Member of the United Nations to prevent irregular, as well as regular, forces from using its territory for aggression against another Member State.

The representative of Spain maintained that insofar as an invasion of Lebanon by Israel had occurred, the fact that a withdrawal had been initiated was not sufficient proof for the Council to remain inactive. Bearing in mind that the incident under consideration was a repetition of actions which had occurred in the past with flagrant violation of Article 2, paragraph 4, of the Charter, he urged that the Council should act with all the urgency required by the situation and submitted

⁴³ 1542nd meeting, para. 57.

⁴⁴ For texts of relevant statements, see: 1551st meeting: Israel,* paras. 46-48, 51-55; Lebanon,* paras. 16-25; Spain, paras. 59, 60-64, 75; United States, paras. 80-84.

⁴⁵ See chapter VIII, p. 118.

⁴⁶ S/9925, OR, 25th yr., Suppl. for July-Sept. 1970, p. 141.

⁴⁷ See in chapter VIII, The Situation in the Middle East, pp. 109-121.

a draft resolution.⁴⁸ He requested that it be put to the vote before the conclusion of the meeting. The draft resolution read as follows:

"The Security Council,

"Demands the complete and immediate withdrawal of all Israeli armed forces from Lebanese territory"

The representative of the United States observed that the situation being discussed by the Council was somewhat different in view of the conflicting evidence presented by each of the parties concerned and the lack of adequate opportunity to ascertain through some impartial source, such as the United Nations Truce Supervision Organization, what the precise situation was along the border.

At the same meeting, the draft resolution was put to the vote and adopted⁴⁹ by 14 votes in favour, none against with 1 abstention.

CASE 6.⁵⁰ SITUATION IN THE MIDDLE EAST: In connexion with a draft resolution submitted by Somalia: voted upon and adopted on 25 September 1971.

[*Note:* During the debate it was maintained that the measures and actions taken by Israel purporting to affect the status of the City of Jerusalem defied international law and the provisions of the Charter, in particular those contained in Article 2, paragraph 4, and contravened several resolutions adopted in the past by the General Assembly and the Security Council by which Israel was requested to rescind all measures already taken and to desist from taking any action which would alter the status of Jerusalem.]

At the 1579th meeting on 16 September 1971, the representative of Jordan* stated that the worsening situation in Jerusalem was the result of the Israeli persistence in the implementation of measures designed to change the status and character of the Holy City, in disregard of the repeated General Assembly and Security Council resolutions and to prevent the conclusion of a just and peaceful settlement, in the hope that the cease-fire lines would ultimately become the new borders of Israel.⁵¹ In view of the repeated Israeli violations of the United Nations resolutions, as well as international conventions, he felt that the Security Council should invoke whatever sanctions it deemed fit under chapter VII of the Charter to ensure respect for its decisions and to prevent a fait accompli in Jerusalem from interfering with a just solution to the Middle East problem.

At the 1580th meeting on 16 September 1971, the representative of Israel* stated that the present complaint before the Security Council constituted an attempt on the part of Jordan to divert attention from its internal difficulties. He added that, while rejecting any claims based on aggression against Jerusalem and the city's former illegal division, Israel would continue to be guided by the legitimate rights and interests of Jerusalem's citizens irrespective of nationality and faith

and would scrupulously ensure the sanctity of the Holy Places, freedom of access to them and the jurisdiction of the various religious communities over them.

At the 1582nd meeting on 25 September 1971, the representative of the USSR stated that the resolutions adopted by the Security Council and the General Assembly on the question of Jerusalem and on the situation in the Middle East were based on a generally recognized principle of international law that it was inadmissible to acquire territory through war. Despite those resolutions, Israel continued to wage a policy aimed at conquering and assimilating Arab territories and preventing and subverting a peaceful political settlement in the area as provided for by the Security Council resolution 242 (1967) of 22 November 1967.

The representative of Belgium stressed that his Government rejected any attempt of unilateral acquisition of territory by force and remained faithful to the principles of the Charter of the United Nations, more especially in Article 2, paragraph 4, which enjoined Member States to refrain 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.

The representative of France contended that the Israeli policy of annexation was in formal contradiction to the United Nations resolutions and constituted a violation of the rules of international law, as well as of the Charter.

The representative of Poland stated that the basis for the discussion of the situation being considered by the Council was the concept of the non-admissibility of acquisition of territory by military conquest, by use of force in contravention of the Charter. The numerous resolutions of the Security Council as well as of the General Assembly concerning Jerusalem were only a logical application of that concept. Therefore it was the Council's duty to assess the acts of Israel and to adopt the measures necessary to redress the situation in Jerusalem.

At the same meeting, the representative of Somalia introduced⁵² a draft resolution,⁵³ which read as follows:

"The Security Council,

"Recalling its resolutions 252 (1968) of 21 May 1968 and 267 (1969) of 3 July 1969 and the earlier General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967 concerning measures and actions by Israel designed to change the status of the Israeli-occupied section of Jerusalem,

"Having considered the letter of the Permanent Representative of Jordan on the situation in Jerusalem and the reports of the Secretary-General, and having heard the statements of the parties concerned on the question,

"Reaffirming the principle that acquisition of territory by military conquest is inadmissible,

"Noting with concern the non-compliance by Israel with the above-mentioned resolutions,

"Noting with concern further that since the adoption of the above-mentioned resolutions Israel has

⁴⁸ Circulated as document S/9928.

⁴⁹ 1551st meeting, para. 93. Adopted as resolution 285 (1970).

⁵⁰ For texts of relevant statements, see: 1579th meeting: Jordan,* paras. 17, 19, 20, 27, 28, 32-37, 39-44, 76-86; 1580th meeting: Israel,* paras. 6, 9, 11, 21, 28, 34, 61, 69-72; 1582nd meeting: Belgium, paras. 42; France, paras. 58-60; Poland, paras. 81, 82, 86; USSR, paras. 4, 7, 8-15, 20, 26.

⁵¹ For the statement of the representative of Jordan, see chapter VIII, *The Situation in the Middle East*, pp. 109-121.

⁵² 1582nd meeting, para. 126.

⁵³ S/10337, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 67.

taken further measures designed to change the status and character of the occupied section of Jerusalem,

"1. *Reaffirms* Security Council resolutions 252 (1968) and 267 (1969);

"2. *Deplores* the failure of Israel to respect the previous resolutions adopted by the United Nations concerning measures and actions by Israel purporting to affect the status of the City of Jerusalem,

"3. *Confirms* in the clearest possible terms that all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem including expropriation of land and properties, transfer of populations and legislation aimed at the incorporation of the occupied section are totally invalid and cannot change that status,

"4. *Urgently calls upon* Israel to take no further steps in the occupied section of Jerusalem which may purport to change the status of the City or which would prejudice the rights of the inhabitants and the interests of the international community, or a just and lasting peace,

"5. *Requests* the Secretary-General, in consultation with the President of the Security Council and using such instrumentalities as he may choose, including a representative or a mission, to report to the Council as appropriate and in any event within sixty days on the implementation of the present resolution."

At the same meeting, the representative of Syria submitted⁵⁴ the following amendments⁵⁵ to the Somalian draft resolution: (i) in paragraph 4, first line, to add after the word "Israel" the following: "to rescind all previous measures and actions and . . ."; (ii) in paragraph 5, second line, to replace the word "he" by the word "they"; (iii) in paragraph 5, last line, to delete "sixty" and insert "thirty" instead; (iv) to add a new paragraph 6 which would read as: "Decides that the Security Council shall reconvene without delay to consider the report referred to in operative paragraph 5 and what further action should be taken under the Charter."

In response to an appeal made by the representatives of France,⁵⁶ the United States,⁵⁷ United Kingdom,⁵⁸ Somalia,⁵⁹ and Italy⁶⁰ to withdraw his amendments in the interest of unanimity, the representative of Syria withdrew the second, third and fourth amendments which he had submitted but requested⁶¹ a vote to be taken on the first amendment.

At the 1582nd meeting on 25 September 1971, the Syrian amendment to the draft resolution submitted by Somalia was put to the vote and adopted⁶² by 13 votes in favour, none against with 2 abstentions.

Subsequently, paragraph 5 of the draft resolution was voted upon, a separate vote having been requested thereon by the representative of the USSR⁶³ and adopted⁶⁴ by 12 votes in favour, none against with 3 abstentions.

⁵⁴ 1582nd meeting, para. 154.

⁵⁵ S/10338/Rev.1, OR, 26th yr., Suppl. for July-Sept. 1971, p. 67.

⁵⁶ 1582nd meeting, paras. 252, 253.

⁵⁷ *Ibid.*, para. 255.

⁵⁸ *Ibid.*, para. 314.

⁵⁹ *Ibid.*, para. 317.

⁶⁰ *Ibid.*, para. 324.

⁶¹ *Ibid.*, para. 328.

⁶² 1582nd meeting, para. 335.

⁶³ *Ibid.*, paras. 279, 280, 330, 331, 332.

⁶⁴ *Ibid.*, para. 338.

At the same meeting, the draft resolution, as amended, as a whole was put to the vote and adopted⁶⁵ by 14 votes in favour, none against with 1 abstention.

CASE 7.⁶⁶ COMPLAINT BY ZAMBIA: In connexion with the letter dated 15 July 1969⁶⁷ from the representative of Zambia and the letter dated 18 July 1969⁶⁸ from thirty-five Member States acting on behalf of the Organization of African Unity; and with the joint draft resolution submitted by Algeria, Nepal, Pakistan and Senegal; voted upon and adopted on 28 July 1969.

[*Note:* During the discussion, it was maintained that the acts of aggression committed by Portugal against Zambia constituted a violation of the provisions of the Charter, in particular of those contained in Article 2, paragraph 4, and of the resolutions adopted by the General Assembly and the Security Council. On the other hand, it was stated that since the facts had not been sufficiently substantiated, the Security Council should have not proceeded to assessments or findings without a joint or impartial investigation.]

In his letter of 15 July 1969, the representative of Zambia charged the Government of Portugal with calculated violations of the territorial integrity of his country, and also with the bombing of the village of Lote in eastern Zambia, near the border with Mozambique which had caused destruction of property and the wounding and killing of two unarmed civilians. The letter recalled that numerous similar incidents had, on various occasions, been brought to the attention of the Security Council and, in view of Portugal's renewed aggressions, requested a meeting of the Security Council to consider the situation.

At the 1486th meeting on 18 July 1969, the representative of Zambia stated that since his request for a meeting there was yet another armed attack by Portuguese soldiers on Zambian civilians in Balovale District which had resulted in the killing of two persons. He said that Zambia had delayed bringing before the Council the incidents which had taken place between 30 June and 4 July 1969 because it was seeking to settle the matter through bilateral negotiations. Owing to the lack of cooperation on the part of Portugal, the negotiations had failed and consequently his Government had found it necessary to seek recourse before the Council. He also stated that between 18 May 1966 and 30 June 1969 there were some sixty Portuguese military incursions into the Zambian territory. In the light of those acts of aggression, the Council should consider whether Portugal was observing the principle of Article 2, paragraph 4, of the Charter. In conclusion, the representative of Zambia, after stating that his Government reserved its inherent right to take action in self-defence under Article 51 of the Charter, requested the Council to condemn Portugal for its unprovoked and premeditated aggression against unarmed Zambian civilians, to call on Portugal to cease all its acts of aggression, to return Zambian nationals

⁶⁵ *Ibid.*, para. 339. Adopted as resolution 298 (1971).

⁶⁶ For texts of relevant statements, see: 1486th meeting: Portugal,* paras. 63-69, 71, 73, 74, 85, 86, 92; Zambia, paras. 6-9, 14-21, 51, 52, 57, 58; 1487th meeting: Hungary, paras. 18-25; Somalia,* para. 29; United Republic of Tanzania,* paras. 65, 70; 1488th meeting: Portugal,* paras. 27, 28, 40-42; USSR, para. 82; 1489th meeting: Zambia, paras. 88, 89-92; 1491st meeting: Spain, paras. 17-19; United Kingdom, para. 11; United States, para. 29.

⁶⁷ S/9331, OR, 24th yr., Suppl. for July-Sept. 1969, p. 127.

⁶⁸ S/9340 and Add. 1-3, OR, 24th yr., Suppl. for July-Sept. 1969, p. 131.

kidnapped by Portuguese soldiers in Angola and Mozambique and to demand that it make amends for the destruction of Zambian homes and property.

At the same meeting, the representative of Portugal* stated that the only incident concretely mentioned by Zambia which allegedly had taken place on 30 June, i.e., the bombing of Lote village, was also devoid of any foundation. He stressed that there had been no incidents on the frontier between Zambia and the contiguous Portuguese territories prior to 1966. In that year, the Zambian Government had decided to open its territory to hostile activities against Angola and Mozambique and it had authorized the establishment in its territory of training and supply bases for armed attacks on the adjoining Portuguese territories. It was therefore the Zambian Government that had embarked on a policy of hostility to Portugal. The Zambian Government had the obligation not to permit its territory to be used as a springboard for hostile actions against foreign territories. It was up to the Zambian Government to take measures to stop the firing across the border from its territory into Portuguese territory. Thus his Government expected the Security Council to call upon the Government of Zambia to abide by the norms of international good conduct in this respect. He further pointed out that not only had the Zambian Government authorized hostile elements to carry out unlawful violent activities against the Portuguese security forces, but also Zambian armed forces were sometimes involved in the incidents. Furthermore, Portuguese air space had also been repeatedly violated by the Zambian Air Force.

At the 1487th meeting on 22 July 1969, the representative of Hungary stated that in fact, all Zambia did was to abide by the relevant resolutions of the United Nations, having given shelter to the refugees of Angola and Mozambique, victims of the Portuguese colonizers. Portugal not only had refused to abide by the resolutions of the Security Council and the General Assembly, but had used the policy of intimidation and terror against Zambia. In an effort to annihilate the refugees, the Portuguese' armed forces had brutally attacked Zambian villages. The Government of Portugal should bear full responsibility for the aggression and should pay reparations for the damages.

At the same meeting, the representative of Somalia* stated that Zambia had not only refrained from exercising its right under Article 51 of the Charter to take defensive action to repel the aggression, but had afforded Portugal every opportunity to amend its lawless conduct by means of bilateral negotiations.

The representative of the United Republic of Tanzania* stated that the Security Council had already determined that the actions of the Portuguese Government in Africa seriously disturbed peace and security. Consequently, the Council should once and for all direct a serious warning to the Portuguese Government to stop all its acts of aggression against Zambia and all the African people.

At the 1488th meeting on 23 July 1969, the representative of the USSR stated that his delegation supported Zambia's demands that the Council should condemn the aggressive acts of the Portuguese colonialists; that it should invite Portugal to put an end to the violation of Zambia's territorial integrity and to unprovoked attacks on that country, that Zambian citizens who had been kidnapped by the Portuguese armed

forces should be released and that all property illegally seized by Portugal's troops on Zambian territory should be returned without delay. The Council should also warn Portugal that if it failed to comply with those demands the Council would take further measures in conformity with the Charter.

At the same meeting, the representative of Portugal stated that the only incident which had taken place was that between 30 June and 3 July, Portuguese security forces having been attacked by armed raiders coming from Zambia, had mounted a clean-up operation in a locality well within Portuguese territory. As far as the alleged Balovale incident was concerned, there had been no incident involving Portuguese security forces in Balovale or anywhere else in that part of Zambian territory, although there had been an encounter in the vicinity, inside Portuguese territory, on 23 June between Portuguese security forces and raiders infiltrating from Zambia.

At the 1491st meeting on 28 July 1969, the representative of Pakistan introduced⁶⁹ a draft resolution jointly sponsored by Algeria, Nepal, Pakistan and Senegal,⁷⁰ the relevant paragraphs of which read as follows:

"The Security Council,

" . . .

"Mindful of its responsibility to take effective collective measures for the prevention and removal of threats to international peace and security,

"Bearing in mind that all States should 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 manner inconsistent with the purposes of the United Nations,

"Concerned about the grave situation created by the Portuguese bombing of Lote village in the Katete District of the Eastern Province of Zambia bordering the Territory of Mozambique,

"Gravely concerned that incidents of this nature endanger international peace and security,

"1. Strongly censures the Portuguese attacks on Lote village in the Katete District of the Eastern Province of Zambia resulting in the loss of Zambian civilian life and property;

"2. Calls upon Portugal to desist forthwith from violating the territorial integrity of, and from carrying out unprovoked raids against, Zambia;

"3. Demands the immediate release and repatriation of all civilians from Zambia kidnapped by Portuguese military forces operating in the colonial Territories of Angola and Mozambique;

"4. Further demands from Portugal the return of all property unlawfully taken by Portuguese military forces from Zambian territory;

"5. Declares that in the event of failure on the part of Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider further measures;

"6. Decides to remain seized of the matter."

At the same meeting, the representative of the United Kingdom stated that the complaints by Zam-

⁶⁹ 1491st meeting, paras. 3, 4.

⁷⁰ S/9360, adopted without change; see resolution 268 (1969) of the Council.

bia of Portuguese violations of its territorial integrity, had been neither proven nor disproven, and only a proper investigation could establish the facts.

The representative of Spain stated that in the opinion of his delegation in regard to the Zambian complaint there was a fluid situation which should be investigated further before the Council could take any action.

At the same meeting, the joint draft resolution was put to the vote and it was adopted⁷¹ by eleven votes in favour, none against with four abstentions.⁷²

After the vote, the representative of the United States stated that the resolution adopted by the Council appeared to make a specific finding against Portugal, which his delegation was unable to support.

CASE 8.⁷³ COMPLAINT BY ZAMBIA: In connexion with the joint draft resolution submitted by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic: voted upon and adopted on 12 October 1971.

[Note: In the course of the discussion, it was maintained that the aggressive acts committed by South Africa constituted a violation of the sovereignty and territorial integrity of Zambia and of the principles of the Charter of the United Nations. It was further maintained that the proclaimed policy of South Africa in the southern part of Africa represented a threat to the independent neighbouring African States and to international peace and security.]

At the 1590th meeting on 8 October 1971, the representative of Zambia* stated that there had been a series of systematic and premeditated violations of the sovereignty, air space and territorial integrity of Zambia by the armed forces of South Africa. He further enumerated 24 incidents against Zambia which had occurred between 26 October 1968 and 5 October 1971. The Zambian Government had no responsibility for the activities of the Namibian freedom-fighters inside Namibia in their struggle to resist South Africa's occupation and oppression. Although he had certain reservations regarding the sending of fact-finding missions, his Government would welcome the dispatch of such a mission by the Council provided it would equally be given uninhibited access to Namibia.

At the same meeting the representative of South Africa* stated that on 4 October members of the South African police force were patrolling near the border between the Eastern Caprivi and Zambia when their vehicle was hit by a land mine. As a result, four of the occupants were seriously injured. On the following day, when other members of the police force were dispatched to investigate the incident, another land mine exploded, killing one of the police officers. The trail of four persons was found leading from the direction of the Zambian border to the location of the land mine and back again in the direction of the Zambian border. Unauthorized border crossings and trespassing in air space had previously occurred in the area of the Zambian Eastern Caprivi border, but both sides had been responsible, not only South Africa. In the period between 23 October 1969 and 5 May 1970,

⁷¹ 1491st meeting, para. 26.

⁷² Adopted as resolution 268 (1969).

⁷³ For texts of relevant statements, see: 1590th meeting: Kenya,* paras. 93, 94, 97; Nigeria, para. 109; Somalia, para. 162; South Africa,* paras. 59-72; USSR, para. 191; Zambia,* paras. 7-23; 1591st meeting: Yugoslavia,* para. 28; 1592nd meeting: United States, para. 26.

Zambia complained of eight violations of air space by South Africa. On the other hand, Zambia had between November 1969 and July 1971 violated South West African air space on twelve occasions. The South African Government had asked Zambia to prevent armed incursions from Zambia into South West Africa, but there had been no response.

The representative of Kenya* stated that the Council should take action against South Africa. His Government called upon the Council to censure the aggression against Zambia, demand an apology and demand that South Africa undertake to respect the territorial integrity of Zambia and all other independent States in southern Africa.

The representative of Somalia stressed that the Council should draw attention to the principle that violations of the sovereignty and territorial integrity of a Member State were contrary to the United Nations Charter, that the violations committed by South Africa against the territorial integrity of Zambia were to be condemned, and that South Africa should desist from committing any further aggression.

At the same meeting, the representative of the Syrian Arab Republic introduced⁷⁴ a draft resolution⁷⁵ jointly sponsored by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic, which provided:

"The Security Council,

"...

"Mindful that violations of the sovereignty and territorial integrity of a State constitute a threat to international peace and security,

"Gravely concerned that violations of this nature seriously undermine the independence, peace and stability of neighbouring independent African States,

"Conscious of its responsibility under Article 24 (1) and (2) of the Charter of the United Nations,

"1. *Condemns* the violations of the sovereignty, air space and territorial integrity of Zambia by South Africa;

"2. *Declares* that such violations are contrary to the Charter of the United Nations,

"3. *Calls upon* South Africa to respect fully the sovereignty and territorial integrity of Zambia and desist forthwith from any violation thereof;

"4. *Further declares* that in the event of a refusal by South Africa to comply with this resolution, the Security Council will meet again to consider further appropriate steps or measures in accordance with the relevant provisions of the Charter."

At the 1591st meeting on 11 October 1971, the representative of Yugoslavia* stated that since the Council was aware of the fact that the violation of the territorial integrity of Zambia as well as the proclaimed policy of South Africa in the southern part of Africa, constituted a threat to international peace and security, the Security Council should take energetic action against South Africa.

At the 1592nd meeting on 12 October 1971, the representative of Somalia introduced⁷⁶ a revised text of the draft resolution⁷⁷ jointly sponsored by Burundi,

⁷⁴ 1590th meeting, paras. 59-72.

⁷⁵ S/10365, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 25.

⁷⁶ 1592nd meeting, paras. 3-18.

⁷⁷ S/10365/Rev.1, adopted without charge. See resolution 300 (1971) of the Council.

Sierra Leone and Somalia. The relevant paragraphs of the revised text read as follows:

"The Security Council,

". . .

"Bearing in mind that all Member States must refrain in their relations from resorting to threat or the use of force against the territorial integrity or political independence of any State,

"Conscious that it has the responsibility to take efficient collective measures to prevent and eliminate threats to peace and security,

"Concerned by the situation on the borders of Zambia and Namibia, in the vicinity of the Caprivi Strip,

"1. Reiterates that any violation of the sovereignty and territorial integrity of a Member State is contrary to the Charter of the United Nations;

"2. Calls upon South Africa to fully respect the sovereignty and territorial integrity of Zambia;

"3. Further declares that in the event of South Africa violating the sovereignty or the territorial integrity of Zambia, the Security Council will meet again to examine the situation further in accordance with the relevant provisions of the Charter."

The President (Nicaragua) then put to the vote the revised draft resolution which was unanimously adopted.⁷⁸

After the vote the representative of the United States stated that his delegation believed it appropriate that the resolution reminded Member States that they should refrain in their relations from resorting to the threat or the use of force. All parties should take care that tensions were not exacerbated by unauthorized crossings of international frontiers by irregular forces or armed bands which were contrary to the Charter.

CASE 9.⁷⁹ COMPLAINTS BY SENEGAL: In connexion with the letter dated 27 November 1969⁸⁰ from the representative of Senegal and with the draft resolution submitted by Algeria, Nepal, Pakistan and Zambia: voted upon and adopted on 9 December 1969.

[Note: In the course of the discussion, it was maintained that acts of aggression had been committed against the territorial integrity of a Member State. The use of force, it was contended, was contrary to the principles of the Charter, in particular its Article 2. It was argued in reply that the alleged acts of aggression had not been such, but measures of self-defence.]

At the 1516th meeting on 4 December 1969, the representative of Senegal recounted the incident described in his letter of 27 November,⁸¹ and recalled previous Council resolutions⁸² in which Portugal was requested to take all effective and necessary action to prevent violations of Senegal's sovereignty and territorial integrity. The Security Council should adopt an effective resolution to condemn severely the Portuguese authorities and their acts of aggression.

⁷⁸ 1592nd meeting, para. 20. Adopted as resolution 300 (1971).

⁷⁹ For texts of relevant statements, see: 1516th meeting: Portugal,* paras. 101-135; Senegal, paras. 47-69; 1517th meeting: France, para. 11; 1518th meeting: Senegal, paras. 5-13; USSR, para. 114; 1520th meeting: Paraguay, para. 26; Portugal, paras. 9-19; Spain, para. 54; United States, para. 37.

⁸⁰ S/9513, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 117.

⁸¹ See in chapter VIII, Complaints by Senegal, pp. 140-145.

⁸² Resolutions 178 (1963) and 204 (1965).

At the same meeting, the representative of Portugal* stated that the attacks had come in every case from Senegal and that Portugal had limited itself to actions strictly in conformity with the needs of self-defence. In the particular incident under consideration, Portugal did not exclude the possibility *a priori* that, following artillery attacks and raids coming from Senegal, Portugal's return fire might have produced results alleged by Senegal. If it had, it was incumbent on Senegal to contact Portugal to settle the question through investigation and conciliation under the terms of Article 33 of the Charter. On its part, Portugal was prepared to discuss the case with Senegal and, after a proper bilateral investigation, to compensate Senegal for any damage which might have occurred.

The representative of France stated that his delegation could not, whatever the reasons advanced by Portugal, approve of actions that were contrary to Article 2 of the Charter, which called upon Members of the Organization to "settle their international disputes by peaceful means" and "to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State".

At the 1518th meeting on 8 December 1969, the President (Zambia) informed⁸³ the Council that by a letter⁸⁴ dated 7 December, the representative of Senegal had requested an urgent meeting of the Council to consider a further complaint concerning the renewed shelling of Samine on that day which had resulted in further casualties and property damage. The letter was included⁸⁵ in the agenda along with the previous complaint.

At the same meeting, the representative of Senegal stated that the Security Council should condemn Portugal severely and without delay for its repeated acts of aggression.

At the same meeting, the representative of the USSR stated that the Council should warn Portugal that if further acts of aggression recurred, the Security Council would adopt further active measures in accordance with the Charter.

At the 1519th meeting on 8 December 1969, the representative of Pakistan introduced a draft resolution⁸⁶ jointly sponsored by Algeria, Nepal, Pakistan and Zambia, the relevant paragraphs of which, read:

"The Security Council,

". . .

"Bearing in mind that all States must refrain in their international relations from recourse to the threat or use of force against the territorial integrity or political independence of any State or in any manner incompatible with the purposes of the United Nations,

"Concerned about the serious situation created by the shelling of the village of Samine in the southern region of Senegal from the Bégène base,

"Deeply concerned at the fact that incidents of this nature jeopardize international peace and security,

"Bearing in mind its resolution 178 (1963) of 24 April 1963 and 204 (1965) of 19 May 1965,

⁸³ 1518th meeting, para. 4.

⁸⁴ S/9541, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 151.

⁸⁵ 1518th meeting, preceding para. 1.

⁸⁶ S/9542/Rev.1. Adopted without change as resolution 273 (1969).

"1. *Strongly condemns* the Portuguese colonial authorities for the shelling of the village of Samine, which (1) on 25 November 1969 caused one death and seriously wounded eight persons, struck a building of the Senegalese *gendarmerie* and completely destroyed two houses in the village of Samine, and (2) on 7 December 1969 caused five deaths and seriously wounded one woman;

"2. *Again calls upon* Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal;

"3. *Declares* that in the event of failure by Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider other measures;

"4. *Decides* to remain seized of the question."

At the 1520th meeting on 9 December 1969, the President (Zambia) announced,⁸⁷ on behalf of the sponsors of the joint draft resolution that it had been revised⁸⁸ so as to make a minor amendment to the text. In paragraph 1 the word "colonial" after the word "Portuguese" had been deleted.

At the same meeting, the representative of Portugal* referred to Portugal's inalienable right of self-defence against armed attacks. Those attacks, which were contrary to the Charter could not be legitimized by any resolutions of the General Assembly or even of the Security Council. There was nothing in the Charter to justify a "double standard" in the interpretation of Article 51 so as to deny the right of self-defence to Portugal. He emphasized that Portugal had been admitted as a Member State with all its territories as defined in the Portuguese Constitution and it was not within the competence of the United Nations to question the territorial integrity of the Portuguese State. He reiterated his call for investigation *in loco* in order to discover the truth of the situation.

The representative of Paraguay stated that the bombings had occurred on Senegalese territory, the victims were Senegalese, the material damage was done to Senegalese property and the shells came from Portuguese Guinea. Those circumstances had proven the violation of the territorial integrity of Senegal. The principle of respect for the sovereignty and territorial integrity of States represented one of the corner-stones on which relations between States should be based.

The representative of the United States stated that his Government would have been more prepared to take a position on the merits of the case, if the Council had been in possession of some impartially verified account of the complaints.

The representative of Spain stated that his delegation had wished that the parties concerned would have sought a solution through such means as negotiation and investigation, in accordance with Articles 33 and 45 of the Charter, since Portugal was prepared to accept some degree of responsibility, had the facts been clearly determined, and to pay adequate reparations.

At the same meeting, the revised joint draft resolution was adopted⁸⁹ by 13 votes to none, with 2 abstentions.⁹⁰

⁸⁷ 1520th meeting, para. 3.

⁸⁸ S/9542/Rev.1. Adopted without change as resolution 273 (1969).

⁸⁹ 1520th meeting, para. 56.

⁹⁰ Resolution 273 (1969).

CASE 10.⁹¹ COMPLAINT BY SENEGAL: In connexion with the letter dated 6 July 1971⁹² from the representative of Senegal and with the joint draft resolution submitted by Burundi, Japan, Sierra Leone, Somalia, and the Syrian Arab Republic: voted upon and adopted on 15 July 1971.

[*Note:* It was maintained, during the debate, that the Security Council should take measures to protect the independence and territorial integrity of Senegal and it should use its investigative powers so that effective action might be undertaken to preserve peace in the area. The above-mentioned draft resolution made an implicit reference to Article 2, paragraph 4 of the Charter. The representative of Portugal, whose Government was accused of committing aggression against Senegal, rejected, by a letter dated 10 July 1969,⁹³ the Senegalese charges, expressed regret that Senegal had requested a meeting of the Council without first seeking to ascertain the truth of its charges through direct contact with Portugal and stated that Portugal had continued to suffer from aggressions that were due to facilities granted by Senegal to a subversive group organized in Senegalese territory.]

At the 1569th meeting on 12 July 1971, the representative of Senegal* stated that the latest acts of aggression by Portuguese forces added to a long list of violations of the territorial integrity of Senegal and were closely linked with Portuguese repression of the nationalist movements in Guinea (Bissau). Recalling Security Council resolution 273 (1969), whereby the Council declared that "in the event of failure by Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider other measures",⁹⁴ the representative of Senegal said that his Government, having exhausted all the procedures provided for under the Charter, was requesting the Security Council to take effective measures to implement its decisions and to fulfil its responsibility under the Charter to repress any acts of aggression.

The representative of Guinea* stated that the standing question, now before the Council was to know how the Council intended to redress and to put an end to what had been recognized as a manifest violation of the sovereignty and territorial integrity of Senegal neighbouring on the enclaves under Portuguese colonial domination.

At the 1570th meeting on 13 July 1971, the representative of the USSR stated that the Charter obliged all Members of the United Nations to refrain in their international relations from the threat or use of force, both against the territorial integrity and political independence of any State and by any other means incompatible with the purposes of the United Nations. By committing acts of aggression against Senegal, Portugal had violated not only those provisions of the Charter but also the Declaration on the Strengthening of International Security adopted by the General Assem-

⁹¹ For texts of relevant statements, see: 1569th meeting: Guinea,* para. 85; Senegal,* paras. 14-72; 1570th meeting: USSR, paras. 40, 43; 1572nd meeting: Italy, paras. 68, 70; Japan, paras. 8, 9; Somalia, paras. 26, 37; United Kingdom, para. 89; United States, paras. 76, 77, 79, 80.

⁹² S/10251, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 28.

⁹³ S/10255, *ibid.*, pp. 29-30.

⁹⁴ Resolution 273 (1969), para. 3. In its para. 2, the Security Council again called upon Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal.

bly at its twenty-fifth session.⁹⁵ His delegation considered it essential that the Security Council should take immediate and resolute measures against Portugal which was violating the Charter and creating a serious threat to peace and security in Africa.

At the 1572nd meeting on 15 July 1971, the representative of Japan stressed that the first step the Security Council ought to take should be an inquiry into the facts. The mission, he added, should be given a broad mandate and should be able to conduct its business freely and independently, with the full co-operation of the authorities concerned.

At the same meeting, the representative of Somalia noted that Senegal had sought solutions to the dispute by negotiation and other peaceful means in accordance with the provisions of Article 33 of the United Nations Charter. The Security Council was now faced with the responsibility, which it could not shirk, of dealing with acts of aggression. Referring to the report⁹⁶ of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights, he said that the Security Council should use to the full its investigative powers under Article 34 of the Charter so that effective measures to preserve peace in the region might be undertaken on a sound and informed basis. He then introduced a draft resolution⁹⁷ jointly sponsored by Burundi, Japan, Sierra Leone, Somalia and Syria. The relevant paragraphs of the joint draft resolution read as follows:

"The Security Council,

... "

"Bearing in mind that all States Members of the United Nations must 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 purpose of the United Nations,

"Conscious of its duty to take effective collective measures for the prevention and removal of threats to international peace and security and for the suppression of acts of aggression,

"Disturbed by the increasingly serious situation created by acts of violence perpetrated by the Portuguese armed forces against Senegal since the adoption of Security Council resolution 273 (1969) of 9 December 1969,

"Deeply distressed by the repeated laying of mines in Senegalese territory,

"Gravely concerned that incidents of this nature, by threatening the sovereignty and territorial integrity of Senegal, might endanger international peace and security,

"Bearing in mind its resolutions 178 (1963) of 24 April 1963, 204 (1965) of 19 May 1965 and 273 (1969) of 9 December 1969,

"Having taken note of the report of the Ad Hoc Working Group of Experts of the Commission on Human Rights concerning Portuguese acts of violence in Senegalese territory,

"Noting that Portugal has not complied with the provisions of paragraph 2 of resolution 273 (1969),

⁹⁵ Resolution 2734 (XXV).

⁹⁶ E/CN.4/1050.

⁹⁷ S/10266, 1572nd meeting, para. 37. Adopted without change as resolution 294 (1971).

"1. Demands that the Government of Portugal should stop immediately any acts of violence and destruction in Senegalese territory and respect the sovereignty, territorial integrity and security of Senegal;

"2. Condemns the acts of violence and destruction perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against the population and villages of Senegal;

"3. Condemns the unlawful laying of anti-tank and anti-personnel mines in Senegalese territory;

"4. Requests the President of the Security Council and the Secretary-General to send to the spot, as a matter of urgency, a special mission of members of the Council assisted by their military experts to carry out an inquiry into the facts of which the Council has been informed, to examine the situation along the border between Guinea (Bissau) and Senegal and to report to the Council, making any recommendations aimed at guaranteeing peace and security in this region."

The representative of Italy stated that all States should refrain from the threat or use of force against the territorial integrity or political independence of any State. Consequently his delegation was prepared to support the draft resolution before the Council in its entirety, in spite of certain doubts it had concerning operative paragraph 2, inasmuch as that paragraph formulated a judgement based upon findings of a work-in group whose nomination and mandate had not emanated from the Security Council.

The representative of the United States stated that in the sixth preambular paragraph, which sought to express the deep distress of the Council over the repeated laying of mines in Senegalese territory, and in paragraphs 1 and 2, there were certain determinations of guilt before the special mission had embarked on its inquiry. Therefore, his Government, although it supported the proposal in paragraph 4 to send a special mission to the region, could not support the draft resolution as a whole. He requested a separate vote on paragraph 4.

At the same meeting, paragraph 4 of the joint draft resolution was put to the vote and was unanimously adopted.⁹⁸ The draft resolution as a whole was then adopted⁹⁹ by 13 votes to none with 2 abstentions.

After the vote, the representative of the United Kingdom explained that his delegation could not support the resolution because, in the absence of an investigation, paragraph 2 and some other parts of it went too far in condemning Portugal, which had denied responsibility for the incidents, and there was therefore still doubt as to what had really occurred.

CASE 11.¹⁰⁰ COMPLAINT BY GUINEA: In connexion with the letters dated 4 and 12 December 1969¹⁰¹ from the representative of Guinea and the joint draft resolution submitted by Algeria, Nepal, Pakistan, Senegal

⁹⁸ 1572nd meeting, para. 84.

⁹⁹ *Ibid.*, para. 85. Adopted as resolution 294 (1971).

¹⁰⁰ For texts of relevant statements, see: 1522nd meeting: Guinea,* paras. 7-39; Portugal,* paras. 44-90; 1523rd meeting: Madagascar,* para. 41; 1524th meeting: Portugal,* paras. 71-73; 1525th meeting: USSR, paras. 88-89; United Kingdom, para. 117; 1526th meeting: Spain, para. 5; United States, para. 8.

¹⁰¹ S/9528 and S/9554, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, p. 147 and pp. 155-157.

and Zambia: voted upon and adopted on 22 December 1969.

[*Note:* During the discussion it was maintained that a Member State should be protected by the United Nations against acts of aggression committed in violation of the provisions of the Charter. An implicit reference had been made to Article 2, paragraph 4, in the above-mentioned resolution. It was contended on the other hand that in view of the charges and counter-charges of aggression that had been exchanged, the Security Council should have investigated them in order to have an accurate evaluation of the events.]

At the 1522nd meeting on 15 December 1969, the representative of Guinea after reiterating the account of the incidents listed in his letter of 12 December and also referring to the continued detention by Portuguese authorities since March 1968 of a Guinean aircraft and its two crew members, he expressed his confidence that the Security Council would unanimously condemn Portugal for its occupation of Mozambique, Angola and Guinea (Bissau) and its acts of aggression against the Republic of Guinea. It would also ask Portugal to free immediately the Guinean nationals being detained, return the Guinean aircraft and motor barge, compensate the victims of its aggression and cease all acts of provocation on the frontiers of the Republic of Guinea.

At the same meeting, the representative of Portugal* stated that it was Portuguese Guinea that had been subjected to constant attacks coming from the Republic of Guinea. After citing a number of such incidents, he proposed that the Security Council investigate the charges made by both sides in order to determine the facts and to place the responsibility where it belonged.

At the 1523rd meeting on 17 December 1969, the representative of Madagascar* stated that the decision taken by the Security Council should take into account the fact that a Member State should be able to find, when having recourse to the Organization, the full safeguard of its sovereignty and territorial integrity when confronted with acts of aggression.

At the 1524th meeting on 18 December 1969, the representative of Portugal* further stated that, on the basis of the investigation conducted since the matter had been brought to the Council, his Government would reject as unfounded the charges of shelling incidents and air raids as alleged by the Government of Guinea. He emphasized that, whatever the allegations, any action taken by Portugal was always taken within its own territory and in the exercise of its right of self-defence.

At the 1525th meeting on 19 December 1969, the representative of Nepal introduced a draft resolution¹⁰² jointly sponsored by Algeria, Nepal, Pakistan, Senegal and Zambia.¹⁰³ The relevant paragraphs of the five-Power draft resolution read:

"The Security Council,

" . . .

"Mindful that no State should act in any manner inconsistent with the principles and purposes of the Charter of the United Nations.

"Gravely concerned with any and all such attacks by Portugal against independent African States,

"Grieved at the extensive damage caused by the Portuguese shelling of Guinean villages from positions in the Territory of Guinea (Bissau),

"1. *Deeply depl*ores the loss of life and heavy damage to several Guinean villages inflicted by the Portuguese military authorities operating from bases in Guinea (Bissau);

"2. *Calls upon* Portugal to desist forthwith from violating the sovereignty and territorial integrity of the Republic of Guinea;

"3. *Calls upon* the Portuguese authorities in Guinea (Bissau) to immediately release the Guinean civilian plane which was captured on 26 March 1968 together with the pilots thereon;

"4. *Further calls upon* the Portuguese authorities in Guinea (Bissau) to immediately release the Guinean motor barge, *Patrice Lumumba*, which was captured on 27 August 1969 together with the passengers thereon;

"5. *Solemnly warns* Portugal that if such acts were to be repeated in future, the Council would have to seriously consider further steps to give effect to this decision."

The representative of the USSR stated that the Security Council should take the severest measures to halt the aggressive acts of Portugal against independent African States and to prevent a recurrence of such acts in the future. The Council should condemn Portugal for its armed attacks and other violations of the sovereignty and territorial integrity of Guinea.

The representative of the United Kingdom stated that it had been impossible, partly for reasons of time and distance, to establish all the facts. Consequently, it was not possible to form a conclusive judgement on all the matters raised.

At the 1526th meeting on 22 December 1969, the representative of Spain stated that the events which had occurred required investigation by the Council in accordance with the provisions of the Charter, particularly, under Articles 33 and 34, so that members of the Council might have objective information on which to judge the situation.

The representative of the United States stated that the joint draft resolution failed to take into account the conflicting claims presented by the representatives of Guinea and Portugal. The considerable gap between the time the incidents had reportedly taken place and the meeting of the Council, as well as the lack of any impartially confirmed evidence, made it difficult for his delegation to make an informed decision on the facts of the case.

The representative of France stated that the draft resolution related to incidents for the most part already old, the facts of which seemed neither clearly nor adequately established. The Council therefore should facilitate bilateral negotiations under Article 2 of the Charter, which made it an obligation of Member States to settle their disputes by peaceful means.

At the same meeting, the joint draft resolution was adopted¹⁰⁴ by 9 votes in favour, none against with 6 abstentions.

¹⁰² S/9574., adopted without change as resolution 275 (1969) of the Council.

¹⁰³ 1525th meeting, para. 48.

¹⁰⁴ 1526th meeting, para. 48. Adopted as resolution 275 (1969).

B. Article 2, paragraph 5, of the Charter

"All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action."

NOTE

During the period under review, no constitutional discussion arose in connexion with Article 2, paragraph 5, of the Charter. However, there was an incidental reference to its provisions, during the debates of the Security Council.¹⁰⁵

¹⁰⁵ For text of relevant statement, see, in connexion with situation in Namibia: 1585th meeting: Liberia, para. 16.

C. Article 2, paragraph 6, of the Charter

"The Organization shall ensure that states which are not Members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security."

NOTE

In the proceedings of the Security Council during the period under review, there was only one implicit reference to Article 2, paragraph 6, of the Charter.¹⁰⁶ There were explicit references to it in one resolution¹⁰⁷ adopted and in two draft resolutions¹⁰⁸ which were voted upon and were not adopted. It should also be noted that during the period under review, the Security Council adopted nine resolutions¹⁰⁹ and rejected two

¹⁰⁶ For texts of relevant statement, see, in connexion with the situation in Namibia: 1584th meeting: Guyana, para. 218.

¹⁰⁷ See, in connexion with the situation in Southern Rhodesia, resolution 277 (1970), paragraph 18.

¹⁰⁸ In connexion with the situation in Southern Rhodesia, see the United Kingdom draft resolution, para. 2, S/9676/Rev.1, 1530th meeting: para. 9; 1534th meeting: para. 172; and the joint draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, oper. paras. 2, 6, 12, 13, S/9696. *OR*, 25th yr., *Suppl. for Jan.-March 1970*, pp. 160-161; 1534th meeting, para. 207.

¹⁰⁹ See, in connexion with the situation in Namibia, resolutions 264 (1969), para. 7; resolution 269 (1969); preambular para. 1 and para. 7; resolution 276 (1970); preambular

draft resolutions¹¹⁰ which might be said to bear upon Article 2, paragraph 6, inasmuch as they contained provisions addressed to "all States" and not merely to States Members of the United Nations. However, no constitutional discussion had taken place in the relevant debates.

para. 5 and para. 7; resolution 283 (1970), preambular para. 3 and paras. 1-8, 11, 13; resolution 284 (1970), preambular para. 2; resolution 301 (1971), paras. 5, 6 and 10. In connexion with the situation in Southern Rhodesia, resolution 288 (1970), preambular para. 2 and paras. 4 and 5. In connexion with the question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of South Africa, resolution 282 (1970), paras. 4 and 6. In connexion with the complaint by Guinea, resolution 290 (1970), para. 10.

¹¹⁰ In connexion with the situation in Southern Rhodesia, see the joint draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia, paras. 3, 8, 9, S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338; 1481st meeting: para. 78. See also the joint draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, oper. paras. 3, 4, S/9976, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 36-37. 1556th meeting, para. 212.

D. Article 2, paragraph 7, of the Charter

"Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII."

NOTE

The case history included in this section deals with the consideration in the Security Council of the subject of domestic jurisdiction. Objections were raised in the Council to the adoption of the provisional agenda on the grounds that the matter pertained to the internal affairs of state. Statements were made in favour of and against the applicability of Article 2, paragraph 7, of the case before the Council.

CASE 12.¹¹¹ SITUATION IN NORTHERN IRELAND: In connexion with the letter dated 17 August 1969¹¹² from the representative of Ireland and with the adop-

¹¹¹ For texts of relevant statements, see: 1503rd meeting: Finland, paras. 15-17; Ireland, paras. 23-42; USSR, para. 45; United Kingdom, paras. 2-14, 52, 53, 60, 61.

¹¹² S/9394, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 159.

tion by the Council of the provisional agenda (S/Agenda/1503) for the 1503rd meeting.

[*Note:* Before the adoption of the agenda, a discussion took place in the Council during which it was maintained that no provision of the Charter could be regarded as prevailing over Article 2, paragraph 7. It was maintained on the other hand that since the situation brought to the attention of the Security Council could lead to international friction, it was appropriate for the Council to consider it under Article 35 of the Charter.]¹¹³

At the 1503rd meeting on 20 August 1969, the representative of the United Kingdom, referring to the adoption of the agenda, stated that the principle of domestic jurisdiction set out in Article 2, paragraph 7

¹¹³ See in chapter III, Case 10.

of the Charter was fundamental. If this principle were breached or eroded, the consequences would be most serious for the United Nations. No State could accept interference in its domestic affairs. It was the duty of the Council not to flout but to support the principle of domestic jurisdiction by opposing the inscription of this item on the agenda. He noted that Northern Ireland had long been an integral part of the United Kingdom and accordingly, events taking place in that area were an internal matter for the United Kingdom Government. The United Kingdom was accordingly taking action to restore and maintain order as the competent authority in that respect. Turning to the request for a dispatch of a United Nations peace-keeping force, contained in the letter from the representative of Ireland, the representative of the United Kingdom stated that that was unnecessary and inappropriate and added that United Nations intervention against the wishes of the United Kingdom Government would be again in violation of Article 2, paragraph 7, of the Charter.

Then he added:

"The letter from the Foreign Minister seeks to raise the question under Article 35 of the Charter, but we cannot accept that there are grounds or right to do so. In any event, Article 2(7) is clearly overriding. Neither Article 35 nor any other article can possibly be regarded as prevailing over the specific provisions of Article 2(7)."

The representative of Finland stated that it would be a matter of courtesy to let the Minister of Foreign Affairs of Ireland address the Security Council which in no way would prejudice the question raised by the representative of the United Kingdom, and it could be done in a way that it would not constitute a precedent. Consequently, he proposed that the Security Council, before taking a decision on its agenda, invite the Minister for External Affairs of Ireland to make a statement to the Council in explanation of his Government's request for the meeting of the Security Council.

The representative of the United Kingdom stated as a matter of courtesy to the Foreign Minister of Ireland, he would not object to the proposal of the representative of Finland.

The President (Spain) stated that there being no objection to the proposal made by the representative of Finland, he took it that the Security Council, before deciding on the adoption of the agenda, invited the Minister for Foreign Affairs of Ireland to make a statement to the Council in explanation of the request in document S/9394.¹¹⁴

The Minister for External Affairs of Ireland,* after taking exception to the argument that the situation in Northern Ireland fell exclusively within the domestic jurisdiction of the United Kingdom, stated that the present situation in the Six Counties of Northern Ireland had its origins in the partition of Ireland, a unilateral act on the part of the United Kingdom Government which had never been conceded to by the Government of Ireland whose declared policy was to bring about reunification by peaceful means. The persistent denial by the United Kingdom Government of their civil rights to a large part of the population of Northern Ireland had culminated in the present crisis. It was the position of the delegation of Ireland* that

while that aspect of the matter alone would be sufficient to justify the request for a Council meeting, another consideration as to why the Council should deal with this question was that the grave situation in Northern Ireland could become aggravated to a degree which would affect relations between Great Britain and Ireland. He also stated that in other instances Article 2, paragraph 7, had not been applied in the rigid manner suggested by the representative of the United Kingdom. Thus the United Nations was accustomed, and rightly so in the view of his delegation, to discuss year after year the question of *apartheid* in South Africa, even though the Government of South Africa maintained that that was not a proper subject for discussion, by virtue of Article 2(7). There was no doubt that the situation in Northern Ireland was grave and could affect relations between Great Britain and Ireland. The current crisis had been brought about by the decision of the Government of the Six Counties to allow the holding of a provocative parade by a Protestant sectarian organization at Derry, despite the warnings of his Government about the dangers involved. The disturbances at Derry had quickly spread to other towns in the area and had led to the loss of life, the destruction of property and the virtual collapse of law and order. The calling of British troops had been a confession of the inability of the Government of the Six Counties to maintain law and order impartially through its police force. There was need, he stressed, for an impartial peace-keeping force, inasmuch as the use of British troops constituted a basic factor in the perpetuation of partition. The Council must consider also that the tension created by these events might spread beyond the area itself and lead to friction between two neighbouring Member States. He further stated that the persistent denial of their civil rights to a large part of the population of the Six Counties which had been the immediate cause of the protests, would be sufficient to justify the consideration of the matter by the Council. The United Kingdom could not maintain that such a course would be in conflict with the Charter since the Foreign Minister of the United Kingdom addressing the General Assembly stated that "Article 56 of the Charter makes it clear that no country can say that the human rights of its citizens are an exclusively domestic matter. A country that denies its citizens the basic human rights is by virtue of Article 56 in breach of an international obligation". (*Official Records of the General Assembly, Twenty-third session, Plenary Meetings, 1693rd meeting, paragraph 109.*)

The representative of the USSR, supporting the request by Ireland for convening the Council, stated that the facts had shown that the policy of the United Kingdom towards Northern Ireland was designed to maintain that country in an unequal position. The United Kingdom authorities were encouraging the division of the population on religious lines. The right to form a government and establish other organs of authority had been granted to the Protestants only; and the civil rights of the overwhelming mass of the population had been curtailed.

The representative of the United Kingdom observed that while it was true that the Irish Republic in its Constitution stated that the national territory consisted of the whole island of Ireland, had over the years recognized the fact of partition and had accepted its consequences. Consequently, he said, there was no

¹¹⁴ 1503rd meeting, para. 20.

justification for the contention that that was an international question. He added that regarding human rights his Government was determined to achieve equality. The principle of equality of treatment and freedom from discrimination was publicly confirmed.

After the representative of Zambia proposed that the meeting be adjourned,¹¹⁵ the Council decided to do so without any objection.¹¹⁶

¹¹⁵ 1503rd meeting, para. 68.

¹¹⁶ *Ibid.*, paras. 69-70.

Part III

CONSIDERATION OF THE PROVISIONS OF ARTICLE 24 OF THE CHARTER

Article 24

"1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

"2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII.

"3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration."

NOTE

During the period under review, Article 24, together with Article 25, was the subject of a constitutional discussion in the Security Council. However, since the relevant case history was dealt with in another chapter of this *Supplement*,¹¹⁷ no entry of it has been made in this section in order to avoid repetition. Arti-

¹¹⁷ See in chapter VI, part IV, Case 7.

cle 24 has not been invoked in the text of any draft resolution submitted to the Council nor in any of the resolutions adopted by it. Explicit references to Article 24 have been made on three other occasions on which no constitutional discussion occurred.¹¹⁸

¹¹⁸ For relevant statements, see, in connexion with the situation in the Middle East: 1485th meeting: Pakistan, para. 184; 1541st meeting: Spain, para. 31. In connexion with the complaints by Zambia: 1590th meeting: Sierra Leone, para. 124.

Part IV

CONSIDERATION OF THE PROVISIONS OF ARTICLE 25 OF THE CHARTER

Article 25

"The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."

NOTE

During the period under review, four resolutions¹¹⁹ were adopted by the Security Council in which Article 25 of the Charter was explicitly invoked. Article 25 was also explicitly invoked in three draft resolutions¹²⁰ which were submitted to the Council, voted upon and not adopted. There were also explicit references to the binding nature of Article 25 in the course of the debates in the Security Council either in connexion with the adoption of new measures, or the failure of states

¹¹⁹ See, in connexion with the situation in Namibia, resolution 269 (1969), preambular para. 3; in connexion with the situation in Southern Rhodesia, resolutions 277 (1970), preambular para. 4(b) and 288 (1970), preambular para. 2 and para. 4; in connexion with the complaint by Guinea, resolution 290 (1970), para. 9.

¹²⁰ In connexion with the situation in Southern Rhodesia, see the draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia, S/9270/Rev.1, preambular para. 6, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, p. 338; draft resolution S/9696, preambular para. 5, *OR*, 25th yr., *Suppl. for Jan.-March 1970*, pp. 160-161; draft resolution submitted by Burundi, Nepal, Sierra Leone and Zambia, S/9976, preambular para. 3 and para. 3, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 36-37.

to abide by the decisions previously taken by the Council.¹²¹ But in one instance only has the Security Council engaged in a constitutional discussion having a bearing on Article 25. However, in view of the special nature of that constitutional discussion, the case was treated in another chapter of this *Supplement*. In order to avoid repetition no entry of such case has been made in this section.¹²²

¹²¹ For relevant statements, see, in connexion with the situation in Southern Rhodesia: 1476th meeting: Nepal, para. 20; 1478th meeting: Algeria, para. 78; 1531st meeting: Zambia, para. 15; 1532nd meeting: USSR, para. 7; 1533rd meeting: Pakistan,* para. 7; 1556th meeting: Nepal, para. 78; Poland, para. 179. In connexion with the situation in the Middle East: 1484th meeting: Indonesia,* para. 168; 1512th meeting: USSR, para. 37; 1538th meeting: Syria, para. 117. In connexion with the situation in Namibia: 1493rd meeting: Algeria, para. 18; India,* para. 72; 1528th meeting: Turkey,* para. 14; USSR, para. 103; 1529th meeting: India,* para. 78; Poland, para. 13. In connexion with the complaints by Guinea: 1525th meeting: Hungary, para. 27; 1563rd meeting: United Kingdom, para. 145. In connexion with the question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Republic of South Africa: 1548th meeting, para. 16.

¹²² See in chapter VI, part IV, Case 7.

Part V

CONSIDERATION OF THE PROVISIONS OF CHAPTER VIII OF THE CHARTER

Article 52

"1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

"2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

"3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the States concerned or by reference from the Security Council.

"4. This Article in no way impairs the application of Articles 34 and 35."

Article 53

"1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal or aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

"2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter."

Article 54

"The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security."

NOTE

In consequence of the obligations placed by the Charter upon Members of the United Nations and upon regional arrangements or agencies, the attention of the Security Council has been drawn during the period from 1966 to 1968 to the following communications, which have been circulated by the Secretary-General to the representatives on the Council, but have not been included in the provisional agenda.

****A. Communications from the Secretary-General of the Organization of African Unity**

B. Communications from the Secretary-General of the Organization of American States

- (i) Dated 4 July 1969: transmitting the text of a resolution adopted on the same date by the Council of the OAS on the situation of the relations between El Salvador and Honduras.¹²³
- (ii) Dated 14 July 1969: transmitting the text of a resolution adopted on the same date by the Council of the OAS.¹²⁴
- (iii) Dated 15 July 1969: transmitting the text of a resolution adopted on the same date by

the Council of the OAS, acting provisionally as Organ of Consultation, calling upon El Salvador and Honduras to suspend hostilities.¹²⁵

- (iv) Dated 17 July 1969: informing that the Committee established by the OAS resolution of 14 July 1969 was in the area of the events pursuant to its terms of reference.¹²⁶
- (v) Dated 18 July 1969: transmitting the texts of four resolutions adopted on the same date by the OAS Council, acting provisionally as Organ of Consultation.¹²⁷
- (vi) Dated 25 July 1969: transmitting the text of a resolution by which the OAS Council reiterated its decision regarding suspension of hostilities between El Salvador and Honduras.¹²⁸
- (vii) Dated 30 July 1969: transmitting the text of three resolutions adopted on the same date by the Thirteenth Meeting of Consultation of Ministers of Foreign Affairs.¹²⁹

¹²⁵ S/9334, *Ibid.*, p. 128.

¹²⁶ S/9338, *Ibid.*, p. 130.

¹²⁷ S/9342, *Ibid.*, p. 131.

¹²⁸ S/9361, *Ibid.*, p. 138.

¹²⁹ S/9370, *Ibid.*, p. 144.

¹²³ S/9317, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 105.

¹²⁴ S/9328, *Ibid.*, p. 125.

- (viii) Dated 27 October 1969: transmitting the text of seven resolutions adopted on the same date by the Thirteenth Meeting of Consultation of Ministers of Foreign Affairs.¹³⁰
- (ix) Dated 19 June 1970: transmitting the text of a resolution adopted on 9 June 1970 by the Meeting of Consultation of Ministers of Foreign Affairs of Central America.¹³¹
- C. *Communications from States parties to disputes or situations*
- (i) Dated 27 June 1969: El Salvador, informing that it had severed diplomatic relations with Honduras.¹³²
- (ii) Dated 2 July 1969: El Salvador, transmitting the text of a letter dated 1 July 1969 to the Secretary-General of the OAS denying the charges made by Honduras and denouncing the outrages committed against Salvadorians living in Honduras.¹³³
- (iii) Dated 3 July 1969: El Salvador, informing that on that day Honduras aircraft had violated El Salvador's air space and had machine-gunned Salvadorian guard posts.¹³⁴
- (iv) Dated 4 July 1969: Honduras, informing that after a series of unfortunate incidents had disturbed the relations between El Salvador and Honduras and that the Governments of both countries had asked the OAS for the assistance of the Inter-American Commission on Human Rights.¹³⁵
- (v) Dated 15 July 1969: Honduras, informing of incidents on the frontier with El Salvador and the acts of legitimate self-defence adopted by the Government of Honduras.¹³⁶
- (vi) Dated 15 July 1969: El Salvador, stating that it was obliged, in view of the repeated aggression by Honduras, to take legitimate measures of self-defence while steps were taken by the competent organs of the Inter-American system and, possibly of the United Nations, to put an end to the Honduran aggression.¹³⁷
- (vii) Dated 16 July 1969: Honduras, stating that it had been obliged to appeal to the OAS to end the military operations and settle by peaceful means the differences between El Salvador and Honduras.¹³⁸
- (viii) Dated 24 July 1969: El Salvador, transmitting a communication sent on 18 July 1969 to the OAS accepting the OAS cease-fire order.¹³⁹
- (ix) Dated 26 July 1969: Honduras, charging El Salvador with committing violations of human rights against the civilian population of Honduran occupied territory.¹⁴⁰
- (x) Dated 2 August 1969: El Salvador, transmitting the text of a cable to the Inter-American Commission on Human Rights rejecting the Honduran charges.¹⁴¹
- (xi) Dated 5 August 1969: El Salvador, reply to the Secretary-General's appeal of 15 July 1969 (S/9332) and expressing appreciation for the Secretary-General's call and expressing gratification that the Meeting of Consultation of OAS Ministers of Foreign Affairs had adopted resolutions aimed at a peaceful solution of the conflict.¹⁴²
- **D. *Communications from other States concerning matters before regional organizations***
- In addition to circulating these communications to the representatives on the Council, it has been the practice to include summary accounts of some of them in the Annual Reports of the Security Council to the General Assembly.¹⁴³
- During the period under review, the question of the respective responsibilities of the Security Council and the regional agencies concerning matters before the Council was not the subject of constitutional discussion.

¹³⁷ S/9330/Corr.1, *Ibid.*, p. 126.

¹³⁸ S/9336, *Ibid.*, p. 129.

¹³⁹ S/9358, *Ibid.*, p. 136.

¹⁴⁰ S/9362, *Ibid.*, p. 140.

¹⁴¹ S/9377, *Ibid.*, p. 149.

¹⁴² S/9378, *Ibid.*, p. 149.

¹⁴³ See Report of the Security Council to the General Assembly, 1968-1969, GAOR, 24th Session, Suppl. No. 2, pp. 109-110; Report of the Security Council to the General Assembly, 1969-1970, GAOR, 25th Session, Suppl. No. 2, pp. 106-107.

¹³⁰ S/9490, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 97.
¹³¹ S/9860, OR, 25th yr., Suppl. for July-Sept. 1970, p. 76.
¹³² S/9291, OR, 24th yr., Suppl. for Apr.-June 1969, p. 348.
¹³³ S/9315, OR, 24th yr., Suppl. for July-Sept. 1969, p. 103.
¹³⁴ S/9314, *Ibid.*, p. 102.
¹³⁵ S/9318, *Ibid.*, p. 105.
¹³⁶ S/9329, *Ibid.*, p. 125.

Part VI

**CONSIDERATION OF THE PROVISIONS OF CHAPTER XII OF THE CHARTER

Part VII

**CONSIDERATION OF THE PROVISIONS OF CHAPTER XVI OF THE CHARTER

Part VIII

**CONSIDERATION OF THE PROVISIONS OF CHAPTER XVII OF THE CHARTER