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INTERNATIONAL YEAR FOR HUMAN RIGHTS

Note by the Secretary-General

1. On 23 May 1969, the Secretary-General addressed a note verbale to all the Permanent Representatives by which he consulted them as to the most appropriate way of resolving the question of the appointment of the special committee provided for in General Assembly resolution 2443 (XXIII) of 19 December 1968. The text of that communication was reproduced in document A/7495.
2. By a note verbale dated 18 June, the Secretary-General informed the Members of the Organization of the results of that consultation. The note reads as follows:

"The Secretary-General of the United Nations presents his compliments to the Permanent Representative of... to the United Nations and has the honour to refer to his note of 23 May 1969 by which he consulted the Members of the United Nations as to the most appropriate way of resolving the question of the appointment of the special committee provided for in General Assembly resolution 2443 (XXIII) of 19 December 1968.

"In the above-mentioned note, the Secretary-General indicated that there appeared to be only two practicable alternatives to comply with the resolution namely:

- '1. To convene a special session of the General Assembly to provide another method for constituting the special committee;
- '2. (a) To find a procedure which, through its acceptance by Member States, would permit the designation of one of the Vice-Presidents to undertake the appointment of the special committee;
- '(b) Alternatively, and in line with the spirit of rule 30 of the rules of procedure of the General Assembly, to ascertain from the Government of Guatemala, if possible, who would be the Chairman

of that country's delegation for the twenty-fourth session of the General Assembly, and request him to undertake the appointment of the special committee.'

"On 11 June 1969, the Secretary-General sent a reminder to those Member States which had not yet replied to his communication and extended the time-limit for the submission of replies to 17 June.

"As of the present, replies have been received from ninety Member States. Sixty-six of these States, i.e. more than an absolute majority of the membership of the United Nations, have indicated that they find acceptable the alternative contained in paragraph 2 (a) above.

"Several Members have suggested that in implementation of alternative 2 (a) the Secretary-General should convene a meeting of the Vice-Presidents of the twenty-third session to entrust one of them with the task of appointing the members of the special committee. In accordance with this suggestion, it is the intention of the Secretary-General to call such a meeting on Monday, 23 June, at 3.00 p.m. Invitations to the meeting will be sent separately to the seventeen Vice-Presidents.

"An analysis of the replies to the Secretary-General's note of 23 May will be issued shortly as a document of the General Assembly."

3. The attached communication, which refers to the Secretary-General's note of 18 June, is being circulated at the request of the Permanent Representative of Israel.

ISRAEL

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19 June 1969

In a note to the Secretary-General of 28 May 1969 (A/7495), in reply to the Secretary-General's communication of 23 May 1969 (A/7495) which proposed certain alternatives for the appointment of the special committee provided for in General Assembly resolution 2443 (XXIII) of 19 December 1968, the Permanent Representative of Israel declared inter alia:

"Since the twenty-third session of the General Assembly was declared closed on 21 December 1968, the late President, His Excellency Mr. Emilio Arenales, was actively engaged in the consultations to which he referred in his statement on page 199 of the provisional verbatim record of the 1752nd meeting of the General Assembly held on that date, with regard to the appointment of three Member States to constitute a special committee established in accordance with resolution 2443 (XXIII) of 19 December 1968. As the Secretary-General is certainly aware, the late President approached a large number of Member States, inviting them to serve on that special committee but, at the time of his death, had not been successful in those efforts on account of the refusal of a great many Member States to accept such an invitation. Those refusals are the consequence of the arbitrary and one-sided character of General Assembly resolution 2443 (XXIII), which, as the record of the 1748th plenary meeting shows, was in fact adopted by a minority of the Members of the General Assembly.

"The resolution was objectionable inter alia because it contained an adverse prejudgement of the facts the committee was supposed to investigate, and because it took no account of the persecution of Jewish minorities in certain Arab countries in the Middle East area, as tragically highlighted by the recent public hangings of innocent Jews in Baghdad. It is this problem which should be the proper subject of United Nations concern, not the situation in the Israel-held areas, which are in any case open to the scrutiny and observation of tens of thousands of foreign visitors.

"The States which refused the invitations addressed to them by the late President acted in full awareness of the real nature of that resolution, as being a transparent political manoeuvre and not an expression of genuine concern for the furtherance of human rights.

"In the communication addressed to the Ambassador of Israel to Guatemala on 6 March 1969, the late President of the General Assembly himself expressed his view that the establishment at that juncture of the special committee would add 'further causes of friction to the

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already tense situation in the Middle East'. The Government of Israel fully shares that view, which is even more pertinent now than at the date of the above communication.

"The Secretary-General's communication under reply confirms that no provision in the rules of procedure of the General Assembly regulates the situation which has come into being following the lamented death of the President of the twenty-third session of the General Assembly. It appears that only changes in existing procedures would make possible further action in the matter, and in the circumstances it is the view of the Government of Israel that such changes would not be justified.

"...

"The Government of Israel sees no reason for departing from established practices and procedures and believes that, in the light of all the circumstances, including the short period which now remains before the twenty-fourth session of the General Assembly is due to convene, there is no necessity for any of the extraordinary and largely unprecedented alternative forms of action such as are suggested in the Secretary-General's communication under reply."

Indeed, the initiative taken by the Secretary-General in his communication of 23 May 1969 was unwarranted. There is nothing in the Charter or in United Nations practice which required him to take such action. With all respect to the Secretary-General the suggestions made by him constituted dubious means to a dubious end. There was nothing urgent about the matter, it did not concern international peace and security, and it would amply have met the needs of the situation for the Secretary-General to have drawn the attention of the next regular session of the General Assembly to this matter, in his annual report.

With regard to the course of action now proposed by the Secretary-General in his communication of 18 June 1969, the Permanent Representative of Israel has the honour to state as follows.

No Member State elected as a Vice-President at the twenty-third session has any legal standing to assume functions exercised by the President. Firstly, under rule 31 of the rules of procedure of the General Assembly, the Vice-Presidents ceased to hold office on 21 December 1968. Secondly, the President himself ceased to hold office under the same rule and at the same date, and could continue to perform any function thereafter only in his personal capacity and not as President.

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The former Vice-Presidents as a group have no legal authority or standing to confer such a function on one of their number. Firstly, as already stated, they all ceased to hold office on 21 December 1963. Secondly, even during the session at which they are elected, the Vice-Presidents do not under the rules of procedure or existing practice constitute a collective body that can exercise any collective functions or take any collective decisions.

The Secretary-General and the Secretariat have no recognized authority to convene meetings of former Vice-Presidents as a group or to act in accordance with their decisions or recommendations.

The opinions or preferences expressed by a number of Member States in response to the Secretary-General's note cannot confer upon the Secretary-General, upon the former Vice-Presidents collectively, or upon one of their number individually powers and functions which they do not legally and constitutionally possess.

In the view of the Israel Government, therefore, the whole process whereby the function originally entrusted to the President of the General Assembly at its twenty-third session would now be "delegated" to a former Vice-President is without a legal basis at any of its stages. No former Vice-President that accepts such a function will have any locus standi to discharge it, and any action taken in pursuance of such an alleged mandate will be ultra vires.

The Permanent Representative of Israel has the honour to request the circulation of this note as a document of the General Assembly.
