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INTERNATIONAL YEAR FOR HUMAN RIGHTS

Note by the Secretary-General

1. By a note verbale addressed to the Permanent Representatives on 23 May 1969, the Secretary-General, inter alia, drew the attention of Member States to the fact that the President of the twenty-third session of the General Assembly had been unable to complete the appointment of the members of the special committee provided for in General Assembly resolution 2443 (XXIII). The note verbale 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 draw his attention to the following matter.

"His Excellency Mr. Emilio Arenales, President of the twenty-third session of the General Assembly, was unable prior to his death to complete certain functions entrusted to him by the General Assembly at that session. In particular, and notwithstanding his efforts and those of the Secretary-General undertaken on his behalf, it had not yet been possible to complete the appointment of the special committee provided for in General Assembly resolution 2443 (XXIII) of 19 December 1968. The President's death has thus left unresolved the question of the appointment of this committee, and the rules of procedure of the General Assembly do not contain any provision covering the present situation.

"In the circumstances there would appear to be only two practicable alternatives to comply with the resolution:

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.

"The first alternative, that of a special session of the General Assembly, would involve considerable time, effort and expense. However, if this alternative is favoured, the special session might be brief and be attended only by members of permanent missions if its business were limited either to the designation of a Vice-President or the proposed Chairman of the delegation of Guatemala to perform the residual function of the President of the twenty-third session, or to transfer that function to the President of the special session.

"The second alternative would appear to be more convenient. If this alternative is acceptable, it has been suggested that the membership might first be consulted as to which of the sub-alternatives, namely, the designation of the leader of the delegation of Guatemala or one of the Vice-Presidents, to exercise the residual function of the President of the twenty-third session, is generally acceptable.

"In the circumstances explained above, the Secretary-General would like to inquire whether His Excellency's Government accepts one or the other of the above alternatives, and if so which alternative is favoured.

"In view of the time that has already elapsed, the Secretary-General would be grateful for a very early reply, by letter or by telegram, not later than 10 June 1969."

2. The enclosed reply is being circulated at the request of the Permanent Representative of Israel to the United Nations.

ISRAEL

[Original: English]
28 May 1969

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

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view that the establishment at that juncture of the special committee would add "further causes of friction to the 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 understands that the practice of the General Assembly in requesting its President to appoint members of committees in accordance with decisions taken at its different sessions entrusts the function not to the President as such, whose term of office is delimited by the relevant provisions of the Charter and of the rules of procedure, but to the individual who has been duly elected to serve as President of the General Assembly for a given session. When, in the past, for any reason that person was unable to complete any functions which may have been entrusted to him by the General Assembly, the matter has taken its regular course. In fact there have been instances in which committees to be established by the President of the General Assembly were not constituted.

It should be borne in mind that under rule 31, based on Article 21 of the Charter, the President and all the Vice-Presidents of the twenty-third session of the General Assembly ceased to hold office at the close of that session, on 21 December 1968. This fact would appear to negate also the alternative suggestion made by the Secretary-General that one of the Vice-Presidents should act in the matter. Even if the task entrusted to the President could in theory be delegated to a Vice-President (which in the Israel view cannot be done), there is no Vice-President in office to receive such a task.

As for the future Chairman of the future delegation of Guatemala to the twenty-fourth session of the General Assembly, his sole function under rule 30 is formally to open the session and preside until a new President is elected.

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The Government of Israel fails to see how it could be regarded as within the "spirit" of this rule to ascertain in advance who might be appointed the Chairman of the delegation of Guatemala and then to ask this person at present to perform a task which the previous President had been requested to perform. Such a course cannot be based directly or indirectly on the language of rule 30, and in any case would appear to contradict the clear stipulation of Article 21 of the Charter.

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.

It is suggested that the Secretary-General might well limit himself to drawing the attention of the twenty-fourth session of the General Assembly to this matter, in the context of his annual report on the work of the Organization.

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