

UNITED



NATIONS

**REPORT OF THE
INTERIM COMMITTEE
OF THE
GENERAL ASSEMBLY
(31 January — 17 August 1949)**

GENERAL ASSEMBLY

OFFICIAL RECORDS : FOURTH SESSION

SUPPLEMENT No. 11 (A/966)

LAKE SUCCESS, NEW YORK, 1949

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TABLE OF CONTENTS

	<i>Page</i>
I. ORGANIZATION OF THE INTERIM COMMITTEE	1
II. WORK OF THE INTERIM COMMITTEE	
A. Studies on methods for the promotion of international co-operation in the political field	1
(i) Programme of work of the Interim Committee in implementa- tion of paragraph 2 (c) of General Assembly resolution 196 (III)	1
(ii) Study of the organization and operation of United Nations commissions	2
(iii) Study of the handling of disputes and special political problems by the General Assembly	2
(iv) Continuation of studies	2
B. Re-establishment of the Interim Committee	3
C. Other functions of the Interim Committee	4
D. Earthquake in Ecuador	4

ANNEXES

I. Programme of work of the Interim Committee in implementation of paragraph 2 (c) of resolution 196 (III) of the General Assembly ..	5
II. Study of the organization and operation of United Nations commissions	12
III. Draft resolution on the re-establishment of the Interim Committee for an indefinite period	27

REPORT TO THE GENERAL ASSEMBLY ON THE SECOND SESSION OF THE INTERIM COMMITTEE

(31 January - 17 August 1949)

Rapporteur: Mr. Pierre ORDONNEAU (France).

1. The present report on the work of the Interim Committee during its second session is presented to the General Assembly pursuant to resolution 196 (III) of 3 December 1948, by which the General Assembly, at its third regular session, re-established the Interim Committee for the period between the close of the third regular session and the opening of the next regular session.

I. Organization of the Interim Committee

2. In conformity with the above-mentioned General Assembly resolution, the Secretary-General convened the 30th meeting of the Interim Committee on 31 January 1949 at the Interim Headquarters. At the time, considering that the Interim Committee had been re-established by the Assembly for the period between the closing of the third regular session and the opening of the fourth session, the Interim Committee had to decide whether it should begin its work although the third regular session of the Assembly was not closed. After discussion the Committee concluded that it was incumbent upon it, in accordance with the intention of the General Assembly, immediately to undertake its work without waiting for the completion of the second part of the third session, which was not scheduled to begin before 5 April 1949.

3. At that meeting the Committee elected the following officers:

Chairman: Mr. Selim Sarper (Turkey); Vice-Chairman: Mr. Eduardo Anze Matienzo (Bolivia); Rapporteur: Mr. George Ignatieff (Canada). At its thirty-third meeting on 10 August 1949, owing to the departure of the previously elected Rapporteur the Committee had to elect a new Rapporteur, and Mr. Pierre Ordonneau (France) was elected unanimously.

4. The Interim Committee held six plenary meetings during its second session, but it should be noted that it had to suspend work throughout the second part of the third regular session of the General Assembly.

5. At its 30th meeting, the Interim Committee, with a view to taking account, *inter alia*, of the amendments which the General Assembly had made in its rules of procedure during its third regular session (resolution 262 (III)), set up a sub-committee on rules of procedure (Sub-Committee 5), composed of the following members: France, Guatemala, India, Mexico, Norway, Philippines, Syria, Uruguay, United Kingdom, United States of America. Mr. Enrique R. Fabregat (Uruguay) and Mr. Renato Constantino (Philippines) were elected Chairman and Rapporteur respectively. After a re-examination of the rules of procedure as a whole, the Sub-Committee proposed certain amendments, which were approved by the Interim Committee at its 31st meeting on 31 March 1949 (A/AC.18/8/Rev.1).

II. Work of the Interim Committee

A. STUDIES ON METHODS FOR THE PROMOTION OF INTERNATIONAL CO-OPERATION IN THE POLITICAL FIELD

6. In pursuance of the studies begun at its previous session on methods for the promotion of international co-operation in the political field, the Interim Committee, at its 30th meeting on 31 January 1949, set up a sub-committee on international co-operation in the political field (Sub-Committee 6), and instructed it to plan and carry through a long-range programme of study pursuant to the directions contained in General Assembly resolution 196 (III) (paragraph 2 (c)).

7. The Committee decided that during the second session the Sub-Committee on international co-operation should consist of the same members as those who, in Sub-Committee 2, had begun these studies during the Committee's first session; it nevertheless empowered the Chairman of the Interim Committee to fill any vacancies which might occur on the Sub-Committee and to appoint additional members, provided that the membership did not exceed nineteen. Under this provision, Mexico was appointed an additional member of Sub-Committee 6, which was thereafter composed of the following: Australia, Belgium, Brazil, China, Colombia, Dominican Republic, Ecuador, France, Greece, Iran, Lebanon, Mexico, Sweden, United Kingdom, United States of America and Venezuela. Mr. Pierre Ordonneau (France) was appointed Chairman and Mr. James N. Hyde (United States of America) Rapporteur of the Sub-Committee.

(i) *Programme of work of the Interim Committee in implementation of paragraph 2 (c) of General Assembly resolution 196 (III).*

8. The Sub-Committee's first task was to prepare "a careful agenda for the prosecution of the long-range programme". The preparation of a draft programme of work was assigned to a working group composed of the representatives of China, Ecuador, the United Kingdom and the United States of America.

9. At its 32nd meeting on 31 March 1949, the Interim Committee approved the programme of work submitted by the Sub-Committee. This document forms Annex I of the present report. Whilst according priority to work on existing procedures and machinery of pacific settlement, the Committee recognized that it would be necessary, at a later stage, to extend its study to other aspects of international co-operation; it held that it was entitled to go beyond problems of method and consider the substance of international problems, in so far as the study was undertaken with a view to the promotion of international co-operation in the political field.

10. In pursuance of the general plan which it had approved, the Interim Committee decided

to begin its work by a systematic study of the following two questions:

(a) Organization and operation of United Nations commissions (section D of part II of the programme of work);

(b) Settlement of disputes and special political problems by the General Assembly (section B of part II of the programme of work).

In order to facilitate the task of Sub-Committee 6, these two questions were entrusted to two working groups. The first was instructed to prepare a study on the organization and operation of United Nations commissions, and was composed of the representatives of the following States: Belgium, Brazil, China, Colombia, Dominican Republic, Iran, and Sweden; the second was instructed to undertake a study of the settlement of disputes and special political problems by the General Assembly, and was composed of the representatives of the following States: Australia, Ecuador, Greece, Lebanon, Mexico, United Kingdom and Venezuela. The two working groups met under the chairmanship of Mr. Pierre Ordonneau (France), Chairman of Sub-Committee 6, Mr. James N. Hyde (United States of America) acting as Rapporteur.

(ii) *Study of the organization and operation of United Nations commissions*

11. Sub-Committee 6 began its study by taking as a basis eleven memoranda prepared by the Secretariat on the organization and procedure of particular commissions. The Rapporteur of Sub-Committee 6 then drew up, with the assistance of the Secretariat, a comparative study of the rules governing the organization, procedure and operation of these commissions. The document produced as a result of the discussions of Sub-Committee 6, and subsequently of the Interim Committee, forms Annex II of the present report.

12. While in the time at its disposal the Interim Committee was not able to explore all the problems involved in the operation of commissions, it produced a study which touches on the main aspects of the question. Many important problems arising in connexion with the organization and work of commissions remain, however, to be examined before the study on the operation of United Nations commissions can be regarded as complete. Thus time did not permit of an analysis of the functions performed by the United Nations Temporary Commission on Korea appointed to observe the elections in that country. Other problems requiring further study in the light of new experience are the practical problems that have been met with in connexion with the material organization of commissions, their means of communication, the organization and methods of observer groups and the methods employed by commissions in performing the functions of investigation, truce supervision, conciliation, good offices and mediation, and particularly the inter-relationship of these functions. The subject, moreover, is one which is constantly assuming new forms. Lastly, in so far as the study undertaken is connected with other parts of the general programme of work, the Committee will hardly be in a position to form more complete and detailed conclusions until the series of special studies it has undertaken are completed, when it will be able to consider them all together and in their relationship to each other.

(iii) *Study of the handling of disputes and special political problems by the General Assembly*

13. At its second session the Interim Committee was hardly able to do more than begin its study on the handling of disputes and special political problems by the General Assembly. In the first place, the Committee thought it preferable to give its main attention to the operation of commissions, and in the second place, the studies which the Secretariat had to undertake on this subject were so extensive that it was unable to prepare all the contributory studies required for the examination of another item in the general programme of work.

14. Thus Sub-Committee 6 was only in a position to present to the Interim Committee a report indicating the progress of its work, without formulating any conclusions. A first memorandum on "Preliminary steps taken before the meeting of the General Assembly" was prepared by the Rapporteur of the Sub-Committee; a second on the "Participation of representatives of non-member States and of non-governmental organizations in the discussions of the General Assembly and the Security Council" is being prepared by the Secretariat. The Interim Committee therefore confines itself to pointing out to the Assembly that work on this important item could smoothly be continued with these studies as a starting point.

15. The two proposals by the General Assembly for amendment of the Committee's rules of procedure, which the Assembly, in resolution 268 (III) C, adopted on 28 April 1949, referred to the Interim Committee for further examination, fall naturally within the scope of this study on the handling of disputes and special political problems by the General Assembly. The purpose of the two proposed amendments is to confer certain conciliatory functions upon the President of the General Assembly. The Interim Committee, noting that it was instructed to examine these proposals "within the broader context of the studies it is to undertake" decided to include them in its forthcoming study of item 4 of section B, part II, of its programme of work.

(iv) *Continuation of studies*

16. The Interim Committee recalls that its programme of work (Annex I), in accordance with the provisions of paragraph 2 (c) of General Assembly resolution 196 (III), provides for the systematic continuation of the work on the studies and recommendations contained in document A/605.

17. In order that it may be in a position to pursue these studies without delay in so far as may be required, the Committee desires that the Secretariat continue to prepare the documentation which may be necessary. The basic studies required by the Committee's work necessitate considerable research and analysis and their preparation lays an important task on the Secretariat. This will require close collaboration between the Secretariat and the Committee, in order that the latter may receive in due time the appropriate documentation upon which to base its discussions and conclusions. In this connexion it was pointed out, in particular, that the studies envisaged call both for an analysis of the facts with a view to their collation and an analysis of

the facts with a view to the discovery of a solution of the problems submitted. In view of this, it was suggested that as the first analysis chiefly requires technical skill, it should be entrusted mainly to the Secretariat, while the Committee should devote its efforts more particularly to the second analysis, which constitutes the real political task. The Committee wishes to congratulate the Secretary-General on the assistance provided by the Secretariat in the accomplishment of its work.

18. During its 33rd meeting, the Interim Committee decided, by 40 votes to none, with 1 abstention, to approve the report of the Sub-Committee on international co-operation.

B. RE-ESTABLISHMENT OF THE INTERIM COMMITTEE

19. The Committee, at its 32nd meeting on 31 March 1949, established a sub-committee (Sub-Committee 7) to review the constitution, duration and terms of reference of the Interim Committee, in accordance with paragraph 2 (f) of General Assembly resolution 196 (III). This Sub-Committee was composed of representatives of the following States: Afghanistan, Bolivia, Canada, China, Costa Rica, Denmark, Egypt, El Salvador, France, Haiti, Iraq, Netherlands, Pakistan, Panama, Philippines, Turkey, Union of South Africa, United Kingdom, United States of America and Uruguay. Abdur Rahim Khan (Pakistan) and Mr. John Starnes (Canada) were elected Chairman and Rapporteur respectively.

20. The Sub-Committee's conclusions envisaged the re-establishment of the Interim Committee for an indefinite period, without any change in its terms of reference for the time being. The Sub-Committee also submitted a draft resolution to that effect, which it had adopted on the proposal of the representative of Turkey.

21. A general debate on the report of Sub-Committee 7 took place in the Interim Committee. Some members, although convinced of the usefulness of the Committee, were opposed to its re-establishment, if it were to remain limited by its existing terms of reference. Other members of the Committee stressed the need for giving the Committee, during the interval between Assembly sessions, the same competence as the six Main Committees of the Assembly.

22. Other members, without going so far as this, considered that, apart from the functions which the Interim Committee was called upon to fulfil under its existing terms of reference, there were other fields of activity in which the Committee could give important assistance to the General Assembly by shortening some of its discussions and reducing the duration of its sessions. In the course of the successive sessions of the General Assembly this problem has become so pressing that, at its last regular session, the Assembly found it necessary to set up a special committee to study the Assembly's methods and procedures and to devise means of expediting its work. A permanent committee of the Assembly, such as the Interim Committee, could serve such a purpose. In this connexion certain members suggested that the Interim Committee could, for instance, usefully act as an agenda committee for the General Assembly.

23. A number of members, while they were prepared to agree to the re-establishment of the

Interim Committee for an indefinite period, provided that it was not placed on a permanent basis, indicated that they were not in position to agree to an extension of the Committee's terms of reference.

24. Certain delegations also expressed doubts regarding the expediency and rightness of the Interim Committee's action in supplementing its report to the General Assembly by a draft resolution providing for the Committee's re-establishment. These delegations considered, in the first place, that it was not for the Committee to express an opinion upon its own usefulness or recommend its own re-establishment. They also pointed out that, under the terms of the General Assembly resolution, the Interim Committee was merely instructed to report to the General Assembly without necessarily having to make a specific recommendation on the matter. Some of these delegations expressed the view that it would be preferable if, in the political conditions existing when it considered its Committee's report, the General Assembly were free of any prior obligation and had complete liberty to decide whether it would be desirable to establish—if need be in a new form and under new conditions—a permanent committee of the General Assembly to which all delegations could agree to send representatives. As regards the substance of the problem, these delegations considered that the main utility of such an organ would consist in the fact that it would be possible to entrust it, with the general consent of the Member States, with the study of a large number of non-political questions, whereas it had not been possible to obtain that general consent for a committee with terms of reference such as those given to the Interim Committee.

25. Lastly, other representatives, whilst agreeing with the majority of the members of the Committee on the usefulness of the work undertaken in the field of international co-operation, stated that they were not thereby convinced that the Interim Committee was necessarily the best instrument for carrying out that work. It was suggested, in particular, that special committees established by the General Assembly to carry out specific tasks when the need arose, would serve the same purpose as the Interim Committee and at less expense.

26. As regards the length of the Committee's mandate, there was in fact little difference of opinion. Those members who wished to continue to regard the establishment of the Interim Committee only as an experiment, readily acknowledged that the value of an international institution could not be properly assessed during a limited period of two or three years. The length of General Assembly sessions varies and hence the Interim Committee's period of activity is also variable. Similarly, political problems which may call for action by the Interim Committee do not necessarily arise during any given experimental year. It was also recognized that, if the Committee were to carry out the long-range program of studies on the development of international co-operation in the political field, assuming that it was to be entrusted with the carrying out of that programme, the Committee should continue in existence for several years more. In these circumstances it did not appear

desirable that the General Assembly should be asked to discuss the re-establishment of the Interim Committee at each of its regular sessions.

27. Similarly, there was broad agreement on the importance which the Interim Committee retained, with its existing terms of reference. The opinion was expressed that it is still essential that a subsidiary organ of the General Assembly should be ready, when the Assembly is not sitting in regular session, and subject to the primary responsibility of the Security Council, immediately to undertake on behalf of the Assembly, as occasion arises, the study of certain political questions likely to endanger the maintenance of peace. The useful programme of studies undertaken with a view to promoting the development of international co-operation in the political field should be carried out. Lastly, the Interim Committee, which is a plenary committee of the Assembly, is the only forum where the Members of the United Nations can express their views when the Assembly is not in session.

28. Many delegations expressed regret that six States Members of the United Nations had refrained from taking part in the work of the Interim Committee. They hoped that those States would recognize that such an organ could in the future, as it had in the past, provide useful assistance to the General Assembly. Several delegations also expressed the hope that the Assembly would make a new attempt to achieve in fact for the Interim Committee the universality which should characterize a committee of the Assembly.

29. The Interim Committee lastly was of the general opinion that it was entitled to supplement its report by a draft resolution such as that submitted during its previous session. Such a recommendation cannot of course be regarded as infringing upon the freedom of the Assembly, which remains complete master of its action.

30. Accordingly, the Interim Committee, at its 34th meeting on 10 August 1949, approved, by 32 votes to none, with 9 abstentions, the draft resolution on its re-establishment for an indefinite period, the text of which had been submitted to it by its Sub-Committee. This draft resolution appears as Annex III to the present report.

C. OTHER FUNCTIONS OF THE INTERIM COMMITTEE

31. At the time of the adoption of the present report, the Interim Committee had not been called upon, during its second session, to assume the functions conferred upon it under sub-paragraphs 2 (a), (b), (d) and (e) of General Assembly resolution 196 (III). A large number of delegations expressed the hope that the General Assembly would make greater use of the Interim Committee in the future.

D. EARTHQUAKE IN ECUADOR

32. At the opening of its 33rd meeting on 10 August 1949, the Interim Committee expressed its unanimous feelings of solidarity and sympathy with the Ecuadorean representative whose country had been the victim of a serious earthquake. On the proposal of the representative of Uruguay, the Committee unanimously approved a proposal requesting the Chairman of the Committee, assisted by his officers, to give urgent consideration, in collaboration with the Secretary-General, to methods for co-ordinating the immediate assistance which might be given to Ecuador by the United Nations and the various specialized agencies, bearing in mind that the Economic and Social Council was at present in session and could consider this urgent problem in accordance with its terms of reference. Subsequently, the Chairman of the Committee informed the latter that on its behalf he had addressed a telegram to the President of the Republic of Ecuador. He made known to the Committee the results of the conversations undertaken by the officers of the Committee with the Secretary-General; he emphasized that a high official of the Social Affairs Department of the Secretariat had been sent to Ecuador and that the Economic and Social Council, seized of the problem, was actively studying the question in co-operation with the Secretary-General, with a view to supplying the best possible assistance. The representative of Ecuador, on behalf of his Government and in his own behalf, thanked the Interim Committee for the active interest it had manifested in favour of his country.

33. After it had approved the present report to the General Assembly, during its 35th meeting, on 17 August 1949, the Interim Committee adjourned the meetings of its second session.

ANNEX I¹

Programme of work of the Interim Committee in implementation of paragraph 2 (c) of resolution 196 (III) of the General Assembly

SUMMARY

	Page		Page
PART I. GENERAL CONSIDERATIONS — AN OVER-ALL PROGRAMME		(6) Preliminary measures for the elucidation of facts	9
A. Introduction	5	(7) Consideration by the General Assembly after receiving a report or an advisory opinion	9
B. The over-all program	6	(8) Measures for settlement	9
C. Pacific settlement	6	C. Use of pacific settlement procedures by the Security Council	9
D. Other aspects of political co-operation	7	D. Organization and operation of United Nations commissions	9
PART II. PACIFIC SETTLEMENT — THE IMMEDIATE PROGRAMME		E. International Court of Justice	10
A. General	7	F. General appraisal of the use of pacific means of settlement by United Nations organs	10
B. Settlement of disputes and special political problems by the General Assembly	8	G. Pacific settlement procedures provided by bilateral, regional and general multilateral treaties and agreements	10
(1) Peaceful means resorted to by States	8	H. Consideration of the most effective means of developing arrangements for peaceful settlement by States for use under Article 33 of the Charter	11
(2) Submission of questions to the General Assembly	8		
(3) Preliminary steps before a meeting of the General Assembly ...	8	PART III. METHOD OF WORK AND SELECTION OF TOPICS	
(4) Initial procedure of the General Assembly	8	A. Method	11
(5) Precautionary measures taken with a view to the avoidance or the cessation of hostilities	9	B. Selection of topics	11

PART I

General considerations—an over-all programme

A. INTRODUCTION

1. The Interim Committee was instructed, under the terms of paragraph 2 (c) of General Assembly resolution 196 (III):

“To consider systematically, using as a starting point the recommendations and studies of the Interim Committee contained in document A/605, the further implementation of that part of Article 11 (paragraph 1) relating to the general principles of co-operation in the maintenance of international peace and security, and of that part of Article 13 (paragraph 1 a) which deals with the promotion of international co-operation in the political field, and to report with conclusions to the General Assembly”.

2. At its 30th meeting, held on 31 January 1949, the Interim Committee adopted a resolution appointing a special sub-committee (Sub-Committee 6) whose function was to plan and carry through the long-range programme pursuant to the directions contained in paragraph 2 (c) quoted above. The Sub-Committee was requested, in accordance with the said paragraph and the recommendations contained in the report of the Interim Committee to the General Assembly entitled *Study of methods for the promotion of international co-operation in the political field*,²

¹ A/AC.18/91.

² See *Official Records of the third session of the General Assembly*, Supplement No. 10 (A/605).

first to prepare a careful agenda for the prosecution of the long-range programme and to present this agenda for consideration by the Interim Committee as soon as practicable.

3. The Sub-Committee was composed of a representative of each of the following countries: Australia, Belgium, Brazil, China, Colombia, Dominican Republic, Ecuador, France, Greece, Iran, Lebanon, Mexico, Sweden, United Kingdom, United States of America and Venezuela. It held three meetings under the chairmanship of Mr. Pierre Ordonneau (France), with Mr. James N. Hyde (United States of America) as Rapporteur.

4. At its second meeting, held on 21 February 1949, Sub-Committee 6 appointed a working group composed of Mr. H. C. Kiang (China), Mr. Viteri-Lafrente (Ecuador), Mr. J. E. S. Fawcett (United Kingdom) and Mr. James N. Hyde (United States of America) to draw up a plan of work consisting of two parts:

(1) A general plan extending possibly over several years;

(2) A plan of work to be covered during the present year.

5. The working group held six meetings and, through its Rapporteur, submitted to the Sub-Committee on 22 March 1949 its “Draft programme for the work of the Interim Committee under paragraph 2 (c) of its terms of reference” (A/AC.18/SC.6/4).

6. Sub-Committee 6, at its 3rd meeting held on 28 March 1949, approved the draft programme in question.

7. The Sub-Committee has examined carefully the indications contained in the report of the Interim Committee concerning the nature of the programme of work and the arrangement of subject matter. The Sub-Committee has also examined the "Statement of views and suggestions by the Secretary-General regarding the work of the Interim Committee" (A/AC.18/SC.6 1). The report of the Interim Committee directs that the recommendations stated in part IV of its report, together with the various subsidiary indications in parts I, II and III, should be taken as the basis of the plan of work. In the light of these directions, the first task is to complete a systematic examination of existing procedures and machinery of pacific settlement. Priority is to be given to the completion of the studies already undertaken in this field and account is to be taken of the proposals submitted last year to the Interim Committee but upon which it has not yet acted. This work is to be undertaken as the beginning of "a long-range programme of study leading to the development of all aspects of international co-operation in the political field". The Sub-Committee has therefore endeavoured to draw up, by means of the present document, an agenda. The plan of work accords priority to the pacific settlement of disputes and leads on to the consideration of other aspects of international political co-operation. The specific proposals not yet acted upon by the Interim Committee are placed where they appear logically to fit in this agenda and this will permit the Interim Committee at such points to reach conclusions on them.

B. THE OVER-ALL PROGRAMME

8. Consideration of the range of questions under the relevant parts of Articles 11 (paragraph 1) and 13 (paragraph 1 a) of the Charter has led the Sub-Committee to conclude that the agenda at the present time should not consist of a series of problems set down for consideration in sequence over a long period of time. It would be long before the Interim Committee found itself in a position to take up the questions placed towards the end of the plan of work. For this reason, the Sub-Committee has concluded that the first essential is to state in general terms the nature of the work which the Interim Committee shall undertake under paragraph 2 (c). Such a statement will provide a basis for the selection of particular items for study according as changing circumstances bring new questions to the fore, while certain questions are set out in detail for immediate consideration.

9. The scope of the work under paragraph 2 (c) can be defined in the first instance by reference to the general spirit and purpose of Articles 11 (paragraph 1) and 13 (paragraph 1 a) of the Charter. These Articles should be read in the light of the Charter as a whole, and more particularly in the light of Articles 1 and 10. From its discussion of the meaning of the relevant parts of Articles 11 (paragraph 1) and 13 (paragraph 1 a) of the Charter, the Sub-Committee concluded that a precise and exhaustive interpretation of these Articles would not, at this early stage of development under the

Charter, be desirable or practicable. It is of the opinion that such an interpretation would be likely to prove unduly confining to the General Assembly in the future. These provisions are essentially general in character, and their precise content can be established only through the actual practice of the Assembly itself over the years and the general experience of international organization.

10. In this connexion, the Sub-Committee notes that the Interim Committee is required by its terms of reference to take into account the responsibilities of the Security Council under the Charter as well as the duties assigned by the Charter, by the General Assembly, or by the Security Council to other Councils or to any committee or commission. It seems clear that the study set out in part II of the present report will not lead the Interim Committee into any field that is reserved for the Security Council, or to any interference with or duplication of work in progress or in prospect by any other committee or commission. In considering, during later phases of the study, whether particular matters should be included in the programme, full account will doubtless be taken in each case of the responsibilities of other bodies, but the Interim Committee will feel free to undertake studies in a broader area than any recommendations it may formulate.

11. The Sub-Committee recognizes that a sound political approach to political problems may necessarily involve an evaluation of economic and psychological factors, but it is not felt that such analysis would conflict with the responsibilities of other organs of the United Nations.

12. The Sub-Committee has concluded, however, that the work which may be undertaken under the relevant part of Article 13 (paragraph 1 a) is not limited to the study of problems of method, but may extend to the substance of international problems in so far as the study is undertaken with a view to the promotion of international co-operation in the political field. The Sub-Committee does not recommend the initiation at the present time of any studies concerned with the substance of political questions.

C. PACIFIC SETTLEMENT

13. The Interim Committee, while charged with the study of the entire field of international political co-operation, has been instructed that priority should be given to the work on existing procedures and machinery of pacific settlement with a view to the further development of such procedures. A question therefore arises concerning the scope of this initial part of the study and its relation to broader questions. While an attempt to define the term "pacific settlement of disputes" presents obvious difficulties, the term was used in the studies which have been begun to describe a variety of efforts for the settlement of controversies, including procedures employed under Article 11, Article 14 and Chapter VI of the Charter. In view of the very broad constitutional powers of the General Assembly, it is clear that at any given time the General Assembly is dealing with a variety of questions, some in the nature of situations and disputes as those terms are used in the Charter, and others of a broader political character. As the Interim Committee continues with its study of pacific settle-

ment, certain rather special problems of method and procedure which will emerge relating to these broader questions should be set aside for special consideration at a later stage. Some phases of the broader aspects of international co-operation will inevitably be involved in the study of pacific settlement, which the Sub-Committee will immediately undertake. Thus, the Sub-Committee feels that the study of pacific settlement should be carried on with a certain latitude to the Interim Committee in considering closely related problems, where that is deemed fruitful. This approach will recognize that the pacific settlement of disputes should not be over-emphasized in importance in the work of the General Assembly or in the long-range study of the Interim Committee because it is only a part of the Assembly's total work.

14. The Sub-Committee notes that there exists a large body of international law on the pacific settlement of disputes, much of which served as a background for the broad outline in Chapter VI of the Charter, and it has therefore formulated this plan with the responsibilities of the International Law Commission in view. The future studies in this field should also, in the Sub-Committee's opinion, be co-ordinated with the work of the International Law Commission.

15. Looking now at some of these broader aspects of international co-operation which the Interim Committee will only tangentially touch upon until the pacific settlement study is completed, it is neither expedient nor practicable at this time to set up a rigid programme of work to be followed. The materials appropriate for the study in this field by the Interim Committee through the means of Secretariat studies, have been outlined in the statement of views by the Secretary-General as including not merely the experience of international organization in the last thirty years, but also the methods and expedients practised by international organs of all types in their efforts to find a solution of political problems.

D. OTHER ASPECTS OF POLITICAL CO-OPERATION

16. In addition to the problems of international organization which have been considered in the preceding paragraphs, there are other broad aspects of a somewhat different character to be considered. Without attempting to list or define these other broad aspects of international organization, several fields of study may be mentioned as illustrative. When sufficient experience has developed, the problem of the development of regional organizations and their relation to the United Nations might involve the study of the role of these supplemental regional agencies and the principle that their activities should be consistent with the Charter. This would be distinct from the study of the functions of these agencies in the field of pacific settlement. A different field—the study and adoption of interpretative resolutions by the General Assembly—was suggested by the representative of Australia (A/AC.18/48, Annex E). Another example might be the consideration of the nature and scope of the obligation of United Nations Members in the light of Article 2 of the Charter, and particularly the consideration of the effect of General Assembly resolutions. It has also been suggested that study might be given to imple-

mentation of the letter and spirit of the Charter by considering whether the Assembly should develop certain practices for drawing attention to Charter violations by appealing to Members to respect their Charter obligations and calling on them to report such violations. New methods in the field of international organization may also recommend themselves for study from time to time, such as the observation of elections and the holding of plebiscites under the auspices of United Nations organs, as suggested by the Secretary-General.

17. As the Interim Committee develops its study, broad questions in this field will inevitably require consideration and for that reason no attempt has been made to catalogue or restrict their substance in this paper.

PART II

Pacific settlement—the immediate programme

A. GENERAL

18. The Interim Committee, in its report of last year, surveyed in a preliminary way the various means of pacific settlement indicated in Article 33 of the Charter and made certain specific recommendations relating to some of these methods. In order to complete the systematic study of the pacific settlement of disputes in a systematic manner, the Sub-Committee proposes that the Interim Committee should now consider the application of procedures of peaceful settlement by each organ of the United Nations.

19. The Sub-Committee has considered another approach, that each well-understood method of pacific settlement, such as conciliation, should be studied in relation to its operations within and outside United Nations organs. It concluded that it would perhaps be more productive to look at each piece of machinery separately, because the resulting studies, as the work progresses, would then have a more direct relation to the immediate preoccupations of the United Nations.

20. The approach thus selected involves in the first place a careful examination of the problems which arise in the handling of disputes and similar questions by the General Assembly. At this time it may not be opportune for the Interim Committee to enter into an evaluation of the handling of disputes by the Security Council; but throughout its work the Sub-Committee will need to draw on the experience of the Security Council, as well as on the experience of the Council of the League of Nations and the Assembly of the League of Nations, for factual background and for the light which that experience throws on the handling of disputes by the General Assembly itself.

21. The plan of this study can follow the stages which are set forth in the Secretariat memorandum "Use by organs of the United Nations of measures and procedures of pacific settlement" (A/AC.18/61). In this memorandum a common form of analysis was adopted with respect to the handling of disputes and situations by all four organs, viz. the Security Council and the General Assembly of the United Nations and the corresponding organs of the League of Nations. The adoption of the consecutive stages in the consideration of a dispute as the frame-

work for a study of the working of the General Assembly in this field will have the advantage that it will more easily reveal the extent to which the procedures of the General Assembly are appropriate for the handling of such questions and will relate them to corresponding stages in Security Council procedure. These stages are adopted primarily for purposes of analysis since no dispute would be likely to pass in orderly sequence through the stages indicated.

22. The Sub-Committee proposes that the organization and procedure of the various commissions set up to deal with disputes and situations should form the subject of a single and separate study. This single study would review the experience of all the commissions irrespective of whether they are subsidiary organs of the General Assembly or the Security Council. If the Interim Committee were to concentrate its attention on the organization and experience of the commissions set up by the General Assembly, the range of experience would provide too narrow a basis for adequate comparative study.

23. The section of the study on pacific settlement by United Nations organs would be concluded by consideration of the role of the International Court of Justice.

24. The second broad phase of the study of pacific settlement consists of the use of pacific settlement procedures pursuant to bilateral, regional and multilateral treaties. Questions arising in this connexion are set out below in more detail.

B. SETTLEMENT OF DISPUTES AND SPECIAL POLITICAL PROBLEMS BY THE GENERAL ASSEMBLY

25. In order to assist the Interim Committee in its further discussions, the Sub-Committee has indicated certain of the problems which arise in the handling of disputes and other special political problems by the General Assembly at the various stages.

26. As noted above (part I, section C) the Sub-Committee believes that, so far as the work of the General Assembly is concerned, the examination should, in the first instance, include the procedure followed in the cases which fall clearly within the field of the pacific settlement of disputes, and also the procedures followed in those cases, such as Palestine and Korea, which raise political and constitutional problems of high importance but are of special concern to a limited number of States. The work of the General Assembly in these two types of matters can most usefully be taken up as a whole. Only such a study can reveal whether differing procedures should be adopted by the General Assembly for dealing with different but related types of political problems.

(1) *Peaceful means resorted to by States*

27. Certain observations on the nature and scope of the obligations of Members under Article 33 of the Charter have been stated in paragraph 19 of the report of the Interim Committee. It would be necessary to survey the practice of States as regards efforts of peaceful settlement before the submission of disputes to the General Assembly.

(2) *Submission of questions to the General Assembly*

28. A survey would indicate the utilization of the various Articles of the Charter for the purpose of the submission of questions to the General Assembly. This may give rise to the problem to what extent the Article under which the question is brought influences the subsequent procedure.

(3) *Preliminary steps before a meeting of the General Assembly*

29. In the memoranda by the Secretariat on pacific settlement by the Security Council (A/AC.18/61) and by the Council of the League of Nations (A/AC.18/68), attention is drawn to preliminary steps which have been taken before the commencement of the consideration of a dispute by the Council of the League or by the Security Council.

30. Other problems connected with steps which might be taken before a meeting of the General Assembly are indicated in the memoranda by the Secretariat (A/AC.18/58 and A/AC.18/59). These two studies related to the preparation of political and security matters for the General Assembly. The second memorandum drew attention to the following problems:

- (a) The availability of documentation;
- (b) Prior study of legal and procedural problems;
- (c) Prior consideration of techniques appropriate for the handling of a dispute or situation;
- (d) Prior application of measures of peaceful settlement.

31. These problems turn around the general problem of the extent to which it is possible to separate consideration of the procedural, legal and substantive aspects of a dispute. A certain advance in the handling of disputes might be effected if it were possible to secure general assent to deliberate consideration of the methods of handling a dispute separately from consideration of the merits of the dispute.

(4) *Initial procedure of the General Assembly*

32. (a) Inclusion in the agenda:

(i) Questions arise as to whether and to what extent the General Assembly should refuse to consider disputes and situations unless parties have made prior efforts to settle them, and as to what the General Assembly should recommend in case of such refusal;

(ii) Questions arise as to the method of reaching a decision on objections of a jurisdictional nature, such as those based on Article 2 (paragraph 7) or Article 12 (paragraph 1) of the Charter;

(iii) Finally, questions arise as to the role of the General Committee in dealing with (i) and (ii), including the application of Article 35 (paragraph 2) of the Charter.

(b) Invitation to parties to a dispute or concerned in a situation to participate in proceedings:

(i) A number of problems arise concerning the participation of non-member States and non-governmental bodies in the consideration of

matters, including the question whether a distinction is to be observed in this respect between different types of matters submitted to the Assembly, and generally the conditions, extent and nature of their participation;

(ii) A general question arises whether invitations to participate or to be heard should be considered and decided upon by the General Assembly (perhaps on the advice of the General Committee), or by the Committee concerned.

(c) Initial statements by parties.

(d) General discussion in committee.

33. The question may arise whether special provision should be made in the Committee for hearing the parties to a dispute, as an exception to the normal procedure under rule 99, whereby speakers are called upon in the order in which they signify their desire to speak.

(5) *Precautionary measures taken with a view to the avoidance or the cessation of hostilities*

34. It has become the recognized practice in dealing with disputes that, before dealing with the substance of a dispute, efforts should be made to bring about the cessation of hostilities if hostilities have already broken out. It is for this reason that this stage is indicated at this point before the later stages indicating procedures for dealing with the substance of disputes. (Consideration might usefully be given to corresponding practices in the Inter-American System such as article V of the appendix to the Gondra Treaty and article 7 of the Treaty of Rio de Janeiro.) In this connexion the scope of Article 11 (paragraph 2) of the Charter would come up for consideration.

35. The question would arise as to whether effective means would be available to the General Assembly at this stage for the avoidance or cessation of hostilities.

(6) *Preliminary measures for the elucidation of facts*

36. The elucidation of facts is fundamental and may require special machinery. It will be recalled that the establishment of the United Nations Special Committee on Palestine is the outstanding example of the establishment of special machinery by the General Assembly with a view to the formulation of recommendations based on local inquiry. Problems concerned with the procedure of commissions of investigation or inquiry would, however, fall for consideration in connexion with the general consideration of the working of commissions or committees. At this point, however, note might be taken of the practice introduced by the Assembly of the League of Nations in establishing small committees which not only acted as committees for the elucidation of facts but also exercised functions of conciliation.

(7) *Consideration by the General Assembly after receiving a report or an advisory opinion*

37. The practice in dealing with the reports of commissions and with advisory opinions of the International Court of Justice would fall for consideration at this stage.

(8) *Measures for settlement*

38. Measures adopted by the General Assembly in political matters require a general appraisal to ascertain which of them relate to controversies of limited direct interest and which are of general import: what types of measures have been or would be most likely to be effective in assisting in the settlement of such controversies; and what use has been or could be made by the General Assembly of the different standard procedures of settlement—inquiry, conciliation, mediation, good offices, arbitration and judicial settlement—and how these were used.

C. USE OF PACIFIC SETTLEMENT PROCEDURES BY THE SECURITY COUNCIL

39. Since the Security Council is the organ mainly responsible for pacific settlement in the United Nations, its work and methods are material to the study. Accordingly, its use of pacific settlement procedures will provide most important descriptive and basic material. However, as indicated above, the study of the Security Council would probably be approached and organized from the point of view of the light which it throws on the operations of the General Assembly.

40. This material will be provided through a revision of the Secretariat's paper on the use by organs of the United Nations of measures and procedures of pacific settlement (A/AC.18/61).

D. ORGANIZATION AND OPERATION OF UNITED NATIONS COMMISSIONS

41. The contribution of these commissions has been so varied and productive in the handling of difficult subjects that the Sub-Committee considers that the study of this topic will assist materially in the operations of the General Assembly.

42. Since commissions have been appointed by both the General Assembly and the Security Council, the study of their organization and operation is treated as a separate topic here. They have had differing political functions, and a considerable amount of experience has been gained by the United Nations concerning the processes of investigation, conciliation and the prevention of hostilities, and it would seem desirable that this body of experience of commissions should be recorded and synthesized.

43. With regard to investigation, such problems have arisen as: the distinction between observation and investigation; the nature of the organization to be established for the purpose of investigation; the standards of evidence which should be applied; the form in which evidence should be recorded; and the range of incidents open to investigation.

44. With reference to conciliation and good offices, such problems have arisen as: the proper location of headquarters; the manner of establishing contact with the parties; the use of parallel discussions with each of the parties or joint discussions with all of them; the extent to which terms of reference have required modification or adaptation in the light of unforeseen changes in the actual situation in the field; the responsibility of the organ of conciliation for the emergence of

a settlement, and more especially whether the organ should merely act as intermediary between the parties or should initiate proposals and make its own recommendations to the parties; the procedure to be followed if proposals initiated by the organ of conciliation are rejected by the parties.

45. With reference to the implementation and supervision of precautionary measures for the avoidance or cessation of hostilities, certain corresponding problems have arisen: whether observers are required and, if so, how many; where observers should be obtained and where stationed; whether they should be attached to both sides or operate independently with either side; the means of communication between observers and the truce supervision body; the procedure of observing and reporting; how to deal with obstruction of the work of observers or with breaches of the truce; the relation of observers to commissions of conciliation or good offices.

46. For the purposes of such a study it would be necessary to study the organization and work of the individual commissions and committees with a view to the presentation of a consolidated statement regarding their organization and operation, in so far as their experience admits a comparative study. On the basis of such a consolidated statement, which would be limited to an analysis of past experience, the Interim Committee might desire to consider the advisability of drawing conclusions or adding recommendations.

E. INTERNATIONAL COURT OF JUSTICE

47. In principle, disputes turning upon a question of law lend themselves to determination by the International Court of Justice. But political questions are often mixed with questions of law, so the issue may arise as to whether the political question is controlling so that the case should be handled by a political organ or whether the legal question is controlling so that it requires determination by the Court. The Brussels Pact contains some indication as to how to handle those questions of a mixed nature, since it provides for a determination of the judicial aspects of a case before it is dealt with as a political matter. Similarly, the Ecuadorean proposal now before the Interim Committee requires a careful examination of the proposition that the Court should in all cases determine the issue of domestic jurisdiction when either party raises it (A/AC.18/63 and A/AC.18/SC.3/3).

48. The effect of the request for and the receipt of an advisory opinion by United Nations political organs has recently been considered in the Assembly. In working on this topic the Interim Committee would correlate its work with that of the International Law Commission.

F. GENERAL APPRAISAL OF THE USE OF PACIFIC MEANS OF SETTLEMENT BY UNITED NATIONS ORGANS

49. After appraising the use of the various methods of settlement by the different organs, consideration would be given to the question whether new United Nations organs are needed and whether any new procedures of general applicability in pacific settlement should be developed.

This phase would include consideration of the Lebanese proposal (A/AC.18/15), together with the amendment of the Dominican Republic (A/AC.18/30), for a Permanent Conciliation Commission as a subsidiary organ of the General Assembly.

G. PACIFIC SETTLEMENT PROCEDURES PROVIDED BY BILATERAL, REGIONAL AND GENERAL MULTILATERAL TREATIES AND AGREEMENTS

50. This phase of the study will have as a basis the forthcoming survey, prepared by the Secretariat, of existing treaty provisions establishing the procedures and machinery for pacific settlement. In developing the subject emphasis will be placed on the actual use by the parties of these treaties. An approach can be made along four main lines:

(a) It would be possible to examine these treaties in order to make a comparative study of the provisions of the various treaties with regard to the different methods of pacific settlement. This work has already been undertaken in part by the Secretariat in a memorandum on the progress of commissions of conciliation under treaty provisions (A/AC.18/64).

(b) It would then be possible to proceed to a study of the main lines along which multilateral treaties for the pacific settlement of disputes have been constructed. Among the various points which have been raised in such a study are:

(i) The provisions for the transition from one method of pacific settlement to another;

(ii) The question whether the treaty provides for the compulsory settlement of the dispute by one of the various methods in the last resort;

(iii) The distinction between political and legal aspects of disputes—the lines along which this distinction is drawn and the means of settlement provided for the two types.

(c) The relation between provisions for the pacific settlement of disputes and other aspects of international organization, more especially with regard to the organization of security.

(d) The use made of the various provisions by the parties and the significant occasions on which they were not used by the parties.

51. The Sub-Committee notices that the contributions of the Inter-American System to this phase of the study are most varied. The American States have, over a period of years, established procedures of pacific settlement, drawing at many points on the device of the commission. The principle of consultation has always been an important procedure in the Organization of American States, and it is now embodied in the Organ of Consultation provided for by the Rio de Janeiro Treaty and the charter of the Organization of American States. The Sub-Committee's attention was called to the recent use of the Council of the Organization of American States as provided for by article 6 of the Rio de Janeiro Treaty. Again, the Sub-Committee noted that pacific settlement is only one of the fields covered by the Inter-American treaties; the Inter-American System offers concrete experience for considering the relation of pacific settlement to other types of provisions included in a regional system.

H. CONSIDERATION OF THE MOST EFFECTIVE MEANS OF DEVELOPING ARRANGEMENTS FOR PEACEFUL SETTLEMENT BY STATES FOR USE UNDER ARTICLE 33 OF THE CHARTER

52. In concluding this section of its study, the Sub-Committee will seek to determine, in the light of its findings under sections F and G above, what concrete methods might be devised to make more effective the "means of their own choice" which Members must use in pursuance of Article 33 of the Charter. The broad question will arise as to what types of provisions can most effectively be included in bilateral, regional and multilateral arrangements respectively or in a General Assembly resolution. Among the possible recommendations for improvement of the means of settlement for use under Article 33 which should be considered are those suggested by China and the United States of America concerning the drafting of model bilateral treaties, a multilateral treaty or an Assembly resolution (A/AC.18/24, A/AC.18/48, Annex D, and A/AC.18/SC.2/2).

PART III

Method of work and selection of topics

A. METHOD

53. In the preparation of studies and the formulation of recommendations, the Interim Committee will continue to rely upon preparatory studies furnished by the Secretariat. The work of the Interim Committee on any topic is not expected to result in the immediate future in a concrete proposal to be placed before the General Assembly. Its work may in many instances be contained in a study which would be expected to be of practical assistance to Members of the United Nations. The circulation of such studies would be a means of developing a wider appreciation of conditions for effective operation of United Nations organs. Thus, there will be a distinction between the contributory studies of the Secretariat and the studies of the Interim Committee itself. In selecting topics for consider-

ation, the Interim Committee will therefore wish to provide the Secretariat with advance notice as to the assistance needed in pursuing that particular topic.

54. There are specific proposals in the field of pacific settlement which, as part of its systematic consideration of this field, the Interim Committee will consider for final action. These proposals have been mentioned in this paper and they have been placed at points in the plan where it is felt their consideration logically fits. As the entire programme of work progresses, there are likely to be areas and topics upon which the Interim Committee may wish to develop additional concrete proposals as a result of its systematic study. It has expressed the view that further development of pacific settlement procedures may result from the study of existing methods.

B. SELECTION OF TOPICS

55. Within the priority programme of pacific settlement, it is the view of the Sub-Committee that the Interim Committee should begin work at once on section D of part II, "Organization and operation of United Nations commissions", and the Sub-Committee will seek in any case to pursue its studies as far as it can before September. The material relating to this section could, it is hoped, be brought together fairly quickly by the Secretariat, and those studies as well as the study of the Interim Committee would perform a useful purpose in the work of the General Assembly. Work would begin as soon as practicable on the rest of the project beginning with section B of part II, "Settlement of disputes and special political problems by the General Assembly". These topics have been selected with this end in view and mindful of the assistance which will be needed from the Secretariat. An important consideration in the selection of topics should be to engage in a field that will lead to a concrete result useful in handling immediate problems of the United Nations. The talent and facilities of the Interim Committee will, in the Sub-Committee's opinion, be most fully utilized when due weight is given to such a result.

ANNEX II³

Study of the organization and operation of United Nations commissions

SUMMARY		<i>Page</i>	<i>Page</i>
INTRODUCTION	13	(2) Advice or instructions from the principal organ.....	20
I. ORGANIZATION	14	(a) Requests	20
(1) Convening of the first meeting..	14	(b) Methods adopted.....	20
(i) Lapse of time before the first meeting.....	14	IV. METHOD OF OPERATION.....	21
(ii) Arrangements for convening the first meeting.....	14	A. <i>Investigation or inquiry</i>	21
(iii) Place of meeting.....	14	(1) Area surveys.....	21
(2) Name of the Commission.....	14	(2) Investigating teams or observation groups	22
(3) Membership and composition...	14	(3) Oral hearings	22
(a) Operational considerations: size and time.....	15	(a) Selection of witnesses...	22
(b) Criteria for selecting members of commissions.....	15	(b) Presentation of evidence.	22
(i) Geographic distribution	15	(4) Written communications.....	23
(ii) Membership in the Security Council.....	15	(a) Unsolicited communications by the parties.....	23
(iii) Appointment by the parties	15	(b) Unsolicited communications from non-official sources	23
(iv) Direct interest.....	15	(c) Solicited communications from the parties.....	23
(c) Status of representatives...	16	(d) Solicited communications from organizations and individuals	23
(d) Continuity of membership..	16	B. <i>Conciliation (mediation and good offices)</i>	23
(4) Appointment of representatives.	16	(1) Indonesian Committee of Good Offices	23
(5) Chairmanship	16	(a) Procedure of making suggestions	23
(6) Size of delegations.....	16	(b) Procedure of negotiations with the parties.....	23
(7) Secretariat	17	(c) Merging of negotiations for truce agreement and negotiations for political settlement	24
(8) Payment of expenses.....	17	(2) The Mediator in Palestine....	24
(9) Liaison with Governments and organizations concerned.....	17	(3) India-Pakistan Commission ..	24
(10) Division of functions within the commission	17	C. <i>Truce supervision</i>	25
II. INTERNAL PROCEDURE.....	17	(1) Cease-fire, truce, armistice...	25
(1) Rules of procedure.....	17	(2) Observance of the application of cease-fire provisions.....	25
(2) Documentation and distribution of records	18	(3) Truce arrangements in relation to organs of conciliation.....	25
(3) How decisions were taken.....	19	(4) The machinery of truce supervision	25
(4) Publicity of meetings.....	19	(5) Provision of observers.....	26
(5) Relation between formal and informal discussions.....	19	(6) Procedure for dealing with breaches of the truce.....	26
(6) Safeguarding of confidential character of information.....	19	(7) Demarcation	26
III. RELATIONS WITH THE PRINCIPAL ORGAN	19		
(1) Reports	19		
(a) Form and time of presentation	20		
(b) Place of drafting.....	20		
(c) Manner of presentation.....	20		

³ A/AC.18/SC.6/6.

Introduction

1. The General Assembly and the Security Council, as principal organs normally sitting at the Headquarters of the United Nations, often need auxiliary organs on the spot. These auxiliary organs, in the form of commissions, have played an indispensable part in the work of the United Nations. In dealing with its particular problems, each commission has developed its methods and procedures for itself. A considerable body of practical experience has thus been accumulated.

2. This study attempts to examine the machinery that has been built up in eleven cases in which the commission has been used in one form or another, and to gather together some of the resulting precedents. It is a composite statement based on the eleven memoranda prepared by the Secretariat concerning the work of individual commissions. It is not confined to data drawn from these papers, but also includes tentative conclusions.

3. The Secretariat has not prepared memoranda on the United Nations Conciliation Commission for Palestine, the United Nations Commission for Korea, or the United Nations Commission for Indonesia, because these three bodies have been only recently established. Accordingly, this paper does not attempt to evaluate the experience of these three Commissions.

4. An appraisal of the work of the commissions must, at this stage, be provisional. Many of their problems are still very live political issues for the United Nations, and some aspects of the experience of such commissions, in the nature of things, have not been, and cannot be, recorded. The present paper must, therefore, be considered a preliminary statement of United Nations experience with commissions. An effort has been made to classify under each heading some of the problems faced by commissions and at least to suggest possible inadequacies in the machinery as it has existed. The generalizations or conclusions derived from this necessarily limited study must be regarded as tentative. They have, however, originated from the comparative analysis of this group of commissions and may, therefore, be useful in the future, at least in suggesting areas in which problems arise that may require consideration.

5. The following are the eleven commissions which have been the subject of memoranda by the Secretariat. They are listed in the chronological order of their creation, with short titles used in this study:⁴

(i) The United Nations Commission of Investigation concerning Greek Frontier Incidents (*Greek Frontier Incidents Commission*), established by the Security Council resolution of 19 December 1946, functioned from 30 January to 15 September 1947;

(ii) The Subsidiary Group of the United Nations Commission of Investigation concerning Greek Frontier Incidents (*the Subsidiary Group*), established by Security Council resolution of 18 April 1947, functioned from 19 May to 15 September 1947;

(iii) The United Nations Special Committee on Palestine (*UNSCOP*), established by General

Assembly resolution 106 (S-1), functioned from 26 May to 31 August 1947;

(iv) The Security Council Consular Commission at Batavia (*Consular Commission at Batavia*), formed under Security Council resolution 25 August 1947, held its first meeting on 1 September; the Commission is still technically in existence;

(v) The Security Council Committee of Good Offices on the Indonesian Question (*Indonesian Committee of Good Offices*), established by Security Council resolution of 25 August 1947, functioned from 20 October 1947 to 28 January 1949. It was replaced by the United Nations Commission for Indonesia;

(vi) The United Nations Special Committee on the Balkans (*UNSCOB*), established by General Assembly resolution 109 (II) of 21 October 1947, convened for the first time on 21 November 1947. It is still in existence;

(vii) The United Nations Palestine Commission (*Palestine Commission*), established by General Assembly resolution 181 (II) of 29 November 1947, functioned from 9 January to 17 May 1948;

(viii) The United Nations Temporary Commission on Korea (*UNTCOK*), established by General Assembly resolution 112 (II) of 14 November 1947, functioned from 12 January to 13 December 1948. It was replaced by the United Nations Commission on Korea, by General Assembly resolution 195 (III) of 12 December 1948;

(ix) The Security Council Truce Commission for Palestine (*Palestine Truce Commission*) established under Security Council resolution of 23 April 1948;

(x) The United Nations Mediator in Palestine (*Mediator or Acting Mediator*), established by General Assembly resolution 186 (S-2) of 14 May 1948, entered upon his duties on 21 May 1948; after the assassination of the Mediator on 17 September 1948, he was succeeded by the Acting Mediator, whose office has not yet been terminated;

(xi) The United Nations Commission for India and Pakistan (*UNCIP*), established by Security Council resolutions of 20 January and 21 April 1948.

6. Of the eleven commissions under examination, six were established by the Security Council (Greek Frontier Incidents Commission, the Subsidiary Group, Consular Commission at Batavia, Indonesian Committee of Good Offices, Palestine Truce Commission and UNCIP) and five by the General Assembly (UNSCOP, UNSCOB, Palestine Commission, UNTCOK, and Mediator).

7. The functions of commissions fall into four classes: investigation; cease-fire and truce arrangements; conciliation, good offices and mediation; and political administration. In practice, most commissions have been required to perform more than one function, and their character has at times been determined as much by evolving circumstances as by the original terms of reference. This has affected their organization, internal procedure, and methods of operation.

⁴ See *United Nations Publications Series*, 1949, X.

I. Organization

(1) CONVENING OF THE FIRST MEETING

8. Three problems connected with the convening of the first meeting of commissions have been considered by the Interim Committee:

(i) The lapse of time between the date of the resolution establishing a commission and the first meeting of the commission;

(ii) The arrangements made for the convening of the first meeting; and

(iii) The place of the first meeting.

(i) *Lapse of time before the first meeting*

9. The lapse of time before the first meeting of a commission is often of great importance in the effective handling of a question. The experience of the commissions can be summarized as follows:

10. Four commissions—UNSCOP, Consular Commission at Batavia, Palestine Truce Commission, and Mediator—held their first meeting in less than a fortnight after the adoption of the basic resolution.

11. Six commissions—Greek Frontier Incidents Commission, the Subsidiary Group, Indonesian Committee of Good Offices, UNSCOB, Palestine Commission, and UNTCOK—held their first meetings from one to two months after the date of the basic resolution.

12. In view of the special circumstances of the Security Council's prolonged consideration of the India-Pakistan dispute, UNCIP was unable to meet for about five months after the date of the first resolution setting up that body.

13. Rapidity in holding the first meeting of consular commissions is explicable by their very character, since they have been appointed in connexion with cease-fire resolutions. UNSCOP's speed may be explained by the short period of time that was available for its work. The appointment of a single Mediator for Palestine also made for speed.

14. Apart from the consular commissions, only in one instance has the basic resolution included a time limit within which the first meeting was to be held. General Assembly resolution 109 (II) of 21 October 1947 required the first meeting of UNSCOB to be held within one month.

15. When commissions are established, the desirability, taking into account the circumstances of the question, of specifying in the resolution the date of the first meeting, should be considered. Consideration might also be given at the same time to the inclusion in each basic resolution establishing a commission of a date by which Governments are requested to appoint their representatives on the commission.

(ii) *Arrangements for convening the first meeting*

16. In six instances (UNSCOB, UNSCOP, Palestine Commission, UNTCOK, UNCIP, and Indonesian Committee of Good Offices), the Secretary-General convened the first meeting. In only one instance—Indonesian Committee of Good Offices—was he specifically requested to do so by the principal organ. The basic resolution on the

Indonesian Committee was passed by the Security Council on 25 August 1947, and the membership was completed by 18 September; since, however, no further progress had been made by 3 October, the Security Council, on the proposal of the representative of Australia, requested the Secretary-General to act as convener of the Committee and arrange for the organization of its work. Although the Secretary-General may act on his own authority in convening the first meeting, it is not possible for him to take this step until he has received the nominations of the persons appointed. It may be desirable, however, for the Secretary-General to convene representatives of Governments composing a commission to meet with him informally and consider the organization of the commission when there has been an appreciable delay in the appointment of members of the commission.

17. In one instance—Greek Frontier Incidents Commission—the first meeting was arranged informally by the principal organ (See memorandum on Greek Frontier Incidents Commission, paragraphs 5-6).⁵

(iii) *Place of meeting*

18. Three commissions—Greek Frontier Incidents Commission, Subsidiary Group, and UNTCOK—held their first meeting on the spot. The place at which the first meeting is held may in itself influence the subsequent course of events. It would seem that it is for this reason that the most usual practice has been to hold the first formal meeting at Headquarters or at a centre outside the area involved. Decisions on organization, which form the business of the first meeting, can often most easily be taken at Headquarters.

(2) NAME OF THE COMMISSION

19. In only three instances—UNSCOP, Mediator and UNTCOK—did the basic resolution include the name of the commission. The failure to designate a specific name in the terms of reference gave rise to some initial confusion in three instances—Subsidiary Group, Indonesian Committee of Good Offices and UNCIP. Difficulties have arisen and may arise in deciding on a name which fits exactly the task of the commission. Principal organs in the future may consider it desirable to indicate the name of new commissions in the terms of reference. The advantage of including the name of a commission in the terms of reference needs to be balanced against the danger of selecting a name which might affect the functions of the commission.

(3) MEMBERSHIP AND COMPOSITION

20. As regards membership and composition, the General Assembly and the Security Council have been faced with three problems: the operational considerations of size and time, the criteria to be used as a basis for selecting members of commissions, and the status of the representatives on commissions. The Security Council has had to deal with the further problem of continuity in the membership of commissions. In the following paragraphs, the grounds upon which the

⁵ See *United Nations Publications Series*, 1949, X, No. I.

actual composition of commissions has been determined are briefly stated:

(a) *Operational considerations: size and time*

21. Before the question of who shall serve on a particular commission can be answered, the principal organ must first decide how large the commission shall be and how quickly it needs to embark on its work.

22. The eleven commissions under consideration ranged in size from one to eleven members.

23. The size of a commission needs to be considered in relation to its functions. Where truce and conciliation duties are chiefly involved, commissions operate more effectively if they consist of a small number of members, for a small, compact group can usually negotiate more easily than a larger body. The Mediator (and Acting Mediator) in Palestine is an example where a single mediator was able to achieve considerable success both in stopping local conflicts by the truce and in assisting the interested parties to conclude armistice agreements. On the other hand, commissions whose main task is investigation may well be larger, since thereby they can more fully reflect the composition of the principal organ and the members can themselves take part in the work of investigating teams. Moreover, minority recommendations may make it possible more adequately to reflect the varying views, as was the experience of UNSCOP.

24. Where fighting has already broken out, the principal organ may need to take steps to have an auxiliary organ immediately available on the spot. Such a situation arose in Indonesia and Palestine; in both instances the Security Council constituted as commissions the career consuls of the Council members, already situated in the area.

(b) *Criteria for selecting members of commissions*

25. In setting up commissions, the principal organs have employed the following criteria: geographic distribution, membership in the Security Council, appointment by the parties, and direct interest. These criteria are not necessarily mutually exclusive.

(i) *Geographic distribution*

26. The principle of geographic distribution was advanced and adopted in connexion with proposals for the composition of UNSCOP, UNSCOB and the Palestine Commission.

(ii) *Membership in the Security Council*

27. Membership in the Security Council has been taken as the basis for the composition of commissions in various ways. Two commissions—Greek Frontier Incidents Commission and the Subsidiary Group—had the same membership as the Security Council.

28. This procedure has been supported on several grounds: it is automatic and, therefore, obviates prolonged discussion; has the merit of equitable political and geographic distribution; contributes authority and prestige to the commissions; and, in the case of commissions created by the Security Council, ensures that all members are equally informed and helps to reconcile

differing opinions before the question is again discussed by the Council. On the other hand, this procedure has certain limitations: in the case of investigation, where impartiality is of paramount consideration, members of the Security Council may also have special interests in the question; moreover, the practice, if rigidly followed, would narrow the range of eligibility to a few States.

29. Three commissions—the two consular commissions and the Indonesian Committee of Good Offices—consisted of particular members of the Security Council. In the case of the consular commissions, the choice was determined by the presence in the area of career consuls of members of the Security Council. The other commission was composed of three members of the Security Council.

30. In two instances—UNSCOP and the Palestine Commission—the permanent members were specifically excluded. In the case of UNSCOP, this decision was taken on the ground that the special interests of some of the permanent members might impair the impartiality of the projected investigation.

31. In the case of UNSCOB, the permanent members were specifically included, on the ground that they bear a special responsibility with regard to the maintenance of international peace and security. Since UNSCOB was to be entrusted with functions for securing a pacific settlement of the issue, it was held that the presence of the permanent members was desirable.

(iii) *Appointment by the parties*

32. In two instances of good offices and mediation, the parties concerned were each requested to select one member of the commission: in the case of the Indonesian Committee of Good Offices, the two members thus chosen selected the third; and in the case of UNCIP, the Security Council nominated two additional members and, owing to the inability of the parties to agree, the President of the Security Council nominated the fifth (See memoranda on Indonesian Committee of Good Offices, paragraph 10, and UNCIP, paragraphs 8-9).⁶ This method of composition assures each party a sympathetic consideration of its views within the commission. Moreover, once the commission has reached agreement, the individual members chosen by each party are in a good position to urge acceptance.

(iv) *Direct interest*

33. Direct interest has been taken as grounds for the inclusion or exclusion of the Member States so concerned.

34. The Syrian Consul was not a member of the Palestine Truce Commission, though Syria was a member of the Security Council. The absence of special interest has been held of special importance in investigation. This point was discussed at length prior to the formation of UNSCOP. The United Kingdom and the Arab States were not included in the membership of UNSCOP.

35. On the other hand, of UNTCOK's nine members, six had interests in the Pacific area.

⁶ See *United Nations Publications Series*, 1949, X, Nos. V and XI.

The special interest of the permanent members of the Security Council was also a consideration in their inclusion in UNSCOB.

Council was rather a device for providing a panel of nations eligible for membership on the Committee.

(c) *Status of representatives*

36. The question whether individuals serving on commissions should represent the United Nations as a whole rather than particular Member States has arisen in two contexts. On the one hand, it has been contended that the Security Council or the General Assembly should establish auxiliary organs composed of individuals selected on the basis of competence, prestige and objectivity. On the other hand, discussion has centred on the question of the status of individuals chosen by the Member States elected to particular commissions.

37. In only two instances have the principal organs provided for the appointment of individuals on the basis of personal qualifications. The General Assembly resolution 186 (S-2) of 14 May 1948 stipulated that a committee of the permanent members should name the Mediator in Palestine. A Security Council resolution of 21 April 1948 (S/726) empowered the Secretary-General to select a Plebiscite Administrator for Jammu and Kashmir; the Plebiscite Administrator has been selected.

38. With the exception of the Mediator, commissions have been composed of representatives of Member States. During the discussion on UNSCOP conflicting opinions were expressed as to the desirability of such representatives acting under instructions from their Governments. On the one hand, it was pointed out that if representatives were not in any way bound by the attitude of their Governments, this would detract from the commission's authority. But on the other hand, it was suggested that such representatives should perform their duties with complete impartiality and freedom of action.

39. Forty-six of the seventy initial representatives on commissions were career diplomats or consuls; of these, nine were attached to the two consular commissions. Six were military officers and six others jurists. Four were prominent individuals outside the ranks of government, three were members of the legislatures of their respective Governments and two were professors of history. Of the remainder, one was a journalist, a second was listed as a political organizer and a third as a high government official.

40. The principal organs may wish in this connexion to consider the desirability in the future of having recourse to the Panel for Inquiry and Conciliation which is in the process of establishment under General Assembly resolution 268 (III) D of 28 April 1949.

(d) *Continuity of membership*

41. This question has arisen especially in connexion with commissions which consist only of members of the Security Council and include one or more non-permanent members. Belgium and Australia, after the expiration of their respective terms on the Security Council, continued to serve as members of the Indonesian Committee of Good Offices, on the ground that the original limitation of choice to members of the Security

(4) APPOINTMENT OF REPRESENTATIVES

42. It is desirable to emphasize the duties and responsibilities of the Member States appointed to serve on commissions in the field. Inability on the part of the Members to appoint promptly and to maintain continuously their representatives on a commission has at times impeded a commission in the discharge of its functions.

(5) CHAIRMANSHIP

43. The experience of the commissions in selecting their chairmen has been as follows:

44. Six of the eleven commissions adopted from the start the principle of rotating chairmanship. In these six commissions, the chairmanship was held in turn by each member, but the method of rotation varied. The English alphabetical order of names of Member States was followed in the case of the Greek Frontier Incidents Commission, the Subsidiary Group, the Indonesian Committee of Good Offices and UNCIP; length of service in Indonesia decided the order of rotation in the consular commission at Batavia; in UNSCOB, the order of rotation was determined by lot.

45. UNSCOB also tried at one stage the election of the chairman on the basis of personal capacity for a period of six months, but subsequently reverted to rotation on the basis of English alphabetical order. UNTCOK started out with a permanent chairman, and then changed to rotation on the basis of English alphabetical order. The Palestine Truce Commission also changed from permanent chairmanship to rotation.

46. Of the eight commissions which employed the principle of rotation, the chairmanship was changed weekly in four cases; semi-monthly in a fifth case; every three weeks in the sixth case; the tenure of UNSCOB's Chairman was at first for two weeks and then for a month; finally, the Palestine Truce Commission's chairmanship was rotated at irregular intervals.

47. UNSCOP and the Palestine Commission each selected a permanent chairman for the duration of the commission's existence.

48. In view of the difficulties encountered at times in the matter of chairmanship, it may be prudent, in some instances, for the principal organ to consider the question of the chairmanship of the commissions to be established.

(6) SIZE OF DELEGATIONS

49. The size of delegations has varied considerably within each commission. In general, variation in the size of delegations raises problems of adjusting the pace and scope of the work. In the case of small commissions, the size of delegations determines the number of sub-committees which it is practicable to establish. On the whole, the larger the delegations the easier it is for commissions to operate swiftly by dividing up the work.

(7) SECRETARIAT

50. The Secretary-General of the United Nations provided the secretariat for all commissions except the consular commission at Batavia. In descending order, the size of the secretariat of each commission was as follows: the Mediator in Palestine—varied between 50 and 80 (35 strictly secretariat, including one consultant, and 45 radio operators) plus 51 United Nations Guards for a brief period; UNSCOP—varied between 50 and 60; Palestine Commission—46 plus two consultants; UNSCOB—varied between 30 and 35; Greek Frontier Incidents Commission and UNTCOK—27 each; UNCIP—16 to 17; Subsidiary Group—13; Indonesian Committee of Good Offices—at first 5, later 13.

51. The Secretariat serves as the connecting link between Headquarters and the commission. The effective operation of a commission, more especially in its early stages, may be greatly facilitated by timely and well-directed preparatory work undertaken by the Secretariat. It provides background and working papers for the commission members. It furnishes liaison between the interested parties and the commission, and the channel for Press releases on the commission's activities and progress. As the Secretariat by its permanency becomes a repository of experience in the working of commissions, its advisory function may well prove of increasing scope and importance.

(8) PAYMENT OF EXPENSES

52. This question is now regulated by General Assembly resolution 231 (III) which provides that travel expenses and subsistence allowances shall be payable out of United Nations funds "to one representative of any Member participating in a commission of inquiry or conciliation instituted by the General Assembly or by the Security Council, subject to the proviso that an exception to this rule may be permitted on the decision of the organ concerned that an alternate for each member is necessary". Where these payments were not originally provided they were made with retroactive effect. The daily subsistence allowed has been \$20.00. The Mediator in Palestine and the Acting Mediator, as well as the members of the Palestine Commission, received a daily subsistence allowance of \$60.00. The members of the two consular commissions received no United Nations travel or subsistence allowance.

(9) LIAISON WITH GOVERNMENTS AND ORGANIZATIONS CONCERNED

53. All commissions, for the proper execution of their duties, must establish some form of continuous contact with the interested parties. Whether or not contact with the parties is actually established and, if established, is of a continuous nature, depends largely on the special circumstances of the situation. The experience of the commissions may be summarized as follows:

54. The Consular Commission at Batavia dealt directly with the representatives of the Governments of the Netherlands and the Republic of Indonesia, resorting to the same channels that the individual members had used in performing their consular duties.

55. The remaining commissions, with the exception of the Mediator in Palestine, invited the parties to appoint permanent liaison officers or delegations accredited to them. These invitations were accepted by all the parties concerned only in the case of the Greek Frontier Incidents Commission and the Indonesian Committee of Good Offices. But one or more interested parties refused or delayed the appointment of liaison officers to the Subsidiary Group, UNSCOP, UNSCOB, the Palestine Commission, UNTCOK and UNCIP, although the problem of liaison with the parties differed in degree in each instance.

56. The Mediator (and the Acting Mediator) in Palestine sent personal representatives to Tel Aviv and the capitals of the States bordering on Palestine to maintain continuous contact with the Governments concerned. He sent a similar representative to Jerusalem to maintain contact with the Truce Commission and the local military authorities.

57. In view of the difficulties which commissions have frequently encountered in attempting to establish regular liaison with the parties, it may be considered whether the means of liaison employed by the Mediator in Palestine might not be useful in other special cases of a similar nature.

(10) DIVISION OF FUNCTIONS WITHIN THE COMMISSION

58. Whenever the size of a commission has permitted, sub-committees or working groups or operational teams have been set up to consider and report on particular matters. Usually, one or more representatives or their alternates have been assigned to each sub-committee, although in some instances (as in the case of the advance party sent to Palestine by the Palestine Commission or the truce observer teams of the Mediator in Palestine or the observation groups of UNSCOB) the sub-committees have consisted wholly of secretariat, or personnel provided by the States represented on the commission.

59. Where commissions were too small—as in the case of the Palestine Commission—for the creation of working groups, each representative was assigned specific functions.

II. Internal procedure

(1) RULES OF PROCEDURE

60. In all instances, the commissions have been authorized to establish their own rules of procedure. Whether or not the commissions adopted formal rules, they have tended, in so far as the local situation has permitted, to follow the procedural practices of the General Assembly or the Security Council according as the one or the other was the principal organ. Consequently, there have been two main forms of rules of procedure for Commissions.

61. Five commissions—UNSCOP, UNSCOB, Palestine Commission, UNTCOK, and UNCIP—adopted formal rules from the beginning.

62. Three commissions—Greek Frontier Incidents Commission, the Subsidiary Group and the Palestine Truce Commission—did not adopt any

written rules. The practices of the Greek Frontier Incidents Commission and the Subsidiary Group were the result of informal agreement based to a large extent on the rules of procedure of the Security Council. The absence of formal rules in these instances does not appear to have caused any serious difficulties (See memoranda on Greek Frontier Incidents Commission, paragraphs 24-47, and the Subsidiary Group, paragraphs 20-21).⁷

63. The experience of the Indonesian Committee of Good Offices is of special interest. At the outset, the Committee decided that no formal rules of procedure were necessary. After some weeks, however, it was found desirable to adopt a "provisional guide for the conduct of business". Full rules of procedure were later adopted for meetings of the committee with both parties (see Annex I to the memorandum on the Indonesian Committee of Good Offices).⁸

64. Commissions must adapt their procedures to the peculiarities of the situation with which they are dealing. The experience of the Indonesian Committee of Good Offices, however, suggests that it is desirable that a commission should possess at least certain main rules of procedure covering agenda, records, handling of communications and documents.

65. It may be recalled that the report of the Interim Committee (A/605)⁹ drew attention to the joint proposal of China and the United States of America (A/AC.18/SC.2/2) for the preparation of a compendium of rules from which each commission might select for itself the rules appropriate to its activities. Possible topics which might be covered in this compendium were listed in the joint proposal. This proposal will be the subject of further study by the Interim Committee. As a preliminary contribution, the Interim Committee has requested the Secretariat to draw up a comparative tabulation of rules of procedure adopted by United Nations commissions.¹⁰

66. Such a compendium might include rules regarding agenda, chairmanship, Press releases, appointment of liaison officers, documentary and testimonial evidence, keeping of records and handling of communications.

67. Among the special problems of procedure in commissions the following may be noted:

(i) Circulation in writing of the translations of statements by the representatives of States concerned and of non-governmental organizations (see memorandum on the Greek Frontier Incidents Commission, paragraph 25);¹¹

(ii) Treatment of communications. UNSCOB has made provision for the direct reference of communications to sub-committees by the chairman (see UNSCOB rules of procedure, rule 5A);

(iii) Rules regarding documentary and testimonial evidence (Rules of procedure for UNSCOB, rules 38-43; for UNSCOP, rules

32-37; for UNTCOK, rules 50-55; for UNCIP, rules 50-54);

(iv) Rules relating to liaison officers (Rules of procedure for UNSCOB, rule 37; for UNSCOP, rule 31).

(2) DOCUMENTATION AND DISTRIBUTION OF RECORDS

68. One of the duties of the Secretariat is the preparation, maintenance and distribution of records and documents. While the decision on the form which the records and documents are to take rests with the commissions, the latter have generally relied upon the Secretariat for assistance.

69. The Secretariat has prepared background and working papers both at Headquarters and in the field. Thus, in view of the overwhelming quantity of the existing written material on the Palestine problem, UNSCOP's task was greatly facilitated by the advance preparation of three volumes containing a detailed bibliography, the principal official documents relating to proposed solutions, and a general background survey. To these were added, in Jerusalem, a tabulated survey, prepared by the Secretariat, of material contained in the written and oral statements submitted to UNSCOP, and an index to the records of the first special session of the General Assembly. This preparatory work by the Secretariat helps the commissions to operate expeditiously.

70. The Secretariat is responsible for the reproduction and distribution to the commission members of the more important communications. In this connexion, it may be noted that UNSCOP's practice of insisting upon a certain number of copies of all written statements submitted to the Commission by governmental and non-governmental bodies might prove helpful in the work of other commissions.

71. Seven commissions kept summary records of all formal meetings. The Indonesian Committee of Good Offices, however, at first kept no records of its private meetings other than decisions taken. But gradually this Committee, too, found it expedient to prepare summary records of all formal private meetings. Full summary records of formal meetings with the parties, including at times the texts of important statements, were maintained from the beginning. The Greek Frontier Incidents Commission and the Subsidiary Group, as well as UNSCOP, kept verbatim records of their public meetings and hearings. Both the summary and verbatim records were automatically distributed to all who participated in the meetings. The experience of the Greek Frontier Incidents Commission, in examining witnesses in the field, suggests the value of keeping verbatim records of the testimony.

72. In general, the operating efficiency of commissions in the field has depended considerably on the services of documentation and distribution performed by the Secretariat.

73. One problem of general interest is the distribution of records of private meetings. In the case of private meetings attended by one or both parties, the practice appears to have been to distribute the records only to those who have participated in the meeting. However, serious

⁷ See *United Nations Publications Series*, 1949, X, Nos. I and II.

⁸ *Ibid.*, No. V.

⁹ See *Official Records of the third session of the General Assembly*, Supplement No. 10.

¹⁰ See *United Nations Publications Series*, 1949, X, No. XII.

¹¹ *Ibid.*, No. I.

misunderstandings arose in the case of the Indonesian Committee of Good Offices when one party was not promptly informed concerning the Committee's meetings with the other party, and the Committee later committed itself to transmit to both parties automatically the record of any meeting with either (Memorandum on the Indonesian Committee of Good Offices, paragraph 51).¹²

(3) HOW DECISIONS WERE TAKEN

74. Three procedures were employed by the commissions for arriving at formal decisions:

(i) The Indonesian Committee of Good Offices employed the principle of unanimity on all questions. In reconstituting the Committee as the United Nations Commission for Indonesia, the Security Council provided for decision by majority vote;

(ii) The Greek Frontier Incidents Commission and the Subsidiary Group tried to reach decisions by general agreement without calling for a formal vote. Only when the controversial nature of the points under discussion made it impossible to secure general concurrence did the Chairman resort to simple majority vote;

(iii) Five commissions — UNSCOP, UNSCOB, Palestine Commission, UNTCOK and UNCIP—were authorized, under their terms of reference or rules of procedure, to take decisions by simple majority vote. UNTCOK made an initial effort, on almost all questions, to reach unanimous decisions, the majority often going to great lengths to comply with minority wishes. Only in the case of UNCIP, among the commissions studied,¹³ did the basic resolution expressly empower the commission to take decisions by a majority vote, although in practice decisions were taken unanimously.

75. The inclusion in resolutions establishing commissions of a provision regarding the voting procedure to be followed by the commission appears a desirable practice.

(4) PUBLICITY OF MEETINGS

76. With the exception of the two consular commissions, the Indonesian Committee of Good Offices and the Palestine Commission, all commissions endorsed the principle of public meetings. In practice, however, only the Greek Frontier Incidents Commission and the Subsidiary Group opened a majority of their meetings to the public. But these commissions also adopted the practice of discussing procedural matters and drafting reports only in private meetings. By and large the remaining commissions, owing chiefly to such reasons as the delicacy of the situation and the desire not to hamper negotiations, conferred behind closed doors.

77. In most cases, Press communiqués were issued after private meetings. Such Press communiqués, under the rules of procedure, required the prior approval of the chairman in the case of the Greek Frontier Incidents Commission, the Subsidiary Group, the Indonesian Committee of

Good Offices, UNSCOB and UNCIP. On the other hand, because of the delicacy of the situation in Palestine, the press officer attached to UNSCOP followed the practice of obtaining the Commission's approval of his communiqué at the end of each meeting. The practice, adopted by a substantial number of commissions, of having Press communiqués cleared with the chairman only might be recommended as a general practice.

(5) RELATION BETWEEN FORMAL AND INFORMAL DISCUSSIONS

78. The experience of UNCIP, UNTCOK, UNSCOP, and the Indonesian Committee of Good Offices is indicative of certain problems which arise in connexion with informal discussion. Informal discussions have proved useful and important for the preliminary clarification of issues, especially with a view to ascertaining more intimately the attitudes of the parties and the general lines along which an understanding may fruitfully be sought. When employed too frequently, however, these discussions have in several instances proved liable to give rise to misunderstanding, and this danger is accentuated if no records are kept (see paragraph 71 above). While prospective decisions have been considered in these discussions, formal decisions are, of course, taken at meetings. The Indonesian Committee endeavoured to meet the problem of reconciling the free exchange of views with the need for precision in stating only the outcome of the discussions in some instances. This was accomplished by the creation of sub-committees in which positions were recorded only in their reports.

(6) SAFEGUARDING OF CONFIDENTIAL CHARACTER OF INFORMATION

79. The degree to which a commission succeeds in fulfilling its assigned tasks depends, in part, on ensuring that certain information should not be disclosed prematurely. Every commission is thus confronted with the problem of how to prevent its confidential information from reaching unauthorized hands. This raises the question of such physical arrangements as the provision of safes, employment of guards, and the use of codes and mail pouch. The efficacy of these physical arrangements may vitally affect the political success of a commission. In this connexion the Interim Committee has noted the work being done by the Special Committee on a United Nations Guard.

III. Relations with the principal organ

(1) REPORTS

80. Reports have raised problems: (a) as to their form and time of presentation; (b) as to the place at which it is desirable to draft the report; (c) as to the manner of their presentation.

81. As auxiliary bodies, commissions must not only establish contact with the parties but also maintain contact with the principal organ through oral or written reports. The nature and frequency of these reports depends both on the functions of the individual commission and on the circumstances of the particular dispute. Resolutions of the General Assembly and of the Security Council have not employed any uniform terminology

¹² See *United Nations Publications Series*, 1949, X, No. V.

¹³ The Commission for Indonesia, which has not been studied, was also expressly empowered to take decisions by majority vote.

nor indicated any standard procedure for reports. Four terms have tended to be employed: progress, special, interim or general, and final reports.

(a) *Form and time of presentation*

82. Commissions performing truce, conciliation, or administrative functions have been required to submit progress reports. In these instances, the progress reports have served a reciprocal purpose: they have enabled commissions to request interpretation of their terms of reference, or new or broader powers to deal with changed situations; and they have enabled the principal organ to understand the difficulties facing the commission and to take steps to remove these difficulties.

83. In requesting such reports, the Security Council has employed varying terminology such as keeping the principal organ "informed", "directly informed", or "currently informed", commissions being thus left with the necessary discretion, within the limits of their terms of reference, to decide at what points progress reports should be submitted.

84. Special reports have brought to the attention of the principal organ matters of urgency, requiring immediate attention. Thus, the Palestine Commission prepared two special reports on the rapidly deteriorating security situation in Palestine and the serious food shortages in that country in order to place both matters before the Security Council. The principal organ has, at times, requested commissions—Consular Commission at Batavia, Palestine Truce Commission, and Mediator—to submit special reports.

85. The Security Council has requested interim reports from the Indonesian Committee of Good Offices, the Palestine Truce Commission and UNCIP. The General Assembly requested interim or general reports from UNSCOB, the Palestine Commission and UNTCOK. These reports are necessarily submitted to a special session, or to the following regular session. Certain commissions—Indonesian Committee of Good Offices and the Palestine Truce Commission—have submitted general or interim reports on their own initiative.

86. Interim reports are intended to acquaint the principal organ with the activities and the problems of the commissions and the degree of their success. These reports have on occasion included recommendations.

87. Final reports have been prepared by only two Commissions—the Greek Frontier Incidents Commission and UNSCOP. In both instances the functions of the commission were mainly investigatory. Speed in the presentation of their findings and conclusions was the main consideration.

(b) *Piace of drafting*

88. Reports have been drafted either at a centre within or at a centre outside the area directly concerned, according to the particular circumstances of each case. The Greek Frontier Incidents Commission and UNSCOP drew up their final reports in Geneva. UNCIP drafted its first interim report in Geneva, and its second interim report at Lake Success. UNTCOK completed the first part of its report in Shanghai, and the second part at Lake Success.

(c) *Manner of presentation*

89. Two main practices have been followed in the formal presentation of reports to the principal organs. In certain instances—Greek Frontier Incidents Commission, Indonesian Committee of Good Offices and UNCIP—the commission proceeded to the seat of the principal organ. The Greek Frontier Incidents Commission and the Mediator came to Headquarters at the express request of the Security Council.

90. In other instances—UNSCOP, UNTCOK and the Palestine Commission—the report has been presented by the chairman or a rapporteur. The presence of the chairman or a rapporteur is advantageous in presenting especially important reports. He is available for questions from the principal organ; his presence provides personal contact with the commission; and he can engage in private conversations.

(2) *ADVICE OR INSTRUCTIONS FROM THE PRINCIPAL ORGAN*

(a) *Requests*

91. Questions on which commissions have requested and received special instruction may be briefly indicated:

(i) Greek Frontier Incidents Commission—the competence of the Commission to request the Greek Government to stay the execution of death sentences; the non-participation of the liaison representatives of Albania, Bulgaria and Yugoslavia in the establishment of the Subsidiary Group; and the coming of the Commission to Headquarters to present the report;

(ii) UNSCOB—the General Assembly resolution 193 (III) confirmed the interpretation given by UNSCOB to its terms of reference contained in resolution 109 (II) regarding the utilization of observation groups;

(iii) Indonesian Committee of Good Offices—the Security Council, by resolution of 1 November 1947, directed the Committee to assist the parties in reaching agreement on an arrangement which would ensure the observance of the original cease-fire resolution of 1 August 1947;

(iv) Consular Commission at Batavia—by resolutions of 1 November 1947 and 28 January 1949 the Security Council defined the relations of the Consular Commission and the Committee of Good Offices (and its successor);

(v) Mediator—the Security Council added, by resolutions of 29 May and 15 July 1948, the duty of truce supervision to the functions given to the Mediator by the General Assembly. At the suggestion of the Mediator (and the Acting Mediator), the Security Council issued from time to time specific instructions on truce supervision;

(vi) UNTCOK requested and received advice from the Interim Committee on the observation of elections in South Korea alone.

(b) *Methods adopted*

92. With regard to commissions created by the General Assembly, the problem has arisen as to how they may receive advice or instructions or how their terms of reference may be modified in the interval between regular sessions of the Assembly. This problem has been met in two different ways:

(i) The Palestine Commission, by resolution 181 (II), and the Mediator, by resolution 186 (S-2), were authorized to receive instructions from the Security Council;

(ii) UNTCOK, by resolution 112 (II), and UNSCOB, by resolution 193 (III), were authorized to consult with the Interim Committee.

IV. Method of operation

A. INVESTIGATION OR INQUIRY

93. All commissions are faced, at one time or another, with the need to ascertain or clarify the facts. However, this task is most varied, both in subject matter and in method.

94. The terms of reference of UNSCOP directed it, for the purpose of preparing a report on the question of Palestine to the next session of the General Assembly, to "conduct investigations in Palestine and wherever it may deem useful, receive and examine written or oral testimony, whichever it may consider appropriate in each case, from the Mandatory Power, from representatives of the population of Palestine, from Governments and from such organizations and individuals as it may deem necessary". The Commission was given "the widest powers" to ascertain facts and record them, and to investigate "all questions and issues relevant to the problem of Palestine". Pursuant to these terms, UNSCOP adopted a two-fold method of operation. It attempted in the first place to arrive at an understanding of the issues involved in the problem by conducting a preliminary survey of the land, its peoples and their aspirations, and of the social, economic and religious systems. Secondly, it considered factual evidence and views presented by the parties and by private persons on the problem (Memorandum on UNSCOP, paragraphs 52-53).¹⁴

95. The Greek Frontier Incidents Commission had the task of ascertaining "the facts relating to the alleged border violations along the frontier between Greece on the one hand and Albania, Bulgaria and Yugoslavia on the other". The Commission received "authority to conduct its investigation in Northern Greece and in such places in other parts of Greece, in Albania, Bulgaria and Yugoslavia as the Commission considered should be included in its investigation in order to elucidate the causes and nature of the above-mentioned border violations and disturbances".

96. The task of UNSCOB, under General Assembly resolution 109 (II), was "to observe the compliance" of these same countries with the recommendations of the General Assembly concerning the establishment of normal, diplomatic and good-neighbourly relations, the establishment of frontier conventions and the settlement of refugee and minorities problems. UNSCOB considered that its observation work should consist in continuous observation of the general circumstances in the frontier areas, and for this purpose established observation groups. The activities of these groups raised the question whether they were to observe the presence or absence of good-neighbourly relations along the Greek borders or

were to investigate, as the Greek Frontier Incidents Commission had done, whether or not the Greek guerrillas were receiving aid and assistance. After debate, UNSCOB settled the question by deciding:

"... that in interpreting its functions under paragraph 6 (1) of the General Assembly's resolution, it must be governed by the whole of the resolution which, in its entirety, represents the effort of the Assembly to avert the threat to the 'political independence and territorial integrity of Greece'; and that in the exercise of its functions it may make use of every means which it may judge appropriate and useful, whether direct observation, inquiry, or investigation either directly or through sub-committees or observers".

97. The decision taken by the Special Committee on this matter was upheld by the General Assembly in resolution 193 (III) of 27 November 1948.

98. In connexion with the decision of UNSCOB, the Rapporteur of the *ad hoc* Committee which had drafted the above text stated that the difference between observation and investigation was one of degree rather than kind. An exhaustive observation might, he said, seem to be investigation, and a less intensified investigation might be considered as observation.

99. The terms of reference of UNTCOK required it "to be present in Korea, with right to travel, observe and consult throughout Korea", with a view to assisting in the process whereby the Korean people would achieve independence and establish their national governmental institutions. Such commissions as the Indonesian Committee of Good Offices and the truce commissions found it necessary to observe and ascertain the facts relating to compliance with the truce conditions by the parties.¹⁵

(1) AREA SURVEYS

100. The commissions have found it necessary, as part of their task of investigation, to ascertain facts in various localities, or, in some instances, to make comprehensive on-the-spot surveys of particular areas for particular purposes. The commissions have, in general, been authorized to use their own discretion in making such area surveys. It is, therefore, for each commission to decide for itself what aspects of the problem under investigation require fact-finding on the spot.

101. The authorization by a principal organ to a commission to perform its functions within a specified territory naturally implies a request that the States concerned give access to the commission and facilitate its work. Certain resolutions have contained provisions to this effect.

102. In paragraph 8 of resolution 106 (S-1), the General Assembly at its first special session requested "the Secretary-General to enter into suitable arrangements with the proper authorities of any State in whose territory the Special Committee may wish to sit or to travel, to provide necessary facilities . . ." Resolution 109 (II), paragraph 10, contained a similar provision.

¹⁴ See *United Nations Publications Series*, 1949, X, No. III.

¹⁵ Observation or investigation in connexion with cease-fire resolutions or truce agreements is dealt with under section 2 below.

103. However, the most serious problem in connexion with area surveys has been the refusal in some instances—the Greek Frontier Incidents Commission, the Subsidiary Group, UNSCOB and UNTCOK—to allow the commission access to certain districts. Since most commissions, whether or not their primary function is investigation, find it necessary to use the investigatory technique to some extent, it may be desirable in certain instances to consider whether the basic resolution establishing a commission should contain a provision requesting the Governments concerned to give access to their territory to the commission and to such other persons, including representatives of the parties concerned, as the commission may think desirable.

(2) INVESTIGATING TEAMS OR OBSERVATION GROUPS

104. Investigation and observation of the facts relating to alleged frontier violations were conducted not only directly by the Greek Frontier Incidents Commission but also through the agency of its special investigating teams. These teams, seven in number, enabled the Commission to cover a wide area in its investigation and to hear the maximum number of witnesses. UNSCOB has established observation groups with a well-defined scheme of organization and detailed rules for their operations. The observer groups are under the general charge of a chief observer. The observers are provided by the States represented on UNSCOB, but are to exercise in all loyalty, discretion and conscience the functions entrusted to them, and discharge those functions and regulate their conduct with the interests of the United Nations in view, and accept instructions in regard to the performance of their duties only from UNSCOB. There are six observation groups, each being assigned a different zone of activity. The observation groups communicate with UNSCOB mainly through UNSCOB's own radio network; an air courier service has also been organized between Athens and Salonika and the bases of the observation groups. The groups make periodical and, when necessary, special reports to UNSCOB.

105. Special problems have thus arisen in connexion with the provision of observers for such groups—by whom they shall be provided; to whom responsible; whether or not they shall receive a *per diem* allowance. The Special Committee which is considering the Secretary-General's proposal regarding a United Nations Field Service and Field Service Panel is also concerned with these questions.

(3) ORAL HEARINGS

106. Two main problems arise in connexion with testimony: one concerns the selection of witnesses; the other concerns the presentation of evidence.

(a) Selection of witnesses

107. Except in instances of non-co-operation on the part of one or more of the parties, the selection of official witnesses presents no special difficulty, since this matter is generally handled through the liaison officers.

108. On the other hand, many of the non-official organizations and individuals who may

request a hearing are not likely to be able to contribute new and relevant facts and material. In these circumstances, the commission is called upon to decide at the very beginning of its work on the methods to adopt for dealing with these requests.

109. All commissions having an investigatory function have found it necessary to hear non-official evidence. It has been necessary to establish criteria of selection. The criteria established by the Greek Frontier Incidents Commission, the Subsidiary Group and UNSCOP, have included the importance, standing, or representative character of the organization for which the witness speaks, and the relevancy of the intended testimony.

110. The actual screening process has, in most instances, been entrusted to a sub-committee. Thus, the Greek Frontier Incidents Commission decided that, except in the case of what it considered definitely important organizations which would, in any case, be heard by the Commission, organizations requesting a hearing should submit short summaries of their intended statements for study by a sub-committee.

111. UNSCOP incorporated in its rules of procedure certain general principles concerning oral and written testimony, as follows:

“The Committee may, at its discretion, invite representatives of Governments or organizations, or private individuals, to submit oral or written testimony on any relevant matter.

“Requests for oral hearing shall contain an indication of the subject or subjects on which the witness desires to testify.

“The Committee may refer to a sub-committee for examination and recommendation such requests to present oral testimony as it deems advisable.

“The Committee shall in each case decide the time and place of the hearing of any witness from whom it may decide to receive oral testimony. The Committee may advise any witness to submit his testimony in writing.

“The Committee, on the basis of the time available to it, may limit either the number of witnesses or the time to be allowed to any witness.

“The Committee may refer to a sub-committee for study and report such written testimony as it may deem advisable.”

This practice was later followed by UNSCOB, UNTCOK and UNCIP.

(b) Presentation of evidence

112. The more valuable part of an oral hearing is usually not the general statement of the witness, which can be and often is submitted in advance to the commission in written form, but the examination which follows. Considerable time is lost if the witness is allowed at the hearing to read his prepared statement in full. Thus, UNSCOP started out by permitting this practice and, at a later stage, when the Commission was pressed for time and tried to dissuade a witness from reading a long statement already in the hands of the Commission, the witness insisted on equal treatment and was finally granted his wish (See UNSCOP, *Report*, III, page 194).¹⁶

¹⁶ See *Official Records of the second session of the General Assembly*, Supplement No. 11.

(4) WRITTEN COMMUNICATIONS

(a) *Unsolicited communications by the parties*

113. Communications sent out by the parties at their own initiative are usually treated as official commission documents.

(b) *Unsolicited communications from non-official sources*

114. Unsolicited communications from non-official sources—individuals as well as organizations—are normally numerous and their relevance is often questionable. It has been the accepted practice for the secretariat to draw up periodic lists of such communications, so that members of the commission or the commission as a whole may request the opportunity to examine any individual items.

(c) *Solicited communications from the parties*

115. Some commissions (Indonesian Committee of Good Offices, Palestine Commission and UNCIP) adopted the practice of submitting written questionnaires to the parties to fill in the gaps of information already obtained either through oral hearings or through unsolicited communications.

(d) *Solicited communications from organizations and individuals*

116. UNSCOP, on the other hand, issued a blanket invitation to all organizations and individuals so desiring to transmit written communications to the commission.

B. CONCILIATION (MEDIATION AND GOOD OFFICES)

117. Of the eleven commissions, four—Indonesian Committee of Good Offices, Mediator, UNCIP and UNSCOB—had conciliation as one of their functions.

118. The variations in the definition of this side of their functions are noteworthy.

119. The Indonesian Committee of Good Offices was established under a Security Council resolution of 25 August 1947, whereby the Council resolved: "to tender its good offices to the parties in order to assist in the pacific settlement of their dispute . . ."

120. UNSCOB was established by General Assembly resolution 109 (II) of 21 October 1947 and was directed "to be available to assist the four Governments concerned in the implementation" of the recommendations of the General Assembly. By General Assembly resolution 193 (III) of 27 November 1948, UNSCOB was authorized "for this purpose, in its discretion to appoint, and utilize the services and good offices of one or more persons whether or not members of the Special Committee".

121. UNCIP was directed by resolution of the Security Council of 20 January 1948 "to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties". The Security Council resolution of 21 April 1948 instructed the Commission to "place its good offices and mediation at the

disposal of the Governments of India and Pakistan".

122. The Office of Mediator was established by General Assembly resolution 186 (S-2) of 14 May 1948. By this resolution the Mediator was directed: "to use his good offices with the local and community authorities in Palestine to . . . promote a peaceful adjustment of the future situation in Palestine".

123. Of these four commissions, UNSCOB has been unable to make progress with its task of conciliation owing to inability to secure the co-operation of the Governments of Albania, Bulgaria and Yugoslavia. The Special Committee, therefore, recommended that the General Assembly should consider ways and means of obtaining such co-operation. A new approach to the problem was initiated during the third regular session; the President of the General Assembly, the Secretary-General and the Chairman and Rapporteur of the First Committee were requested by that Committee to act as conciliators with the view to resolving difficulties between Greece and its northern neighbours.

124. The procedures of the Indonesian Committee of Good Offices, of the Mediator and of UNCIP may be briefly indicated.

(1) *INDONESIAN COMMITTEE OF GOOD OFFICES*

125. The Indonesian Committee of Good Offices is illustrative of procedures which might well be adopted by a committee of this character.

(a) *Procedure of making suggestions*

126. At the outset, the Committee stated, as a policy, that it was ready, "for its part, to make suggestions to the parties, if and when the Committee is requested to do so". It further stated in this connexion that it would be prepared to make suggestions on appropriate procedures or methods of adjustment, as well as on such basic matters as were related to procedures for the settlement and terms of settlement. It also agreed that it would consider any suggestion made at any stage by either party, and would be ready to use its good offices to secure the best possible consideration of such suggestions by the other party.

127. Initial suggestions with respect to a truce were submitted to the parties after the Committee had ascertained the willingness of both parties to receive suggestions. At a later stage, the Committee made on its own initiative informal suggestions as a basis for a settlement and stated that it considered this procedure was "within the limits of good offices", these suggestions, although informal, were later reported to the Security Council.

(b) *Procedure of negotiations with the parties*

128. In conducting its truce and political negotiations with the two parties, the Committee adopted a general procedure of informing each party fully of the views of the other as regards specific problems that came up for discussion from time to time. In its separate negotiations with the parties, the Committee endeavoured to obtain from each party a definition of its position that would win acceptance from the other, en-

deavouring thus to persuade the parties to take up moderate positions. Thus, each party was enabled to be fully in possession of the views of the other.

129. On one occasion, the Committee gave its views on a draft agreement to one party, but due to the pressure of time, these views were not as fully conveyed to the other party. As a result, some misunderstandings ensued, and the Committee found it necessary to explain that its interpretation was not binding on either party.

130. In the first stages of the negotiations, the Committee followed generally the procedure of holding separate meetings with the two parties, often on an informal basis, and acted as an intermediary between them. After certain basic principles had been accepted, joint meetings of the two parties were held, both with and without the Committee. At this stage, the Committee avoided formal meetings with the parties separately.

(c) *Merging of negotiations for truce agreement and negotiations for political settlement*

131. From the first, the Committee took the view that the discussion by the parties concerning implementation of the cease-fire resolutions of the Security Council and the discussions looking toward a political settlement had a bearing on each other and that both discussions should be undertaken with all possible speed. Therefore, while the Committee continued preparations for the holding of political discussions, it arranged for the appointment of special committees by the parties to deal with questions of cease-fire. These committees met jointly with representatives of the Committee of Good Offices.

132. The merging of negotiations for truce agreement and negotiations for political settlement was evidenced in the Committee's suggestions for a truce agreement and a statement of political principles as a basis for further negotiations, which it asked the parties to accept as a balanced and integrated whole.

133. The Renville Agreement, which incorporated this idea of merging a truce agreement with an agreement on political principles, it will be noted, falls in two parts each integrated with the other. The first is the truce agreement between the parties, while the second constitutes an agreement on a number of political principles that would provide the basis for the negotiation of the final political settlement.

(2) THE MEDIATOR IN PALESTINE

134. The Mediator and Acting Mediator operating as individuals were able to maintain flexibility in their procedures. As to mediation, however, procedure was complicated by the fact that the task of truce supervision was added to the Mediator's functions by the Security Council resolution of 29 May 1948.

135. From the outset of his mission the Mediator, until his assassination, and subsequently the Acting Mediator, maintained personal contact with the leaders of the Arab States and of Israel. Private conferences were also held with the League of Arab States. The Mediator and Acting Mediator made frequent journeys to Arab capitals and to Israel to ascertain the views of

the parties with regard to both specific questions and the final political settlement as a whole.

136. Contacts were constantly maintained, for the same purpose, between the Mediation Mission headquarters and the parties through the personal representatives of the Mediator and of the Acting Mediator in the capitals of the States actively involved in the conflict.

137. On 28 June 1948, before the four-weeks period of the first truce had expired, the Mediator presented to both sides "suggestions" as a basis for discussion of a general settlement of the Palestine question.

138. In his report of 16 September to the Secretary-General¹⁷ the Mediator suggested for the consideration of the General Assembly the outlines of a general settlement of the major political questions outstanding between the parties. The Mediator expressed the view that a strong recommendation by the General Assembly might at that stage help the parties to an eventual agreement.

139. As to the armistice negotiations, the Acting Mediator, who was elected chairman at Rhodes in the Egyptian-Israeli and the Transjordan-Israeli conferences, informed the parties from the outset that he had no specific proposals to tender and offered his good offices to facilitate the task of negotiators in bringing them together or in presenting each party's claims or suggestions to the other. However, since the views of the parties were in conflict, they frequently requested the Acting Mediator to formulate compromise proposals which became the basis of the ultimate discussions and agreements.

(3) INDIA-PAKISTAN COMMISSION

140. From the time of its arrival on the Sub-Continent, UNCIP regarded the cessation of hostilities in the State of Jammu and Kashmir as the prime prerequisite for the final settlement of the problem. Throughout its stay in India and Pakistan from 7 July to 22 September 1948, the Commission devoted its attention almost entirely to the paramount question of cessation of hostilities. The Commission first ascertained the views of the parties to the dispute, and concluded that an agreement on an unconditional or simple cease-fire was not possible at that time. The Commission, therefore, set forth its proposal in its resolution of 13 August 1948 which related to cease-fire and truce, and contained a reaffirmation of the wish of the two Governments that the future status of Jammu and Kashmir be determined in accordance with the will of the people. Proposals embodied in this resolution constituted in the view of the Commission a balanced and integrated plan which the parties were requested to accept as a whole. Further consultations in Paris between the Commission and representatives of the Governments of India and Pakistan, concerning the principles which should govern the holding of a plebiscite, resulted in the acceptance of the cease-fire by the two Governments and in agreement on the principles to govern a truce and the conduct of a plebiscite as set forth in the Commission's resolutions of 13 August 1948 and 5 January 1949.

¹⁷ See *Official Records of the third session of the General Assembly*, Supplement No. 11 (A/648).

C. TRUCE SUPERVISION

(1) CEASE-FIRE, TRUCE, ARMISTICE

141. The Security Council has adopted resolutions containing a cease-fire provision, or provisions, for the restoration of peace, in connexion with the Indonesian question (1 August 1947 and 24 December 1948), the Palestine question (1 April 1948, 15 July 1948 and 29 December 1948), and the India-Pakistan question (21 April 1948).

142. The next step has been to achieve agreement between the parties as to the details of a truce. In the Indonesian question a truce was agreed upon on 17 January 1948. In the Palestine question a thirty-day truce was accepted by the parties on 9 June 1948, but owing to the resumption of fighting, this was followed by the Security Council's resolution of 15 July 1948, explicitly under Chapter VII of the Charter.

143. In the Palestine question, the conclusion of definitive armistice agreements has been the subject of bilateral negotiations under the Chairmanship of the Acting Mediator. In the India-Pakistan question, UNCIP negotiated the basis of the cease-fire which was made effective by the parties on 1 January 1949, but truce negotiations have not yet been brought to a successful conclusion.

(2) OBSERVANCE OF THE APPLICATION OF CEASE-FIRE PROVISIONS

144. In two instances—in connexion with the Indonesian and the Palestine questions—the Security Council has had recourse to consular commissions to report on the observance of cease-fire resolutions. The Palestine Truce Commission (23 April 1948) and the Consular Commission at Batavia (25 August 1947) were mainly set up in order to obtain speedy reports on the local situation regarding the cease-fire resolution. The Palestine Truce Commission was charged with the additional function of supervising the application of the cease-fire resolution.

145. Both Commissions were composed of the local career consuls of members of the Security Council in Batavia and Jerusalem respectively; the provision of the Security Council resolution regarding the Palestine Truce Commission was that the members should be "representatives of those members of the Security Council which have career consul officers in Jerusalem".

146. To investigate the military situation in Kashmir, and to observe the execution of a cease-fire when concluded, the Secretary-General, at the request of UNCIP, attached a military adviser to the Commission.

(3) TRUCE ARRANGEMENTS IN RELATION TO ORGANS OF CONCILIATION

147. In connexion both with the Palestine question and with the Indonesian question, the task of negotiation and supervision of the truce was subsequently conferred on an organ of conciliation, though the consular commissions established at the outset remained in existence. In each instance difficulties arose through lack of a defined relationship between the commission initially established and the organ of conciliation subsequently set up.

148. In Indonesia, the difficulty centred around the problem to which of the two bodies, the Consular Commission or the Committee of Good Offices, the military observers were responsible. This problem became apparent when the Security Council requested from the Consular Commission a second report some fifteen months after its first report had been submitted and its military observers made available to the Committee of Good Offices. Both bodies felt it necessary to request the Security Council to clarify their respective functions.

149. Similarly, the respective functions of the Palestine Truce Commission and the Mediator were not clearly defined. Later, a certain geographic apportionment of duty was established, the Truce Commission assuming part of the responsibility for the supervision of the cease-fire in the Jerusalem area.

150. In the India-Pakistan question the Commission was authorized by the Security Council resolution of 21 April 1948 to facilitate the taking of measures for the restoration of peace and for the holding of a plebiscite. Through the elaboration of principles for a plebiscite, the Commission obtained the agreement of the parties to the cease-fire of 1 January 1949.

(4) THE MACHINERY OF TRUCE SUPERVISION

151. The machinery of truce supervision established in Palestine and in Indonesia presents certain similarities

152. (i) Ultimate responsibility for truce supervision on behalf of the United Nations was centred in the Mediator and Acting Mediator with respect to Palestine, and in the Committee of Good Offices with respect to Indonesia;

(ii) The Indonesian Committee of Good Offices established a Military Executive Board which was composed of the senior military assistants of each of the delegations on the Committee of Good Offices. This Military Executive Board exercised day-to-day supervision. It forwarded regular "situation" summaries to the Committee of Good Offices, together with special reports on particular questions. The Board had its own military secretariat to provide the necessary services. In Palestine, functions corresponding to those of the Military Executive Board were discharged by the Mediator's Chief of Staff. The Chief of Staff was directly responsible to the Mediator for the administration of the plan of observation. The Chief of Staff was assisted, during the second truce, by a "Central Truce Supervision Board". The Truce Supervision Board rendered advice regarding allegations of violations of the truce on the basis of reports from observers;

(iii) Both in Palestine and in Indonesia, observation on the spot was carried out by military observers. In Indonesia, observers were organized in teams of two to four officers stationed at various headquarters along the *status quo* line; from these headquarters they made daily observation journeys along both sides of the line. In Palestine, observers acted either individually or in teams. The duties and methods of work of observers are described in the memorandum on the Mediator (paragraphs 113-116)¹⁸ and the

¹⁸ See *United Nations Publications Series*, 1949, X, No. X.

memorandum on the Indonesian Committee of Good Offices (paragraphs 79-82).¹⁹

153. Experience suggests that the presence of observers on the spot not only provides a means of reporting, but has a positive influence in the prevention of incidents.

(5) PROVISION OF OBSERVERS

154. Both the consular commissions and the organs of conciliation which took over the function of truce supervision, were confronted with the urgent need to obtain the requisite observer personnel. At the first meeting of the Consular Commission at Batavia, it was agreed that each State represented should furnish military observers. Observers were not provided for the Palestine Truce Commission until the Security Council resolution of 29 May 1948, which also provided for observers for the Mediator.

155. Neither the aforesaid resolution nor the subsequent resolution of 15 July on the Palestine question dealt with the nature or number of observer personnel that would be required or available. Members of the secretariat served as observers at the outset, but subsequently the Mediator obtained for this purpose military officers and enlisted men from the States represented on the Truce Commission, together with officers of his own country as his personal representatives.

156. The Indonesian Committee of Good Offices obtained its military observers through the Consular Commission at Batavia and has had at its disposal 35 to 50 officers supplied by the Governments represented on the Consular Commission: Australia, Belgium, China, France, the United Kingdom and the United States of America.

157. In the India-Pakistan question, 36 military observers were appointed by the Secretary-General at the request of the Commission and in accordance with a formula suggested by it to assist the military adviser in the observation of the cease-fire.

(6) PROCEDURE FOR DEALING WITH BREACHES OF THE TRUCE

158. In both Indonesia and Palestine, the procedure for dealing with breaches of the truce

developed along similar lines. Minor violations were handled on the local level by the military observers. More serious violations were reported to the Mediator's Chief of Staff, in the case of Palestine, and to the Committee of Good Offices, in the case of Indonesia, by either the military observers or the parties or both.

159. In Indonesia, allegations of violations were transmitted to both parties, and while the Committee investigated some of them, it did not pronounce on their foundation. Some were discussed in a security committee, on which both parties were represented, in an effort to prevent their recurrence. In Palestine, the Central Truce Supervision Board, after consideration of each case, submitted its findings to the Mediator, who communicated to the parties his decisions for rectifying the violation.

160. In case of non-compliance by the parties with the decisions of the Mediator, the latter, after discussion at the governmental level, reported directly to the Security Council. The Indonesian Committee kept the Security Council informed of the general situation with regard to the truce, but did not find it necessary to report any particular violation to the Council.

(7) DEMARCATION

161. One special difficulty of the first truce in Palestine was the inability of observers to ascertain the status of the front lines as they existed at the time of the commencement of the truce. This was also true of the second truce. Front lines were defined after persistent negotiations.

162. A similar problem was encountered in Indonesia where the reaching of a definitive truce agreement was delayed by failure to agree on the demarcation of the cease-fire lines. The Committee submitted a plan to the parties providing for the establishment of demilitarized zones between the forces of both parties. The parties accepted the plan in principle, but this plan still did not meet the difficulty in establishing agreed cease-fire lines owing to the lack of agreement between the parties regarding the definition of territory occupied by each of them. No understanding on this question was reached until the Renville Agreement.

29 July 1949.

¹⁹ See *United Nations Publications Series*, 1949, X, No. V.

ANNEX III

Draft resolution on the re-establishment of the Interim Committee for an indefinite period*The General Assembly,*

Having taken note of the report submitted to it by the Interim Committee on the changes in the Committee's constitution, its duration or its terms of reference which are considered desirable in the light of experience,

Affirming that, for the effective performance of the duties specifically conferred upon the General Assembly by the Charter in relation to matters concerning the maintenance of international peace and security (Articles 11 and 35), the promotion of international co-operation in the political field (Article 13), and the peaceful adjustment of any situation likely to impair the general welfare or friendly relations among nations (Article 14), it is necessary to continue the Interim Committee for the purpose of considering such matters and reporting with conclusions to the General Assembly,

Recognizing fully the primary responsibility of the Security Council for prompt and effective action for the maintenance of international peace and security (Article 24),

Resolves that

1. There shall be re-established an Interim Committee of the General Assembly, to meet when the General Assembly is not actually in regular session, on which each Member of the General Assembly shall have the right to appoint one representative;

2. The Interim Committee, as a subsidiary organ of the General Assembly established in accordance with Article 22 of the Charter, shall assist the General Assembly in the performance of its functions by discharging the following duties:

(a) To consider and report with conclusions to the General Assembly on such matters as may be referred to the Committee by or under the authority of the General Assembly;

(b) To consider and report with conclusions to the General Assembly on any dispute or any situation which, in virtue of Article 11 (paragraph 2), 14 or 35 of the Charter, has been proposed for inclusion in the agenda of the General Assembly by any Member of the United Nations, or by any non-member State under Article 11 (paragraph 2) or 35, or has been brought before the General Assembly by the Security Council, provided the Committee previously determines the matter to be both important and requiring preliminary study. Such determination shall be made by a majority of two-thirds of the members present and voting, unless the matter is one referred to the General Assembly by the Security Council, in which case a simple majority will suffice;

(c) To consider systematically, using the recommendations and studies of the Interim Committee contained in documents A/605 and A/AC.18/C1, the further implementation of that part of Article 11 (paragraph 1) relating to the general principles of co-operation in the main-

tenance of international peace and security, and of that part of Article 13 (paragraph 1a) which deals with the promotion of international co-operation in the political field, and to report with conclusions to the General Assembly;

(d) To consider, in connexion with any matter under discussion by the Interim Committee, whether occasion may require the summoning of a special session of the General Assembly and, if the Committee deems that a session is required, so to advise the Secretary-General in order that he may obtain the views of the Members of the United Nations thereon;

(e) To conduct investigations and appoint commissions of inquiry within the scope of the Committee's duties, as it may deem useful and necessary, provided that decisions to conduct such investigations or inquiries shall be made by a two-thirds majority of the members present and voting. An investigation or inquiry elsewhere than at the Headquarters of the United Nations shall not be conducted without the consent of the State or States in whose territory it is to take place;

(f) To report to the General Assembly, should the occasion arise, on any changes in the Committee's constitution or its terms of reference which may be considered desirable in the light of experience;

3. The Interim Committee is authorized to request advisory opinions of the International Court of Justice on legal questions arising within the scope of the Committee's activities;

4. In discharging its duties, the Interim Committee shall at all times take into account the responsibilities of the Security Council under the Charter for the maintenance of international peace and security as well as the duties assigned by the Charter or by the General Assembly or by the Security Council to other Councils or to any committee or commission. The Interim Committee shall not consider any matter of which the Security Council is seized and which the latter has not submitted to the General Assembly;

5. The rules of procedure governing the proceedings of the Interim Committee and such sub-committees and commissions as it may set up shall be those adopted by the Interim Committee on 9 January 1948 as amended by the Interim Committee on 31 March 1949, with such changes and additions as the Interim Committee may deem necessary, provided that they are not inconsistent with any provisions of this resolution. The Interim Committee shall hold the first meeting of its annual session at the Headquarters of the United Nations within six weeks from the date of the conclusion or adjournment of any regular session of the General Assembly. The date of the first meeting of each session of the Interim Committee shall be determined by the Chairman elected during the previous session, or by the head of his delegation, in consultation with the Secretary-General, who shall notify the members of the Committee accordingly. At the opening meeting, the Chairman elected during the previous

session of the Committee or the head of his delegation shall preside until the Interim Committee has elected a Chairman. The Interim Committee shall meet as and when it deems necessary for the conduct of its business. No new credentials shall be required for representatives who were duly accredited to the Interim Committee during its previous session;

6. The Secretary-General shall provide the necessary facilities and assign appropriate staff as required for the work of the Interim Committee, its sub-committees and commissions.

* * *

NOTE ON THE DRAFT RESOLUTION

With the exception of the changes noted below, the draft resolution corresponds to General Assembly resolution 196 (III) of 3 December 1948.

Preamble

The preamble has been modified to bring the text into conformity with the changes made in the operative part of the draft resolution.

Paragraph 1

General Assembly resolution 196 (III) provided for the re-establishment of the Interim Committee for "the period between the closing of the present session and the opening of the next regular session of the General Assembly". It was decided to substitute the phrase: "to meet when the General Assembly is not actually in regular session". The phrase "actually in regular session" has been employed to make it clear that the convening of a special session need not necessarily interrupt the work of the Interim Committee nor of its sub-committees.

This paragraph was further considered in connexion with paragraph 5. It was agreed that, should the regular session of the Assembly be divided, the Interim Committee may function in the interval between the parts of the session.

Paragraph 2(c)

The words "as a starting point" have been deleted from General Assembly resolution 196 (III), and the reference to the long-range programme of work under paragraph 2(c) (Annex I) has been added.

Paragraph 2(f)

The requirement in General Assembly resolution 196 (III) of reporting to the next regular session on changes in the terms of reference has been replaced by a provision for re-consideration by the Interim Committee of its terms of reference when the Interim Committee itself deems this necessary.

Paragraph 5

The phrase "or with any applicable rule of procedure of the General Assembly" has been deleted as this provision was not necessary in view of the provisions of rule 150 of the rules of procedure of the General Assembly.

By General Assembly resolution 196 (III), the Interim Committee was required to meet not later than 31 January 1949. The draft resolution provides that the first meeting of the annual session shall be held within six weeks of the date of the conclusion or adjournment of any regular session of the General Assembly.

The formal procedure for convening the first meeting of each annual session of the Interim Committee has also been subjected to certain minor changes.